

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original:

No.: **ICC-02/04-01/15**  
Date: **4 February 2021**

**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 Redacted**

**Trial Judgment**

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**Trial Chamber IX** (‘Chamber’) of the International Criminal Court (‘Court’) hereby renders its judgment pursuant to Article 74 of the Rome Statute in the case of *The Prosecutor v. Dominic Ongwen*.<sup>1</sup>

## I. OVERVIEW

### A. Historical background

1. The charges in this case concern events which took place in Northern Uganda between 1 July 2002 and 31 December 2005. Correspondingly, the evidence taken during the trial and the factual findings in this judgment focus on that period. However, the Lord’s Resistance Army (LRA) has been active since the 1980s, and the related conflict in Northern Uganda has spanned four decades. The Chamber therefore deems it necessary to include in this judgment a brief background to the case, with a view to placing the case in a historical context and establishing the point of departure for the factual findings which are made as part of the adjudication of the case. In this regard, the Chamber notes the evidence provided by Professor Tim Allen, professor of international development at the London School of Economics, who prepared a report submitted into evidence<sup>2</sup> and testified before the Chamber as an expert witness.<sup>3</sup> The basic lines of this historical background were not disputed between the parties in the course of the trial. Thus, the following overview is derived from Professor Allen’s report as well as his testimony.<sup>4</sup>
2. In 1986, following a guerrilla campaign directed against the government of Milton Obote and its Uganda National Liberation Army (UNLA), the National Resistance Army (NRA) under Yoweri Museveni seized power in Uganda and established the National Resistance Movement (NRM) government, taking over from the brief presidency of Tito Okello who had seized power from Obote in 1985. Regional identity played a role, as

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<sup>1</sup> In the present judgment, and to the extent that this is required by its duty to provide a full and reasoned statement of its findings and conclusions under Article 74(5) of the Statute, the Chamber refers to some information, including identifying information of a number of protected witnesses, the confidentiality of which is still considered proportionate and justified. This demands that the present judgment, in the version that is made available to the parties and participants, be classified as ‘confidential’. In its public version, which is filed simultaneously, the confidential information is redacted.

<sup>2</sup> P-0422’s report, UGA-OTP-0270-0004.

<sup>3</sup> P-0422: [T-28](#); [T-29](#).

<sup>4</sup> See P-0422’s report, UGA-OTP-0270-0004, at 0008-14, 0020-28; P-0422: [T-28](#), p. 16, line 19 – p. 17, line 4, p. 21, line 24 – p. 22, line 15, p. 22, lines 17-20, p. 23, line 24 – p. 24, line 24, p. 25, lines 18-22, p. 29, lines 1-17, p. 30, lines 13-15, p. 53, lines 7-22, p. 54, line 21 – p. 55, line 9, p. 55, line 22 – p. 56, line 4, p. 58, lines 7-10, p. 59, lines 12-19, p. 65, line 1 – p. 66, line 5, p. 66, lines 10-21, p. 67, lines 19-22; [T-29](#), p. 95, line 14 – p. 9, line 4.

Yoweri Museveni waged his guerilla campaign with support from his own region in the southwest, and also from the central south of the country, where there was widespread aversion to what was perceived as northern domination. Following Yoweri Museveni's assertion of control over the Acholi areas of Uganda, resistance sprung up, and initially the most important group resisting the NRA was the Uganda People's Democratic Army (UPDA), largely made up of former UNLA soldiers.

3. In the upheavals that followed the victory of Yoweri Museveni in 1986, the cult of Alice Auma appeared and rapidly grew in importance. Alice Auma was one of numerous healers mixing Christian and local ideas, called *ajwaki* or *nebi* among the Acholi. Alice Auma was reported to be possessed by various spirits, including one usually known as *lakwena* – the messenger. She performed healing rituals for returning UNLA soldiers, and offered an interpretation of the UNLA defeat by the NRA that seemed compelling to many, claiming that war was a form of healing through which people could be purified.
4. Soon Alice Auma began recruiting soldiers and started a campaign against President Museveni's government, as well as against alleged witches, other *nebi* and *ajwaki*, and 'bad people', such as impure soldiers or individuals who did not obey certain rules. Her movement came to be known as the Holy Spirit Movement or the Holy Spirit Mobile Forces. At the end of 1986, Alice Auma claimed to have 18,000 'soldiers'. In October 1987, she marched her followers south, overwhelming opposition along the way, before finally being defeated before reaching Kampala. Alice Auma fled and subsequently lived in a refugee camp in Kenya until her death in 2007.
5. A number of groups continuing to oppose the Ugandan government appeared in the Acholi homelands, associated with individuals who were inspired by the example of Alice Auma. One such group was led by a young man called Joseph Kony. Born in the early 1960s, Joseph Kony dropped out of school after six years of primary education, and trained as an *ajwaka*. In late 1986 or early 1987, it is reported that he tried to form an alliance with Alice Auma, but she rejected him.
6. Joseph Kony's campaign was initially mostly limited to the vicinity of his home area around Odek and the environs of Opit, but this changed in 1988 when President Museveni's government signed a peace agreement with the UPDA, and many of those unwilling to surrender turned to Joseph Kony. This included one of UPDA's most

effective commanders, Odong Latek. From this point onwards, Joseph Kony reportedly specialised in healing and divining, while Odong Latek organised the armed forces. Odong Latek's influence on the movement was considerable, and Joseph Kony seems to have learnt considerably about guerilla tactics from him. Odong Latek was killed in battle, but by 1990 Joseph Kony's force was the only significant armed unit still fighting in the Acholi homelands. Soon after Odong Latek's death, Joseph Kony changed the name of the movement to 'Lord's Resistance Army' (LRA).

7. Joseph Kony's forces maintained a guerilla campaign against the government and, increasingly, against those who collaborated with it. They mostly avoided pitched battles with government forces, but used terror tactics to maximum effect. The LRA also became associated with forced recruitment or abductions. The objectives of the LRA, and the activities put in place to realise them, will be discussed by the Chamber in the evidentiary assessment below as they are directly relevant to the charges.
8. In 1991, the Ugandan government mounted an intensive four-month military operation against the insurgency, called Operation North, but its main effect seems to have been to antagonise and alienate non-combatants. Thereafter, Betty Bigombe, Minister of State for Pacification of Northern Uganda, attempted to walk a middle ground, trying to keep the door open for negotiations, but also introducing some vigorous anti-insurgency measures, such as arming community defence groups called 'arrow brigades'. The LRA responded with violence against people thought to be government collaborators.
9. Nevertheless, in 1994 Betty Bigombe managed to engage the LRA in peace talks and arranged an uneasy ceasefire. However, following President Museveni's ultimatum to the LRA in February 1994, the killing resumed. President Museveni claimed that he had received military intelligence showing that the LRA was only involved in peace negotiations in order to build up their military capacity, but it has also been noted that, although expensive, the war in the north had certain political advantages for the Ugandan government. In the mid-1990s, Yoweri Museveni's NRA became the Ugandan People's Defence Force (UPDF).
10. An anti-insurgency strategy adopted by the Ugandan government was to remove the population from rural areas where it might assist the rebels, either out of choice or due to fear of what would happen to them if they did not. In some instances, such removals are

claimed to have been violently enforced. This initially resulted in a concentration of the population near towns and trading centers, but from the mid-1990s a more systematic policy was adopted of moving people into internally displaced person (IDP) camps. The camps were supposed to be protected by small groups of UPDF soldiers and ‘local defence units’ under UPDF command. Cultivation was very difficult and movement outside the camps strictly limited. Food and other commodities were provided by aid agencies, such as the World Food Programme. By the end of the 1990s, about half a million people were living in the camps. At the peak, around 2004, there were hundreds of IDP camps, and while there were still some people living around the towns, almost the entire population of the region was in IDP camps, amounting to 1.5 million people.

11. The LRA hostility towards people living in IDP camps is at the core of the present case; a significant number of charges brought against the accused relate to attacks carried out against some of these camps. Relevant aspects concerning the establishment of, and the living conditions in such IDP camps will thus be addressed below, as appropriate, as part of the Chamber’s assessment of the evidence related to the charges.
12. Although there was little overt enthusiasm for the LRA among the Acholi population in Uganda, the LRA never depended on such support. On the contrary, from the failed peace negotiations in the mid-1990s onwards, assistance was offered from Sudan. The LRA had base camps in South Sudan, received weapons and military training from the Sudanese government and with this support became a more substantial military force. It fought on the Sudanese government’s behalf against the Sudan Peoples’ Liberation Army, while also launching attacks into Uganda against the Ugandan army and civilians in a continuation of its own conflict with the Ugandan government. One of the worst single incidents in Uganda occurred in May 1995, when the LRA burned scores of homes and killed some 300 people in Atiak.
13. During the late 1990s, international pressure on the Sudanese government increased, and further intensified following the attacks on the United States of America on 11 September 2001. As a consequence, the Sudanese government was persuaded to give permission for the so called ‘Iron Fist’ incursions from Uganda, which officially started in 2002. The Iron Fist campaign involved an estimated 10,000 Ugandan troops, logistical support from the United States of America, and the use of helicopter gunships. LRA bases in Sudan were destroyed and hundreds of people killed. Joseph Kony and almost all of his senior

commanders evaded capture, and as fast as abducted people were captured, killed, freed or escaped, others were taken. The LRA also broke up into smaller units which were able to outflank the Ugandan forces.

14. Shortly before the entry into force of the Rome Statute on 1 July 2002, which corresponds to the beginning of the period of the charges, and as a result of Iron Fist, a number of LRA units crossed from Sudan back into Uganda. A number of events which unfolded therefrom led to the referral of the situation to the Court by Uganda on 16 December 2003<sup>5</sup> and ultimately to the present case.

## B. Procedural history

15. On 8 July 2005, Pre-Trial Chamber II issued warrants of arrest under Article 58 of the Rome Statute (the ‘Statute’) against Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.<sup>6</sup>
16. The present case, which was severed from the *Kony et al.* case on 6 February 2015,<sup>7</sup> concerns exclusively Dominic Ongwen. He was surrendered to the Court by the Central African Republic on 16 January 2015,<sup>8</sup> and made his initial appearance before Pre-Trial Chamber II on 26 January 2015.<sup>9</sup>
17. On 23 March 2016, Pre-Trial Chamber II issued its decision confirming the charges against Dominic Ongwen and committing him for trial on the charges as confirmed.<sup>10</sup>

<sup>5</sup> See Confidential Annex A to Prosecutor’s Amended Application for Warrants of Arrest Under Article 58, 18 May 2005, ICC-02/04-01/15-3-Conf-Red3.

<sup>6</sup> As concerns Dominic Ongwen, see [Warrant of Arrest for Dominic Ongwen](#), 8 July 2005, ICC-02/04-01/15-6. Since then, a waiver of the requirement of the rule of speciality was received to proceed against Dominic Ongwen with respect to further conduct. [Registry’s submission on the “Order to the Registrar to transmit a request for cooperation under article 101 of the Rome Statute to the Central African Republic” \(ICC-02/04-01/15-319-Conf\)](#), 27 November 2015, ICC-02/04-01/15-359. Pre-Trial Chamber II also terminated proceedings with respect to Okot Odhiambo and Raska Lukwiya due to their deaths. Pre-Trial Chamber II, *The Prosecutor v. Joseph Kony et al.*, [Decision terminating proceedings against Okot Odhiambo](#), 10 September 2015, ICC-02/04-01/05-431; Pre-Trial Chamber II, *The Prosecutor v. Joseph Kony et al.*, [Decision to terminate the proceedings against Raska Lukwiya](#), 11 July 2007, ICC-02/04-01/05-248.

<sup>7</sup> Pre-Trial Chamber II, *The Prosecutor v. Joseph Kony et al.*, [Decision Severing the Case Against Dominic Ongwen](#), 6 February 2015, ICC-02/04-01/05-424 (with one annex).

<sup>8</sup> [Report of the Registry on the voluntary surrender of Dominic Ongwen and his transfer to the Court](#), 22 January 2015, ICC-02/04-01/15-189 (with ten annexes) (reclassified on 7 July 2015) (hereinafter: ‘[Report of the Registry on the voluntary surrender of Dominic Ongwen and his transfer to the Court](#)’).

<sup>9</sup> [Transcript of hearing](#), ICC-02/04-01/15-T-4-ENG.

<sup>10</sup> Decision on the confirmation of charges against Dominic Ongwen, 23 March 2016, ICC-02/04/01/15-422-Conf (public redacted version available: [ICC-02/04-01/15-422-Red](#); hereinafter: ‘[Confirmation Decision](#)’).

18. Thereafter, on 2 May 2016, the case against Dominic Ongwen was referred to this Chamber.<sup>11</sup>
19. The present trial commenced on 6 and 7 December 2016, with the opening statements of the Office of the Prosecutor (the ‘Prosecution’), the Legal Representatives of Victims and Common Legal Representatives of Victims.<sup>12</sup> The Prosecution called its first witness on 16 January 2017 and completed its evidence presentation on 13 April 2018.<sup>13</sup> The Prosecution brought forward 116 witnesses in total (69 appeared before the Chamber<sup>14</sup> – either at the seat of the Court or via video-link – and a further 47 had their testimony introduced in writing).
20. From 1 May to 23 May 2018, and after receiving Chamber permission to do so,<sup>15</sup> the two teams of legal representatives of the participating victims called a total of seven witnesses.
21. Between 5 and 7 June 2018, the Chamber conducted a judicial site visit to the Republic of Uganda, visiting the four crime scenes relevant to the charges in the present case, namely Pajule, Odek, Abok and Lukodi in Northern Uganda, in the presence of representatives of the parties and participants but without the presence of the accused.<sup>16</sup> A report of this visit is included in the record of the case.<sup>17</sup>
22. On 18 September 2018, the Defence gave its opening statements.<sup>18</sup> The Defence called its first witness on 1 October 2018<sup>19</sup> and completed its presentation of evidence on 6 December 2019.<sup>20</sup> The Defence brought forward 63 witnesses in total (54 appeared

<sup>11</sup> Presidency, [Decision constituting Trial Chambers VIII and IX and referring to them the cases of \*The Prosecutor v. Ahmad Al Faqi Al Mahdi and The Prosecutor v. Dominic Ongwen\*](#), 2 May 2016, ICC-02/04-01/15-430.

<sup>12</sup> [T-26](#); [T-27](#).

<sup>13</sup> [T-28](#); [Notice of the Prosecution’s completion of evidence presentation](#), 13 April 2018, ICC-02/04-01/15-1225.

<sup>14</sup> One witness – P-0447 – appeared a second time as a rebuttal witness.

<sup>15</sup> Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests, 6 March 2018, ICC-02/04-01/15-1199-Conf (public redacted version available: [ICC-02/04-01/15-1199-Red](#)).

<sup>16</sup> [Annex to the Registration into the Record of the Case of the Site Visit Report pursuant to Trial Chamber Decision ICC-02/04-01/15-1211 of 27 March 2018](#), 27 June 2018, ICC-02/04-01/15-1292-Anx; [Decision on Judicial Site Visit to the Republic of Uganda](#), 13 October 2017, ICC-02/04-01/15-1020 (reclassified on 12 June 2018).

<sup>17</sup> [Annex to the Registration into the Record of the Case of the Site Visit Report pursuant to Trial Chamber Decision ICC-02/04-01/15-1211 of 27 March 2018](#), 27 June 2018, ICC-02/04-01/15-1292-Anx.

<sup>18</sup> [T-179](#).

<sup>19</sup> [T-180](#).

<sup>20</sup> [Defence Announcement of the Closure of its Presentation of Evidence](#), 6 December 2019, ICC-02/04-01/15-1694.

before the Chamber<sup>21</sup> – either at the seat of the Court or via video-link – and a further nine had their testimony introduced in writing).

23. On 12 December 2019, the Presiding Judge declared the submission of evidence closed.<sup>22</sup>
24. The parties and participants filed their closing briefs on 24 February 2020<sup>23</sup> and presented their closing statements on 10-12 March 2020.<sup>24</sup>
25. In the course of the trial, 5149 items were recognised as formally submitted into evidence by the Chamber. 4095 victims currently participate in the proceedings through two teams of legal representatives.<sup>25</sup> In the course of the proceedings, and excluding the present decision, the Chamber rendered 190 written decisions by way of a formal filing and 70 oral decisions. It also rendered 403 decisions by email, which have then been published in the record of the case as part of periodic reports filed by the Registry'.<sup>26</sup>

<sup>21</sup> One witness – D-0042 – appeared a second time as a rejoinder witness.

<sup>22</sup> [Declaration on the Closure of the Submission of Evidence](#), 12 December 2019, ICC-02/04-01/15-1699.

<sup>23</sup> Prosecution Closing Brief, 24 February 2020, ICC-02/04-01/15-1719-Conf (public redacted version available: [ICC-02/04-01/15-1719-Red](#); hereinafter: ‘[Prosecution Closing Brief](#)’); Common Legal Representative of Victims’ Closing Brief, 28 February 2020, ICC-02/04-01/15-1720-Conf (public redacted version available: [ICC-02/04-01/15-1720-Red](#)); Corrected version of the “Victims’ Closing Brief” filed on 24 February 2020, ICC-02/04-01/15-1721-Conf, 31 March 2019, ICC-02/04-01/15-1721-Conf-Corr (public redacted version available: [ICC-02/04-01/15-1721-Corr-Red](#)); Corrected Version of “Defence Closing Brief”, filed on 24 February 2020, 13 March 2020, ICC-02/04-01/15-1722-Conf-Corr (public redacted version available: [ICC-02/04-01/15-1722-Corr-Red](#); hereinafter: ‘[Defence Closing Brief](#)’).

<sup>24</sup> [T-256](#), [T-257](#) and [T-258](#).

<sup>25</sup> See [Updated Consolidated List of Participating Victims](#), 29 June 2020, ICC-02/04-01/15-1746, para. 4.

<sup>26</sup> For an overview of the decisions issued by the Chamber via email, see the reports filed by the Registry and their corresponding annexes: [Registry’s Report filing in the Record of the Case Decisions issued by way of Email in April 2017](#), 13 June 2017, ICC-02/04-01/15-875; [Registry’s Report filing in the record of the case decisions issued by way of email in May 2017](#), 15 June 2017, ICC-02/04-01/15-876; [Registry’s Report filing in the Record of the Case Decisions issued by way of email in June 2017](#), 13 July 2017, ICC-02/04-01/15-914; [Registry’s monthly Report filing in the Record of the Case Decisions issued by way of email in September 2017](#), 17 October 2017, ICC-02/04-01/15-1022; [Registry’s Report filing in the Record of the Case Decisions issued by way of email from October 2017 to March 2018](#), 23 July 2018, ICC-02/04-01/15-1312; [Registry’s Report filing in the Record of the Case Decisions issued by way of email from January 2018 to January 2019](#), 15 March 2019, ICC-02/04-01/15-1483; [Registry’s Report Filing in the Record of the Case Decisions issued by way of email from January 2019 to June 2019](#), 31 October 2019, ICC-02/04-01/15-1651; [Registry’s Report Filing in the Record of the Case Decisions issued by way of email from June 2019 to January 2020](#), 4 February 2020, ICC-02/04-01/15-1714; [Registry’s Report Filing in the Record of the Case Decisions issued by way of email from January 2020 to July 2020](#), 2 October 2020, ICC-02/04-01/15-1749; [Registry’s Report Filing in the Record of the Case Decisions issued by way of email from July 2020 to December 2020](#), 26 January 2021, ICC-02/04-01/15-1761.

### C. The accused

26. Dominic Ongwen was born in Uganda and hails from Coorom in Northern Uganda.<sup>27</sup> He is known by other names or radio call signs, including Odomi, Wai Wai, Lima Charlie, Wanyama and Tem Wek Ibong.<sup>28</sup>
27. Dominic Ongwen was abducted by the LRA as a child. His exact age at the time and the time when the abduction took place are not as such relevant to the charges, but because the parties, in particular the Defence, invoked Dominic Ongwen's age at the time of his abduction in various contexts, the Chamber deems it warranted to examine the underlying evidence.
28. As to the positions of the parties, the Chamber notes that in its closing submissions, the Defence stated that Dominic Ongwen was eight or nine years old at the time of his abduction.<sup>29</sup> On the year of the abduction, the Defence position appears to be that it took place in 1987 or 1988.<sup>30</sup> The Prosecution did not make any submission on the matter at the closing of the trial. It is also noted that Dominic Ongwen himself stated at the initial appearance that he was born in 1975 and abducted in 1988.<sup>31</sup>
29. Johnson Odong, who is Dominic Ongwen's uncle,<sup>32</sup> testified that Dominic Ongwen was born at the family home in Coorom in May 1978, and was abducted in 1987, when he was in P-3.<sup>33</sup> In addition, Joe Kakanyero, who grew up in Coorom, knew Dominic Ongwen as a child and was abducted with him,<sup>34</sup> testified that the abduction happened in 1987 when he was 17 and Dominic Ongwen not more than 11 years old.<sup>35</sup> Further, P'Atwoga Okello was a teacher at Dominic Ongwen's school,<sup>36</sup> and testified that Dominic Ongwen was abducted when he was 'about 10, maybe 11 years old' and was in

<sup>27</sup> Annex A to the Joint Prosecution and Defence submission on agreed facts, 1 July 2016, ICC-02/04-01/15-487-Conf-AnxA (public redacted version available: [ICC-02/04-01/15-487-AnxA-Red](#); hereinafter: '[Agreed Facts](#)'), p. 5 (B1), *considered as proven by virtue of [Decision on Joint Agreed Facts Submission](#)*, 19 July 2016, ICC-02/04-01/15-500; D-0007: [T-193](#), p. 5, line 23 – p. 6, line 6, p. 21, lines 2-12.

<sup>28</sup> [Agreed Facts](#), p. 5 (B3); P-0138: [T-120](#), p. 18, line 19 – p. 19, line 5; P-0016: [T-32](#), p. 23, lines 10-16 and [T-33](#), p. 45, lines 1-4; D-0032: [T-200](#), p. 21, line 20 – p. 22, line 3; P-0440: [T-40](#), p. 4, lines 15-16, p. 11, lines 4-9.

<sup>29</sup> [Defence Closing Brief](#), paras 487 ('around 8-9 years'), 569, 671 ('age 8 or 9'), 697 ('age of 9').

<sup>30</sup> [Defence Closing Brief](#), paras 547 ('in 1987'), 618 ('in 1987 or 1988').

<sup>31</sup> [T-4](#), p. 4, lines 4-13.

<sup>32</sup> D-0008 Statement, UGA-D26-0010-0307, at para. 2.

<sup>33</sup> D-0008 Statement, UGA-D26-0010-0307, at paras 1, 4.

<sup>34</sup> D-0007: [T-193](#), p. 4, line 21 – p. 9, lines 6-23.

<sup>35</sup> D-0007: [T-193](#), p. 9, lines 6-23.

<sup>36</sup> D-0012 Statement, UGA-D26-0010-0336, at para. 5.

the third year of primary school.<sup>37</sup> It appears that his estimate of Dominic Ongwen's age at the time of abduction is based on his knowledge that '[t]hat was the general age of that class around 1987'.<sup>38</sup> In addition, D-0032 testified that he met Dominic Ongwen in the LRA in 1991, and that at the time Dominic Ongwen was 13 or 14 years old.<sup>39</sup> The Chamber also notes the evidence of [REDACTED]

[REDACTED].<sup>40</sup>

30. Johnson Odong's is the only evidence which goes directly to Dominic Ongwen's birthdate. The Chamber accepts this evidence as reliable, based on Johnson Odong's family relationship with Dominic Ongwen and the fact that his evidence indicates a good knowledge of the family history. The estimates of Joe Kakanyero and P'Atwoga Okello point to a birthday earlier by approximately one or two years, but they are less precise and less solid, as they are merely estimates, based on their own observation and, in the case of P'Atwoga Okello, on the witness's general knowledge about the ages of children at Dominic Ongwen's school. As to Dominic Ongwen's own statement, the Chamber notes that the Defence itself does not refer to it, and indeed considers it less reliable than the evidence of Johnson Odong, as just explained. Finally, the Chamber notes that D-0032's evidence is compatible with that of Johnson Odong. Accordingly, the Chamber concludes that Dominic Ongwen was born in or around 1978. As to the year of abduction, the pertinent evidence is compatible, indicating 1987 as the year that Dominic Ongwen was abducted.
31. Dominic Ongwen spent the entire period between his abduction and the beginning of the period relevant for the charges, i.e. 1 July 2002, in the LRA. In the period relevant to the charges Dominic Ongwen was approximately 24 – 27 years old. His position at that time is discussed below as a relevant fact of the case.<sup>41</sup>

#### **D. The charges**

32. The text of the charges brought by the Prosecution against Dominic Ongwen in the present case is contained in the operative part of the decision, issued by Pre-Trial

<sup>37</sup> D-0012 Statement, UGA-D26-0010-0336, at para. 8.

<sup>38</sup> D-0012 Statement, UGA-D26-0010-0336, at para. 8.

<sup>39</sup> D-0032: [T-201](#), p. 3, line 11 – p. 4, line 4.

<sup>40</sup> [REDACTED]

<sup>41</sup> See section IV.C.3 below.

Chamber II, confirming the charges and committing Dominic Ongwen to trial before the Chamber on the charges as confirmed.<sup>42</sup> It includes the specification of the facts and circumstances underlying the charges as well as the corresponding legal characterisation alleged by the Prosecution and confirmed by the Pre-Trial Chamber. The confirmed charges cover 70 counts and concern both war crimes and crimes against humanity all allegedly committed, with the appropriate specifications provided in each of them, against civilians in Northern Uganda in the time frame between 1 July 2002 – the time of the Statute’s entry into force – and 31 December 2005.

33. As recalled, the full text of the charges brought against Dominic Ongwen is included in a separate section of the decision confirming those charges under Article 61(7)(a) of the Statute. While that is the authoritative version of the charges that is binding on this Chamber both in terms of the facts and circumstances described therein and their proposed legal characterisation, the Chamber finds it appropriate to provide here – for ease of reference only – a brief overview of these charges. To this purpose, the Chamber observes that the charges can be sub-divided into three main categories: (i) charges of crimes committed within the context of four specific attacks against four IDP camps; (ii) charges concerning sexual and gender based violence crimes directly perpetrated by Dominic Ongwen against seven women, specifically identified in the charges themselves, who were in his household at any time between 1 July 2002 and 31 December 2005; and (iii) charges – which are systemic in nature – concerning other sexual and gender based violence and conscription and use in hostilities of children under the age of fifteen committed in Northern Uganda between 1 July 2002 and 31 December 2005.

34. In relation to the charges falling into the first category, the four attacks are as follows:

**Attack on Pajule Camp of Internally Displaced Persons (‘IDP camp’), on or about 10 October 2003.**<sup>43</sup> Dominic Ongwen is charged under various modes of liability<sup>44</sup> for crimes against humanity and war crimes. Specifically, these crimes are: attacking civilians, murder, torture, cruel treatment, other inhumane acts,

<sup>42</sup> [Confirmation Decision](#), pp. 71-104. The Chamber notes in this regard that the self-contained text of the charges as confirmed by the Pre-Trial Chamber contained within the operative part is clearly distinguishable, also following separate numbering of paragraphs.

<sup>43</sup> Paras 14-25 and counts 1 to 10 of the charges ([Confirmation Decision](#), pp. 73-77).

<sup>44</sup> Article 25(3)(a) (indirect co-perpetration) or, in the alternative, 25(3)(b) (ordering, charged only for enslavement, pillaging and persecution), (c) (charged for all except persecution), (d) and 28(a) of the Statute.

enslavement and pillaging.<sup>45</sup> Dominic Ongwen is further charged with political persecution on grounds that the other alleged crimes were committed against civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government.<sup>46</sup>

**Attack on Odek IDP Camp, on or about 29 April 2004.**<sup>47</sup> Dominic Ongwen is charged under various modes of liability<sup>48</sup> for crimes against humanity and war crimes. Specifically, these crimes are: attacking civilians, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging and outrages upon personal dignity.<sup>49</sup> Dominic Ongwen is further charged with political persecution on grounds that the other alleged crimes were committed against civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government.<sup>50</sup>

**Attack on Lukodi IDP Camp, on or about 19 May 2004.**<sup>51</sup> Dominic Ongwen is charged under various modes of liability<sup>52</sup> for crimes against humanity and war crimes. Specifically, these crimes are: attacking civilians, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging and destruction of property.<sup>53</sup> Dominic Ongwen is further charged with political persecution on grounds that the other alleged crimes were committed against civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government.<sup>54</sup>

**Attack on Abok IDP Camp, on or about 8 June 2004.**<sup>55</sup> Dominic Ongwen is charged under various modes of liability<sup>56</sup> for crimes against humanity and war crimes. Specifically, these crimes are: attacking civilians, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging and destruction of property.<sup>57</sup> Dominic Ongwen is further charged with political persecution on grounds that the other alleged crimes were committed against civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government.<sup>58</sup>

<sup>45</sup> Respectively, Articles 8(2)(e)(i), 7(1)(a)/8(2)(c)(i)-1, 7(1)(f)/8(2)(c)(i)-4, 8(2)(c)(i)-3, 7(1)(k), 7(1)(c) and 8(2)(e)(v) of the Statute.

<sup>46</sup> Article 7(1)(h) of the Statute.

<sup>47</sup> Paras 26-39 and counts 11 to 23 of the charges ([Confirmation Decision](#), pp. 77-81).

<sup>48</sup> Article 25(3)(a) (indirect co-perpetration) or, in the alternative, 25(3)(b) (ordering), (d) or 28(a) of the Statute.

<sup>49</sup> Respectively, Articles 8(2)(e)(i), 7(1)(a)/8(2)(c)(i)-1 (in conjunction with Article 25(3)(f) for attempted murder), 7(1)(f)/8(2)(c)(i)-4, 7(1)(k), 8(2)(c)(i)-3, 7(1)(c), 8(2)(e)(v) and 8(2)(c)(ii) of the Statute.

<sup>50</sup> Article 7(1)(h) of the Statute.

<sup>51</sup> Paras 40-52 and counts 24 to 36 of the charges ([Confirmation Decision](#), pp. 81-85).

<sup>52</sup> Article 25(3)(a) (indirect perpetration) or, in the alternative, 25(3)(b) (ordering), (d) or 28(a) of the Statute.

<sup>53</sup> Respectively, Articles 8(2)(e)(i), 7(1)(a)/8(2)(c)(i)-1 (in conjunction with Article 25(3)(f) for attempted murder), 7(1)(f)/8(2)(c)(i)-4, 7(1)(k), 8(2)(c)(i)-3, 7(1)(c), 8(2)(e)(v) and 8(2)(e)(xii) of the Statute.

<sup>54</sup> Article 7(1)(h) of the Statute.

<sup>55</sup> Paras 53-25 and counts 37 to 49 of the charges ([Confirmation Decision](#), pp. 86-89).

<sup>56</sup> Article 25(3)(a) (indirect perpetration) or, in the alternative, 25(3)(b) (ordering), (d) or 28(a) of the Statute.

<sup>57</sup> Respectively, Articles 8(2)(e)(i), 7(1)(a)/8(2)(c)(i)-1 (in conjunction with Article 25(3)(f) for attempted murder), 7(1)(f)/8(2)(c)(i)-4, 7(1)(k), 8(2)(c)(i)-3, 7(1)(c), 8(2)(e)(v) and 8(2)(e)(xii) of the Statute.

<sup>58</sup> Article 7(1)(h) of the Statute.

35. As concerns the charges of sexual and gender based violence crimes directly perpetrated by Dominic Ongwen,<sup>59</sup> the relevant counts are as follows:

**Forced marriage**, as an inhumane act constituting a crime against humanity,<sup>60</sup> of: ██████████ (P-0099) between 1 July 2002 and September 2002; ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

**Torture**, as a crime against humanity and war crime,<sup>61</sup> of: ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

**Rape**, as a crime against humanity and war crime,<sup>62</sup> of: ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

**Sexual slavery**, as a crime against humanity and war crime,<sup>63</sup> of: ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

**Enslavement**, as a crime against humanity,<sup>64</sup> of: ██████████ (P-0099) between 1 July 2002 and September 2002; ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; ██████████ (P-0227) between approximately April 2005 and 31 December 2005; ██████████ (P-0235) between September 2002 and 31 December 2005; ██████████ (P-0236) between September 2002 and 31 December 2005.

**Forced pregnancy**, as a crime against humanity and war crime,<sup>65</sup> of two persons: ██████████ (P-0101, two pregnancies) between 1 July 2002 and July 2004; and ██████████ (P-0214) sometime in 2005.

<sup>59</sup> Paras 66-117 and counts 50 to 60 of the charges ([Confirmation Decision](#), pp. 90-99).

<sup>60</sup> Article 7(1)(k) of the Statute.

<sup>61</sup> Articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute.

<sup>62</sup> Articles 7(1)(g)-1 and 8(2)(e)(vi)-1 of the Statute.

<sup>63</sup> Articles 7(1)(g)-2 and 8(2)(e)(vi)-2 of the Statute.

<sup>64</sup> Article 7(1)(c) of the Statute.

<sup>65</sup> Articles 7(1)(g)-4 and 8(2)(e)(vi)-4 of the Statute.

**Outrages upon personal dignity**, as a war crime,<sup>66</sup> of: ██████████ (P-0226) sometime in 2002 or early 2003 close to Patongo, northern Uganda; and ██████████ (P-0235) sometime in late 2002 or early 2003 at an unspecified location in northern Uganda.

36. Finally, in relation to the charges concerning the other sexual and gender based violence and the conscription and use in hostilities of children under the age of fifteen committed in Northern Uganda from at least 1 July 2002 until 31 December 2005,<sup>67</sup> Dominic Ongwen is charged – under various modes of liability<sup>68</sup> – with the crimes as follows:

**Forced marriage**, as an inhumane act constituting a crime against humanity.<sup>69</sup>

**Torture**, as a crime against humanity and war crime.<sup>70</sup>

**Rape**, as a crime against humanity and war crime.<sup>71</sup>

**Sexual slavery**, as a crime against humanity and war crime.<sup>72</sup>

**Enslavement**, as a crime against humanity.<sup>73</sup>

**Conscription of children under the age of 15 into an armed group**, as a war crime.<sup>74</sup>

**Using children under the age of 15 to participate actively in hostilities**, as a war crime.<sup>75</sup>

37. In its closing brief, the Defence argues that ‘[t]he defective Confirmation of Charges Decision violates the right to notice’ in respect of the charges under Article 25(3)(a) of the Statute, and ‘incorporates’ into its closing brief submissions presented to the Chamber before.<sup>76</sup> The Defence argues that ‘Mr Ongwen’s right to notice was violated because, in respect to the forms of liability confirmed, the elements under Article 25(3)(a) of the Statute were incomplete, and unsubstantiated in respect to subjective elements and the

<sup>66</sup> Article 8(2)(c)(ii) of the Statute.

<sup>67</sup> Paras 118-124 and counts 61-68 of the charges ([Confirmation Decision](#), pp. 99-102) and paras 125-131 and counts 69-70 of the charges ([Confirmation Decision](#), pp. 102-104), respectively.

<sup>68</sup> Article 25(3)(a) (indirect perpetration) or, in the alternative, 25(3)(b) (ordering), (d) or 28(a) of the Statute.

<sup>69</sup> Article 7(1)(k) of the Statute.

<sup>70</sup> Articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute.

<sup>71</sup> Articles 7(1)(g)-1 and 8(2)(e)(vi)-1 of the Statute.

<sup>72</sup> Articles 7(1)(g)-2 and 8(2)(e)(vi)-2 of the Statute.

<sup>73</sup> Article 7(1)(c) of the Statute.

<sup>74</sup> Article 8(2)(e)(vii) of the Statute.

<sup>75</sup> Article 8(2)(e)(vii) of the Statute.

<sup>76</sup> [Defence Closing Brief](#), para. 184, referring to [Defence Motion on Defects in the Confirmation of Charges Decision: Defects in the Modes of Liability \(Part II of the Defects Series\)](#), 1 February 2019, ICC-02/04-01/15-1431, paras 32-49.

Pre-Trial Chamber only confirmed part of the legal elements of subjective elements for most of the modes of liability under Article 25(3)(a) of the Statute, and then failed to connect factual support to these elements'.<sup>77</sup> In addition, the Defence argues that 'the pleading failure, and related disclosure issues, mean that the lack of notice renders the indirect co-perpetration charges defective in such a way that they must be dismissed for inadequate notice'.<sup>78</sup>

38. The Defence also submits that 'the charges of conscription and use of child soldiers under Counts 69 and 70 are fatally defective in so far as they do not specifically describe the alleged crimes'.<sup>79</sup> Also on this point, the Defence refers to a previous written submission.<sup>80</sup>
39. The Defence does not develop its submissions in any detail other than by claiming that it 'incorporates all submissions' or 'reiterates' previous filings.<sup>81</sup> Those previous filings, dated 1 February 2019, were dismissed *in limine* by the Chamber on 7 March 2019 for untimeliness, under Rule 134(2) of the Rules.<sup>82</sup> The Chamber's decision was confirmed on appeal.<sup>83</sup> The decision of the Chamber and the judgment of the Appeals Chamber on interlocutory appeal forming part of the record of the case, it is unnecessary to rehearse in this judgment the reasons underpinning them.
40. Taking into account the applicable legal framework, in particular Rule 134(2) of the Rules, the Chamber does not identify at the present stage of issuance of the judgment any circumstance that would justify consideration of the same belated submissions as concerns the formulation of the charges. The arguments of the Defence are thus dismissed *in limine*.

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<sup>77</sup> [Defence Closing Brief](#), para. 185.

<sup>78</sup> [Defence Closing Brief](#), para. 188.

<sup>79</sup> [Defence Closing Brief](#), para. 490.

<sup>80</sup> [Defence Closing Brief](#), paras 490-491, referring to [Defence Motion on Defects in the Confirmation of Charges Decision: Defects in the Charged Crimes \(Part IV of the Defects Series\)](#), 1 February 2019, ICC-02/04-01/15-1433, paras 62-70.

<sup>81</sup> See [Defence Closing Brief](#), paras 184, 491.

<sup>82</sup> See [Decision on Defence Motions Alleging Defects in the Confirmation Decision](#), 7 March 2019, ICC-02/04-01/15-1476.

<sup>83</sup> See Appeals Chambers, [Judgment on the appeal of Mr Dominic Ongwen against Trial Chamber IX's 'Decision on Defence Motions Alleging Defects in the Confirmation Decision'](#), 17 July 2019, ICC-02/04-01/15-1562.

41. The Defence also complains that the confirmation of charges decision ‘failed to define the contextual elements of the crimes against humanity, and contains extremely vague references to evidence and facts in paragraphs 60 to 64’.<sup>84</sup> It makes an identical argument as concerns the contextual elements of war crimes.<sup>85</sup> In addition to the fact that this complaint about the formulation of charges is also submitted late in the proceedings without a valid reason and thus dismissed *in limine*, the Chamber emphasises that the charges in the case are contained in a separate section in the operative part of the confirmation of charges decision, and that the degree of detail and depth of the Pre-Trial Chamber’s reasoning in the decision confirming the charges are unrelated to the question whether the charges are properly formulated.

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<sup>84</sup> [Defence Closing Brief](#), para. 301. *See also* para. 303.

<sup>85</sup> [Defence Closing Brief](#), para. 304.

## II. DEFENCE ALLEGATIONS CONCERNING THE ACCUSED'S RIGHT TO A FAIR TRIAL AND 'OTHER HUMAN RIGHTS VIOLATIONS'

42. In its Closing Brief and during the closing statements the Defence raised a number of allegations concerning the accused's right to a fair trial and 'other human rights violations'.<sup>86</sup> The Defence submits that any single violation would 'cast serious doubts upon the fairness and reliability' of the proceedings and, because of their cumulative effect, they justify the declaration of a permanent stay of the proceedings.<sup>87</sup>
43. The Prosecution responded to part of the Defence's arguments in its oral closing statement.<sup>88</sup>
44. While the statutory framework does not explicitly provide for a permanent stay of proceedings, the jurisprudence of the Court confirms the availability of this remedy.<sup>89</sup> Interpreting the application of Article 21(3) of the Statute where breaches in the rights of the accused has been alleged, the Appeals Chamber held that '[w]here fair trial becomes impossible because of breaches of the fundamental rights of the suspect or the accused by his/her accusers, it would be a contradiction in terms to put the person on trial', and that '[i]f no fair trial can be held, the object of the judicial process is frustrated and the process must be stopped'.<sup>90</sup> Not every infraction of the statutory framework justifies the granting of a request for stay of proceedings: the violation must be of such importance as to make a fair trial permanently impossible.<sup>91</sup> The unfairness in the treatment of the

<sup>86</sup> [Defence Closing Brief](#), paras 31-158; Defence Closing Statement: [T-258](#).

<sup>87</sup> [Defence Closing Brief](#), para. 33.

<sup>88</sup> Prosecution Closing Statement: [T-256](#), p. 24, line 22 – p. 35, line 21.

<sup>89</sup> See Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Public redacted version of 'Decision on the Defence request to terminate the proceedings and related requests'](#), 29 October 2020, ICC-01/12-01/18-1009-Red, para. 50; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, [Decision on Defence request for stay of proceedings with prejudice to the Prosecution](#), 28 April 2017, ICC-01/04-02/06-1883, para. 20, citing to Trial Chamber V(B); Trial Chamber V(B), *The Prosecutor v. Uhuru Muigai Kenyatta*, [Public redacted version of Decision on Defence application for a permanent stay of the proceedings due to abuse of process](#), 5 December 2013, ICC-01/09-02/11-868-Red, para. 14. See also Article 21(3) of the Statute.

<sup>90</sup> Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 \(2\) \(a\) of the Statute of 3 October 2006](#), 14 December 2006, ICC-01/04-01/06-772, para. 37. See also Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Public redacted version of 'Decision on the Defence request to terminate the proceedings and related requests'](#), 29 October 2020, ICC-01/12-01/18-1009-Red, para. 50; Trial Chamber V(B), *The Prosecutor v. Uhuru Muigai Kenyatta*, [Public redacted version of Decision on Defence application for a permanent stay of the proceedings due to abuse of process](#), 5 December 2013, ICC-01/09-02/11-868-Red, para. 14 (i).

<sup>91</sup> Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 \(2\) \(a\) of the Statute of 3 October 2006](#), 14 December 2006, ICC-01/04-01/06-772, para. 39. See also Appeals Chamber,

accused must be of such a nature that it ‘rupture[s] the process to an extent making it impossible to piece together the constituent elements of a fair trial’.<sup>92</sup> As such, a stay of proceedings is a remedy of an exceptional nature.<sup>93</sup>

45. Accordingly, the Chamber has considered each of the asserted violations of Dominic Ongwen’s rights and assessed whether they, individually or in accumulation, warrant a permanent stay of the proceedings. As explained in detail below, the Chamber finds that the Defence submissions are entirely unfounded.

#### **A. Allegations concerning the arrest of Dominic Ongwen and his surrender to the Court**

46. The Defence argues that the Pre-Trial Chamber ‘failed to protect Mr Ongwen’s human rights prior to his appearance before the Court’.<sup>94</sup> It argues that it was the role and duty of the Pre-Trial Chamber, pursuant to Articles 21(3), 55(2) and 59(2) of the Statute, to verify that Dominic Ongwen ‘was not subject to any violation of his fundamental rights in the process of his arrest and transfer to the Court’.<sup>95</sup> According to the Defence, it was

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*The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the appeal of the Prosecutor against the decision of Trial Chamber I entitled “Decision on the consequences of non-disclosure of exculpatory materials covered by Article 54\(3\)\(e\) agreements and the application to stay the prosecution of the accused, together with certain other issues raised in the Status Conference on 10 June 2008”](#), 21 October 2008, ICC-01/04-01/06-1486, paras 77-78; Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, [Decision on the “Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12\(3\), 19\(2\), 21\(3\), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo \(ICC-02/11-01/11-129\)”](#), 15 August 2012, ICC-02/11-01/11-212, para. 91; Trial Chamber V(B), *The Prosecutor v. Uhuru Muigai Kenyatta*, [Public redacted version of Decision on Defence application for a permanent stay of the proceedings due to abuse of process](#), 5 December 2013, ICC-01/09-02/11-868-Red, para. 14 (i), (iii); Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, [Decision on Defence request for stay of proceedings with prejudice to the Prosecution](#), 28 April 2017, ICC-01/04-02/06-1883, para. 22; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Public redacted version of ‘Decision on the Defence request to terminate the proceedings and related requests’](#), 29 October 2020, ICC-01/12-01/18-1009-Red, paras 51, 54.

<sup>92</sup> Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 \(2\) \(a\) of the Statute of 3 October 2006](#), 14 December 2006, ICC-01/04-01/06-772, para. 39.

<sup>93</sup> See Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, [Decision on the “Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12\(3\), 19\(2\), 21\(3\), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo \(ICC-02/11-01/11-129\)”](#), 15 August 2012, ICC-02/11-01/11-212, para. 91; Trial Chamber V(B), *The Prosecutor v. Uhuru Muigai Kenyatta*, [Public redacted version of Decision on Defence application for a permanent stay of the proceedings due to abuse of process](#), 5 December 2013, ICC-01/09-02/11-868-Red, para. 14(iii); Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Public redacted version of ‘Decision on the Defence request to terminate the proceedings and related requests’](#), 29 October 2020, ICC-01/12-01/18-1009-Red, para. 51.

<sup>94</sup> [Defence Closing Brief](#), para. 43.

<sup>95</sup> [Defence Closing Brief](#), para. 43.

in this process that breaches of Dominic Ongwen’s rights to legal assistance and to remain silent occurred and were ‘ignored by the Pre-Trial Chamber’.<sup>96</sup>

47. The Defence argues that the Court obtained the custody of Dominic Ongwen ‘through the actions of the authorities of Uganda and Central African Republic’, and that because their conduct in respect of Dominic Ongwen was ‘based on the issuance of the warrant of arrest by the Pre-Trial Chamber’, Articles 55(2) and 59 of the Statute were applicable.<sup>97</sup>
48. The Defence argues that ‘[t]he illegality of the process and the breach of Mr Ongwen’s rights’ are documented in a video showing Dominic Ongwen in UPDF custody.<sup>98</sup> According to the Defence, the video ‘shows that on 16 January 2015, UPDF informed Mr Ongwen that he is an “ICC indictee” and that he “is being held and released on charges of war crimes”’, after which Dominic Ongwen is ‘given several documents to sign’, and an ‘interview’ takes place at the UPDF headquarters.<sup>99</sup> It is on this basis that the Defence alleges that Dominic Ongwen’s right to counsel and right to remain silent and not be forced to self-incriminate were violated.<sup>100</sup>
49. In its closing submissions, the Prosecution points out that the accused was assigned a duty counsel as soon as he was in the custody of the Court<sup>101</sup> and argues that even if procedural irregularities occurred before Dominic Ongwen came into custody of the Court and even if those irregularities can be attributed to the Court, ‘Mr Ongwen still had an obligation to mitigate any ensuing prejudice by pursuing a timely remedy’.<sup>102</sup>
50. The Chamber notes that Article 55(2) of the Statute and the rights enumerated therein only apply when the person concerned is questioned in the context of an investigation by the Court. Specifically, the provision envisages that a person against whom there are grounds to believe that he or she has committed a crime within the jurisdiction of the Court is about to be questioned either by the Prosecutor or by national authorities pursuant to a cooperation request made by the Court under Part 9 of the Statute.

<sup>96</sup> [Defence Closing Brief](#), para. 43.

<sup>97</sup> [Defence Closing Brief](#), paras 44-48.

<sup>98</sup> [Defence Closing Brief](#), para. 52. *See* Video Material, UGA-OTP-0283-1449.

<sup>99</sup> [Defence Closing Brief](#), para. 53.

<sup>100</sup> [Defence Closing Brief](#), paras 54-55.

<sup>101</sup> Prosecution Closing Statement: [T-256](#), p. 33, lines 18-23.

<sup>102</sup> Prosecution Closing Statement: [T-256](#), p. 33, line 24 – p. 34, line 3.

51. In the case at hand, the Defence assertion that the Ugandan or CAR authorities acted ‘based on the issuance of the warrant of arrest by the Pre-Trial Chamber’ is not completely accurate. In fact, Ugandan authorities did not question Dominic Ongwen pursuant to a request for cooperation under Part 9 of the Statute. At the relevant time, even though Uganda had received a request for arrest and surrender in respect of Dominic Ongwen, there is no request on the record which could serve as a basis for Uganda to question him under Article 55(2) of the Statute. In the same vein, no such request for cooperation to the Central African authorities to question the accused at the behest of the Court can be found. Accordingly, Article 55(2) of the Statute did not apply at the time at issue, i.e. during Dominic Ongwen’s stay in the custody of Ugandan or Central African authorities prior to his surrender to the Court. Irrespective of these considerations, the Chamber furthermore notes that the Court provided Dominic Ongwen with a duty counsel as soon as he was in the custody of the Court.<sup>103</sup>
52. Turning to Article 59 of the Statute, the Defence in its submissions makes reference to Ugandan national law, the CAR constitution, as well as Article 14(3) of the International Covenant on Civil and Political Rights.<sup>104</sup> The Chamber notes that Article 59 of the Statute regulates arrest proceedings in the custodial State leading up to the surrender of the person for whose arrest the Court has issued a warrant. In the present case, the State which surrendered the accused to the Court is CAR. All specific arguments of the Defence relate to events while Dominic Ongwen was in the custody of UPDF, before custody was handed over to the CAR. In fact, there is no link between the allegations of the Defence and the Article 59 proceedings as they are reflected on the record.<sup>105</sup>
53. The Defence also alleges a procedural violation claiming that ‘[p]rior to the appearance of Mr Ongwen before the Court, the Pre-Trial Chamber was required to verify the efficacy of the process leading to Mr Ongwen’s arrest and handover to the Court, including that his rights were respected’, but that ‘based on the record, nothing indicates that the Pre-Trial Chamber recognised the violations by Uganda and CAR in the impugned process’.<sup>106</sup> As explained just above, Articles 55(2) and 59 were not applicable at the time when the alleged violations occurred, i.e. at the time Dominic Ongwen was in

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<sup>103</sup> [Report of the Registry on the voluntary surrender of Dominic Ongwen and his transfer to the Court](#), paras 4-5.

<sup>104</sup> [Defence Closing Brief](#), para. 49.

<sup>105</sup> See Annex 3 to [Report of the Registry on the voluntary surrender of Dominic Ongwen and his transfer to the Court](#).

<sup>106</sup> [Defence Closing Brief](#), para. 56.

custody of the UPDF. Consequently, a failure of the Court to protect Dominic Ongwen's enjoyment of rights under the cited provisions of the Statute could not have occurred.

54. The Chamber notes that the Court's powers vis-à-vis States are limited under Article 59 of the Statute. As stated by the Appeals Chamber, '[t]he Court does not sit in the process [...] on judgment as a court of appeal on the identificatory decision of the [national] judicial authority'.<sup>107</sup> Furthermore, Article 59(2) of the Statute states, and by doing so also limits, the competence of national authorities of the custodial State in the relevant arrest proceedings. Article 59(2) does not in itself create a duty for the surrendering State to undertake any particular proceeding in order for the competent national authorities to transfer custody to the Court, upon the surrendering State obtaining custody over a person subject to a warrant of arrest issued by the Court.<sup>108</sup> As said above, and as reflected in the record of the case, CAR duly executed domestic proceedings before surrendering Dominic Ongwen to the Court.<sup>109</sup>
55. Accordingly, the Chamber does not find that the Defence allegations pertain to any rights protected under Articles 55 and 59 of the Statute. In addition, in the view of the Chamber, the facts as brought forward by the Defence and the resulting allegations would not constitute 'breaches of the fundamental rights [of Dominic Ongwen] by his accusers' that would make a fair trial impossible,<sup>110</sup> and thus would not justify a permanent stay of proceedings.
56. Additionally, the Defence makes submissions concerning the use of the concerned video by one of the Prosecution experts, Professor Mezey, and requests that the video should be excluded and Professor Mezey's conclusions be disregarded, since the video was one of the materials she relied on the video in her report.<sup>111</sup> Without mentioning the provision explicitly, the Defence argues that the item should be declared inadmissible pursuant to

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<sup>107</sup> Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 \(2\) \(a\) of the Statute of 3 October 2006](#), 14 December 2006, ICC-01/04-01/06-772, para. 41.

<sup>108</sup> [Decision on the applicability of article 101 of the Rome Statute in the proceedings against Dominic Ongwen](#), 7 July 2015, ICC-02/04-01/15-260, para. 10.

<sup>109</sup> See Annexes 1, 2 and 3 to [Report of the Registry on the voluntary surrender of Dominic Ongwen and his transfer to the Court](#).

<sup>110</sup> Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 \(2\) \(a\) of the Statute of 3 October 2006](#), 14 December 2006, ICC-01/04-01/06-772, para. 37.

<sup>111</sup> [Defence Closing Brief](#), paras 57-60.

Article 69(7) of the Statute. The Prosecution argues in its closing statement that, even if *arguendo* there had been any procedural irregularity attributable to the Court, the accused ‘had an obligation to [...] pursu[e] a timely remedy’, but ‘[h]e didn’t do so’ and ‘[t]he Defence made no mention of this issue at any time till it appeared in the closing brief’.<sup>112</sup> In this regard, the Prosecution submits that ‘[i]t’s true that they sought to oppose the Prosecution’s submission of the video evidence, but they did so on entirely separate grounds from those they now advance.’<sup>113</sup>

57. Article 69(7) of the Statute provides that evidence obtained by means of a violation of the Statute or internationally recognised human rights shall not be admissible if: (a) the violation casts substantial doubt on the reliability of this evidence; or (b) the admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings.
58. The Defence argues that the evidence in question was obtained in violation of the Statute, in particular Articles 21(3), 55(2), 59(2) and 67(1)(g). As to Article 21(3) of the Statute, the Defence does not allege any particular infringement of Dominic Ongwen’s rights other than that alleged under Articles 55(2), 59(2) and 67(1)(g). As found above, Articles 55(2) and 59(2) did not apply at the time.
59. Further, as stated by the Prosecution,<sup>114</sup> the Defence itself used video footage from the same interview during its questioning of witness Professor Allen and then requested it to be recognised as formally submitted. It played a statement made by the accused and asked Professor Allen to interpret its meaning, specifically asking whether the statement says anything about the state of mind of the accused, whether he showed expression of regret or defiance.<sup>115</sup> The Defence cannot claim that the admission of a video should be precluded because of Article 69(7) of the Statute and at the same time also request that another video recording the same event be recognised as formally submitted.
60. When arguing that the accused’s right pursuant to Article 67(1)(g) of the Statute is infringed,<sup>116</sup> the Defence misconstrues this right. The right to remain silent, pursuant to

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<sup>112</sup> Prosecution Closing Statement: [T-256](#), p. 33, line 24 – p. 34, line 3.

<sup>113</sup> Prosecution Closing Statement: [T-256](#), p. 34, lines 3-5.

<sup>114</sup> Prosecution Closing Statement: [T-256](#), p. 34, lines 6-21.

<sup>115</sup> P-0422: [T-29](#), p. 107, line 3 – p. 110, line 9.

<sup>116</sup> [Defence Closing Brief](#), para. 59.

Article 67(1)(g) of the Rome Statute, guarantees that, in the context of an investigation and subsequent proceedings, an accused does not have to answer when being questioned, and that this silence cannot be considered against him or her. As stated above, the accused was not questioned pursuant to Article 55(2) of the Statute. More generally, even though the video does show UPDF posing questions to Dominic Ongwen, there is no nexus between this exchange and any criminal proceedings, let alone proceedings before the Court.

61. Accordingly, the Chamber finds that the requirements for the application of Article 69(7) of the Statute have not been established, and considers that the request of the Defence is without merit.

### **B. Submissions concerning the taking of evidence under Article 56 of the Statute**

62. The Defence indicates a number of issues which, in its view, violate the accused's fair trial rights in relation to the evidence emanating from the procedure for the collection of evidence under Article 56 of the Statute. Specifically, it submits that Article 67(1)(a) of the Statute was violated because, at the time of the taking of this evidence, the precise charges were not known,<sup>117</sup> the Single Judge of the Pre-Trial Chamber which decided on the confirmation of charges took the evidence pursuant to Article 56 of the Statute,<sup>118</sup> the Single Judge 'refus[ed]' to consider procedural challenges,<sup>119</sup> and the witnesses were not asked for whom they wish to testify.<sup>120</sup> This, according to the Defence, violated the accused's rights pursuant to Article 67(1)(a) and (e) of the Statute.<sup>121</sup>
63. In its closing statement, the Prosecution responded to these arguments. It submits that the Defence's interpretation of Article 67(1)(a) of the Statute would render the procedure of Article 56 *de facto* ineffectual, since it could only apply between the confirmation of the charges pursuant to Article 61 of Statute and the start of the trial.<sup>122</sup> Further, it submits that the Defence had notice of what the witnesses were going to testify about and had an

<sup>117</sup> [Defence Closing Brief](#), paras 62-63.

<sup>118</sup> [Defence Closing Brief](#), para. 64.

<sup>119</sup> [Defence Closing Brief](#), para. 65.

<sup>120</sup> [Defence Closing Brief](#), para. 66.

<sup>121</sup> [Defence Closing Brief](#), para. 71.

<sup>122</sup> Prosecution Closing Statement: [T-256](#), p. 20, lines 13-18.

opportunity to challenge their accounts.<sup>123</sup> Regarding the issue that the witnesses have been confused as to their role in the proceedings, it submits that the Defence previously had a contrary position on this matter, having stated – correctly – that the role of a witness is about the truth and not by whom he or she is called.<sup>124</sup>

64. With regard to the Defence submissions under Article 67(1)(a) of the Statute, the Chamber notes that said provision establishes the right of the accused to be informed of the charges against him, which are presented by the Prosecutor in advance of the confirmation of charges hearing.<sup>125</sup> Article 56 of the Statute, dealing with ‘unique investigative opportunity’ and placed within Part 5 of the Statute, is not limited to certain procedural stages. In fact, evidence may be preserved under that provision even before the surrender or voluntary appearance of the person concerned. Accordingly, the Defence interpretation which seeks to require the submission of charges before action in relation to a unique investigative opportunity is taken is without merit.
65. As regards the submissions concerning the fact that the Single Judge of the Pre-Trial Chamber presided over the taking of the evidence pursuant to Article 56 of the Statute and ruled on this evidence in the decision on the confirmation of the charges, the Chamber finds that the Defence’s arguments are equally without merit. The Defence fails to explain wherein the purported conflict lies, and in fact acknowledges that the situation is compatible with the text of the Statute.<sup>126</sup>
66. The assertion that the Single Judge ‘precluded the Defence from raising objections to the nature, scope and purpose of the Article 56 Proceedings’ is based on a false interpretation of the statement of the Single Judge.<sup>127</sup> In fact, before the Pre-Trial Chamber’s decisions on whether to take evidence pursuant to Article 56 of the Statute, the Defence made submissions on these points.<sup>128</sup> There is simply no indication on the record, and neither

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<sup>123</sup> Prosecution Closing Statement: [T-256](#), p. 20, line 23 – p. 21, line 4.

<sup>124</sup> Prosecution Closing Statement: [T-256](#), p. 22, line 5 – p. 23, line 24, *referring to* the Defence submissions in [T-12](#), p. 14, lines 19-24 and p. 22, lines 5-10.

<sup>125</sup> See Rule 121(3) of the Rules of Procedure and Evidence.

<sup>126</sup> [Defence Closing Brief](#), para. 64.

<sup>127</sup> [Defence Closing Brief](#), para. 65. See also [T-8](#), p. 4, lines 5-8.

<sup>128</sup> Defence Response to the Prosecution’s Request for an Article 56 Unique Investigative Opportunity, 3 July 2015, ICC-02/04-01/15-259-Conf (public redacted version available: [ICC-02/04-01/15-259-Red](#)); Confidential Redacted Response to “Second Prosecution Application to the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute”, 8 October 2015, ICC-02/04-01/15-314-Conf-Red (public redacted version available: [ICC-02/04-01/15-314-Red2](#)).

does the Defence purport, that the Defence was actually prevented from making specific submissions in relation to the proceedings under Article 56 of the Statute.

67. Further, the Chamber does not find that the accused's rights pursuant Article 67(1)(e) of the Statute were violated because the witnesses testifying pursuant to Article 56 of the Statute were not asked 'for whom' they intended to testify.<sup>129</sup> The Defence submits in this regard that it had contacted the witnesses concerned and 'obtained witness statements from them to testify for Mr Ongwen' and that 'proof that some of these witnesses wanted to testify for Mr Ongwen [...] was available to the Prosecutor and the Single Judge'.<sup>130</sup> The Defence specifically argues that the failure to determine the 'status of the witnesses' prejudiced Dominic Ongwen in that it resulted in the restrictions on his contact with his family, and in violations of his right to call witnesses on his behalf.<sup>131</sup> However, these allegations are entirely unexplained and unsupported. While noting that it was clear to the Defence during the proceedings under Article 56 of the Statute that the witnesses concerned were heard following a request by the Prosecutor, the Chamber in any case emphasises that a witness testifies in order to establish the truth. The Chamber notes that at the beginning of each testimony, the Single Judge of the Pre-Trial Chamber asked the witness to make an undertaking to tell the truth. Further, the Defence had every opportunity to pose questions to the witnesses – a possibility it availed itself of – and was not in a different position as it would have been, had it called the witnesses. Accordingly, the Chamber does not find any violation of Dominic Ongwen's rights.
68. Lastly, the Defence submits that the Single Judge of the Pre-Trial Chamber failed to carry out his role properly in the Article 56 proceedings, since he assessed the witnesses collectively when ruling on the basis for the proceedings and did not request corroboration in relation to certain inconsistencies in their testimonies.<sup>132</sup> Again, these arguments are without merit.
69. With regard to the first argument, the Single Judge of the Pre-Trial Chamber ruled on the application of Article 56 of the Statute in two decisions, but assessed every witness

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<sup>129</sup> [Defence Closing Brief](#), para. 66.

<sup>130</sup> [Defence Closing Brief](#), para. 67.

<sup>131</sup> [Defence Closing Brief](#), para. 68.

<sup>132</sup> [Defence Closing Brief](#), paras 69-70.

separately.<sup>133</sup> The fact that the reasons for taking measures under Article 56 of the Statute were based on similar grounds – due to the similar circumstances the witnesses were in – does not mean that the decision for each witness was not made individually.

70. Concerning the second argument, the legal basis for the Defence request is entirely absent. The object and purpose of Article 56 of the Statute is to preserve evidence which may otherwise become unavailable. There is nothing in the applicable law that would require or enable the Pre-Trial Chamber, at that point in the proceedings, to ‘request corroboration’ from the Prosecution. For this reason, the Chamber rejects the argument.
71. In conclusion, the Chamber finds that none of the allegations brought forward by the Defence with regard to the Article 56 proceedings violated the accused’s rights and therefore does not warrant the exceptional remedy of a permanent stay of proceedings.<sup>134</sup>
72. Further, in this context the Defence made an unrelated complaint that it was denied to call an expert on sexual and gender based crimes, which, it argues, prejudiced the accused’s fair trial rights.<sup>135</sup> The Chamber repeats the reasons advanced in an earlier decision on this matter: the – belated – addition in the list of witnesses of the concerned expert was not considered necessary since ‘the terms of reference instructing D-158 [the prospected witness] to produce [an expert] report indicate that much of the expected report – and anticipated testimony of D-158 – has already been discussed by other witnesses called by the Defence.’<sup>136</sup> Therefore, the proposed witness’s evidence ‘would merely be additional evidence for topics for which direct evidence has already been elicited by the Defence’.<sup>137</sup> Accordingly, the Chamber does not find any violation of the accused’s rights and subsequently no justification for a permanent stay of proceedings.

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<sup>133</sup> See Decision on the “Prosecution application for the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute”, 27 July 2015, ICC-02/04-01/15-277-Conf (public redacted version available: [ICC-02/04-01/15-277-Red](#)), paras 5-10; Decision on the “Second Prosecution application to the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute”, 12 October 2015, ICC-02/04-01/15-316-Conf (public redacted version available: [ICC-02/04-01/15-316-Red](#)), paras 2-12.

<sup>134</sup> For matters of completeness, the Chamber made a similar finding previously in [Decision on Request to Admit Evidence Preserved Under Article 56 of the Statute](#), 10 August 2016, ICC-02/04-01/15-520.

<sup>135</sup> [Defence Closing Brief](#), para. 72.

<sup>136</sup> [Decision on Defence Request to Add Two Witnesses to its List of Witnesses and Accompanying Documents to its List of Evidence](#), 13 August 2019, ICC-02/04-01/15-1565, para. 16.

<sup>137</sup> [Decision on Defence Request to Add Two Witnesses to its List of Witnesses and Accompanying Documents to its List of Evidence](#), 13 August 2019, ICC-02/04-01/15-1565, para. 21.

### C. Submissions regarding Article 64(8)(a)

73. The Defence submits that Dominic Ongwen’s plea was ‘illegal’, as it was not ‘voluntary, knowing or informed, and unequivocal’.<sup>138</sup>
74. Article 64(8)(a) of the Statute required the Chamber, at the commencement of the trial, to ‘afford [to the accused] the opportunity to make an admission of guilt in accordance with article 65 or to plead not guilty’. Dominic Ongwen did not admit guilt, and the procedure of Article 65 of the Statute was not triggered. In this regard, while the Chamber considers the Defence’s interpretation of Dominic Ongwen’s plea erroneous, it notes that contrary to the Defence’s suggestions,<sup>139</sup> the standards for a not guilty plea are not equivalent to the standards required for an admission of guilt under Article 65 of the Statute. A non-unequivocal ‘not guilty’ plea results simply in the proceeding with the trial. In any event, any submissions of the Defence arguing that Dominic Ongwen was prejudiced by his plea are unsubstantiated.
75. It is noted, however, that the arguments of the Defence under this heading contain other grievances in relation to ‘Mr Ongwen’s mental disability’ and the translation of the decision on the confirmation of charges.<sup>140</sup> On this basis, the Defence argues that Dominic Ongwen did not understand the charges against him at the time of his plea.<sup>141</sup>
76. During its closing statements, the Prosecution submitted that the Defence presented no evidence that the accused was not able to understand the charges and that the report produced by the Court-appointed expert also does not support this assumption.<sup>142</sup> Further, it submits that even if a person has a mental illness, this does not automatically mean that he or she cannot understand the charges.<sup>143</sup> In respect of the statements made by the accused during the opening of the trial and their interpretation as to his understanding of the charges, the Prosecution agrees with the Chamber’s interpretation of an earlier

<sup>138</sup> [Defence Closing Brief](#), paras 73-77.

<sup>139</sup> [Defence Closing Brief](#), paras 73-77.

<sup>140</sup> [Defence Closing Brief](#), paras 78-79.

<sup>141</sup> [Defence Closing Brief](#), para. 76.

<sup>142</sup> Prosecution Closing Statement: [T-256](#), p. 27, line 9 – p. 28, line 2.

<sup>143</sup> Prosecution Closing Statement: [T-256](#), p. 28, lines 2-6.

decision that the accused disputed his responsibility and denied the charges which is different from not understanding them.<sup>144</sup>

77. At the opening of the trial, the Chamber issued an oral decision finding that Dominic Ongwen understood the nature of the charges.<sup>145</sup> The Defence quotes a statement made by the accused before this decision that, while he understood the document containing the charges, ‘the charges I [Dominic Ongwen] do understand as being brought against LRA but not me, because I’m not the LRA. The LRA is Joseph Kony who is the leader of the LRA.’<sup>146</sup> The Defence ‘interprets this statement to mean that Mr Ongwen did not understand the charges against him’.<sup>147</sup>
78. The argumentation of the Defence is untenable. The fact that an accused provides an answer which contains more than a simple ‘yes’ or ‘no’ – as shown by the response of the accused during the hearing of the confirmation of the charges<sup>148</sup> – does not mean that he has no clear understanding of the question put to him. As the Chamber stated in its oral decision ‘Mr Ongwen’s remarks that the LRA is not him and that the LRA committed these acts demonstrate an understanding of the confirmed charges. Mr Ongwen’s remarks are rather a dispute as to Mr Ongwen’s responsibility for these alleged acts’.<sup>149</sup> Further, when asked by the Presiding Judge whether he made ‘an admission of guilt with respect to any charge’, Dominic Ongwen responded ‘[i]n the name of God, I deny all these charges in respect to the war in northern Uganda’.<sup>150</sup> This is not, as alleged by the Defence,<sup>151</sup> a further sign that Dominic Ongwen did not understand the charges as being brought against him but simply that he refuses to take any responsibility for them. The Chamber repeats its finding that Dominic Ongwen understood the charges as being brought against him.

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<sup>144</sup> Prosecution Closing Statement: [T-256](#), p. 28, line 7 – p. 29, line 1.

<sup>145</sup> [T-26](#), p. 17, line 11 – p. 19, line 15.

<sup>146</sup> [Defence Closing Brief](#), para. 75, citing to [T-26](#), p. 16, lines 18-20.

<sup>147</sup> [Defence Closing Brief](#), para. 76.

<sup>148</sup> The Chamber notes in this regard that in response to the question by the Pre-Trial Chamber whether he understood the charges presented by the Prosecution, Dominic Ongwen responded in a similar manner, without replying with ‘yes’ or ‘no’, before unequivocally stating that had he read and understood the charges. *See* [T-20](#), p. 6, lines 5-14.

<sup>149</sup> [T-26](#), p. 19, lines 8-11.

<sup>150</sup> [T-26](#), p. 20, lines 10-13.

<sup>151</sup> [Defence Closing Brief](#), para. 76.

79. The Defence's submits that 'in light of the information before [the Chamber] about Mr Ongwen's disability, a postponement of the 6 December proceedings should have been taken.'<sup>152</sup> This misstates the facts. The only information available to the Chamber was a filing by the Defence, the day before the opening statement, stating, *inter alia*, that experts hired by the Defence made a finding pursuant to Article 64(8)(a) of the Statute and determined that Dominic Ongwen did not understand the charges and that he was not fit to stand trial.<sup>153</sup> No supporting material was provided, and in particular not any expert report.<sup>154</sup>
80. The Chamber did not ignore any information when making its determination pursuant to Article 64(8)(a) of the Statute that Dominic Ongwen understood the charges. Any reference by the Defence to reports by medical experts made after the decision is misplaced.<sup>155</sup>
81. Lastly, concerning translation of the decision on the confirmation of the charges, the Chamber recalls that, as previously stated in a decision on the matter, at the opening of the trial Dominic Ongwen had available to him the full text of the charges in Acholi.<sup>156</sup> The document containing the charges on which the Prosecutor requested that Dominic Ongwen be brought to trial was translated into Acholi in its entirety.<sup>157</sup> Dominic Ongwen confirmed that he received this translation and understood the charges during the hearing of the confirmation of the charges.<sup>158</sup> The decision on the confirmation of the charges confirmed all counts contained in this document and copied it verbatim into its decision, including as concerns the facts and circumstances described in the charges.<sup>159</sup> Because

<sup>152</sup> [Defence Closing Brief](#), para. 81.

<sup>153</sup> Defence Request for a Stay of the Proceedings and Examinations Pursuant to Rule 135 of the Rules of Procedure and Evidence, 5 December 2016, ICC-02/04-01/15-620-Conf (public redacted version available: [ICC-02/04-01/15-620-Red2](#)), para. 76.

<sup>154</sup> See Defence Request for a Stay of the Proceedings and Examinations Pursuant to Rule 135 of the Rules of Procedure and Evidence, 5 December 2016, ICC-02/04-01/15-620-Conf (public redacted version available: [ICC-02/04-01/15-620-Red2](#)), paras 41-42.

<sup>155</sup> See [Defence Closing Brief](#), para. 80.

<sup>156</sup> See [Decision on Defence Request for Findings on Fair Trial Violations Related to the Acholi Translation of the Confirmation Decision](#), 24 January 2018, ICC-02/04-01/15-1147.

<sup>157</sup> Annex A to Document Containing the Charges, 22 December 2015, ICC-02/04-01/15-375-Conf-AnxA (public redacted version available: [ICC-02/04-01/15-375-AnxA-Red](#)); Acholi translation at Annex B to Document Containing the Charges, 22 December 2015, ICC-02/04-01/15-375-Conf-AnxB (public redacted version available: [ICC-02/04-01/15-375-AnxB-Red](#)).

<sup>158</sup> [T-20](#), p. 6, lines 13-14.

<sup>159</sup> See [Confirmation Decision](#), pp. 71-104. The limited modifications made by the Pre-Trial Chamber to the text of the charges as presented (also in Acholi) by the Prosecution are precisely identified at para. 158 of the [Confirmation Decision](#) and consist exclusively in the removal of one section and of a few words and the insertion of some pseudonyms to refer to some witnesses whose identity was confidential vis-à-vis the public.

of the clear separation between the text of the charges brought against Dominic Ongwen and the other parts of the decision on the confirmation of charges containing the reasoning of the Pre-Trial Chamber, the lack of a full translation of the entire decision containing the charges at the opening of the trial was immaterial. In this regard, the Chamber observes that in accordance with Article 67(1)(a) of the Statute an accused has the right to be informed, in a language which he or she fully understands and speaks, of the ‘nature, cause and content’ of the charges. Finally, the Chamber recalls that at the opening of trial the numbered counts without references to the statutory provisions – which were contained in the operative part of the confirmation decision under the subheadings ‘legal characterisation of facts’ – were read out and, in that context, again made available to Dominic Ongwen in Acholi by virtue of the interpretation in the courtroom.<sup>160</sup>

82. In conclusion, the Chamber rejects the argument of the Defence that Dominic Ongwen did not understand the nature of the charges against him at the time of his plea. Accordingly, there is no prejudice which would justify the exceptional remedy of a permanent stay of the proceedings.

**D. Submissions regarding the accused’s right to notice and his right to prepare a defence**

83. The Defence submits that ‘[f]rom the inception of this case, the Defence has litigated the breaches of the right to notice.’<sup>161</sup> It cites to several motions and briefs which have all been addressed by either the Chamber or the Appeals Chamber.<sup>162</sup> The Defence does not provide any new argument going beyond its prior submissions.
84. The Defence does not request a new resolution of its requests but submits that because of the allegations contained in these motions the accused ‘has been placed in a position of not knowing the specifics against which he must defend the alleged crimes and his

<sup>160</sup> [T-26](#), p. 8, line 20 – p. 15, line 25.

<sup>161</sup> [Defence Closing Brief](#), para. 84.

<sup>162</sup> [Decision on Defence Request for Leave to File a No Case to Answer Motion](#), 18 July 2018, ICC-02/04-01/15-1309; [Decision on Defence Motions Alleging Defects in the Confirmation Decision](#), 7 March 2019, ICC-02/04-01/15-1476; [Decision on Further Defence Motion Alleging Defects in the Confirmation Decision](#), 8 October 2019, ICC-02/04-01/15-1630; [Decision on Defence Request for Ruling on Request to Dismiss the Charge of Enslavement](#), 11 February 2020, ICC-02/04-01/15-1717; Appeals Chambers, [Judgment on the appeal of Mr Dominic Ongwen against Trial Chamber IX’s ‘Decision on Defence Motions Alleging Defects in the Confirmation Decision’](#), 17 July 2019, ICC-02/04-01/15-1562.

alleged participation’<sup>163</sup> which prejudiced the Defence’s planning and ‘made the fair trial impossible’.<sup>164</sup> Since the Chamber ruled on these motions, the Defence’s argument is, in essence, that the decisions of the Chamber violated the accused’s right to a fair trial. When ruling on the various requests, the Chamber considered all these allegations and dismissed the arguments by the Defence. Since no new arguments are presented by the Defence, the Chamber finds that its prior decisions did not violate the accused’s right to notice and right to prepare a defence. Accordingly, the Defence’s allegations do not justify the exceptional remedy of a permanent stay of the proceedings.

**E. Submissions with regard to the standard for burden of proof in relation to the alleged grounds excluding criminal responsibility**

85. The Defence submits that the fact that the Chamber ‘erred by failing to articulate the burden of proof standard for affirmative defences prior to the presentation of the Defence evidence’ violated the accused’s right under Article 67(1)(e) of the Statute to ‘present defences’.<sup>165</sup> It argues that, since the Chamber did not pronounce itself on the legal interpretation of Article 31(1)(a) and (d) of the Statute prior to the presentation of evidence by the Defence, it did not know what evidence it must adduce and ‘it cannot fully address all issues which may be necessary for the [...] Article 74 judgment.’<sup>166</sup> Thus, the Defence alleges violation of Articles 67(1)(a) and (e) and 64(2) of the Statute.<sup>167</sup>
86. Indeed, the Chamber, in disposing of a motion filed by the Defence,<sup>168</sup> previously explained that the burden and standard of proof are laid out in Article 66 of the Statute and that no further explanation was warranted at that point in the proceedings as the Chamber’s interpretations of the applicable law would be set in the judgment.<sup>169</sup> Naturally, this judgment applies this burden and standard of proof to the evidence presented.

<sup>163</sup> [Defence Closing Brief](#), para. 85.

<sup>164</sup> [Defence Closing Brief](#), para. 85.

<sup>165</sup> [Defence Closing Brief](#), para. 91.

<sup>166</sup> [Defence Closing Brief](#), para. 95.

<sup>167</sup> [Defence Closing Brief](#), para. 96.

<sup>168</sup> [Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute](#), 28 January 2019, ICC-02/04-01/15-1423 (with two public annexes, A and B).

<sup>169</sup> [Decision on Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute](#), 5 April 2019, ICC-02/04-01/15-1494, paras 13-14.

87. All outstanding issues in relation to the applicable law, including as concerns the burden and standard of proof, are fully dealt with in the present judgment. The issue within the present context is therefore whether prejudice arose to the Defence by way of the fact that this was not provided by the Chamber in advance.
88. With regard to the presentation of evidence, the Defence explains further that ‘it cannot fully address all issues which may be necessary for the Trial Chamber’s Article 74 judgment if it does not know the standard which will be applied.’<sup>170</sup> This is not true, since the Defence can fully address all issues, but it will only know the Chamber’s legal interpretation on these matters at a later point. The Defence has a right to the former pursuant to Article 67(1) of the Statute, but it has no right to receive a full legal interpretation by the Chambers on the law at a specific point in the proceedings.
89. The Defence argues that it was prejudiced because, had it known the burden of proof during the proceedings, it ‘may [have chosen] other evidence’.<sup>171</sup> This argument is speculative. The Defence called numerous witnesses on the matter and submitted numerous items of evidence. The Defence does not even seek to explain how its evidence would have been different. In fact, the Chamber considers that in this case where grounds excluding criminal responsibility were alleged by the Defence since the confirmation proceedings and where they form one of the crucial issues in the trial, the possibility of the Defence choosing a path different than the one it chose is purely theoretical.
90. It further needs to be noted that the Defence had every opportunity to present its evidence or legal submissions on any point of the law. It submitted expert reports and called experts in relation to Article 31(1)(a) of the Statute and it systematically explored matters related to Article 31(1)(d) of the Statute with witnesses who appeared before the court. In this context, the Chamber also recalls that it previously encouraged the Defence ‘to put forward all the evidence it has in support of the grounds for excluding criminal responsibility it has raised.’<sup>172</sup>

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<sup>170</sup> [Defence Closing Brief](#), para. 95.

<sup>171</sup> Defence Closing Statement: [T-258](#), p. 67, lines 19-24.

<sup>172</sup> [Decision on Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute](#), 5 April 2019, ICC-02/04-01/15-1494, para. 15.

91. As concerns Article 31(1)(a) of the Statute, the Chamber has specifically taken care that both parties had the opportunity to elicit all necessary evidence: it allowed the Prosecution to present evidence in rebuttal after the Defence had questioned D-0041 and D-0042.<sup>173</sup> It also determined *proprio motu*, after taking ‘into account the principles of a fair trial and the rights of the accused pursuant to Article 67 of the Statute’, that the Defence was allowed to present evidence in rejoinder of the rebuttal evidence<sup>174</sup> – an opportunity which the Defence availed itself of.
92. In a more general manner, it must be noted that no accused before this Court was allowed to call more witnesses<sup>175</sup> in his or her defence or had a greater number of hearing days at his or her disposal.<sup>176</sup> The accused had all means to fully present its defence and evidence in accordance with Articles 64(2) and 67(1) of the Statute.
93. In conclusion on this point, Dominic Ongwen did not suffer any prejudice and accordingly, the allegations do not justify the exceptional remedy of a permanent stay of the proceedings.

#### **F. Submissions concerning the ‘prejudicial evidentiary regime’**

94. The Defence argues that the fact that the Chamber, consistent with the procedure for submission of evidence it adopted in the present trial,<sup>177</sup> made no ruling on the relevance, probative value or potential prejudice of an item of documentary evidence in the course of the trial is ‘prejudicial, erroneous as a matter of law and undermines the fairness of the proceedings’.<sup>178</sup>
95. The Defence makes several arguments concerning the procedure for submission of documentary evidence at trial as set out by the Chamber in the present case, notably the fact that no ruling on the relevance or admissibility of items of evidence within the meaning of Article 69(4) of the Statute was conducted prior to the recognition of such

<sup>173</sup> [Decision on Requests related to the Testimony of Defence Expert Witnesses D-0041 and D-0042](#), 1 October 2019, ICC-02/04-01/15-1623, para. 16.

<sup>174</sup> [Decision on Requests related to the Testimony of Defence Expert Witnesses D-0041 and D-0042](#), 1 October 2019, ICC-02/04-01/15-1623, para. 17.

<sup>175</sup> The Defence called 54 witnesses as live witnesses and submitted the prior recorded testimony of nine further witnesses pursuant to Rule 68(2) of the Rules.

<sup>176</sup> The Defence called its first witness on 1 October 2018 and the last one 29 November 2019 over 73 hearing days.

<sup>177</sup> [Initial Directions on the Conduct of the Proceedings](#), 13 July 2016, ICC-02/04-01/15-497 (hereinafter: ‘[Directions on the Conduct of Proceedings](#)’), paras 24-31.

<sup>178</sup> [Defence Closing Brief](#), para. 97.

evidence as ‘submitted’ for the purpose of Article 74 of the Statute. Some of these arguments concern the alleged ‘illegality’ of this procedure, while others purportedly relate to certain concrete aspects of its application during the present trial allegedly causing prejudice to Dominic Ongwen’s right to a fair trial.

96. In relation to the first set of arguments raised by the Defence alleging that the Chamber’s procedure for the submission of documentary evidence at trial is, as such, incompatible with the legal framework of the Court and is *per se* prejudicial to the rights of the accused,<sup>179</sup> the Chamber refers to its considerations below to the effect that such procedure is in accordance with the relevant legal instruments and with the jurisprudence of the Court.<sup>180</sup>
97. This alone suffices to reject the Defence’s claim of prejudice. Nevertheless, in order to fully respond to the arguments invoked by the Defence with respect to the specificities of this case, the Chamber proceeds to address at this juncture the purported concrete prejudice to the rights of the accused that, according to the Defence, have been caused as a result of the application in the present case of the procedure for submission of documentary evidence as set out by this Chamber. In this regard, the Defence argues that this procedure had a ‘prejudicial impact’ on the fairness of the proceedings,<sup>181</sup> in that, as a result of such procedure: (i) ‘selective and inconsistent rulings on evidence’ were made;<sup>182</sup> (ii) the evidentiary recorded is ‘overcrowded’ with ‘prejudicial items’;<sup>183</sup> and (iii) no safeguard exists to ensure ‘the quality of the evidentiary process, i.e. permissible means of obtaining evidence’.<sup>184</sup> The Chamber will address these three allegations in turn.
98. With respect to the first allegation (i.e. that ‘selective and inconsistent rulings on evidence’ were made<sup>185</sup>), the Defence cites to two instances in particular. The first one

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<sup>179</sup> This concerns the arguments made by the Defence to the effect that: it was unfair for it to be ‘required to work on the assumption that all the items submitted into evidence by the Prosecution may be used against Mr Ongwen’, also considering that ‘there are over 4200 items formally submitted into evidence’ ([Defence Closing Brief](#), para. 98); the procedure established by the Chamber is ‘in violation with [its] duty to apply the safeguards embodied in Article 69(4) of the Statute’ ([Defence Closing Brief](#), para. 99); and the relevant applicable law ‘unequivocally obligate the Trial Chamber to provide evidentiary rulings on all items submitted into evidence in the judgment’ ([Defence Closing Brief](#), paras 104-06).

<sup>180</sup> See section IV.B.1 below.

<sup>181</sup> [Defence Closing Brief](#), para. 101.

<sup>182</sup> [Defence Closing Brief](#), para. 101 i).

<sup>183</sup> [Defence Closing Brief](#), para 101 ii).

<sup>184</sup> [Defence Closing Brief](#), para. 101 iii).

<sup>185</sup> [Defence Closing Brief](#), para. 101 i).

concerns the Chamber's rejection of a Defence request for disclosure.<sup>186</sup> This matter, however, concerns the relevance of certain information sought by the Defence within the meaning of Rule 77 of the Statute, and is unrelated to the procedure for submission of evidence in this case. It is thus irrelevant in the present context.

99. The second example concerns the rebuttal expert report by Prosecution witness P-0477, Professor Weierstall-Pust. The Defence argues that in relation to this document the Chamber, '[c]ontrary to its prior rulings', 'prematurely dismissed the Defence admissibility objections, without deferring its ruling until the deliberation of the judgment.'<sup>187</sup> First, it is not clear how such a ruling at that point in the proceedings can prejudice one of the parties. Second, the possibility of making rulings, as appropriate, on challenges to the admissibility of individual items of evidence is clearly envisaged by the applicable law and, since before the opening of the trial, has been foreshadowed by the Chamber as part of the general procedure for submission of documentary evidence.<sup>188</sup> It remains entirely unexplained how the fact that the Chamber ruled on the objections raised by the Defence to the admissibility of a specific item of evidence upon its submission could prejudice the accused's rights. The same holds true with regard to the general allegation that the Chamber applied the procedure for the submission of evidence in a 'selective' and 'inconsistent' manner. Besides the fact that this allegation completely unfounded, the Defence does not even make any submission as to what the alleged prejudice consists of.
100. With respect to the second allegation by the Defence (i.e. that the evidentiary record is 'overcrowded' with 'prejudicial items'<sup>189</sup>), the Defence cites to a decision rejecting its request to exclude, as inadmissible, parts of a report from a Victims expert, PCV-1.<sup>190</sup> In this decision, the Chamber addressed and rejected the Defence's arguments that parts of the report at issue were inadmissible as falling outside the scope of procedural rights vested in the participating victims,<sup>191</sup> and clarified that, like for any other evidence, it

<sup>186</sup> [Decision in Response to an Article 72\(4\) Intervention](#), 26 June 2018, ICC-02/04-01/15-1267-Corr2.

<sup>187</sup> [Defence Closing Brief](#), para. 101 i).

<sup>188</sup> See [Directions on the Conduct of Proceedings](#), para. 26 ('The Chamber always retains the discretion to rule on admissibility related issues upfront when appropriate, particularly when procedural bars are raised which may foreclose consideration of the standard admissibility criteria.').

<sup>189</sup> [Defence Closing Brief](#), para. 101 ii).

<sup>190</sup> [Defence Closing Brief](#), para. 101 ii), referring to [T-175](#), p. 11, line 14 – p. 13, line 1.

<sup>191</sup> [T-175](#), p. 12, lines 4-23.

would conduct a full assessment of the report at the time of the issuance of its final judgment.<sup>192</sup> While the Defence might disagree with the decision to reject its objections to the admissibility of parts of the report, the Chamber would have made the exact same finding applying a different procedure for the submission of evidence – any purported prejudice in this regard is thus unrelated to the general procedure set out by the Chamber for the submission of documentary evidence at trial. The Defence has not pointed to any other item in the evidentiary record which would allegedly be prejudicial to the accused’s fair trial rights; nor has the Chamber identified any such material.

101. Finally, as concerns its third allegation (i.e. that no safeguard exists ensuring ‘the quality of the evidentiary process, i.e. permissible means of obtaining evidence’<sup>193</sup>), the Defence refers to ‘the involvement of the Prosecution’s potential witness and intermediary, P-78’, whom it distrusts, and states that ‘[t]his example compromises the proceedings, because of the lack of integrity in the evidence collection process’.<sup>194</sup> The Defence brought forward, in a previous request, the exact same submissions, which were considered and rejected by the Chamber.<sup>195</sup> As observed by the Chamber on that occasion,<sup>196</sup> the Defence appears once again to submit a generic list of grievances which – irrespective of the fact that they are unfounded and not supported by any concrete indicia in the record of the case – are in no manner related to the procedure by which documentary evidence has been submitted in the present case. In any case, and more generally, the Chamber considers that the Defence’s general argument that the procedure for submission of documentary evidence in the present case does not envisage safeguards to the ‘quality of the evidentiary process’ is without merit. In this regard, the Chamber refers to its analysis below concerning the essential features of, and safeguards in such procedure.<sup>197</sup>

102. In conclusion, and also in light of the considerations further expressed below,<sup>198</sup> the Chamber finds that the Defence has failed to demonstrate that the procedure for

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<sup>192</sup> [T-175](#), p. 12, line 24 – p. 13, line 1.

<sup>193</sup> [Defence Closing Brief](#), para. 101 iii).

<sup>194</sup> [Defence Closing Brief](#), para. 101 iii).

<sup>195</sup> [Decision on Defence Request regarding the Evidentiary Regime](#), 19 June 2019, ICC-02/04-01/15-1546, para. 31.

<sup>196</sup> [Decision on Defence Request regarding the Evidentiary Regime](#), 19 June 2019, ICC-02/04-01/15-1546, para. 31.

<sup>197</sup> See section IV.B.1 below.

<sup>198</sup> See section IV.B.1 below.

submission of documentary evidence applied by in this case caused any prejudice to Dominic Ongwen's fair trial rights.

### **G. Submissions on the Prosecution's disclosure practices**

103. The Defence asserts that the 'disclosure practices of the Prosecution [...] have individually and in sum amounted to an unfair trial.'<sup>199</sup> It repeats submissions previously made and includes a list of alleged failures by the Prosecution in relation to its disclosure obligation.<sup>200</sup> The Chamber notes that each of the instances referred to by the Defence in its Closing Brief had been specifically considered and ruled upon by the Chamber.<sup>201</sup>
104. Further, the Chamber notes the Defence's submission that it filed a request in relation to further disclosure violations in February 2020 which had not been ruled upon at the time of the writing of the Defence Closing Brief, which 'leads to prejudice'.<sup>202</sup> The Chamber has previously found that the Defence was aware, when filing this request that the statutory response deadline fell on the same day as the deadline for the submission of the closing briefs.<sup>203</sup> The Chamber further repeats its finding that issues brought forward by the Defence relate to matters which occurred months or years before the filing of the Defence request.<sup>204</sup> The Defence cannot make submissions and requests at such a belated point of the proceedings and then claim it suffered prejudice from the timing of its own request, when it had the chance to file the request at an earlier point in time.
105. The Chamber previously ruled on all alleged disclosure violations cited by the Defence, taking into account the rights of the accused and the fairness and expeditiousness of the

<sup>199</sup> [Defence Closing Brief](#), para. 108.

<sup>200</sup> [Defence Closing Brief](#), paras 109-15.

<sup>201</sup> [Defence Closing Brief](#), para. 115 a.: [Decision on Defence Request for Disclosure and Remedy for Late Disclosure](#), 28 September 2018, ICC-02/04-01/15-1351, rejecting the request for leave to appeal [Decision on Defence Request for Leave to Appeal the Decision on Disclosure and Remedy for Late Disclosure](#), 12 October 2018, ICC-02/04-01/15-1364. Para. 115 b. makes reference to para. 227 of the Closing Brief. The Defence made a request for disclosure for certain material in the run-up of the testimony of a Prosecution Expert. The Prosecution was not in possession of the information but requested authorisation of the Chamber to contact the witness in order to obtain the material, which was granted. Para. 115 c. and 115 d. refer both to issues which were resolved in [Decision on Defence Request for Remedies in Light of Disclosure Violations](#), 22 April 2020, ICC-02/04-01/15-1734.

<sup>202</sup> [Defence Closing Brief](#), para. 116.

<sup>203</sup> Email from the Chamber to the parties and participants and the Registry, Decision on Prosecution Request for Extension of Deadline to File Responses to ICC-02/04-01/15-1718-Conf, 14 February 2020, at 14:19. *See also* Annex III to [Registry's Report Filing in the Record of the Case Decisions issued by way of email from January 2020 to July 2020](#), 2 October 2020, ICC-02/04-01/15-1749.

<sup>204</sup> [Decision on Defence Request for Remedies in Light of Disclosure Violations](#), 22 April 2020, ICC-02/04-01/15-1734, para. 38.

proceedings. Accordingly, the Defence did not suffer any prejudice which would warrant the exceptional remedy of a permanent stay of the proceedings.

#### **H. Submissions concerning ‘Other Human Rights Violations and Discriminations’**

106. Finally, the Defence asserts that the trial proceedings have been conducted in a ‘discriminatory manner’ which was ‘unprecedented in international courts’.<sup>205</sup> The Defence raises two issues which, in its view, constitute human rights violations: discrimination against the accused as a ‘mentally disabled defendant’ and violations to his right to family and private life.
107. With regard to the first issue the Defence submits that ‘[t]he Chamber has treated Dominic Ongwen as an accused and a detained person who does not suffer from any mental health disability.’<sup>206</sup> The Defence argues that the Chamber ‘discriminated against Mr Ongwen by assessing his participation and exercise of his minimum Article 67(1) guarantees as if he were not a defendant with mental disabilities’.<sup>207</sup>
108. During its closing statements, the Prosecution submitted on this issue that, irrespective of the existence of any mental illness, the Defence has failed to show how this caused a concrete prejudice to the accused.<sup>208</sup> It argues that a person suffering from mental illnesses can also be put on trial and that the Chamber made all necessary accommodation for the accused.<sup>209</sup>
109. The Chamber considers the Defence allegation to be entirely untenable. It recalls that in all its decisions, the Chamber assessed the specific situation of Dominic Ongwen, including his health, and in particular his mental health. Throughout the proceedings the Chamber has ensured that the accused received all the medical attention and care necessary. In December 2016, while rejecting a request by the Defence to order a medical examination in order to assess whether the accused is fit to stand trial, the Chamber

<sup>205</sup> [Defence Closing Brief](#), para. 119.

<sup>206</sup> [Defence Closing Brief](#), para. 121. The Defence repeats its submissions in its closing statement, [T-258](#), p. 62, line 13 – p. 67, line 1.

<sup>207</sup> [Defence Closing Brief](#), para. 124.

<sup>208</sup> Prosecution Closing Statement: [T-256](#), p. 26, lines 9-11.

<sup>209</sup> Prosecution Closing Statement: [T-256](#), p. 26, lines 11-19.

ordered an examination ‘making a diagnosis as to any mental condition or disorder that [the accused] may suffer’.<sup>210</sup>

110. In the report provided upon this order, the examiner stated that, while the accused suffered from various mental illnesses, ‘he is oriented in time, oriented vis-à-vis his environment and himself. He has a good attention span and maintains his concentration after hours of interviewing.’<sup>211</sup> Concerning his treatment by the responsible sections of the Court, the examiner stated that ‘[t]he current intervention strategy by the Detention Centre is more than adequate in the perception of [him]’.<sup>212</sup> The Chamber did not go against any advice or finding provided by this neutral examination.

111. Further, each time the health condition of the accused warranted a break in the proceedings, this was immediately facilitated by the Chamber. For instance, when there had to be an interruption of the proceedings, the Chamber instructed the Registry to provide a medical report on whether the accused can attend hearings.<sup>213</sup> Only after receiving confirmation by the medical experts from the Registry that Dominic Ongwen’s state of health allowed for continuation did the Chamber resume hearings. This was explained in court by the Presiding Judge:

But continuing, the Chamber wishes to address the fact that many hearings this year have needed to be cancelled. The Chamber wishes to give a brief explanation for the benefit of the public as to these cancellations. The Chamber was initially scheduled to continue with the Defence presentation of evidence on 14 January 2019. In the early morning of 7 January 2019 Mr Ongwen was involved in what will be described generally as a medical incident. He was briefly hospitalised but returned to the detention centre later that same day. Ever since, there has been an ongoing discussion between all concerned on Mr Ongwen’s current mental health and his necessary medical treatment. In particular, the Registry has been actively involved in making whatever further arrangement it considers appropriate to protect the health and the safety of the accused, as it is its obligation under Regulation 103(1) of the Regulations of the Court. The Chamber cancelled the hearing dates during the weeks of 14 and 21 January to ensure that Mr Ongwen received proper medical treatment. This postponement was done upon the request of the Defence and the reasons for this decision can be found in the public redacted version of decision 1412. Without going further into details, for similar reasons, the hearings of 28 and 29 January and 18 February were cancelled. On 18 February

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<sup>210</sup> Decision on the Defence Request to Order a Medical Examination of Dominic Ongwen, 16 December 2016, ICC-02/04-01/15-637-Conf (public redacted version available: [ICC-02/04-01/15-637-Red](#)), p. 18.

<sup>211</sup> Report, UGA-D26-0015-0046-R01, at 0049.

<sup>212</sup> Report, UGA-D26-0015-0046-R01, at 0053.

<sup>213</sup> Decision on Defence Request to Order an Adjournment and a Medical Examination, 16 January 2019, ICC-02/04-01/15-1412-Conf (public redacted version available: [ICC-02/04-01/15-1412-Red](#)), para. 12.

the Chamber was given an indication from the medical officer that the hearing could proceed today. The Chamber wishes to stress that it does not cancel these hearings lightly. These cancellations have been compelled by considerations of the health and well-being of the accused, noting that the accused has a right under Article 67(1)(d) of the Statute to be present at his trial. We will always keep this in mind, but the Chamber emphasises its continued determination to proceed to an expeditious resolution of this trial.<sup>214</sup>

112. On three occasions, the Defence requested a medical examination of the accused, twice combined with arguing that this warrants a stay of the proceedings.<sup>215</sup> The Chamber has ruled on each request.<sup>216</sup> In these decisions, it based its assessments and rulings on information provided by independent medical experts, taking into account Dominic Ongwen's specific situation. The Defence asserts that 'we concluded that sometimes when the Trial Chamber appears to us to not be looking at the disabilities of the client and not accommodating them fast enough or not believing there is merit to them, they were saying there may be, they may not be seeing the whole picture. It's as simple as that.'<sup>217</sup> The fact that the Chamber has not ruled in favour of the Defence does not mean that it has not fully considered the situation of the accused when ruling on the Defence's request.
113. Lastly, the Defence erroneously submits that the Chamber 'did not implement the ICC-DC Medical Officer's recommendations for the span of eight months'.<sup>218</sup> The Prosecution submits on this matter that there was no discrimination against the accused and that the Chamber acted within the scope of its discretion and took into account the recommendation received by the medical officer as well as other pertinent factors.<sup>219</sup>

<sup>214</sup> [T-199](#), p. 2, line 19 – p. 3, line 18.

<sup>215</sup> Defence Request for a Stay of the Proceedings and Examinations Pursuant to Rule 135 of the Rules of Procedure and Evidence, 5 December 2016, ICC-02/04-01/15-620-Conf (public redacted version available: [ICC-02/04-01/15-620-Red2](#)); Defence Request for a Stay of the Proceedings and for Trial Chamber IX, pursuant to Rule 135 of the Rules of Procedure and Evidence, to Order a Medical Examination of Mr Ongwen, 10 January 2019, ICC-02/04-01/15-1405-Conf-Exp (confidential redacted version available: ICC-02/04-01/15-1405-Conf-Red; public redacted version available: [ICC-02/04-01/15-1405-Red2](#)); Defence Urgent Request to Order a Medical Examination of Mr. Ongwen, 16 September 2019, ICC-02/04-01/15-1595-Conf (public redacted version available: [ICC-02/04-01/15-1595-Red](#)).

<sup>216</sup> Decision on the Defence Request to Order a Medical Examination of Dominic Ongwen, 16 December 2016, ICC-02/04-01/15-637-Conf (public redacted version available: [ICC-02/04-01/15-637-Red](#)); Decision on Defence Request to Order an Adjournment and a Medical Examination, 16 January 2019, ICC-02/04-01/15-1412-Conf (public redacted version available: [ICC-02/04-01/15-1412-Red](#)); [Decision on Further Defence Request for a Medical Examination](#), 1 October 2019, ICC-02/04-01/15-1622.

<sup>217</sup> Defence Closing Statement: [T-258](#), p. 66, lines 19-22.

<sup>218</sup> [Defence Closing Brief](#), para. 137.

<sup>219</sup> Prosecution Closing Statement: [T-256](#), p. 29, lines 8-11

Further it submits that the accused did not suffer any concrete harm to prepare or conduct his defence from the sitting schedule.<sup>220</sup>

114. The Chamber finds that the Defence's allegations on this point are without any reasonable justification and fundamentally misrepresent the facts. The Chamber first received information that the accused 'would significantly benefit from not being present in Court on Wednesdays, during the weeks that he is normally scheduled for a full five day court schedule' in March 2018.<sup>221</sup> Understanding the recommendation to guide against the accused sitting a full five day court schedule, the Chamber adapted the sitting schedule mindful of the health of the accused. On the rare occasions a hearing on Wednesday was scheduled the Chamber always made sure that another day of that week was off. Consequently the accused never spent five working days of a week in Court. On two of the five instances in which a hearing was scheduled on Wednesday, Dominic Ongwen attended court only two days in the entire week.<sup>222</sup> On one occasion he attended court only three days in that week.<sup>223</sup> On two occasions the accused attended court for four days in a week.<sup>224</sup> Further, despite claiming that 'this had a direct effect on Dominic Ongwen',<sup>225</sup> the Defence does not cite to any specific issue resulting from the five Wednesdays the accused attended court.
115. Accordingly, the submissions that the Chamber 'discriminated' against the accused are baseless. The Defence further fails to show the claimed impact on the fair trial rights of Dominic Ongwen.<sup>226</sup>
116. The second issue concerns asserted violations by the Defence to the accused's human rights because Dominic Ongwen's family life was affected by restrictions to his communications.<sup>227</sup>

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<sup>220</sup> Prosecution Closing Statement: [T-256](#), p. 30, lines 12-15.

<sup>221</sup> Registrar Submission of Information Provided by the Medical Officer, 7 March 2018, ICC-02/04-01/15-1200-Conf, para. 8.

<sup>222</sup> In the week of 9 April 2018, the Chamber only sat on 10 and 11 April 2020; in the week of 21 May 2020 the Chamber only sat on 23 and 24 May 2020.

<sup>223</sup> In the week of 26 March 2018, the Chamber only sat on 26, 27 and 28 March 2020.

<sup>224</sup> In the week of 30 April 2018, the Chamber did not sit on 30 April 2020; in the week of 22 October 2020 it did not sit on 26 October 2020.

<sup>225</sup> Defence Closing Statement: [T-258](#), p. 62, line 25.

<sup>226</sup> [Defence Closing Brief](#), para. 146.

<sup>227</sup> [Defence Closing Brief](#), para. 147.

117. The Pre-Trial Chamber first installed restrictions to the communication of the accused.<sup>228</sup> These restrictions were maintained and amended by the Chamber<sup>229</sup> and later reviewed and again confirmed.<sup>230</sup> The restrictions consisted in the active monitoring of the accused's non-privileged communication and a system of prior approval by the Chamber for the addition of persons, at the accused's request, to the list of authorised non-privileged telephone contacts.
118. The assertion that the conduct giving rise to the restrictions was not 'proven' during the proceedings by the Prosecution and that therefore the restrictions are per se unjustified<sup>231</sup> is misguided. The decisions ordering and confirming these restrictions were based on specific information concerning the threat of witness interference, in line with Regulation 101(2) of the Regulations of the Court.<sup>232</sup>
119. Further, as explained above, the restrictions did not entail that the accused could not under any circumstances contact a specific person, but rather that a prior authorisation of the Chamber was required. Both times that the Defence requested additions to the list of persons Dominic Ongwen was allowed to contact, the Chamber granted such requests<sup>233</sup> Furthermore, when it considered it appropriate the Chamber, acted on its own initiative

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<sup>228</sup> [Decision on a request by the Prosecutor under article 57 of the Rome Statute and regulation 101\(2\) of the Regulations of the Court](#), 24 June 2015, ICC-02/04-01/15-254; [Decision concerning the restriction of communications of Dominic Ongwen](#), 3 August 2015, ICC-02/04-01/15-283-Conf.

<sup>229</sup> Decision on issues related to the restriction of communications of Dominic Ongwen, 30 May 2016, ICC-02/04-01/15-450-Conf-Exp (public redacted version available: [ICC-02/04-01/15-450-Red](#)).

<sup>230</sup> [Decision on the Review of Dominic Ongwen's Detention and on the Restriction on Communication](#), 21 July 2016, ICC-02/04-01/15-503.

<sup>231</sup> [Defence Closing Brief](#), para. 149. *See also* Defence Closing Statement: [T-258](#), p. 45, line 22 – p. 46, line 4.

<sup>232</sup> Pre-Trial Chamber II, [Decision on a request by the Prosecutor under article 57 of the Rome Statute and regulation 101\(2\) of the Regulations of the Court](#), 24 June 2015, ICC-02/04-01/15-254, para. 6; [Decision concerning the restriction of communications of Dominic Ongwen](#), 3 August 2015, ICC-02/04-01/15-283-Conf, paras 9, 10, 12; Decision on issues related to the restriction of communications of Dominic Ongwen, 30 May 2016, ICC-02/04-01/15-450-Conf-Exp (public redacted version available: [ICC-02/04-01/15-450-Red](#)), para. 4.

<sup>233</sup> [Decision on Defence Request to Meet with Six Prosecution Witnesses](#), 13 September 2019, ICC-02/04-01/15-1593; [Decision on Defence Request to Lift Communication Restrictions](#), 18 October 2019, ICC-02/04-01/15-1642. The Chamber refused that an expert witness of the Defence, Dr Akena, D-0041, is put on the privileged contact list, but stressed at the same time that he may be added to the non-privileged contact list. Decision on issues related to the restriction of communications of Dominic Ongwen, 30 May 2016, ICC-02/04-01/15-450-Conf-Exp (public redacted version available: [ICC-02/04-01/15-450-Red](#)), para. 8.

and requested submissions from the parties and participants on the contact restrictions<sup>234</sup> and subsequently lifted them.<sup>235</sup>

120. Accordingly, upon the arguments presented by the Defence, the Chamber does not find that the rights of the accused to family or private life were violated. Consequently, the allegations of the Defence do not in any conceivable way warrant the exceptional remedy of a permanent stay of proceedings.

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<sup>234</sup> Email from the Chamber to the parties and participants and the Registry, responses for relief requested in para. 731 of the [Defence Closing Brief](#), 26 February 2020, at 18:09. *See also* Annex VI to Registry's Report Filing in the Record of the Case Decisions issued by way of email from January 2020 to July 2020, ICC-02/04-01/15-1749-AnxIV.

<sup>235</sup> [Public Corrected version of Decision on the Defence Request for Immediate Release and the Communication Restrictions Applying to the Accused](#), 17 April 2020, ICC-02/04-01/15-1733-Corr.

### III. FINDINGS OF FACT

121. In this section, the Chamber sets out the material facts and circumstances of this case as they have been established to the requisite threshold upon its assessment of the evidence submitted and discussed before it at trial. They are the facts and circumstances which form the basis for the Chamber's decision under Article 74 of the Statute. The reasoning for the Chamber's determination in this regard is provided below, in Section IV.C. ('Evidentiary analysis for findings of fact'), where the Chamber discusses, also in light of the arguments made at trial, the evidence which, directly or by way of inference (thus, through additional facts of a subsidiary nature), supports each of these findings on the facts and circumstances described in the charges.<sup>236</sup> The legal characterisation of these facts and circumstances, in light of the charges brought against Dominic Ongwen, is made in Section V.B. ('Legal characterisation of the facts').
122. The Chamber clarifies that, pursuant to Article 74(2) of the Statute, it has ensured that its findings of fact do not exceed the facts and circumstances described in the charges against Dominic Ongwen as confirmed by the Pre-Trial Chamber.<sup>237</sup>

#### A. LRA as an organisation in 2002-2005

123. At the time relevant for the charges, i.e. from 1 July 2002 to 31 December 2005, the LRA had a hierarchical structure. Joseph Kony was the highest authority in the LRA. During the time period relevant for the charges, his deputy was Vincent Otti, who led a headquarters unit called Control Altar. Further, the LRA was divided into four brigades: Sinia, Stockree, Gilva and Trinkle. From 2003, there was also a division called Jogo. The brigades were divided into battalions and further into companies or 'coys'. Each of these units was led by a commander.
124. Orders were generally communicated from Joseph Kony directly or through Vincent Otti to the brigade commanders, who communicated them to the battalion commanders, who in turn passed them to their subordinates. Joseph Kony's orders were generally complied with. At the same time, in particular when Joseph Kony was geographically removed

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<sup>236</sup> In the electronic version of the judgment, the text of the finding of fact also functions as hyperlinks to the relevant sections of the evidentiary analysis: clicking on each such finding will direct to the corresponding evidentiary analysis.

<sup>237</sup> The Chamber recalls that the text of the charges in the present case is contained at pages 71-104 of the [Confirmation Decision](#), having its own numbering of paragraphs.

from LRA units, brigade and battalion commanders took their own initiatives. This was regularly the case during the period of the charges, when Joseph Kony was in Sudan while various LRA units operated in Northern Uganda.

125. The LRA had at its disposal weapons and ammunition for use in military operations. It regularly seized weapons from the UPDF during combat. It also obtained weapons and other supplies from Sudan. The LRA supplied itself with food, medicines and other items of use by looting from civilians in Northern Uganda, in particular from IDP camps. The LRA relied on high-frequency radio as the principal mode of communication between units in various locations in Northern Uganda and Sudan.

## **B. Organisational features of the Sinia brigade**

### *1. Structure and command*

126. At the time relevant for the charges, i.e. from 1 July 2002 to 31 December 2005, Sinia brigade was led by a brigade commander, who had at his disposal a headquarters unit, which included the brigade intelligence officer, the brigade major, and the support commander.
127. Sinia brigade was composed of three battalions: Oka, Terwanga and Siba. Each of these battalions was led by a battalion commander, who reported to the brigade commander, and was composed of companies, or 'coys'.
128. Altogether, at the time relevant to the charges, between 1 July 2002 and 31 December 2005, Sinia brigade included several hundred soldiers.

### *2. Ways to ensure capability to undertake military operations*

129. Sinia brigade obtained new fighters through abductions of civilians. These abductions were targeted at civilians deemed capable for fighting, including young children. Following their abduction, recruits generally passed through initiation rituals, most regularly including anointment with shea butter, intended to instil obedience and prevent escape. Beating was also a common feature of such initiation. With some regularity, recruits were forced to brutally kill, or were forced to witness brutal killings, shortly after their abduction.

130. Upon abduction into Sinia brigade, recruits were given training in fighting skills, including the use of firearms. Weapons were distributed to recruits. As part of the training, recruits were also taught military discipline. Recruits were not taught, as part of their training, to distinguish between civilians and combatants, or between civilian objects and military objectives.
131. There were clear rules requiring obedience of LRA soldiers, and a violent disciplinary system that guaranteed adherence to them. LRA soldiers were punished, for example, for not executing orders, losing a gun, or failing to prevent abducted persons from escaping. Penalties ranged from beating to execution. Dominic Ongwen personally ordered disciplinary measures.
132. Sinia members, and LRA members generally, were threatened with death if they attempted escape. On certain occasions, execution of re-captured escapees in fact took place. Dominic Ongwen personally issued threats to LRA members that they would be killed if they attempted to escape, and ordered killings of abductees in front of LRA members to illustrate this threat. Members were also threatened that their home areas would be attacked by the LRA if they escaped. A further measure taken to discourage escaping was giving soldiers false or negative information about life outside of the LRA, including that they would be killed by government soldiers if they escaped and went home, and preventing them from obtaining information through public radio broadcasts.
133. Sinia, and more generally LRA members, especially those of lower rank, suffered from hunger and lack of adequate clothing. They regularly slept outside on the ground. There was no or very limited treatment available in case of sickness or injury.

### **C. Dominic Ongwen's position within the LRA**

134. At the beginning of the period relevant for the charges, on 1 July 2002, Dominic Ongwen was battalion commander, in charge of the Oka battalion of Sinia brigade. Dominic Ongwen was promoted to the rank of major on 1 July 2002.
135. In October or November 2002 Dominic Ongwen was injured and placed in sickbay until around mid-2003. From at least December 2002 onwards, he again exercised his authority as battalion commander. In April 2003, Dominic Ongwen was briefly arrested

by Vincent Otti. The arrest did not interrupt the exercise of his authority for any significant period.

136. On 17 September 2003, Joseph Kony appointed Dominic Ongwen as second-in-command of the Sinia brigade. On 15 November 2003, Joseph Kony promoted Dominic Ongwen to the rank of lieutenant colonel.
137. On 4 March 2004, Joseph Kony officially appointed Dominic Ongwen as brigade commander of Sinia brigade.
138. Dominic Ongwen remained Sinia commander until 31 December 2005, and further. On 30 May 2004, Joseph Kony promoted him to the rank of colonel, and sometime in late 2004 to the rank of brigadier.

#### **D. Objectives and policies of the LRA**

139. The LRA pursued an armed rebellion against the Government of Uganda.
140. The LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda. LRA commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA.
141. Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.

#### **E. Armed conflict and attack on civilians**

142. Throughout the period of the charges, i.e. between 1 July 2002 and 31 December 2005, the LRA regularly fought the armed forces of the Government of Uganda and associated local armed units in Northern Uganda. Dominic Ongwen knew of this fact.
143. Throughout the period of the charges, in Northern Uganda, the LRA killed, injured and enslaved a large number of civilians in numerous attacks on individual civilians, IDP camps and other civilian locations. It also abducted and enslaved, and used as sexual

slaves and so-called ‘wives’, and as domestic servants a large number of civilians. Dominic Ongwen knew of these facts.

#### **F. Attack on Pajule IDP camp**

144. On 10 October 2003, LRA fighters, including Dominic Ongwen, attacked Pajule IDP camp. Pajule and Lapul IDP camps were situated in Aruu County, Pader district. The two camps were across from each other, Pajule on the east side of the Lira-Kitgum road and Lapul on the west. They were commonly referred to as ‘Pajule IDP camp’. At the time of the attack, an estimated 15,000 to 30,000 people lived in the camp.
145. Several days before the attack on Pajule IDP camp, Vincent Otti summoned a number of LRA units to join him. Around that time, Dominic Ongwen and his group of fighters joined Vincent Otti.
146. A meeting took place the day before the attack at a location east of Pajule IDP camp, including Vincent Otti, Raska Lukwiya, Okot Odhiambo, Dominic Ongwen and other LRA commanders. Several hundred LRA members were present nearby. After the meeting, on the eve of the attack, the LRA soldiers were selected from the Control Altar, as well as Trinkle and Sinia brigades. Raska Lukwiya was designated as the overall commander for the attack. The attackers were briefed about the attack and instructed to attack the UPDF at the barracks, as well as civilian areas of the camp in order to loot radio equipment, food and other items. The attackers were also told to abduct civilians. The same evening after the briefing, the attackers, including Dominic Ongwen, departed for Pajule IDP camp. Vincent Otti remained behind.
147. In the early morning of 10 October 2003, several hundreds of LRA fighters, including fighters under the age of 15, entered through the Pajule side of the camp on the east, armed with an assortment of weapons, including SPG-9, AK-47s, a 12.7 mm anti-aircraft gun, RPGs, a PKM machine gun as well as pangas/machetes and knives. The LRA fighters were organised in several units, spreading throughout the camp. One group attacked the military barracks in the Lapul side of the camp, engaging with the Ugandan government forces. Another much smaller group went to the Catholic mission, from where it was repelled by government soldiers. Two small groups set up ambushes on the Pader and Kitgum roads, to prevent government military reinforcements from aiding the

camp. A final large group of fighters went to attack the civilian camp. Amongst this group of fighters was Raska Lukwiya, the operations commander of the attack.

148. Government soldiers within the camp fled in the face of the attacking force, while government soldiers in the barracks managed to hold the barracks under heavy fire from the LRA.
149. Dominic Ongwen led a group of attackers to fight at the barracks, before directing them to attack the trading centre within the camp.
150. During the attack, LRA attackers, some of them led by Dominic Ongwen, broke into homes and shops and looted food and other property from them in Pajule IDP camp. There was widespread looting throughout the camp. The attackers raided the trading centre in the camp, broke into shops and took food items and supplies. Among the items looted by the LRA attackers were foodstuffs like beans, flour, salt, sugar, cooking oil, maize, sweets, biscuits, groundnuts, soda as well as household goods such as bedding, clothing, a radio set, saucepans and items such as medicine, livestock and money. Dominic Ongwen personally ordered LRA attackers to loot within the trading centre, ordering them to loot items from shops and homes within the camp. The LRA attackers complied with this order.
151. With the arrival of a government helicopter and reinforcement ground forces, LRA attackers left the camp with abductees and looted goods.
152. In the course of the attack, LRA fighters killed at least four civilians, most of whom were abductees killed because they tried to escape or refused to carry looted goods. The civilians killed by the LRA in the course of the attack on Pajule IDP camp included: an unnamed woman killed by machete, Kinyera Benson Lacung, Pangarasio Onek and unnamed abductee killed by the RV location.
153. LRA fighters abducted hundreds of civilians from the camp and forced them to carry looted items, including heavy loads, for long distances while retreating from the camp. Dominic Ongwen ordered a subordinate to abduct civilians. The order was immediately executed. Dominic Ongwen also led a group of abductees and ordered abductees to carry looted goods and instructed them not to drop items. Some abductees were forced to carry injured LRA fighters. The abductees were under armed guard to prevent their escape and

were under constant threat of beatings or death. Some were tied to each other. Many of the abductees were forced to walk bare foot or not fully clothed through the bush for a long distance. LRA fighters beat abductees to make them walk faster.

154. Among the persons abducted from Pajule IDP camp were Witness P-0006, her neighbour, her three relatives; Witness P-0081; Richard Otim; Witness P-0249; Witness P-0249's wife; Benson Ojok; Dick Okot and his family members; Rwot Joseph Oywak; Charles Bongomin, Oryema Kadogo, Sunday Abalo, Charles Ayela, Concy Ayet; Ogen; Opira; Okumu; Santo Oweka; David Okwera; Francis Kitara; George; Ronald Labeja; Christopher; Celestino; Vincent Okot; Ocana; Charles Abonga; David Otti Moyo; Christine; Paska; Oluge; Opira Bosco and Oryema.
155. Abductees carried the looted items to a meeting place where the LRA met after the attackers left Pajule IDP camp. At this meeting point, the LRA collected the looted goods. Looted items were distributed within the LRA, including within Dominic Ongwen's group.
156. At the meeting point, Vincent Otti and other commanders addressed the abductees. Vincent Otti told abductees that the LRA reproached the civilians for settling in IDP camps set up by the government, and that there was a punitive nature to the LRA's attack on the camp. Dominic Ongwen also spoke to a group of abductees, telling them that anyone who escaped or dropped looted goods would be killed and that abductees would be trained as soldiers.
157. After the fighters returned from the camp, some abductees remained in the LRA and were distributed to various units, including among Dominic Ongwen's group.
158. Vincent Otti, the overall commander for the attack, communicated the results of the attack to Joseph Kony on the LRA radio communication system.

#### **G. Attack on Odek IDP camp**

159. On 29 April 2004, LRA fighters subordinate to Dominic Ongwen, and acting on his orders, attacked Odek IDP camp. Odek IDP camp was situated in Odek sub-county, Omoro County, Gulu district and at the time of the attack between 2000 and 3000 people lived in the camp.

160. Shortly before the attack on Odek IDP camp, Joseph Kony ordered that the people of Odek be attacked, to punish their perceived failure to support the LRA. Dominic Ongwen knew of Joseph Kony's order before the attack.
161. Dominic Ongwen decided that LRA soldiers under his command would attack Odek IDP camp. He coordinated with subordinate commanders and appointed them to lead the attack on the ground. Dominic Ongwen ordered the fighters to attack the camp in two groups, one focused on the military barracks in the camp and the other focused on the civilian areas. Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians, and also instructed them to loot food and abduct civilians. Dominic Ongwen ordered the selection of soldiers for the attack, and participated in a ritual and prayer before they set out. He encouraged the soldiers and repeated the orders to target everyone, including civilians, to loot and to abduct civilians. Afterwards, the LRA fighters left for Odek. The LRA fighters who went to attack Odek IDP camp were subordinate to Dominic Ongwen. They included fighters belonging to Sinia brigade, as well as two fighters from the Gilva brigade. The subordinate commanders Dominic Ongwen sent to attack Odek IDP camp included Ben Acellam, Okwer and Kalalang.
162. Dominic Ongwen moved with the attackers in the direction of Odek IDP camp. He did not enter Odek IDP camp with the fighters sent to attack.
163. In the late afternoon the day of the attack, Odek IDP camp residents gathered and a government soldier warned them to be vigilant as the LRA were believed to be operating in the area. As the residents and several government soldiers were dispersing from that gathering in the early evening, at least 30 LRA attackers, including children under the age of 15, executed Dominic Ongwen's orders and, with an assortment of arms including AK guns, a mortar and an RPG, a PK and a 'B-10' gun, attacked Odek IDP camp from the northern side of the camp.
164. The LRA fighters operated in two groups, pursuant to Dominic Ongwen's orders. One group of fighters attacked the military barracks, situated about a few hundred meters from the camp, killed some soldiers there and burned the barracks down, overwhelming the soldiers at the barracks. The other group of fighters spread into the civilian area, including the trading centre, where they dispelled several government soldiers and proceeded to

attack the civilian residents, shooting, beating, abducting and forcing them to carry looted goods.

165. While in the camp, LRA attackers broke into homes and shops and looted food and other items from the camp, both from shops in the trading centre and from civilian homes, including items such as beans, cooking oil, maize, flour, soda and other beverages, biscuits, sugar, salt, posho, soap, clothes, saucepans, bedding, shoes. The food aid which had been recently distributed to the camp was looted by the attackers. The LRA distributed the items looted from Odek IDP camp to the households of different commanders, including Dominic Ongwen.
166. During the attack in the camp, a female LRA attacker raped [REDACTED], a civilian resident of the camp, with a comb and a stick used for cooking, while the victim's husband was forced to watch. The rape was committed with such force that [REDACTED] started to bleed.
167. Under orders to shoot civilians in the chest and head to ensure that they died, LRA fighters fired their weapons at civilians during the attack. At least 52 civilians died as a result of the injuries sustained in the camp or in the course of the retreat, while at least ten were the victims of attempted killings. Many civilians were shot as they ran away from the LRA. Among the victims were elderly civilians, children, a pregnant woman as well as women carrying babies tied to their back. The bodies of the dead were scattered everywhere across the camp. Witness P-0264, an LRA fighter, was ordered to spray bullets inside civilian houses. He also shot a civilian man dead. LRA also fighters set at least one hut on fire with civilians inside.
168. The LRA killed the following persons within the camp during their attack: Adoni Okullu, Agudu's wife and her grandson, Betty Adong and her daughter Ajok, Catherine Amono, Okeny, Aldo Okello, Ayita Labanya, Charles Obur, Doris Apiyo, Jenaro Ongwen, Jimmy Ojok, Catherine Laker, Kevin Apiyo, Kerobina Acayo, Kejikiya Okec, Veronica Auma, Mary Acayo, Monica Aciro, Wilson Okoya, Okoya, Obangomoko, Pedwang Opio, Thomas Opiyo, Thomas Ojok, Valentino Okot, Walter Ojok, Atikcon, an unnamed camp resident, Mary Agudu, Doreen Ojok, DP, Acayo, Aboni, Witness P-0269's mother-in-law and her grandson, a girl found by the river.

169. LRA fighters also attempted to kill at least ten civilians. An LRA fighter fired shots through the door of a locked hut, killing the male inhabitant and wounding the female inhabitant in the neck. The LRA attempted to kill the following persons in the course of the attack: Santa Akello, Betty Atenyo, Christopher Moro, David Bua, Witness P-0252, Kengali and his wife, a man by a borassus palm tree, Okot LC's mother and a woman shot in the mouth.
170. About an hour after the LRA began their attack on Odek IDP camp, the LRA attackers retreated from the camp in the face of the arrival of government reinforcements.
171. When they left the camp, the LRA took with them abducted civilians and looted goods. In the course of the attack, LRA fighters abducted at least 40 civilian residents from the camp: men, women and children. Amongst many others Atir, Hilary Kilama, Lalam, Rose Aweko, David Ojok, James Titus Latigo, James Ayella, Kidega, Lagii, Patrick Opap Odong, P'Mala Okot, Ojok, Fabio Otto, Onek, Witness P-0275, Witness P-0269, Witness P-0252, Brian Odokonyero, Hellen Adong, Alice Kidega, Acan, Adaa/Ada, Agnes Adoch, Ajok, Akanyo, Apio, Atenyo, Carolina Lagulu, Dennis Otema, Doreen Aluku, Kadoge, Kala Adong, Joyce Aneno, Ocaka, Paul Ojara, Richard Okello, Santa Oling, Ventorina Akello, and the wife of Olet Okello were abducted and forced to work for the LRA.
172. Abductees, including children as young as 11 or 12 years old, were forced to carry looted items away from the camp. Abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. Civilians were forced to carry heavy loads for long distances under constant threat of harm; some abductees walked these long distances barefoot. Abductees were forced to carry an injured fighter.
173. Civilians suffered instances of grave physical abuse at the hands of the LRA fighters, such as beatings with sticks and guns. Abductees were beaten for walking too slowly. One abductee was forced to kill another abductee with a club and forced to inspect corpses. Another abductee was forced to watch someone being killed. Some mothers were forced to abandon their children on the side of the road; one child was left on a rubbish pit.
174. Some civilians from the camp were killed when they struggled or tried to escape. One deceased was beaten so badly that his brain was exposed. LRA fighters killed a young

abductee because his feet were too swollen and he was unable to walk any further. Nine adult men were abducted from the camp and forced to carry an LRA fighter who had been wounded during the attack; LRA fighters later killed all nine men when the LRA commander died from his injury.

175. The LRA killed the following persons in the course of the retreat from Odek IDP camp: Aroja, Atir, Hilary Kilama, Lalam, Rose Aweko, David Ojok, James Ayella, James Titus Latigo, Kidega, Lagii, Patrick Opap Odong, P'Mala Okot, Ojok and Fabio Otto.
176. Apart from the abductees killed during the retreat, some abductees were released after a few days in the bush, others were integrated into the LRA, including into Dominic Ongwen's household.
177. After the attack, the attackers joined the rest of the group commanded by Dominic Ongwen. The subordinate commanders briefed Dominic Ongwen. Dominic Ongwen thanked the fighters. Dominic Ongwen communicated the results of the attack on military radio to other LRA commanders and to Joseph Kony, reporting that his fighters successfully carried out an attack on Odek IDP camp, shooting people, abducting civilians and looting in the camp.

#### **H. Attack on Lukodi IDP camp**

178. On or about 19 May 2004, LRA fighters, sent by Dominic Ongwen, attacked Lukodi IDP camp. Lukodi IDP camp was situated in Bungatira Sub-County, Aswa County, Gulu District and a large contingent of civilians resided in the camp at the time of the attack.
179. Dominic Ongwen decided to attack Lukodi IDP camp. For the purpose of the attack, he gathered soldiers from Sinia as well as from the nearby Gilva brigade sickbay. At a gathering the morning of the day before the attack, Dominic Ongwen instructed LRA fighters to attack Lukodi IDP camp and everyone present at that location, including civilians, and to take food from the camp. Dominic Ongwen selected his subordinate Ocaka to be commander on the ground. Other commanders on the ground included Ojok Kampala, Oyenga, Kobbi, Ojara and Abonga Won Dano. After receiving the orders given by Dominic Ongwen, the attackers left for Lukodi IDP camp. They arrived at Lukodi in the evening of the following day after setting out. Dominic Ongwen stayed behind at the location of the pre-attack gathering.

180. In the evening on the day of the attack, at least 80 LRA fighters, including fighters under the age of 15, executed Dominic Ongwen's orders and armed with an assortment of weapons, including an RPG, an SMG, a PK, AK-47s, and a '12', as well as machetes/pangas, attacked Lukodi camp from the east.
181. The LRA fighters went into the civilian areas of the camp and some fighters went to barracks to fight the government soldiers. Government soldiers engaged the LRA fighters and then quickly fled. The remaining civilian population in the camp were left defenceless. LRA fighters targeted civilians within the camp with acts of violence.
182. LRA fighters killed civilians in Lukodi IDP camp: men, women and children. At least 48 civilians died as a result of injuries sustained in the attack. Civilians were shot, burnt and beaten to death.
183. The following persons were among those killed by the LRA within the camp: Keneri Okot, Jeneth Lakot, Kilama Aloyo, Kilama Kidega, Jackline Anee, Milly Anek, Akello Acii, Innocent Okello, Ojoko, unnamed man shouting at the LRA, Christine Ajok, Odong Apiyo, David Otim and an unnamed stabbing victim, Agwesa Odoch, Beatrice's son, Charles Odong, Jasinta Aol, Jojina Angom, Lalobo's son, Tezira Oroma, Ojara, Okwera, Olwedo, Ocaka's wife and one unnamed teenage girl, Onencan, Witness P-0024's mother and [REDACTED], Min Ojoko, Ocii, Atim, Charles Anywar, Danger Joseph Oryem, James Opiro, Jeneth Lalur Akello, Joseph Ojara, Obedi, Rose Kiter, Tabicha Alum, Vincent Ocaya and Santa Oroma.
184. LRA fighters attempted to kill at least 11 other civilians who managed to survive. The fighters shot at civilians and in some cases wounded them. Civilians were beaten and left for dead. Civilians, including children, were thrown into burning houses. The following persons were among those who survived these LRA acts of violence: Pyerina Ayaa, Florence Adong, Adong Paska, Piloya, Joel Opiyo, Ojoko, an unnamed elderly woman, Nyeko, two unnamed girls who had been shot and an unnamed girl with a burnt leg.
185. LRA fighters entered civilian homes and shops in Lukodi IDP camp and looted food and other property from them. Among the items stolen by the attackers were beans, maize, cooking oil, soap, cooking utensils, chickens, money and clothes.

186. During their attack on the camp, LRA fighters set huts on fire. Approximately 210 civilian huts in the camp were burnt. Civilians' household goods, including food stocks, were destroyed in these fires. Domestic animals such as goats were also burnt by the LRA.
187. LRA fighters abducted at least 29 civilians, men, women and children, to carry looted goods from the camp. Among the abductees were Witness P-0024, Olanya, Aleka, Onek, four unnamed male abductees, Witness P-0187, two unnamed female abductees, Joel Opiyo, Lilly Apiyo, Christine Alanyo, Milly Ayaa, Beatrice, Mary Aol, Min Lagum, Min Ojak, Min Ochora, Alora, Okumu, Nancy Akello, an unnamed man stabbed with a bayonet, an unnamed abductee, Justin Omony, Lakwec, Aleka, and Charles Obwoya. Some of the abductees were tied together. Civilians were forced to carry heavy loads, some for long distances, while tied together and under constant threat of harm. The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. Abductees were also injured by the LRA, Witness P-0187 was wounded by an LRA fighter. She was also raped by an LRA fighter. Witness P-0024 was beaten throughout her abduction. LRA fighters kept slapping her and threatening her. Some abductees were carrying their babies when the LRA took them. Mothers were forced to abandon their children in the bush. LRA fighters threw small children, including babies, into the bush because the children were crying and making it difficult for their mothers to carry looted goods. Many of the women abductees were subsequently released. Some abductees, particularly men, were killed in the bush. Some of the abducted children remained with the LRA.
188. The killing of civilians was not confined to the area of Lukodi IDP camp. After they left Lukodi, LRA fighters killed persons they had abducted from the camp. Among the civilians killed in the retreat were Nancy Akello, an unnamed man stabbed with a bayonet, an unnamed abductee, Justin Omony, Aleka, and Charles Obwoya.
189. LRA fighters returned from the attack and reported to Dominic Ongwen about the success of their mission. Dominic Ongwen also reported his soldiers' attack on Lukodi IDP camp to other LRA commanders, including Joseph Kony and Vincent Otti. Dominic Ongwen took responsibility for the attack on Lukodi IDP camp.

## **I. Attack on Abok IDP camp**

190. On 8 June 2004, LRA fighters subordinate to Dominic Ongwen attacked Abok IDP camp. Abok IDP camp was situated in Ngai sub-county, Apac district and contained thousands of civilians displaced by frequent LRA attacks in the region.
191. In the days and weeks preceding the attack, Joseph Kony and Vincent Otti instructed Dominic Ongwen to continue to attack civilians in IDP camps.
192. Dominic Ongwen chose to attack Abok IDP camp. Prior to the attack, Dominic Ongwen ordered LRA fighters subordinate to him to attack this camp, including civilians. At a gathering in the foothills of Atoo, Dominic Ongwen addressed the troops before the attack and gave instructions to go and collect food, abduct people, attack the barracks and burn down the camp and the barracks. Dominic Ongwen did not go to Abok as part of the fighting force. He appointed Okello Kalalang to command the attackers on the ground according to his instructions. Kalalang led the LRA fighters in the attack on Abok IDP camp on behalf of Dominic Ongwen.
193. The day of the attack, Abok IDP camp residents observed LRA troops moving in the western side of the camp. A contingent of Ugandan government soldiers were sent to track the LRA activity. However, the LRA eluded the government soldiers. In the evening of that day, at least 20 LRA fighters, including fighters under the age of 15, executed Dominic Ongwen's orders and, with an assortment of arms, including guns, attacked Abok IDP camp from the southwest.
194. The LRA fighters went past the old barracks in the south of the camp and entered the camp, firing their guns. LRA fighters went to the civilian area in the camp and a contingent of the fighters eventually ended up near the new barracks in the north east of the camp. While government soldiers were able to defend the new barracks, the soldiers within the camp itself were not able to stop the LRA's attack on the camp. These soldiers in the camp fled. The LRA attacked the civilians in the camp.
195. The LRA fighters looted civilian houses and shops at the trading centre, taking away food items such as sugar, flour, beans, maize, goats, cooking oil, biscuits and salt, as well as a radio, money, clothing, cooking utensils and medicine. At times, while demanding the goods, LRA fighters would use violence.

196. LRA fighters set huts on fire in the camp, taking grass from burning thatched roofs to set other huts on fire. Several hundred civilian homes were burnt during the attack. Civilians' food stocks were also destroyed.
197. In the course of the attack, LRA fighters killed civilians by shooting, burning and/or beating them. The attackers killed at least 28 civilian residents of the camp. In other instances, killings were not fully carried out by the LRA fighters because of independent circumstances. Survivors returning the next morning found bodies strewn throughout the camp, including children. Some bodies were burnt or had the backs of their heads smashed, others had been shot. Dead bodies were found inside houses, at doorsteps and among the remains of burnt huts. These civilians were killed by LRA fighters. One of Dominic Ongwen's subordinate commanders intruded into a house with over 10 inhabitants, forced several to carry looted goods and then closed the door and set fire to the house with the remaining inhabitants inside.
198. The following persons were amongst those killed by the LRA in the course of the attack: Albino Okal, Justina Akullu, Hatari Anyima, D.P. Okello, Simon Okello, Alex Ogweng, Barikia Adonya, Fabio Ogweng and two of Hatari Anyima's children (Daniel Okite and Monica Ayugi) and Evelyn Akello.
199. LRA fighters also attempted to kill civilians in the camp. The following persons were amongst those the LRA attempted to kill within the camp: Jacob Opio, Cyprian Ogola and Robson Oper.
200. Unable to dislodge the government soldiers who remained holed up in the new barracks, the LRA eventually retreated from the camp.
201. LRA fighters abducted many civilians and forced them to carry heavy looted goods, and an injured fighter, for long distances oftentimes under the threat of beatings or death. Some of the abductees were tied to each other. The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. LRA fighters beat abductees as a means of punishment for not being able to continue walking and to intimidate other abductees to continue without stopping or resisting. In the course of the retreat, LRA fighters forced an abductee to kill another abductee with a club, as a lesson to others who were thinking of escaping.

202. The LRA attempted to kill abductee Gwentorina Akite, an elderly woman. They had abducted her from the camp and forced her to carry heavy loads, including at one point two goats. When she could no longer bear the weight, an LRA fighter beat and strangled her and cut her with a machete. LRA fighters passing her on the road hit her. She was left for dead but managed to crawl back home to the camp.
203. Among the civilians abducted and forced to work for the LRA were Charles Amodo, Gwentorina Akite, Evelyn Akello, Robson Oper, Witness P-0280, Thomas Okitte's daughter, Ogweng, Ameny, Lucy Akello, Molly Ayugi, Monica Adur, Nighty Atim, Dilis Awor and Witness V-0002. Some persons abducted by the LRA during the attack were rescued by a UPDF contingent that pursued the LRA fighters as they left Abok IDP camp. Some abductees were killed in captivity, at times for failing to keep up with their captors, others eventually escaped and returned home, some remained with the LRA, including in Dominic Ongwen's household.
204. Dominic Ongwen communicated the results of the attack on the LRA military radio to other LRA commanders and to Joseph Kony, reporting that his fighters carried out an attack on Abok IDP camp, directing fire and burning everything that was there, including huts in the camp.

**J. Sexual and gender based violence directly perpetrated by Dominic Ongwen**

205. ██████████ (Witness P-0099) had been abducted by LRA fighters from Purongo, Northern Uganda in February 1998 and from there taken by the LRA to Sudan. By 1 July 2002, while in Sudan, she had been forced to become Dominic Ongwen's so-called 'wife'. Dominic Ongwen had personally abducted ██████████ (Witness P-0101) from Northern Uganda in August 1996. Dominic Ongwen immediately took her into his household, where she stayed until her release in 2004. ██████████ (Witness P-0214) had been abducted from Laliya, Northern Uganda, by LRA fighters in June 2000 and from there taken to Sudan. In September 2002, she was 'distributed' to Dominic Ongwen. ██████████ (Witness P-0226) had been abducted from her home at Patiko Cetkana, Lukome, Northern Uganda, by LRA fighters under Dominic Ongwen's command around 1998. By 1 July 2002, she was *a ting ting* in Dominic Ongwen's household. ██████████ (Witness P-0227) was abducted from Pageya, Northern Uganda by LRA fighters under Dominic Ongwen's command in approximately April 2005. She joined Dominic

Ongwen's household. [REDACTED] (Witness P-0235) was abducted by the LRA fighters in Kitgum town in September 2002. After her abduction she was placed in Dominic Ongwen's household. [REDACTED] (Witness P-0236) was abducted from Wang'yaa in Ogule, Pajule, Northern Uganda, by LRA fighters in September 2002. She was 'distributed' to Dominic Ongwen.

206. The seven women 'distributed' to Dominic Ongwen were not allowed to leave. Dominic Ongwen placed them under heavy guard. They were told or came to understand that if they tried to escape they would be killed. P-0099, P-0101, P-0214, P-0226 and P-0227 were considered Dominic Ongwen's so-called 'wives' and had to maintain an exclusive conjugal relationship with him. Being Dominic Ongwen's so-called 'wife' did not cease until they escaped or were released from the LRA.
207. During the period relevant to the charges, Dominic Ongwen had sex by force with P-0101 (between 1 July 2002 and July 2004), P-0214 (between September 2002 and 31 December 2005), P-0226 (between 1 July 2002 and sometime in 2003) and P-0227 (between approximately April 2005 and 31 December 2005). This happened on a repeated basis whenever Dominic Ongwen wanted. P-0101 became pregnant and gave birth to a girl fathered by Dominic Ongwen sometime between July 2002 and July 2004. In 2004, P-0101 became pregnant and gave birth to a boy fathered by Dominic Ongwen. In 2005, P-0214 became pregnant and, in December 2005, gave birth to a girl fathered by Dominic Ongwen.
208. The seven women were subjected to beating at Dominic Ongwen's command at any time. They were hit with canes and sticks. Some beatings knocked them unconscious, left them unable to walk and left permanent scars. The seven women had to perform different domestic duties, including cooking, working in the garden, doing laundry, fetching and chopping wood, carrying Dominic Ongwen's dishes, fetching water, washing, nursing Dominic Ongwen when he was injured and taking things to him. Failing to perform these tasks led to punishment by beating.
209. On 1 July 2002, Dominic Ongwen forced P-0226 to beat to death a captured UPDF soldier near Patongo, Northern Uganda. P-0226 hit him once, as did other girls. She had blood splattered on her clothes. P-0226 had never killed anyone before, and this was part

of the reason given by Dominic Ongwen on why he selected her to do this. This experience caused her severe anguish.

210. In late 2002 or early 2003 in Northern Uganda, soon after P-0235's abduction, Dominic Ongwen ordered her to, along with other abductees, beat people to death until their blood splashed on the abductees. Although she eventually did not have to carry out the killings, this experience caused her severe anguish.
211. From 1 July 2002 until her escape in September 2002, P-0099 was in Uganda. She was placed by Dominic Ongwen in a sickbay where she continued her life under identical circumstances. P-0101 was released from the LRA in July 2004. P-0214 and P-0227 escaped in 2010 while in the DRC. P-0226 was captured by government soldiers in 2003 in Koch. P-0235 and P-0236 were released from the LRA in April 2015.

**K. Sexual and gender based violence not directly perpetrated by Dominic Ongwen**

212. Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct women and girls in Northern Uganda and force them to serve in Sinia brigade as so-called 'wives' of members of Sinia brigade, and as domestic servants.
213. Dominic Ongwen, Joseph Kony and the Sinia brigade leadership ordered Sinia brigade soldiers to abduct civilian women and girls. Sinia brigade soldiers, in execution of orders of Joseph Kony, Dominic Ongwen and the Sinia brigade leadership, abducted civilian women and girls in Northern Uganda between 1 July 2002 and 31 December 2005. At any time during this period, there were over one hundred abducted women and girls in Sinia brigade.
214. Following their abduction, the abducted women and girls were 'distributed' to members of Sinia brigade. The 'distribution' of the abducted women and girls was the prerogative of Joseph Kony, or, in his absence, of the Sinia brigade commander or battalion commanders. In the exercise of his authority, Dominic Ongwen also personally decided on the 'distribution' of abducted women and girls.
215. The abducted women and girls were threatened with death if they attempted to escape. In some cases, women and girls were in fact killed for attempted escape. In other cases,

they were severely beaten. In addition, they were placed under heavy guard. Abducted women and girls were also forced to beat or kill other abductees for attempting escape or breaking rules. Occasionally, abducted women and girls were released.

216. Joseph Kony, Dominic Ongwen and the Sinia brigade leadership designated abducted women and girls as so-called ‘wives’ of male members of Sinia brigade. Occasionally, ceremonies were performed to mark the so-called ‘marriage’. Frequently no such ceremony occurred, and abducted women and girls were considered so-called ‘wives’ from the time they were first forced to have sex with the man they had been assigned to. The abducted women and girls were not able to refuse. Dominic Ongwen personally assigned women and girls as so-called ‘wives’ and used his authority as LRA commander to enforce the so-called ‘marriage’ in Sinia brigade.
217. Younger abducted girls were used as household servants, referred to as *ting tings*, until they were considered mature enough to become so-called ‘wives’.
218. Sinia brigade members regularly forced abducted women and girls who had been ‘distributed’ to them into sexual intercourse. Sexual intercourse was specifically considered to be part of the role of the so-called ‘wives’. The women and girls were unable to resist, due to the physical force used by the Sinia brigade members and due to the threat of punishment for disobedience and their dependence on the Sinia brigade members for survival.
219. The abducted women and girls were not allowed to have sexual or romantic relations to any man other than the so-called ‘husband’ assigned to them.
220. The abducted women and girls were forced to perform work, such as household work and carrying items. Also this rule was strictly enforced by physical punishment.
221. As a result of the sexual and physical violence, and the living conditions to which they were submitted, the abducted women and girls suffered severe physical and mental pain.

#### **L. Conscription and use of children in armed hostilities**

222. Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to

abduct children under 15 years of age in Northern Uganda and force them to serve as Sinia fighters.

223. Dominic Ongwen, Joseph Kony and the Sinia brigade leadership ordered Sinia soldiers to abduct children to serve as Sinia soldiers. Sinia soldiers, in execution of orders of Joseph Kony, Dominic Ongwen and the Sinia brigade leadership, abducted a large number of children under 15 years of age in Northern Uganda between 1 July 2002 and 31 December 2005. Children under the age of 15 were also abducted during the four attacks relevant to the charges. Dominic Ongwen also abducted children himself.
224. Following their abduction, children under the age of 15 years were integrated into Sinia with the aim of using them in hostilities. Dominic Ongwen knew that children under 15 years of age were integrated into Sinia as soldiers. The abducted children were trained, in some cases received guns, and were assigned to service in Sinia. In some cases, Dominic Ongwen himself assigned abducted children to service within the Sinia brigade. The children served as escorts in Sinia brigade in general and specifically in Dominic Ongwen's household.
225. Children under 15 years of age serving as soldiers in Sinia brigade took part in fighting. They further facilitated LRA attacks by raising alarms, burning and pillaging civilian houses, collecting and carrying pillaged goods from attack sites and serving as scouts. During all four attacks relevant to the charges, children under the age of 15 participated in the hostilities.

## IV. ASSESSMENT OF EVIDENCE

### A. The standard of proof of ‘beyond reasonable doubt’

226. Everyone is presumed innocent until proved guilty before the Court.<sup>238</sup> The onus is on the Prosecution to prove the guilt of the accused.<sup>239</sup>
227. In accordance with Article 66(3) of the Statute, the Chamber, in order to convict the accused must be convinced of the guilt of the accused beyond reasonable doubt. The standard of beyond reasonable doubt is to be applied to any facts indispensable for entering a conviction, namely those constituting the elements of the crimes or modes of liability charged.<sup>240</sup> For this determination, the Chamber must carry out a holistic evaluation and weighing of all the evidence taken together in relation to the facts at issue.<sup>241</sup>
228. As is clear from its plain meaning, reasonable doubts must be grounded in reason. The reasonable doubt standard cannot consist of imaginary or frivolous doubt – it must have a rational link to the evidence, lack of evidence or inconsistencies in the evidence.<sup>242</sup>
229. The possibility that unavailable evidence may include exculpatory information is too hypothetical, without more, to qualify as a reasonable doubt. Accepting such a proposition is akin to requiring proof beyond all doubt, while what is required is instead proof beyond reasonable doubt.

<sup>238</sup> Article 66(1) of the Statute.

<sup>239</sup> Article 66(2) of the Statute.

<sup>240</sup> Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Public Redacted Version of Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction](#), 1 December 2014, ICC-01/04-01/06-3121-Red (hereinafter: ‘*Lubanga Appeals Judgment*’), para. 22; Appeals Chamber, *The Prosecutor v. Bemba et al.*, [Public Redacted Version of Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute”](#), 8 March 2018, ICC-01/05-01/13-2275-Red (hereinafter: ‘*Bemba et al. Appeals Judgment*’), paras 96, 868; Appeals Chamber, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Public Version of Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled “Judgment pursuant to article 74 of the Statute”](#), 7 April 2015, ICC-01/04-02/12-271-Corr, paras 123-25.

<sup>241</sup> [Lubanga Appeals Judgment](#), para. 22; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, [Judgment](#), 8 July 2019, ICC-01/04-02/06-2359 (with public annexes A, B, C, hereinafter: ‘*Ntaganda Trial Judgment*’), para. 45.

<sup>242</sup> Appeals Chamber, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Public Version of Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled “Judgment pursuant to article 74 of the Statute”](#), 7 April 2015, ICC-01/04-02/12-271-Corr, para. 109, with reference to ICTR, Appeals Chamber, *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, [Judgement](#), 26 May 2003, ICTR-96-3-A, para. 488.

230. The Chamber notes that there has been a considerable amount of litigation on the issue of burden and standard of proof with respect to grounds excluding criminal responsibility.<sup>243</sup> The Defence argues that the burden of proof lies with the Prosecution, and that ‘the Prosecution must disprove each element of 31(a) and (d) beyond a reasonable doubt’.<sup>244</sup> The Prosecution, on the other hand, submits that neither party bears the burden of proof, and that ‘the ultimate responsibility for determining the applicability of article 31 grounds lies with the Chamber’.<sup>245</sup>
231. The Chamber notes that there is no specific provision in the Statute regulating the burden and standard of proof with respect to grounds excluding criminal responsibility. However, this is not a lacuna in the Statute. According to Article 66(2) and (3), the burden of proof (incumbent on the Prosecution) and the standard of proof (beyond reasonable doubt) relate to the ‘guilt of the accused’. When a finding of the guilt of the accused also depends on a negative finding with respect to the existence of grounds excluding criminal responsibility under Article 31 of the Statute, the general provisions of Article 66(2) and (3) on the burden and standard of proof equally apply, operating (as is always the case for the determination on the guilt or innocence of the accused) solely with respect to the facts ‘indispensable for entering a conviction’, namely, in this case, the absence of any ground excluding criminal responsibility and, thus, the guilt of the accused.

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<sup>243</sup> See [Prosecution Closing Brief](#), para. 380; [Defence Closing Brief](#), paras 529-34; [Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute](#), 28 January 2019, ICC-02/04-01/15-1423 (with two public annexes, A and B); [Prosecution Response to the “Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute \(ICC-02/04-01/15-1423\)”](#), 7 February 2019, ICC-02/04-01/15-1439.

<sup>244</sup> [Defence Closing Brief](#), paras 529-34. See also [Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute](#), 28 January 2019, ICC-02/04-01/15-1423 (with two public annexes, A and B), para. 17.

<sup>245</sup> [Prosecution Closing Brief](#), paras 380, 476. See also [Prosecution Response to the “Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute \(ICC-02/04-01/15-1423\)”](#), 7 February 2019, ICC-02/04-01/15-1439, para. 23.

## B. The evidence in the case

### 1. *The basis for the Chamber's decision under Article 74 of the Statute: evidence 'submitted' and 'discussed' at trial*

232. Pursuant to Article 74(2) of the Statute, the decision of a trial chamber on the guilt or innocence of the accused shall be based on 'evidence submitted and discussed before it at trial'.

#### *i. Evidence 'submitted' at trial*

233. The Chamber notes that in interpreting the provision of Article 74(2) of the Statute, read in conjunction with the other relevant provisions of the Court's legal instruments, the Appeals Chamber explained that evidence is properly before a trial chamber for the purpose of its decision under Article 74 of the Statute when it has been 'submitted' – i.e. 'presented to the Trial Chamber by the parties on their own initiative or pursuant to a request by the Trial Chamber for the purpose of proving or disproving the facts in issue before the Chamber'<sup>246</sup> – in accordance with the procedure set out by the trial chamber (and 'discussed') at trial unless it is ruled as irrelevant or inadmissible.<sup>247</sup> Accordingly, '[a]ny item of submitted evidence that is not excluded at trial must [...] be presumed to be considered by a trial chamber not to be inadmissible under any applicable exclusionary rule'.<sup>248</sup> Importantly, the act of 'submission' of evidence is a procedural act performed by the parties.<sup>249</sup>

234. Evidence may be 'submitted' orally when given live by witnesses called to testify before a trial chamber<sup>250</sup> or, when documentary in nature, in writing or in audio or visual form. According to article 64(8)(b) of the Statute 'the parties may submit evidence in

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<sup>246</sup> Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Judgment on the appeals of Mr Jean-Pierre Bemba Gombo and the Prosecutor against the decision of Trial Chamber III entitled "Decision on the admission into evidence of materials contained in the prosecution's list of evidence"](#), 3 May 2011, ICC-01/05-01/08-1386, para. 43. See also [Bemba et al. Appeals Judgment](#), para. 576.

<sup>247</sup> [Bemba et al. Appeals Judgment](#), paras 9, 105, 599.

<sup>248</sup> [Bemba et al. Appeals Judgment](#), paras 9, 599.

<sup>249</sup> [Bemba et al. Appeals Judgment](#), para. 576, referring, *inter alia*, to the provisions of Articles 64(8)(b) and 69(3) of the Statute. The Appeals Chamber concluded in this regard that 'it is the evidence that is presented ("submitted") by the parties that – insofar as "discussed" – constitutes the basis of the eventual decision under article 74 (2) of the Statute, rather than evidence "admitted" by the trial chamber'.

<sup>250</sup> See also Rule 140(2) of the Rules according which, in specifying how a witness may be questioned, refers, under sub-paragraph (a) to the right of the party that 'submits evidence [...] by way of a witness' to question that witness.

accordance with the provisions of th[e] Statute’ and ‘[s]ubject to any directions of the presiding judge’.<sup>251</sup> Specifically with respect to the procedure for an item of documentary evidence to be considered as ‘submitted’ within the meaning of Article 74(2) of the Statute, the Appeals Chamber, upon consideration of the relevant legal framework of this Court, held that a trial chamber has discretion to either: (i) recognise the submission of such item of evidence by a party without a prior ruling on its relevance and/or admissibility and consider its relevance and probative value as part of the holistic assessment of all evidence submitted when deciding on the guilt or innocence of the accused; or (ii) rule on the relevance and/or admissibility of such item of evidence as a pre-condition for recognising it as ‘submitted’ within the meaning of Article 74(2) of the Statute, and assess its weight at the end of the proceedings as part of its holistic assessment of all evidence submitted.<sup>252</sup> The Appeals Chamber clarified in this regard that, irrespective of the procedure adopted in each individual case, ‘both the procedure for the submission of evidence at trial and the status of each piece of evidence as “submitted” within the meaning of article 74 (2) of the Statute must be clear’ as ‘[t]his is a fundamental guarantee for the rights of the parties at trial as well as for the purpose of any subsequent appellate review’.<sup>253</sup>

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<sup>251</sup> Rule 140(1) of the Rules further specifies in this regard that ‘[i]f the Presiding Judge does not give directions under article 64, paragraph 8, the Prosecutor and the defence shall agree on the order and manner in which the evidence shall be submitted to the Trial Chamber’.

<sup>252</sup> [Bemba et al. Appeals Judgment](#), paras 8, 598. The Defence suggests, in passing and without further elaboration, that these findings by the Appeals Chamber in its judgment in the *Bemba et al.* case concern only proceedings for offences against the administration of justice under Article 70 of the Statute, and that it is ‘inappropriate’ to employ the procedure for submission of documentary evidence set out in that case (and endorsed by the Appeals Chamber) in the present case which is a case for crimes under Article 5 of the Statute ([Defence Closing Brief](#), para. 100). This proposition by the Defence is based exclusively on a remark expressed in a minority opinion appended to a judgment rendered by the Appeals Chamber on another appeal. The Chamber considers the Defence submission in this respect untenable. There exists no indication – whether explicit or implicit – in the judgment rendered by the Appeals Chamber in the *Bemba et al.* case that the analysis and conclusions made therein are specific to proceedings for offences under Article 70 of the Statute and are not equally applicable to proceedings for crimes under Article 5 of the Statute. To the contrary, all relevant provisions in the applicable law cited by the Appeals Chamber (and all considerations made in their regard) are entirely applicable, without any distinction, to proceedings under both types of crimes. There exists not a single instance in the entire analysis made by the Appeals Chamber in this regard (paras 552-628) in which a provision applicable only to proceedings for offences against the administration of justice (*i.e.*, at that time, Article 70 of the Statute and Rules 162-169) is even mentioned at all; nor is any consideration concerning the types of offences that were the subject of those proceedings made at any point in the Appeals Chamber’s analysis. To the contrary, all references to the legal framework of the Court, the intentions of their drafters, and any alleged prejudice to the rights of the accused are relevant to any type of criminal proceedings conducted at the Court. Also, the Chamber notes that the amount of documentary evidence submitted in the *Bemba et al.* case was even larger than in the present case, although remaining within a comparable range, further making any purported distinction in this regard devoid of any merit.

<sup>253</sup> [Bemba et al. Appeals Judgment](#), paras 9, 599.

235. The two procedures for submission of documentary evidence – while essentially the same with respect to numerous aspects<sup>254</sup> – differ in whether they envisage a distinct procedural step in the course of the trial consisting in an affirmative determination of the relevance and probative value of an item of evidence prior to it being considered as ‘submitted’ within the meaning of Article 74(2) of the Statute; an additional procedural step which is foreseen under the second procedure recalled above, and which is instead absent in the first one. This difference stems from the fact that in the legal system of the Court a separate ruling by a trial chamber on the relevance and probative value of an individual item of documentary evidence under Article 69(4) of the Statute is discretionary in nature,<sup>255</sup> and that no admissibility ‘test’ – beyond that of not being inadmissible by virtue of the operation of specific exclusionary rules or ‘procedural bars’ – is envisaged as such in the applicable law for an item of evidence to be ‘submitted’ at trial.<sup>256</sup> Chambers may thus determine that separate rulings under Article 69(4) of the Statute are justified in the specific circumstances of an individual case, but are not mandated to do so.<sup>257</sup>
236. Under both procedures, evidence which is not excluded by a trial chamber is eligible to be used for the determination on the guilt or innocence of the accused.<sup>258</sup> Each procedure

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<sup>254</sup> In particular, under both procedures, all material disclosed between the parties could potentially appear on their respective lists of evidence, the production of which, while not being a statutory requirement for trial proceedings, has been found to be a best practice in all trials at the Court ([Chamber’s Practice Manual \(4<sup>th</sup> Edition\)](#), 29 November 2019, p. 21). Parties submit items on these lists into evidence, either orally or in writing. Generally, under Rule 64(1) of the Rules, issues relating to the relevance or admissibility are raised at the time when the evidence is submitted. Procedural bars which could preclude the submission of an item into evidence are considered, and ruled upon as appropriate, when such item is submitted by a party to the Chamber. All items of evidence which are part of the evidentiary record of the case are considered – and their relevance, reliability and weight assessed holistically in light of all other evidence therein – when determining the guilt or innocence of the accused. Conversely, in accordance with Rule 64(3) of the Rules, evidence which is ruled ‘irrelevant’ or ‘inadmissible’ is not considered by the Chamber for the purpose of its eventual determination on the guilt or innocence of the accused.

<sup>255</sup> See, in particular, Article 69(4) of the Statute. See also [Bemba et al. Appeals Judgment](#), paras 583-87, 598.

<sup>256</sup> [Bemba et al. Appeals Judgment](#), para. 583 (‘the Appeals Chamber is not persuaded that article 69 (4) of the Statute sets out an additional “test” for evidence to be admissible in the proceedings before the Court (beyond that of not being inadmissible under an exclusionary rule), and that Trial Chambers have therefore the duty to render rulings on the relevance and admissibility of each item of evidence submitted by the parties to determine whether each item meets this general “test”’). See also paras 584-92, 594, 598.

<sup>257</sup> [Bemba et al. Appeals Judgment](#), para. 592 (‘[in] the hybrid system [of the Court] consideration by a trial chamber of the relevance and/or probative value of an item of evidence within the context of a possible ruling on its relevance or admissibility rendered separately from its assessment as part of the eventual evaluation of the guilt or innocence of the accused is, in principle, permitted, but is not mandatory.’). See also paras 585, 592.

<sup>258</sup> [Bemba et al. Appeals Judgment](#), para. 599 (‘[a]ny item of submitted evidence that is not excluded at trial must therefore be presumed to be considered by a trial chamber not to be inadmissible under any applicable exclusionary rule.’).

employs different terminology to reflect the scope of the trial chamber's determination with respect to items of documentary evidence upon their submission by a party: generally, they are either 'recognised as submitted' within the meaning of Article 74(2) of the Statute, in the first procedure, or are individually 'admitted', in the second one. Notwithstanding the difference as concerns the scope of this determination by a chamber, the consequence of either determination is the same: both indicate, with equal clarity, that the item of evidence is part of the collection of evidence that the chamber would consider for its eventual decision on the guilt or innocence of the accused. So long as such determination is clear with respect to each item of evidence, parties know with equal precision, irrespective of the procedure employed in each individual case, which items will be considered as part of the deliberation of the final judgment.

237. In the present trial, this Chamber adopted the first of the above-mentioned procedures.<sup>259</sup> It decided, generally, not to exercise its discretion under Article 69(4) of the Statute to make separate rulings on the relevance or admissibility of items of documentary evidence submitted by the parties<sup>260</sup> other than on any 'procedural bars',<sup>261</sup> which could preclude the submission of an item into evidence due to the operation of a specific exclusionary rule,<sup>262</sup> such as those under Article 69(7) of the Statute or those concerning the procedural requisites for introduction of prior recorded testimony under Rule 68 of the Rules.<sup>263</sup> When no procedural bars to the submission of an item of evidence were found

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<sup>259</sup> [Directions on the Conduct of Proceedings](#), para. 24; [Decision on Request to Admit Evidence Preserved Under Article 56 of the Statute](#), 10 August 2016, ICC-02/04-01/15-520, para. 7; [Decision on Prosecution Request to Submit Interception Related Evidence](#), 1 December 2016, ICC-02/04-01/15-615 (hereinafter: '[Decision on Prosecution's Submission of Intercept Material](#)'), para. 4(ii).

<sup>260</sup> The Chamber recalls that the parties and participants were permitted to submit evidence (i) through a filing, (ii) by email or (iii) orally during the hearing ([Directions on the Conduct of Proceedings](#), para. 27).

<sup>261</sup> See [Directions on the Conduct of Proceedings](#), para. 26.

<sup>262</sup> See [Bemba et al. Appeals Judgment](#), paras 580-82.

<sup>263</sup> Rulings relating to Article 69(7) objections: [Decision on Request to Admit Evidence Preserved Under Article 56 of the Statute](#), 10 August 2016, ICC-02/04-01/15-520. Rulings on procedural requisites for introduction of prior recorded testimony under Rule 68 of the Rules: Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules, 18 November 2016, ICC-02/04-01/15-596-Conf (public redacted version available: [ICC-02/04-01/15-596-Red](#); hereinafter: '[First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#)'); [Decision on the Prosecution's Request to Add Items to its List of Evidence, to include a Witness on its List of Witnesses and to Submit Two Prior Recorded Testimonies under Rule 68\(2\)\(b\) and \(c\)](#), 22 November 2016, ICC-02/04-01/15-600; [Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony and Related Document Pursuant to Rule 68\(3\) of the Rules](#), 5 December 2016, ICC-02/04-01/15-621 (hereinafter: '[Decision on Prosecution Applications under Rule 68\(3\)](#)'); [Decision on Defence Request Pursuant to Rule 68\(2\)\(c\) of the Rules of Procedure and Evidence](#), 19 June 2018, ICC-02/04-01/15-1288; [Decision on Defence Request to Introduce Previously Recorded Testimony Pursuant to Rule 68\(2\)\(b\) of the Rules of Procedure and Evidence](#), 2 July 2018, ICC-02/04-01/15-1294 (hereinafter: '[Decision on the Defence Request under Rule 68\(2\)\(b\)](#)'); Decision on Prosecution Request to Introduce Evidence of Defence Witnesses via Rule

to exist – or none were raised – the Chamber recognised the formal submission of the evidence at issue within the meaning of Article 74(2) of the Statute; this was the formal action taken by the Chamber to indicate that such item of evidence was part of the evidentiary basis on which Dominic Ongwen’s guilt or innocence would eventually be established.<sup>264</sup> Thereafter, the fact that an item of evidence had been ‘submitted’ within the meaning of Article 74(2) of the Statute was placed on the record, and such status accordingly reflected in the e-Court metadata of each such item of evidence.<sup>265</sup> The assessment of the relevance and probative value of all items of evidence so ‘submitted’ – and any argument in this regard raised by the parties and participants in the course of the trial – was therefore conducted by the Chamber as part of its deliberation on the guilt or innocence of Dominic Ongwen and on the basis of a holistic evaluation of all items of evidence that are part of the evidentiary record in the present case, rather than for the purpose of discrete evidentiary rulings.<sup>266</sup> Such assessment, including in terms of the disposal of the arguments advanced at trial by the parties and participants, is referred to in the present judgment as appropriate.

238. The Chamber reiterates in this regard that this procedure concerns exclusively matters related to the relevance and probative value of the items of documentary evidence

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68(2)(b), 16 August 2018, ICC-02/04-01/15-1322-Conf (public redacted version available: [ICC-02/04-01/15-1322-Red](#)).

<sup>264</sup> The Chamber observes that the same procedural act was made also by Trial Chamber VII in the *Bemba et al.* case (see Trial Chamber VII, *The Prosecutor v. Bemba et al.*, [Public Redacted Version of Judgment pursuant to Article 74 of the Statute](#), 19 October 2016, ICC-01/05-01/13-1989-Red (hereinafter: ‘*Bemba et al. Trial Judgment*’), paras 191-92), and that the Appeals Chamber held in this regard that ‘[it] sees no error in the fact that the Trial Chamber did not “admit” items of evidence, but its formal act was instead that of “recognising” the “submission” of this evidence by the parties. On the contrary, by doing so, and basing its decision on the guilt or innocence of the accused on the evidence which had been so submitted, the Trial Chamber acted in line with the procedure provided in the Statute.’ (*Bemba et al. Appeals Judgment*, para. 578).

<sup>265</sup> See in this regard *Bemba et al. Appeals Judgment*, paras 9, 599, emphasising that, in addition to the procedure for the submission of evidence at trial, also the status of each piece of evidence as ‘submitted’ within the meaning of Article 74(2) must be clear. See also para. 600.

<sup>266</sup> In this regard, the Defence mischaracterises a decision by the Appeals Chamber – rendered in an interlocutory appeal in another case – when it claims that the Chamber would be in conflict with this decision if the judgment (or an annex to it) does not contain ‘evidential rulings for all items submitted into evidence’ (*Defence Closing Brief*, paras 104-05; see also para. 106). The same argument has been raised subsequently before the Appeals Chamber itself, which, in ruling on this matter, concluded that not even the decision referenced by the Defence mandated a trial chamber to render rulings on the relevance or admissibility of each item of evidence, and that consideration of the relevance, probative value and potential prejudice of the evidence submitted and the issues raised by the parties in this respect, may be made part of the trial chamber’s assessment of the evidence when it is evaluating the guilt or innocence of the accused person (*Bemba et al. Appeals Judgment*, paras 593-94, referring to Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Judgment on the appeals of Mr Jean-Pierre Bemba Gombo and the Prosecutor against the decision of Trial Chamber III entitled “Decision on the admission into evidence of materials contained in the prosecution’s list of evidence”](#), 3 May 2011, ICC-01/05-01/08-1386).

submitted in the course of the trial, and not issues related to the potential operation of specific exclusionary rules which would render a certain item of evidence inadmissible before the Court and which a trial chamber is mandated to consider separately for the purpose of a distinct evidentiary ruling.<sup>267</sup> Any such issue, as recalled above, has been duly considered by the Chamber in the course of the trial.

239. Conversely, the Chamber explained at the beginning of the trial that, in principle, the relevance and probative value of a given piece of evidence could be assessed more accurately only after having received all evidence presented at trial in order to conduct such assessments in light of the entirety of the evidence submitted, rather than undertaking them during trial as the evidentiary record evolved.<sup>268</sup> At the same time, the Chamber clarifies that under the procedure for submission of evidence as set out in the present case, it still maintains the discretion, vested in it by the relevant statutory provisions, to render separate rulings on the relevance and/or probative value of individual items of evidence as warranted by the specific circumstances at hand, and exclude at any time from the evidentiary record material which, on its face, is patently irrelevant or is manifestly lacking any probative value.<sup>269</sup> In the Chamber's view, such discretion needs however to be exercised with caution and restraint, bearing in mind that the relevance and probative value of a given piece of evidence may not be evident in the course of the proceedings, but may become so when all the evidence is received and considered.<sup>270</sup> Indeed, as cautioned by the Appeals Chamber, any such discretion is to be exercised 'consistently with the boundaries of [a trial chamber's] statutory competences

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<sup>267</sup> See [Bemba et al. Appeals Judgment](#), para. 580 ('[i]n the context of the potential operation of any such exclusionary rule, a distinct determination on the admissibility of certain items of evidence must be conducted – whether in the course of the trial or at the end of the proceedings – separately from the assessment of the evidence for the purpose of establishing the guilt or innocence of the accused.'). See also para. 582.

<sup>268</sup> [Directions on the Conduct of Proceedings](#), para. 25; [Decision on Prosecution's Submission of Intercept Material](#), para. 7.

<sup>269</sup> [Bemba et al. Appeals Judgment](#), para. 603 ('[T]he Appeals Chamber recalls that while rulings on the relevance and/or admissibility of evidence are indeed discretionary, a trial chamber shall balance this discretion with, *inter alia*, its duty, under article 64 (2) of the Statute, to ensure that the trial is fair and expeditious and is conducted with full respect of the rights of the accused. In particular, this duty, in certain specific circumstances of each individual case, may warrant that a trial chamber, consistently with the boundaries of its statutory competence and, in the final instance, the object and purpose of the trial, exercise its discretion under article 69 (4) of the Statute, and render separate rulings on the relevance and/or admissibility of individual items of evidence.'). See also [Directions on the Conduct of Proceedings](#), para. 26; [Decision on Prosecution's Submission of Intercept Material](#), para. 11.

<sup>270</sup> See also Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, [Decision on Prosecution Requests for Admission of Documentary Evidence \(ICC-01/05-01/13-1013-Red, ICC-01/0501/13-1113-Red, ICC-01/05-01/13-1170-Conf\)](#), 24 September 2015, ICC-01/05-01/13-1285, para. 10.

and, in the final instance, the object and purpose of the trial'.<sup>271</sup> There is in fact an inherent risk, which may be in tension with the ultimate purpose of a trial to establish the truth, in excluding items of evidence on the basis of a determination of their relevance or probative value when considered individually – rather than as part of the system of evidence as a whole – and on the basis of a knowledge on the part of the Chamber which, until the end of the trial and prior to the rest of the evidence being available to it, is by definition partial.

240. Consistent with the considerations above and mindful that the ‘submission’ of evidence is a procedural act performed by the parties as a matter of statutory right,<sup>272</sup> the Chamber, in the present trial, has been deferential to the parties in terms of the documentary evidence they submitted for the Chamber’s consideration for the ultimate determination on the guilt or innocence of the accused. Importantly, upon submission of the different batches of documentary evidence by the Prosecution and by the Defence, and in the absence of any indication of an abuse on their part of their statutory right to submit evidence at trial in accordance with the relevant applicable law,<sup>273</sup> the Chamber generally considered that an intervention on its part in terms of exclusion of material from the evidentiary record of the case in the course of the trial was unwarranted.
241. The Chamber observes that this procedure for submission of documentary evidence as set out in the present case is now firmly established in the practice of the Court. It has been adopted in numerous cases<sup>274</sup> and, as recalled, its foundation in the Statute was recently confirmed by the Appeals Chamber, which, on the basis of an in-depth analysis,

<sup>271</sup> [Bemba et al. Appeals Judgment](#), para. 603.

<sup>272</sup> [Bemba et al. Appeals Judgment](#), para. 576.

<sup>273</sup> The Chamber recalls in this regard that the Court’s statutory documents do not set limits on the submission of documentary evidence other than ‘through’ a witness. See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), para. 36; [Decision on Prosecution’s Submission of Intercept Material](#), para. 10; Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, [Decision on the Prosecutor’s application to introduce prior recorded testimony under Rules 68\(2\)\(b\) and 68\(3\)](#), 9 June 2016, ICC-02/11-01/15-573-Red, para. 9; Trial Chamber I, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment pursuant to Article 74 of the Statute](#), 14 March 2012, ICC-01/04-01/06-2842 (hereinafter: ‘[Lubanga Trial Judgment](#)’), paras 107-08.

<sup>274</sup> See Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, [Decision on Prosecution Requests for Admission of Documentary Evidence \(ICC-01/05-01/13-1013-Red, ICC-01/0501/13-1113-Red, ICC-01/05-01/13-1170-Conf\)](#), 24 September 2015, ICC-01/05-01/13-1285; Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, [Decision on the submission and admission of evidence](#), 29 January 2016, ICC-02/11-01/15-405; Trial Chamber I, *The Prosecutor v. Al Hassan Ag Abdould Aziz Ag Mohamed Ag Mahmoud*, [Annex A to the Decision on the conduct of the proceedings](#), ICC-01/12-01/18-789-Anx, paras 27-34; Trial Chamber V, *The Prosecutor v Alfred Yekatom and Patrice-Edouard Ngaïssona*, [Initial Directions on the Conduct of the Proceedings](#), 26 August 2020, ICC-01/14-01/18-631, paras 52-65.

concluded that it was consistent with the legal framework of the Court – including the plain language of Articles 69(4) and 74(2) of the Statute and Rule 64 of the Rules – as well as with the corresponding exact intentions of the drafters of the relevant legal instruments, as made clear by their drafting history.<sup>275</sup> A series of other documents, authored by judges or other experts in international criminal law, have also confirmed the legitimacy of such procedure.<sup>276</sup>

242. The Chamber considers that the procedure set out in the present trial is in conformity with the accused’s right to a fair trial, and recalls the conclusions to the same effect made by the Appeals Chamber upon consideration of the details and implications of this procedure.<sup>277</sup> This includes the explicit rejection on the part of the Appeals Chamber of an argument<sup>278</sup> which is entirely comparable to the grievance, expressed by the Defence in the present case, that it was unfair for it to be ‘required to work on the assumption that all the items submitted into evidence by the Prosecution may be used against Mr Ongwen’.<sup>279</sup>

243. While the Chamber has the responsibility not to rely on (and, correspondingly, to exclude) evidence which is inadmissible due to the operation of a statutory exclusionary

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<sup>275</sup> [Bemba et al. Appeals Judgment](#), paras 572-601 (under the heading ‘Whether the Court’s legal framework mandates rulings on the relevance and admissibility of each item of evidence on the basis of a general admissibility test’), 628. *See also* the Appeals Chamber’s relevant key findings at paras 8 and 9.

<sup>276</sup> For example, a recent report by the Independent Expert Review, established by the Assembly of the States Parties to the Rome Statute, recognised ‘the lack of consensus amongst the Judges on the issue of whether evidence should be admitted or submitted’, but considered it not necessary that the difference ‘be resolved in favour of one or the other through a Regulation on the matter’, given the ‘wide-ranging powers to pronounce orders relating to the conduct of the proceedings’ of the trial chamber and in particular the presiding judge, and that ‘[w]hich approach to follow in relation to the bulk of documentary productions has been recognised by the Appeals Chamber as a decision that falls within the discretion of the Trial Chamber Judges’ ([Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report](#), 30 September 2020, paras 546-50). The Chamber also notes the ‘Paris Declaration on the Effectiveness of International Criminal Justice’ of 16 October 2017, endorsed by an array of international judges – including all the Presidents of international tribunals at the time – which recommended continued reflection upon ‘the practice of totally or partially postponing to the deliberation stage the assessment of the admissibility of the evidence presented’ ([Paris Declaration on the Effectiveness of International Criminal Justice](#), 16 October 2017, para. 21).

<sup>277</sup> [Bemba et al. Appeals Judgment](#), paras 602-28 (under the heading ‘Whether the Trial Chamber’s decision not to rule on the relevance and/or admissibility of all items of evidence prejudiced the rights of the accused’).

<sup>278</sup> [Bemba et al. Appeals Judgment](#), para. 607 (‘the Appeals Chamber is not persuaded by [the appellant’s] generic proposition that his fair trial rights were violated because he had to conduct his defence in the expectation that all evidence submitted in the proceedings could constitute the basis for the Trial Chamber’s eventual decision on his guilt or innocence.’).

<sup>279</sup> [Defence Closing Brief](#), para. 98.

rule,<sup>280</sup> there exists no automatic right to obtain a preliminary determination from the Chamber on the relevance and probative value of each item of evidence submitted in the course of the trial – whether oral or documentary in nature – as a pre-condition for any such item to be considered for the purpose of a determination under Article 74 of the Statute.<sup>281</sup> Rather, as already observed, it is the legal framework of this Court that provides that the evidentiary basis for the final decision on the guilt or innocence of the accused is constituted by the evidence ‘submitted’ by the parties (as well as discussed) at trial that is not otherwise inadmissible due to the operation of an exclusionary rule in the applicable law.<sup>282</sup> This is therefore a statutory effect that does not derive from a trial chamber’s decision not to make discrete intermediate rulings on the relevance and probative value of the items of documentary evidence submitted by the parties as a matter of course. Indeed, as held by the Appeals Chamber, ‘the “expectation” that all evidence submitted could be considered for the purpose of the Trial Chamber’s decision under article 74 (2) arises directly from the Court’s own legal instruments – which, by providing so, accept that there is no inherent incompatibility between fair trial rights and an assessment of the relevance and probative value of the evidence at the end of the proceedings in light of all evidence submitted’.<sup>283</sup>

244. In this regard, the Chamber further recalls that notwithstanding the procedure for submission of documentary evidence set out by each trial chamber, a determination of the guilt or innocence of the accused requires an assessment on the part of a trial chamber of the relevance and reliability of all evidence submitted that has not been excluded in the course of the trial. This is the case irrespective of whether, as concerns items of documentary evidence, a provisional, *prima facie* assessment to the same effect has also been made during the trial as a pre-condition for any such item to be considered as ‘submitted’ within the meaning of Article 74 of the Statute. For this reason, and as held

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<sup>280</sup> [Bemba et al. Appeals Judgment](#), para. 582 (‘a trial chamber is [...] required to ensure that evidence which is affected by an exclusionary rule is ruled inadmissible under the applicable ground and is, therefore, disregarded in the decision on the guilt or innocence of the accused. This consideration is mandatory in nature’).

<sup>281</sup> See also Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, [Decision on Prosecution Requests for Admission of Documentary Evidence \(ICC-01/05-01/13-1013-Red, ICC-01/0501/13-1113-Red, ICC-01/05-01/13-1170-Conf\)](#), 24 September 2015, ICC-01/05-01/13-1285, para. 12 (‘[t]he notion of a fair trial does not require that the Chamber rule on the admissibility of each piece of evidence upon submission – Article 69(4) of the Statute clearly gives the Chamber discretion in this respect’), explicitly approved by the Appeals Chamber ([Bemba et al. Appeals Judgment](#), para. 607).

<sup>282</sup> [Bemba et al. Appeals Judgment](#), para. 607. See also paras 9, 599.

<sup>283</sup> [Bemba et al. Appeals Judgment](#), para. 607.

by the Appeals Chamber, neither of the two procedures for submission of documentary evidence that are possible in the legal framework of the Court guarantees that an accused would not be “forced to invest times and resources in responding to” items of evidence that may end up being disregarded by the trial chamber’.<sup>284</sup> This is also no different from what regularly occurs as far as oral testimonial evidence is concerned.

245. In addition to the considerations expressed above, and with respect to the circumstances of the present case, the Chamber further observes that in the course of the trial items of documentary evidence have not been placed on the record in a disorderly manner leaving the Defence ‘in the dark’<sup>285</sup> as to their relevance to the facts of the case and their probative value. On the contrary, the Defence has been in a position to understand fully the evidence submitted by the Prosecution in support of the charges brought against the accused, and focus its work accordingly. In this regard, the Chamber recalls, *inter alia*, that the facts and circumstances described in the charges brought against Dominic Ongwen have been clearly and exhaustively set out as part of the proceedings before the Pre-Trial Chamber; and that, at the beginning of the trial, the Prosecution filed a detailed Trial Brief explaining how it intended to prove its allegations and how each item of (actual and prospective) evidence relates to the corresponding factual allegations described in the charges. In addition, specific indications as to the purported relevance and probative value of evidence were also given in the filings through which each batch of items of documentary evidence has been submitted by the Prosecution in the course of the trial, and to which the Defence has been able to respond throughout the proceedings providing its own views. In this context, and reiterating the absence of any indication of an abuse on the part of the Prosecution of its statutory right to submit documentary evidence at trial ‘flood[ing] the “case file” with items of a prejudicial nature’,<sup>286</sup> the proposition by the Defence that it has been prejudiced by the mere fact that ‘there are over 4200 items formally submitted into evidence’<sup>287</sup> is without merit.

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<sup>284</sup> [Bemba et al. Appeals Judgment](#), para. 609 (‘even when a trial chamber decides to exercise its discretion to render a ruling on the relevance or admissibility of an item of evidence in the course of the trial, it will need to consider again the relevance, reliability and weight of all submitted evidence that it has not excluded as irrelevant or inadmissible, when assessing, in light of all evidence before it, the guilt or innocence of the accused. In other words, the accused person may, in any case be “forced to invest time and resources in responding to” items of evidence that may end up being disregarded by the trial chamber.’).

<sup>285</sup> See [Defence Closing Brief](#), para. 101.

<sup>286</sup> See [Defence Closing Brief](#), para. 98.

<sup>287</sup> [Defence Closing Brief](#), para. 98.

246. As a final observation, it bears emphasis that a preliminary scrutiny on the relevance, probative value and ‘potential prejudice’ of each item of evidence prior to its entering into the evidentiary record of the case is typically designed in order to screen from ‘inappropriate’ material a – separate – trier of facts, most usually a jury. At this Court, the relevant procedural features are significantly different in that the judges of a trial chamber are themselves the triers of facts responsible for the ultimate fact-finding on the guilt or innocence of the accused (which must also be sufficiently reasoned), and are also professional judges capable of disregarding, for such fact-finding, material which is irrelevant or bears no probative value or is otherwise ‘prejudicial’ within the meaning of Article 69(4) of the Statute.<sup>288</sup> They are thus able to assess all items of evidence before them properly, without the need to render individual intermediate rulings on the relevance and probative value of each of those items to prevent unduly compromising the proceedings. Rather, such assessment – conducted as part of the deliberation of the judgment – emerges from its reasoning, in the context of which ‘a trial chamber must indeed explain with sufficient clarity the basis for its determination’.<sup>289</sup> In fact, the requirement of a reasoned judgment makes it possible for the parties and participants to verify precisely how the Chamber evaluated the evidence before it for its decision on the guilt or innocence of the accused,<sup>290</sup> and enables appellate review as appropriate. This requirement constitutes the primary safeguard against a trial chamber erroneously relying on irrelevant or inadmissible evidence or failing to properly consider all relevant aspects of the evidence available to it, in that it enables proper oversight of the chamber’s ultimate assessment of the evidence submitted and discussed before it at trial.
247. Importantly in this regard, the procedure adopted for the submission of evidence in each individual case has no impact on the quality required of the chamber’s fact-finding, as the Chamber’s duty under Article 74(5) of the Statute to provide ‘a full and reasoned statement of [its] findings on the evidence and conclusions’ remains unaffected. While not every item of evidence eligible to be used for the determination of the guilt or

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<sup>288</sup> See also Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, [Decision on Prosecution Requests for Admission of Documentary Evidence \(ICC-01/05-01/13-1013-Red, ICC-01/0501/13-1113-Red, ICC-01/05-01/13-1170-Conf\)](#), 24 September 2015, ICC-01/05-01/13-1285, para. 12.

<sup>289</sup> *Bemba et al. Appeals Judgment*, para. 597.

<sup>290</sup> See also [Directions on the Conduct of Proceedings](#), para. 25; [Decision on Prosecution’s Submission of Intercept Material](#), para. 11.

innocence of the accused must in fact be explicitly addressed in the judgment<sup>291</sup> and trial chambers have a degree of discretion as to what to address explicitly in their reasoning,<sup>292</sup> what is at issue in this context is the chamber's compliance with its statutory duty to provide sufficient reasons for its determinations. This duty is unrelated to whether the procedure for submission of evidence in the course of a trial envisaged preliminary, *prima facie* determinations of the relevance and probative value of individual items of evidence as a matter of course.<sup>293</sup>

248. That said, the Chamber observes that in the present case both parties submitted items of documentary evidence following the procedure set out by the Chamber, and had equal opportunity to provide their observations and comments, either orally or in writing, on any item of evidence submitted in the course of the trial, including in terms of its relevance and probative value. Such arguments made by the parties and participants in the course of the trial have been duly considered as part of the Chamber's determination of Dominic Ongwen's guilt or innocence, and are addressed and disposed of in the present judgment as appropriate.

*ii. Evidence 'discussed' at trial*

249. As observed above, the Chamber, in accordance with Article 74(2) of the Statute, is required to base its decision only on evidence 'submitted' and 'discussed' before it at

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<sup>291</sup> Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Public document Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III's "Judgment pursuant to Article 74 of the Statute"](#), 8 June 2018, ICC-01/05-01/08-3636-Red, para. 53 ('[t]o fulfil its obligation to provide a reasoned opinion, a trial chamber is not required to address all the arguments raised by the parties, or every item of evidence relevant to a particular factual finding, provided that it indicates with sufficient clarity the basis for its decision'); [Bemba et al. Appeals Judgment](#), paras 105-106.

<sup>292</sup> Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Public document Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III's "Judgment pursuant to Article 74 of the Statute"](#), 8 June 2018, ICC-01/05-01/08-3636-Red, paras 54-55; [Bemba et al. Appeals Judgment](#), paras 106, 107, 597.

<sup>293</sup> See [Bemba et al. Appeals Judgment](#), para. 597 ('[W]hen a trial chamber, in its decision under article 74 of the Statute, fails to explain sufficiently why it considers an item of evidence – whether documentary or testimonial – to be relevant and with sufficient probative value to be relied upon for its factual analysis (or vice versa) despite issues raised at trial in that regard, what is at issue is the trial chamber's compliance with its duty under article 74 (5) of the Statute to provide "a full and reasoned statement of [its] findings on the evidence and conclusion" in support of its decision on the guilt or innocence of the accused. In other words, the safeguard of an accused's right to a reasoned determination on the charges against him or her does not lie in the fact that a trial chamber exercises its discretion to rule on the relevance or admissibility of documentary evidence or rather considers its relevance and probative value as part of the evaluation of the guilt or innocence of the accused. The appellants may raise on appeal [...] errors by the Trial Chamber in its assessment of the evidence, including with respect to insufficient reasoning on its evaluation of the evidence and factual findings, in the same way as they could have done had the Trial Chamber decided to exercise its discretion to rule separately on the relevance and/or admissibility of the evidence.').

trial. As specified by the Appeals Chamber, what is required is that there has been the opportunity at trial to make arguments on the evidence concerned, irrespective of whether any such arguments are actually made.<sup>294</sup> The principal consideration is that the evidence upon which the Chamber bases its judgment pursuant to Article 74 of the Statute has been introduced during the trial – and has therefore become part of the case record – in a manner that the parties and participants had an opportunity to make submissions as to each item of evidence to the extent they deemed fit.<sup>295</sup>

250. In the present case, the parties and participants availed themselves of this statutory right to make arguments in relation to the evidence submitted at trial, and the Chamber duly considered such arguments when evaluating the evidence before it. Of particular significance in this regard are the arguments made by the parties and participants in the context of the submission of individual items of evidence (and responses thereto), as well as their closing briefs and closing statements containing the parties and participants' consolidated views on the entirety of the evidence presented at trial. As recalled above, all these arguments have been considered by the Chamber for the purpose of the present judgment and are addressed herein to the appropriate extent.

## 2. *Testimonial evidence*

### *i. Introductory remarks*

251. The testimonial evidence in the present case consists of: the testimony of a total of 130 witnesses given *viva voce* before the Chamber; the prior recorded testimony of a number of such witness introduced under Rule 68(3) of the Rules; the testimony preserved for trial under Article 56 of the Statute of seven further witnesses; and the prior recorded testimony of a total of other 49 witnesses which were introduced under Rule 68(2)(b) or (c) of the Rules.

252. As recalled, a total of 130 witnesses testified live before the Chamber in the present case.<sup>296</sup> On a number of occasions, the Chamber allowed the introduction, under Rule

<sup>294</sup> [Bemba et al. Appeals Judgment](#), footnote 1256.

<sup>295</sup> See also [Bemba et al. Trial Judgment](#), para. 198; Trial Chamber II, *The Prosecutor v. Germain Katanga*, [Public Document Judgment pursuant to article 74 of the Statute](#), 7 March 2014, ICC-01/04-01/07-3436-tENG (hereinafter: '[Katanga Trial Judgment](#)'), para. 78; Trial Chamber II, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Judgment pursuant to Article 74 of the Statute](#), 18 December 2012, ICC-01/04-02/12-4, para. 44.

<sup>296</sup> 69 of these witnesses were called by the Prosecution, 54 by the Defence and seven by the participating victims through their legal representatives.

68(3) of the Rules, of the prior recorded testimony of some of these witnesses who testified live before it and did not object to such introduction – with both parties having the opportunity to examine them in court. In these instances, the recorded statement complements and forms an integral part of the witness’s *viva voce* testimony, and the Chamber has accordingly considered the prior recorded testimony together with and in the light of the witness’s testimony given in court, and vice versa.

253. Further, upon request by the Prosecution,<sup>297</sup> the Chamber allowed the submission into evidence of the live testimony of seven witnesses<sup>298</sup> which had been given before the Single Judge of the Pre-Trial Chamber and which had been preserved for trial pursuant to Article 56 of the Statute.<sup>299</sup> The testimonies of these seven witnesses – who were examined by both the Prosecution and the Defence – were video-recorded, and written transcripts of the proceedings were made.<sup>300</sup> The Chamber has viewed these video-recordings in their entirety and consulted the corresponding transcripts, and assessed the relevance and probative value of such evidence in the same way as any other *viva voce* testimonial evidence before it.
254. Finally, the Chamber allowed the introduction, pursuant to Rule 68(2)(b) or (c) of the Rules, of the prior recorded testimony of a total of further 49 witnesses.<sup>301</sup> They have been assessed by the Chamber, for the purpose of the present judgment, together with all the other evidence submitted and discussed at trial. Besides the other relevant considerations generally applicable to the assessment of testimonial evidence as set out below, in its evaluation of the prior recorded testimony introduced under Rule 68(2) of the Rules, the Chamber also took into account that the witnesses concerned did not testify before the court and the non-tendering party did not have the opportunity to examine

<sup>297</sup> [Prosecution’s request to admit evidence preserved under article 56 of the Statute](#), 13 June 2016, ICC-02/04-01/15-464 (with two public annexes).

<sup>298</sup> [Decision on Request to Admit Evidence Preserved Under Article 56 of the Statute](#), 10 August 2016, ICC-02/04-01/15-520.

<sup>299</sup> See Decision on the “Prosecution application for the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute”, 27 July 2015, ICC-02/04-01/15-277-Conf (public redacted version available: [ICC-02/04-01/15-277-Red](#)); Decision on the “Second Prosecution application to the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute”, 12 October 2015, ICC-02/04-01/15-316-Conf (public redacted version available: [ICC-02/04-01/15-316-Red](#)).

<sup>300</sup> Transcripts of Hearings, 15 September – 17 November 2015, [T-8](#); [T-9](#); [T-10](#); [T-11](#); [T-13](#); [T-14](#); [T-15](#); [T-16](#); [T-17](#); Registry reports on the article 56 proceedings, 27-30 November 2015, ICC-02/04-01/15-351, -352, -353, -354, -355, -356, -357, -358 (annexing video recordings).

<sup>301</sup> The prior recorded testimony of 39 witnesses were introduced by the Prosecution and nine by the Defence under Rule 68(2)(b) of the Rules. One prior recorded testimony was introduced under Rule 68(2)(c) of the Rules upon request by the Prosecution.

them. Like with any other type of evidence submitted before the Chamber, arguments made by the parties and participants concerning the relevance and probative value of this testimonial evidence that had been made in the course of the trial have been taken into account for the purpose of the present judgment and are explicitly addressed as appropriate.

255. For the purpose of its assessment of the reliability of any witness's testimony, the Chamber considered a number of different factors. Such factors include richness of details and coherence of the narrative provided by the witness, as well as the coherence of the testimony with other evidence before the Chamber.
256. The Chamber has also considered the coherence between the testimony given by the witness and his or her prior accounts in relation to the same facts given in other contexts as emerging from the evidence presented at trial. In this regard, the Chamber notes that throughout the trial, witnesses who testified live before the Chamber have often been asked questions in relation to prior accounts they gave in other contexts. Prior accounts were typically put to witnesses in two distinct situations: (i) when a witness declared themselves unable to respond to a question, in which case a prior account was used to refresh their memory; and (ii) in cases where there existed, in the assessment of the examining party, a discrepancy between the statement given in court and a prior account. In both cases the witness was then given an opportunity to express him- or herself on the accuracy and truthfulness of the prior account, and the relevant part of the prior account – as prompting in-court testimony in reaction – so became incorporated into the testimony.<sup>302</sup> In case of discrepancy between in-court testimony and prior account, the Chamber has carefully considered the content and all circumstances in which such prior account had been made – including, but not limited to, its context, purpose and the (expected) level of details – as well as any explanation for such discrepancy as provided by the witness during the testimony before the Court.

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<sup>302</sup> See [Bemba et al. Appeals Judgment](#), para. 307; *see also, more generally*, paras 305-308. This limitation on the reliance on testimonial accounts previously given by a witness outside in-court testimony does not apply to prior recorded testimony (provided by witnesses who testified live before the Court) introduced under Rule 68(3) of the Rules, thus constituting evidence which, in its totality, 'can be relied upon by the chamber in its determination of the facts at issue'.

257. Amongst the relevant factors in the Chamber's assessment of testimonial evidence is also the consideration whether and to what extent the witness is (or is not) in a position to provide certain information as well as the basis of knowledge on which a particular statement is made. This is particularly the case in those instances where the Chamber is faced with competing versions of events, and therefore has to determine which evidence it considers more probative.<sup>303</sup>
258. The Chamber also took into account the individual circumstances of the witness, including his or her relationship to the accused, age, the provision of assurances against self-incrimination, indication of bias against the accused – or the lack of such – and/or motives for telling the truth.<sup>304</sup> Witnesses who suffered trauma or were children at the time of the events may also have had difficulty in providing a coherent and complete account, and the Chamber made appropriate allowance for imprecisions or contradictions.<sup>305</sup> The Chamber was also mindful – and has taken due account – of the fact that, given the significant passage of time in this case, the memory of some witnesses may have faded with regard to certain details.<sup>306</sup>
259. Further factors which might also have an influence on the Chamber's assessment of evidence given by witnesses who testified live are its immediate impression of the witness during their testimony, the witness's demeanour and bearing when testifying in court, willingness to respond to questions and spontaneity when responding.
260. Finally, the Chamber clarifies that the considerations expressed above can by no means be considered an exhaustive list of factors, or a 'check-list' of requirements for a witness to be relied upon. Any assessment of testimonial evidence (like of any other type of evidence) is in fact dependent on the specific circumstances at hand. Each statement

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<sup>303</sup> ICTR, Appeals Chamber, *The Prosecutor v. Yussuf Munyakazi*, [Judgement](#), 28 September 2011, ICTR-97-36A-A, para. 118; ICTR, Appeals Chamber, *Tharcisse Muvunyi v. The Prosecutor*, [Judgement](#), 1 April 2011, ICTR-2000-55A-A, para. 57; ICTR, Appeals Chamber, *Mikaeli Muhimana v. The Prosecutor*, [Judgement](#), 21 May 2007, ICTR-95-1B-A, para. 103; ICTR, Appeals Chamber, *Sylvestre Gacumbitsi v. The Prosecutor*, [Judgement](#), 7 July 2006, ICTR-2001-64-A, para. 81; ICTR, Appeals Chamber, *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, [Judgement](#), 26 May 2003, ICTR-96-3-A, paras 29, 501.

<sup>304</sup> Similarly [Bemba et al. Trial Judgment](#), para. 202; Trial Chamber II, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Judgment pursuant to Article 74 of the Statute](#), 18 December 2012, ICC-01/04-02/12-4, para. 51; [Lubanga Trial Judgment](#), para. 106.

<sup>305</sup> Similarly [Bemba et al. Trial Judgment](#), para. 203; Trial Chamber II, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Judgment pursuant to Article 74 of the Statute](#), 18 December 2012, ICC-01/04-02/12-4, para. 53.

<sup>306</sup> Similarly [Bemba et al. Trial Judgment](#), para. 203.

made by a witness is assessed individually – while, at the same time, taking into account, holistically, the entire system of evidence available to the Chamber –, and, accordingly the same witness may be reliable in one part of their testimony, but not in another.<sup>307</sup>

261. Below, the Chamber sets forth its general considerations with respect to each of the witnesses who provided evidence in these proceedings. The Chamber emphasises that these assessments – which are based on the totality of the evidence before the Chamber and not only on each witness’s evidence alone – must be read in conjunction with the evidentiary discussion further below in the present judgment. Indeed, certain aspects relating to the credibility of a number of witnesses and the reliability of their evidence, as well as to the relevance of their testimony to the Chamber’s disposal of the charges against Dominic Ongwen, are further addressed, as appropriate, in the relevant evidentiary discussion.

262. The Chamber has structured the overview of testimonial evidence by category of witnesses; it is however understood that this categorisation is only for practical purposes. It does not have a bearing on the Chamber’s assessment of any particular witness, and it is also noted that many witnesses could in fact be included in more than one category.

*ii. LRA insiders*

*a. High-level insiders*

*i. Kenneth Banya (P-0028)*

263. Kenneth Banya’s prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>308</sup> He is a former LRA member, born in 1945, who served as a senior advisor to Joseph Kony. His statement relates to a wide range of topics in relation to the functioning of the LRA based on his experience in the organisation. The Chamber notes,

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<sup>307</sup> Appeals Chamber, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Public Version of Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled “Judgment pursuant to article 74 of the Statute”](#), 7 April 2015, ICC-01/04-02/12-271-Corr, para. 168.

<sup>308</sup> P-0028 Interview Transcript, UGA-OTP-0217-0054-R01; P-0028 Interview Transcript, UGA-OTP-0217-0075-R01; P-0028 Interview Transcript, UGA-OTP-0217-0100-R01; P-0028 Interview Transcript, UGA-OTP-0217-0125-R01; P-0028 Interview Transcript, UGA-OTP-0217-0148-R01; P-0028 Interview Transcript, UGA-OTP-0217-0171-R01; P-0028 Interview Transcript, UGA-OTP-0217-0192-R01; P-0028 Interview Transcript, UGA-OTP-0217-0218-R01; P-0028 Interview Transcript, UGA-OTP-0217-0241-R01; P-0028 Interview Transcript, UGA-OTP-0217-0266-R01; P-0028 Interview Transcript, UGA-OTP-0217-0287-R01; P-0028 Interview Transcript, UGA-OTP-0217-0305-R01; P-0028 Interview Transcript, UGA-OTP-0217-0327-R01. *See Decision on the Defence Request under Rule 68(2)(b)*, paras 15-17, p. 13.

however, that Kenneth Banya's statement that if a man refused to 'go with a woman' in the LRA, he would be killed,<sup>309</sup> is contradicted by more reliable evidence on the issue.<sup>310</sup> However, the Chamber does not discount the witness's testimony for this reason and relies on it where appropriate, as discussed at relevant points of the evidentiary analysis.

*ii Hillary Daniel Lagen (P-0040)*

264. Hillary Daniel Lagen's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>311</sup> The witness was a former LRA captain; he provided evidence related to specific individuals and attacks. The witness also commented on the LRA leadership, specifically the command structure, orders issued by Joseph Kony and the treatment of abducted women and girls. The Chamber relies on the testimony of Hillary Daniel Lagen on occasions where it provides corroboration or additional detail in the discussion of evidence. In a few passages of his testimony, the witness mentioned Dominic Ongwen and his participation in the attack on Lukodi IDP camp, but as clarified

<sup>309</sup> P-0028 Interview Transcript, UGA-OTP-0217-0218-R01, at 0224-26, lines 223-66.

<sup>310</sup> See para. 2229 below.

<sup>311</sup> P-0040 Interview Transcript, UGA-OTP-0209-0406-R01 (public redacted version available: UGA-OTP-0283-0114); P-0040 Interview Transcript, UGA-OTP-0209-0436-R01 (public redacted version available: UGA-OTP-0283-0144); P-0040 Interview Transcript, UGA-OTP-0209-0461-R01 (public redacted version available: UGA-OTP-0283-0169); P-0040 Interview Transcript, UGA-OTP-0209-0497-R01 (public redacted version available: UGA-OTP-0283-0205); P-0040 Interview Transcript, UGA-OTP-0209-0530-R01 (public redacted version available: UGA-OTP-0283-0238); P-0040 Interview Transcript, UGA-OTP-0209-0569-R01 (public redacted version available: UGA-OTP-0283-0277); P-0040 Interview Transcript, UGA-OTP-0209-0602-R01 (public redacted version available: UGA-OTP-0283-0310); P-0040 Interview Transcript, UGA-OTP-0209-0634-R01 (public redacted version available: UGA-OTP-0283-0342); P-0040 Interview Transcript, UGA-OTP-0209-0668-R01 (public redacted version available: UGA-OTP-0283-0376); P-0040 Interview Transcript, UGA-OTP-0209-0696-R01 (public redacted version available: UGA-OTP-0283-0404); P-0040 Interview Transcript, UGA-OTP-0209-0732-R01 (public redacted version available: UGA-OTP-0283-0440); P-0040 Interview Transcript, UGA-OTP-0209-0762-R01 (public redacted version available: UGA-OTP-0283-0470); P-0040 Interview Transcript, UGA-OTP-0209-0786-R01 (public redacted version available: UGA-OTP-0283-0494); P-0040 Interview Transcript, UGA-OTP-0209-0813-R01 (public redacted version available: UGA-OTP-0283-0521); P-0040 Interview Transcript, UGA-OTP-0209-0842-R01 (public redacted version available: UGA-OTP-0283-0550); P-0040 Interview Transcript, UGA-OTP-0209-0877-R01 (public redacted version available: UGA-OTP-0283-0585); P-0040 Interview Transcript, UGA-OTP-0209-0912-R01 (public redacted version available: UGA-OTP-0283-0620); P-0040 Interview Transcript, UGA-OTP-0220-0652-R01 (public redacted version available: UGA-OTP-0283-0624); P-0040 Interview Transcript, UGA-OTP-0220-0678-R01 (public redacted version available: UGA-OTP-0283-0651); P-0040 Interview Transcript, UGA-OTP-0220-0704-R01 (public redacted version available: UGA-OTP-0283-0677); P-0040 Interview Transcript, UGA-OTP-0220-0729-R01 (public redacted version available: UGA-OTP-0283-0702); P-0040 Interview Transcript, UGA-OTP-0220-0753-R01 (public redacted version available: UGA-OTP-0283-0726); P-0040 Interview Transcript, UGA-OTP-0220-0779-R01 (public redacted version available: UGA-OTP-0283-0752); P-0040 Interview Transcript, UGA-OTP-0220-0805-R01 (public redacted version available: UGA-OTP-0283-0778); P-0040 Interview Transcript, UGA-OTP-0220-0833-R01 (public redacted version available: UGA-OTP-0283-0806). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 216-20, p. 109.

previously, this specific evidence is not relied upon by the Chamber for any determination concerning Dominic Ongwen's acts and conduct.<sup>312</sup>

265. In its response to the Prosecution's request for introduction of Hillary Daniel Lagen's written testimony, the Defence submitted that he was unreliable, in particular because he claimed at one point to have had the same rank as Vincent Otti but then to have been demoted for his 'outspoken condemnation of Kony', because he had issues recalling dates 'to the point where even the investigators' questioned the accuracy of the timeline, and because he brought notes to the interview at which his statement was taken which 'had dates already noted down'.<sup>313</sup> As to the first point, the Chamber observes that Hillary Daniel Lagen stated that he and 'Otti' held the same positions as battalion intelligence officers in two battalions at an unspecified time.<sup>314</sup> It is speculative to consider this claim, or the witness's testimony in relation to his demotion in 2000-2001,<sup>315</sup> as unreliable in the absence of any evidence supporting the assertions of the Defence. On the second point raised by the Defence, the Chamber observes that a witness's inability to recollect dates of events may make an authoritative dating of those events more difficult, but this does not undermine the reliability of the testimony as a whole. As to the third point, the Chamber notes that the witness explained what the notes were, and that there is no indication of any irregularity.<sup>316</sup> There is no issue with a witness writing down dates or details before his or her testimony. On the contrary, if this facilitates the accuracy of the testimony it is even advisable. In conclusion, the Chamber does not identify any circumstance rendering the evidence provided by Hillary Daniel Lagen unreliable.

*iii P-0045*

266. P-0045 testified live before the Chamber with protective measures having received assurances pursuant to Rule 74 of the Rules.<sup>317</sup> P-0045, an LRA fighter who stayed in the organisation between 1990 and 2004, provided testimony about her experiences in the

<sup>312</sup> [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), para. 216.

<sup>313</sup> Corrected Version of "Defence Response to the Prosecution Application to Admit Testimony Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence", filed on 26 July 2016, 27 July 2016, ICC-02/04-01/15-509-Conf-Exp (confidential redacted version available: ICC-02/04-01/15-509-Conf-Corr-Red; public redacted version available: [ICC-02/04-01/15-509-Corr-Red4](#); hereinafter: [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#)), para. 137.

<sup>314</sup> P-0040 Interview Transcript, UGA-OTP-0209-0877-R01, at 0881, lines 99-111.

<sup>315</sup> See P-0040 Interview Transcript, UGA-OTP-0209-0436-R01, at 0443, lines 180-89.

<sup>316</sup> See P-0040 Interview Transcript, UGA-OTP-0209-0436-R01, at 0458, line 687 – 0459, line 713.

<sup>317</sup> P-0045: [T-103](#); [T-104](#); [T-105](#).

LRA, including her participation in the LRA's attack on Pajule. The witness's testimony was detailed, candid, comprehensive, and specific. The witness clearly distinguished between events she personally witnessed and information she was given by others. She was very knowledgeable about the LRA, its practices and activities and provided details consistent with what would be expected of a witness who spent many years in the LRA and rose to a position of some power. The Chamber is convinced that the witness testified about her personal experiences and that the witness testified truthfully.

*iv P-0070*

267. P-0070 testified live before the Chamber with protective measures and Rule 74 assurances.<sup>318</sup> The witness, a former battalion commander of the LRA, testified about his abduction in 1988 at approximately 15 years old, and further gave an account of the general functioning of the LRA, including knowledge expected from an LRA fighter who spent many years in the LRA. He eventually escaped in 2004. The witness recalled in particular names and positions of other LRA fighters. Further, the witness readily admitted when he did not know certain information. There are no issues affecting the credibility of P-0070 and the Chamber accepts his account as truthful.

*v P-0085*

268. P-0085 testified live before the Chamber with protective measures, after receiving Rule 74 assurances.<sup>319</sup> P-0085, a former LRA commander, testified about his experiences in the LRA, including in relation to the structure and organisation of the LRA, its policy on the abduction and distribution of civilians and the attacks on Pajule and Odek IDP camps relevant to the charges. P-0085's testimony was coherent, clear and comprehensive. The witness explained how he came to have certain information, distinguishing between events he witnessed himself and events he heard about from others. He offered detailed information in line with what the Chamber would expect of a witness in his position, for example, evidence related to the structure of the LRA and the names and ranks of officers. There are some slight inconsistencies surrounding the date of the witness's escape from the bush.<sup>320</sup> The Chamber views such inconsistencies as minor and they did not

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<sup>318</sup> P-0070: [T-105](#); [T-106](#); [T-107](#).

<sup>319</sup> P-0085: [T-158](#); [T-159](#).

<sup>320</sup> P-0085 testified that he escaped from the LRA on 24 May 2004. P-0085: [T-158](#), p. 44, line 23 – p. 45, line 5. When questioned as to why he told the Prosecution that he escaped on 24 April 2004 during his initial interview,

undermine its finding that the witness was generally credible. In the Chamber's view, the evidence suggests that the witness escaped from the LRA in late May 2004.

*vi P-0142*

269. P-0142 testified live before the Chamber with protective measures, after receiving Rule 74 assurances.<sup>321</sup> P-0142, a former [REDACTED], testified about his experiences in the LRA, his knowledge of Dominic Ongwen, the attacks on Odek and Lukodi IDP camps relevant to the charges and the experiences of women and girls in the LRA. P-0142 was in the Sinia brigade from 1994 to 2004. P-0142 was a clear and confident witness. His testimony was comprehensive and the witness offered evidence with a level of depth that spoke to his first-hand knowledge and personal experiences in the LRA – for example, P-0142's testimony about the command structure of the LRA and the hierarchy within the group was detailed, contextualised and consistent with other evidence,<sup>322</sup> as well as his testimony about the number of so-called 'wives' in Sinia brigade.<sup>323</sup> The witness was candid about his close relationship with Dominic Ongwen while they were in the LRA, calling him his 'boss', 'friend' and 'brother'.<sup>324</sup> The Chamber notes that at times, the witness appeared to be attempting to minimise the implications of the LRA actions as well as his own role in attacks.<sup>325</sup> However, this did not undermine the Chamber's view of his general credibility. Indeed, the witness was at times candid about his account of events which incriminated Dominic Ongwen,<sup>326</sup> thus

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P-0085 testified that when he escaped he thought it was April but after some time he realised it was May. P-0085: [T-159](#), p. 17, lines 11-23. The Chamber considers his explanation of the discrepancy reasonable given the circumstances of the years the witness spent in the bush and his escape. The Chamber also notes the Defence's reference to a [REDACTED] intercepted radio communication between Joseph Kony and other LRA commanders discussing P-0085's escape [REDACTED]. P-0085: T-159-CONF, p. 23, line 21 – p. 26, line 25. In the Chamber's view the exact date of the witness's escape in May remains unclear. However, the divergent dates concern a period of four days at most. Considering that the other details of the escape are consistent, the fact that the event happened almost 14 years ago at the time of questioning and the witness's demeanour on that matter (his genuine attempts to try to clear up the inconsistency), the discrepancy does not affect the Chamber's view of P-0085's overall credibility.

<sup>321</sup> P-0142: [T-70](#); [T-71](#); [T-72](#); [T-73](#).

<sup>322</sup> See P-0142: T-70-CONF, p. 17, line 3 – p. 24, line 23.

<sup>323</sup> See para. 2231 below.

<sup>324</sup> P-0142: [T-73](#), p. 8, line 17 – p. 9, line 1.

<sup>325</sup> See P-0142: [T-70](#), p. 34, line 5 – p. 35, line 14. See also section IV.C.8 below. In the Chamber's view, the witness was reticent about speaking about civilians and the harms they suffered and downplayed his role in the Lukodi IDP camp attack.

<sup>326</sup> See P-0142: [T-70](#), p. 43, lines 13-15, p. 46, line 12 – p. 49, line 6.

bolstering the Chamber's view of his credibility given his very positive relationship with Dominic Ongwen.

*vii P-0144*

270. P-0144 testified live before the Chamber with protective measures, having received Rule 74 assurances.<sup>327</sup> The witness, a former LRA intelligence officer, testified about his abduction and his experiences in the LRA, including his observations of the Pajule IDP camp attack. P-0144's testimony was detailed and comprehensive. He explained the sources of his information and clearly delineated between events that he personally witnessed and information he came to learn from others. He was clear about events he could no longer recall, even when faced with his previous recollection.<sup>328</sup> The witness provided particularly relevant and credible testimony about Dominic Ongwen as well as about Dominic Ongwen's role in the Pajule attack.

271. The witness readily admitted that he had not been entirely forthcoming to the Prosecution about his role in the Pajule IDP camp attack.<sup>329</sup> The witness explained that he had done this out of a desire to avoid further interviews.<sup>330</sup> The Chamber notes that the witness was prompt and unequivocal in his admission and provided an explanation without hesitation or ambiguity. The Chamber does not consider the witness's initial reticence to the Prosecution to have a broader impact on the credibility of the evidence he provided, under oath, before the Chamber.

*viii P-0205*

272. P-0205 testified live before the Chamber with protective measures, after receiving Rule 74 assurances.<sup>331</sup> P-0205, a former LRA fighter, testified about his role as an LRA commander, his knowledge of Dominic Ongwen, the attacks on Lukodi and Odek IDP camp relevant to the charges and the treatment of women in the LRA. P-0205 was a calm, restrained and forthcoming witness. His recollection was detailed and precise. His testimony was comprehensive and included the kind of details that the Chamber would

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<sup>327</sup> P-0144: [T-91](#); [T-92](#).

<sup>328</sup> P-0144: [T-91](#), p. 38, line 14 – p. 39, line 11 (stating that he could no longer recall whether he saw Dominic Ongwen in the centre of Pajule IDP camp during the attack).

<sup>329</sup> P-0144: [T-91](#), p. 57, line 19 – p. 59, line 11 (The witness had initially denied participating in the Pajule attack in his interview with the Prosecution).

<sup>330</sup> P-0144: [T-91](#), p. 57, line 19 – p. 59, line 11.

<sup>331</sup> P-0205: [T-47](#); [T-48](#); [T-49](#); [T-50](#); [T-51](#).

expect from a witness with his rank and time spent in the LRA. For example, the Chamber particularly notes his testimony about the Sinia brigade's military structure; the officers sent on the Lukodi attack as well the abduction and distribution of women in the LRA.<sup>332</sup> The Chamber is of the view that his testimony was as would be expected from a witness who testified to events he actually experienced. The witness distinguished clearly between information he gained from personal experiences as opposed to events he was informed about.

273. Contrary to the Defence suggestion,<sup>333</sup> and as discussed further in the evidentiary discussion below, the Chamber does not find that the witness contradicted himself by recalling information in his testimony that were not discussed in his earlier interviews with the Prosecution.<sup>334</sup> These aspects of the witness's testimony did not undermine the Chamber's view of the general credibility of his accounts.

*ix P-0209*

274. P-0209 testified live before the Chamber with protective measures having received Rule 74 assurances.<sup>335</sup> The witness, a former [REDACTED], testified about his abduction and his experiences in the LRA, including his role in the attack on Pajule IDP camp relevant to the charges. P-0209 offered his testimony in a calm and confident manner. His demeanour did not change regardless of the identity of the questioning party. His testimony was detailed and contextualised. The witness provided noteworthy evidence regarding the effects of the initiation ceremony and the LRA's spiritualism on fighters.<sup>336</sup> However, the Chamber is of the view that despite receiving Rule 74 assurances, P-0209 appeared to be attempting to minimise his involvement in the LRA's activities.<sup>337</sup> However, the Chamber notes that his testimony is generally consistent with other reliable evidence.

<sup>332</sup> See P-0205: T-47-CONF, p. 52, line 20 – p. 54, line 22; T-48-CONF, p. 18, line 13 – p. 30, line 14, p. 50, line 25 – p. 55, line 24.

<sup>333</sup> [Defence Closing Brief](#), paras 366, 416.

<sup>334</sup> See P-0205: [T-47](#), p. 43, lines 12-21; T-47-CONF, p. 54, line 10-16; [T-50](#), p. 43, line 5 – p. 46, line 1; T-50-CONF, p. 53, line 1 – p. 56, line 11; T-51-CONF, p. 6, line 18 – p. 17, line 22. The alleged contradictions relate to his testimony about whether Dominic Ongwen ordered an attack on civilians in Odek and Lukodi, and whether the witness reported seeing civilian deaths in Lukodi.

<sup>335</sup> P-0209: [T-160](#); [T-161](#).

<sup>336</sup> P-0209: [T-161](#), p. 50, line 8 – p. 52, line 16.

<sup>337</sup> See for example P-0209: T-161-CONF, p. 62, line 9 – p. 64, line 23 (the witness's testimony in relation to his roles and ranks in the LRA and his participation in certain attacks).

*x P-0231*

275. P-0231 testified live before the Chamber with protective measures, having received Rule 74 assurances.<sup>338</sup> P-0231, a former LRA fighter, who was abducted in 1994,<sup>339</sup> testified about his time as an officer in Sinia brigade's Oka battalion, his knowledge of Dominic Ongwen and various attacks. P-0231 was a forthright witness, distinguishing between events he witnessed personally and matters he learned about through other means. His testimony was detailed and his accounts are consistent with what would be expected of a witness who personally experienced the events he discussed. He eventually escaped from the LRA in 2007.<sup>340</sup>

276. The Chamber notes that the witness testified to having a close relationship with Dominic Ongwen while he was in the bush,<sup>341</sup> and believed that Dominic Ongwen saved his life while they were both in the LRA.<sup>342</sup> Perhaps for this reason, there are aspects of the witness's testimony where he appears to be minimising Dominic Ongwen's actions. For example, the witness claims that he never saw anyone young in Dominic Ongwen's house.<sup>343</sup> Such a statement is not credible in light of the testimony of other reliable witnesses. However, the Chamber also notes that much of the witness's testimony is consistent with other reliable evidence heard in this case.

*xi P-0245*

277. P-0245 testified live before the Chamber with protective measures, including voice distortion, after receiving Rule 74 assurances.<sup>344</sup> P-0245, a former LRA fighter, testified about his experiences in the LRA, his knowledge of Dominic Ongwen and several attacks by the LRA, including the attacks on Lukodi and Odek IDP camps that are relevant to the charges.

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<sup>338</sup> P-0231: [T-122](#); [T-123](#).

<sup>339</sup> P-0231: [T-122-CONF](#), p. 27, lines 2-5.

<sup>340</sup> P-0231: [T-122-CONF](#), p. 30, lines 16-19.

<sup>341</sup> P-0231: [T-123](#), p. 81, line 22 – p. 82, line 6.

<sup>342</sup> P-0231: [T-123-CONF](#), p. 12, line 14 – p. 13, line 9.

<sup>343</sup> P-0231: [T-122](#), p. 72, line 4 – p. 73, line 3.

<sup>344</sup> P-0245: [T-98](#); [T-99](#); [T-100](#); [T-101](#).

278. The Chamber found many aspects of this witness's testimony, particularly after his first defection in ██████ 2003, dubious.<sup>345</sup> The witness testified that he returned to the LRA later the same year and participated in the Odek attack and heard the orders for the Lukodi attack.<sup>346</sup> The Chamber is not convinced that the witness was with the LRA during this period. This witness was a prominent member of the LRA. Had he returned to the group, other LRA fighters who knew him would have known and testified accordingly. Yet in these proceedings, ██████ and ██████ offered credible evidence that the witness returned to the LRA only sometime in ██████.<sup>347</sup> The Chamber notes that two witnesses testified in general terms that P-0245 was present around the time period of the Odek, Lukodi and Abok attacks,<sup>348</sup> however the Chamber places more weight on the testimony of witnesses like ██████ and ██████, who provided more specific and contextualised testimony of the timing of P-0245's return.

279. The Chamber's view is further compounded by the divergence between his testimony and that of other witnesses. For example, P-0245 identified Okwonga Alero as one of the leading LRA commanders who issued the commands to attack Odek IDP camp attack along with Dominic Ongwen.<sup>349</sup> No other witness credibly testified to this effect. Further, other aspects of his testimony, such as the evidence he provided about his ██████ ██████ while with the LRA, appear convoluted and implausible.<sup>350</sup> The witness was evasive, equivocal, and unconvincing when explaining his criminal charges.<sup>351</sup>

<sup>345</sup> See P-0245: T-99-CONF, p. 22, lines 5-9; [Defence Closing Brief](#), paras 340-45, 361, 365, 379, 393-95, 403, 412, 432.

<sup>346</sup> P-0245: [T-99](#), p. 49, line 15 – p. 75, line 24; T-100-CONF, p. 8, line 11 – p. 11, line 6 (testifying that he was with the LRA from roughly October 2003 to January 2005).

<sup>347</sup> See ██████

<sup>348</sup> See ██████

<sup>349</sup> See P-0245: [T-99](#), p. 49, line 15 – p. 52, line 23.

<sup>350</sup> See P-0245: T-99-CONF, p. 27, lines 4-19, p. 33, line 14 – p. 38, line 25; T-100-CONF, p. 59, line 23 – p. 60, line 21; T-101-CONF, p. 4, line 15 – p. 9, line 3, p. 13, line 25 – p. 20, line 2.

<sup>351</sup> P-0245: T-100-CONF, p. 61, line 17 – p. 65, line 12.

280. The Chamber notes the Prosecution contention that the logbooks' corroboration of P-0245's account of the attack at Palaro (Labworomor) in November 2003 indicates the reliability of his account,<sup>352</sup> suggesting that this proves that P-0245 was indeed back in the LRA by late 2003. However, the fact referred to by P-0245, i.e. that Dominic Ongwen used UPDF uniforms to enter a bar and then opened fire on UPDF inside, was well known<sup>353</sup> – and there is evidence that it was reported on public radio<sup>354</sup> – so the Chamber does not consider it significant that P-0245 knew this detail.<sup>355</sup> Other witnesses who testified to being present in that same attack did not attest to P-0245's presence.<sup>356</sup> The Chamber is of the view that the unreliability of the witness's testimony as to the time of his return to the LRA – coupled with the fact that the witness's offered false testimony concerning events that he thus could not have witnessed – is so fundamental that the Chamber cannot but doubt the rest of his testimony, including his testimony in relation to the period of time in which the witness was undoubtedly a prominent member of the LRA. Therefore, the Chamber does not rely on the testimony of P-0245.

*xii Joseph Okilan (D-0019)*

281. Joseph Okilan testified live before the Chamber.<sup>357</sup> He testified about joining the Uganda People's Army in 1987 and his subsequent stay within the LRA in Sudan and Uganda until his escape in 1999. He was at some point battalion commander, and knew Dominic Ongwen in the bush. It is noted that Joseph Okilan testified, in relation to Joseph Kony's authority, that 'if you don't follow Kony's commands, that means death is assured for you'.<sup>358</sup> In light of all the other evidence, this statement is not credible.<sup>359</sup> In addition, the Chamber considers that a natural explanation for this statement is the fact that the witness occupied a relatively high position in the LRA hierarchy, and was motivated to minimise

<sup>352</sup> See [Prosecution Closing Brief](#), para. 56, n. 230.

<sup>353</sup> See P-0309: [T-61](#), p. 17, line 18 – p. 19, line 16, p. 22, lines 5-7; P-0372: [T-148](#), p. 33, line 13 – p. 35, line 25. See also Enhanced audio recording, UGA-OTP-0239-0101; P-0059: [T-37](#), p. 42, line 18 – p. 47, line 15; P-0016: [T-33](#), p. 40, lines 12-23.

<sup>354</sup> See Enhanced audio recording, UGA-OTP-0239-0101; P-0059 Tape 721 Transcript, UGA-OTP-0258-0791-R01, at 0795; P-0059: [T-37](#), p. 43, lines 15-19.

<sup>355</sup> P-0245: [T-99](#), p. 41, lines 14-24.

<sup>356</sup> See [REDACTED]

<sup>357</sup> D-0019: [T-236](#).

<sup>358</sup> D-0019: [T-236](#), p. 16, line 24 – p. 17, line 8.

<sup>359</sup> See paras 866-873 below.

his own responsibility. With this clarification, the Chamber considers Joseph Okilan generally reliable.

*xiii D-0027*

282. D-0027, a former LRA fighter, testified live before the Chamber with protective measures.<sup>360</sup> D-0027, a former LRA commander, testified about his abduction as a child in 1990, his stay in the LRA and his knowledge of Dominic Ongwen as a young abductee and commander. D-0027 provided in particular a detailed and comprehensive narrative of his experiences in the LRA, including spiritual traditions within the organisation and his relationship with Dominic Ongwen. The details provided by the witness indicate that he indeed knew Dominic Ongwen and that the witness testified credibly of events that he personally experienced.

*xiv D-0032*

283. D-0032 testified live before the Chamber with protective measures, having received Rule 74 assurances.<sup>361</sup> D-0032, a former LRA commander, testified about his experiences in the LRA and about LRA structure, policy and rules. D-0032 offered detailed and comprehensive testimony. His testimony was contextualised and replete with the kind of details that indicated that the witness was indeed in the position to have the information he testified in relation to. The Chamber notes that much of D-0032's testimony was consistent with other reliable evidence heard in these proceedings.

284. However, D-0032 was not reliable on certain points, for example, the way 'courtship' worked in the LRA.<sup>362</sup> Here, the witness's testimony stands in stark contrast to other reliable evidence offered in these proceedings. The Chamber does not consider that D-0032's testimony was purposely untruthful in relation to this aspect of testimony, rather, the witness attempted to minimise the impact and severity of the LRA's actions. The Chamber also notes that the witness gave very different statements about the role of Dominic Ongwen in the attack on Odek IDP camp to the Defence and the Prosecution.<sup>363</sup>

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<sup>360</sup> D-0027: [T-202](#).

<sup>361</sup> D-0032: [T-199](#); [T-200](#); [T-201](#).

<sup>362</sup> D-0032: [T-200](#), p. 12, line 3 – p. 15, line 23; [T-201](#), p. 39, lines 17-23, p. 42, line 10 – p. 47, line 9.

<sup>363</sup> See D-0032: [T-200](#), p. 24, line 6 – p. 26, line 9; [T-201](#), p. 16, line 25 – p. 26, line 4 (to the Prosecution, the witness stated that he heard Dominic Ongwen speak to Joseph Kony on the radio requesting to attack Odek. To the Defence, the witness stated that it was Okwonga Alero who spoke with Joseph Kony).

In court, the witness testified that his statement to the Prosecution that Dominic Ongwen requested to go and fight at Odek was incorrect, and that a different commander made that request.<sup>364</sup> When asked why he told the Prosecution's investigators that Dominic Ongwen made this request, the witness stated:

I told them that it does not necessarily mean that's what I said, but I said everybody was listening to what Kony was saying and there were other commanders who were supporting what Kony was saying. Because if your commander speaks you have to agree with what he is saying and confirm that you are going to take the relevant action that he wants you to do.<sup>365</sup>

285. The Chamber considers the witness's explanation of the discrepancy evasive and unpersuasive. Further, his in-court testimony is inconsistent with other available reliable evidence as to the role of Dominic Ongwen in the planning of the attack on Odek IDP camp.<sup>366</sup> The Chamber is convinced that the information the witness offered to the Prosecution was the truthful account.

*xv Acama Jackson (D-0074)*

286. Acama Jackson is a priest and former LRA member, who testified live before the Chamber.<sup>367</sup> He spent about 17 years in the LRA and provided certain relevant evidence about the organisation, including about the treatment of abducted women and girls and about Joseph Kony's spiritualism. The Chamber is satisfied that the witness testified credibly about events he personally experienced. He provided details in keeping with what could be expected of a witness who spent a significant time in the LRA.

*xvi Alfred Arop (D-0092)*

287. Alfred Arop testified live before the Chamber.<sup>368</sup> Alfred Arop, a former LRA fighter, testified about his experiences in the LRA, the LRA's structure, membership and policies and the attacks on Pajule and Odek IDP camps relevant to the charges. The Chamber finds the testimony of this witness generally credible. Alfred Arop provided clear and detailed testimony. His testimony was comprehensive, chronological and his narrative included the kinds of details that indicate he spoke of his actual personal experiences.

<sup>364</sup> D-0032: [T-201](#), p. 22, lines 1-6. See D-0032: [T-201](#), p. 20, line 4 – p. 26, line 4, p. 49, line 23 – p. 50, line 17.

<sup>365</sup> D-0032: [T-201](#), p. 25, line 23 – p. 26, line 3.

<sup>366</sup> See section IV.C.7.iii.

<sup>367</sup> D-0074: [T-187](#); [T-188](#).

<sup>368</sup> D-0092: [T-208](#); [T-209](#).

The witness clearly distinguished between what he witnessed himself and events he was informed of by other persons.

288. The Chamber is of the view that the press interviews in which the witness spoke of his belief that Dominic Ongwen and LRA fighters such as him should not be prosecuted and should instead be granted amnesty does not undermine his credibility.<sup>369</sup> When questioned about these interviews, Alfred Arop readily admitted that these were his views.<sup>370</sup> He also stated that he knew and liked Dominic Ongwen.<sup>371</sup> Witnesses are not blank slates, absent of personal opinions about the proceedings or of the accused. There is no evidence suggesting that this witness's views of the accused and the proceedings impacted the truthfulness of the evidence he offered to the Court. His testimony was internally consistent, coherent and largely consistent with other reliable evidence on record.
289. Of greater importance is the recent contact between the witness and former LRA fighters. When questioned about these contacts, Alfred Arop stated that he had been contacted by other former LRA fighters who were attempting to establish whether he had dealings with the Court.<sup>372</sup> Alfred Arop testified that they did not tell him 'not to say anything bad about Dominic Ongwen' or other fighters and that he never admitted to the former fighters that he was testifying before the Court.<sup>373</sup> On the face of the evidence before the Chamber, there is no reason to doubt the validity of the witness's testimony. Absent such evidence and given that his testimony is largely consistent with other reliable evidence on the record, the Chamber finds that this contact with former LRA fighters does not undermine the witness's credibility.

*xvii Charles Lokwiya (D-0134)*

290. Charles Lokwiya testified live before the Chamber.<sup>374</sup> Charles Lokwiya, a former LRA fighter, provided testimony in relation to his experiences in the LRA, and in particular

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<sup>369</sup> See D-0092: [T-209](#), p. 15, lines 18-25, quoting Aislinn Laing, 'As Kony's commander faces trial in The Hague, Ugandans recount tales of horror they endured', in *The Telegraph* (21 January 2016), UGA-OTP-0286-0650, at 0655; D-0092: [T-209](#), p. 16, line 18 – p. 17, line 1, quoting Aislinn Liang, 'A Lord's Resistance Army commander goes on trial but Joseph Kony still eludes justice', in *Time* (21 January 2016), UGA-OTP-0286-0647, at 0648.

<sup>370</sup> D-0092: [T-209](#), p. 16, lines 1-5, p. 17, lines 21-25.

<sup>371</sup> D-0092: [T-209](#), p. 14, lines 10-11.

<sup>372</sup> D-0092: [T-209-CONF](#), p. 18, line 14 – p. 22, line 9, p. 23, lines 1-23.

<sup>373</sup> D-0092: [T-209-CONF](#), p. 23, line 24 – p. 24, line 4.

<sup>374</sup> D-0134: [T-240](#); [T-241](#).

his participation in the October 2003 attack on Pajule IDP camp. Charles Lokwiya's testimony was detailed, comprehensive and specific. His testimony contained details that demonstrate that Charles Lokwiya spoke of his personal experiences and that he spent many years in the LRA. The witness clearly explained the source of the information he provided and delineated between events he experienced personally and information which he learnt from others. The witness was also clear in informing the Chamber when he did not recall an event.

291. The Chamber notes that Charles Lokwiya denied being under LRA 'punishment' at the time of the Pajule IDP camp attack.<sup>375</sup> However, other witnesses credibly testified that Charles Lokwiya was indeed on punishment at the time of the attack.<sup>376</sup> Given the [REDACTED] [REDACTED] in this regard, the Chamber is of the view that in this instance, Charles Lokwiya was not truthful and that he was indeed on punishment at the time of the attack. However, the Chamber notes that despite this issue, it found the rest of the witness's testimony credible, noting particularly that it is generally consistent with other reliable evidence heard in these proceedings.

b. Lower-level insiders

*i P-0015*

292. P-0015's two prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>377</sup> P-0015, a former LRA abductee who lived in Vincent Otti's household, offered testimony about the Pajule IDP camp attack. The witness was abducted in June 2003 at the age of 13 and returned from captivity by March 2004. The witness clearly explained the source of her information and gave details that supported the credibility of the information provided. P-0015 provided evidence that was comprehensive and rich with the type of details that shows that she spoke about her personal experiences. Further, the Chamber considers that the witness's testimony was generally consistent with other reliable evidence.<sup>378</sup> The Chamber notes that in her prior recorded statement of 2004, P-

<sup>375</sup> D-0134: T-241-CONF, p. 12, line 7 – p. 13, line 6.

<sup>376</sup> [REDACTED] See P-0138: [T-121](#), p. 37, line 17 – p. 38, line 5 (Lukwiya was punished for failing to carry out an order. He was made to walk barefoot).

<sup>377</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01 (public redacted version available: UGA-OTP-0283-0063); P-0015 Second Statement, UGA-OTP-0191-0254-R01 (public redacted version available: UGA-OTP-0283-0083). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 43-50, p. 107.

<sup>378</sup> See the testimonies of P-0045, P-0138, P-0142, P-0101.

0015 stated that she had not heard of ‘Dominic Ongwen’, while in the second prior recorded statement, given in 2006, she stated that she had heard of ‘Dominic Ongwen’ but had never seen him and that she had heard of and seen ‘Odomi’ but could not remember where.<sup>379</sup> Contrary to a submission by the Defence,<sup>380</sup> the Chamber does not consider this alleged ‘inconsistency’ significant. Noting the short time the witness spent in captivity, her position within Vincent Otti’s household and her young age at the time of her captivity, the Chamber finds it understandable that the witness recalled the name Dominic Ongwen in 2006 but not in 2004 and made no connection between Dominic Ongwen and Odomi.

*ii P-0018*

293. P-0018 testified live before the Chamber with protective measures.<sup>381</sup> P-0018, a former LRA fighter, testified in relation to her experience as an LRA attacker in the attack on Lukodi camp. P-0018 was a quiet and reserved, somewhat timid, witness. Yet, her testimony was detailed and generally clear. P-0018 had been abducted by the LRA in 2003 and was part of the LRA force that attacked Lukodi IDP camp in 2004. P-0018’s account of events was consistent with what would be expected of a witness in her position and one who only spent a short time in the LRA. For example, the witness was specific and detailed about her participation in the attack on Lukodi IDP camp and the details of her escape from the LRA, but was more vague about matters relating to LRA hierarchy and structure.<sup>382</sup> Noting that the witness was not a trained and armed soldier, and rather was in the household of a low ranking LRA officer,<sup>383</sup> the Chamber ascribes no weight to her lack of knowledge of aspects of the LRA.

294. The Chamber is of the view that the inconsistencies in the witness’s account of the time of her abduction are insignificant.<sup>384</sup> At the same time, the Chamber notes that the witness’s testimony in relation to the LRA fighters killed in Lukodi IDP camp is confused

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<sup>379</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 101; P-0015 Second Statement, UGA-OTP-0191-0254-R01, at para. 40.

<sup>380</sup> [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#), para. 140.

<sup>381</sup> P-0018: [T-68](#); [T-69](#).

<sup>382</sup> See P-0018: [T-68](#), p. 38, line 13-25, p. 40, lines 5-8, p. 42, lines 21-24, p. 51, line 24 – p. 52, line 16; [T-69](#), p. 3, lines 2-7, p. 31, lines 2 – p. 32, line 1.

<sup>383</sup> P-0018: [T-69](#), p. 43, lines 7-9.

<sup>384</sup> P-0018: [T-69](#), p. 26, lines 2-18 (the witness could not recall whether she was abducted on 14 June 2003 or 6 July 2003).

and unclear.<sup>385</sup> In this context, the Chamber notes that the witness did not go to the barracks in the course of the Lukodi attack. The Chamber also notes that her testimony was generally consistent with other reliable evidence heard in these proceedings. Concerning P-0018's age at the time of her abduction, in June or July 2003<sup>386</sup> the witness testified that she was 'about 14' at the time of her abduction.<sup>387</sup> However, during her testimony in May 2017, she stated that she was 26.<sup>388</sup> Accordingly, the Chamber considers her to have been 12 years old when she was abducted.

*iii P-0054*

295. P-0054 testified live before the Chamber with protective measures after receiving Rule 74 assurances.<sup>389</sup> P-0054, a former LRA fighter, testified about his experiences in the LRA, including his personal participation in the LRA attacks on Odek and Abok IDP camps. P-0054 was a forthcoming and thoughtful witness. The witness's narration was comprehensive and generally chronological, filled with the type of detail that showed that the witness spent many years with the LRA. The Chamber especially notes that P-0054 frequently distinguished between events he had witnessed himself, such as the attack on Abok IDP camp, and events he had heard about, such as the attack on Lukodi IDP camp.

296. The Chamber also notes that concerning both the Abok and Odek IDP camp attacks, the witness testified that he was amongst the groups that attacked the barracks and did not enter the centre himself.<sup>390</sup> However, the Chamber does not necessarily disregard P-0054's evidence as to the occurrences at the centre of the camps during the attacks, for example if the witness gained information in the aftermath of the attack from other LRA fighters who had gone into the centre of the camp. In light of the foregoing, the Chamber considers that it may generally rely on P-0054's testimony, in particular on the structure

<sup>385</sup> P-0018: [T-69](#), p. 52, line 15 – p. 53, line 10, p. 57, line 19 – p. 59, line 25.

<sup>386</sup> The Chamber notes that both dates were put to the witness as her date of abduction, 14 June and 6 July 2003, and that the witness was not able to tell which one was the precise date of her abduction. P-0018: [T-69](#), p. 26, lines 2-17. However, for the purposes of this discussion, the Chamber notes that the difference between those two dates of her abduction is irrelevant.

<sup>387</sup> P-0018: [T-68](#), p. 32, lines 19-24.

<sup>388</sup> P-0018: [T-68](#), p. 32, lines 10-11.

<sup>389</sup> P-0054: [T-93](#); [T-94](#). See P-0054: [T-93](#), p. 3, lines 21-24.

<sup>390</sup> P-0054: [T-93](#), p. 19, lines 13-14, p. 35, lines 2-5, p. 53, line 24 – p. 54, line 6.

and membership of the LRA, as well as its disciplinary regime, the use of children in the LRA and the aspects of the Abok and Odek IDP camp attacks in which he participated.

*iv Aldo Odoch (P-0096)*

297. Aldo Odoch's prior recorded statements were introduced pursuant to Rule 68(2)(c) of the Rules.<sup>391</sup> Aldo Odoch was a Lango man born in 1986, who had been abducted at the age of 15 years in 2002. He testified about his abduction and his time in the LRA, including his experiences as an escort of LRA commander Okot Odhiambo and his participation in the attacks on Abia and Barlonyo. The Chamber notes that his statement was both internally consistent and consistent with other reliable evidence.

*v P-0097*

298. P-0097 testified live before the Chamber, with protective measures.<sup>392</sup> The Chamber found the evidence provided by P-0097, an abductee and former LRA fighter, credible. When describing the facts contained in his testimony, the witness used detailed language, readily admitted when he did not know the answer to a question and described events in a manner which convinces the Chamber that P-0097 was abducted by the LRA and spent a considerable period of time as an LRA soldier.

299. Regarding the issue of P-0097's age at the time of his abduction, the Chamber notes that there is contradicting evidence. P-0097 stated that he was born in [REDACTED] 1993,<sup>393</sup> which would have made him 11 at the time of the abduction in February 2005. He states

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<sup>391</sup> P-0096 Interview Transcript, UGA-OTP-0228-1698-R01 (public redacted version available: UGA-OTP-0283-0855); P-0096 Interview Transcript, UGA-OTP-0228-1739-R01 (public redacted version available: UGA-OTP-0283-0896); P-0096 Interview Transcript, UGA-OTP-0228-1778-R01 (public redacted version available: UGA-OTP-0283-0935); P-0096 Interview Transcript, UGA-OTP-0228-1814-R01 (public redacted version available: UGA-OTP-0283-0971); P-0096 Interview Transcript, UGA-OTP-0228-1851-R01 (public redacted version available: UGA-OTP-0283-1008); P-0096 Interview Transcript, UGA-OTP-0228-1862-R01 (public redacted version available: UGA-OTP-0283-1019); P-0096 Interview Transcript, UGA-OTP-0228-1901-R01 (public redacted version available: UGA-OTP-0283-1058); P-0096 Interview Transcript, UGA-OTP-0228-1938-R01 (public redacted version available: UGA-OTP-0283-1095); P-0096 Interview Transcript, UGA-OTP-0228-1974-R01 (public redacted version available: UGA-OTP-0283-1131); P-0096 Interview Transcript, UGA-OTP-0228-2014-R01 (public redacted version available: UGA-OTP-0283-1171); P-0096 Interview Transcript, UGA-OTP-0228-2056-R01 (public redacted version available: UGA-OTP-0283-1213). See [Decision on the Prosecution's Request to Add Items to its List of Evidence, to include a Witness on its List of Witnesses and to Submit Two Prior Recorded Testimonies under Rule 68\(2\)\(b\) and \(c\)](#), 22 November 2016, ICC-02/04-01/15-600, paras 30-35, p. 15.

<sup>392</sup> P-0097: [T-108](#); [T-109](#).

<sup>393</sup> P-0097: T-108-CONF, p. 6, lines 2-5.

he knows his birthdate since his parents told him the date.<sup>394</sup> However, there is documentary evidence which indicates slightly different birthdates: his birth certificate<sup>395</sup> and his national ID<sup>396</sup> both indicate ██████████ 1993, his baptism document states ██████████ ██████████ 1993.<sup>397</sup> Further, a school identity card states that the witness was 20 years old on ██████████ 2015,<sup>398</sup> an immunisation card states that the witness was aged 12 on ██████████ 2003,<sup>399</sup> a school progress card from the year 2001 indicates the witness's age as 10<sup>400</sup> and a second student identity card, issued on ██████████ 2011, states the witness's age as 16.<sup>401</sup> All those documents are incompatible with the date of birth provided by the witness, there is no information as to the production of the documents and the documents do not indicate the same date of birth consistently either. Considering the contradicting evidence, the Chamber finds it impossible to determine P-0097's precise date of birth. However, the Chamber notes the evidence indicates that the witness was born at the earliest on ██████████ 1990<sup>402</sup> and was therefore at the most 14 years old in February 2005. Accordingly, the Chamber finds that P-0097 was under the age of 15 at the time of his abduction.

300. Regarding the Defence's submission that there are 'major contradictions, inconsistencies' which make P-0097's testimony as a whole unreliable,<sup>403</sup> the Chamber does not find any reason to disregard the witness's testimony as a whole. The parts of the witness's testimony which the Defence references in support of its submission<sup>404</sup> are instances where the witness answered questions concerning his prior recorded testimony. The fact that the witness clarifies and further explains his testimony is a matter assessing the evidence in the concrete instance but does not justify to generally discard his testimony.
301. The Chamber also notes that P-0097 conceded that it was difficult for him to determine the age of people based only on their appearance when they are not his age<sup>405</sup> and stated

<sup>394</sup> P-0097: T-108-CONF, p. 6, lines 6-7.

<sup>395</sup> P-0097: [T-108](#), p. 63, lines 17-22; UGA-OTP-0272-0939.

<sup>396</sup> P-0097: [T-108](#), p. 64, lines 7-9; UGA-OTP-0269-0735.

<sup>397</sup> P-0097: [T-108](#), p. 59, line 24 – p. 60, line 3; UGA-OTP-0258-0509.

<sup>398</sup> P-0097: [T-108](#), p. 61, lines 11-22; UGA-OTP-0263-2470.

<sup>399</sup> P-0097: [T-108](#), p. 61, lines 1-10; UGA-OTP-0269-0737, at 0738.

<sup>400</sup> P-0097: [T-108](#), p. 61, line 25, p. 62, lines 14-16; UGA-OTP-0269-0739.

<sup>401</sup> P-0097: [T-108](#), p. 62, line 18 – p. 63, line 2; UGA-OTP-0269-0740, at 0741.

<sup>402</sup> According to the immunisation card stating that he was 12 years old on ██████████ 2003.

<sup>403</sup> [Defence Closing Brief](#), para. 525.

<sup>404</sup> [Defence Closing Brief](#), n. 868-74.

<sup>405</sup> P-0097: [T-109](#), p. 13, lines 22-25.

that one of the factors used to determine how old other abductees were was his own age.<sup>406</sup> The Chamber – also in light of the fact that it is unable to establish the witness’s precise age on the basis of the available evidence – will take this into account in its consideration the age of person whose age was estimated by the witness.

*vi P-0130*

302. P-0130’s prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>407</sup> P-0130, a former LRA fighter, testified about his abduction and his experiences in the LRA, including his participation in the attack on Pajule IDP camp relevant to the charges. The Chamber notes that the witness was a low level fighter and thus his lack of knowledge or errors about some of the operational aspects of the attack are understandable.<sup>408</sup> The Chamber is of the view that P-0130’s testimony of his specific personal experiences is generally credible.

*vii P-0138*

303. P-0138 testified live before the Chamber with protective measures and received Rule 74 assurances.<sup>409</sup> The witness testified about his abduction in 1996, when he was 14 years old, about being an escort of one of the commanders of Oka battalion as well as being an escort of Vincent Otti in Control Altar and about his observations of the October 2003 Pajule IDP camp attack. He eventually escaped from the LRA in 2003. P-0138 was a valuable and honest witness. The witness was frank about his experience in the LRA, for example when he spoke in a detailed and clear manner about the extent in which killing and pillaging were part of the LRA attacks. The Defence submission concerning P-0138 and stating that his testimony is ‘riddled with contradictions’,<sup>410</sup> concerns factual allegations related to events in Teso which are not part of the charges and are not relied upon by the Chamber for the purposes of the judgment. This has no effect on the Chamber’s assessment of the witness in general. The Chamber notes that the witness

<sup>406</sup> P-0097: [T-108](#), p. 29, lines 8-11.

<sup>407</sup> P-0130 Statement, UGA-OTP-0191-0272-R01 (public redacted version available: UGA-OTP-0283-1242). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 64-67, p. 109.

<sup>408</sup> *See in particular* P-0130 Statement, UGA-OTP-0191-0272-R01, at paras 45, 47, 58 (his testimony in relation to Vincent Otti’s and Raska Lukwiya’s participation in the attack and his testimony that Bogi was the overall commander of the three groups that went to attack Pajule, as opposed to Raska Lukwiya as the evidence establishes).

<sup>409</sup> P-0138: [T-120](#); [T-121](#); [T-122](#). *See also* [T-120](#), p. 3, line 3 – p. 4, line 4.

<sup>410</sup> [Defence Closing Brief](#), para. 515.

testified that he knew Dominic Ongwen very well.<sup>411</sup> Thus, the Chamber relies on P-0138 for various findings, as specified below.

*viii P-0145*

304. P-0145 testified live before the Chamber with protective measures and having received Rule 74 assurances.<sup>412</sup> P-0145 offered testimony about his experiences as a fighter in the LRA. The witness's testimony was detailed and he had a good recollection of events. The witness distinguished between events he personally witnessed and information he came to learn from others; his testimony was full of the kind of details that indicate that he spoke from personal experience.
305. The Chamber is of the view that despite receiving Rule 74 assurances, the witness was not truly forthcoming about his role in the attack on Lukodi IDP camp and understated his participation in the attack. The witness testified that he merely went to collect food in Lukodi IDP camp.<sup>413</sup> However, the way the witness described the attack, and the details he spoke of,<sup>414</sup> suggested to the Chamber that the witness had a more active role in the attack than he admits. Of additional concern, P-0145 was the sole witness to indicate that Dominic Ongwen participated in the Lukodi IDP camp attack.<sup>415</sup> The Chamber notes that the witness testified that he did not see anything in Lukodi with his own eyes, apart from the food he carried.<sup>416</sup> The witness refers to Dominic Ongwen's participation but never says that he actually saw Dominic Ongwen in Lukodi. In light of these concerns, the Chamber cannot rely on the witness's testimony in relation to the actual course of the Lukodi IDP camp attack.
306. However, the Chamber finds other aspects of the witness's testimony credible, particularly in relation to the planning of the Lukodi attack as well as the LRA's policy on the treatment of civilians and Dominic Ongwen's behaviour as an LRA commander.

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<sup>411</sup> P-0138: [T-120](#), p. 18, line 19 – p. 19, line 5.

<sup>412</sup> P-0145: [T-143](#); [T-144](#).

<sup>413</sup> P-0145: [T-143](#), p. 12, line 3-7; T-144-CONF, p. 46, line 20-22.

<sup>414</sup> *See for example* P-0145: [T-143](#), p. 22, line 18 – p. 26, line 18 (discussing the course of the attack and mentioning the killing of civilians in their houses). The Chamber also notes that the witness testified both that he had a gun in the attack and then that he was without a gun. *Compare* P-0145: [T-143](#), p. 19, lines 7-10 *with* P-0145: [T-143](#), p. 24, lines 14-16.

<sup>415</sup> P-0145: [T-143](#), p. 16, line 18 – p. 17, line 9, p. 22, line 18 – p. 24, line 25; [T-144](#), p. 36, line 14 – p. 45, line 6.

<sup>416</sup> P-0145: [T-143](#), p. 25, lines 1-10.

The Chamber also notes that much of the witness's testimony is supported by other reliable evidence heard in these proceedings.

*ix Ray Apire (P-0172)*

307. Ray Apire testified live before the Chamber.<sup>417</sup> Ray Apire was an LRA fighter who testified about the LRA and the various attacks he participated in and heard about. Ray Apire's testimony was generally detailed, consistent and comprehensive. He was forthcoming in responding to questioning by the parties and participants. His account is consistent with what would be expected of someone who experienced the events and also contains the type of details consistent with the expected knowledge of a long-standing LRA officer.<sup>418</sup> The witness also differentiated clearly between his personal experiences and information he came to learn from others.

*x P-0200*

308. P-0200 testified live before the Chamber with protective measures.<sup>419</sup> He testified that he was abducted in Teso in June 2003 by Dominic Ongwen and that he stayed in the LRA, and under Dominic Ongwen specifically, until March 2004.

309. The Defence submitted that P-0200's testimony 'should be disregarded for being incredible'.<sup>420</sup> It argued that Dominic Ongwen 'did not go to Teso and therefore it is impossible that he could have been abducted by Dominic'.<sup>421</sup> It also makes reference to the Pre-Trial Chamber's finding in the decision on the confirmation of charges that 'the evidence of Witness P-0200 [...] is incompatible in several material aspects with the rest of the available evidence, including the testimonies of seven former so-called "wives" of Dominic Ongwen which the Chamber considers fully credible'.<sup>422</sup> Further, the Defence argues that P-0200 was 'evasive throughout his testimony', and that he 'could not answer

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<sup>417</sup> P-0172: [T-113](#); [T-114](#).

<sup>418</sup> See for example P-0172: [T-113](#), p. 42, line 11 – p. 45, line 4 (a discussion of the history, structure and membership of the LRA).

<sup>419</sup> P-0200: [T-145](#); [T-146](#).

<sup>420</sup> [Defence Closing Brief](#), para. 514.

<sup>421</sup> [Defence Closing Brief](#), para. 514. See also para. 512.

<sup>422</sup> [Defence Closing Brief](#), para. 513. See also [Confirmation Decision](#), para. 133.

some of the basic questions and quite often admitted how he had forgotten certain facts and could not remember'.<sup>423</sup>

310. The witness narrated an account of his movements with Dominic Ongwen during this period: he stated that he moved with Dominic Ongwen to a meeting with Vincent Otti, Banya, and Raska Lukwiya in Abia, then to Lwala, where '[Dominic Ongwen] moved with his soldiers to Lwala Girls [School]' and after a short time, 'we saw Dominic Ongwen coming with his soldiers with the girls'.<sup>424</sup> According to P-0200's testimony, he then moved, together with Dominic Ongwen, to Abalang, Idam-Akan, Morungatuny, Obalanga, before crossing the Amoroto River and meeting with Joseph Kony in Adilang, where Joseph Kony distributed the girls abducted from Lwala School.<sup>425</sup> P-0200 testified that subsequently, he participated in the attack on Barlonyo under the direct command of Dominic Ongwen, after which they came back to Adilang, escorted Joseph Kony to Sudan, and came back to Uganda.<sup>426</sup> P-0200 testified that he was pierced with a bayonet by Dominic Ongwen for attempted escape, and then managed to escape when crossing the Pece River, and was taken by a local to Palenga barracks.<sup>427</sup>
311. P-0200, like many members of the LRA and entirely understandably, was not able to date the events he lived during his time in the LRA. Nevertheless, he provided sufficient detail that, in conjunction with other evidence, allows for a reliable reconstruction of the basic timeline. As noted below, there is reliable evidence that the abduction of a large number of girls by the LRA from Lwala Girls School took place on 23 June 2003.<sup>428</sup> The Barlonyo attack took place in February 2004.<sup>429</sup> Therefore, the events described by P-0200 would have taken place in mid- and late 2003, and early 2004. This is also compatible with the dates of abduction and escape given by the witness.
312. Importantly, P-0200's testified that he spent the entirety of his time in the LRA under the direct command of and in the household of Dominic Ongwen.<sup>430</sup> Yet, the timeline given by P-0200 does not correspond to the timeline of Dominic Ongwen's activities as

<sup>423</sup> [Defence Closing Brief](#), para. 514.

<sup>424</sup> P-0200: [T-145](#), p. 13, lines 6-17.

<sup>425</sup> P-0200: [T-145](#), p. 13, line 18 – p. 14, line 8.

<sup>426</sup> P-0200: [T-145](#), p. 14, lines 8-24.

<sup>427</sup> P-0200: [T-145](#), p. 15, line 10 – p. 16, line 22.

<sup>428</sup> See para. 1161 below.

<sup>429</sup> See para. 1164 below.

<sup>430</sup> See P-0200: [T-146](#), p. 44, lines 20-22.

established on the basis of numerous reliable witness testimonies and other sources of evidence.

313. In particular, there is no other evidence attributing the abduction of the girls from Lwala Girls School to Dominic Ongwen. In addition, the multiple other reliable sources of evidence available as to Dominic Ongwen's activities and movements at the time do not allow for the conclusion that Dominic Ongwen went to Teso in June 2003, or at any time until after the attack on Pajule IDP camp on 10 October 2003.<sup>431</sup> It is also notable that P-0200 denied having taken part in that attack,<sup>432</sup> whereas there is a reliable body of evidence that Dominic Ongwen, in whose household P-0200 claimed to have been at the time, did participate.<sup>433</sup> Conversely, P-0200's placing of Dominic Ongwen on the ground for the attack on Barlonyo is entirely unsupported by the other reliable evidence in relation to that attack.<sup>434</sup> On the other hand, the Chamber notes that P-0200's testimony that at the time, to the effect that Dominic Ongwen limped because of a fracture of his left leg,<sup>435</sup> is compatible with the findings in relation to Dominic Ongwen's injury in late 2002 and recovery lasting into mid-2003.<sup>436</sup> This is, however, inconclusive and without bearing on the other identified issues.

314. Further, P-0200 testified that on the way to Sudan [REDACTED]  
[REDACTED]  
[REDACTED].<sup>437</sup> In the assessment of the Chamber, this specific detail, in particular the implication of Dominic Ongwen, is so unique in the context of the evidence in the case, so significant, and even so shocking, that it would have to be mentioned during the testimonies of other persons who reliably testified that they were with Dominic Ongwen in 2003-2004. Yet, no such evidence is on the record.

315. It is also notable that when asked whether he knew the names of any of Dominic Ongwen's so-called 'wives', P-0200 did not give the names of P-0101 or P-0214, who were in Dominic Ongwen's household as his so-called 'wives' during the relevant

<sup>431</sup> See paras 1017-1077 below.

<sup>432</sup> P-0200: [T-146](#), p. 50, lines 7-9.

<sup>433</sup> See section IV.C.6 below.

<sup>434</sup> P-0200: [T-145](#), p. 14, lines 8-10.

<sup>435</sup> P-0200: [T-145](#), p. 52, lines 15-17.

<sup>436</sup> See paras 1017-1049 below.

<sup>437</sup> P-0200: T-145-CONF, p. 14, lines 11-14.

time.<sup>438</sup> Rather, he mentioned a person not indicated in the evidence as one of Dominic Ongwen's so-called 'wives', and for whom DNA analysis evidence in fact contradicts the claim that she was a so-called 'wife' of Dominic Ongwen.<sup>439</sup>

316. The incompatibility between the evidence of P-0200 and the rest of the reliable evidence is striking, and it is notable that the Prosecution, while still relying on P-0200 occasionally in its closing submissions, did not seek to furnish an explanation of this remarkable incompatibility.
317. Finally, when asked to give a physical description of Dominic Ongwen, P-0200 asserted that Dominic Ongwen was 'a bit bald' and 'didn't have much hair on the head'.<sup>440</sup> This description does not match the physical appearance of Dominic Ongwen. In fact, the Defence directly challenged P-0200 on his identification of Dominic Ongwen as the person who abducted him, and the explanation offered by the witness was weak: he stated that he got to 'know [Dominic Ongwen] clearly when Otti called him by his names in Abia. So I know him as my commander by the time when I was in the bush.'<sup>441</sup> A positive identification of the accused in the courtroom by the witness was also not possible due to the partition put in place as a special measure under Rule 88 of the Rules of Procedure and Evidence.<sup>442</sup>
318. In light of the all of the above, and considering the strong indicia that the person described by P-0200 as Dominic Ongwen is in fact not the accused, the Chamber concludes that there exist unsurmountable obstacles for the reliability of the testimony of P-0200. The Chamber will therefore not rely on his testimony.

*xi P-0233*

319. P-0233 testified live before the Chamber with protective measures, having received Rule 74 assurances.<sup>443</sup> The witness, a former member of the LRA, testified about his abduction and his experiences in the LRA, in particular about the attacks on Acet and Abia. The

<sup>438</sup> P-0200: [T-145](#), p. 27, lines 13-24.

<sup>439</sup> P-0200: [T-145](#), p. 27, lines 13-24; P-0414 First Report, UGA-OTP-0278-0529, at 0535.

<sup>440</sup> P-0200: [T-145](#), p. 52, line 21 – p. 53, line 15.

<sup>441</sup> P-0200: [T-146](#), p. 55, lines 9-18.

<sup>442</sup> See Email from VWS psychologist to TC IX Communications on 18 January 2018 at 14:56, which recommended the partition.

<sup>443</sup> P-0233: [T-111](#); [T-112](#).

witness was very knowledgeable about the LRA and his testimony covered a broad range of issues, which the Chamber deems natural in light of the fact that he spent more than 10 years in the LRA. Further, the witness testified about experiences which incriminated the LRA as well as government forces, and testified that he liked Dominic Ongwen,<sup>444</sup> factors which support the credibility of the incriminatory statements.

*xii P-0250*

320. P-0250 testified live before the Chamber with protective measures.<sup>445</sup> P-0250, a former LRA abductee and fighter, testified about his experiences in the LRA including about the rules and practices in the LRA and the Pajule attack. Significantly, the witness's testimony about the Pajule IDP camp attack is manifestly different from the testimony of other credible witnesses.<sup>446</sup> In particular, contrary to other credible evidence, the witness testified that a large number of people were killed in the course of the Pajule IDP camp attack, people's limbs were chopped off, people were cut in half and people were decapitated. While the evidence shows that several people died in the course of the attack on Pajule IDP camp and that the LRA killed at least one person with a machete, the evidence does not support P-0250's description of events in the course of the attack. Further, the Chamber notes that the witness's description of Dominic Ongwen is not credible.<sup>447</sup> In light of the above, in particular the utter unreliability of his testimony about the Pajule attack, the Chamber finds that the witness's testimony cannot be relied upon.

*xiii P-0252*

321. P-0252 testified live before the Chamber with protective measures.<sup>448</sup> P-0252, a resident of Odek IDP camp at the time of the attack relevant to the charges, testified about his abduction in that attack as well as his experiences in the LRA in the aftermath, including

<sup>444</sup> P-0233: [T-112](#), p. 39, lines 14-15.

<sup>445</sup> P-0250: [T-141](#); [T-142](#).

<sup>446</sup> See P-0250: [T-141](#), p. 27, line 8 – p. 28, line 10, p. 31, line 4 – p. 31, line 22, p. 33, line 17 – p. 34, line 4. The Chamber also notes that the witness testified that the Pajule attack occurred on 9 October 2002. P-0250: [T-141](#), p. 25, line 17-19. However, it is clear from certain details, for example the abduction of Rwot Oywak, that the witness was referring to the attack on Pajule IDP camp described in the charges in the present case. See P-0250: [T-141](#), p. 39, lines 2-25.

<sup>447</sup> See P-0250: [T-142](#), p. 7, line 10 – p. 8, line 22, p. 17, line 17 – p. 18, line 1 (the witness described Dominic Ongwen, as an 'invincible' runner and as a 'fat man' at the time of the witness's abduction). In light of the ample evidence to the contrary, the Chamber considers that this is not a credible description of Dominic Ongwen at the time the witness allegedly knew him.

<sup>448</sup> P-0252: [T-87](#); [T-88](#); [T-89](#).

about the attack on Abok IDP camp relevant to the charges. The Chamber is attentive to the psychological trauma the witness continues to suffer from as a result of his experience in captivity, as well as his other medical issues.<sup>449</sup> However, such issues had no bearing on his evidence rendered in Court. The witness gave his testimony over the course of three days and throughout he was coherent, understood the proceedings, vigilant in following instructions from the Chamber and the questioning parties and testified in a forthright and consistent manner.<sup>450</sup> Contrary to the argument of the Defence, the Chamber saw no indication that the witness had a mental disease or defect which impeded his ability to reconstruct memories.<sup>451</sup>

322. Concerning the witness's age, P-0252, who was abducted by the LRA during the Odek attack,<sup>452</sup> stated that he was 14 at the time of the attack.<sup>453</sup> However, when asked his date of birth, the witness replied that he was born on [REDACTED] 1993.<sup>454</sup> The Chamber also notes that there are several official documents, such as a certificate of birth,<sup>455</sup> a voter registration slip<sup>456</sup> and a national identity card<sup>457</sup> which indicate that the witness's date of birth was [REDACTED] 1993. Additionally, a 'grower registration form'<sup>458</sup> states his age and the year in which the document was issued and in this manner corroborate his date of birth.<sup>459</sup> A 'citizen identity card' indicates that the witness would have to be born between [REDACTED] 1993 and [REDACTED] 1994.<sup>460</sup>

323. In this context the Chamber notes the questions by Defence counsel with regard to the procedure of obtaining the birth certificate<sup>461</sup> and the fact that the date '[REDACTED] 1993' is probably an estimation.<sup>462</sup> With regard to how the certificate was obtained, P-0252

<sup>449</sup> P-0252: [T-88](#), p. 29, line 18 – p. 30, line 4, p. 38, lines 4-9, p. 38, line 19 – p. 40, line 5; T-88-CONF, p. 61, line 10 – p. 64, line 19.

<sup>450</sup> Contrary to the Defence's submission ([Defence Closing Brief](#), para. 440), the Chamber saw no indication that he had a mental disease or defect which impeded his ability to reconstruct memories.

<sup>451</sup> See [Defence Closing Brief](#), para. 440.

<sup>452</sup> See paras 1585-1587 below.

<sup>453</sup> P-0252: [T-87](#), p. 26, lines 19-21.

<sup>454</sup> P-0252: T-87-CONF, p. 7, lines 14-15.

<sup>455</sup> Birth certificate, UGA-OTP-0272-1018.

<sup>456</sup> Voter location slip, UGA-OTP-0269-0732.

<sup>457</sup> National ID Card, UGA-OTP-0269-0730.

<sup>458</sup> Grower Registration Form, UGA-OTP-0269-0728.

<sup>459</sup> By stating his age and the year in which the document was issued.

<sup>460</sup> UGA-OTP-0269-0726, at 0727. The document states that P-0252 was 20 at the time of the issuance of the document on [REDACTED] 2014.

<sup>461</sup> P-0252: [T-89](#), p. 3, lines 4-11.

<sup>462</sup> P-0252: [T-89](#), p. 3, lines 15-16. See [Defence Closing Brief](#), para. 520, where the Defence also summarises the testimony concerning the witness's age.

replied that it was not him who provided the date and the Chamber notes that all documents but one<sup>463</sup> consistently indicate 1993 as the year of birth.<sup>464</sup> Accordingly, the Chamber does not doubt the veracity of the document. With regard to the argument that ‘[REDACTED]’ as a date of birth is probably an estimation, the Chamber agrees that this might be the case. However, this does not apply to the year indicated, 1993. Should P-0252 have been born later than [REDACTED] 1993, this would mean that he would be even younger, which is irrelevant for the charges. The same holds true for the one document<sup>465</sup> indicating that the witness was born either in 1993 or 1994. Accordingly, the Chamber finds that the witness was 11 years old at the time of the attack on Odek IDP camp.

324. P-0252’s evidence shows that he was abducted during the Odek attack, which occurred on 29 April 2004.<sup>466</sup> The Chamber notes that the witness discussed two Abok attacks, a previous large scale attack that he did not participate in and a second attack that he did participate in.<sup>467</sup> The Chamber also notes that the witness indicated that the Abok attack he participated in happened about two months after his abduction from Odek IDP camp.<sup>468</sup> This timing is consistent with the Chamber’s understanding of the timeline of the Abok IDP camp attack relevant to the charges. Further, the Chamber notes that the evidence provided by P-0252 about the events he witnessed is largely consistent with the testimony of other witnesses who testified about the 8 June 2004 Abok IDP camp attack.<sup>469</sup> Accordingly, the Chamber is satisfied that P-0252’s reference to the second Abok IDP camp attack relates to the 8 June 2004 attack.

325. The Chamber also notes that P-0252 testified that he did not enter Abok IDP camp with other LRA fighters and stayed instead outside the boundaries of the camp.<sup>470</sup> The Chamber does not disregard P-0252’s evidence as to the occurrences in the camp itself during the attack, for example if the witness gained information in the aftermath of the attack from other LRA fighters who had gone into the centre of the camp.

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<sup>463</sup> Citizen Identity Card, UGA-OTP-0269-0726.

<sup>464</sup> A citizen identity card indicates the date of issuance and the witness’s age at that time. According to this document, the witness would have to be born between [REDACTED] 1993 and [REDACTED] 1994.

<sup>465</sup> UGA-OTP-0269-0726.

<sup>466</sup> See the Chamber’s discussion of P-0252’s abduction during the Odek attack in paras 1585-1587 below.

<sup>467</sup> P-0252: [T-87](#), p. 73, line 17 – p. 74, line 2, p. 81, lines 13-15.

<sup>468</sup> P-0252: [T-89](#), p. 41, lines 19-21.

<sup>469</sup> See the Chamber’s discussion of Abok IDP camp attack in section Attack on Abok IDP camp IV.C.9 below.

<sup>470</sup> P-0252: [T-87](#), p. 77, line 25 – p. 78, line 7; [T-88](#), p. 5, lines 4-7.

326. The Defence, noting the witness's testimony about the time he spent in the bush and the available documentary evidence, states that his testimony is inconsistent with the evidence and that the witness's testimony in relation to the Abok attack should be disregarded.<sup>471</sup> The Chamber notes that there are indeed some irregularities in the witness's testimony.
327. P-0252 testified that he spent roughly one year and nine months in the bush.<sup>472</sup> However, the certificate of amnesty the witness received from the Ugandan government is dated ■■■■■ 2004.<sup>473</sup> The Chamber has no reason to doubt the authenticity of the certificate of amnesty.<sup>474</sup> Additionally, the Chamber does not find the witness's explanation for the inconsistency persuasive.<sup>475</sup> However, noting that the witness's account of the attacks on Odek and Abok IDP camps is largely consistent with the testimony of other witnesses with knowledge of these events, the Chamber finds that this inconsistency does not undermine P-0252's testimony about these events. The Chamber is of the view that P-0252 returned from captivity sometime in June 2004.
328. The Chamber also notes that given the nature of the armed conflict, the context of abduction and subsequent captivity and the constant movement of the LRA while in the bush, it is understandable that some witnesses struggle to keep track of the time they spent in the bush and to recall it with precision these many years after their escape from the LRA. Indeed, it is reasonable that witnesses in captivity in the bush, particularly those who were children when they were abducted, have lost their attachment to the very concept of time. In light of the foregoing, the Chamber considers that it may rely on core parts of P-0252's testimony concerning his experience during the Odek IDP camp attack and its aftermath and the Abok IDP camp attack.

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<sup>471</sup> [Defence Closing Brief](#), paras 441-43.

<sup>472</sup> P-0252: [T-88](#), p. 15, lines 6-8; [T-89](#): p. 52, line 22 – p. 53, line 8. Indeed, P-0218 testified that the witness had stayed in captivity for about one year, P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 38.

<sup>473</sup> P-0252's Certificate of amnesty, UGA-OTP-0269-0722, at 0723, indicating that the witness was in the bush for about two months.

<sup>474</sup> The witness acknowledges that this was the certificate that he was given when he returned from the bush. P-0252: [T-88](#), p. 15, lines 22-24.

<sup>475</sup> P-0252: [T-88](#), p. 16, line 13 – p. 17, line 8; [T-89](#), p. 51, line 12 – p. 56, line 24 (P-0252 testified that at the rehabilitation centre for former abductees, other former abductees told him to tell the rehabilitation centre officials that he was only with the LRA for a short period of time so that he would not have to remain at the rehabilitation centre for a long period).

*xiv P-0264*

329. P-0264 testified live before the Chamber with protective measures after receiving Rule 74 assurances.<sup>476</sup> P-0264, a former LRA fighter, testified about his experiences in the LRA, his knowledge of Dominic Ongwen as well as the abduction of civilians in the LRA, the conscription and use of children as soldiers and women as so-called ‘wives’ and the attack on Odek IDP camp. P-0264 had a remarkable recollection, offering testimony that was very detailed and comprehensive with the kind of specific details that indicated he was speaking from personal experiences. His testimony was rich with the type of facts and knowledge expected from an LRA fighter who spent many years in the LRA and was exposed to the various facets of its operation.<sup>477</sup> P-0264 distinguished between events he personally witnessed as opposed to matters he was informed about and was clear about the source of his knowledge.
330. P-0264 testified that he was abducted in 2002 at the age of 11,<sup>478</sup> however his national ID card indicates that he was born in 1989, which would have made him 12 or 13 at the time of his abduction in 2002.<sup>479</sup> This inconsistency in relation to the witness’s age does not undermine the Chamber’s view of his credibility, contrary to Defence arguments.<sup>480</sup> The witness explained that other records indicating his age were destroyed in the course of the conflict and that government authorities erroneously estimated the age noted in his national ID card after his return from the LRA.<sup>481</sup> The Chamber has no reason to doubt the witness’s explanation and considers it reasonable. The Chamber also finds the witness’s explanation of why he remembers his age at abduction credible. In his explanation of why he recalled that he was 11 years old when he was abducted, P-0264 explained:

[t]he reason why I said I was 11, because while I was still in primary 4 [...] that’s how I would write my age that I have 11 – I am 11 years old [...] And even when

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<sup>476</sup> P-0264: [T-64](#); [T-65](#); [T-66](#).

<sup>477</sup> See for example P-0264: [T-64](#), p. 28, line 9 – p. 32, line 19 (the witness’s description of the training of LRA fighters).

<sup>478</sup> P-0264: T-64-CONF, p. 9, line 20 – p. 10, line 9.

<sup>479</sup> P-0264’s National ID Card, UGA-OTP-0270-1382.

<sup>480</sup> [Defence Closing Brief](#), para. 527.

<sup>481</sup> See P-0264: T-65-CONF, p. 46, lines 3-25, p. 47, lines 8-18; P-0264: T-66-CONF, p. 14, lines 13-25 (P-0264’s parents did not recall his exact date of birth and his birth records were destroyed as a result of the conflict and his family’s move to the camps. His school records were also destroyed for the same reason).

I was captured, the people who captured me asked me “How old are you?” I told them “I am 11 years old”.<sup>482</sup>

331. Given the above, the Chamber does not consider that the contradicting evidence on the witness’s age affects his general credibility. It discusses this issue of the actual age of this witness at the time of his abduction and its impact on the charged crimes in greater depth below in its evidentiary analysis on the conscription and use of children in the hostilities.
332. The Chamber sees no evidence that the witness’s interactions with other former LRA fighters ██████████ prior to his interviews with the Prosecution in 2016 had any impact on his testimony.<sup>483</sup>

*xv P-0307*

333. P-0307 testified live before the Chamber,<sup>484</sup> with protective measures, and his prior recorded statement introduced pursuant to Rule 68(3) of the Rules.<sup>485</sup> The witness, an abductee and former LRA fighter, was deemed credible by the Chamber. However, additional explanations are necessary with regard to some aspects of his testimony, namely as concerns an attack on Pajule and the witness’s age. With regard to the first issue, the witness explained in his prior statement and during several occasions in his in-court testimony that the attack on Pajule he was referring to took place in December.<sup>486</sup> In light of the details provided on the attack and the manner in which the witness provided the evidence, the Chamber is of the view that the witness – rather than lying as to the occurrence to the event – merely described a different attack than the 10 October 2003 attack on Pajule which forms the basis of some of the charges in the present case.
334. Concerning the second issue, the Chamber notes that there is diverging evidence as to the witness’s age. In his prior recorded statement, the witness stated that he was born on

<sup>482</sup> P-0264: T-65-CONF, p. 47, line 22 – p. 48, line 6. *See* P-0264: T-65-CONF, p. 45, lines 18-23. *See also* T-66-CONF, p. 15, lines 1-5.

<sup>483</sup> P-0264: T-66-CONF, p. 16, line 21 – p. 18, line 18, p. 21, line 23 – p. 22, line 6, p. 22, line 13 – p. 23, line 15 (The witness was warned by a former LRA fighter to not speak with the ICC about Dominic Ongwen. ██████████).

<sup>484</sup> P-0307: [T-152](#); [T-153](#).

<sup>485</sup> P-0307 Statement, UGA-OTP-0266-0425-R01. *See* [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 23, p. 19. *See also* P-0307: [T-152](#), p. 62, line 17 – p. 64, line 3.

<sup>486</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at paras 32-44; [T-152](#), p. 70, lines 8-17; [T-153](#), p. 33, lines 20-23.

██████████ 1989.<sup>487</sup> This matches the birthdate recorded in the witness's immunisation card.<sup>488</sup> However, P-0307's national ID card states ██████████ 1990 as his date of birth.<sup>489</sup> When questioned about this difference, the witness explained that he had not seen the immunisation card before and only found it recently, and that the national ID card states the date that he was told by his mother as his date of birth.<sup>490</sup> A birth certificate indicates ██████████ 1990 as his date of birth.<sup>491</sup> A document from World Vision, which took care of P-0307 after his escape from the LRA, indicates that the witness was 15 years old on ██████████ 2004, but the field 'date of birth' was left blank.<sup>492</sup> Upon suggestion by the Defence, the witness accepted that this might have been the case as he was uncertain about his date of birth.<sup>493</sup>

335. However, the information above does not present 'glaring contradictions' which make the witness's statement unreliable or even provide an indication that the witness has provided these different birthdates purposefully, as suggested by the Defence.<sup>494</sup> The Chamber notes that none of the parties contests the authenticity of the immunisation card<sup>495</sup> or that this document refers to P-0307, nor are there any indications that this might be the case. The card states that the witness received one immunisation in 1989 and several immunisations during the course of the year 1990, which indicates that the witness could not have been born in ██████████ 1990. Especially, the card states that the BCG vaccine against tuberculosis should be given at 'birth' and the date for that immunisation is marked as '██████████ 1989', one day after the indicated date of birth. Also, the Chamber notes that this document is the most contemporaneous one to the fact at issue (meaning P-0307's birth).

336. Regarding the date indicated in the World Vision document, the Chamber notes that, were the information concerning P-0307's date of birth true, he would have been born before ██████████ 1989, which is not supported by any other piece of evidence. Further, there is no information how this document was filled out, the circumstances under which

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<sup>487</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 13.

<sup>488</sup> UGA-OTP-0266-0446.

<sup>489</sup> National ID Card, UGA-OTP-0266-0448.

<sup>490</sup> P-0307: [T-152](#), p. 71, lines 14-16.

<sup>491</sup> UGA-OTP-0272-0951.

<sup>492</sup> UGA-OTP-0170-0338, at 0338, 0341.

<sup>493</sup> P-0307: [T-153](#), p. 37, lines 7-21.

<sup>494</sup> [Defence Closing Brief](#), paras 521-22.

<sup>495</sup> UGA-OTP-0266-0446.

it was produced and how the person filling out obtained the information that P-0307 was 15 at the time, also considering, as observed above, that the witness himself accepted the possibility that, when filling out the form, he was uncertain of his date of birth (and, for this reason, deliberately left blank the corresponding field). Accordingly, the Chamber considers the World Vision form is of no probative value when it comes to the witness's date of birth.

337. Regarding the birth certificate,<sup>496</sup> which indicates ██████████ 1990 as P-0307's date of birth, the Chamber notes that it is from ██████████ 2016. This is before the witness's prior recorded statement in which he explained that he saw the immunisation card just the day before his interview for the first time.<sup>497</sup> As he believed to be born on ██████████ ██████████ 1990 prior to receiving this information, this explains why he would have provided this date when requesting his birth certificate. Additionally, P-0307 stated that he did not provide any documentation when applying for the national ID card.<sup>498</sup> Taken this into account, the Chamber finds that system of the issuance of national ID cards or other public documents does not constitute automatic proof of the truthfulness of the information contained therein. Since the card was issued on ██████████ 2015,<sup>499</sup> it is logical that the witness would indicate 1990 as his year of birth, which he thought to be true at that point in time.

338. Considering the above, the Chamber concludes that P-0307 was born on ██████████ 1989. The Chamber also finds that the witness's explanation regarding the different dates of birth does not undermine his general credibility, as suggested by the Defence.<sup>500</sup> To the contrary, in his prior recorded statement, the witness readily admitted that he did know of the health immunisation card and always indicated 1990 as his year of birth, because he was given this information by his mother. But after he was in possession of the immunisation card, he readily accepted that he was born in 1989 and not 1990.<sup>501</sup>

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<sup>496</sup> UGA-OTP-0272-0951.

<sup>497</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 13.

<sup>498</sup> P-0307: [T-153](#), p. 36, line 23 – p. 37, line 2.

<sup>499</sup> The date of issuance can be found in the second data column on the backside of the ID card ('150524') after his date of birth and the expiry-date.

<sup>500</sup> See para. 335 above.

<sup>501</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 13.

339. Regarding the dates of the time the witness spent in the bush, the Chamber believes that P-0307 escaped the LRA by 6 June 2004, as indicated in the World Vision document.<sup>502</sup> This corresponds with the witness's statement that he escaped around April 2004 and stayed roughly three months with World Vision.<sup>503</sup> Whether he had been abducted in September 2002, as stated by the witness,<sup>504</sup> or September 2003, as insinuated by the Defence<sup>505</sup> and indicated in the World Vision document<sup>506</sup> is irrelevant, since in both scenarios P-0307 was under the age of 15 for his whole stay in the bush. The manner in which the witness testified as to what he has seen during his time with the LRA does not let the Chamber doubt that he has actually experienced the described events.
340. The Chamber further finds that this discussion of the witness's date of birth does not affect the witness's estimation of the age of other persons. As explained in the prior recorded testimony<sup>507</sup> and confirmed during his live testimony before this Chamber,<sup>508</sup> the witness used his own age as a reference point.

*xvi P-0309*

341. P-0309 testified live before the Chamber with protective measures.<sup>509</sup> P-0309, a former LRA fighter and one time escort of Dominic Ongwen, testified about his experiences in the LRA, his knowledge of the attacks on the Odek and Pajule IDP camp attacks and Dominic Ongwen's role in those attacks.
342. P-0309 testified in a simple, honest and quiet manner. The witness was frank about his experience in the LRA and spoke about the events in a detailed and comprehensive manner that convinces the Chamber that he spoke about events he actually experienced. For example, the witness offered detailed information about the structure and composition of Dominic Ongwen's household.<sup>510</sup> The witness clearly distinguished between events he witnessed and matters he learned of from others.

<sup>502</sup> UGA-OTP-0170-0338, at 0338.

<sup>503</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 54.

<sup>504</sup> P-0307: [T-152](#), p. 73, lines 2-7.

<sup>505</sup> P-0307: [T-153](#), p. 6, lines 22-25.

<sup>506</sup> UGA-OTP-0170-0338, at 0338.

<sup>507</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 69.

<sup>508</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 14; P-0307: [T-152](#), p. 64, lines 23-25; [T-153](#), p. 38, lines 3-7.

<sup>509</sup> P-0309: [T-60](#); [T-61](#); [T-62](#); [T-63](#).

<sup>510</sup> See P-0309: T-60-CONF, p. 21, line 11 – p. 30, line 18.

343. The Defence suggests that P-0309 lied in his testimony, particularly in relation to the Odek IDP camp attack.<sup>511</sup> The Chamber saw nothing in the witness's demeanour or answer pattern to suggest that the Defence's assertion is true. Indeed, the witness asserted his lack of knowledge about certain matters, including matters where Dominic Ongwen would have been implicated,<sup>512</sup> indicating to the Chamber that the witness was carefully to testify within the parameters of his actual experiences and also that the witness was not motivated to implicate Dominic Ongwen at all cost.
344. Lastly, the Chamber will discuss the question of P-0309's age. It notes the Defence's arguments regarding the witness's credibility, stating that P-0309's testimony is 'full of contradictions and inconsistencies especially regarding his true age' and submits that he should be considered as unreliable.<sup>513</sup> The Defence further suggests ulterior motives 'in misrepresenting his date of birth on various documents' and that P-0309 admitted himself that he did not know his real age and submits that the documents concerning the witness's age, as well as his estimates regarding the age of others should be disregarded.<sup>514</sup>
345. The witness testified that his mother told him that his birthday is [REDACTED] 1988,<sup>515</sup> which would make him 13 at the time of his abduction in September 2002.<sup>516</sup> He also testified that he told the LRA fighters that he was 14 when he was abducted.<sup>517</sup> There are further four documents concerning the age of the witness. His national identity card<sup>518</sup> and his driver's licence<sup>519</sup> indicate [REDACTED] 1988 as date of birth. An amnesty document<sup>520</sup> states [REDACTED] 1989 and, lastly, a voter registration card<sup>521</sup> shows his date of birth as [REDACTED] 1987. When questioned in Court, the witness replied that, when

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<sup>511</sup> [Defence Closing Brief](#), para. 360, n. 598. The Defence states that it 'implores the Trial Chamber to investigate the sheer number of times the witness could not remember something when asked by the Defence versus when asked by the Prosecution. The witness's demeanour and answer patterns are indicative of someone lying'.

<sup>512</sup> See for example P-0309: [T-60](#), p. 71, lines 7-9, p. 73, lines 1-4 (when asked whether Dominic Ongwen had a role in distributing abducted civilians taken from Pajule IDP camp, the witness stated that he did not know).

<sup>513</sup> [Defence Closing Brief](#), para. 517.

<sup>514</sup> [Defence Closing Brief](#), para. 518.

<sup>515</sup> P-0309: T-60-CONF, p. 12, lines 1-4.

<sup>516</sup> P-0309: T-60-CONF, p. 12, lines 17-21.

<sup>517</sup> P-0309: T-60-CONF, p. 15, lines 12-16.

<sup>518</sup> UGA-OTP-0258-0837-R01.

<sup>519</sup> UGA-OTP-0249-1045.

<sup>520</sup> UGA-OTP-0248-0974.

<sup>521</sup> UGA-OTP-0249-1047.

providing the dates for the last two documents, he had not been told his exact date of birth by his mother yet.<sup>522</sup>

346. Unlike what is suggested by the Defence, the Chamber does not find that the different dates of birth indicated make him generally not credible. Rather, the witness readily admitted that he initially did not know his date of birth. This is also the case when he told his age to the LRA fighters at the time of his abduction. It is also not incredible that P-0309 did not know his exact date of birth, as he explained. Once he was told by his mother that it was ██████████ 1988, he seems to have consistently indicated this date as his date of birth – as he did during his testimony.<sup>523</sup> This explanation is also consistent with part of the documentary evidence. The two documents indicating divergent dates of birth were issued immediately or relatively shortly after the witness's return from the bush.<sup>524</sup> The documents indicating ██████████ 1988 as his date of birth<sup>525</sup> are more recent and were presumably issued after the witness had asked his mother and then put this date as his date of birth. Accordingly, the Chamber finds the explanation provided by the witness believable and does not consider that the different dates of birth, provided at different times by the witness, affect his credibility in general or specifically, when he testified that his date of birth is ██████████ 1988.

*xvii P-0314*

347. P-0314 testified live before the Chamber with protective measures.<sup>526</sup> P-0314, an LRA fighter and one time escort ██████████, testified about his experiences as an LRA escort, and his knowledge of the Odek IDP camp attack. P-0314 was a diligent and careful witness. He clarified the source of the knowledge of his information and was vigilant in delineating information he gained by his personal experiences from matters he heard of from others. The witness was forthright in explaining the limits of his knowledge, a factor which bolstered the Chamber's view of his credibility. For example, the witness explained the limits of what an LRA fighter in his position would know about

<sup>522</sup> P-0309: T-61-CONF, p. 47, line 9 – p. 49, line 1, p. 66, line 8 – p. 68, line 13.

<sup>523</sup> P-0309: [T-60](#), p. 12, lines 1-4.

<sup>524</sup> UGA-OTP-0248-0974 is from ██████████ 2004 and UGA-OTP-0249-1047 is from ██████████ 2006.

<sup>525</sup> UGA-OTP-0249-1045 was issued in ██████████ 2013 and UGA-OTP-0258-0837-R01 on ██████████ 2015. *See* the numerical information on the image of the back side of the identity card.

<sup>526</sup> P-0314: [T-74](#); [T-75](#); [T-76](#); [T-77](#).

the movements of LRA commanders.<sup>527</sup> The witness offered comprehensive testimony replete with the kind of details that indicate that he spoke from personal experience.<sup>528</sup>

348. The Chamber notes that the Defence submits that P-0314's testimony regarding his age should be dismissed, since he did not know his exact age during the time of his abduction.<sup>529</sup> However, the Chamber does not follow the Defence's argumentation. Rather, it finds that the witness freely admitted that he was only told his precise age after his return from the bush by his mother<sup>530</sup> a sign for the truthfulness for his testimony. Further, the Chamber considers the fact that P-0314 had to ask his mother for his exact date of birth not to be such an unusual fact as to make the witness's explanation incredible. Accordingly, the Chamber relies on 11 July 1988 as P-0314's date of birth, as indicated in the official documents and stated by the witness.<sup>531</sup>

*xviii P-0330*

349. P-0330 testified live before the Chamber with protective measures and received Rule 74 assurances.<sup>532</sup> P-0330, a former LRA fighter, testified about his experiences in the LRA, including his knowledge of the attack on Pajule, Odek and Abok IDP camps relevant to the charges. P-0330 gave detailed testimony, offering unrequested details that increased the credibility of his account. The witness also differentiated between his own personal experience and what he was told by others. Importantly, P-0330 did not attempt to incriminate Dominic Ongwen at all cost and was mindful to offer only details within his scope of knowledge.
350. However, the Chamber is attentive to the witness's difficulty in recalling certain events and information. When speaking in narrative form or when questioned in sequence, P-0330 testified in great detail; however, when asked specific questions out of context, he frequently could not retrieve the information easily and either gave contradictory testimony or required refreshing of his memory.<sup>533</sup> Additionally, when asked if he was already Dominic Ongwen's escort at the time of the Opit attack, the witness could not

<sup>527</sup> P-0314: [T-74](#), p. 26, lines 1-19.

<sup>528</sup> See for example P-0314: [T-74](#), p. 18, line 8 – p. 19, line 17 (describing the training of LRA 'recruits').

<sup>529</sup> [Defence Closing Brief](#), para. 523.

<sup>530</sup> P-0314: [T-75](#), p. 36, line 19 – p. 37, line 19.

<sup>531</sup> P-0314: [T-75](#), p. 36, lines 8-18, p. 37, lines 13-19.

<sup>532</sup> P-0330: [T-51](#); [T-52](#); [T-53](#); [T-54](#); [T-55](#); T-51-CONF, p. 41, line 15 – p. 42, line 1, p. 38, lines 18-21.

<sup>533</sup> See P-0330: [T-51](#), p. 74, lines 1-22; [T-55](#), p. 18, lines 17 – p. 22, line 3.

recall,<sup>534</sup> nor could he recall the sequence of several attacks in which he allegedly participated.<sup>535</sup> Further, despite testifying to having prolonged close personal contact with Dominic Ongwen, the witness could not name many of the specific individuals in Dominic Ongwen's close orbit, such as Dominic Ongwen's 'wives',<sup>536</sup> his other escorts<sup>537</sup> or his signallers.<sup>538</sup> Indeed, P-0330 testified that he was the only escort working with Dominic Ongwen,<sup>539</sup> a detail which contradicts other evidence heard in this trial. P-0330 also could not remember any of Dominic Ongwen's call signs, despite stating that he sat near Dominic Ongwen when Dominic Ongwen communicated on the radio.<sup>540</sup> The Chamber considers that a person serving as Dominic Ongwen's close escort for several years, as the witness alleges,<sup>541</sup> should be able to at least recall some such information.

351. The Chamber notes that P-0314's testimony bolsters P-0330's contention that he served as Dominic Ongwen's escort and that he was in the LRA for several years.<sup>542</sup> The Chamber also notes that P-0379 testified that P-0330 was not in Dominic Ongwen's household while P-0379 was in the LRA but allows that P-0330 may have moved to Dominic Ongwen's household after P-0379 left the bush in 2003.<sup>543</sup>

352. Upon being confronted by what appears to be incoherence as to certain dates related to his abduction (whether he was abducted in 1998, 2002 or 2003, whether he was 9, 12 or 14 at the time of abduction, whether he was in P1, P2 or P3, why he gave different information at different stages and why his mother gave different information),<sup>544</sup> the witness was unable to explain clearly. However, he stated that he had no concept of

<sup>534</sup> P-0330: [T-52](#), p. 57, lines 13-15.

<sup>535</sup> P-0330: [T-55](#), p. 34, lines 22-24.

<sup>536</sup> See P-0330: [T-55](#), p. 5, lines 4-5.

<sup>537</sup> See P-0330: [T-51](#), p. 70, lines 3-8; [T-55](#), p. 45, lines 14-20.

<sup>538</sup> See P-0330: [T-55](#), p. 3, lines 9-17. See also P-0330: [T-55](#), p. 12, lines 13-16. Here, the Chamber notes the Defence's arguments that the witness's inability to recall details about Dominic Ongwen's household, escorts and close commanders means that his evidence cannot be relied upon. [Defence Closing Brief](#), para. 511.

<sup>539</sup> P-0330: [T-51](#), p. 70, lines 3-8. See P-0330: [T-55](#), p. 45, lines 14-20.

<sup>540</sup> P-0330: T-55-CONF, p. 7, line 25 – p. 8, line 24.

<sup>541</sup> See P-0330: [T-55](#), p. 77, line 25 – p. 78, line 7.

<sup>542</sup>

The Chamber notes that it finds P-0314 to be a credible witness whose testimony may be relied upon.

<sup>543</sup> P-0379: T-58-CONF, p. 69, lines 1-11.

<sup>544</sup> P-0330: [T-54](#), p. 29, line 14 – p. 30, line 5, p. 34, lines 7-15, p. 35, line 9 – p. 37, line 4, p. 37, line 25 – p. 38, line 7, p. 58, lines 3-15; T-54-CONF, p. 5, line 15 – p. 6, line 1, p. 7, lines 7-19, p. 20, line 15 – p. 21, line 21, p. 23, line 16 – p. 24, line 22, p. 25, line 5 – p. 26, line 21. See also Application for participation as victim, UGA-D26-0012-0102; Rachele rehabilitation centre file, UGA-OTP-0124-0358, at 0359.

years,<sup>545</sup> an explanation which the Chamber deems to be a sincere and understandable response under the circumstances.<sup>546</sup>

353. Noting P-0330's testimony and also noting the incoherence in some of his testimony, the Chamber has some reservations about the reliability of his evidence about how long he was in the LRA and how long he spent in close proximity with Dominic Ongwen. The Chamber notes, however, that it is convinced that the witness did spend some time in proximity to Dominic Ongwen during the witness's time in the LRA. In light of P-0314's testimony as well as the fact that much of P-0330's testimony is consistent with other evidence, as will be discussed further in the evidentiary analysis below, the Chamber is of the view that P-0330 was indeed a low level fighter in the Sinia brigade.

*xix P-0340*

354. P-0340 testified live before the Chamber with protective measures, after receiving Rule 74 assurances.<sup>547</sup> P-0340, a former LRA abductee and fighter, testified about his experiences in the LRA and the Odek and Abok IDP camp attacks. P-0340's testimony was detailed and contextualised. The witness explained the source of his information and often offered nuanced explanations of his accounts.<sup>548</sup> His testimony was frequently in a narrative format and P-0340 offered details of a nature that would be expected of a witness speaking from personal experience.

355. The Defence highlights an 8 February 2004 ISO logbook entry to indicate that Mukwaya, Abola, and Kidega, three LRA fighters mentioned by P-0340 as being his superiors in Sinia's Siba battalion,<sup>549</sup> were in Gilva brigade, and not Sinia.<sup>550</sup> The Defence contends that, in light of the logbook entry, if the Chamber is of the view that P-0340 participated in the Abok IDP camp attack, then the Chamber must accept that at least one battalion of Gilva brigade sent fighters to the Abok attack.<sup>551</sup> The Chamber is satisfied that the

<sup>545</sup> P-0330: [T-54](#), p. 51, lines 2-6.

<sup>546</sup> The Chamber recalls its above discussion on the difficulties several witnesses face in keeping track of the time they spent in the bush.

<sup>547</sup> P-0340: [T-102](#); [T-103](#).

<sup>548</sup> See for example P-0340: [T-102](#), p. 18, line 9 – p. 19, line 8.

<sup>549</sup> P-0340: [T-102](#), p. 16, lines 7-21; [T-103](#), p. 19, lines 6-7.

<sup>550</sup> See [Defence Closing Brief](#), paras 454, 459, 460, citing ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0056 (the logbook entry notes the promotion of Ogwal Kidega, Okello Mukwaya, Abola from 'Gilva Bde', 'Araka BN'). The Chamber notes that when questioning the witness, the Defence raised the possibility that the three men were intelligence officers in Terwanga battalion. See P-0340: [T-103](#), p. 20, lines 11-24.

<sup>551</sup> See [Defence Closing Brief](#), para. 460.

evidence shows that P-0340 was subordinate to Dominic Ongwen at the time of the attack on Abok IDP camp. The Chamber is of the view that the logbook mentioned by the Defence does not undermine this finding. The Chamber notes that P-0340 offered clear and detailed testimony in relation to the attacks on Odek and Abok IDP camp. His testimony in relation to these attacks is consistent with other evidence. The Chamber is convinced that P-0340 participated in the attacks on Odek and Abok IDP camps that are relevant to the charges. The Chamber is also convinced that the witness's detailed and corroborated evidence about the attacks and Dominic Ongwen's participation shows that the witness was subordinate to Dominic Ongwen at least by the time of the April 2004 attack on Odek IDP camp. Further, absent other evidence, the Chamber is not convinced that the logbook disproves the witness's testimony that he was abducted by a Sinia battalion in 2002 and participated in the Odek and Abok attack as a member of Sinia in 2004.

356. The witness testified that he was abducted in an area near Patongo by members of Siba battalion six days after a 1 July 2002 attack on Patongo by the LRA.<sup>552</sup> He identified Mukwaya as one of the persons who abducted him and stated that he saw Dominic Ongwen after his abduction and was told that Dominic Ongwen was in charge of the larger Sinia group.<sup>553</sup> The Chamber notes that evidence supports the witness's testimony about a 1 July 2002 attack on Patongo and indicates that Dominic Ongwen participated in this attack.<sup>554</sup> Dominic Ongwen and Sinia's Oka battalion's presence in the Patongo area around the time of P-0340's abduction offers support for the witness's testimony that he saw Dominic Ongwen after his abduction and that he was abducted by Sinia's Siba battalion. However, contrary to the witness's contention, the evidence also indicates that at the time of that attack, Dominic Ongwen was in charge of the Oka battalion and had not yet been appointed as commander of Sinia brigade.<sup>555</sup> Notably, the witness did not mention Dominic Ongwen's injury in late 2002 or the attack on Pajule IDP camp in 2003 relevant to the charges. Further, the Chamber is unconvinced by the witness's testimony about Dominic Ongwen's presence in Sudan throughout the duration of the witness's time in Sudan.<sup>556</sup> However, noting that the witness was a minor at the time of

<sup>552</sup> See P-0340: [T-102](#), p. 11, line 23 – p. 12, line 22, p. 15, line 22 – p. 17, line 5, p. 58, lines 7-9.

<sup>553</sup> P-0340: [T-102](#), p. 16, line 2 – p. 17, line 17.

<sup>554</sup> See para. 1159 below.

<sup>555</sup> See paras 1013-1016 below.

<sup>556</sup> See P-0340: [T-103](#), p. 26, lines 13-21, p. 31, lines 3-19.

his abduction and that he expressed some ambiguity about Dominic Ongwen's position at the time,<sup>557</sup> the Chamber is of the view that any confusion about hierarchy or unit names is understandable.

357. Noting that the witness had difficulty assessing time and ages,<sup>558</sup> the Chamber does not rely on his testimony to assess the ages of other captives. The Chamber does not consider the fact that the witness is a politician to be significant or to have impaired his testimony in any way.<sup>559</sup>

*xx P-0372*

358. P-0372 testified live before the Chamber with protective measures.<sup>560</sup> P-0372, a former LRA fighter at times under Dominic Ongwen's command, testified about his experiences in the LRA, his time in Sinia brigade and his knowledge of LRA rules and practices. P-0372 was a coherent, clear and concise witness. The Chamber notes that the witness's testimony was at times less specific and contextualised than other witnesses who often spoke in a narrative fashion and would provide additional information and context when answering the questioning party. However, the witness's manner of speaking did not undermine the Chamber's view that the witness testified truthfully. The Chamber notes that in relation to the attacks in which he participated, particularly the Odek IDP camp attack,<sup>561</sup> the witness's testimony was more detailed, specific and contextualised.

359. The Chamber notes that at one point in his testimony, the witness misidentified two of Dominic Ongwen's so-called 'wives'.<sup>562</sup> The witness explained that he erroneously indicated that the two women were Dominic Ongwen's 'wives' because of the proximity of the women to Dominic Ongwen.<sup>563</sup> The Chamber is satisfied with the witness's

<sup>557</sup> See P-0340: [T-103](#), p. 26, lines 13-21.

<sup>558</sup> See P-0340: [T-103](#), p. 31, lines 13-19 ('while in the bush you lose count of time and days. [...] You, you just wait for days to end and you do not know what time it is'); T-102-CONF, p. 9, line 21 – p. 10, line 1; [T-102](#), p. 24, lines 13-25, p. 64, line 4 – p. 65, line 23 (the witness testified that he assessed others age by comparing it to his own. However, the witness was not clear as to his own age).

<sup>559</sup> See P-0340: [T-102](#), p. 59, line 9 – p. 60, line 3.

<sup>560</sup> P-0372: [T-148](#); [T-149](#).

<sup>561</sup> See P-0372: [T-148](#), p. 40, line 7 – p. 48, line 24.

<sup>562</sup> See P-0372: [T-148](#), p. 55, line 19 – p. 56, line 1 (the witness erroneously identified female fighters Alice and Aling as Dominic Ongwen's 'wives').

<sup>563</sup> P-0372: [T-149](#), p. 34, line 14 – p. 37, line 6.

explanation and also did not consider the discrepancy to have been significant. In view of the Chamber, this does not affect the witness's credibility.

*xxi P-0379*

360. P-0379 testified live before the Chamber with protective measures pursuant to Rule 74 of the Rules.<sup>564</sup> P-0379, a former LRA member and resident of Pajule IDP camp, testified about his life in the LRA after his abduction in August 2002, his time in Oka battalion, under Dominic Ongwen's overall leadership, and the activities of the LRA during the period of August 2002 to May 2003. P-0379 provided detailed, contextualised and comprehensive evidence which the Chamber finds to be credible. The witness had a remarkable recollection, recalling particular details that illustrated his experiences in the LRA and bolstered the Chamber's view of his credibility.<sup>565</sup> The witness recalled names, locations, and events in great depth, despite being a teenager at the time of his abduction and being in captivity with the LRA for less than a year.<sup>566</sup> P-0379 clearly distinguished between events he witnessed personally and information he was told by others. In questioning the witness, the Defence appeared to indicate that the witness's testimony was affected by feelings of bitterness towards Dominic Ongwen.<sup>567</sup> The Chamber saw no indication that the witness's testimony was anything other than his truthful account of his experiences in the LRA. In this context, the Chamber notes that the witness's testimony is consistent with other reliable evidence.

*xxii P-0406*

361. P-0406 testified live before the Chamber with protective measures, having received Rule 74 assurances.<sup>568</sup> P-0406, an LRA fighter, testified about his experiences in the LRA and about the attacks on Odek, Lukodi and Abok IDP camps. His testimony was detailed, comprehensive and nuanced. The witness had a remarkable recollection, testifying

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<sup>564</sup> P-0379: [T-56](#); [T-57](#); [T-58](#); [T-59](#).

<sup>565</sup> See for example P-0379: [T-56](#), p. 21, line 6 – p. 25, line 10 (describing how the LRA made newly abducted boys, including some as young as 10-12 years old, beat the dead body of a young boy who had tried to escape from the LRA and who the LRA fighters had killed by stabbing him with a bayonet. Around the same time, after being trained to dismantle a gun, LRA fighters made the newly abducted boys dance at Dominic Ongwen's household. They were told that if they did not dance, they would be beaten. After dancing, the boys were given biscuits).

<sup>566</sup> P-0379: [T-56](#), p. 6, line 23 – p. 14, line 3; T-57-CONF, p. 15, line 16 – p. 18, line 22. See P-0379: [T-56](#), p. 17, line 1 – p. 33, line 16; [T-57](#), p. 35, line 8 – p. 50, line 9, p. 67, line 3 – p. 74, line 10.

<sup>567</sup> P-0379: [T-59](#), p. 9, lines 7-12.

<sup>568</sup> P-0406: [T-154](#); [T-155](#); [T-156](#).

credibly as to the dates of events and the details of attacks.<sup>569</sup> The witness was frank about his participation in attacks, thus demonstrating the credibility of his accounts. The witness did not attempt to incriminate Dominic Ongwen at all cost, strengthening the Chamber's view that the witness was not biased against the accused. The Chamber is satisfied that the witness credibly testified regarding the LRA's attacks on Odek, Lukodi and Abok IDP camps.

362. The Defence challenges P-0406's testimony, stating that his testimony is dubious and that it is doubtful P-0406 ever met Dominic Ongwen, let alone was a part of his group.<sup>570</sup> In particular, the Defence alleges that the witness testified to being in Sudan and seeing Dominic Ongwen and Joseph Kony together, which the Defence contends is implausible and unsupported by credible evidence.<sup>571</sup> The Chamber finds that the Defence's argument is without merit, noting that P-0205 credibly testified to going with Dominic Ongwen to see Joseph Kony in 2004, several months after the attacks in Odek, Lukodi and Abok IDP camps,<sup>572</sup> consistent with P-0406's account. In this context, the Chamber also notes that P-0406 testimony is generally consistent with the testimony of other credible witnesses. The difference between his testimony and others is reasonably explained by the nuances to be expected in the testimony of individuals relaying their personal experience. Further, some imprecision is to be expected when witnesses name locations or testify to events that took place in the bush, a place where the nearest landmark is used to reference the location.

*xxiii P-0410*

363. P-0410 testified live before the Chamber with protective measures.<sup>573</sup> P-0410, a former LRA fighter, testified about his experiences in the LRA and about the attacks on Odek and Lukodi IDP camps. P-0410 was a candid and forthright witness. His narrative account of events was generally chronological and he noted the circumstances under

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<sup>569</sup> See for example P-0406: [T-154](#), p. 41, line 21 – p. 77, line 19 (testifying in relation to the Odek, Lukodi, Barlonyo and Abok attacks).

<sup>570</sup> See [Defence Closing Brief](#), paras 363, 408-09, 419, 452.

<sup>571</sup> The Defence alleges that this is not possible because the witness was abducted on or around 3 September 2002 and returned from the bush in December 2004, that Dominic Ongwen did not travel to Sudan during that time period and that no credible witness places Dominic Ongwen in Sudan in that period. [Defence Closing Brief](#), paras 363, 408.

<sup>572</sup> See P-0205: [T-48](#), p. 7, line 20 – p. 9, line 16. P-0406 testified that Dominic Ongwen and Joseph Kony were both in Sudan in November 2004, shortly before his escape. P-0406: [T-154](#), p. 34, lines 16-20, p. 80, lines 14-17.

<sup>573</sup> P-0410: [T-151](#); [T-152](#).

which events took place. He was extremely detailed and comprehensive in his recounting of events, indicating to the Chamber that he personally experienced the events he described. For this reason, the Chamber does not accept the Defence argument, made in the context of the discussion of the attack on Odek IDP camp, that ‘P-0410 invented a story; he knew about plans, but he did not go to Odek or the RV’.<sup>574</sup>

364. P-0410’s testimony was consistent with his two years’ experience in the LRA.<sup>575</sup> When describing events, the witness recounted his thought process at the time, further indicating that he was speaking from personal experience. The witness differentiated between events he witnessed himself and what he heard of from others. The Chamber also considers it significant that the witness did not incriminate the accused at all cost,<sup>576</sup> indicating a lack of bias and further enhancing the Chamber’s view of his credibility.
365. While the Chamber is of the view that the witness testified about his own personal experiences and, in particular, that he participated in the attack on the Odek and Lukodi IDP camps, there is an aspect of P-0410’s testimony which differs significantly from other reliable witnesses’ accounts of events. In particular, P-0410 testified that Buk Abudema and Vincent Otti participated in the planning and in the attacks on Odek and Lukodi IDP camps.<sup>577</sup> As laid out in the respective sections of the Chamber’s evidentiary analysis,<sup>578</sup> this account is not consistent with the testimony of other reliable witnesses. Noting also the Defence submissions,<sup>579</sup> the Chamber has considered whether this discrepancy should have a general effect on the Chamber’s assessment of P-0410’s credibility.

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<sup>574</sup> [Defence Closing Brief](#), para. 379. The Chamber notes that ‘RV’ was an expression frequently used by witnesses to refer to gatherings of LRA groups.

<sup>575</sup> See for example P-0410: [T-152](#), p. 28, line 15 – p. 30, line 3. Although he testified that ‘Okwee’ (Okwer) was a commander in charge of a battalion of Sinia, when asked to describe Okwer’s tasks, the witness accurately described the role of an LRA intelligence officer. Okwer served as Sinia’s brigade intelligence officer. See P-0205: [T-47](#), p. 39, lines 5-10.

<sup>576</sup> For example, while the witness assumed that Dominic Ongwen participated in the attack on Odek and Lukodi because in his view all the high ranking commanders would be there, he did not testify that he actually saw Dominic Ongwen there. P-0410: [T-151](#), p. 41, lines 5-11, p. 42, lines 1-11, p. 42, lines 15-20; [T-152](#), p. 37, line 14 – p. 38, line 3.

<sup>577</sup> P-0410: [T-151](#), p. 33, lines 14-19, p. 42, lines 15-20; [T-152](#), p. 42, line 9 – p. 43, line 3.

<sup>578</sup> See sections IV.C.7.iii, IV.C.8.ii below.

<sup>579</sup> [Defence Closing Brief](#), paras 379, 418.

366. In relation to the attack on Odek IDP camp, P-0410, asked which commanders were giving instructions at the assembly, responded:

All the commanders, all the senior commanders in the bush were present. Otti Vincent was present. Buk was present. Dominic was also present. Okwee was present. Komakech was also present.<sup>580</sup>

367. In addition, the witness spontaneously stated that he saw ‘Buk’ during the attack behind him at the barracks, and insisted on this testimony even when confronted with his prior statement where he had said that he did not see ‘Buk’ during the attack.<sup>581</sup>

368. A little later, asked who was the overall commander of his group when they attacked Odek, P-0410 responded:

The commanders who were senior, who had authority then and who were fierce, included Buk, Otti and Dominic Ongwen. Those three people were feared by the junior soldiers and all of them were there. I believe that all of them were there because all the commanders went there.<sup>582</sup>

369. In relation to Lukodi, P-0410 stated the following in relation to who was present at the pre-attack RV:

Most of the commanders who were in Odek were also present there. Those of Dominic were all there. There was Buk. There was Okwee also who was present. All the top commanders were there. Whenever there’s an RV announcing an attack, all the commanders would come together and they contribute their soldiers from their units, then the group that has been selected would go.<sup>583</sup>

370. When asked by Defence counsel whether ‘Otti and Banya’ were also there, P-0410 reacted as follows:

They were there because all these commanders briefed us on the same issue. Just as we went to Odek, they repeated to us what people should and do in Lukodi.<sup>584</sup>

371. When it was pointed out to P-0410 that in his prior statement he mentioned ‘Banya, Komakech, Okwee, Ongwen and Buk’, but not Vincent Otti, the witness stated:

<sup>580</sup> P-0410: [T-151](#), p. 33, lines 14-19. The Chamber notes that the witness referred only to ‘Buk’, but that context establishes that this could reasonably only be a reference to Buk Abudema.

<sup>581</sup> P-0410: [T-151](#), p. 41, line 5 – p. 43, line 11.

<sup>582</sup> P-0410: [T-151](#), p. 42, lines 15-20. *See also* [T-152](#), p. 37, line 14 – p. 38, line 3.

<sup>583</sup> P-0410: [T-151](#), p. 61, lines 8-15.

<sup>584</sup> P-0410: [T-152](#), p. 41, lines 10-12.

I could have forgotten, but all these leaders were there. Because I was present in all the RVs that were called, because most times when my commander is going for an operation, I would go with him. And usually when there is an attack which is planned like that, all these other commanders, senior commanders would be there. So it could be an oversight I had forgotten, because sometimes you would forget some things. But that is what I know.<sup>585</sup>

372. On the face of this evidence, with the exception of the statement that he saw ‘Buk’ on the ground at Odek, which the Chamber finds dubious in light of the conflicting prior statement and in light of the following, it appears that the witness when discussing the presence of senior commanders, rather than recounting facts as observed, was stating what he deduced or believed to be the case. In addition to the witness himself saying as much in one instance, this is strongly indicating by the repeated reference to ‘all’ commanders, and to how an attack was usually conducted. Also, beyond mentioning Vincent Otti and Buk Abudema as just laid out, P-0410 did not attribute to them any specific actions during the preparation for the attacks on Odek and Lukodi, or during the attacks themselves. In light of this, and in light of the fact that there is no independent corroboration of Buk Abudema’s and Vincent Otti’s presence on the ground for the Odek or Lukodi attacks,<sup>586</sup> the Chamber concludes that this part of P-0410’s evidence is not reliable.
373. In any case, P-0410’s placing of Buk Abudema and Vincent Otti at the planning locations of both Odek and Lukodi attacks is a transparent, easily detectable error that is separable from the rest of his testimony. For this reason, and noting that his testimony was generally consistent with that of other witnesses, while the Chamber does not rely on P-0410’s evidence to the extent that it implicates Vincent Otti and Buk Abudema in the attacks on Odek and Lukodi IDP camps, the Chamber finds that this issue has no bearing on P-0410’s general credibility.
374. Finally, concerning P-0410’s date of birth, the witness testified that he was born on ■■■■■ 1989,<sup>587</sup> which is also indicated on its birth certificate.<sup>588</sup> Regarding this re-issued birth certificate, P-0410 testified that his initial birth certificate was destroyed in the

<sup>585</sup> P-0410: [T-152](#), p. 42, line 14 – p. 43, line 3. *See also* P-0410: [T-152](#), p. 42, lines 9-13.

<sup>586</sup> In fact, in relation to the attack on Odek IDP camp, P-0410 is indirectly contradicted by P-0264 and P-0309, who testified that Dominic Ongwen was the most senior person involved; P-0264: [T-64](#), p. 39, lines 23-24; P-0309: [T-60](#), p. 74, lines 13-16.

<sup>587</sup> P-0410: T-151-CONF, p. 5, lines 9-10.

<sup>588</sup> Birth certificate, UGA-OTP-0272-0931.

camps, his mother told him the date of his birth and he obtained a birth certificate with that date in August 2016.<sup>589</sup> The Defence submits that ‘it takes strong exception to such evidence’ in order to prove the witness’s age since it was obtained ‘after the commencement of the case’.<sup>590</sup> First, the Chamber does not find that the point in time when the document was requested (after the opening of the case) influences its probative value. Unlike suggested by the Defence,<sup>591</sup> there is no indication that the witness requested the document with the intention to mislead the Chamber. Given the circumstances in which civilians abandoned their dwelling places and lived in camps that were burnt down in the conflict, it is reasonable that they received official government documents, such as birth certificates, that were issued recently and contain information the government obtained from the civilians’ themselves. Further, the Chamber considers the witness’s testimony in relation to his age credible and reliable. Absent other evidence undermining the reliability of the document, the Chamber does not make negative inferences as to the credibility of witnesses and their reliability of their information merely because governmental records such as birth certificates were recently issued.

*xxiv John Robert Okodel (D-0020)*

375. John Robert Okodel’s prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>592</sup> John Robert Okodel, a former LRA member, provided testimony about joining the Uganda People’s Army and subsequently staying with the LRA from 1996 until his escape in 2000. The witness provided testimony that was detailed and contextualised. The Chamber does not doubt that the witness testified truthfully of his recollection of events and relationships.

*xxv Francis Okot (D-0024)*

376. Francis Okot, a former LRA fighter, testified live before the Chamber without protective measures.<sup>593</sup> He testified about his abduction, which he stated took place when he was approximately 17 years old, and his experiences in the LRA, including his knowledge of Joseph Kony and Dominic Ongwen. The witness spent more than 15 years in the LRA

<sup>589</sup> P-0410: [T-152](#), p. 5, line 22 – p. 7, line 6.

<sup>590</sup> [Defence Closing Brief](#), para. 519.

<sup>591</sup> [Defence Closing Brief](#), para. 519.

<sup>592</sup> D-0020 Statement, UGA-D26-0010-0382. See [Decision on the Defence Request under Rule 68\(2\)\(b\)](#), paras 9-10, p. 12.

<sup>593</sup> D-0024: [T-192](#).

and eventually escaped in 2012. Francis Okot's testimony was precise and clear and he provided information, detailed and contextualised in a manner that convinced the Chamber that he spoke of his personal experience. The witness also provided evidence of a nature that could be expected of a fighter who had spent considerable time in the LRA.

*xxvi Sam Opio (D-0025)*

377. Sam Opio testified live before the Chamber.<sup>594</sup> Sam Opio, a former LRA fighter, testified about his experiences in the LRA, his knowledge of Dominic Ongwen and the attack on Pajule IDP camp.
378. The Chamber agrees with the Prosecution that D-0025's testimony regarding the Pajule attack cannot be relied upon.<sup>595</sup> The Chamber is not convinced of the witness's testimony that he did not participate in the attack on Pajule IDP camp relevant to the charges.<sup>596</sup> The details that he provided were so specific that it seems unlikely that he was repeating information he had come to learn from others.<sup>597</sup> Rather, the Chamber considers it probable that the witness was actually present in the attack. Additionally, the witness's testimony in relation to Dominic Ongwen's presence near Pajule is not credible. First, the Chamber notes that the evidence demonstrates that Dominic Ongwen was quite mobile at the time of the attack and was not infirm as the witness attests.<sup>598</sup> Indeed a number of witnesses place Dominic Ongwen on the ground at the attack on Pajule IDP camp.<sup>599</sup> The witness denied that the 'DO' he marked in a sketch refers to Dominic Ongwen as suggested in his statement and as would be presumable in light of his testimony.<sup>600</sup> His explanation for the deviation is unconvincing.<sup>601</sup> The Chamber is of the view that the witness was motivated to minimise Dominic Ongwen's involvement in the LRA attack on Pajule IDP camp. Therefore, the Chamber cannot rely on his testimony in

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<sup>594</sup> D-0025: [T-226](#); [T-227](#).

<sup>595</sup> See [Prosecution Closing Brief](#), para. 238.

<sup>596</sup> D-0025: [T-226](#), p. 63, lines 7-10, p. 64, lines 11-17.

<sup>597</sup> See D-0025: [T-227](#), p. 18, line 19 – p. 36, line 9.

<sup>598</sup> See D-0025: [T-226](#), p. 63, lines 10-16; [T-227](#), p. 32, lines 2-6.

<sup>599</sup> See paras 1264-1288, 1294-1296, 1330-1331, 1337 below.

<sup>600</sup> D-0025: [T-227](#), p. 29, line 2 – p. 36, line 9; D-0025 sketch of Pajule, UGA-D26-0010-0458.

<sup>601</sup> D-0025: [T-227](#), p. 29, line 2 – p. 36, line 9 (the witness was evasive about Dominic Ongwen's location and stated that the 'DO' represents 'the direction that the people who left came and re-joined us').

relation to the Pajule IDP camp attack. In light of this, his whole evidence is brought in doubt to such an extent that the Chamber sets it aside completely.

*xxvii Kenneth Oyet (D-0026)*

379. Kenneth Oyet testified live before the Chamber.<sup>602</sup> Kenneth Oyet, a former LRA fighter, offered testimony about his experiences as an LRA fighter from 1997 to 2007. The witness testimony was clear, internally consistent and detailed. He was forthright when he did not recall or was unclear about certain information.<sup>603</sup> The witness's testimony in relation to the course of the attack on Pajule IDP camp was of limited relevance as the witness did not participate in the attack and only saw people coming back from Pajule.<sup>604</sup> The Chamber notes that the witness was present for parts of the planning of the Pajule IDP camp attack.<sup>605</sup>

*xxviii Simon Tabo (D-0034)*

380. Simon Tabo's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>606</sup> He testified about his abduction, which he stated took place in 1998, when he was 11 years old, and his experiences in the LRA until his escape in 2014. The Chamber is satisfied that the witness testified credibly about his lived experience in the LRA.

*xxix Daniel Opiyo (D-0056)*

381. Daniel Opiyo testified live before the Chamber.<sup>607</sup> Daniel Opiyo, a long term member of the LRA, testified about the LRA and about an attack on Pajule IDP camp<sup>608</sup> and Dominic Ongwen's role in the attack. The witness's testimony was detailed, contextualised and the Chamber was satisfied that the witness was telling the truth as he knew it through the course of his testimony.

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<sup>602</sup> D-0026: [T-191](#).

<sup>603</sup> See for example the witness's testimony about the ranks of a certain officer. D-0026: [T-191](#), p. 10, lines 14-17.

<sup>604</sup> D-0026: [T-191](#), p. 29, line 17 – p. 30, line 14.

<sup>605</sup> D-0026: [T-191](#), p. 25, line 25 – p. 27, line 11, p. 28, lines 16-25.

<sup>606</sup> D-0034 Statement, UGA-D26-0022-0385. See [Decision on the Defence Request under Rule 68\(2\)\(b\)](#), paras 11-13, p. 12.

<sup>607</sup> D-0056: [T-228](#); [T-229](#).

<sup>608</sup> The Chamber considers that the evidence indicates that this attack on Pajule IDP camp described by this witness is not the same attack at issue in these proceedings. See para. 1287 below.

*xxx Christopher Oloyo (D-0068)*

382. Christopher Oloyo testified live before the Chamber.<sup>609</sup> Christopher Oloyo, a former LRA fighter, testified about his experience in the LRA and about an attack on Pajule IDP camp.<sup>610</sup> The witness's testimony was clear. He differentiated between his personal experiences and what he heard from others. The witness provided details that convinced the Chamber that he spoke from personal experiences.

*xxxi Michael Oryem (D-0075)*

383. Michael Oryem, known in the LRA as 'Abongomek', testified live before the Chamber.<sup>611</sup> Michael Oryem, an LRA fighter, testified about his experiences in the LRA, including his knowledge of Dominic Ongwen. The Chamber considers Michael Oryem's testimony at times evasive, particularly in relation to the attack on Odek IDP camp. When the witness was asked by the Defence how he heard of the Odek attack, he spoke for three minutes without answering the question.<sup>612</sup> Such behaviour undermined the Chamber's view of the witness's credibility.

384. Aspects of his testimony are also unreliable. Significantly, Michael Oryem testified that he did not participate in the attack on Odek IDP camp, but rather was east of the Achwa River, in an area called Lapak, with Dominic Ongwen.<sup>613</sup> However, multiple witnesses credibly testified that Michael Oryem not only participated in the Odek IDP camp attack, but also played a key role.<sup>614</sup> The Chamber is satisfied that the evidence shows that Michael Oryem participated in the Odek IDP camp attack and his testimony in relation to both his and Dominic Ongwen's whereabouts at the time of the Odek IDP camp attack cannot be relied upon. Additionally, the witness offered a confused and convoluted

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<sup>609</sup> D-0068: [T-222](#); [T-223](#).

<sup>610</sup> The Chamber considers that the evidence indicates that this attack on Pajule IDP camp described by this witness is not the same attack at issue in these proceedings. *See* para. 1287 below.

<sup>611</sup> D-0075: [T-224](#); [T-225](#).

<sup>612</sup> D-0075: [T-224](#), p. 74, line 21 – p. 76, line 1.

<sup>613</sup> D-0075: [T-224](#), p. 76, lines 1-23.

<sup>614</sup> *See* P-0406: T-154-CONF, p. 45, line 21 – p. 46, line 1 (a 'support weapon' called a '12' was used in the course of the Odek IDP camp attack, fired by a commander known as Abongomek); P-0054: [T-93](#), p. 15, lines 15-21; [T-94](#), p. 22, lines 9-16 (an LRA fighter, Abongomek, fired an RPG and the shot landed on one of the huts in the barracks and burnt that hut during the Odek IDP camp attack); P-0314: [T-75](#), p. 23, lines 13-19 (during the attack Abongomek fired some bullets, from the big gun with chains, however the gun failed later on). *See also* P-0264: [T-64](#), p. 72, lines 15-20 (Abongomek participated in the Odek IDP camp attack); P-0330: [T-52](#), p. 14, lines 19-22 (he went to Odek under the command of 'Bomek'). The Chamber understands that 'Bomek' is an abbreviation of Abongomek. *See* D-0068: [T-223](#), p. 7, lines 4-5.

explanation of the inconsistencies between his previous statements to the Prosecution and his in-court testimony, indicating that there were multiple attacks in Odek IDP camp.<sup>615</sup> The Chamber is unconvinced by his justification. It does not rely on the evidence D-0075 provided.

*xxxii D-0079*

385. D-0079 is an Acholi man born in 1986, who testified live before the Chamber with protective measures, after receiving Rule 74 assurances.<sup>616</sup> The witness testified about his abduction, which he stated took place when he was approximately seven years old. Further, he provided an account of his experiences in the LRA and his knowledge of Joseph Kony and Dominic Ongwen. The witness spent more than 10 years in the LRA and eventually escaped in or around 2005. The Chamber is satisfied that the witness testified credibly about his personal experiences in the LRA.

*xxxiii D-0085*

386. D-0085 testified live before the Chamber with protective measures.<sup>617</sup> D-0085, a former LRA member, testified about her experiences in the LRA, including about the attack on Abok IDP camp attack relevant to the charges. The witness's testimony was clear, consistent and she was forthright regardless of the identity of questioning party. She clearly distinguished between events that she personally witnessed as opposed to matters she was informed about. D-0085 provided narration rich in the type of details that showed that the witness spent years in the LRA and spoke from personal experience. When the witness spoke of her forced marriage, it was clear to the Chamber that she was speaking of a personal experience that was deeply affecting.<sup>618</sup>

387. There are aspects of D-0085's testimony of which the Chamber is not convinced. For example, D-0085 was the only witness to speak of two gatherings before the attack on Abok IDP camp.<sup>619</sup> D-0085 also indicated that Trinkle brigade participated in the attack

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<sup>615</sup> See D-0075: [T-225](#), p. 53, line 4 – p. 62, line 1. The Chamber notes the Prosecution submissions as to the myriad inconsistencies in the witness's testimony and his previous statements to the parties. See [Prosecution Closing Brief](#), paras 269-71.

<sup>616</sup> D-0079: [T-189](#).

<sup>617</sup> D-0085: [T-239](#).

<sup>618</sup> See D-0085: [T-239](#), p. 42, lines 20-23 ('[m]y abduction has made my live very difficult. I'm not happy, I cannot be happy like people who were not abducted. I'm constantly sad.').

<sup>619</sup> See D-0085: [T-239](#), p. 21, lines 19-25.

on Abok IDP camp.<sup>620</sup> The only other witness to testify thusly was Kenneth Opiyo,<sup>621</sup> a witness whom, as discussed further below, the Chamber finds not credible. The Chamber notes also that [REDACTED] offered testimony which indicated that he knew D-0085 personally in 2017<sup>622</sup> and also spoke of her with [REDACTED].<sup>623</sup> While the Chamber does not impugn D-0085's testimony on this basis, it does have increased doubts about the veracity of some aspects of her testimony, such as regarding the participation of the Trinkle brigade in the attack on Abok IDP camp. Despite this, the Chamber notes that much of the evidence she offered was consistent with other reliable evidence.

*xxxiv Francis Ocen (D-0100)*

388. Francis Ocen is a former LRA fighter, who testified live before the Chamber.<sup>624</sup> The witness testified about his work as an LRA signaller and his knowledge of Dominic Ongwen. Francis Ocen offered testimony that was generally consistent with other reliable evidence.

*xxxv Kenneth Opiyo (D-0105)*

389. Kenneth Opiyo testified live before the Chamber without protective measures.<sup>625</sup> Kenneth Opiyo, a former LRA fighter, testified about his experiences in the LRA, including his participation in the attack on Abok IDP camp relevant to the charges. The Chamber finds that this witness's testimony may not be relied upon.

390. Kenneth Opiyo offered a detailed account of his experience in the LRA, describing his personal experiences in a chronological manner and noting the circumstances in which they took place. Further, the Chamber found Kenneth Opiyo to be forthcoming in answering questions from the parties, participants and Chamber.

391. However, the Chamber is attentive to significant discrepancies between the witness's accounts and the other evidence heard in the case in relation to the 8 June 2004 Abok

<sup>620</sup> See D-0085: [T-239](#), p. 20, lines 7-9.

<sup>621</sup> See D-0105: [T-190](#), p. 8, lines 21-22, p. 15, lines 3-9, p. 26, lines 17-23.

<sup>622</sup> See [REDACTED].

<sup>623</sup> [REDACTED].

<sup>624</sup> D-0100: [T-234](#).

<sup>625</sup> D-0105: [T-190](#).

IDP camp attack.<sup>626</sup> For example, contrary to other evidence introduced in these proceedings, the witness testified that: (i) the Abok attack took place on 6 August 2004;<sup>627</sup> (ii) members of the Convoy, under the command of Okot Odhiambo, participated in the Abok IDP camp attack along with the group commanded by Kalalang;<sup>628</sup> (iii) Okot Odhiambo was the commander that selected persons to attack Abok IDP camp;<sup>629</sup> (iv) about 200 LRA fighters from his group were sent to Abok;<sup>630</sup> (v) upon reaching Abok, the LRA entered without resistance, they proceeded to collect food in the camp for about an hour before Ugandan government soldiers arrived;<sup>631</sup> (vi) civilians were asleep while the LRA was looting the camp and there was no fire in the camp until after the gunshots by the Ugandan government soldiers started well into the LRA's time in the camp;<sup>632</sup> and, more generally, (vii) only women 25 years old and above could be married in the LRA.<sup>633</sup> This testimony is so at odds with the other evidence on these points as to cast grave doubts as to its accuracy.

392. The discrepancies are so substantial that the Chamber is unable to conclude that the attack the witness discussed is the one at issue in this proceeding. The Chamber notes that the witness was very young when he was abducted, approximately eight years old, and was approximately 11 years old when he allegedly took part in the Abok IDP camp attack.<sup>634</sup> The witness's young age as well as the time elapsed since the attack, and the inherent chaotic nature of the attack, may explain the inconsistencies and illogicality in his accounts. However, it is clear to the Chamber that the witness's evidence cannot be relied upon in relation to the 8 June 2004 Abok IDP camp attack.

393. Lastly, the Chamber is of the view that Kenneth Opiyo and Sam Ojede met and discussed their accounts of the Abok attack prior to their testimony.<sup>635</sup> Sam Ojede admitted that he and Kenneth Opiyo discussed details of the Abok attack.<sup>636</sup> Kenneth Opiyo was not

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<sup>626</sup> In many instances, the witness is the only witness in the proceedings to offer this account of events.

<sup>627</sup> D-0105: [T-190](#), p. 26, lines 6-7.

<sup>628</sup> D-0105: [T-190](#), p. 26, lines 13-19.

<sup>629</sup> D-0105: [T-190](#), p. 26, lines 17-23.

<sup>630</sup> D-0105: [T-190](#), p. 26, line 24 – p. 27, line 1. The Chamber notes that it is unclear from the testimony whether the witness means 200 fighters in total or 200 fighters from Odhiambo's group.

<sup>631</sup> D-0105: [T-190](#), p. 31, line 7 – p. 33, line 1.

<sup>632</sup> D-0105: [T-190](#), p. 32, line 18 – p. 33, line 21.

<sup>633</sup> D-0105: [T-190](#), p. 38, lines 19-23.

<sup>634</sup> D-0105: T-190-CONF, p. 4, lines 17-18; [T-190](#), p. 5, lines 12-13, p. 49, lines 6-12, p. 50, lines 14-17.

<sup>635</sup> See also section IV.B.2.v.b.iv, discussion of Sam Ojede's testimony below.

<sup>636</sup> D-0121: T-213-CONF, p. 49, line 16 – p. 51, line 17.

questioned about his pre-testimony contact with Sam Ojede. The Chamber notes that Sam Ojede and Kenneth Opiyo, alone among the witnesses, testified that the attack on Abok IDP camp occurred on 6 August 2004.<sup>637</sup> Given Sam Ojede's admission that he and Kenneth Opiyo spoke about the attack, the Chamber is of the view that this misstatement of the date suggests that they coordinated their testimonies, at least to some degree. This further undermines the credibility and reliability of Kenneth Opiyo's testimony. The Chamber does not rely on this witness's testimony.

*xxxvi D-0157*

394. D-0157's statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>638</sup> D-0157's evidence is a comprehensive and detailed narrative of his abduction, which he stated took place on [REDACTED], when he was 47 years old. He testified in particular about his escape after three days in the bush. The witness stated that [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

*iii. Witnesses of sexual and gender based violence*

- a. Witnesses of sexual and gender based violence directly perpetrated by Dominic Ongwen (P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, P-0236 and Florence Ayot (D-0013))

395. The Chamber considers the accounts of P-0099,<sup>639</sup> P-0101,<sup>640</sup> P-0214,<sup>641</sup> P-0226,<sup>642</sup> P-0227,<sup>643</sup> P-0235<sup>644</sup> and P-0236<sup>645</sup> to be remarkable in their detail and consistency. All seven witnesses gave clear, nuanced and compelling accounts about their time with Dominic Ongwen in the LRA. They were generally forthcoming in their answers to both

<sup>637</sup> See D-0105: [T-190](#), p. 26, lines 6-7; D-0121: [T-213](#), p. 44, lines 14-18.

<sup>638</sup> D-0157 Statement, UGA-D26-0026-0757-R01. See [Decision on Defence Request to Add D-0157 to its List of Witnesses](#), 16 October 2019, ICC-02/04-01/15-1639, paras 12-15, p. 7.

<sup>639</sup> P-0099: [T-14](#).

<sup>640</sup> P-0101: [T-13](#); [T-14](#).

<sup>641</sup> P-0214: [T-15](#).

<sup>642</sup> P-0226: [T-8](#); [T-9](#).

<sup>643</sup> P-0227: [T-10](#); [T-11](#).

<sup>644</sup> P-0235: [T-17](#).

<sup>645</sup> P-0236: [T-16](#).

parties, even on sensitive topics.<sup>646</sup> Their narratives were replete with complicating, unnecessary details which are indicators that the testimony is of personal experiences.<sup>647</sup> The extent to which their accounts overlap is also particularly notable, both in respect of commonly witnessed events<sup>648</sup> and the coercive environment they all lived in.<sup>649</sup>

396. It is notable that the Defence identifies no discrete credibility issues concerning these seven witnesses in its closing brief. The Defence only challenges the procedure by which this evidence was received. This challenge is considered and rejected above.<sup>650</sup> The Chamber has no reservation to relying fully on the Article 56 testimonies of these seven women, considering especially that: (i) the Chamber has watched all the recordings of their video-link testimony before the Pre-Trial Chamber and (ii) the Defence had a full opportunity to question these witnesses during the Article 56 proceedings.

397. The Chamber is mindful that much of the accounts of these women concern events which occurred over a decade ago. Failing to remember matters like the precise dates of distant events is understandable, particularly considering that life in the LRA was isolated from the information available in broader society.<sup>651</sup> Noting that these women are all victims of prolonged enslavement, physical/sexual violence and other suffering, the Chamber has also not placed much weight on failures to articulate difficult details of their life during initial interviews with the Prosecution or organisations like GUSCO.<sup>652</sup> Rather, the Chamber's focus has been on what the witnesses testified to under oath in the courtroom, and the mutual reinforcement which came from other witnesses giving similar testimony.

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<sup>646</sup> For a rare exception of reticence to answer sensitive questions, *see* para. 2050 below.

<sup>647</sup> To pick one example of many, in the context of P-0226's first forcible sexual encounter with Dominic Ongwen she testifies to spilling a glass of water on his bed before trying to run away. *See* para. 2051 below.

<sup>648</sup> *E.g.* para. 2038 below (death of Nyeko).

<sup>649</sup> As an example, all women describe the moment they become so-called 'wives' in similar coercive terms. Para. 2035 below.

<sup>650</sup> *See* section II.B above.

<sup>651</sup> *E.g.* paras 2015, 2026 below.

<sup>652</sup> As an example, the Chamber notes that the Defence confronted P-0226 with why she did not initially discuss her personal involvement in the incident described in para. 2084 below during her first interview with the Prosecution. P-0226 says she forgot to mention it. P-0226: [T-9](#), p. 60, line 19 – p. 62, line 16, p. 73, line 10 – p. 74, line 8. The Chamber notes the evidence which indicates that in fact she did tell the Prosecution about her personal involvement in such an incident just as her first witness statement was being finalised. 4 June 2015 Investigation Note, UGA-OTP-0237-0230-R01; P-0226 Second Statement, UGA-OTP-0236-0583-R01, at paras 12, 23-24. Noting that P-0226 eventually did acknowledge her role and then gave a detailed, clear and fully credible account of the killing of the captured soldier while testifying, the Chamber considers P-0226's initial failure to discuss with the Prosecution her personal involvement in this killing to be inconsequential.

398. The Chamber turns to the credibility of one of Dominic Ongwen’s so-called ‘wives’ called by the Defence – Florence Ayot.<sup>653</sup> That she was also one of the women considered as Dominic Ongwen’s so-called ‘wife’ in the LRA is clear.<sup>654</sup> The Chamber notes that Florence Ayot first spent time in the LRA as a so-called ‘wife’ of another LRA fighter who later died.<sup>655</sup> Unlike her initial ‘distribution’ to this LRA fighter, Florence Ayot previously knew Dominic Ongwen before joining his household; he approached her asking her to go live with him and she agreed.<sup>656</sup> She stated, ‘I was free. It was my own choice to go live with him’.<sup>657</sup> Further, on multiple occasions in her testimony, Florence Ayot mentioned how difficult Dominic Ongwen’s incarceration has been on her family and how he should be allowed to come back to Uganda to take care of his kids.<sup>658</sup> Noting the above context, the Chamber turns to the substance of Florence Ayot’s testimony.
399. Florence Ayot has as harrowing an LRA abduction story as the other seven women, and describes similar suffering in the LRA prior to joining the accused’s household.<sup>659</sup> However, Florence Ayot’s account of her experiences and the experiences of other women in the LRA took on a markedly different tone once she began to describe events after she joined Dominic Ongwen’s household following the death of the man she was originally distributed to. Florence Ayot explained how happily those with Dominic Ongwen lived together and how there were never any beatings. She was not able to recall a single instance describing a negative aspect about her relationship with him.<sup>660</sup> Florence Ayot discussed why she loved Dominic Ongwen and struggled with conceding any awareness of atrocities he committed in the bush. When confronted with her prior statements acknowledging that Dominic Ongwen committed ‘very serious and terrible’

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<sup>653</sup> D-0013: [T-244](#); [T-245](#).

<sup>654</sup> P-0101: T-13-CONF, p. 40, lines 1-11, p. 41, lines 1-12; P-0099: T-14-CONF, p. 36, line 20 – p. 37, line 7.

<sup>655</sup> D-0013: [T-244](#), p. 19, line 23 – p. 22, line 13, p. 35, lines 4-14.

<sup>656</sup> D-0013: [T-244](#), p. 36, lines 5-16. *See also* [T-245](#), p. 4, lines 3-11. Her account of joining Dominic Ongwen’s household is different from the personal accounts of the other seven women, but is consistent with other credible and reliable evidence that widows had more agency regarding the next man they lived with. *See* para. 2228 below.

<sup>657</sup> D-0013: [T-244](#), p. 36, lines 24-25.

<sup>658</sup> D-0013: [T-245](#), p. 9, lines 11-12 (‘Let Ongwen come home and help raise his kids because we are fearful about how we are going to raise our kids’), p. 19, lines 5-10, p. 24, line 20 – p. 25, line 4, p. 27, line 14 – p. 28, line 11.

<sup>659</sup> D-0013: [T-244](#), p. 12, line 11 – p. 14, line 17 (abduction and threats of being killed for not following instructions), p. 19, line 23 – p. 21, line 21 (sexual violence victim of an LRA commander named Kijura), p. 23, line 2 – p. 26, line 11 (punishment for trying to escape, including being beaten for attempting to escape herself), p. 34, lines 4-13 (gave birth to a boy fathered by Kijura), p. 37, lines 1-4 (women were not allowed to live alone in the LRA – they had to live with a man).

<sup>660</sup> D-0013: [T-244](#), p. 38, line 22 – p. 39, line 5, p. 41, line 13 – p. 42, line 24; [T-245](#), p. 3, line 4 – p. 4, line 6, p. 6, lines 5-22.

atrocities, Florence Ayot obfuscated and denied having mentioned Dominic Ongwen specifically in referring to atrocities committed.<sup>661</sup> She testified to being a leader in arranging a meeting with other of the seven so-called ‘wives’, in consort with Dominic Ongwen.<sup>662</sup> Recordings of that meeting were played during Florence Ayot’s testimony and she confirmed making statements that the Chamber understands as attempts to influence the testimony of the other so-called ‘wives’ of Dominic Ongwen.<sup>663</sup> The Chamber is utterly unpersuaded by the witness’s testimony that her statements were mere attempts to ensure that the other women get along with one another or facilitate their children’s relationship with their paternal family.<sup>664</sup> This meeting was instrumental to the accused becoming subject to contact restrictions and the Pre-Trial Chamber receiving the testimony of the other seven so-called ‘wives’ of Dominic Ongwen under Article 56 of the Statute.<sup>665</sup>

400. Florence Ayot’s testimony as to the experiences of women in Dominic Ongwen’s household and in the LRA is clearly disproved by the fully credible and reliable testimonies of P-0099, P-0101, P-0214, P-0226, P-0227, P-0235 and P-0236, not to mention the other LRA women and girls – including Florence Ayot prior to being distributed to Dominic Ongwen – who testified to the same horrific environment the other so-called ‘wives’ described. But the Chamber considers that Florence Ayot’s denial of

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<sup>661</sup> D-0013: [T-245](#), p. 6, line 23 – p. 10, line 8, *with reference to* D-0013 Interview, UGA-OTP-0233-1427, at 1428. *See also* p. 29, lines 8-23 (in reference to an interaction with the ICC: ‘But there was a lady who was there who started accusing me, pointing fingers and saying “Don’t you know what Dominic did? You know what he did.” And they asked me to sign something and I told them no, why are you asking me to sign whatever it is that I’m supposed to sign? And they told me that we are people who have accused Dominic of crimes. And I told them, I said I cannot sign this because so many people went through these problems. I was abducted. Other people were abducted, so many people were abducted.’).

<sup>662</sup> D-0013: [T-244](#), p. 62, line 19 – p. 64, line 15; [T-245](#), p. 11, line 17 – p. 12, line 13, p. 15, lines 9-17, p. 17, line 17 – p. 19, line 10, p. 24, line 20 – p. 25, line 4, p. 26, lines 13-21, p. 27, line 14 – p. 28, line 11, p. 29, line 3 – p. 31, line 22, p. 32, line 20 – p. 34, line 3. D-0013’s consortium with Dominic Ongwen is established by multiple recorded phone conversations between them which are discussed across the transcript excerpts. 2 June 2015 Phone Conversation, UGA-OTP-0286-2623; 2 June 2015 Phone Conversation, UGA-OTP-0286-2579; 2 June 2015 Phone Conversation, UGA-OTP-0286-2421; 3 June 2015 Phone Conversation, UGA-OTP-0286-2526.

<sup>663</sup> D-0013: [T-245](#), p. 15, lines 9-17, p. 17, line 17 – p. 19, line 10, p. 24, line 20 – p. 25, line 4, p. 26, lines 13-21, p. 27, line 14 – p. 28, line 11, p. 29, line 3 – p. 31, line 22, p. 32, line 20 – p. 34, line 3.

<sup>664</sup> D-0013: [T-245](#), p. 19, line 6-10, p. 24, line 20 – p. 25, line 4, p. 27, line 22 – p. 28, line 11, p. 33, line 3-23.

<sup>665</sup> *See generally* [Decision concerning the restriction of communications of Dominic Ongwen](#), 3 August 2015, ICC-02/04-01/15-283-Conf (reclassified 29 September 2015; prior procedural history cited therein); Decision on the “Second Prosecution application to the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute”, 12 October 2015, ICC-02/04-01/15-316-Conf (public redacted version available: [ICC-02/04-01/15-316-Red](#)).

what life with Dominic Ongwen was like is understandable given the complex personal and parental relationship which develops as a result of such crimes.

401. The closest evidence approximating Florence Ayot's testimony is an isolated moment when P-0214, soon after testifying that Dominic Ongwen committed repeated sexual violence against her, says that 'Ongwen was taking care of us properly. He used to treat us equally and he used to treat us well. We were very – he was very caring of us and we also cared a lot about him because he was taking care of us.'<sup>666</sup> In the totality of her evidence, P-0214 gives a more mixed, nuanced assessment than Florence Ayot, testifying credibly, with detail and context, about her time spent in Dominic Ongwen's household.
402. The Chamber ultimately concludes that Florence Ayot's testimony is of very limited use to establish the life of Dominic Ongwen's so-called 'wives' in the bush. Florence Ayot's testimony is unreliable with regard to the accounts of the other so-called 'wives' about the sexual violence perpetrated against them by Dominic Ongwen. In light of all of the above considerations, the Chamber rejects those aspects of Florence Ayot's evidence which are contradicted by the consistent accounts of Dominic Ongwen's other so-called 'wives'.

b. P-0351

403. P-0351 is an Acholi woman who testified live before the Chamber with protective measures.<sup>667</sup> Her prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.<sup>668</sup> P-0351 testified about her abduction by LRA soldiers, which she stated took place in December 2002, when she was approximately 12 years old,<sup>669</sup> and in particular

<sup>666</sup> P-0214: [T-15](#), p. 41, lines 16-23. *See similarly* P-0233: [T-112](#), p. 44, line 16 – p. 45, line 8 (former LRA fighter stating – without delving into any specificity – that Dominic Ongwen loved and cared for his 'wives'); D-0056: [T-228](#), p. 49, line 25 – p. 50, line 14 (former LRA member who observed that Dominic Ongwen lived very happily with his 'wives' and did not issue 'very tough orders' for them). It is further noted that P-0214 worked with D-0013 to organise the meeting with the other 'wives' discussed in the previous paragraph. D-0013: [T-244](#), p. 63, lines 3-6.

<sup>667</sup> P-0351: [T-129](#).

<sup>668</sup> P-0351 Statement, UGA-OTP-0263-0002-R01. *See* [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 24, p. 19. *See also* P-0351: [T-129](#), p. 6, line 1 – p. 7, line 9.

<sup>669</sup> The Chamber notes that the witness statement indicates her age as '24 yo' at the time her statement was taken in April and May 2016 (*see* P-0351 Statement, UGA-OTP-0263-0002-R01, at 0002), whereas the witness also stated that she was 12 years old when she was abducted in December 2002 (*see* P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 12) and then during her questioning confirmed that she was born in 1989 (*see* P-0351: [T-129-CONF](#), p. 15, lines 11-15. *See also* National ID Card, UGA-OTP-0266-0016 and Form, UGA-OTP-0233-0159, at 0159). However, the Chamber also notes that the witness clearly stated that she did not recall her date of birth (P-0351: [T-129](#), p. 4, lines 10-11, p. 14, lines 11-13) and only asked her brother for it for purposes of

about the time she spent in Dominic Ongwen's group. P-0351 eventually escaped in 2006. She provided a detailed account of her own 'distribution' to an officer and her experience as his so-called 'wife'. She gave detailed and relevant information about the life of abducted women and girls in the LRA. She provided a detailed account of her own personal experience which is directly relevant to the charges. In the assessment of the Chamber, P-0351's testimony is fully credible and reliable.

c. P-0352

404. P-0352 testified live before the Chamber with protective measures.<sup>670</sup> She provided a statement to the Prosecution, which was submitted under Rule 68(3) of the Rules.<sup>671</sup> P-0352, a former LRA member and member of Dominic Ongwen's household, testified about her experiences in the LRA as well as about the rules concerning the 'distribution' of women, boys and girls. P-0352 was a confident, bold and candid witness. She was forthcoming, knowledgeable and detailed in her recounting of events. The witness's testimony was replete with the kind of details which convinced the Chamber that she testified of events she personally experienced. She was clear in distinguishing between events she witnessed herself and those she learned of through other means. Further, her testimony was consistent with other reliable evidence.
405. The Chamber notes the Defence's questioning as to alleged inconsistencies between her amnesty application form and her testimony before the Chamber, suggesting that she was never married in the bush.<sup>672</sup> The Chamber considers reasonable the witness's

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obtaining her ID (P-0351: [T-129](#), p. 14, lines 17-22). Overall, the Chamber considers more reliable the witness's account of having been abducted at the age of approximately 12, corresponding to a date of birth in around 1989. The Chamber does not consider this smaller discrepancy to affect the witness's general credibility. The Chamber also notes that the date of abduction given by the witness is not compatible with her testimony that Dominic Ongwen was injured about eight months after her abduction (P-0351: [T-129](#), p. 41, lines 6-13), given that Dominic Ongwen was injured in October or November 2002. *See* section IV.C.3 below. Even though P-0351 gave a specific date for her abduction (12 December 2002), stating that she knew 'because [she] was still going to school and [she] knew dates very well then' and that she was in P5 at the time (P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 12), the Chamber considers that her evidence on both the date of abduction and the duration of time between the abduction and Dominic Ongwen's injury may very understandably have been affected by the witness's young age, the passage of time and the general difficulty in relation to estimating the duration of time in the bush. Accordingly, the issue does not affect the general reliability of the testimony of P-0351.

<sup>670</sup> P-0352: [T-67](#); [T-68](#).

<sup>671</sup> P-0352 Statement, UGA-OTP-0260-0315-R01. *See* [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 25, p. 19. *See also* P-0352: [T-67](#), p. 11, line 7 – p. 14, line 21.

<sup>672</sup> P-0352: [T-68](#), p. 22, line 24 – p. 25, line 20; Amnesty Commission application, UGA-OTP-0270-0166, at 0169 (the Amnesty application checked 'never had sex' which suggested, according to the Defence, that the witness was a 'ting ting' throughout her time in the bush).

explanation that the persons filling out the amnesty form on her behalf must have looked at her age and size at the time and chosen an (incorrect) answer.<sup>673</sup> Also, the Chamber is of the view that the discrepancy raised by the Defence is of limited importance. The witness provided compelling and believable testimony as to her experience in the bush and the Chamber places limited value on the information provided in the amnesty application form, which the witness did not fill in herself and in a process about which the Chamber has little to no information. The Chamber's view of P-0352's credibility is not undermined because of this discrepancy.

d. P-0366

406. P-0366 is an Acholi woman born in 1992, who testified live before the Chamber with protective measures.<sup>674</sup> Her prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.<sup>675</sup> P-0366 presented a detailed account of her experience as an LRA abductee at a young age, her time in Dominic Ongwen's household as a *ting ting*,<sup>676</sup> and her time as so-called 'wife' of an LRA soldier.
407. Her evidence as to what she observed or otherwise got to know while in the LRA is detailed, specific and individual. The witness understandably was not always able to state the dates of various events, or estimate durations, and, again understandably based on her age and position as a *ting ting*, not able to describe accurately the organisational features of the LRA. Yet, the Chamber notes that P-0366 was able to place in context and discuss in detail when asked those facts and events which she testified about with confidence.<sup>677</sup> The Chamber therefore accepts that the testimony of P-0366 is truthful, and based on P-0366's personal observation and experience.
408. At the same time, there are several aspects of P-0366's testimony which merit being addressed. First, in relation to when the witness was abducted by the LRA, the prior recorded testimony of P-0366 contains a contradiction: P-0366 stated that she was born

<sup>673</sup> P-0352: [T-68](#), p. 25, lines 9-16.

<sup>674</sup> P-0366: [T-147](#).

<sup>675</sup> P-0366 Statement, UGA-OTP-0260-0289-R01. See [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 26, p. 19. See also P-0366: [T-147](#), p. 9, line 20 – p. 11, line 3.

<sup>676</sup> See para. 2107 below. *Ting tings* were young girls used as baby sitters and domestic servants by the LRA.

<sup>677</sup> In the courtroom, P-0366 was asked to expand on information contained in the prior statement about a girl who was beaten because she attempted to refuse becoming a so-called 'wife' of an LRA soldier, see P-0366: [T-147](#), p. 12, line 15 – p. 15, line 19. The witness responded naturally and provided further detail, indicating also when she did not know what she was being asked about.

on [REDACTED] 1992,<sup>678</sup> but also that she was abducted in December 2000 at the age of 11.<sup>679</sup>

409. The statement of P-0366 to the effect that she was abducted in December 2000 also presents difficulties when attempting to reconcile it with other evidence. P-0366 states that when she joined Dominic Ongwen's household shortly after her abduction, [REDACTED] and [REDACTED] were there.<sup>680</sup> Yet, there is compelling evidence, [REDACTED].<sup>681</sup> The Chamber also has before it P-0366's declaration under the Ugandan Amnesty Act, dated [REDACTED] [REDACTED] 2003, wherein it is stated that P-0366 'join[ed] rebel activity', i.e. was abducted, on 5 November 2002.<sup>682</sup> Moreover, P-0366's sponsorship programme application states that she was abducted in October 2002.<sup>683</sup>

410. These discrepancies were put to P-0366 in court, but the witness maintained her testimony as recorded in her written statement.<sup>684</sup> Moreover, the witness estimated the duration of her stay in the LRA at 'about two years and a half, coming to three'.<sup>685</sup> Noting that the witness escaped from the LRA around mid-February 2003,<sup>686</sup> this would be compatible with abduction in December 2000 but not with abduction in 2002.

411. In light of these discrepancies, the Chamber cannot positively determine at which time P-0366 was abducted. The issue is of particular significance because it is as a consequence not possible to determine to what extent the facts described by P-0366 took place during the period of the charges. To account for this, the Chamber relies on the testimony of P-0366 for those facts where it can conclusively be established that they occurred within the period relevant to the charges. In particular, the Chamber notes that

<sup>678</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at 0289; P-0366: T-147-CONF, p. 8, lines 6-7.

<sup>679</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 13. This relates to the witness's second abduction by the LRA, which is relevant under the charges. *See* for the first abduction P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 11.

<sup>680</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 33; [REDACTED]

<sup>681</sup> [REDACTED]

<sup>682</sup> Declaration, UGA-OTP-0267-0293, at 0293, 0297.

<sup>683</sup> Application, UGA-OTP-0244-1958, at 1958.

<sup>684</sup> P-0366: [T-147](#), p. 54, line 22 – p. 56, line 7. *See also* P-0366 Statement, UGA-OTP-0260-0289-R01, at paras 130-31.

<sup>685</sup> P-0366: [T-147](#), p. 56, lines 13-21.

<sup>686</sup> This is conclusively demonstrated by the documents produced shortly after P-0366's return from the LRA: UGA-OTP-0267-0293 (declaration dated [REDACTED] 2003); UGA-OTP-0265-0077 (certificate of amnesty dated [REDACTED] 2003).



the bush, just the two of us, not with other people.’<sup>696</sup> In general terms, the Chamber understands that there may be circumstances in which contacts with a person with a similar personal experience may have an effect on a witness’s recollection of past events; this dynamic, however, seems unlikely in this particular case, given that P-0366 not only stated that Acen was a so-called ‘wife’ of Dominic Ongwen but specifically indicated that the witness herself took care of Acen’s child while in the LRA. The Chamber considers it unnecessary to speculate about possible reasons which may explain P-0366’s mentioning of Acen as Dominic Ongwen’s so-called ‘wife’, nor is it able, in the absence of further details, to determine to what extent the witness is mistaken in this regard. In any case, the Chamber is of the view that this discrete issue does not have a bearing on P-0366’s credibility generally and on the reliability of her statement as concerns her own personal experience while in the LRA.

415. The Chamber also notes that P-0366’s application for participation in the present proceedings states that P-0366 participated in the attack on Pajule in October 2003, a date incompatible with the date of P-0366’s escape as otherwise transpiring from the evidence.<sup>697</sup> The Defence put the issue to P-0366, who responded that she was unable to confirm the date.<sup>698</sup> The statement of the witness refers to an attack on Pajule, but without specifying the date on which the attack took place.<sup>699</sup> Noting that there is evidence of several attacks on Pajule IDP camp in 2002-2003,<sup>700</sup> and noting that applications for participation in the proceedings as victims were not always compiled in ways which guarantee their accuracy, the Chamber attaches no consequence to this discrepancy. Neither does the Chamber attach any significance for the present purposes to the fact that some details which appear in P-0366’s testimony are not reflected in P-0366’s application for a sponsorship programme.<sup>701</sup>

416. Overall, on the basis of the above, the Chamber is of the view that it is not possible to conclusively determine when P-0366 was abducted and how much of her account can be said to have taken place in the period of the charges. However, the Chamber also

<sup>696</sup> P-0366: [T-147](#), p. 59, lines 20-25. *See also* P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 40.

<sup>697</sup> UGA-OTP-0267-0293 (declaration dated ██████████ 2003); UGA-OTP-0265-0077 (certificate of amnesty dated ██████████ 2003); Application for participation as victim, UGA-D26-0012-0359, at 0361. The Chamber further notes that the document also states that P-0366 escaped in December 2003.

<sup>698</sup> P-0366: [T-147](#), p. 89, line 10 – p. 91, line 13.

<sup>699</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 109.

<sup>700</sup> *See* para. 1173, n. 2394 below.

<sup>701</sup> Application, UGA-OTP-0244-1958, at 1961; P-0366: [T-147](#), p. 79, line 7 – p. 80, line 5.

considers, bearing in mind the above, that it can generally rely on P-0366's evidence to the extent it is possible to otherwise connect it with the period of relevance to the charges in the present case.

e. P-0374

417. P-0374 is a Lango woman born in 1993, who testified live before the Chamber with protective measures.<sup>702</sup> The prior recorded testimony of P-0374 was introduced pursuant to Rule 68(3) of the Rules.<sup>703</sup> P-0374's evidence is a detailed and comprehensive narrative of her abduction in September 2003 and subsequent experience as a female abductee in Sinia, including as so-called 'wife', until her release around Easter 2005.<sup>704</sup> The Chamber deems her evidence to be entirely credible and reliable.

f. P-0396

418. P-0396 is a Lango woman born in 1991, who testified live before the Chamber with protective measures.<sup>705</sup> Her prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.<sup>706</sup> P-0396 provided a coherent and detailed account of her abduction in December 2004, 'distribution' by Dominic Ongwen as a so-called 'wife' to ██████████, the rapes by ██████████ and other personal experiences in the LRA until her escape in April or May 2005.

419. During examination by the Defence, P-0396 was shown a picture in which another witness, P-0189, had identified ██████████,<sup>707</sup> but testified that she did not recognise the person in the photo.<sup>708</sup> The Prosecution submits in this regard that it is not established that the person in the photo was indeed P-0396's so-called 'husband', and that there were

<sup>702</sup> P-0374: [T-150](#).

<sup>703</sup> P-0374 Statement, UGA-OTP-0263-0023-R01. See [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 27, p. 19. See also P-0374: [T-150](#), p. 5, line 3 – p. 7, line 11.

<sup>704</sup> It is noted that P-0374 only referred to Dominic Ongwen as Sinia commander, and did not mention Buk Abudema who was Sinia commander at the time P-0374 was abducted, and that the issue was raised with P-0374 by the Defence; see P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 46; P-0374: [T-150](#), p. 40, line 6 – p. 41, line 3. However, the Chamber deems the matter to be of no consequence, as the witness was not in the position to necessarily correctly observe the specific hierarchical structure within the brigade, during her stay in Sinia as a civilian abductee. She was better placed to observe the organisation of her immediate surroundings.

<sup>705</sup> P-0396: [T-126](#); [T-127](#).

<sup>706</sup> P-0396 Statement, UGA-OTP-0267-0246-R01. See [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 28, p. 19. See also P-0396: [T-126](#), p. 61, line 13 – p. 63, line 4.

<sup>707</sup> Photograph, UGA-OTP-0260-0212. See for the identification Annotated Photograph, UGA-OTP-0260-0146. The only record of the identification is P-0189's annotation on the photograph; the issue was not discussed with P-0189 in court.

<sup>708</sup> P-0396: [T-127](#), p. 4, lines 17-22.



421. The Chamber notes that P-0396 also did not recognise the photograph of a man identified by ██████ and ██████ as ██████.<sup>718</sup> Considering that the witness had less contact with this person, the Chamber does not attribute any consequence to the witness's failure to recognise him on a photograph.
422. The Defence also questioned P-0396 about certain statements which appear in P-0396's application for participation in the proceedings as a victim, but are not included in the statement given to the Prosecution introduced as evidence in the trial.
423. In particular, P-0396's application for participation as victim contains a detailed claim to the effect that immediately after she was 'given' to ██████ the latter overpowered her and 'spent the whole afternoon having sexual intercourse with [her] under a tree as other body guards were watching over and again at night he continued until morning'.<sup>719</sup> In court, questioned about the incident, P-0396 stated that '[t]hat encounter was not during the day. It was only during the night', and specifically that it was not true that ██████ had sexual intercourse with her under a tree while everyone was watching.<sup>720</sup> Asked whether she remembered saying this to the people who prepared the document, P-0396 stated that she did not recall what she had said.<sup>721</sup> P-0396's victim application also contains a claim that after military training, the abductees were each 'given a human being to remove the liver, heart and swallow it in order to become strong',<sup>722</sup> that she was given an abducted girl and that in the end she was forced by ██████ to cut her open and eat her heart and liver.<sup>723</sup> In court, P-0396 confirmed the story.<sup>724</sup>
424. The Chamber emphasises that applications for participation as victim in proceedings before the Court are not witness statements. They are taken in circumstances where it is not established that the facts narrated by the applicants are accurately recorded, including interpretation and reading back to the applicant before signature. Moreover, the formality and solemnity of the occasion are less pronounced or possibly not present at all, which may have an effect on the way applicants present their story. For this reason, and in light

<sup>718</sup> P-0396: [T-127](#), p. 4, lines 23-25. *See also* Photograph, UGA-OTP-0260-0214; ██████

<sup>719</sup> Application for participation as victim, UGA-D26-0012-0271, at 0274.

<sup>720</sup> P-0396: [T-127](#), p. 47, line 23 – p. 48, line 18.

<sup>721</sup> P-0396: [T-127](#), p. 48, lines 19-21.

<sup>722</sup> Application for participation as victim, UGA-D26-0012-0271, at 0274.

<sup>723</sup> Application for participation as victim, UGA-D26-0012-0271, at 0275.

<sup>724</sup> P-0396: [T-127](#), p. 42, line 4 – p. 44, line 14.

of her persuasive testimony at trial, the Chamber will not draw any conclusions on the basis of discrepancies between P-0396's victim application and P-0396's evidence to the Chamber.

425. For the same reasons, the Chamber also attributes no consequence to any discrepancies between P-0396's evidence to the Chamber and an application for a sponsorship programme that she previously made.<sup>725</sup>
426. It is also noted that while there exists significant overlap, there are also notable discrepancies between P-0396's evidence on the women who were in Dominic Ongwen's household, and other evidence on this issue. P-0396 stated that there was a 'wife' called Sarah, and another 'wife' called Ageno, with a child called Aciro.<sup>726</sup> She also stated that [REDACTED] was there, with two children.<sup>727</sup> P-0396 also mentioned [REDACTED] and [REDACTED],<sup>728</sup> and stated that there was another 'wife', 'in charge of women and girls at Dominic Ongwen's home', and that she was told that that woman had given birth and that her child had been released.<sup>729</sup>
427. On the one hand, the Chamber notes that P-0396 accurately gave details which are not widely known, i.e. that Dominic Ongwen had a so-called 'wife' by the name of [REDACTED], and that two girls called [REDACTED] and [REDACTED] were present in his household. This is a strong factor of external corroboration. On the other hand, however, the Chamber has received evidence from several witnesses who spent long periods of time with Dominic Ongwen in his household, and they do not refer to any of Dominic Ongwen's so-called 'wives' by the names of Sarah or Ageno. Moreover, [REDACTED]  
[REDACTED].<sup>730</sup> These inconsistencies were discussed with P-0396 in court, and she maintained her prior testimony.<sup>731</sup> In this regard, the Chamber notes that Dominic Ongwen, as found above, had a number of so-called 'wives' in the LRA and that no witness was able to name all of them present during a certain period, and also that the witness's memory may reasonably be affected by the passage of time. Accordingly, while this does not affect the general reliability of the

<sup>725</sup> See Application, UGA-OTP-0244-2280; P-0396: T-127-CONF, p. 30, line 25 – p. 32, line 18.

<sup>726</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at paras 54, 73.

<sup>727</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 74.

<sup>728</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at paras 75-76.

<sup>729</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 77.

<sup>730</sup> [REDACTED]

<sup>731</sup> P-0396: [T-127](#), p. 65, line 24 – p. 68, line 20.

witness, the Chamber does not rely on that information in the evidence of P-0396 which is demonstrated inaccurate by evidence which is more reliable on the specific issue. In light of the above, the Chamber considers the evidence of P-0396 to be generally reliable and credible, with exception of the specific aspect discussed in detail above.

g. P-0448

428. P-0448 testified live before the Chamber with protective measures.<sup>732</sup> She had also provided a statement to the Prosecution, which was submitted under Rule 68(3) of the Rules.<sup>733</sup> P-0448, a former LRA abductee, testified about her experiences in the LRA, including working as a *ting-ting* in Dominic Ongwen's household. P-0448 testified in a manner which made it clear that she was speaking from personal experience. She provided information of certain events in detail, and was able to compellingly express the effect her experience had on her. However, her testimony also demonstrated a number of unresolvable inconsistencies and a lack of clarity going beyond what could be expected from a witness in P-0448's situation. Of greatest significance is P-0448's identification of Dominic Ongwen as the commander in whose household she spent some of her time in the LRA as a *ting ting*.

429. P-0448 asserted that Dominic Ongwen had a so-called 'wife' by the name of Betty or Christine Adong.<sup>734</sup> In her written statement, P-0448 testified that [REDACTED].<sup>735</sup> P-0448 testified that this person participated with a small firearm in an attack on Pajule in 2003.<sup>736</sup> Whereas in her written statement P-0448 spoke simply of a woman named Adongo,<sup>737</sup> in court she explicitly confirmed that the female soldier was Dominic Ongwen's so-called 'wife' Adong, of whose other name P-0448 was not sure.<sup>738</sup> While many witnesses testified about the composition of Dominic Ongwen's household at the relevant time, no evidence was elicited which would provide corroboration for P-0448's account of Betty or Christine Adong being among Dominic Ongwen's so-called 'wives'.

<sup>732</sup> P-0448: [T-156](#); [T-157](#).

<sup>733</sup> P-0448 Statement, UGA-OTP-0236-0557-R01. *See also* P-0448: [T-156](#), p. 32, line 4 – p. 33, line 16.

<sup>734</sup> P-0448 Statement, UGA-OTP-0236-0557-R01, para. 85; T-156-CONF, p. 37, line 24 – p. 38, line 16.

<sup>735</sup> P-0448 Statement, UGA-OTP-0236-0557-R01, para. 85.

<sup>736</sup> P-0448: [T-157](#), p. 15, line 22 – p. 16, line 23.

<sup>737</sup> P-0448 Statement, UGA-OTP-0236-0557-R01, para. 35.

<sup>738</sup> P-0448: [T-157](#), p. 16, lines 17-23.

430. Additionally, P-0448's application to participate as a victim in the present proceedings, dated 6 September 2016, states that P-0448 was 'taken to where Kony stayed to help his very many "wives" with housework', and that 'Kony would occasionally meet with Dominic Ongwen'.<sup>739</sup> The application does not contain the assertion that P-0448 stayed in Dominic Ongwen's household as a *ting ting*. While the Chamber, in light of the limited value of such applications,<sup>740</sup> does not find the discrepancy in itself dispositive, P-0448 failed in court to confirm one or the other version, or even to explain how they could both be correct, perhaps at different times.<sup>741</sup> As a result, her evidence on this point is confused and inconclusive. Thus, while the Chamber accepts that P-0448's is based on her experience as a female abductee in the LRA, the Chamber also considers that significant doubts exist as to whether [REDACTED]. For this reason, the Chamber relies on the testimony of P-0448 only in those aspects which are not affected by this matter.

431. Furthermore, the Chamber notes that the Prosecution stated during the examination of P-0448 that it was 'not actually relying on this witness with regard to the charged Pajule attack'.<sup>742</sup> Indeed, the Prosecution's closing submissions only fleetingly refer to the evidence of P-0448, and in particular do not rely on her within the context of the attack on Pajule IDP camp of 10 October 2003. However, in light of the fact that P-0448 confirmed with reasonable confidence that the attack took place in 2003 after her abduction,<sup>743</sup> and in light of the fact that she named Vincent Otti as the 'overall leader of the group',<sup>744</sup> the Chamber is at a loss as to why P-0448's evidence with respect to the attack on Pajule IDP camp would have to be discarded entirely. The very limited reliance on P-0448 by the Prosecution and this unexplained refusal of her evidence with respect to the attack on Pajule IDP camp implies that the Prosecution itself has reservations as to P-0448's reliability. The Chamber also does not rely on P-0448 for its findings in relation to the attack on Pajule IDP camp.

<sup>739</sup> Application for participation as victim, UGA-D26-0012-0302, at 0303.

<sup>740</sup> See para. 424 above.

<sup>741</sup> P-0448: T-157-CONF, p. 39, line 21 – p. 40, line 13.

<sup>742</sup> P-0448: [T-157](#), p. 15, lines 14-16.

<sup>743</sup> P-0448 Statement, UGA-OTP-0236-0557-R01, para. 31; P-0448: [T-157](#), p. 16, lines 1-8.

<sup>744</sup> P-0448 Statement, UGA-OTP-0236-0557-R01, para. 33.

## h. D-0006

432. D-0006, a woman born in [REDACTED], testified live before the Chamber with protective measures.<sup>745</sup> She testified about her abduction in 1991 and subsequent stay in the LRA, [REDACTED]. In addition, considering that D-0006 spent a long period in proximity of Joseph Kony, her testimony is also relevant for certain disputed facts in the context of duress as an alleged ground excluding criminal responsibility. D-0006's testimony was detailed and credible.

## i. Evelyn Amony (D-0049)

433. Evelyn Amony testified live before the Chamber.<sup>746</sup> She testified about her abduction in 1994 and subsequent experience as one of the so-called 'wives' of Joseph Kony. She offered a detailed account of Joseph Kony, her interactions with Dominic Ongwen, and her escape in 2004 and subsequent participation in the peace talks in 2006-2008. Evelyn Amony's testimony was credible and reliable.

## j. D-0050

434. D-0050's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>747</sup> D-0050 is a Lango woman born in [REDACTED], who testified about her abduction [REDACTED] and her experience as a so-called 'wife' of Joseph Kony. She eventually escaped in 2004. The Chamber did not identify any issues with D-

<sup>745</sup> D-0006: [T-194](#); [T-195](#).

<sup>746</sup> D-0049: [T-243](#).

<sup>747</sup> D-0050 Statement, UGA-D26-0025-0097 (public redacted version available: UGA-D26-0025-0097-R01); D-0050 Statement, UGA-OTP-0131-0002-R01 (public redacted version available: UGA-OTP-0131-0002-R02); D-0050 Interview Transcript, UGA-OTP-0228-1469-R01 (public redacted version available: UGA-OTP-0228-1469-R02); D-0050 Interview Transcript, UGA-OTP-0228-1506-R01 (public redacted version available: UGA-OTP-0228-1506-R02); D-0050 Interview Transcript, UGA-OTP-0228-1528-R01 (public redacted version available: UGA-OTP-0228-1528-R02); D-0050 Interview Transcript, UGA-OTP-0228-2452-R01 (public redacted version available: UGA-OTP-0228-2452-R02); D-0050 Interview Transcript, UGA-OTP-0228-2509-R01 (public redacted version available: UGA-OTP-0228-2509-R02); D-0050 Interview Transcript, UGA-OTP-0228-2545-R01 (public redacted version available: UGA-OTP-0228-2545-R02); D-0050 Interview Transcript, UGA-OTP-0228-2585-R01 (public redacted version available: UGA-OTP-0228-2585-R02); D-0050 Interview Transcript, UGA-OTP-0228-2623-R01 (public redacted version available: UGA-OTP-0228-2623-R02); D-0050 Interview Transcript, UGA-OTP-0228-2660-R01 (public redacted version available: UGA-OTP-0228-2660-R02); D-0050 Interview Transcript, UGA-OTP-0228-2720-R01 (public redacted version available: UGA-OTP-0228-2720-R02); D-0050 Interview Transcript, UGA-OTP-0228-2783-R01 (public redacted version available: UGA-OTP-0228-2783-R02); D-0050 Interview Transcript, UGA-OTP-0229-0230-R01 (public redacted version available: UGA-OTP-0229-0230-R02); D-0050 Interview Transcript, UGA-OTP-0229-0263-R01 (public redacted version available: UGA-OTP-0229-0263-R02). See [Decision on the Defence Request under Rule 68\(2\)\(b\)](#), paras 21-25, p. 13.

0050's credibility, but it is noted that she did not spend time in Sinia during her time in the LRA.

k. D-0117

435. D-0117 testified live before the Chamber.<sup>748</sup> She testified about her abduction in 1996 and subsequent experience in the LRA, including as a so-called 'wife', until her escape in 2014. Considering that D-0117 was not held captive in Sinia, her personal experience does not directly fall within the charges. This does not exclude, however, that her testimony – which is often detailed and differentiated – may be corroborative of other evidence with more direct relevance to the charges.

l. D-0118

436. D-0118 testified live before the Chamber, with protective measures.<sup>749</sup> D-0118 testified about her experience of abduction in 1994, and the subsequent ten years she spent in the LRA, including about her 'distribution' as a so-called 'wife' by Joseph Kony at the age of 13 years, and the contacts she had with Dominic Ongwen in 1997 and again in 2003. There are no issues affecting the credibility of D-0118 and the Chamber accepts her account as truthful. It must, however, be noted that her own personal experience does not as such fall within the charges.

m. D-0119

437. D-0119 testified live before the Chamber with protective measures.<sup>750</sup> She testified about her abduction in 1993, and the subsequent years she spent in the LRA, including as a so-called 'wife' of ██████████ until her escape in 2004. D-0119 provided a vivid, credible and reliable account of being distributed as a so-called 'wife', her experiences in the LRA and the continued trauma she experienced as a result.

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<sup>748</sup> D-0117: [T-215](#).

<sup>749</sup> D-0118: [T-216](#).

<sup>750</sup> D-0119: [T-196](#).

iv. *Residents of Northern Uganda*

a. Leaders of IDP camps

i. *Omona Lokilamoi (P-0001), Okema John Brown (P-0008) – Pajule IDP camp*

438. Omona Alfonse Lokilamoi's statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>751</sup> Omona Alfonse Lokilamoi was the Chairman of the Local Council<sup>752</sup> of Pajule sub-county and provided testimony about the attack on Pajule IDP camp relevant to the charges, describing the aftermath of the attack as well as the records he kept from the attack, including lists of persons abducted, items pillaged and persons killed. The Chamber finds that the witness clearly explained the source of his information, gave details that supported the credibility of the information provided and identified his personal experiences.
439. Okema John Brown's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>753</sup> Okema John Brown, the civilian camp commandant of the Pajule side of Pajule IDP camp,<sup>754</sup> testified about the October 2003 attack on the camp and its aftermath. The witness's testimony was clear, detailed and comprehensive. The witness clearly explained the source of his information and differentiated between what he saw himself and events he was informed of by others.
440. The witnesses' testimonies are internally consistent and consistent with each other as well as other reliable evidence.<sup>755</sup>

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<sup>751</sup> P-0001 Statement, UGA-OTP-0138-0002-R01 (public redacted version available: UGA-OTP-0283-0025). *See Decision on the Prosecution's Request to Add Items to its List of Evidence, to include a Witness on its List of Witnesses and to Submit Two Prior Recorded Testimonies under Rule 68(2)(b) and (c)*, 22 November 2016, ICC-02/04-01/15-600, paras 20-29, p. 14.

<sup>752</sup> A governmental administrative structure, commonly referred to by the abbreviation 'LC'.

<sup>753</sup> P-0008 Statement, UGA-OTP-0137-0002-R01 (public redacted version available: UGA-OTP-0283-0048). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 39-42, p. 107.

<sup>754</sup> The camp commandant was charged with dealing with, *inter alia*, problems with food and outbreak of disease, and compiled records of those killed, abducted, huts burnt and items looted after an attack on the camp. P-0008 Statement, UGA-OTP-0137-0002-R01, at paras 8-9.

<sup>755</sup> *See* the testimonies of Joseph Oywak (P-0009) and Dick Okot (P-0067), whom Okema John Brown names in his testimony as some of the sources of his information as well as the testimonies of P-0007 and P-0047.

*ii Joseph Ywakomoi Oywak (P-0009) – Pajule IDP camp*

441. Joseph Ywakomoi Oywak testified live before the Chamber.<sup>756</sup> Joseph Oywak, also commonly known as Rwot Oywak, is a local chief in Acholi land<sup>757</sup> and testified about the Pajule attack and the LRA's activities in the region during the period of the charges.
442. The Defence asserts that Rwot Oywak is not a credible witness and his testimony should be disregarded in its entirety, arguing that Rwot Oywak: (i) fabricated his story about what happened to him after having been taken at the trading centre in the course of the Pajule IDP camp attack, (ii) lied about how he was treated while walking to the RV, (iii) lied about how he was treated at the RV, and (iv) 'drastically changed' his account of the Pajule attack since his first statement was recorded by the Prosecution in July 2005.<sup>758</sup> The Defence also suggests that Rwot Oywak had suspicious interactions with the LRA.<sup>759</sup>
443. Indeed, there are some differences between the witness's statements and his in-court testimony, which the Defence explored in detail during its questioning of the witness.<sup>760</sup> However, the differences do not rise to the level that can be rightfully termed 'drastic' or which render his testimony incredible.<sup>761</sup> In any case, the nuances of the witness's testimony are addressed in the evidentiary discussion below.
444. As to the allegations that Rwot Oywak fabricated key parts of his story and lied about his treatment walking to and at the RV, the Chamber discusses this evidence in greater depth in its evidentiary discussion below.<sup>762</sup> For the purposes of this general assessment of Rwot Oywak's credibility, it is sufficient to note that many other witnesses, particularly observing Rwot Oywak at the RV, testified that he did not seem under threat.<sup>763</sup> However,

<sup>756</sup> P-0009: [T-81](#); [T-82](#); [T-83](#).

<sup>757</sup> P-0009: [T-81](#), p. 4, lines 10-20. As the witnesses refer to Joseph Oywak as Rwot Oywak, the Chamber will also refer to him with his most common title.

<sup>758</sup> [Defence Closing Brief](#), paras 309-12.

<sup>759</sup> [Defence Closing Brief](#), para. 311 ( [REDACTED] ).

<sup>760</sup> See P-0009: T-83, p. 3, line 16 – p. 8, line 7.

<sup>761</sup> On the contrary, the Chamber is of the view that the witness's statements to the Prosecution are largely consistent with his in-court testimony, as the witness placed Dominic Ongwen at the attack also in his written statements. See P-0009 Statement to the Prosecution (July 2005), UGA-OTP-0151-0167-R01, at paras 41, 45, 53 (however, in his July 2005 statement, the witness stated that he was beaten, but did not mention being beaten by Dominic Ongwen); P-0009 Statement to the Prosecution (September 2015), UGA-OTP-0241-0546-R01, at paras 22-29.

<sup>762</sup> See paras 1347-1349 below.

<sup>763</sup> P-0081: [T-118](#), p. 40, line 14 – p. 41, line 16 (stating that Rwot Oywak and Vincent Otti exchanged greetings and hugged and that Rwot Oywak was smiling with Vincent Otti); D-0077 Statement, UGA-D26-0022-0316, at

the Chamber also recalls P-0006's testimony that in the course of the retreat from the camp after the Pajule attack, she saw Rwot Oywak and he had been given rice to carry, corroborating a key aspect of his story.<sup>764</sup> Thus, it is clear to the Chamber that he was abducted by the LRA.

445. Further, the Chamber also notes that Rwot Oywak's testimony is in large part consistent with other reliable evidence about the course of the attack. The witness was not alone in placing Dominic Ongwen at the attack, nor is his description of the movement of the abductees or the arrival of the helicopter gunship inconsistent with other reliable evidence.<sup>765</sup>
446. When questioned by the Defence as to whether he had a conversation with Vincent Otti the night before the attack during which he told Vincent Otti that Pajule would best be attacked around Uhuru time, Rwot Oywak denied the accusation, saying '[t]hat is a blatant lie, that is a concocted – is a concocted story'.<sup>766</sup> In this regard, the Chamber recalls that P-0081 testified that he heard from a camp resident that Rwot Oywak spoke to Vincent Otti the night before the attack on Pajule IDP camp.<sup>767</sup> Given the fact that Rwot Oywak denied the accusation under oath, P-0081 does not have direct knowledge and also taking into account that the fact is not directly relevant to the charges, the Chamber does not consider that the issue undermines the general credibility of the witness.
447. The Defence also raised with the witness the discrepancy between his prior statements as to when he first met Dominic Ongwen.<sup>768</sup> In the view of the Chamber, this discrepancy is insignificant and Rwot Oywak has satisfactorily explained that he had such previous contact with the LRA that he was in a position to recognise Dominic Ongwen when he

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para. 25 (Rwot Oywak did not seem worried or scared like the other abductees); P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 127, 130 (P-0084 was also told by other abductees that Rwot Oywak was not treated like other captives but was able to move freely with the rebel commanders and had meetings with them that the abductees could not hear).

<sup>764</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 35.

<sup>765</sup> See section IV.C.6.iii.

<sup>766</sup> P-0009: [T-82](#), p. 79, lines 15-21.

<sup>767</sup> P-0081: T-118-CONF, p. 42, lines 5-10; P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 44-45.

<sup>768</sup> See P-0009: [T-83](#), p. 3, line 7 – p. 8, line 7 (the Defence raises the witness 2005 statement to the Prosecution in which he stated that he had met Dominic Ongwen at meetings between 2002 and 2003, as well as his 2015 statement to the Prosecution in which he indicates that he met Dominic Ongwen for the first time at the Pajule attack).

saw him at Pajule IDP camp on 10 October 2003.<sup>769</sup> There is also other independent evidence corroborating Rwot Oywak's testimony that he met Dominic Ongwen before 10 October 2003.<sup>770</sup>

448. Regarding the suggestion that Rwot Oywak was a 'collaborator', worked for the LRA, or had financial dealings with some LRA commanders, including Dominic Ongwen,<sup>771</sup> the Chamber notes his strenuous denials of the claims,<sup>772</sup> as well as the numerous witnesses who testified about Rwot Oywak and his relationship with the LRA.<sup>773</sup> It is clear to the Chamber from Rwot Oywak's and other testimonies that Rwot Oywak communicated with the LRA as an intermediary between the LRA and the government. However, the evidence does not demonstrate that Rwot Oywak was a part of the LRA or worked for the LRA. More importantly, there is no indication in this evidence that the

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<sup>769</sup> P-0009: [T-81](#), p. 18, lines 6-15, p. 20, line 13 – p. 21, line 12, p. 49, line 4 – p. 50, line 23, p. 51, line 21 – p. 52, line 6.

<sup>770</sup> July 2002 report on Peace Initiative, UGA-OTP-0195-0105, at 0106 (a report on peace initiative activities notes that Dominic Ongwen met Rwot Oywak in August 2002); ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0072 (a 15 October 2002 logbook entry stating that Joseph Oywak gave Dominic a letter). Regarding the July 2002 report on Peace Initiative, UGA-OTP-0195-0105, the Defence argued at the time of its submission that the document has low probative value as it did not have a section outlining its methodology and the authors, although apparently authors of ARLPI, were unknown. The report contains detailed notes on various events related to meetings with the LRA and the conflict in Uganda. The report has probative value, in the context of other evidence the Chamber relies upon in relation to the conflict in Uganda and the meetings of various people with the LRA.

<sup>771</sup> [Defence Closing Brief](#), para. 311; P-0009: [T-82](#), p. 45, line 21 – p. 55, line 15; [T-83](#), p. 8, line 20 – p. 9, line 13.

<sup>772</sup> P-0009: [T-82](#), p. 45, line 21 – p. 55, line 15 (testifying that he was not a collaborator but rather was delegated by his community to work for peace); [T-83](#), p. 8, line 20 – p. 9, line 13 (denying that he had financial dealings with the LRA and particularly that Dominic Ongwen gave him money).

<sup>773</sup> D-0134: [T-240](#), p. 54, lines 20-25 (Charles Lokwiya testified that he knew Rwot Oywak personally and Rwot Oywak was not a collaborator); P-0249: [T-80](#), p. 30, lines 8-14, p. 34, line 22 – p. 35, line 22 and p. 44, line 19 – p. 45, line 12 (testifying to hearing rumours that Rwot Oywak was collaborating with the LRA but P-0249 did not personally have knowledge of any collaboration); P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 122, 124 (testifying that Rwot Oywak was authorised by the Ugandan government to meet and speak with the rebels. P-0084 testified that he had a satellite phone with which he communicated with the rebels and would at times bring small items to them, such as food. P-0084 stated that there were some allegations that Rwot Oywak was collaborating with the rebels however he was monitored and there were no confirmed reports. According to P-0084, Rwot Oywak was helping rebel defectors come out of the bush and was seen by the government as one of the chiefs helping in peace negotiations); P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 121; P-0047: [T-114](#), p. 34, lines 16-25, p. 35, line 10 – p. 36, line 8 (testifying that many people said that Rwot Oywak was a collaborator and that the LRA took him to get information. Rwot Oywak was accused because he had a satellite phone and people said that he received it from the enemy camp and used it to speak with the rebels. John Lubwama stated that because of the allegations, Rwot Oywak was arrested but was soon released because there was no evidence. The satellite phone was received from the religious committee working on the Acholi peace initiative and was used because of Rwot Oywak's role in the peace initiative. John Lubwama testified that Rwot Oywak was arrested before the attack on Pajule and was detained for about an hour before he was released because there was no evidence that he was a collaborator).

testimony of Rwot Oywak before the Chamber was unreliable on account of his contacts with the LRA.

*iii Mario Ottober (P-0274), Zakeo Odora (P-0325) – Odek IDP camp*

449. Mario Ottober's two prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>774</sup> Mario Ottober, the camp leader of Odek IDP camp at the time of the attack, testified about the attack on the camp and its aftermath. Mario Ottober gave comprehensive and detailed testimony that supported his credibility and the reliability of the information provided. He provided evidence that was comprehensive and rich with the type of details that indicated that he spoke from personal experience and stated when he did not know certain information.

450. Zakeo Odora's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>775</sup> Zakeo Odora, one of the Odek IDP camp's leaders at the time of the attack relevant to the charges, testified about his experiences in the course of the attack and its aftermath. Zakeo Odora offered comprehensive and detailed testimony that supported his credibility and the reliability of the information he provided. His testimony was rich with the type of details that indicated that he spoke from personal experience.

451. The witnesses' testimonies are generally mutually consistent as well as consistent with the testimony of other reliable evidence.<sup>776</sup>

*iv Santo Ojera (P-0060), Gipson Okulu (V-0004) – Lukodi IDP camp*

452. Santo Ojera's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>777</sup> Santo Ojera offered testimony about his experiences as a Lukodi camp resident and one of the camp's leaders. Santo Ojera gave comprehensive and detailed testimony that supported his credibility and the reliability of the information he offered. He

<sup>774</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01 (public redacted version available: UGA-OTP-0283-1307); P-0274 Second Statement, UGA-OTP-0267-0174-R01 (public redacted version available: UGA-OTP-0283-1320). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 74-78, p. 109.

<sup>775</sup> P-0325 Statement, UGA-OTP-0264-0242-R01 (public redacted version available: UGA-OTP-0283-1374). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 82-85, p. 110.

<sup>776</sup> See the testimonies of Hellen Acan and P'Oyoo Lakoch.

<sup>777</sup> P-0060 Statement, UGA-OTP-0069-0034-R01 (public redacted version available: UGA-OTP-0283-0826). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 118-22, p. 109.

provided evidence that was comprehensive and rich with the type of details that indicate that he spoke from personal experience. His testimony is also in line with what would be expected from a person with a position of leadership within the IDP camp structure.<sup>778</sup> For example, he provided detailed lists related to the civilians killed, injured, or abducted in the course of the attack on Lukodi IDP camp.<sup>779</sup>

453. Gipson Okulu testified live before the Chamber.<sup>780</sup> Gipson Okulu, a local councillor (LC)<sup>781</sup> in Lukodi at the time of the attack relevant to the charges, testified about his experiences in the course of the attack. The witness's testimony was detailed and comprehensive. The Chamber is convinced that he spoke of his personal experiences.

454. The witnesses' testimonies are internally consistent and consistent with each other as well as other reliable evidence.<sup>782</sup>

*v Cyprian Ogola (P-0284), Cyprian Ayoo (P-0293) and  
Douglas Obwor (P-0306) – Abok IDP camp*

455. Cyprian Ogola's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>783</sup> Cyprian Ayoo testified live before the Chamber.<sup>784</sup> Douglas Obwor also testified live before the Chamber,<sup>785</sup> and his prior recorded testimony introduced under Rule 68(3) of the Rules.<sup>786</sup> Cyprian Ogola, camp leader in Abok IDP camp at the time of the attack on the camp that is relevant to the charges in present case, testified about the attack and its aftermath. The witnesses' testimonies were credible and reliable.

456. Regarding the statement provided by Cyprian Ogola, the Chamber finds that the witness clearly explained the source of his information, gave details that supported the credibility of the information provided and clearly identified his personal experiences. Further, the

<sup>778</sup> See P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 31. See also P-0024: T-78-CONF, p. 13, line 24 – p. 14, line 3 (Santo Ojera was in a leadership position in the camp).

<sup>779</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 71-79.

<sup>780</sup> V-0004: [T-173](#).

<sup>781</sup> Gipson Okulu serves as LC1 in the community, a formally elected position charged to ensure good sanitation and the general well-being of the community.

<sup>782</sup> See the testimonies of P-0017, P-0024, P-0036 and P-0187.

<sup>783</sup> P-0284 Statement, UGA-OTP-0244-1180-R01 (public redacted version available: UGA-OTP-0283-1355). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 138-40, p. 110.

<sup>784</sup> P-0293: [T-138](#); [T-139](#).

<sup>785</sup> P-0306: [T-130](#).

<sup>786</sup> [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 22, p. 19. See also P-0306: [T-130](#), p. 3, line 11 – p. 5, line 17.

Chamber considers that the witness's testimony was both internally consistent and consistent with other evidence.<sup>787</sup>

457. Regarding Cyprian Ayoo's testimony, the Chamber considers that the witness provided a clear narrative of events and the circumstances under which they took place even when he was questioned out of chronological order, thus demonstrating that he provided first-hand information based on his personal experience as an eyewitness. Throughout his testimony, the witness clearly distinguished between events he witnessed himself and what he heard from other persons. The witness provided details in a manner that indicates that he spoke from personal experience.
458. The Chamber observed that the witness was at times defensive or appeared agitated during Defence questioning.<sup>788</sup> However, the witness was responsive to the Chamber's explanation of the role of the Defence and the need to cooperate in answering Defence questions and his testimony did not change during examination by the Defence, remaining consistent and coherent.
459. Regarding Douglas Obwor's testimony, the Chamber finds that Douglas Obwor was a forthcoming witness. He provided evidence rich in detail and grounded in a personal narrative of what he witnessed. His testimony was structured, coherent and detailed. The witness distinguished between what he witnessed and what he was told by others. The Chamber considers that Douglas Obwor had a rational and sensible manner throughout his testimony and notes that he did not change his testimony when questioned by the Defence.
460. The Chamber is attentive to the question of the exact titles of Cyprian Ayoo and Douglas Obwor at the time of the 8 June 2004 attack on Abok IDP camp.<sup>789</sup> However, the Chamber does not place much emphasis on the matter. Given the particularly specific and detailed nature of both witnesses' testimony, and the evidence of other witnesses, the Chamber considers that whatever official position each of these witnesses held at the

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<sup>787</sup> Particularly, the evidence provided by Cyprian Ayoo is consistent with and corroborative of the evidence provided by the other leaders of Abok IDP camp, Cyprian Ayoo and Douglas Obwor.

<sup>788</sup> See for example P-0293: [T-138](#), p. 85, lines 8-22.

<sup>789</sup> The evidence is not entirely clear as to whether P-0293 or P-0306 was the official 'Camp Leader' of Abok IDP camp. P-0306: [T-130](#), p. 34, lines 3-8; P-0306 Statement, UGA-OTP-0261-0277-R01, at paras 17-18; P-0293: [T-138](#), p. 12, line 24 – p. 13, line 3. See P-0286: [T-131](#), p. 32, line 24 – p. 33, line 2; P-0293: [T-138](#), p. 79, lines 4-14; P-0304: [T-133](#), p. 50, line 22 – p. 51, line 1. See also List of names of Abok camp leaders, UGA-OTP-0247-1270-R01 (undated); P-0280: [T-84](#), p. 21, line 13 – p. 22, line 1.

time of the attack, the witnesses clearly experienced the events first-hand, were in the position to engage with other camp officials and other camp residents in the manner that they described during their testimony and offered accounts consistent with what could be expected from witnesses with leadership roles in the community.

461. As to the issue of whether Cyprian Ayoo was relieved of duty and replaced with Douglas Obwor because of an alleged misappropriation of funds while Cyprian Ayoo served as the official Camp Leader,<sup>790</sup> the Chamber notes Cyprian Ayoo denied being relieved of duty and stated he resigned so that he could work with an aid organisation.<sup>791</sup> Further, the Chamber notes the paucity of the available evidence about this alleged incident, particularly Douglas Obwor's testimony, does not undercut the reasoning underpinning the Chamber's finding that Cyprian Ayoo was in a position to offer the type of information that he provided to the Chamber. Further, the Chamber notes that Cyprian Ayoo's testimony about the 8 June 2004 Abok IDP camp attack is generally consistent with the evidence provided by other witnesses, including Douglas Obwor. The Chamber also does not consider the alleged incident to have a bearing on the witness's credibility as a witness before this court.

b. Residents of Pajule IDP camp

*i P-0006*

462. P-0006 testified live before the Chamber with protective measures.<sup>792</sup> She had also provided a statement to the Prosecution, which was submitted under Rule 68(3) of the Rules.<sup>793</sup> P-0006, a resident of the Lapul side of the Pajule IDP camp at the time of the attack on the camp and then 16 years old, provided testimony about her experience during the attack in 2003 and her subsequent experience in the LRA after her abduction in the course of the attack, including being 'distributed' as a so-called 'wife'. P-0006's testimony was clear, internally consistent and generally consistent with other evidence. The witness distinguished between events she personally experienced and information that she was told by others, was forthcoming with her testimony, regardless of the

<sup>790</sup> P-0293: [T-138](#), p. 79, lines 4-7, p. 85, lines 8-11. *See also* P-0306: [T-130](#), p. 35, line 7 – p. 36, line 7.

<sup>791</sup> P-0293: [T-138](#), p. 85, lines 16-20.

<sup>792</sup> P-0006: [T-140](#).

<sup>793</sup> P-0006 Statement, UGA-OTP-0144-0072-R01. *See* [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 14, p. 19. *See also* P-0006: [T-140](#), p. 6, line 9 – p. 8, line 7.

questioning party. The witness's evidence in this regard was detailed and rich in the kind of the detail that demonstrates that she spoke from personal experience.

463. During their questioning, the Defence raised an alleged inconsistency between her statement to the Prosecution introduced under Rule 68(3) and a statement she had previously given to the Ugandan police.<sup>794</sup> The Chamber is satisfied with the witness's explanation of the discrepancy.<sup>795</sup> The Chamber also notes that the witness's testimony is at times unclear as to specific locations.<sup>796</sup> These issues do not undermine the Chamber's view of the credibility of her testimony. In this context, the Chamber notes that the witness stayed with the LRA for about seven months<sup>797</sup> and as such her knowledge of certain details about the LRA's movements is limited. The Chamber is also satisfied with the witness's explanation that her statement made initially to the Prosecution that she had never heard of Dominic Ongwen and certain other commanders was an omission and that she had briefly seen Dominic Ongwen during her captivity.<sup>798</sup>

*ii Terrence Otika (P-0007)*

464. Terrence Kanyum Otika's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>799</sup> Terrence Kanyum Otika, a civilian resident of the Lapul part of Pajule IDP camp at the time of the attack relevant to the charges and camp commandant after the attack, provided testimony about the course of the attack as well as its consequences. The Chamber finds that the witness's testimony was detailed and clear; explaining the source of his information and offering details that supported the credibility

<sup>794</sup> The witness stated to the Prosecution that her so-called 'husband' in the bush had three 'wives', while she informed the police that he had 11 'wives'. See P-0006: [T-140](#), p. 64, line 4 – p. 65, line 17.

<sup>795</sup> The witness explained that her so-called 'husband' had 11 'wives', excluding her and that she told the Prosecution that there were 'three' 'wives' because in the time she was with him in the Sudan, he only had three 'wives' with him and the other 'wives' had been left behind with other commanders. See P-0006: [T-140](#), p. 64, line 4 – p. 65, line 17.

<sup>796</sup> For example, the witness's testimony in relation to where she stayed in Sudan with the LRA or whether she saw Dominic Ongwen in Sudan or in Uganda. P-0006: [T-140](#), p. 67, line 24 – p. 68, line 17, p. 76, line 19 – p. 77, line 5.

<sup>797</sup> The witness was abducted during the Pajule IDP camp attack on 10 October 2003 and escaped around 28 April 2004. P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 22-51, 60.

<sup>798</sup> P-0006: [T-140](#), p. 77, line 11 – p. 81, line 12.

<sup>799</sup> P-0007 Statement, UGA-OTP-0147-0214-R01 (public redacted version available: UGA-OTP-0283-0037). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 34-38, p. 107.

of the information provided. Further, the Chamber considers that the witness's testimony was both internally consistent and consistent with other reliable evidence.<sup>800</sup>

*iii Benson Ojok (P-0061)*

465. Benson Ojok's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>801</sup> Benson Ojok, a civilian resident of the Pajule side of the Pajule IDP camp at the time of the attack on the camp relevant to the charges, offered testimony about his abduction along with other residents in the course of the attack as well as his time spent in captivity with the LRA. Benson Ojok provided detailed and comprehensive testimony. He explained the source of his information and clearly distinguished between events he witnessed himself and those he was told about.

466. The Chamber notes the Defence's contention that Benson Ojok's testimony is only partly corroborative and that his reliability comes into question.<sup>802</sup> The Chamber is of the view that the issues raised are minor and do not undermine the credibility of the witness. Benson Ojok was 15 years old at the time of his abduction,<sup>803</sup> and only stayed with the LRA for a short time.<sup>804</sup> It is unexceptional that his information about the structure and membership of the LRA may not be as detailed and authoritative as would be expected of a longstanding member of the LRA. The Chamber notes also that Benson Ojok's evidence is internally consistent and also generally consistent with the testimony of other witnesses heard in these proceedings.

*iv Dick Okot (P-0067)*

467. Dick Okot testified live before the Chamber.<sup>805</sup> Dick Okot, a civilian living in the Pajule trading centre at the time of the attack on Pajule IDP camp relevant to the charges,

<sup>800</sup> See the testimonies of P-0001, P-0006, P-0081.

<sup>801</sup> P-0061 Statement, UGA-OTP-0144-0043-R01 (public redacted version available: UGA-OTP-0283-0840). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 55-58, p. 109.

<sup>802</sup> [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#), para. 153, with reference to UGA-OTP-0144-0043-R01, at paras 29, 31, 71 (arguing that the witness spoke about Charles Tabuley being present at Latanya Hill, and that one of the LRA's leaders was Otti Lagony. The Defence notes that Otti Lagony died in the late 1990s). The Chamber notes that the witness never testified that he ever saw Otti Lagony himself.

<sup>803</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 9.

<sup>804</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at paras 34-61. The witness does not offer a specific date of his escape but his testimony suggests that he was not in the bush for a long time and the witness indicated that he escaped after an attack in Abia. The Chamber notes that the LRA attacked Abia in February 2004. See paras 1164-1165.

<sup>805</sup> P-0067: [T-125](#); [T-126](#).

testified about the attack on the camp as well as his abduction and time spent in captivity with the LRA for several weeks after the attack. Dick Okot provided detailed, graphic and contextualised evidence. While the Chamber is unable to rely on aspects of Dick Okot's testimony in relation to Vincent Otti's presence at the murder of Pangarasio Onek and Lacung, discussed in detail below,<sup>806</sup> the Chamber has no doubts that Dick Okot testified about his personal experiences in the course of the charged attack on Pajule IDP camp and considers him a credible witness. His narration about his experiences in the course of the attack was clear, detailed, contextualised, and generally consistent with other reliable evidence. The witness testified about events which incriminated the LRA as well as events which incriminated government forces,<sup>807</sup> indicating that his testimony was not biased.

468. In the course of his questioning, [REDACTED]

[REDACTED]

[REDACTED].<sup>808</sup> [REDACTED]

[REDACTED]

[REDACTED].<sup>809</sup> In this context, the Chamber notes that it saw no issues in relation to his mental acuity. The witness was coherent, engaged with the questioning and forthcoming in answering the questioning party.

v P-0081

469. P-0081 testified live before the Chamber with protective measures pursuant to Rule 74 of the Rules.<sup>810</sup> P-0081 also provided a statement to the Prosecution, which was submitted under Rule 68(3) of the Rules.<sup>811</sup> P-0081, a resident living in the Lapul side of the Pajule IDP camp at the time of the attack, testified about his abduction and experience in captivity with the LRA until he escaped in April 2004. The witness clearly delineated between his personal experiences and what he heard from others. He frequently spoke in

<sup>806</sup> See paras 1315-1323 below, the Chamber's discussion of the murders of Pangarasio Onek and Lacung during the course of the Pajule IDP camp attack.

<sup>807</sup> See P-0067: T-125-CONF, p. 58, line 3 – p. 65, line 11 (the witness testified that he was tortured by the UPDF and was forced, under said torture, to name innocent persons as LRA collaborators).

<sup>808</sup> P-0067: T-126-CONF, p. 31, line 23 – p. 33, line 12.

<sup>809</sup> P-0067: T-126-CONF, p. 32, lines 12-17, p. 33, lines 5-12.

<sup>810</sup> P-0081: [T-118](#).

<sup>811</sup> P-0081 Statement, UGA-OTP-0070-0029-R01; [Decision on Prosecution Applications under Rule 68\(3\)](#), paras 15-17, p. 19. See also P-0081: [T-118](#), p. 6, line 2 – p. 8, line 14.

a narrative manner and provided details that convince the Chamber that he was indeed abducted from Pajule IDP camp and spent time in captivity in the bush with the LRA.

470. As explored further below in the evidentiary discussion of the attack on Pajule IDP camp, the Chamber notes that there were some discrepancies between this witness's testimony and the testimony of several other witnesses in relation to the movements of Charles Lokwiya, the injured commander P-0081 testified he carried from Pajule IDP camp.<sup>812</sup> However, the Chamber notes that other aspects of P-0081's testimony are consistent with other reliable evidence heard in these proceedings.

*vi P-0249*

471. P-0249 testified live before the Chamber.<sup>813</sup> P-0249, a former resident of Pajule IDP camp, testified about his experience in the course of the 10 October 2003 attack on the camp, and in the LRA for a brief period of captivity.

472. The Defence asserts that the witness's testimony cannot be relied upon because he was intoxicated at the time of the attack in the morning of 10 October 2003.<sup>814</sup> Indeed, P-0249 testified that he had been celebrating and drinking the night before the attack.<sup>815</sup> In describing his state of mind at the time of the attack, the witness described himself as being 'personally drunk, but the gunshots made me become sober again'.<sup>816</sup>

473. The Chamber notes that the witness testified that he was drinking until around 21:00 on 9 October 2003 when he went to sleep.<sup>817</sup> He stated that he then woke up to the gunshots of the LRA between 5:00 and 6:00.<sup>818</sup> The Chamber also notes the witness's testimony that at the attack, 'I was very sober. And I, I was sweating a lot and I could not feel tipsy anymore'.<sup>819</sup> It is clear to the Chamber, even noting the witness's stated difficulty telling

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<sup>812</sup> See paras 1315, 1341-1342 below.

<sup>813</sup> P-0249: [T-79](#); [T-80](#).

<sup>814</sup> [Defence Closing Brief](#), para. 328.

<sup>815</sup> P-0249: [T-80](#), p. 13, line 9 – p. 16, line 7.

<sup>816</sup> P-0249: [T-79](#), p. 36, lines 12-20; [T-80](#), p. 14, line 21 – p. 16, line 7.

<sup>817</sup> P-0249: [T-80](#), p. 14, lines 6-9.

<sup>818</sup> P-0249: [T-79](#), p. 10, lines 10-13; [T-80](#), p. 19, lines 1-3. See the Chamber's discussion of the timing of the Pajule IDP attack, at paras 1233, 1248 below, where the Chamber finds that the attack began at dawn, between 5:00 and 6:00.

<sup>819</sup> P-0249: [T-80](#), p. 15, lines 2-4.

precise time,<sup>820</sup> that a significant amount of time had passed from when the witness was inebriated to when the LRA attacked.

474. In this context, the Chamber notes that the witness's descriptions of his experiences during the attack were clear and very comprehensive. He recalled details about his movement, LRA activity, his thoughts and reactions at the time and what was happening to others around him. His testimony was replete with the kind of details that indicate that he spoke about his personal experiences. He was clear when he was uncertain about specific information and was not led by suggestive questioning.<sup>821</sup> His testimony was internally consistent and also consistent with other reliable evidence. In the Chamber's view the witness clearly distinguished between his own personal experiences and what he learned from others. The Chamber is convinced that the witness was clearheaded enough to have been fully aware of his experiences in Pajule IDP camp during the attack and to recall them accurately in his testimony before the Court.

475. The Chamber also notes that the witness gave his testimony over the course of two days and throughout he was coherent, understood the proceedings, vigilant in following instructions from the Chamber and the questioning parties and testified in a forthright and consistent manner.

*vii Richard Otim (D-0076)*

476. Richard Otim testified live before the Chamber.<sup>822</sup> Richard Otim, a resident of the Pajule side of Pajule IDP camp at the time of the attack, testified about the October 2003 attack by the LRA and his brief time spent in captivity with the LRA. The witness's testimony was detailed, forthcoming and candid. He offered details contextualised in a manner that convinces the Chamber that he spoke truthfully. Richard Otim delineated between events he personally experienced and matters he heard from others. The Chamber also notes that his testimony was both internally consistent and generally consistent with other reliable evidence.

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<sup>820</sup> P-0249: [T-80](#), p. 20, lines 17-25.

<sup>821</sup> See P-0249: [T-80](#), p. 19, line 8 – p. 21, line 8 (the witness's testimony in relation to the difficulty of telling precise time and his estimation of time).

<sup>822</sup> D-0076: [T-219](#).

*viii David Okwera (D-0077)*

477. David Okwera's statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>823</sup> David Okwera, a civilian resident of the Pajule side of Pajule IDP camp at the time of the attack, offered testimony about his abduction in the course of the attack and about the movements of the LRA following the attack. David Okwera provided detailed and comprehensive testimony. The Chamber notes also that David Okwera's evidence is internally consistent. He explained the source of his information and clearly distinguished between events he witnessed himself and those he was told about. The Chamber notes that David Okwera's testimony about the timing of the attack is somewhat confusing and also contrary to the other evidence on record, as such the Chamber does not rely on this aspect of his testimony.<sup>824</sup>

*ix Santo Oweka (D-0081)*

478. Santo Oweka testified live before the Chamber.<sup>825</sup> Santo Oweka, a resident of the Pajule side of Pajule IDP camp at the time of the attack relevant to the charges, testified about the October 2003 Pajule IDP camp attack as well as his experiences in the LRA after being abducted in that attack. The witness was forthcoming and straight-forward. He delineated the source of his information, provided context in his description of events, and frequently responded in a narrative manner, all indicia that positively impacted the Chamber's view of the witness's testimony.

479. However, one aspect of his testimony offered the Chamber pause: the witness's testimony in relation to the statement he gave to the Ugandan police after returning from captivity about his experiences during the attack on Pajule IDP camp. Despite the fact that the statement is titled '[s]tatement of an abductee', on its face appears to be the account of Santo Oweka, is written in first person narrative and is consistent with Santo Oweka's narrative of his abduction, Santo Oweka testified that the statement is a compilation of the narrative of multiple witnesses.<sup>826</sup> This, according to him, explains

<sup>823</sup> D-0077 Statement, UGA-D26-0022-0316 (public redacted version available: UGA-D26-0022-0316-R01). See [Decision on the Defence Request under Rule 68\(2\)\(b\)](#), para. 14, p. 13.

<sup>824</sup> D-0077 Statement, UGA-D26-0022-0316, at paras 10-12, 14 (the witness testified that the attack began around 2:00 or 3:00 in the morning. The witness also described 'the end of the attack around 12 am'. The witness also testified that the attack lasted for over three to four hours).

<sup>825</sup> D-0081: [T-220](#); [T-221](#).

<sup>826</sup> See D-0081: [T-221](#), p. 62, line 18 – p. 63, line 1, referring to Handwritten statement, UGA-OTP-0137-0275. At the time of submission of the document by the Prosecution, the Defence argued that it is 'irrelevant except for

why the statement mentions Dominic Ongwen as being present in the gathering after the Pajule IDP camp attack contrary to Santo Oweka's in-court testimony.<sup>827</sup> This aspect of Santo Oweka's testimony is untenable and casts significant doubt on the witness's testimony regarding the presence of Dominic Ongwen in Pajule. This discrepancy does not disqualify the entirety of Santo Oweka's testimony however. The Chamber notes that in large part, his testimony is generally consistent with other reliable evidence.

c. Residents of Odek IDP camp

i. *P'Oyoo Lakoch (P-0218)*

480. P'Oyoo Lakoch testified live before the Chamber.<sup>828</sup> His prior recorded statement was also submitted under Rule 68(3) of the Rules.<sup>829</sup> P'Oyoo Lakoch, a local teacher living in Odek IDP camp at the time of the attack relevant to the charges, testified in relation to his observations about the attack and its aftermath. P'Oyoo Lakoch was a calm, thoughtful and forthcoming witness. He offered testimony that the Chamber considers completely credible and truthful. He offered comprehensive testimony concerning what he witnessed from the perspective of a victim of the attack on Odek, giving details that convince the Chamber that he spoke from personal experience.<sup>830</sup> P'Oyoo Lakoch's testimony is generally consistent with the testimony of other credible witnesses heard by the Chamber.<sup>831</sup>

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the explicit areas which the witness confirmed correct during his testimony'. [Annex VII to the Registry's Sixth Report on the Evidence recognised as formally submitted to the Chamber](#), 15 November 2019, ICC-02/04-01/15-1671-AnxVII, p. 4-6. The item in its entirety is relevant to the Chamber's understanding of Santo Oweka's testimony.

<sup>827</sup> D-0081: [T-220](#), p. 30, line 25 – p. 31, line 15, p. 33, lines 4-7, p. 34, lines 3-6; [T-221](#), p. 53, line 25 – p. 63, line 1. The Chamber is unconvinced by the Defence's arguments that circumstantial evidence supports Santo Oweka's testimony. The Defence notes various statements allegedly taken within a short time frame and argues that this shows that multiple persons were around the officers discussing their stories in groups, consistent with Santo Oweka's testimony. [Annex VII to the Registry's Sixth Report on the Evidence recognised as formally submitted to the Chamber](#), 15 November 2019, ICC-02/04-01/15-1671-AnxVII, p. 4-5. The Chamber, while observing that these other statements are not in the record, notes that the very presence of other individualised accounts of experiences of the attack undermines the contention that Santo Oweka's statement was a group account.

<sup>828</sup> P-0218: [T-90](#).

<sup>829</sup> P-0218 Statement, UGA-OTP-0238-0720-R01. See [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 20, p. 19. See also P-0218: [T-90](#), p. 6, line 12 – p. 8, line 20.

<sup>830</sup> See for example P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 20-24 (P'Oyoo Lakoch describes his own experience of hiding himself from LRA fighters shooting and looting in the camp).

<sup>831</sup> See the testimonies of Mario Ottober and Zakeo Odora.

*ii Hellen Adong (P-0268)*

481. Hellen Adong's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>832</sup> Hellen Adong, a civilian resident of Odek IDP camp at the time of the attack relevant to the charges, testified about her experiences during and in the aftermath of the attack, including her experience as an abductee. Hellen Adong's testimony was comprehensive and rich with details that indicated that she spoke from personal experience. She provided a detailed and contextualised account of the Odek IDP camp attack and her experiences in captivity in the bush. Her accounts were internally consistent and consistent with other evidence.

*iii P-0269*

482. P-0269 testified live before the Chamber with protective measures, after receiving Rule 74 assurances.<sup>833</sup> P-0269, a civilian resident of Odek IDP camp at the time of the attack relevant to the charges, testified about her two abductions by the LRA, her experience in captivity and about the Odek attack and its aftermath. P-0269 was a forthcoming and candid witness. She provided testimony in a narrative and generally logical manner. The Chamber is convinced that she personally experienced the events she described. Contrary to the Defence's suggestion,<sup>834</sup> the Chamber is of the view that the witness was indeed abducted the first time she was taken by an LRA group headed by Dominic Ongwen. The Chamber finds the witness's accounts of her knowledge of Dominic Ongwen compelling and credible. The witness's testimony is also largely consistent with other reliable evidence heard in these proceedings. The Chamber is satisfied with the witness's explanation that she failed to mention what she knew of Dominic Ongwen during her first interview with the Prosecution because she was afraid.<sup>835</sup> The Chamber also does not consider this issue material. The witness subsequently mentioned Dominic Ongwen in her following interview with the Prosecution and provided testimony in these proceedings about her observations of him.

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<sup>832</sup> P-0268 Statement, UGA-OTP-0248-0013-R01 (public redacted version available: UGA-OTP-0283-1285). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 79-81, p. 109.

<sup>833</sup> P-0269: [T-85](#); [T-86](#).

<sup>834</sup> [T-86](#), p. 19, line 19 – p. 21, line 15.

<sup>835</sup> *See* P-0269: [T-86](#), p. 7, line 12 – p. 8, line 9.

*iv Helen Opoka Acan (P-0270)*

483. Helen Opoka Acan's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>836</sup> Helen Opoka Acan, a civilian resident of Odek IDP camp at the time of the attack relevant to the charges, testified about the attack on Odek camp and its aftermath. Helen Opoka Acan's testimony was comprehensive. She provided a detailed narrative that left the Chamber convinced that she speaks from personal experience. The Chamber notes that there are some inconsistencies in Helen Opoka Acan's account. Helen Opoka Acan indicated that she saw the bodies of her children David Ojok and James Latigo in the aftermath of the attack.<sup>837</sup> The Chamber notes its finding below in the discussion of the Odek IDP camp attack, that these two men were killed in the bush and their bodies never recovered. There are further discrepancies about her testimony in relation to [REDACTED].<sup>838</sup> The Chamber is mindful of Helen Opoka Acan's age as well as the particularly traumatic impact of the Odek IDP camp attack on her life. Helen Opoka Acan endured, among other suffering, the abduction of four of her children, two of whom were killed in the bush. The Chamber also notes that much of what Helen Opoka Acan testified to is consistent with other reliable evidence.

*v P-0275*

484. P-0275 testified live before the Chamber with protective measures.<sup>839</sup> He also provided a prior recorded statement, which was submitted under Rule 68(3) of the Rules.<sup>840</sup> P-0275, a civilian resident of Odek IDP camp at the time of the attack on the camp, testified about his experiences during the attack and the aftermath, including his abduction and time in captivity. The Chamber found that the witness offered graphic and detailed evidence, providing details indicating a personal experience of events.

<sup>836</sup> P-0270 Statement, UGA-OTP-0241-0168-R01 (public redacted version available: UGA-OTP-0283-1297). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 71-73, p. 109.

<sup>837</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 40. The Chamber does not find her reference to James Latigo as her son, rather than as her nephew, significant. As [REDACTED] aptly explained, Acholi cultural practices allow for a woman to refer to all children born into her husband's family as her children, similarly children born into the same extended family may refer to each other as siblings. See [REDACTED].

<sup>838</sup> [REDACTED]

<sup>839</sup> P-0275: [T-124](#).

<sup>840</sup> P-0275 Statement, UGA-OTP-0244-3398-R01. See [Decision on Prosecution Applications under Rule 68\(3\)](#), para. 21, p. 19. See also P-0275: [T-124](#), p. 5, line 7 – p. 8, line 14.

485. The Chamber notes the Defence's suggestion that the witness's young age at the time of the attack affects the reliability of his memories.<sup>841</sup> The Chamber does note some confusion and discrepancies in his testimony. The Chamber notes that when viewing discrepancies between documents such as a GUSCO<sup>842</sup> intake form or victim applications and in-court testimony, in general the testimony is more important given the Chamber's lack of knowledge about the circumstances of how other accounts are derived and the witness's oath before the Chamber. However, in relation to the lack of clarity as to when the witness came back from the bush,<sup>843</sup> the Chamber is of the view that the witness spent around a week in the bush and his testimony about the timing of his return is not reliable. However, this does not mean that the witness's testimony in general cannot be trusted. The discrepancy can be explained by the difficulties of telling time/distance while in the bush, as well as the witness's young age at the time of the attack and the traumatic circumstances of the events. As the witness himself explained, 'when you are in the bush sometimes you lose track of time, you do not think of days, you do not think of time. Your only concern is that you are alive'.<sup>844</sup>

486. The Chamber also notes that, given the nature of the armed conflict, the context of abduction and subsequent captivity and the constant movement of the LRA while in the bush, it is understandable that some witnesses struggle to keep track of the time they spent in the bush and to recall it with precision many years after their escape from the LRA. Indeed, it is reasonable that witnesses in captivity in the bush, particular those who were children when they were abducted, have lost their attachment to the very concept of time for this period.

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<sup>841</sup> Defence Response to the Prosecution's Rule 68(3) Request, 14 November 2016, ICC-02/04-01/15-592-CONF, para. 34. The Chamber notes that the witness was 12 years old or younger at the relevant time. P-0275: [T-124](#), p. 26, lines 4-13.

<sup>842</sup> Gulu Support the Children Organisation.

<sup>843</sup> In his in-court testimony, the witness testified that he returned from the bush in July 2004. P-0275: [T-124](#), p. 74, lines 3-8. However in the GUSCO intake form, the witness is listed as arriving in the GUSCO centre on 9 May 2004 and being signed out of the centre [REDACTED] on 8 June 2004. *See* UGA-OTP-0097-0452 at 0455. [REDACTED]

<sup>844</sup> P-0275: [T-124](#), p. 50, lines 23-24. *See also* P-0275: [T-124](#), p. 64, lines 17-22.

487. As to the witness's age, [REDACTED] testified that he was 12 at the time of the attack.<sup>845</sup> The Chamber notes however that there exists ample documentation, including the witness's Ugandan national ID card,<sup>846</sup> school and health records,<sup>847</sup> as well as voter information,<sup>848</sup> that support the witness's testimony that he was nine years old at the time of the attack. In light of the documentation and the general credibility of the witness's testimony, the Chamber finds that the witness was indeed nine years old at the time of the Odek IDP camp attack.

d. Residents of Lukodi IDP camp

*i P-0024*

488. P-0024 testified live before the Chamber with protective measures.<sup>849</sup> P-0024, a former Lukodi camp resident, offered testimony in relation to her experience during the attack on Lukodi IDP camp relevant to the charges, including about her abduction [REDACTED] in the course of the attack. She provided testimony that was detailed and consistent throughout the questioning. P-0024's testimony was offered simply and without artifice in a narrative manner. She contextualised her testimony with details that indicated to the Chamber that she spoke of events she personally experienced. The witness was a stoic witness yet her testimony laid bare the depth of the trauma she suffered and continues to suffer as a result of the attack. P-0024 distinguished clearly between events she witnessed herself and those that she heard from others. Her testimony is also consistent with other reliable evidence.

489. In her questioning, the Defence raised the issue that [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>845</sup> [REDACTED]

<sup>846</sup> Application for participation as victim, UGA-D26-0012-0266, at 0270 (National ID card listing the witness's date of birth as [REDACTED] 1994).

<sup>847</sup> 1999 Ministry of Education and Sports Terminal Report, UGA-OTP-0269-0719 (stating that P-0275 was then five years old and in class 1); 2006 School Report, UGA-OTP-0269-0710 (stating that P-0275 was then 12 years old and the 'P6'); 2007 Ministry of Education and Sports Progressive Report, UGA-OTP-0269-0714 (stating that P-0275 was then 13 years old and in 'P6'); 2012 Examination for the Uganda Certificate of Education, UGA-OTP-0269-0712 (stating that P-0275 was then 18 years old); Child Health Card, UGA-OTP-0269-0711 (listing [REDACTED] 1994 as the witness's date of birth).

<sup>848</sup> 2016 Voter Location Slip, UGA-OTP-0269-0720 (listing [REDACTED] 1994 as the witness's date of birth).

<sup>849</sup> P-0024: [T-77](#); [T-78](#).

<sup>850</sup> The witness explained that [REDACTED]  
[REDACTED]  
[REDACTED]. The Chamber finds that none of the issues raised affect its view of the credibility of P-0024's testimony either generally or specifically as concerns [REDACTED].

*ii Pyerina Ayaa (P-0026)*

490. Pyerina Ayaa's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>851</sup> Pyerina Ayaa was a civilian resident of Lukodi IDP camp who described her personal experiences of the attack, during which she and one of her daughters were injured and another daughter was killed. It was clear to the Chamber what the witness testified to seeing herself and what she heard from others. The Chamber considers that the witness's testimony is generally consistent with other reliable evidence.<sup>852</sup>

*iii David Komakech (P-0185) and Lilly Apiyo (P-0195)*

491. David Komakech's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>853</sup> David Komakech was a Lukodi camp resident who testified about his escape from the LRA's attempt to shoot him during the May 2004 attack. David Komakech's recollection was specific and detailed, convincing the Chamber that he spoke of events he personally experienced.

492. Lilly Apiyo's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>854</sup> Lilly Apiyo, a former Lukodi camp resident testified about her abduction in the course of the Lukodi IDP camp attack and about being forced to carry looted goods for the LRA. Lilly Apiyo's testimony was detailed and comprehensive. It was rich with the kind of details that convinces the Chamber of the veracity of her account. The witness

<sup>850</sup> [REDACTED]

<sup>851</sup> P-0026 Statement, UGA-OTP-0069-0018-R01 (public redacted version available: UGA-OTP-0283-0093). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 102-04, p. 107.

<sup>852</sup> *See for example* the testimonies of P-0024 and P-0187.

<sup>853</sup> P-0185 Statement, UGA-OTP-0233-1020-R01 (public redacted version available: UGA-OTP-0283-1253). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 89-93, p. 109.

<sup>854</sup> P-0195 Statement, UGA-OTP-0233-1046-R01 (public redacted version available: UGA-OTP-0283-1263). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 94-97, p. 109.

testified with particular detail as to her experience during her abduction,<sup>855</sup> recalling specific information that further convinces the Chamber of her credibility.

493. David Komakech and Lilly Apiyo are spouses. David Komakech and Lilly Apiyo's accounts are individualised, contextualised and singular. The witnesses testified to their specific perspective during the attack and the Chamber sees nothing in their accounts that suggests collusion or an agreement on a common narrative.

494. Further, the Chamber considers that the witnesses' testimonies were consistent with other reliable evidence.<sup>856</sup>

*iv Joel Opiyo (P-0196)*

495. Joel Opiyo's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>857</sup> Joel Opiyo, a Lukodi camp resident and about seven years old at the time of the attack,<sup>858</sup> testified about his experiences during the attack. Contrary to the Defence's argument,<sup>859</sup> the Chamber does not find that the witness's age at the time of the attack made his testimony unreliable. On the contrary, the witness's recollection of events was quite good. Further, Joel Opiyo remembered details of his experience with a specificity that convinces the Chamber that he spoke of events he personally experienced and that remained seared in his mind. The Chamber's view of the witness's credibility was enhanced by the fact that he stated when he did not remember particular details.<sup>860</sup> The witness also clearly distinguished between what he knew from his own experiences and what he was told by others. Lastly, the witness's testimony was consistent with other reliable evidence.<sup>861</sup>

<sup>855</sup> See P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 31-42.

<sup>856</sup> See the testimonies of P-0024, P-0187.

<sup>857</sup> P-0196 Statement, UGA-OTP-0233-1061-R01 (public redacted version available: UGA-OTP-0283-1277). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 98-101, p. 109.

<sup>858</sup> See P-0196 Statement, UGA-OTP-0233-1061-R01, at 1061.

<sup>859</sup> [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#), para. 177.

<sup>860</sup> See P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 24 (the witness was clear that he did not remember exactly what happened to his sister in the course of the attack).

<sup>861</sup> See the testimonies of P-0024, P-0185 and P-0187.

*v Vincent Oyet (V-0003)*

496. Vincent Oyet testified live before the Chamber.<sup>862</sup> Vincent Oyet, a resident of Lukodi IDP camp at the time of the attack relevant to the charges, testified about what he witnessed in the aftermath of the attack. The witness provided straight-forward evidence. The Chamber considers Vincent Oyet a credible witness. However, his testimony is only indirectly related to the issues relevant to the disposal of the charges.

*vi P-0187*

497. P-0187 testified live before the Chamber with protective measures.<sup>863</sup> P-0187, a camp resident of Lukodi IDP camp at the time of the attack relevant to the charges, testified about the Lukodi IDP camp attack and her abduction by the LRA. The witness was forthcoming and candid about what she experienced in the course of her abduction with the LRA. She also had an excellent recollection of events. P-0187 spoke frequently in a narrative mode and was able to contextualise her accounts with credible details that convince the Chamber of her truthfulness. The witness offered a detailed and comprehensive account of her experience, describing events in a manner and offering information which indicated that she spoke of her personal experiences. Further, the Chamber considers that P-0187's testimony was consistent with other reliable evidence.

498. In questioning the witness, the Defence noted an inconsistency between her victim's application form and her testimony.<sup>864</sup> The Chamber accepts the witness's clarification that her victim's application form did not reflect what she stated when the form was filled out for her.<sup>865</sup> Further, the Chamber notes that information provided on a victim application form is unsworn and intended for another purpose. The discrepancy does not undermine the Chamber's view of the witness's credibility.

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<sup>862</sup> V-0003: [T-172](#).

<sup>863</sup> P-0187: [T-164](#); [T-165](#).

<sup>864</sup> See P-0187: [T-165](#), p. 6, lines 1-19 (the witness's victim application form indicated that she was in her hut at the start of the attack, while the witness testified that she was on her way home).

<sup>865</sup> P-0187: [T-165](#), p. 6, lines 5-11, p. 7, lines 18-23.

e. Residents of Abok IDP camp

*i Gwentorina Akite (P-0279)*

499. Gwentorina Akite's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>866</sup> Gwentorina Akite, a resident of Abok IDP camp at the time of the attack relevant to the charges, testified about her experiences in the course of the attack, including her abduction by the LRA. The witness clearly explained the source of her information and gave details that supported the credibility of the information provided. Gwentorina Akite provided evidence that was comprehensive and rich with the type of details that shows that she spoke about deeply affecting personal experiences. Further, the Chamber considers that the witness's testimony was both internally consistent and consistent with other reliable evidence.<sup>867</sup>

*ii V-0002*

500. V-0002 testified live before the Chamber.<sup>868</sup> V-0002, a former resident of Abok IDP camp at the time of the attack relevant to the charges, testified about his experiences in the course of the attack including his abduction by the LRA. The witness was forthcoming and candid. Further, the Chamber considers that the witness's testimony was both internally consistent and consistent with other reliable evidence.<sup>869</sup>

*iii P-0280*

501. P-0280 testified live before the Chamber with protective measures and received Rule 74 assurances.<sup>870</sup> P-0280, a former resident of Abok IDP camp at the time of the attack relevant to the charges, testified about his experiences in the course of the attack and its aftermath. P-0280's testimony was clear and consistent. He was forthcoming in his responses to questioning by the parties and participants and did not become recalcitrant nor did he change his account when questioned by the Defence. The Chamber considers that the level of detail in P-0280's account is consistent with someone who personally

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<sup>866</sup> P-0279 Statement, UGA-OTP-0258-0478-R01 (public redacted version available: UGA-OTP-0283-1326). *See First Decision on Prosecution Applications under Rule 68(2)(b)*, paras 126-28, p. 110.

<sup>867</sup> Particularly the testimony of P-0304 and P-0286.

<sup>868</sup> V-0002: [T-171](#).

<sup>869</sup> *See* the testimonies of P-0286 and P-0304.

<sup>870</sup> P-0280: [T-83](#); [T-84](#); [T-83](#), p. 39, lines 21-25.

experienced the events.<sup>871</sup> Importantly, P-0280 also distinguished between events that he personally witnessed as opposed to matters he was informed about, and openly acknowledged when his testimony may have been impacted by an erroneous belief.

502. P-0280 testified that he was born in 1986,<sup>872</sup> but also stated that he was 15 or 16 years old at the time of attack on Abok IDP camp in 2004<sup>873</sup> which was disputed by the Defence on the basis of an application form for a sponsorship programme.<sup>874</sup> The Chamber attributes little significance to this discrepancy in the witness's testimony and evidence. The witness explained that at the time of the sponsorship programme application he believed his year of birth to be 1990 and he was only later informed by other adults that he was born in 1986.<sup>875</sup> Despite the contradiction in his testimony and the fact that his birth certificate was lost during the Abok attack,<sup>876</sup> the Chamber sees no reason to doubt the witness's explanation. In any event, this marginal issue does not cast doubt on the truthfulness of the witness's account of the Abok attack.

503. The Chamber also notes that there is inconsistency between P-0280's testimony and other evidence about the length of time he spent with the LRA in the bush after having been abducted. While P-0280 testified that he came out of the bush in October 2004,<sup>877</sup> Douglas Obwor testified that P-0280 stayed in the bush for only one month after the 8 June 2004 Abok attack.<sup>878</sup> Additionally, a UPDF report, dated August 2004, lists P-0280 amongst the witnesses to the Abok attack present within Abok IDP camp.<sup>879</sup> When questioned about this discrepancy, P-0280 conceded that he may have 'forgot[ten] one

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<sup>871</sup> For example the witness's account of: the death of his family members in Abok, expressions used within the LRA ('lapwony'), and the 'initiation' rituals performed on newly recruited LRA fighters.

<sup>872</sup> P-0280: [T-84](#), p. 50, line 25 – p. 51, line 3. This would make him 18 years old at the time of the 2004 Abok attack.

<sup>873</sup> P-0280: [T-84](#), p. 9, lines 16-17, p. 51, lines 16-19.

<sup>874</sup> P-0280: [T-84](#), p. 51, lines 6-8; Sponsoring Children Uganda Application, UGA-OTP-0244-2184.

<sup>875</sup> P-0280: [T-84](#), p. 51, line 9 – p. 53, line 15. *See also* T-83-CONF, p. 43, line 6.

<sup>876</sup> P-0280: [T-84](#), p. 52, lines 10-16.

<sup>877</sup> P-0280: [T-84](#), p. 59, lines 8-10, thus implying that he spent around four months in the bush.

<sup>878</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 32.

<sup>879</sup> Thus, indicating that P-0280 was at home 2-3 months after the attacks. The Chamber notes that there are actually two UPDF Reports containing much of the same information. UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0178 and UPDF Report, some selected cases of atrocities committed by LRA rebels, UGA-OTP-0032-0038-R01, at 0059. Regarding the latter report, the Chamber notes that while pages 0052-91 contain information identical to the first UPDF Report (UGA-OTP-0037-0153), UGA-OTP-0032-0038-R01, at 0038-51 also contains a chart, Tabulation of some atrocities committed by LRA, status of investigations into things. Where the reports are identical, the Chamber will reference UGA-OTP-0037-0153. The Reports were provided to the Prosecutor by P-0038 on 14 December 2004. The Reports, dated August 2004, appear to have been created soon after the attacks discussed within. The Chamber finds that the two reports bear indicia of authenticity.

or two things’, may have been ‘confused’ or ‘lost count of time’ after returning from the bush.<sup>880</sup> Such forthcoming admissions reflect positively on the witness’s credibility and also explain the inaccuracy of his recollection of the time he spent in captivity. The Chamber considers it significant that although the witness is mistaken about how long he spent in the bush with the LRA, the witness did spend some time in captivity, at least one month, and thus personally experienced life in the LRA.

504. As noted above, the nature of the armed conflict, the context of abduction and subsequent captivity and the constant movement of the LRA while in the bush, make it understandable that some witnesses struggle to keep track of the time they spent in the bush and to recall it with precision years after their escape from the LRA. It is reasonable that witnesses in captivity in the bush, particularly those who were children when they were abducted, have lost their attachment to the very concept of time.
505. The Chamber is attentive to the traumatic nature of the events experienced by this witness. Additionally, P-0280’s testimony is consistent with someone who personally experienced the events. Further, considering that the witness’s account of events is largely consistent with the testimony of other witnesses with knowledge of those events, the Chamber does not consider the above discussed inconsistencies to undermine the reliability of P-0280’s testimony.

*iv Dorcas Ayo (P-0281); Jacob Opio (P-0282)*

506. Dorcas Ayo and Jacob Opio’s prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>881</sup> The witnesses, civilian residents of Abok IDP camp at the time of the attack relevant to the charges, testified about their experience during the attack and in its aftermath. The witnesses’ testimonies were comprehensive and rich with details that indicated that they spoke from personal experience. They provided detailed and contextualised accounts of the Abok IDP camp attack and the events they witnessed.

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<sup>880</sup> P-0280: [T-84](#), p. 60, lines 17-22.

<sup>881</sup> P-0281 Statement, UGA-OTP-0261-0257-R01 (public redacted version available: UGA-OTP-0283-1336); [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 129-33, p. 110; P-0282 Statement, UGA-OTP-0261-0246-R01 (public redacted version available: UGA-OTP-0283-1346); [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 134-37, p. 110.

Further, the Chamber considers that their testimonies were both internally consistent and generally consistent with other reliable evidence.<sup>882</sup>

*v Robson Oper (P-0286)*

507. Robson Oper testified live before the Chamber.<sup>883</sup> Robson Oper, a resident of Abok IDP camp at the time of the attack relevant to the charges, testified about his experiences in the attack and in the aftermath. Robson Oper's testimony, provided in a narrative manner, was rich in detail, graphic, and narrated with a depth of emotion. The witness intervened at times to ensure that his account was being properly understood, indicating his attempt at accuracy. Robson Oper was generally forthcoming in answering questions and did not alter his testimony during examination by the Defence. In particular, the Chamber notes that he remained calm during Defence questioning, even when confronted with questions that attacked his credibility. The Chamber is also receptive to the fact that Robson Oper did not implicate Dominic Ongwen beyond what the witness personally experienced.
508. The Chamber notes that Robson Oper readily admitted that he lied on his victim's application form for his own benefit.<sup>884</sup> The witness was forthright and prompt with his admission and provided an explanation without hesitance or equivocation. Thus, and given that the information provided on a victim application form is unsworn and intended for another purpose, the Chamber does not consider the witness's untruthfulness on the form to have a broader impact on the credibility of the evidence he provided, under oath, before the Chamber.
509. Of greater significance is that Robson Oper testified about attacks he participated in during his time in the bush – for example, he testified about participating in several attacks in Opit<sup>885</sup> in the 5-6 months he alleges to have spent with the LRA.<sup>886</sup> However,

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<sup>882</sup> With regard to the testimony of Dorcas Ayo, *see* in particular the testimonies of Charles Amodo and Gwentorina Akite; regarding the testimony of Jacob Opio, *see* in particular the testimonies of P-0280, Robson Oper, Cyprian Ayoo, Charles Amodo and Douglas Obwor.

<sup>883</sup> P-0286: [T-131](#); [T-132](#).

<sup>884</sup> *See* Application for participation as victim, UGA-D26-0012-0349, at 0351 ('[o]n my return home I found out that my shop was broken by the rebels and all the merchandise were looted and others were burnt. My houses were also burned with all the properties in it, the goats also and other goats were looted') as opposed to the witness's in court testimony P-0286: [T-131](#), p. 70, line 13 – p. 71, line 16 ('mine too was supposed to be compensated...if people are getting compensation I would also benefit because I needed to say that so I could also be part of the people who would get compensations in case that ever happens'). *See also* p. 71, lines 17-20.

<sup>885</sup> P-0286: [T-131](#), p. 39, line 18 – p. 41, line 7.

<sup>886</sup> P-0286: [T-131](#), p. 48, lines 4-5. The witness recollects that he returned from captivity in November 2004.

the Chamber observes that several witnesses testified that Robson Oper returned to the camp right after the attack on Abok IDP camp.<sup>887</sup> Further, a UPDF report, dated August 2004, titled ‘Atrocities committed by LRA rebels in Northern and Eastern Uganda’ lists ‘Oper, Robert’<sup>888</sup> (Robson Oper) amongst the witnesses to the attack on Abok IDP camp who were all ‘within Abok IDP Camp’ at the time of the report.<sup>889</sup> The Chamber also observes that when pushed by the Defence about the inconsistency in this aspect of his testimony, Robson Oper’s responses were somewhat evasive.<sup>890</sup> Given the evidence with regards to when the witness returned from captivity, the Chamber does not rely on his testimony on his experiences with the LRA beyond the aftermath of the 8 June 2004 Abok IDP camp attack.

*vi P-0287*

510. P-0287’s prior recorded testimony was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>891</sup> P-0287, a civilian resident of Abok IDP camp, offered evidence about his experience in the course of the attack. The Defence argues that as the witness was only [REDACTED] during the attack, it has ‘serious doubt as to the witness’s ability to recall the event with such specificity...one can easily reason why there is great circumspect as to whether the witness truly remembers the incidents at hand, or if it is a story made of hearsay’.<sup>892</sup> The Chamber agrees with the Defence that in light of the witness’s very young age at the time of the attack and the subsequent time that had elapsed since the attack, it is unlikely that the evidence is his first-hand account of events. As there is better, credible and reliable, evidence about the events of Abok IDP camp on the record, the Chamber does not rely on P-0287’s testimony.

<sup>887</sup> P-0284 credibly testified that P-0286 had managed to escape ‘that day’ and had returned to the camp. P-0284 stated that he had spoken to P-0286 after P-0286’s return to the camp and P-0286 had said that he managed to escape because the *mamba* was chasing the rebels and some abductees were able to escape during the confusion. P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 44-46. Similarly, P-0306 credibly testified that P-0286 had been among the abductees rescued by UPDF soldier Engola Okello during the LRA’s retreat from Abok. P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 32.

<sup>888</sup> P-0286 testified that while his given name was Robson Oper, some people called him Robert. P-0286: [T-131](#), p. 66, lines 21-23.

<sup>889</sup> Thus indicating that he was in Abok 2-3 months after the attack. UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0178.

<sup>890</sup> P-0286: [T-132](#), p. 41, line 6 – p. 43, line 18, p. 45, lines 12-18.

<sup>891</sup> P-0287 Statement, UGA-OTP-0261-0268-R01 (public redacted version available: UGA-OTP-0283-1367); [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 142-45, p. 110.

<sup>892</sup> [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#), para. 183.

vii *Charles Amodo (P-0304)*

511. Charles Amodo testified live before the Chamber.<sup>893</sup> Charles Amodo, a resident of Abok IDP camp at the time of the attack relevant to the charges, testified about his experiences in the attack and in its aftermath.
512. Importantly, the witness's testimony was consistent throughout the questioning and the witness delineated between when he was testifying to facts within his personal knowledge – *e.g.* what he witnessed during the Abok attack – and when he was relaying information that he gained from other persons – *e.g.* information gained from Oringa James about the commanders responsible for the 8 June 2004 Abok attack. Additionally, when the witness described his personal experiences, he talked about events in a chronological manner and described the circumstances under which they took place.
513. Nonetheless, Charles Amodo offered a detailed and coherent account of his own experiences during the 8 June 2004 Abok attack.
514. The Chamber notes that, when referencing a group that briefly abducted him in 2002, Charles Amodo referred to 'Boocec' or 'Bojokech' as another name for the LRA.<sup>894</sup> The Defence raised this issue during their questioning of the witness and Charles Amodo explained that he came to know this name because any armed group other than the government soldiers were referred to by children as 'Bojokech'.<sup>895</sup> The Chamber is satisfied with the witness's explanation and considers that Charles Amodo's testimony on 'Boocec'/'Bojokech' has no bearing on the identity of the group that abducted the witness during the 8 June 2004 attack on Abok nor does it have any bearing on the credibility and reliability of his account of his experiences during and after the 8 June 2004 attack on Abok IDP camp. Yet, the Chamber is attentive to the fact that there are some discrepancies between the witness's account, at times based on information he was told by others rather than personally observed, and other evidence heard in this case, for example in relation to the movements of the LRA during the attack and the burning of huts.

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<sup>893</sup> P-0304: [T-133](#).

<sup>894</sup> See P-0304: [T-133](#), p. 5, line 22 – p. 7, line 2.

<sup>895</sup> P-0304: [T-133](#), p. 39, lines 12-17.

f. Other civilians

*i Rwot Yusef Adek (D-0028)*

515. Rwot Yusef Adek, a cultural chief of the Pageya clan, testified live before the Chamber.<sup>896</sup> He offered information on Acholi people's cultural, spiritual and religious practices. In addition, he testified about his knowledge of Joseph Kony and Dominic Ongwen as well as his personal role in the peace talks with the LRA. Rwot Adek's testimony was very general in nature and consisted of his overall views and interpretation rather than recounting personal observation of specific facts. Thus, while not deeming Rwot Adek not credible, in the presence of more direct evidence, the Chamber does not rely on his testimony.

*ii Isha Otto (D-0083)*

516. Isha Otto, a member and activist of a Ugandan NGO, testified live before the Chamber.<sup>897</sup> He offered information about the establishment of IDP camps in Northern Uganda and the living conditions in such camps. Further, his testimony is also relevant regarding the formation of auxiliary forces as self-defence against the LRA, including the Arrow Boys in Teso. The Chamber is satisfied that the witness testified credibly about his experiences.

*iii Ojwiya James Okot (D-0087)*

517. Ojwiya James Okot testified live before the Chamber.<sup>898</sup> He is a conflict resolution expert working on clan and inter-clan disputes. He was abducted by the LRA in 1989 and briefly stayed in the organisation. However, he primarily offered background information as concerns Acholi cultural norms, including clan and inter-clan disputes. As this topic does not have a bearing on the case, the Chamber does not rely on the evidence of Ojwiya James Okot for its conclusions in relation to the charges.

*iv Adong Harriet Ojwiya (D-0111)*

518. Adong Harriet Ojwiya, an *ajwaka*, or spiritual healer, testified live before the Chamber without protective measures.<sup>899</sup> The witness testified about her work as a traditional

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<sup>896</sup> D-0028: [T-180](#); [T-181](#); [T-182](#).

<sup>897</sup> D-0083: [T-217](#).

<sup>898</sup> D-0087: [T-184](#).

<sup>899</sup> D-0111: [T-183](#).

herbalist in Northern Uganda. The Chamber, however, considers her testimony not to be of direct relevance to the charges.

*v Joseph Bua Okol (D-0113)*

519. Joseph Bua Okol, a local politician and clan chief in Lango, testified live before the Chamber.<sup>900</sup> He testified about his role as a clan chief during the period relevant to the charges, and provided information which contextualised the establishment of IDP camps and the recruitment of auxiliary forces, in particular the Amuka. The Chamber is satisfied that the witness testified truthfully about his experiences and knowledge of the region and its peoples.

*vi John Mawa Okello (D-0123)*

520. John Mawa Okello, an Itesot man born in 1957, testified live before the Chamber.<sup>901</sup> He testified about his abduction and short stay with the LRA in Teso in 2003, as well as about the establishment of IDP camps, the living conditions in the camps as well as the Arrow Boys. The Chamber is satisfied that the witness testified credibly about events he personally experienced.

*vii Michael Okwir (D-0124)*

521. Michael Okwir, an Itesot man born in 1959, testified live before the Chamber.<sup>902</sup> He testified about the structure and functioning of the Arrow Boys in Teso and in particular about the relationship of the Arrow Boys with the civilian population at the time of the LRA operations in Teso. He further gave evidence about how the attacks affected him and his family, having lost three brothers during the conflict and taking care of the children of his brothers. His testimony was simple and candid. The Chamber is satisfied that the witness testified credibly about events he personally experienced.

*viii Michael Opiro (D-0132)*

522. Michael Opiro's statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>903</sup> The witness, a former aid worker at a Caritas Reception Centre in Pajule, testified about his

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<sup>900</sup> D-0113: [T-221](#).

<sup>901</sup> D-0123: [T-238](#).

<sup>902</sup> D-0124: [T-238](#).

<sup>903</sup> D-0132 Statement, UGA-D26-0025-0021 (public redacted version available: UGA-D26-0025-0021-R01). *See* Decision on Prosecution Request to Introduce Evidence of Defence Witnesses via Rule 68(2)(b), 16 August 2018, ICC-02/04-01/15-1322-Conf (public redacted version available: [ICC-02/04-01/15-1322-Red](#)), paras 20-21, p. 12.

work in the IDP camps, including his experiences as a counsellor of returnees from the bush. In addition, he testified about providing assistance for the Juba Peace Talks as a Caritas staff member in 2007 and 2008, about meeting Joseph Kony and witnessing the killing of LRA members. While the Chamber did not identify any issue affecting the credibility of the witness, the Chamber notes that his testimony is not directly relevant to the charges.

*ix Julius Ochen (D-0136)*

523. Julius Ochen testified live before the Chamber.<sup>904</sup> As a politician from Teso and member of the Ugandan parliament he offered a historical account on LRA and LDU activities in Teso at the time of the charges. In particular, he provided information on the formation and functioning of the Arrow Boys.

524. In the Chamber's view, the witness's testimony about the LRA's initial behaviour in Teso is contradictory. The witness stated that the LRA members behaved initially in a friendly manner towards the population in Teso, but then went on to say that the local population mobilised and set up the Arrow Boys against the 'rebel group' which was coming in.<sup>905</sup> In addition, the Chamber finds Julius Ochen's account of the treatment of former abductees by the community unconvincing, in particular the statement that '[w]hatever they did when they returned, there was a celebration for their return.'<sup>906</sup> The Chamber is of the view that the witness was motivated to give a positive account of the reception of former LRA members, as the witness especially highlighted his role as a chairman in receiving them.<sup>907</sup> In light of the above, considering the limited relevance of the testimony of Julius Ochen and the availability of other more reliable evidence on the pertinent issues, the Chamber does not rely on Julius Ochen.

*v. Government officers and agents*

*a. UPDF*

525. The Defence alleges that the Prosecution did not carry out an impartial investigation, partly because 'the choice and management of witnesses was done by Major Patrick

<sup>904</sup> D-0136: [T-207](#).

<sup>905</sup> D-0136: [T-207](#), p. 34, line 7 – p. 35, line 4.

<sup>906</sup> D-0136: [T-207](#), p. 54, line 5 – p. 55, line 23.

<sup>907</sup> D-0136: [T-207](#), p. 56, line 1 – p. 60, line 1.

Ocira (P-0078), a UPDF officer who acted as resource person for the Prosecution.<sup>908</sup> First, the Chamber notes that the Defence does not make any specific allegation of wrong-doing. Rather, it asserts merely that the involvement of Patrick Ocira in allegedly facilitating the Prosecution's investigation is proof that the Prosecution did not carry out an impartial investigation. Further, the Chamber notes that neither the Defence nor the Prosecution called Patrick Ocira as a witness to these proceedings. Absent specific allegations and proof, the Chamber considers the Defence's assertion unsubstantiated and irrelevant.

*i P-0035*

526. P-0035's statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>909</sup> P-0035 testified about his personal experience as [REDACTED] of the military detachment stationed in Lukodi IDP camp, he described the way the attack unfolded and the actions of the Ugandan government soldiers.<sup>910</sup> The Chamber notes that the witness only served [REDACTED] [REDACTED].<sup>911</sup> This likely explains the lack of specificity of some of his information about Lukodi IDP camp.<sup>912</sup> The Chamber considers that most aspects of the witness's testimony are consistent with other reliable evidence.<sup>913</sup>

*ii John Lubwama (P-0047)*

527. John Lubwama testified live before the Chamber.<sup>914</sup> He also provided a statement to the Prosecution, which was submitted under Rule 68(3) of the Rules.<sup>915</sup> John Lubwama, the UPDF commanding officer stationed at the army barracks of Pajule IDP camp at the time of the attack on the camp relevant to the charges, testified about the camp and his

<sup>908</sup> [Defence Closing Brief](#), para. 10. The Defence further states that according to available records, approximately 40 Prosecution witnesses, of which 20 were on the Prosecution List of Witnesses, are attributed to this UPDF officer. The Defence makes further allegations in relation to Prosecution's collection of evidence which is discussed further below. *See* the Chamber's discussion of other documentary evidence at paras 848-849 below.

<sup>909</sup> P-0035 Statement, UGA-OTP-0036-0082-R01 (public redacted version available: UGA-OTP-0283-0102). *See* [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 105-08, p. 108.

<sup>910</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at paras 12, 34-54.

<sup>911</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 10.

<sup>912</sup> For example, P-0035 did not know the number of people living in Lukodi IDP camp and could only offer a rough estimate. P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 19.

<sup>913</sup> *See* the testimonies of P-0018, P-0024, P-0060.

<sup>914</sup> P-0047: [T-114](#); [T-115](#).

<sup>915</sup> P-0047 Statement, UGA-OTP-0027-0177-R01. *See* [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 51-54, p. 111. *See also* P-0047: [T-114](#), p. 26, line 6 – p. 29, line 9.

experience during the attack and in its aftermath. The witness's testimony was clear, detailed and credible. He clearly identified the source of his information, clarified what he experienced and what he heard from others and describes events in a manner and with such detail that the Chamber is convinced he testified truthfully about his personal experiences. The Chamber also notes that his testimony was consistent with the testimony of other credible witnesses.<sup>916</sup>

*iii P-0084*

528. P-0084's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>917</sup> P-0084, an officer with the UPDF during the Pajule IDP camp attack,<sup>918</sup> testified about what he witnessed during the attack and his experience as part of a fact-finding team that visited Pajule immediately after the attack had ended on 10 October 2003. P-0084's testimony was detailed, comprehensive and supported by the related report, which was created just days after the October 2003 Pajule IDP camp attack.<sup>919</sup> He clearly stated the sources of his information and distinguished between what he witnessed personally and what he heard from others. The Chamber considers that the witness's testimony was both internally consistent and consistent with other reliable evidence.<sup>920</sup>

*iv Irumba Omero Tingira (P-0189)*

529. Irumba Omero Tingira is a UPDF colonel, who testified live before the Chamber.<sup>921</sup> Irumba Tingira testified about his meetings with different LRA groups in his capacity as UPDF division intelligence officer in September 2006 during the ceasefire with the LRA. He gave in particular a detailed testimony about his meeting with Dominic Ongwen on 4 September 2006. This meeting does not fall within the period of the charges. However,

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<sup>916</sup> See the testimonies of P-0008 and P-0084. The Chamber notes in particular that as John Lubwama and P-0084 testified to their personal knowledge and perspective, the Chamber does not find their testimonies inconsistent. Contrary to the Defence's arguments at the time of the submission of documents related to the witness's testimony, the Chamber does not consider that other witnesses' testimonies about the existence of a letter from the LRA or rumours of an impending attack preceding the Pajule IDP camp attack at issue undermine John Lubwama's credibility. See P-0047: T-115, p. 22, line 19 – p. 24, line 5; [Annex XI to the Registry's Second Report on the Evidence recognised as formally submitted to the Chamber](#), 12 October 2017, ICC-02/04-01/15-1178-Anx-XI.

<sup>917</sup> P-0084 Statement, UGA-OTP-0139-0149-R01 (public redacted version available: UGA-OTP-0280-0982). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 59-63, p. 109.

<sup>918</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 11.

<sup>919</sup> See P-0084's report on the Pajule attack, UGA-OTP-0069-0416.

<sup>920</sup> See the testimonies of Rwot Joseph Oywak, P-0008 and P-0047.

<sup>921</sup> P-0189: [T-95](#); [T-96](#).

as also explained below, the Chamber considers that it is nevertheless of relevance for the Chamber's conclusions in relation to the charges.<sup>922</sup>

*v Joseph Balikudembe (P-0359)*

530. Joseph Balikudembe testified live before the Chamber.<sup>923</sup> Joseph Balikudembe, a UPDF colonel at the time of the attacks relevant to the charges, testified about his role as a UPDF commander during the relevant time period and about his knowledge of the attacks on Pajule, Odek and Abok IDP camps. Joseph Balikudembe was a calm, knowledgeable, forthright and forthcoming witness. His testimony was clear, logical, internally consistent and consistent with other reliable evidence before the Chamber. The witness clearly explained the source of his information, offering details that supported the credibility of the information provided. Joseph Balikudembe offered evidence that was clearly based on first-hand experience and of a nature that would be expected of a person in his position. For example, the witness's explanation of his role in the UPDF and his work with military intelligence demonstrates to the Chamber that he provided information based on his personal experience.<sup>924</sup>

*vi Emmanuel Ewicho (D-0122)*

531. Emmanuel Ewicho testified live before the Chamber.<sup>925</sup> He testified about joining the UPDF in 1992 and subsequently fighting against the LRA in Teso in 2003. He further offered evidence on Charles Tabuley's death. The Chamber is satisfied that the witness testified credibly about his experiences.

**b. LDU/Arrow boys/Amuka**

*i Bosco Ogwang (D-0065)*

532. Bosco Ogwang testified live before the Chamber.<sup>926</sup> The witness testified about his experiences in the local defence unit ('LDU') and provided an account of the attack on Abok IDP camp, which he witnessed as a member of the LDU. His testimony was internally consistent and consistent with other reliable evidence heard in these

<sup>922</sup> P-0189: [T-95](#), p. 8, line 16 – p. 9, line 3.

<sup>923</sup> P-0359: [T-109](#); [T-110](#).

<sup>924</sup> P-0359: [T-109](#), p. 54, line 13 – p. 55, line 16.

<sup>925</sup> D-0122: [T-237](#).

<sup>926</sup> D-0065: [T-211](#).

proceedings. He clearly distinguished between events he witnessed himself and what he heard from others. Importantly, the witness did not incriminate the accused at all cost,<sup>927</sup> indicating a lack of bias and further enhancing the Chamber's view of his credibility.

*ii Julius Nyeko (D-0066)*

533. Julius Nyeko testified live before the Chamber.<sup>928</sup> Julius Nyeko, an LDU soldier at the time of the attack on Odek IDP camp relevant to the charges, testified about the attack on the camp. The Chamber found Julius Nyeko to have been a forthcoming witness. The witness frequently testified in a narrative format, providing a narration of what he knew of the LRA attack on Odek IDP camp. However, despite his testimony that he fled and hid far away from the camp,<sup>929</sup> the witness at times testifies as though he personally witnessed things he could not have personally seen.<sup>930</sup> The Chamber takes this into account as part of the assessment of evidence provided by the witness.

*iii Okello Michael Tookwaro (D-0072)*

534. Okello Michael Tookwaro testified live before the Chamber.<sup>931</sup> Okello Tookwaro testified about his experiences as an LDU soldier stationed in Lukodi IDP camp at the time of the May 2004 attack.

535. Several aspects of Okello Michael Tookwaro's testimony bring into question its reliability. The witness testified that the LDU barracks was being dismantled before the attack and that at the time of the attack the UPDF had a barrack on top of the hill.<sup>932</sup> The witness is the only one to offer such testimony. Other witnesses are consistent that there was only one barracks in Lukodi at the time of the attack and that the barracks on the hill was erected after the attack.<sup>933</sup> Further, no other witness apart from Okello Michael

<sup>927</sup> D-0065: [T-211](#), p. 22, lines 15-20, p. 24, lines 1-13, p. 29, lines 4-12 (stating that he did not see any commander and did not know which LRA commander commanded the attack on Abok IDP camp and that he never heard Dominic Ongwen mentioned with respect to Abok IDP camp until Dominic Ongwen was arrested).

<sup>928</sup> D-0066: [T-214](#).

<sup>929</sup> D-0066: [T-214](#), p. 23, lines 4-5, p. 24, lines 11-19.

<sup>930</sup> See D-0066: [T-214](#), p. 23, line 25 – p. 24, line 6 (testifying about the behaviour of the LRA forces towards civilians in the camp) or p. 23, lines 8-19, p. 28, lines 11-13, p. 29, lines 14-18 (testifying about the movement and actions of the mobile forces during the attack).

<sup>931</sup> D-0072: [T-212](#).

<sup>932</sup> D-0072: [T-212](#), p. 12, line 20 – p. 15, line 18; D-0072's sketch of Lukodi IDP camp, UGA-D26-0021-0226.

<sup>933</sup> See P-0145: [T-144](#), p. 43, lines 8-24 (at the time of the attack, there was only one government military barracks. The second barracks was created following the May 2004 attack); P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 17 (the second military barracks on the hills was built after the attack on Lukodi IDP camp). P-0035 made no mention of a separate UPDF force present in the camp. See P-0035 Statement, UGA-OTP-0036-0082-R01.

Tookwaro testified that the UPDF soldiers were on the top of the hill the day of the attack.<sup>934</sup> Such a discrepancy is significant, particularly given Okello Michael Tookwaro's position as a soldier in the LDU.

536. Most importantly, the Chamber is of the view that Okello Michael Tookwaro's testimony regarding about what happened during the Lukodi attack is unreliable. Okello Michael Tookwaro testified that he and other government soldiers present in Lukodi quickly fled in the heat of the initial exchange with the LRA and could not see what was happening within the camp.<sup>935</sup> Contrary to other credible and reliable testimony demonstrating that the attack lasted one to two hours,<sup>936</sup> the witness also testified that the attack took quite a long time, almost six hours.<sup>937</sup> The Chamber is unable to rely on his testimony in regard to the conduct of the attack.

*iv Sam Ojede (D-0121)*

537. Sam Ojede testified live before the Chamber.<sup>938</sup> Sam Ojede, an LDU soldier, offered an account of the attack on Abok IDP camp. The Chamber finds that this witness's testimony cannot be relied upon.

538. Sam Ojede's testimony was at times unclear, inconsistent or incredible. The Chamber finds that several issues completely undermined the credibility and reliability of his evidence.

539. First, the witness gave the Chamber the impression that he was not testifying in a natural, spontaneous way. When the witness was asked whether he had ever met Dominic Ongwen or heard about him being within the Lango sub-region, he gave a convoluted and somewhat tangential response about an unnamed commander who had met Dominic

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<sup>934</sup> D-0072: [T-212](#), p. 16, lines 15-18. *See also* D-0072: [T-212](#), p. 19, lines 17-19 (indicating that the camp had not received its scheduled monthly distribution yet at the time of the attack).

<sup>935</sup> D-0072: [T-212](#), p. 38, line 9 – p. 43, line 19, p. 44, line 21 – p. 45, line 15, p. 47, lines 1-9, p. 47, line 17 – p. 48, line 2. The Chamber notes that the witness testifies about re-enforcements forces, including a *mamba*, coming to repel the LRA. However, the Chamber notes that his testimony about his location in relation to these reinforcement forces is unclear and inconclusive. It also contradicts other reliable evidence that the re-enforcement troops did not engage with the LRA within the camp as they arrived after the LRA had already fled. What is clear is that he was not at the camp after the initial gunfire from the LRA and cannot reliably testify about what happened within the camp.

<sup>936</sup> *See* the Chamber's discussion of the course of the Lukodi IDP camp attack in para. 1796 below.

<sup>937</sup> D-0072: [T-212](#), p. 39, lines 13-14.

<sup>938</sup> D-0121: [T-213](#).

Ongwen and had reported Dominic Ongwen's specific orders.<sup>939</sup> The Chamber finds it incredible that Sam Ojede, who before his memory was refreshed could not remember the name of his commander in the months he was captured by the LRA,<sup>940</sup> would remember in such detail what he was told about the commands of Dominic Ongwen, whom he testified he never met or saw.<sup>941</sup> This aspect of the witness's testimony appeared overly deliberate, like a line memorised in advance.

540. The Chamber is further unconvinced by the witness's explanation of why he did not mention these commands of Dominic Ongwen in his interview with the Defence.<sup>942</sup> It is clear to the Chamber that had the witness truly heard the orders he claimed to have heard from Dominic Ongwen, he would have mentioned them in the course of his interviews with the Defence and/or the Prosecution.

541. Second, in his testimony about the 8 June 2004 Abok IDP camp attack, the witness was unclear in relation to the number of soldiers present within the camp during the attack.<sup>943</sup> The Chamber does not find the confusion in the testimony in itself dispositive or particularly significant, given the time that has elapsed. However, given the importance the witness places on the behaviour of the government soldiers, the lack of clarity is important to note.

542. Third, the Chamber found the witness's accounts of the Abok IDP camp attack improbable. As regards his testimony that no one was abducted from Abok and nothing was looted,<sup>944</sup> the Chamber notes that this witness's testimony is significantly at odds with the evidence offered by other witnesses in the proceedings, who testified credibly that persons were abducted and property was looted.<sup>945</sup> Further, the Chamber found the witness's explanation of the returned abductees odd. Sam Ojede testified that the morning after the attack, Colonel Engola returned to the camp with injured civilians and children

<sup>939</sup> D-0121: [T-213](#), p. 14, lines 5-21.

<sup>940</sup> D-0121: [T-213](#), p. 9, lines 8-12, line 23 – p. 10, line 5.

<sup>941</sup> D-0121: [T-213](#), p. 14, lines 5-21.

<sup>942</sup> See D-0121: [T-213](#), p. 62, line 23 – p. 64, line 7, p. 66, lines 14-25.

<sup>943</sup> D-0121 testified that there were about 300 soldiers around the camp and about 30 of the soldiers were taken to the camp to protect the camp. D-0121 placed himself among the soldiers who were taken to defend the camp. D-0121: [T-213](#), p. 24, line 21 – p. 25, line 4. But he also testified that there were 270 government soldiers remaining in the camp. [T-213](#), p. 28, lines 8-13, p. 65, lines 2-6.

<sup>944</sup> D-0121: [T-213](#), p. 46, lines 9-20.

<sup>945</sup> See paras 1901-1910, 1973-2000, the Chamber's evidentiary discussion of looting and abduction committed at Abok IDP camp.

whom the Colonel said were rescued from LRA rebels.<sup>946</sup> Sam Ojede contends that these civilians were not abducted from Abok but were abducted from a different location and rescued from the rebels.<sup>947</sup> The Chamber does not understand why Colonel Engola would have returned abductees who were not from Abok to Abok under the circumstances.<sup>948</sup> The Chamber also notes that in reference to these same abductees, the witness subsequently testified that the people who were abducted from Abok were abducted on a different day, not on the day of the attack.<sup>949</sup> Given the ample evidence showing that the abductees rescued by Captain Engola and the government soldiers had been abducted from Abok the day of the attack, the Chamber finds the witness's account unreliable.

543. As regards his testimony that government soldiers were responsible for the crimes committed in Abok, the Chamber notes particularly that Sam Ojede testified that soldiers and 'most of the people' in Abok were aware that it was government soldiers who killed civilians and burnt houses.<sup>950</sup> Were this testimony true, it would be peculiar that numerous camp residents who testified about the Abok IDP camp attack in these proceedings failed to mention such happenings. Further, the Chamber is unconvinced by the witness's explanation of why he did not mention that commanders had told government soldiers to keep quiet about the Abok attack during his earlier interviews with the parties.<sup>951</sup>

544. Fourth, the witness was inconsistent with regards to the date of his abduction in his testimony as opposed to his statement to the Prosecution.<sup>952</sup> The Chamber generally finds an inconsistency of this nature unexceptional. However, the witness's response to the inconsistency undermined his credibility. Only after lengthy questioning, and after being confronted with his previous interview, did the witness admit that he gave a different date of abduction to the Prosecution.<sup>953</sup> The Chamber is unconvinced by the witness's

<sup>946</sup> D-0121: [T-213](#), p. 37, line 12 – p. 38, line 3. The Chamber notes that D-0121, in offering his idea of how people came into UPDF custody, stated 'I believe that these people went to the forest and they stayed. They spent the night there, and in the morning he went and fought against them and he brought back these people.' [T-213](#), p. 37, lines 20-22. It is not clear to the Chamber who D-0121 testified fought against the LRA, civilians or the UPDF.

<sup>947</sup> D-0121: [T-213](#), p. 45, lines 7-13.

<sup>948</sup> See section IV.C.9, the Chamber's discussion of the course of the Abok IDP camp attack.

<sup>949</sup> D-0121: [T-213](#), p. 46, lines 1-8.

<sup>950</sup> D-0121: [T-213](#), p. 41, line 16 – p. 42, line 3.

<sup>951</sup> D-0121: [T-213](#), p. 61, line 24 – p. 62, line 4.

<sup>952</sup> When questioned in court, the witness testified that he was abducted on 20 December 2001. D-0121: [T-213](#), p. 9, lines 13-16. During his interview with the Prosecution before his testimony the witness stated that he had been abducted in 2003. See D-0121: [T-213](#), p. 52, line 15 – p. 53, line 4.

<sup>953</sup> D-0121: [T-213](#), p. 52, line 15 – p. 55, line 8.

explanation of the inconsistency.<sup>954</sup> Further, the witness's obstinacy undermined his credibility in the Chamber's view.

545. Fifth, the witness was wrong about the date of the attack on Abok IDP camp.<sup>955</sup> Again, the witness's response when the inconsistency was identified undermined his credibility. He was adamant that the attack occurred on 6 August 2004,<sup>956</sup> the same date advanced by Kenneth Opiyo. Only after repeated questioning did the witness allow he might have been mistaken about the date of the attack on Abok IDP camp.<sup>957</sup>

546. Lastly, regarding Sam Ojede and Kenneth Opiyo's discussion of the Abok attack,<sup>958</sup> Sam Ojede's testimony regarding this contact further undermines his credibility. He first denied speaking with Kenneth Opiyo and only admitted to it when confronted by evidence that made continued denial untenable.<sup>959</sup> The Chamber finds that both the witness's denial of the discussion with Kenneth Opiyo and the discussion itself undermine the credibility and reliability of the witness's testimony.

547. In light of the foregoing, the Chamber found the witness's evidence not credible and not reliable. The Chamber does not rely on his evidence.

*v Charles Opiyo (D-0125)*

548. Charles Opiyo testified live before the Chamber.<sup>960</sup> He testified about joining the Arrow Boys in 2003 in Teso as a former member of the UPDF. He provided information about the establishment of the Arrow Boys, his encounters with the LRA and about witnessing Charles Tabuley's death. The Chamber is satisfied that Charles Opiyo testified credibly about his experiences.

*vi Justine Edeku Ooja (D-0138)*

549. Justine Edeku Ooja is a former Arrow Boys commander, who testified live before the Chamber.<sup>961</sup> He provided a comprehensive narrative of the LRA operation in Teso between 2003 and 2004, the establishment and functioning of the Arrow Boys and his

<sup>954</sup> See D-0121: [T-213](#), p. 52, line 15 – p. 55, line 8.

<sup>955</sup> D-0121: [T-213](#), p. 44, lines 14-18.

<sup>956</sup> D-0121: [T-213](#), p. 44, lines 14-18, p. 58, lines 9-23.

<sup>957</sup> D-0121: [T-213](#), p. 67, line 5 – p. 68, line 5.

<sup>958</sup> See discussion of Kenneth Opiyo's testimony in section IV.B.2.ii.b.xxxv above.

<sup>959</sup> D-0121: T-213-CONF, p. 49, line 16 – p. 50, line 11.

<sup>960</sup> D-0125: [T-242](#).

<sup>961</sup> D-0138: [T-246](#).

role as a commander. The Chamber is satisfied that Justine Edeku Ooja testified credibly about his experiences.

*vii Richard Ebuju (D-0140)*

550. Richard Ebuju, a former member of the Uganda People's Army and commander of the Arrow Boys, testified live before the Chamber.<sup>962</sup> He testified about his experiences in the Uganda People's Army, the attempted alliance between the latter and the LRA and his knowledge of Joseph Kony. Further, the witness provided an account on the functioning of the Arrow Boys in Teso, including detailed information on their command structure. The Chamber is satisfied that the witness testified credibly about his experiences in the Arrow Boys.

*c. Elected official*

*i Lapolo Santos Okot (P-0355)*

551. Lapolo Santos Okot testified live before the Chamber.<sup>963</sup> He is a Resident District Commissioner in Northern Uganda since 2001.<sup>964</sup> Lapolo Santos Okot testified about the security situation in Kitgum during the period relevant to the charges in the present case and his participation in various peace talks during the period relevant to the charges and in 2006, where the accused was also present. He further testified about the presence of children in the LRA. The Defence questioned Lapolo Santos Okot concerning charges of alleged abuse of office against him,<sup>965</sup> with the apparent aim to impugn his credibility in general and specifically with regard to his testimony on the conditions in the IDP camps.<sup>966</sup> The Chamber notes that the witness's answers on this matter were not always straightforward and forthcoming,<sup>967</sup> which can be explained by the content of the subject. The Defence referenced allegations of improper behaviour during the exercise of the witness's public functions. It is not unusual for a witness to try to avoid talking about events that are potentially embarrassing for him- or herself or might affect his or her reputation. However, the Chamber finds that this does not limit the reliability of Lapolo Santos Okot's testimony as a whole. Taking into account the manner of testimony, as

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<sup>962</sup> D-0140: [T-206](#).

<sup>963</sup> P-0355: [T-96](#); [T-97](#).

<sup>964</sup> P-0355: [T-96](#), p. 67, line 24 – p. 68, line 1.

<sup>965</sup> P-0355: [T-97](#), p. 23, line 13 – p. 25, line 21.

<sup>966</sup> P-0355: [T-97](#), p. 25, line 23 – p. 26, line 3.

<sup>967</sup> P-0355: [T-97](#), p. 25, lines 8-21.

well as additional evidence, such as photos, on which the witness commented during his testimony, the Chamber finds the witness believable and credible when Lapolo Santos Okot testified about the various peace talk meetings he attended, as well as seeing the accused and several children in with the LRA on these occasions. Furthermore, there is corroborating evidence concerning the peace talks, which was provided by other witnesses.<sup>968</sup>

d. Other government officers or agents

*i P-0017*

552. P-0017's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>969</sup> P-0017, a police investigator, offered testimony about his experience examining the crime scene of Lukodi IDP camp several days after the May 2004 attack on the camp. The evidence provided by P-0017 was detailed and comprehensive. The witness clearly explained the source of the information provided and his evidence is supported by documentary evidence. P-0017 described what he saw at Lukodi IDP camp when he arrived there the day after the attack, as well as the investigation into the attack, the conclusions reached and the exhumation of 25 bodies.<sup>970</sup> P-0017 elaborated on the methodology and conclusions of the investigations he participated in, providing commentary that indicated a deep knowledge of the events he discussed.<sup>971</sup> In addition, his evidence is internally consistent and also consistent with the testimony of other credible witnesses who testified in these proceedings about the same events.<sup>972</sup>

*ii Martin Kalyemenya (P-0036)*

553. Martin Kalyemenya's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>973</sup> Martin Kalyemenya offered testimony about his experience as a government pathologist<sup>974</sup> examining the persons deceased at Lukodi IDP camp after the May 2004 attack on the camp. The evidence provided by Martin Kalyemenya was

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<sup>968</sup> See P-0009 and P-0372.

<sup>969</sup> P-0017 Statement, UGA-OTP-0036-0007-R01 (public redacted version available: UGA-OTP-0280-0857). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 114-17, p. 107.

<sup>970</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at paras 201-16.

<sup>971</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at paras 204-16.

<sup>972</sup> See the testimonies of P-0036, P-0024, P-0187.

<sup>973</sup> P-0036 Statement, UGA-OTP-0036-0042-R01 (public redacted version available: UGA-OTP-0280-0961). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 109-13, p. 108.

<sup>974</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 9, 18.

comprehensive and detailed. The witness explained that he arrived in Lukodi the day after the attack, and that he identified graves and carried out post-mortem exhumation and examination on 25 bodies of persons deceased in Lukodi IDP camp.<sup>975</sup> The witness explained the source of the information he offers and the documentary evidence provided supports his evidence.<sup>976</sup> Martin Kalyemenya also clearly explained the methodology and procedures observed and gave commentary which left the Chamber convinced as to the veracity of his account and the authenticity of the documents he provided.<sup>977</sup> In addition, his evidence is internally consistent and also consistent with the testimony of other credible witnesses heard in these proceedings.<sup>978</sup>

*iii Timothy Nabaasa Kanyogonya (P-0038)*

554. Timothy Nabaasa Kanyogonya testified live before the Chamber.<sup>979</sup> He testified publicly, without protective measures. Timothy Kanyogonya provided two prior recorded statements which were introduced pursuant to Rule 68(3) of the Rules.<sup>980</sup> The witness testified mainly as to his role as liaison between the Ugandan Ministry of Defence and the UPDF on one side, and the Prosecution on the other, for purposes of providing material collected by Ugandan authorities during the period relevant to the charges to the Prosecution. He described the procedures followed and the nature of the material handed over to the Prosecution. Timothy Kanyogonya's testimony was comprehensive and clear and he offered details that supported the credibility of the information provided.

*vi. Intercept witnesses*

a. Core intercept witnesses: P-0003, P-0016, P-0059 and P-0440

555. The Chamber understands the Prosecution's core intercept witnesses to be the two veteran LRA signallers (P-0016 and P-0440) and the two primary government interceptors (P-0003 and P-0059). All four set out their training and experience at length

<sup>975</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 15-18, 127-42.

<sup>976</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 127-42.

<sup>977</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 15-18, 127-42.

<sup>978</sup> See the testimonies of P-0017, P-0024, P-0187.

<sup>979</sup> P-0038: [T-116](#); [T-117](#).

<sup>980</sup> P-0038 First Statement, UGA-OTP-0069-0784-R01; P-0038 Second Statement, UGA-OTP-0244-0912-R01. See P-0038: [T-116](#), p. 5, line 24 – p. 7, line 17. See also [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 210-13, p. 111.

in their testimonies.<sup>981</sup> All four had the job of understanding how the LRA communicated, and each is very well placed to recognise LRA voices on the radio.<sup>982</sup> The Chamber does not accept the fact that some of these witnesses were engaged in clandestine operations to have any impact in their credibility.<sup>983</sup>

556. The Chamber considers each witness to have testified truthfully on their essential testimony. None of them attempted to incriminate Dominic Ongwen at all costs – all differentiated between communications when Dominic Ongwen spoke and did not speak, none claimed to know everything spoken in every communication, and all qualified their answers to varying degrees when they were uncertain about particular details.<sup>984</sup> This is true even of P-0003, who was demonstrably more aggressive towards (and less forthcoming with) the Defence than the Prosecution.<sup>985</sup>

557. The most important aspect of these witnesses' testimonies is when they discussed specific intercepted communications. The general procedure for a given communication was the following. Prior to testifying, and independently from any other witness: (i) the Prosecution played the recording to each witness and provided a draft transcript it prepared; and (ii) at particular points in the recording identified by the Prosecution, the witness identified the speakers of the lines and made any corrections to the transcript as necessary.<sup>986</sup> Then, during the witness's in-court testimony, the procedure continued: (iii) the Prosecution played the recording to the witness, normally the enhanced audio version; (iv) the witness gave a summary of the recording played without recourse to a transcript;

<sup>981</sup> P-0003: T-42-CONF, p. 8, line 15 – p. 11, line 17; P-0016: T-32-CONF, p. 14, line 1 – p. 16, line 18; P-0059: T-36, p. 7, line 1 – p. 9, line 9; T-38-CONF, p. 15, line 3 – p. 16, line 11; P-0440: T-39-CONF, p. 66, line 5 – p. 70, line 1; T-39, p. 74, line 11 – p. 75, line 1.

<sup>982</sup> P-0003: T-42, p. 12, lines 2-25, p. 47, lines 2-17, p. 72, lines 1-18; P-0016: T-32, p. 19, line 21 – p. 30, line 20, p. 43, lines 4-6; T-35, p. 8, line 21 – p. 11, line 20, p. 25, lines 1-18; P-0059: T-36, p. 57, lines 1-25; T-38-CONF, p. 16, line 12 – p. 22, line 9; T-38, p. 26, line 12 – p. 27, line 6; P-0440: T-40, p. 7, line 10 – p. 14, line 3. On this basis, the Chamber finds the concerns expressed by the Defence unfounded. See [Defence Closing Brief](#), paras 266-298.

<sup>983</sup> See [Defence Closing Brief](#), para. 291.

<sup>984</sup> E.g. P-0003: T-42, p. 86, lines 4-25; T-43, p. 14, lines 11-17, p. 31, lines 8-16; P-0059: T-37, p. 3, lines 5-10, p. 13, lines 12-14, p. 50, lines 16-18; T-38, p. 4, lines 14-16; P-0016: T-32, p. 52, line 22 – p. 53, line 4, p. 61, line 19 – p. 62, line 10, p. 68, lines 11-16; T-33, p. 35, line 21 – p. 36, line 13, p. 45, lines 5-8, p. 55, lines 2-9; P-0440: T-40, p. 21, line 21 – p. 22, line 2, p. 34, line 21 – p. 35, line 1. On this basis, the Chamber does not accept the related argument of the Defence that in particular P-0003 and P-0059 were biased against Dominic Ongwen. See [Defence Closing Brief](#), paras 279, 284-87.

<sup>985</sup> E.g. compare P-0003: T-42, p. 78, line 11 – p. 88, line 17 (identifying voices speaking in recording UGA-OTP-0239-0123 for the Prosecution) with P-0003: T-46, p. 26, line 13 – p. 30, line 2 (refusing to identify the speakers on this same recording during the Defence's examination).

<sup>986</sup> P-0003: T-42, p. 76, line 13 – p. 78, line 10; P-0016: T-32, p. 36, line 12 – p. 39, line 12; T-34, p. 50, lines 2-17; P-0059: T-36, p. 70, line 15 – p. 73, line 4; T-38, p. 23, line 15 – p. 24, line 7.

(v) the Prosecution then showed the witness his annotated transcript, discussing certain lines or annotations; and (vi) the witness confirmed in court whether the recording played matched what appeared in his annotated transcript.<sup>987</sup> A similar in-court procedure unfolded on certain occasions when the Defence played recordings to witnesses.<sup>988</sup>

558. The Chamber considers this procedure to be well-suited to elicit reliable testimony on particular communications. When multiple witnesses commented on a given recording, the extent to which they corroborated each other and the formal logbooks is remarkable. The level of corroboration is such that these witnesses mutually reinforce each other, confirming that all of them are indeed capable of understanding the complex phrasing of LRA communications. This occurred even with those recordings discussed by both government and former LRA witnesses, which is particularly notable. There is no reasonable possibility of the Ugandan government systematically misunderstanding LRA communications when both government and former LRA witnesses understand what is said in the same way. This corroboration further confirms that the formal logbook entries in evidence have a high degree of accuracy.

559. This said, the Chamber notes that none of these witnesses gave indisputably clear evidence on all points. The intercepted communications use so much unusual phrasing that they are difficult to understand without additional evidence. In some instances witnesses contradicted themselves or each other about particular lines or speakers.<sup>989</sup> There were other occasions when a witness could identify information in a recording that another witness was unsure about.<sup>990</sup> The Chamber recognises that struggling to identify certain voices could be due to many factors, including the poor quality of certain recordings, the complexity of LRA communication, and the nearly 15 years which elapsed between an intercepted communication and the testimony about it. It also cannot be excluded that witnesses attempted to identify speakers from context in limited instances, such as hearing a call-sign or signaller and then inconsistently deducing who is speaking.

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<sup>987</sup> See P-0016: [T-32](#), p. 39, line 13 – p. 41, line 25, p. 71, lines 3-12 (explanation of approach); P-0059: [T-36](#), p. 73, line 9 – p. 77, line 2.

<sup>988</sup> E.g., P-0138: [T-121](#), p. 57, line 13 – p. 67, line 4; [T-122](#), p. 5, line 4 – p. 13, line 10; P-0339: [T-134](#), p. 47, line 21 – p. 49, line 6; [T-135](#), p. 15, line 4 – p. 25, line 23.

<sup>989</sup> See e.g. paras 707, 751 and 765 below.

<sup>990</sup> See e.g. para. 758 below.

560. In principle, the Chamber considers that any such issues can be appropriately accounted for by relying only on those parts of the intercepted communications when the witnesses have a consistent understanding on who is speaking and what they are saying. Issues with understanding the recordings have been sufficiently rare that the Chamber is convinced of these witnesses' overall capabilities. Evidence on particular recordings overlapped far more often than they did not, especially on conversation portions of consequence. The divergences themselves speak to the witnesses' credibility – it would be suspicious if every witness had a perfectly mirrored understanding of coded LRA conversations from over a decade ago.
561. None of this is it to say that the Chamber believed what the witnesses said at all times on all points. Some of these points concern such inconsequential matters that may simply have been misunderstandings, such as when P-0059 claimed to have drawn a sketch of the Gulu intercept house when he really had only confirmed the accuracy of another's drawing.<sup>991</sup> The Chamber places similarly little weight on P-0016's confusing explanation as to whether or not he received money for witness related expenses.<sup>992</sup>
562. Not every such issue can be explained as a misunderstanding. The Chamber notes P-0003's refusal to acknowledge that another officer raised a personnel complaint against him,<sup>993</sup> despite there being clear evidence this occurred.<sup>994</sup> The Chamber considers this to be P-0003 evading a potentially embarrassing matter he must have been aware of.<sup>995</sup> But this complaint is unrelated to P-0003's primary testimony on interpreting intercepted LRA radio communications. The Chamber believes this primary testimony, noting in particular that other witnesses corroborate P-0003's assessments of discrete communications in nearly all aspects. The Chamber considers this to be a situation where P-0003's testimony is credible and reliable on matters beyond this particular issue.
563. Similar considerations apply to discrepancies as to how much P-0003, P-0059 and other government interceptors discussed communications across agencies. The UPDF and ISO

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<sup>991</sup> P-0059: T-38-CONF, p. 32, line 14 – p. 38, line 13; [T-39](#), p. 54, line 20 – p. 58, line 12 (commenting on UGA-OTP-0258-0721-R01). The Chamber notes the Defence submission in this regard, but considers that the Defence overstated the importance of the discrepancy. *See* [Defence Closing Brief](#), para. 281.

<sup>992</sup> P-0016: T-34-CONF, p. 25, line 9 – p. 30, line 15.

<sup>993</sup> P-0003: T-44-CONF, p. 61, line 4 – p. 78, line 22.

<sup>994</sup> Letter, UGA-OTP-0242-0219. *See also* P-0059: [T-36](#), p. 43, lines 10-24; T-38-CONF, p. 39, line 17 – p. 43, line 13.

<sup>995</sup> *Consistent with* [Defence Closing Brief](#), para. 288.

in Gulu worked in the same building, and were under orders not to discuss their intercept operations with each other.<sup>996</sup> P-0003 and P-0059 testified that no such UPDF-ISO contacts occurred.<sup>997</sup> Despite this, many witnesses believably said that the UPDF and ISO personnel – including P-0003 and P-0059 – would sometimes help each other to understand the meaning of certain parts of communications.<sup>998</sup> The Chamber considers the desire to compare findings to be a natural impulse in these circumstances, noting further that these other witnesses have no reason to lie on this point. This said, the Chamber again considers that this kind of issue does not detract from the fact that both P-0003 and P-0059 demonstrated their independent ability to understand LRA communications during their testimony.<sup>999</sup>

564. The Chamber also considers that other witnesses who testified about intercepted communications gave credible and reliable testimony which reinforced the testimony of the core witnesses. These witnesses include Patrick Lumumba Nyero, P-0138, P-0339 and the various witnesses whose prior recorded testimony were introduced under Rule 68(2)(b) of the Rules.

565. Patrick Lumumba Nyero gave a detailed account of the more limited intercept operation executed from the Kamdini Police Station.<sup>1000</sup> His police logbook is not prepared as systematically as those of the UPDF and ISO, but the overlap between these entries and those of the other interceptors again confirms the ability of this witness to understand LRA radio communications.

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<sup>996</sup> P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 27; P-0029 First Statement, UGA-OTP-0027-0231-R01, at para. 27; P-0339: [T-134](#), p. 21, line 7 – p. 22, line 2; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 35; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 18.

<sup>997</sup> P-0003: [T-42](#), p. 17, line 24 – p. 18, line 5 ('Q. Did you ever have any interaction with personnel from the Internal Security Organisation? A. No. We were not allowed to. We were prohibited. You know, the intelligence prohibits us from sharing information. If we send the information to the superiors, I suppose that there is a way that they analyse the information, but at the moment – but in the performance of our jobs we are not allowed to share information. '); T-44-CONF, p. 34, lines 1-22; P-0059: [T-36](#), p. 41, line 25 – p. 42, line 23.

<sup>998</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 50; P-0032 First Statement, UGA-OTP-0069-0796-R01, at paras 18, 26; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 40; P-0291 Statement, UGA-OTP-0246-0061-R01, at paras 55-56; P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 23; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 44-46; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 18. *See also* P-0126 First Statement, UGA-OTP-0253-0764-R01, at paras 51-52 (police in Gulu would sometimes compare interception notes with UPDF/ISO as well).

<sup>999</sup> *See also* para. 661 below.

<sup>1000</sup> *See* para. 631 below. *See also* para. 582 below.

566. P-0138 and Francis Ocen (D-0100) are other former LRA soldiers with knowledge about signalling.<sup>1001</sup> The Chamber considers both to have a sound basis for knowledge about LRA radio communication, and found their testimony on such matters to be truthful and reliable. This extends to P-0138's testimony discussing certain intercepted recordings at the behest of both parties in court, following a procedure similar to the one used for the core intercept witnesses.<sup>1002</sup>

- b. ISO interception operation: P-0027, P-0032, P-0291, P-0301, P-0303, P-0384, P-0385 and P-0386

567. P-0027's prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1003</sup> During the period of the charges, P-0027 worked as an officer for the Ugandan Internal Security Organisation (the 'ISO') and, based in Kampala, was the superior to the ISO interception operation in Gulu. He gave evidence on the ISO operation concerned with intercepting LRA radio communications, which he set up in the 1990s, and also provided ISO intercept materials to the Prosecution. The Chamber notes that P-0027 testified that the tape recorder used by the ISO intercepting staff in Gulu was voice-operated,<sup>1004</sup> while some of the ISO intercepting staff themselves indicated that they manually operated the tape recorder.<sup>1005</sup> However, in particular, and bearing in mind that he was based in Kampala and did not listen to and intercept LRA radio communications himself, the Chamber finds that this minor difference in the testimonies does not affect the reliability of P-0027's account.<sup>1006</sup> The Chamber considers that P-0027's testimony was comprehensive and clear, offering details that supported the credibility of the information provided.

<sup>1001</sup> P-0138: T-120-CONF, p. 15, line 7 – p. 16, line 21; T-121-CONF, p. 42, line 7 – p. 44, line 12; D-0100: [T-234](#), p. 16, line 21 – p. 20, line 14, p. 26, line 21 – p. 31, line 12, p. 45, line 6 – p. 46, line 13.

<sup>1002</sup> P-0138: [T-120](#), p. 54, line 8 – p. 68, line 14; [T-121](#), p. 57, line 11 – p. 60, line 25; [T-122](#), p. 5, line 4 – p. 15, line 3.

<sup>1003</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01 (public redacted version available: UGA-OTP-0280-0890); P-0027 Second Statement, UGA-OTP-0249-0444-R01 (public redacted version available: UGA-OTP-0280-0895). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 154-58, p. 108.

<sup>1004</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at para. 10. See also [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#), para. 114.

<sup>1005</sup> P-0032 First Statement, UGA-OTP-0069-0796-R01, at para. 12; P-0059: [T-36](#), p. 37, lines 17-20; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 38; P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 42.

<sup>1006</sup> The Chamber also notes in this regard that the tape recorder which P-0301 – who stated that he operated the tape recorder manually – identified as being the recorder which he used to tape LRA radio communications (see P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 32(d); Photo, UGA-OTP-0244-3336) bears a print reading 'voice-operated recording', but at the same time clearly has a 'record'-button, in addition to the 'pause', 'play', 'stop', 'fast forward', and 'rewind'-buttons.

568. P-0032's prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1007</sup> P-0032 supervised the ISO interception staff in Gulu and provided details on this operation, as well as some general information on the LRA from his perspective as intelligence officer. He further made some ISO interception material available to the Prosecution. The Chamber finds P-0032's testimony clear and comprehensive, offering details that supported the credibility of the information provided. The witness's testimony is credible and reliable.

569. P-0291's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1008</sup> For a significant part of the period of the charges, P-0291 was involved in the ISO operation in Gulu intercepting LRA radio communications, and he testified about the details of the interception process. He also provided some limited evidence regarding the UPDF direction-finding operation. While it is not entirely clear until when P-0291 stayed in Gulu,<sup>1009</sup> the Chamber finds that overall P-0291's testimony was clear and comprehensive. The witness offered details supporting the information provided.

570. P-0301's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1010</sup> He was involved in the ISO interception operation in Gulu mostly before the

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<sup>1007</sup> P-0032 First Statement, UGA-OTP-0069-0796-R01 (public redacted version available: UGA-OTP-0280-0933); P-0032 Second Statement, UGA-OTP-0150-0030-R01 (public redacted version available: UGA-OTP-0280-0939); P-0032 Third Statement, UGA-OTP-0246-0003-R01 (public redacted version available: UGA-OTP-0280-0945). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 163-67, p. 108. The Chamber clarifies that, as anticipated in its decision allowing introduction of the witness's statements pursuant to Rule 68(2)(b) of the Rules, it has not considered for purposes of the present judgment the discrete part of the second statement in which the witness refers to Dominic Ongwen's role and actions at the time the statement was taken (see [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), para. 163, n. 291 referring to P-0032 Second Statement, UGA-OTP-0150-0030-R01, at para. 8 (first sentence)).

<sup>1008</sup> P-0291 Statement, UGA-OTP-0246-0061-R01 (public redacted version available: UGA-OTP-0280-1038). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 171-74, p. 110.

<sup>1009</sup> See also para. 574 below. The Chamber further notes in this context that P-0291 testified that the UPDF did not intercept from the same house as ISO while he was still working in Gulu (P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 55), while other evidence suggests that the staff working on the UPDF interception operation moved to the same facility as ISO either in 2003 (P-0032 Third Statement, UGA-OTP-0246-0003-R01, at paras 21(d), 40; P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 25 (stating that when the UPDF direction-finding team in about 2003 moved into the building from which P-0003 used to intercept, P-0003 with the interception team moved to the intercept building)) or in about 2004-05 (P-0003: [T-42](#), p. 18, line 24 – p. 19, line 2; P-0027 First Statement, UGA-OTP-0207-0256-R01, at para. 7 (indicating that at the time of the statement, February 2005, the ISO and UPDF interception operations were housed in the same building); P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 20).

<sup>1010</sup> P-0301 Statement, UGA-OTP-0249-0423-R01 (public redacted version available: UGA-OTP-0280-1051). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 175-77, p. 110. The Chamber clarifies that, as anticipated in its decision allowing introduction of the witness's statement pursuant to Rule 68(2)(b) of the Rules, it has not considered for purposes of the present judgment the discrete part of the statement in which the witness refers to Dominic Ongwen's alleged responsibility for the attacks on Lukodi and Odek IDP camps (see [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 175-76).

period relevant to the charges, as he left Gulu in August 2002. P-0301 provided testimony concerning the ISO interception procedure and also testified about his investigation of the attacks on Lukodi and Odek IDP camps. The Chamber finds the witness's testimony detailed, clear and supported by the related documents.

571. P-0303's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1011</sup> P-0303 supervised the ISO staff in Gulu intercepting LRA radio communications between 2000 and 2003, after which he transferred to Kampala where he received the information faxed from Gulu. He did not personally listen to LRA radio communications. P-0303 also provided some intercept material to the Prosecution. The Chamber finds that P-0303's testimony was clear and comprehensive, offering details that supported the credibility of the information provided.
572. P-0384's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1012</sup> P-0384 was an ISO radio operator who was, during the period relevant to the charges, briefly involved in the interception operation in Gulu and then in Kampala, although not directly participating in the actual interception of radio communications. P-0384 was also involved in direction-finding activities, but did not provide specific information in this regard. The Chamber notes that P-0384 indicated that P-0301 joined the interception team in Gulu after 1997,<sup>1013</sup> which does not accord with the evidence provided by either P-0301 himself<sup>1014</sup> or his superiors.<sup>1015</sup> However, aside from this minor detail, the Chamber finds that P-0384's testimony was clear and internally consistent.
573. P-0385's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1016</sup> Throughout the period of the charges, P-0385 was stationed in Kampala and

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<sup>1011</sup> P-0303 Statement, UGA-OTP-0258-0723-R01 (public redacted version available: UGA-OTP-0280-1065). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 178-81, p. 110.

<sup>1012</sup> P-0384 Statement, UGA-OTP-0260-0491-R01 (public redacted version available: UGA-OTP-0280-1105). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 190-92, p. 110.

<sup>1013</sup> P-0384 Statement, UGA-OTP-0260-0491-R01, at paras 17, 19.

<sup>1014</sup> P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 19 (testifying that he transferred from Kampala, where he had been since 1995, to Gulu in 1996).

<sup>1015</sup> P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 18(b) (testifying that he recruited P-0301 in about 1995); P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 23(e) (testifying that P-0301 started intercepting in about 1994 or 1995).

<sup>1016</sup> P-0385 Statement, UGA-OTP-0260-0498-R01 (public redacted version available: UGA-OTP-0280-1111). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 193-95, p. 110.

tasked with receiving and recording the information sent by the ISO interception team based in Gulu. The witness's testimony was detailed and clear and offered details that supported the credibility of the information provided.

574. P-0386's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1017</sup> P-0386 worked with the ISO interception team in Gulu and described his involvement in and the details of the operation intercepting LRA radio communications. The Chamber notes that P-0386 stated that he went to Gulu in order to replace P-0291 who transferred to Kampala, but that it appears from the witnesses' evidence that the time during which they worked in Gulu may have overlapped.<sup>1018</sup> Having examined entries in ISO logbooks regarding which P-0386 identified his own handwriting, the Chamber concludes that it is indeed likely that the stay in Gulu of P-0386 and P-0291, respectively, may indeed have partially overlapped.<sup>1019</sup> In any event, this does not otherwise affect the substance of P-0386's testimony or his general credibility. Furthermore, the Chamber takes note of [REDACTED]  
[REDACTED].<sup>1020</sup> [REDACTED]  
[REDACTED]  
[REDACTED].<sup>1021</sup> The Chamber finds that this does not affect the

<sup>1017</sup> P-0386 Statement, UGA-OTP-0260-0508-R01 (public redacted version available: UGA-OTP-0280-1119). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 196-99, p. 110.

<sup>1018</sup> Compare P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 17 (stating that he transferred to Gulu in about September 2003 to replace P-0291 who went to Kampala, and that he is certain about the date because he recalls being in Gulu when hearing about the death of Tabuley) with P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 19 (stating that he worked at Gulu station for about one year after Tabuley's death). See also P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 23(c) (stating that P-0386 joined the operation in Gulu in about 2002).

<sup>1019</sup> See, for example, ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0024 (entry of 5 November 2003); ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0007 (entry of 19 January 2004); ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0237 (entry of 19 April 2004); ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0020 (entry of 7 June 2004); ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0149 (entry of 30 July 2004); ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0005-06, 0012-13 (entries of 24, 27 October 2004). At the same time, P-0386 reviewed ISO Logbook (Gulu), UGA-OTP-0232-0234 and indicated that it does not include his handwriting (see P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(k)). This logbook covers the period from 2 August to 26 October 2003. The Chamber further notes in this context that P-0291 was not shown any logbook entries on which to identify his handwriting, but does not attach further consequence to this, in particular bearing in mind that both P-0291 himself and P-0032 testified that he stopped making entries in the logbooks when the UPDF 4<sup>th</sup> Division commander complained about his poor handwriting; P-0032 instead transferred P-0291's intercepts to the logbook (see P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 31; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 46).

<sup>1020</sup> P-0386 Statement, UGA-OTP-0260-0508-R01, at paras 35-36.

<sup>1021</sup> [REDACTED]  
[REDACTED]

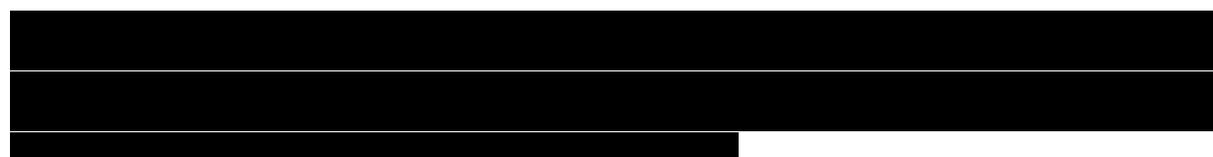
witness's general credibility. Overall, and in any event as concerns the subject matter of his testimony – namely the details of the ISO interception operation – the Chamber finds that the witness's testimony was clear, comprehensive, and offered details that supported the credibility of the information provided.

575. The Chamber considers that the witnesses' testimonies were clear and internally consistent and also were generally mutually consistent as well as consistent with other reliable evidence.<sup>1022</sup>

c. UPDF interception operation: P-0029, P-0337, P-0339, P-0400 and P-0404

576. P-0029's prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1023</sup> P-0029 was part of the UPDF technical intelligence department and oversaw the UPDF interception of LRA radio communications, which he described in detail. He also gave evidence on the UPDF direction-finding operation. The Chamber finds that P-0029's testimony was clear and comprehensive, offering details that supported the credibility of the information provided.

577. P-0337's prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1024</sup> P-0337 headed the UPDF direction-finding team in Gulu until it was disbanded in June 2005 and provided details on this process. As of 2003, P-0337 also took control of the static interception team in Gulu, as well as administrative control over all UPDF interception operations in Northern Uganda. The Chamber notes that certain smaller aspects of P-0337's testimony are somewhat unclear, specifically when P-0337 started



<sup>1022</sup> See the testimony of P-0059.

<sup>1023</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01 (public redacted version available: UGA-OTP-0280-0907); P-0029 Second Statement, UGA-OTP-0267-0455 (public redacted version available: UGA-OTP-0280-0919). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 159-62, p. 108.

<sup>1024</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01 (public redacted version available: UGA-OTP-0280-1073); P-0337 Second Statement, UGA-OTP-0267-0445-R01 (public redacted version available: UGA-OTP-0280-1085). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 182-85, p. 110.

working in Gulu<sup>1025</sup> and which role he recalled P-0400 to have,<sup>1026</sup> but considers that these points do not affect the reliability of the witness's evidence as they are easily explained by divergences in the personal memories of different witnesses, in particular bearing in mind the passage of time. In any event, this does not impact on the substance of P-0337's testimony, which was detailed and comprehensive. He offered details to be expected from a witness in his position, supporting the credibility of the information provided.

578. P-0339 testified live before the Chamber with protective measures.<sup>1027</sup> P-0339, as member of the UPDF, worked on intercepting LRA radio communications as of 1996 in Gulu, Achol Pii, Soroti and Lira. He described the process of listening to, recording of and reporting on LRA radio communications, and identified his handwriting in some logbook entries. The Chamber notes some discrepancies pointed out between the witness's prior statement and his testimony in court, specifically as concerns his relation with P-0003,<sup>1028</sup> as well as the identification of his handwriting in a UPDF logbook.<sup>1029</sup> In relation to the first matter, the Chamber considers that even if there may have been personal animosities at times, there is no indication that this would have impacted either witness's interception activities. With regard to the second point, the Chamber refers to its discussion in the general intercepts section.<sup>1030</sup> The Chamber finds that, bearing in mind the testimony of the witness in court, these differences do not affect the general reliability of the information provided by the witness or his overall credibility. While the witness may, at times during his testimony, have been slightly less responsive to some questions than others, he clearly did answer questions of both parties to the best of his abilities and knowledge. In general, especially as regards the substance of his testimony

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<sup>1025</sup> See P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 16 (testifying that he came to Gulu at some point after August 2001); P-0029 Second Statement, UGA-OTP-0267-0455, at para. 55 (stating that the direction-finding operation was set up in about December 1999); P-0339: [T-134](#), p. 20, lines 18-20 (indicating that P-0337 came to Gulu in 2000).

<sup>1026</sup> Compare P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 36(f) (testifying that P-0400 came to Gulu to support P-0003 after P-0339 moved to Achol Pii, and that before coming to Gulu, P-0400 did interception work at the brigade level) with P-0400 Statement, UGA-OTP-0264-0015-R01, at paras 27-29, 32-34 (testifying that while he also worked for several months in Gulu, he was part of a mobile interception team which intercepted in Kitgum, Achol Pii and Lira).

<sup>1027</sup> P-0339: [T-134](#); [T-135](#).

<sup>1028</sup> See P-0339: [T-135-CONF](#), p. 5, line 21 – p. 6, line 3, p. 8, line 2 – p. 9, line 18.

<sup>1029</sup> See P-0339: [T-135](#), p. 13, line 11 – p. 14, line 6.

<sup>1030</sup> See para. 659 (iv), n. 1209 below.

on the UPDF interception efforts, P-0339's testimony was clear and comprehensive, offering details that supported the credibility of the information provided.

579. P-0400's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1031</sup> P-0400 was part of a mobile UPDF interception team which intercepted LRA radio communications from Kitgum, Achol Pii and Lira. He briefly also assisted the UPDF interception in Gulu and intercepted LRA communications while being deployed to southern Sudan for several months in 2004-05. The Chamber finds that the witness's testimony was clear, detailed and comprehensive.
580. P-0404's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1032</sup> P-0404 was mainly involved in the UPDF direction-finding activities, but also worked for some time on the UPDF interception team in Gulu. The witness's testimony was detailed and clear, with details which supported the credibility of the information provided.
581. The Chamber considers that the witnesses' testimonies were clear and internally consistent and also were generally mutually consistent as well as consistent with other reliable evidence.<sup>1033</sup>

d. Police interception operation: Patrick Lumumba Nyero (P-0125), P-0126 and P-0370

582. Patrick Lumumba Nyero testified live before the Chamber.<sup>1034</sup> Between July 2003 and 2010, Patrick Nyero was stationed at Kamdini police station, where he worked, between September 2003 and some point in 2007, on intercepting LRA radio communications. He described listening to LRA radio communications, identified handwritten notes prepared by him in the process, and reporting the communications to his superiors. Patrick Nyero was a calm, knowledgeable and direct witness. His testimony was to the point, logical and internally consistent. The Chamber notes a small discrepancy between the evidence provided by Patrick Lumumba Nyero and P-0370 as concerns how the

<sup>1031</sup> P-0400 Statement, UGA-OTP-0264-0015-R01 (public redacted version available: UGA-OTP-0280-1129). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 200-02, p. 110.

<sup>1032</sup> P-0404 Statement, UGA-OTP-0267-0470-R01 (public redacted version available: UGA-OTP-0280-1139). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 203-05, p. 110.

<sup>1033</sup> See the testimony of P-0003.

<sup>1034</sup> P-0125: [T-135](#); [T-136](#).

police interception operation in Kamdini initially started.<sup>1035</sup> However, considering that the remainder of their testimonies are consistent with regard to the details of the police interception operation in Kamdini, the Chamber attaches no further importance to this discrepancy and considers this not to affect the reliability of either witness's testimony.

583. P-0126's prior recorded statements were introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1036</sup> During the period of the charges, P-0126 was a member of the Ugandan police, special branch, and provided evidence on the police interception of LRA radio communications mainly in Kamdini, which he supervised, as well as on general intelligence gathering activities of the Ugandan police. Also, P-0126 provided material from the police interception operation to the Prosecution. The Chamber notes a difference in the way in which P-0126 described P-0370's role in Kamdini and P-0370's own description thereof.<sup>1037</sup> However, in light of the evidence provided by Patrick Nyero, who worked with P-0370,<sup>1038</sup> and considering that it is likely, on the basis of the witnesses' testimonies, that P-0126 may not have been fully aware of P-0370's involvement on the ground, the Chamber relies on P-0370's own description of his role and does otherwise not consider this to affect P-0126's overall credibility. This is further based on the fact that the general substance of P-0126's testimony was clear and comprehensive, offering details that supported the credibility of the information provided.

584. P-0370's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1039</sup> P-0370, a police officer, worked between 2002 and 2006 in Kamdini on

<sup>1035</sup> Compare P-0125: [T-135](#), p. 66, lines 2-13, p. 80, lines 14-19; [T-136](#), p. 6, lines 13-15, p. 7, lines 14-19 (testifying that he learned about the LRA frequency in use upon his arrival to Kamdini from P-0370 and that someone else at Kamdini had been listening to LRA communications before his arrival, without, however, taking any notes) with P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 26 (testifying that he and Patrick Nyero discovered together, by chance, that they could intercept LRA radio communications). The Chamber also notes in this regard that P-0126 stated that he first heard about the possibility to intercept LRA radio communications from Patrick Nyero, but that he did not know how Patrick Nyero had discovered this (see P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. 39).

<sup>1036</sup> P-0126 First Statement, UGA-OTP-0253-0764-R01 (public redacted version available: UGA-OTP-0280-1011); P-0126 Second Statement, UGA-OTP-0264-0002-R01 (public redacted version available: UGA-OTP-0280-1026). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 168-70, p. 109.

<sup>1037</sup> Compare P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. [REDACTED] with P-0370 Statement, UGA-OTP-0258-0687-R01, at paras 22-45 (testifying about working on radio monitoring with Patrick Nyero between 2002 or 2003 and 2006).

<sup>1038</sup> See P-0125: [T-135](#), p. 55, lines 18-22, p. 65, lines 21 – p. 66, line 13; [T-136](#), p. 10, line 21 – p. 11, line 8.

<sup>1039</sup> P-0370 Statement, UGA-OTP-0258-0687-R01 (public redacted version available: UGA-OTP-0280-1094). See [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 186-89, p. 110.

intercepting LRA radio communications, in addition to his general duties as police officer, and provided details on the interception process. With regard to the question of the extent of the witness's involvement in intercepting LRA radio communications as stated by P-0126, the Chamber refers to its discussion above.<sup>1040</sup> As concerns P-0370, the Chamber finds that his testimony was detailed and clear and offered details which supported the credibility of the information provided.

585. Furthermore, the Chamber points out that the witnesses' testimonies were clear and internally consistent and, in addition to the individual assessment, also were generally mutually consistent.

e. Audio enhancement: Alan Robert French (P-0242) and Xavier Laroche (P-0256)

586. Alan Robert French testified live before the Chamber.<sup>1041</sup> The witness also provided a prior recorded statement, which was submitted under Rule 68(3) of the Rules.<sup>1042</sup> He described the process of enhancing a number of audio recordings he was provided with by the Prosecution and talked about the technical details involved with audio enhancement in general, as well as looking at some specific examples related to the audio recordings of LRA radio communications. Alan French was particularly knowledgeable, forthright and forthcoming in his testimony and provided differentiated answers. His testimony was comprehensive and filled with details of a nature that illustrated his expertise in the field of audio enhancement.

587. Xavier Laroche testified live before the Chamber.<sup>1043</sup> He also provided a prior recorded statement, which was submitted under Rule 68(3) of the Rules.<sup>1044</sup> Similar to Alan French, who in fact trained the witness in using the relevant forensic system, Xavier Laroche enhanced, together with another colleague, the audio recordings of some LRA radio communications intercepted by Ugandan authorities and described which procedures were applied. While the witness himself made clear that he is not, as such, an expert in audio enhancement, Xavier Laroche plainly answered all questions to the best of his

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<sup>1040</sup> See para. 583 above.

<sup>1041</sup> P-0242: [T-128](#).

<sup>1042</sup> P-0242 Statement, UGA-OTP-0261-0333-R01. See P-0242: [T-128](#), p. 4, line 23 – p. 6, line 18. See also [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), para. 209, p. 111.

<sup>1043</sup> P-0256: [T-119](#).

<sup>1044</sup> P-0256 Statement, UGA-OTP-0269-0015. See P-0256: [T-119](#), p. 8, line 6 – p. 10, line 2. See also [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), para. 209, p. 111.

knowledge and ability. He was detailed, straightforward and forthcoming in his testimony.

588. The Chamber considers that the witnesses' testimonies were internally consistent and mutually consistent.

f. Prosecution analysis of intercept materials: P-0403

589. P-0403 testified live before the Chamber with protective measures.<sup>1045</sup> The witness, a member of the Situation Analysis Section within the Prosecution, discussed a report which contains his analysis of the body of evidence collected by the Prosecution in relation to the interception of LRA radio communications by Ugandan authorities, as well as information on how the collection of this evidence took place and the evidence was registered by the Prosecution. P-0403 was forthcoming in his testimony and the information he provided was comprehensive. His evidence, as such, was of limited value to the Chamber's consideration of the charges.<sup>1046</sup>

vii. *Witnesses on Dominic Ongwen's personal background*

a. Joe Kakanyero (D-0007)

590. Joe Kakanyero, a local councillor in Coorom, Uganda and relative of the accused, testified live before the Chamber.<sup>1047</sup> He testified about being abducted together with Dominic Ongwen, and provided a comprehensive and clear testimony in a narrative manner.

b. Johnson Odong (D-0008)

591. Johnson Odong's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1048</sup> Johnson Odong, Dominic Ongwen's uncle, testified about the accused's childhood and subsequent abduction in 1987. He also gave an account of subsequent events, such as the killings of Dominic Ongwen's parents. His testimony was simple, without artifice, and credible.

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<sup>1045</sup> P-0403: [T-30](#); [T-31](#).

<sup>1046</sup> See also para. 685 below.

<sup>1047</sup> D-0007: [T-193](#).

<sup>1048</sup> D-0008 Statement, UGA-D26-0010-0307 (public redacted version available: UGA-D26-0010-0307-R01). See [Decision on the Defence Request under Rule 68\(2\)\(b\)](#), at paras 7-8, p. 12.

c. P'Atwoga Okello (D-0012)

592. P'Atwoga Okello's prior recorded statement was introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1049</sup> He was a teacher at Alero Primary School at the time of Dominic Ongwen's abduction, and testified about his knowledge of Dominic Ongwen before his abduction, as well as about the abduction itself. It is noted that P'Atwoga Okello further testified that he was an uncle of the accused. His testimony was simple and without artifice. The Chamber is satisfied that the witness testified credibly.

viii. *Expert witnesses*

a. Mental health expert witnesses

593. The issue of Dominic Ongwen's mental health at the time relevant for the charges, and in particular the possible presence of a mental disease or defect, is a live issue in the case. Five expert witnesses prepared reports and gave oral testimonies before the Chamber: Dr Catherine Abbo (P-0445), Professor Gillian Mezey (P-0446), Professor Roland Weierstall-Pust (P-0447), Dr Dickens Akena (D-0041) and Professor Emilio Ovuga (D-0042). In a dedicated section below, the Chamber lays out its analysis of the evidence provided by the experts, including as concerns the reliability of their reports and conclusions.<sup>1050</sup>

b. Other expert witnesses

i. *Professor Ate Kloosterman (P-0414)*

594. Professor Kloosterman is a forensic reporting expert at the Netherlands Forensic Institute, who testified live before the Chamber.<sup>1051</sup> Ate Kloosterman provided expert reports, which were submitted under Rule 68(3) of the Rules.<sup>1052</sup> Professor Kloosterman testified about his analysis of the kinship between Dominic Ongwen and twelve children. Further, he offered detailed information about the DNA testing process and the interpretation of

<sup>1049</sup> D-0012 Statement, UGA-D26-0010-0336 (public redacted version available: UGA-D26-0010-0336-R01). See [Decision on the Defence Request under Rule 68\(2\)\(b\)](#), at paras 7-8, p. 12.

<sup>1050</sup> See section IV.D.1 below.

<sup>1051</sup> P-0414: [T-137](#).

<sup>1052</sup> P-0414 First Report, UGA-OTP-0278-0529; P-0414 Second Report, UGA-OTP-0265-0106; P-0414 Third Report, UGA-OTP-0267-0160. See [Decision on Prosecution Applications under Rule 68\(3\)](#), paras 29-30, p. 19. See also P-0414: [T-137](#), p. 3, line 23 – p. 6, line 17.

his findings, which were also not contested by the Defence. His expert testimony is fully reliable, and the Chamber relies on it.

*ii Professor Tim Allen (P-0422)*

595. Professor Allen testified live before the Chamber and his Independent Background Report on the Situation in Northern Uganda was introduced under Rule 68(3) of the Rules.<sup>1053</sup> Professor Allen is a professor in Development Anthropology and Head of the Department of International Development at the London School of Economics, United Kingdom. He provided general background information on the origins of the LRA, development into a politico-military force and the historic and continuing effect the LRA activities have upon the civilian population in Uganda. His expert testimony, which was not contested, is credible and reliable.

*iii Professor Kristof Titeca (D-0060)*

596. Professor Kristof Titeca testified live before the Chamber.<sup>1054</sup> He is a Professor for International Development at the Institute of Development and Policy Management at the University of Antwerp, Belgium. He provided an expert report, which was introduced pursuant to Rule 68(3) of the Rules.<sup>1055</sup>

597. Professor Titeca testified about his previous work on the LRA and elaborated on the concepts, methodology and conclusions of his expert report on the ‘cosmological space of the LRA’.<sup>1056</sup> His testimony was candid, comprehensive and clear. However, the Chamber also notes that Professor Titeca did not question the statements made to him about the spiritual influence on LRA fighters and did not consider it to be his role to make a judgment about the truthfulness or falsity of the statements. As such, his evidence is only of very limited value in the present proceedings, especially given the abundance of direct evidence of witnesses.

<sup>1053</sup> P-0422: [T-28](#); P-0422’s report, UGA-OTP-0270-0004. *See also* p. 3, lines 1-14.

<sup>1054</sup> D-0060: [T-197](#).

<sup>1055</sup> D-0060 Report, UGA-D26-0018-3901. *See also* D-0060: [T-197](#), p. 10, line 20 – p. 12, line 19.

<sup>1056</sup> D-0060 Report, UGA-D26-0018-3901.

*iv Professor Adam Branch (D-0139)*

598. Professor Adam Branch is a Professor for Politics and International Studies at the University of Cambridge, United Kingdom, who testified live before the Chamber.<sup>1057</sup> He also provided an expert report, which was submitted pursuant to Rule 68(3) of the Rules.<sup>1058</sup> He offered in particular a detailed account on the economic and security situation in IDP camps. However, his evidence is mostly based on indirect sources and literature, and his own personal experience relates primarily to the situation in Pabbo camp, which is not directly relevant to the charges of the present case. For this reason, in the presence of ample more direct evidence on the situation in IDP camps in Northern Uganda at the relevant time generally, and specifically in relation to the Pajule, Odek, Lukodi and Abok IDP camps, the Chamber does not rely on Professor Adam Branch.

*v Dr Teddy Atim (V-0001)*

599. Dr Teddy Atim, a researcher from Northern Uganda at the Feinstein International Center at the Tufts University, United States of America, testified live before the Chamber.<sup>1059</sup> She provided a joint expert report with Anastasia Marshak, Dyan Mazurana and Jordan Farrar, which was submitted under Rule 68(3) of the Rules.<sup>1060</sup> Dr Atim's expert report constitutes an assessment of the physical, material and psychosocial effects of the attacks on Odek IDP camp, Lukodi IDP camp and Abok IDP camp on the victims. The report is based on interviews with 396 victims participating in the present case (Victimization Assessment Survey). Findings are compared to a survey on the entire population in Acholi and Lango sub-regions in the same period (Secure Livelihoods Research Consortium Uganda Survey). Dr Atim elaborated on the methods applied in the report as well as on the findings of the report, including relevant information about the victims' mental and physical well-being before, during and after the attacks. Her testimony was candid, clear and comprehensive. The Chamber notes her evidence, but also observes that it does not directly underlie any part of the Chamber's analysis as to whether the facts alleged in the charges are established.

<sup>1057</sup> D-0139: [T-218](#).

<sup>1058</sup> D-0139 Report, UGA-D26-0015-1172. *See also* D-0139: [T-218](#), p. 5, line 22 – p. 6, line 12.

<sup>1059</sup> V-0001: [T-174](#).

<sup>1060</sup> V-0001 Report, UGA-V40-0001-0010. *See also* V-0001: [T-174](#), p. 7, line 11 – p. 8, line 19.

*vi Professor Daryn Reicherter (PCV-0001)*

600. Daryn Reicherter testified live before the Chamber.<sup>1061</sup> He provided an expert report, which was submitted under Rule 68(3) of the Rules.<sup>1062</sup> Professor Reicherter is a clinical professor for psychiatry and behavioural sciences at Stanford University School of Medicine, United States of America. He testified about a report he elaborated together with Ryan Matlow and the Human Rights in Trauma Mental Health Laboratory at Stanford University on mental health outcomes of rape and other forms of sexual violence, forced marriage and forced pregnancy. His testimony offered a detailed account of the methodology and terminology adopted by the report and its outcomes. Professor Reicherter's testimony was comprehensive, structured, clear and specific. He offered in particular information on the psychological impact of rape and other forms of sexual violence on men and women in the cultural context of the charged crimes. The Chamber notes his evidence, but also observes that it does not directly underlie any part of the Chamber's analysis as to whether the facts alleged in the charges are established.

*vii Professor Michael Wessells (PCV-0002)*

601. Michael Wessells testified live before the Chamber.<sup>1063</sup> He provided an expert report, which was submitted under Rule 68(3) of the Rules.<sup>1064</sup> Professor Wessells is a professor of clinical population and family health at Columbia University, United States of America. He testified about his report on the psychological, social, developmental and behavioural consequences of enlistment, conscription and use of children under the age of 15 to participate actively in hostilities. His expert report is based on the testimonies of witnesses and the application forms of the victims represented by the Common Legal Representative of Victims. The Chamber notes his evidence, but also observes that it does not directly underlie any part of the Chamber's analysis as to whether the facts alleged in the charges are established.

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<sup>1061</sup> PCV-0001: [T-175](#).

<sup>1062</sup> PCV-0001 Report, UGA-PCV-0001-0020. *See also* PCV-0001: [T-175](#), p. 18, line 2 – p. 20, line 20.

<sup>1063</sup> PCV-0002: [T-176](#).

<sup>1064</sup> PCV-0002 Report, UGA-PCV-0002-0076. *See also* PCV-0002: [T-176](#), p. 6, line 8 – p. 8, line 4.

*viii Professor Seggane Musisi (PCV-0003)*

602. Seggane Musisi testified live before the Chamber.<sup>1065</sup> He provided an expert report, which was submitted under Rule 68(3) of the Rules.<sup>1066</sup> Professor Musisi is a professor of psychiatry at Makerere University College of Health Sciences in Kampala, Uganda. He testified about his expert report on the interplay of Acholi culture with traumas and PTSD. He elaborated in particular on the impact of loss of traditions on the individual's and community's development as well as on Acholi cultural approaches to crimes and traumas. He described, for example, in detail the role of Acholi rituals in healing processes. The Chamber notes his evidence, but also observes that it does not directly underlie any part of the Chamber's analysis as to whether the facts alleged in the charges are established.

*ix. Other witnesses*

a. Nathan Iron Emory (D-0018)

603. Nathan Iron Emory testified live before the Chamber.<sup>1067</sup> Nathan Iron Emory, a former consultant to the LRA, testified about his experiences with the LRA and about the history of the LRA. Nathan Iron Emory was a forthcoming witness. His testimony was detailed and comprehensive. The witness provided information which contextualised the conflict between the LRA and the Ugandan government.<sup>1068</sup> The Chamber also notes his evidence in relation to the circumstances of the execution of Otti Lagony, which the Chamber deems reliable based on the witness's involvement at the time in the negotiations among the various actors.<sup>1069</sup> It is clear that the witness attempts to distance himself from the LRA and their actions.<sup>1070</sup> However, in the Chamber's view the witness is generally reliable.

<sup>1065</sup> PCV-0003: [T-177](#); [T-178](#).

<sup>1066</sup> PCV-0003 Report, UGA-PCV-0003-0046. *See also* PCV-0003: [T-177](#), p. 6, line 7 – p. 8, line 8.

<sup>1067</sup> D-0018: [T-185](#); [T-186](#).

<sup>1068</sup> *See* D-0018: [T-185](#), p. 34, line 21 – p. 38, line 3.

<sup>1069</sup> *See* D-0018: [T-185](#), p. 45, lines 6-16.

<sup>1070</sup> *See for example* D-0018: [T-185](#), p. 41, line 22 – p. 42, line 1 (testifying that he did not have any role and was merely an advisor for the LRA in Sudan). The Chamber notes that within the context of his testimony, as the witness describes his activities with the LRA, it is clear that the witness played an active role.

b. Tommy Obote (D-0084)

604. Tommy Obote testified live before the Chamber.<sup>1071</sup> Tommy Obote, a local politician, testified about his knowledge of the LRA's activity in Ngai sub-county, the establishment of IDP camps in the region and what he witnessed in Abok IDP camp in the aftermath of the attack relevant to the charges. Tommy Obote offered considered testimony, credible in its detail and range. The witness was comprehensive, offering a historic perspective that can be expected of a close observer of the conflict in the region during the period relevant to the charges.<sup>1072</sup> The witness clearly distinguished between events he witnessed himself and events he heard about.

605. The Chamber also notes that concerning the attack on Abok IDP camp, the witness testified that he did not witness the attack and came to the camp the next morning.<sup>1073</sup> However, the Chamber does not necessarily disregard Tommy Obote's evidence as to the occurrences at the centre of the camps during the attacks, for example if the witness gained information in the aftermath of the attack from persons who had witnessed the attack.

c. Nicolas Ocirowijok (D-0088)

606. Nicolas Ochirowijok, a social consultant and researcher working in Northern Uganda, provided his testimony live before the Chamber.<sup>1074</sup> He testified about his work with World Vision, people who had been forced to be soldiers as children and aspects related to their return from the bush. The witness was responsive and concise when answering questions. The Chamber finds Nicolas Ocirowijok to be a credible and reliable witness. However, since his evidence is related to the treatment of children who returned from the LRA, it is only indirectly related to the issues relevant to the disposal of the charges.

d. Eric Awich Ochen (D-0114)

607. The witness testified live before the Chamber.<sup>1075</sup> Eric Awich Ochen is a lecturer at the Makerere University in Kampala and provided evidence on his work with several non-

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<sup>1071</sup> D-0084: [T-235](#).

<sup>1072</sup> *E.g.* D-0084: [T-235](#), p. 10, lines 12-25 (government forces would cut down trees in the forest so that the LRA would have no cover to hide.).

<sup>1073</sup> D-0084: [T-235](#), p. 29, lines 2-24.

<sup>1074</sup> D-0088: [T-230](#).

<sup>1075</sup> P-0114: [T-247](#).

governmental organisations such as Save the Children, World Vision and Gusco in the late 1990's and during the period relevant to the charges. The witness testified in a straight-forward, open and concise manner. The Chamber finds Eric Awich Ochen to be credible and reliable. But while the Chamber did not identify any issue affecting the credibility of the witness, it notes that his testimony is not directly relevant to the disposal of the charges.

e. D-0150

608. D-0150 testified live before the Chamber with protective measures.<sup>1076</sup> D-0150, a farmer in Northern Uganda, testified about Acholi spiritual traditions, including his own possession by spirits and his experience practicing as an *ajwaka* (spiritual healer). While the witness explained the phenomenon of spirit possession and his beliefs about Joseph Kony's alleged possession, the witness had no direct knowledge of Joseph Kony's alleged spirits or Joseph Kony himself.<sup>1077</sup> Nor did the witness express any knowledge of Dominic Ongwen. While the Chamber did not identify any issue affecting the credibility of the witness, the Chamber notes that his testimony goes to facts that are not directly relevant to the disposal of the charges.

f. D-0110

609. D-0110 testified live before the Chamber with protective measures.<sup>1078</sup> D-0110, a child fathered by Joseph Kony and born in the bush, testified about her early childhood in the LRA in Sudan and her subsequent experiences in Uganda after leaving the LRA. She provided a detailed account of her knowledge of Joseph Kony. Her testimony was candid and clear. She described her experiences in a manner which clearly shows that she spoke about her personal experiences. The Chamber, however, found her account not to be directly relevant to the charges.

g. D-0130

610. D-0130, fathered by Joseph Kony and born ██████████ in the bush in 1999, testified live before the Chamber with protective measures, having received Rule 75 assurances.<sup>1079</sup> He testified about his childhood in the LRA in Sudan and his subsequent life in Uganda

<sup>1076</sup> D-0150: [T-182](#).

<sup>1077</sup> D-0150: [T-182](#), p. 43, line 25 – p. 44, line 8, line 21 – p. 45, line 4.

<sup>1078</sup> D-0110: [T-231](#).

<sup>1079</sup> D-0130: [T-198](#).

after his capture by the UPDF in 2002. The Chamber notes, however, that his statements are not of direct relevance to the charges in the present case.

h. D-0131

611. D-0131, fathered by Joseph Kony and born in the bush in 1991, testified live before the Chamber with protective measures, having received Rule 75 assurances.<sup>1080</sup> D-0131 testified in detail about his childhood after having left the bush with his mother shortly after his birth. He further offered [REDACTED]. The Chamber notes, however, that his evidence is not of direct relevance to the charges.

i. Pollar Awich (D-0133)

612. Pollar Awich testified live before the Chamber.<sup>1081</sup> The witness testified about having been abducted as a child and integrated in the National Resistance Army<sup>1082</sup> and about the experiences of persons who were forced to be soldiers as children. He testified about his own experience, provided evidence on children in the LRA and wrote a report on this issue, which was submitted into evidence.<sup>1083</sup> Pollar Awich answered in a clear and structured manner. The Chamber deems his testimony to be credible. However, the Chamber also notes Pollar Awich's general conclusions concerning the enduring effect on the mental health of having been a child soldier,<sup>1084</sup> the conditions within the LRA on abductees and the influence on their free will as a grown up<sup>1085</sup> and whether they are, ultimately, responsible for any of their actions undertaken as an adult.<sup>1086</sup> First, Pollar Awich is not a mental health expert and, more importantly, the question of whether Article 31(1)(a) or (d) of the Statute are fulfilled can only be determined by the Chamber. Lastly, the Chamber finds Pollar Awich's statement that 'there are no cases where children escaped [...] voluntary'<sup>1087</sup> incredible considering the ample evidence received to the contrary. The remainder of Pollar Awich's testimony does not go to issues of relevance to the disposal of the charged crimes.

<sup>1080</sup> D-0131: [T-205](#).

<sup>1081</sup> D-0133: [T-203](#); [T-204](#).

<sup>1082</sup> D-0133: [T-203](#), p. 20, lines 14-17, p. 21, lines 3-7.

<sup>1083</sup> D-0133 Report, UGA-D26-0015-1022.

<sup>1084</sup> D-0133: [T-203](#), p. 31, line 25 – p. 32, line 13.

<sup>1085</sup> D-0133: [T-203](#), p. 63, line 17 – p. 66, line 6.

<sup>1086</sup> D-0133: [T-203](#), p. 33, line 13 – p. 34, line 4.

<sup>1087</sup> D-0133: [T-203](#), p. 81, lines 4-15; [T-204](#), p. 33, line 22 – p. 34, line 7, p. 35, lines 10-18.

### 3. *Documentary evidence*

613. In this section, the Chamber lays out some general considerations with respect to the documentary evidence submitted in the case. The analysis, which responds also to the arguments of the parties, must be read in conjunction with the evidentiary discussion further below in the present judgment. Indeed, certain aspects relating to the relevance or reliability of documentary evidence, are further addressed, as appropriate, in the relevant evidentiary discussion.

#### *i. Intercept materials*

614. Before assessing the specific intercepted communications the Chamber relies upon, the Chamber will set out its overall understanding of the voluminous intercept evidence submitted in this case. In addition, individual recordings will be discussed in section IV.B.3.ii below.

615. The Defence raises a variety of arguments against the intercept-related evidence.<sup>1088</sup> These arguments are addressed across this section. Ultimately, the Chamber's general conclusion is that the intercept materials are reliable and the Defence arguments without merit.

#### *a. Interception process*

616. During the period relevant to the charges, the LRA would communicate over radio at regular intervals.<sup>1089</sup> Jargon, proverbs and/or codes obscured the meaning of these communications.<sup>1090</sup> The Chamber heard from former LRA members with detailed

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<sup>1088</sup> [Defence Closing Brief](#), para. 225 (summarising these arguments).

<sup>1089</sup> P-0003: [T-42](#), p. 19, lines 14-19; P-0016: T-32-CONF, p. 35, lines 5-25; P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 20-23; P-0125: [T-135](#), p. 68, lines 3-5; P-0400 Statement, UGA-OTP-0264-0015-R01, at paras 42-43; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 29; P-0440: [T-40](#), p. 7, line 10 – p. 8, line 9; D-0100: [T-234](#), p. 46, lines 4-10.

<sup>1090</sup> P-0003: [T-42](#), p. 55, line 11 – p. 65, line 19, p. 67, line 3 – p. 71, line 22; [T-44](#), p. 56, line 8 – p. 58, line 18; P-0016: [T-32](#), p. 23, line 17 – p. 27, line 19; [T-35](#): p. 23, line 1 – p. 24, line 14; P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 13, 15, 58; P-0440: [T-40](#), p. 8, line 10 – p. 14, line 3; D-0100: [T-234](#), p. 26, line 21 – p. 31, line 12.

knowledge of the group's communication methods, including P-0016,<sup>1091</sup> P-0138,<sup>1092</sup> P-0440<sup>1093</sup> and Francis Ocen.<sup>1094</sup>

617. Various branches of the Ugandan government intercepted these messages. The primary purpose of the intercept operation was not criminal prosecution, but rather to gain military intelligence to further the war effort against the LRA.<sup>1095</sup> On the whole, these agencies conducted their operations independently of each other for purposes of 'counterintelligence'; *i.e.* to ensure that no one interceptor was a spy or otherwise manipulating the intelligence collected.<sup>1096</sup>
618. The agencies responsible for the interception operation were the UPDF (the army), ISO (the national intelligence agency) and CID (certain local police forces).

*i Uganda People's Defence Force interception*

619. The primary UPDF interceptor during the time period relevant to the charges was P-0003.<sup>1097</sup> Other witnesses involved in the UPDF interception operation are: P-0029;<sup>1098</sup> P-0337;<sup>1099</sup> P-0339;<sup>1100</sup> P-0400<sup>1101</sup> and P-0404.<sup>1102</sup> All these witnesses had training in

<sup>1091</sup> P-0016: [T-32](#); [T-33](#); [T-34](#); [T-35](#).

<sup>1092</sup> P-0138: [T-120](#); [T-121](#); [T-122](#).

<sup>1093</sup> P-0440: [T-39](#); [T-40](#); [T-41](#).

<sup>1094</sup> D-0100: [T-234](#).

<sup>1095</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 18, 19; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 17 ('[t]he main purpose of the intercept operation was to collect intelligence to support combat operations. We knew there was a lot of information on the sound waves, and our job was to pick up that information, correlate it, and send an intelligence report on to command. It had to be done quickly, so it was actionable'); P-0038: [T-116](#), p. 38, lines 4-11; P-0059: [T-36](#), p. 21, line 8 – p. 22, line 4; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 18; P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 27; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 41. There is some evidence that certain procedures in the intercept operation may have been intended to assist the ICC, but this does not change the primary purpose of the operation. *See* P-0003: [T-42](#), p. 37, line 24 – p. 38, line 12.

<sup>1096</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 50; P-0032 First Statement, UGA-OTP-0069-0796-R01, at para. 18; P-0038: [T-117](#), p. 62, line 23 – p. 63, line 9, *commenting on* P-0038 First Statement, UGA-OTP-0069-0784-R01, at para. 19. *See also* paragraphs 563, 661-663 below.

<sup>1097</sup> P-0003: [T-42](#); [T-43](#); [T-44](#); [T-45](#); [T-46](#). *See also* P-0029 First Statement, UGA-OTP-0027-0231-R01, at para. 11; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 36; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 31.

<sup>1098</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01; P-0029 Second Statement, UGA-OTP-0267-0455.

<sup>1099</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01; P-0337 Second Statement, UGA-OTP-0267-0445-R01.

<sup>1100</sup> P-0339: [T-134](#); [T-135](#).

<sup>1101</sup> P-0400 Statement, UGA-OTP-0264-0015-R01

<sup>1102</sup> P-0404 Statement, UGA-OTP-0267-0470-R01.

monitoring radio communications,<sup>1103</sup> and/or were the supervisors of these persons.<sup>1104</sup>

The UPDF interceptors had sufficient experience that they could understand what the LRA was saying and recognise the voices of certain LRA members as they spoke.<sup>1105</sup>

620. P-0003 and those working with him in Gulu listened to LRA radio communications.<sup>1106</sup>

During the period relevant to the charges, they tape recorded these conversations onto audio cassettes.<sup>1107</sup> The UPDF interceptors prepared shorthand notes of communications as they unfolded, and then did any necessary work required to understand the contents afterwards (including breaking any codes or playing back the tape to listen again to what was said).<sup>1108</sup>

621. As soon as possible after the communication, the interceptor then prepared a logbook summary of what transpired during the LRA communication.<sup>1109</sup> The basis for this summary was exclusively the information provided over the radio – the interceptors used no other intelligence in making their summaries except to the extent necessary for code breaking.<sup>1110</sup> Though the LRA communications themselves were predominantly in Acholi or Luo, the interceptors wrote the summaries in plain English so that commanders

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<sup>1103</sup> P-0003: [T-42](#), p. 8, line 15 – p. 11, line 17; P-0339: [T-134](#), p. 6, line 22 – p. 8, line 8; P-0400 Statement, UGA-OTP-0264-0015-R01, at paras 24-26; P-0404 Statement, UGA-OTP-0267-0470-R01, at paras 13-15. *See also* P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 36-37. P-0029 indicates that ‘those who intercept the LRA radio communications do not receive formal training’, but this is understood to mean that there was no formal training in relation to LRA communications specifically. This is not inconsistent with those who stated they received technical intelligence training more generally, and P-0029 himself indicates he took such courses. P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 7, 14.

<sup>1104</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 8, 11; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 38; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 15-16.

<sup>1105</sup> P-0003: [T-42](#), p. 12, lines 2-25, p. 47, lines 2-17, p. 72, lines 1-18; P-0029 First Statement, UGA-OTP-0027-0231-R01, at para. 17; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 36; P-0339: [T-134](#), p. 46, line 6 – p. 47, line 8; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 43.

<sup>1106</sup> P-0003: [T-42](#), p. 13, line 20 – p. 15, line 23.

<sup>1107</sup> P-0003: [T-42](#), p. 19, lines 20-24, p. 37, line 24 – p. 41, line 5; P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 28-34; P-0400 Statement, UGA-OTP-0264-0015-R01, at paras 37-39; P-0404 Statement, UGA-OTP-0267-0470-R01, at paras 35, 39-40.

<sup>1108</sup> P-0003: [T-42](#), p. 19, line 20 – p. 29, line 14; P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 40-41; P-0339, p. 9, line 12 – p. 10, line 10; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 38; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 35.

<sup>1109</sup> P-0003: [T-42](#), p. 29, line 15 – p. 32, line 12; P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 41, 44-45; P-0339: [T-134](#), p. 12, line 25 – p. 15, line 19; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 35.

<sup>1110</sup> P-0003: [T-42](#), p. 32, lines 5-12; [T-46](#), p. 12, lines 8-25, p. 17, line 14 – p. 18, line 12; P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 48-49, 64; P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 29; P-0339: [T-134](#), p. 14, line 18 – p. 15, line 7.

could easily understand them.<sup>1111</sup> Logbook entries were dated and appeared in chronological order.<sup>1112</sup>

622. The interceptors then gave their logbook entries to their commanders, who read them and marked that they had seen them.<sup>1113</sup> The intercepted information would then be communicated to Kampala to inform the UPDF's broader military operations.<sup>1114</sup> All completed recordings and logbooks were securely stored, either at the sites of interception or in Kampala.<sup>1115</sup>
623. The UPDF's intercept operation extended to locations beyond Gulu, most notably Achol Pii, Soroti and Lira.<sup>1116</sup> These locations did not record conversations, but the procedure for summarising intercepted communications was otherwise about the same.<sup>1117</sup> Communications at each location were summarised independently of on-going intercept operations at other locations, including Gulu.<sup>1118</sup>
624. P-0400 also kept a personal logbook in Sudan from April-May 2004.<sup>1119</sup> Though this book is P-0400's personal record, it is apparent that P-0400 wrote it in the same style as

<sup>1111</sup> P-0339: [T-134](#), p. 14, lines 3-17; P-0003: [T-42](#), p. 29, lines 15-25, p. 46, lines 6-10.

<sup>1112</sup> P-0003: [T-42](#), p. 24, lines 7-14; P-0339: [T-134](#), p. 10, lines 2-6; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 40. P-0003 and P-0339 are testifying as to shorthand notes, but the dating procedure described is visibly reproduced in the formal logbooks.

<sup>1113</sup> P-0003: [T-42](#), p. 36, line 2 – p. 37, line 21; P-0029 First Statement, UGA-OTP-0027-0231-R01, at para. 46; P-0339: [T-134](#), p. 15, line 20 – p. 16, line 4; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 40; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 36.

<sup>1114</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01, at paras 46-48; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 18; P-0339: [T-134](#), p. 15, line 20 – p. 17, line 13; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 41; P-0404 Statement, UGA-OTP-0267-0470-R01, at paras 37, 41.

<sup>1115</sup> P-0003: [T-42](#), p. 32, lines 13-24, p. 40, line 25 – p. 41, line 5; P-0029 Second Statement, UGA-OTP-0267-0455, at paras 26-28, 46-47; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 41; P-0339: [T-134](#), p. 17, line 14 – p. 18, line 12; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 40.

<sup>1116</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at paras 29-32; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 25, 28-31, 33; P-0339: [T-134](#), p. 22, line 23 – p. 32, line 20.

<sup>1117</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 32; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 21-25; P-0339: [T-134](#), p. 22, line 23 – p. 32, line 20; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 37.

<sup>1118</sup> P-0003: [T-44](#), p. 51, line 13 – p. 52, line 4; P-0029 Second Statement, UGA-OTP-0267-0455, at paras 42-45; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 38-40; P-0339: [T-134](#), p. 26, lines 7-17 ('Q. Did you ever discuss with [a colleague from Gulu] what you heard in an LRA communication? A. No, it was prohibited. Whenever you finish intercepting, you are not required to discuss what you have recorded.');

<sup>1119</sup> UPDF Logbook (Sudan), UGA-OTP-0242-7194; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(i).

the official UPDF logbooks. P-0400's operational commander signed the entries in this logbook, and P-0400 gave it to P-0003 upon his return to Gulu.<sup>1120</sup>

*ii Internal Security Organisation interception*

625. The primary ISO interceptor during the time period relevant to the charges was P-0059.<sup>1121</sup> Other witnesses involved in the ISO interception operation are: P-0027;<sup>1122</sup> P-0032;<sup>1123</sup> P-0291;<sup>1124</sup> P-0301;<sup>1125</sup> P-0303;<sup>1126</sup> P-0384;<sup>1127</sup> P-0385<sup>1128</sup> and P-0386.<sup>1129</sup> All these witnesses had training in monitoring radio communications,<sup>1130</sup> and/or were the supervisors of these persons.<sup>1131</sup> The ISO interceptors had sufficient experience that they could understand what the LRA was saying and recognise the voices of certain LRA members as they spoke.<sup>1132</sup>
626. The ISO interception process unfolded similarly to the UPDF process – conversations would be recorded, short hand notes prepared, language de-coded, plain language logbook summaries written chronologically (in English and based exclusively on the

<sup>1120</sup> P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(i).

<sup>1121</sup> P-0059: [T-36](#); [T-37](#); [T-39](#). See also P-0027 First Statement, UGA-OTP-0207-0256-R01, at para. 9; P-0032 First Statement, UGA-OTP-0069-0796-R01, at paras 8-9, 12; P-0386 Statement, UGA-OTP-0260-0508-R01, at paras 17, 24.

<sup>1122</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01; P-0027 Second Statement, UGA-OTP-0249-0444-R01.

<sup>1123</sup> P-0032 First Statement, UGA-OTP-0069-0796-R01; P-0032 Second Statement, UGA-OTP-0150-0030-R01; P-0032 Third Statement, UGA-OTP-0246-0003-R01.

<sup>1124</sup> P-0291 Statement, UGA-OTP-0246-0061-R01.

<sup>1125</sup> P-0301 Statement, UGA-OTP-0249-0423-R01.

<sup>1126</sup> P-0303 Statement, UGA-OTP-0258-0723-R01.

<sup>1127</sup> P-0384 Statement, UGA-OTP-0260-0491-R01.

<sup>1128</sup> P-0385 Statement, UGA-OTP-0260-0498-R01.

<sup>1129</sup> P-0386 Statement, UGA-OTP-0260-0508-R01.

<sup>1130</sup> P-0059: [T-36](#), p. 7, line 1 – p. 9, line 9; [T-38](#), p. 15, line 3 – p. 16, line 11; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 16; P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 15 (note this witness also had supervisory responsibilities); P-0384 Statement, UGA-OTP-0260-0491-R01, at para. 15; P-0385 Statement, UGA-OTP-0260-0498-R01, at para. 16 (though P-0385 did not personally intercept LRA communications); P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 16.

<sup>1131</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at para. 5; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 16; P-0032 First Statement, UGA-OTP-0069-0796-R01, at paras 4, 8; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 14; P-0303 Statement, UGA-OTP-0258-0723-R01, at paras 22, 29.

<sup>1132</sup> P-0059: [T-36](#), p. 56, line 27 – p. 57, line 25; [T-38](#), p. 16, line 12 – p. 22, line 9, p. 26, line 12 – p. 27, line 6; P-0291 Statement, UGA-OTP-0246-0061-R01, at paras 19, 32; P-0301 Statement, UGA-OTP-0249-0423-R01, at paras 20-21, 25; P-0384 Statement, UGA-OTP-0260-0491-R01, at paras 17-20; P-0386 Statement, UGA-OTP-0260-0508-R01, at paras 17-19, 24-25.

recording), and entries reviewed by commanding officers.<sup>1133</sup> The recordings and logbooks would likewise be securely stored.<sup>1134</sup>

627. One distinguishing feature of the ISO process is that the ISO would sequentially label each audio cassette, and then use this serial number in their logbooks.<sup>1135</sup> This allows a reader to easily identify which logbook summaries reflect the contents of which tape.
628. Once the ISO interceptors in Gulu prepared the logbook summary, it was then faxed to Kampala (often after being re-copied by hand) or communicated by telephone.<sup>1136</sup> ISO staff in Kampala then copied the summary by hand into a kind of duplicate logbook.<sup>1137</sup> The information was further disseminated as necessary for military intelligence.<sup>1138</sup>

### *iii Police interception*

629. Patrick Lumumba Nyero was the primary interceptor for the police interception operation in Kamdini.<sup>1139</sup> Patrick Nyero conducted his work with P-0370<sup>1140</sup> and reported the

<sup>1133</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at para. 11; P-0032 First Statement, UGA-OTP-0069-0796-R01, at paras 15-20; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 20; P-0059: [T-36](#), p. 22, line 9 – p. 28, line 12; [T-39](#); p. 37, line 23 – p. 42, line 6; P-0291 Statement, UGA-OTP-0246-0061-R01, at paras 38-49; P-0301 Statement, UGA-OTP-0249-0423-R01, at paras 28-29; P-0303 Statement, UGA-OTP-0258-0723-R01, at paras 22-30; P-0384 Statement, UGA-OTP-0260-0491-R01, at paras 24-26; P-0386 Statement, UGA-OTP-0260-0508-R01, at paras 18, 23. *See also* P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 55 (would speak to UPDF direction finding team when making summaries, but only for the limited purpose of code breaking).

<sup>1134</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at paras 17-20; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 21; P-0032 First Statement, UGA-OTP-0069-0796-R01, at paras 21-25; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at paras 22(d)-(e), 51; P-0059: [T-36](#), p. 40, lines 10-23; P-0303 Statement, UGA-OTP-0258-0723-R01, at para. 30.

<sup>1135</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at paras 18-19; P-0059: [T-36](#), p. 32, line 16 – p. 33, line 5; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 40; P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 41; P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 24.

<sup>1136</sup> P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 23; P-0032 First Statement, UGA-OTP-0069-0796-R01, at para. 20; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at paras 27-28; P-0059: [T-36](#), p. 28, line 22 – p. 30, line 22; P-0291 Statement, UGA-OTP-0246-0061-R01, at paras 46-47; P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 28; P-0303 Statement, UGA-OTP-0258-0723-R01, at paras 26, 31-35; P-0385 Statement, UGA-OTP-0260-0498-R01, at paras 19-24; P-0386 Statement, UGA-OTP-0260-0508-R01, at paras 24, 26. UPDF entries also would sometimes be faxed, but the faxed papers were not retained. P-0029 Second Statement, UGA-OTP-0267-0455, at para. 25 (saying UPDF faxes were ‘exceptional’); P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 18.

<sup>1137</sup> P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 23; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at paras 32-33; P-0059: [T-36](#), p. 28, line 22 – p. 30, line 22; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 48; P-0303 Statement, UGA-OTP-0258-0723-R01, at paras 31-35; P-0384 Statement, UGA-OTP-0260-0491-R01, at para. 27; P-0385 Statement, UGA-OTP-0260-0498-R01, at para. 24 (these were formally called RABMINT logbooks); P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 26.

<sup>1138</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at para. 8; P-0303 Statement, UGA-OTP-0258-0723-R01, at para. 24. *See also* P-0059: [T-36](#), p. 30, line 23 – p. 31, line 18.

<sup>1139</sup> P-0125: [T-135](#); [T-136](#). *See also* P-0370 Statement, UGA-OTP-0258-0687-R01, at paras 29, 44-45.

<sup>1140</sup> P-0370 Statement, UGA-OTP-0258-0687-R01.

results of his work to P-0126.<sup>1141</sup> Only Patrick Nyero received significant radio or signalling training,<sup>1142</sup> but both Patrick Nyero and P-0370 intercepted LRA communications for many years.<sup>1143</sup>

630. Like the other intercepting agencies, the Kamdini police would listen to the LRA, prepare short hand notes of what was being said, and summarise the conversation in a contemporaneous ‘fair copy’ (aka ‘good note’) of the conversation.<sup>1144</sup> The police wrote fair copies in English and dated them.<sup>1145</sup> But there are gaps in the police entries which do not appear in the UPDF or ISO logbooks,<sup>1146</sup> with evidence suggesting that the police notes may be an incomplete collection.<sup>1147</sup>
631. The police interception operation was conducted less formally than those of the UPDF or ISO in Gulu. They did not record communications onto cassettes.<sup>1148</sup> They destroyed all short hand notes.<sup>1149</sup> Patrick Nyero also resorted to ‘human intelligence’ in making his summaries, though he indicated that it was easily detectable when he did so.<sup>1150</sup> Also, the police interceptors did not manage to break the LRA codes and therefore only recorded what was communicated in clear language.<sup>1151</sup>

<sup>1141</sup> P-0126 First Statement, UGA-OTP-0253-0764-R01; P-0126 Second Statement, UGA-OTP-0264-0002-R01.

<sup>1142</sup> Compare P-0125: [T-135](#), p. 50, line 10 – p. 51, line 11 with P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 21.

<sup>1143</sup> P-0125: [T-135-CONF](#), p. 52, line 16 – p. 54, line 19; P-0370 Statement, UGA-OTP-0258-0687-R01, at paras 25, 51 (noting that, unlike P-0125, he was not able to recognise the voices of the LRA beyond Joseph Kony).

<sup>1144</sup> P-0125: [T-135](#), p. 57, line 3 – p. 59, line 11; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 37.

<sup>1145</sup> E.g. UGA-OTP-0037-0002; P-0125: [T-135](#), p. 59, line 14 – p. 62, line 9; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 55.

<sup>1146</sup> The largest such gap is that there are no submitted police entries before 12 April 2004, despite the operation in Kamdini commencing in 2003 and the UPDF/ISO recording a wealth of LRA communications in the year prior to this date. For a gap appearing within a police entry, compare ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0272-74; UPDF Logbook (Gulu), UGA-OTP-0254-2982, 3006-07 (both discussing a conversation from 1 May 2004 at 18:30) with Police Logbook, UGA-OTP-0037-0002, at 0144-46 (entry with a date of ‘1/5/2004’, but no record of any conversations from 18:30 on that day).

<sup>1147</sup> See P-0125: [T-135](#), p. 82, lines 7-25; [T-136](#), p. 5, lines 12-21 (police interception could not penetrate communications when LRA used coded language); P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. 61 (indicating that he destroyed Patrick Nyero’s notes after using them, which, although this cannot have been done in all instances, would explain gaps in the evidence record).

<sup>1148</sup> P-0125: [T-135](#), p. 65, lines 19-20; P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. 49.

<sup>1149</sup> P-0125: [T-135](#), p. 58, lines 18-22; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 37.

<sup>1150</sup> P-0125: [T-135](#), p. 58, line 23 – p. 59, line 11. See also P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. 30 (mentioning IDP camp informants as an example of human intelligence).

<sup>1151</sup> P-0125: [T-135](#), p. 82, lines 7-25; [T-136](#), p. 5, lines 12-21.

632. The Kamdini interceptors regularly transferred their fair copies to P-0126 in Gulu.<sup>1152</sup> The intelligence gathered was distributed to other agencies like the UPDF or ISO.<sup>1153</sup>

*iv Transfer of intercept materials to the Prosecution*

633. Since 2004, the Prosecution was in contact with the Ugandan government authorities to receive all recordings, short hand notes, logbooks and other information it considered relevant for its investigation. The Prosecution received certain intercept materials from others, but the largest batches of materials came from two government contacts: Timothy Kanyogonya and P-0027.

634. Timothy Kanyogonya was the Prosecution's primary focal point for receiving such materials.<sup>1154</sup> Timothy Kanyogonya is the Head of Legal Affairs for the UPDF, but gave the Prosecution materials emanating from both the UPDF and ISO.<sup>1155</sup> Timothy Kanyogonya was responsible for collecting the materials related to the Prosecution's cooperation requests.<sup>1156</sup> P-0078, a fellow UPDF officer, assisted him.<sup>1157</sup>

635. P-0027 of the ISO is the other person who gave a significant number of materials to the Prosecution.<sup>1158</sup>

636. When it received materials from either Timothy Kanyogonya or P-0027, the Prosecution prepared a pre-registration form memorialising the exchange.<sup>1159</sup> The forms vary as to their completeness, but all contain a date, description of contents, and a name of the government official providing the materials to the Prosecution. Generally, Timothy Kanyogonya or P-0027 also signed the form.<sup>1160</sup>

<sup>1152</sup> P-0125: [T-135](#), p. 64, line 17 – p. 65, line 18; P-0126 First Statement, UGA-OTP-0253-0764-R01, at paras 47, 57, 60; P-0370 Statement, UGA-OTP-0258-0687-R01, at paras 37-38, 42.

<sup>1153</sup> P-0126 First Statement, UGA-OTP-0253-0764-R01, at paras 47-48, 61; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 27.

<sup>1154</sup> P-0038: [T-116](#); [T-117](#); P-0038 First Statement, UGA-OTP-0069-0784-R01; P-0038 Second Statement, UGA-OTP-0244-0912-R01.

<sup>1155</sup> P-0038: [T-116](#), p. 4, lines 18-23, p. 8, line 3 – p. 9, line 2; P-0038 CV, UGA-OTP-0279-0294.

<sup>1156</sup> P-0038: [T-116](#), p. 10, lines 7-20, p. 34, line 19 – p. 35, line 1, p. 39, lines 1-20; [T-117](#), p. 20, line 12 – p. 22, line 2.

<sup>1157</sup> P-0038: T-116-CONF, p. 44, line 19 – p. 50, line 15; T-117-CONF, p. 42, line 11 – p. 46, line 21.

<sup>1158</sup> P-0027 First Statement, UGA-OTP-0207-0256-R01, at paras 21-25; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at paras 30 (d)-(e), 34-39.

<sup>1159</sup> P-0038 Pre-Registration Forms, UGA-OTP-0244-0920-R01; P-0027 Pre-Registration Forms, UGA-OTP-0246-0039-R01.

<sup>1160</sup> For P-0038, out of 27 pre-registration forms, six do not bear a 'source signature', but indicate the witness's name as source (see UGA-OTP-0244-0920-R01, at 0926, 0934, 0935, 0936, 0938, 0940); for P-0027, out of 20

b. Assessment of intercept evidence

637. The Chamber will now set out its assessment of the intercept related evidence before it.
638. Preliminarily, the Defence raised two general objections to these materials when the Prosecution submitted the bulk of them prior to trial.<sup>1161</sup> These are repeated in the Defence Closing Brief.
639. First, the Defence variously argued before the trial that these materials required witness testimony prior to being introduced.<sup>1162</sup> The Defence subsequently argued that these materials are insufficiently authenticated.<sup>1163</sup>
640. Although the Chamber disagreed and recognised these items as submitted prior to trial, the Chamber notes that it received testimony from over 20 witnesses on this evidence. The Chamber considers this general objection to be without merit, also bearing in mind that the authenticity of recordings and other intercept material relied upon is further discussed in this section.
641. Second, the Defence argues that matters like technical difficulties or improperly destroyed records mean that the evidence before the Chamber is not a complete collection of all LRA communications during the relevant period.<sup>1164</sup>
642. By definition, all the intercept evidence the Chamber has actually received is unaffected by technical difficulties or improperly destroyed records. As put by P-0059: ‘whatever was brought before court here was not destroyed and that’s why we were able to hear it.’<sup>1165</sup> While it can be reasonably assumed that the intercept materials available in these proceedings do not cover the totality of LRA radio communications during the relevant

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pre-registration forms, only one does not bear a ‘source signature’, but indicates the witness’s name as source (UGA-OTP-0246-0039-R01, at 0042; *see also* P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(d)). Given the overall content of the forms as well as their similarity with the forms which do bear signatures, the Chamber is satisfied that despite the missing source signatures, the materials mentioned in the forms were indeed provided by the two witnesses respectively.

<sup>1161</sup> [Defence Response to ”Prosecution’s formal submission of intercept evidence via the ‘bar table’” \(ICC-02/04-01/15-580\)](#), 21 November 2016, ICC-02/04-01/15-599 (hereinafter: ‘[Defence Response to Prosecution’s Submission of Intercept Material](#)’), summarised in [Decision on Prosecution’s Submission of Intercept Material](#), paras 14-21.

<sup>1162</sup> [Defence Response to Prosecution’s Submission of Intercept Material](#), paras 17, 25-29.

<sup>1163</sup> [Defence Closing Brief](#), paras 234-40.

<sup>1164</sup> [Defence Response to Prosecution’s Submission of Intercept Material](#), paras 18-24, 35-44.

<sup>1165</sup> P-0059: T-38-CONF, p. 41, line 21 – p. 42, line 15.

time period, the Chamber, in light of all the relevant evidence before it, considers that this probability does not have a bearing on the Chamber's ability to assess what is available. The Chamber therefore considers that such concerns have no impact on the evidence actually before it.

643. Relatedly, the Defence submits that most of the intercept material lacks relevance and has not been translated or interpreted by witnesses during trial, for which reason also the related logbooks and rough notes should not be relied upon.<sup>1166</sup> As further outlined below, the Chamber has focused in its review of the material on those audio recordings which could be understood in a working language of the Court.<sup>1167</sup> At the same time, the Chamber considers that the discussion of specific audio recordings further below also demonstrates the reliability of the logbook entries in general, irrespective of whether a related audio recording was translated and as such could be independently and in conjunction assessed by the Chamber.<sup>1168</sup> The material which is before the Chamber and could be reviewed in a working language of the Court in itself, and even more so in combination with an abundance of witness evidence which confirms the veracity of the interception procedures, provides sufficient context for the Chamber's analysis of this material.
644. The argument that the aim for which the intercepts were taken – for military and not judicial purposes – impacts their reliability,<sup>1169</sup> is rejected. While this could, theoretically, affect the probative value of the material, the Chamber fails to see why the purpose of the intercept operations automatically diminishes the reliability of the obtained items. As to the Defence assertions that there is an intrinsic bias which may not reflect exculpatory exchanges<sup>1170</sup> or that the intercept collection is incomplete,<sup>1171</sup> the Chamber's obligation is to consider only evidence submitted and discussed at trial. It cannot speculate as to what further evidence there could have been. Contrary to the Defence's suggestion,<sup>1172</sup> whatever interest the Ugandan government has in convicting the accused cannot alone

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<sup>1166</sup> [Defence Closing Brief](#), paras 232-233.

<sup>1167</sup> See paras 648-650 below.

<sup>1168</sup> See section IV.B.3.ii below.

<sup>1169</sup> [Defence Closing Brief](#), paras 243-48; [Defence Response to Prosecution's Submission of Intercept Material](#), para. 21.

<sup>1170</sup> [Defence Closing Brief](#), paras 253-56; [Defence Response to Prosecution's Submission of Intercept Material](#), para. 22.

<sup>1171</sup> [Defence Closing Brief](#), paras 257-62, 288, 295, 315.

<sup>1172</sup> [Defence Closing Brief](#), para. 263.

justify any inference that the intercepts were tampered with or selectively provided in any way. There is no evidence any such issues occurred, nor did the Defence present any evidence that undermines the reliability or probative value of the intercepted material. There is no indication that any further intercept evidence – if it even exists – would be meaningfully different than the voluminous materials presented. Accordingly, the Defence arguments on these points are dismissed.

*i Chain of custody evidence*

645. The Chamber considers that Timothy Kanyogonya’s testimony was clear, consistent and reliable. Timothy Kanyogonya explained with care that his provision of material to the Prosecution did not give him any broader expertise as to what these materials could mean.<sup>1173</sup> The Defence challenged that the materials Timothy Kanyogonya provided are incomplete<sup>1174</sup> and why he selected the materials he did in response to the Prosecution’s assistance requests.<sup>1175</sup> The Chamber considers such challenges to be irrelevant to the question of whether the materials Timothy Kanyogonya provided are authentic. The Chamber is fully satisfied that Timothy Kanyogonya provided the items indicated in his pre-registration forms to the Prosecution. The occasions when other witnesses independently verified the provenance of Timothy Kanyogonya’s materials bolsters this assessment<sup>1176</sup> and reinforces the overall accuracy of Timothy Kanyogonya’s pre-registration forms.
646. Similarly, the Chamber is also satisfied from P-0027’s prior recorded testimony that he provided the materials specified in his pre-registration forms to the Prosecution.
647. For purposes of evaluating the chain of custody of specific recordings, the Chamber has used the dates provided in the e-court metadata to isolate the pre-registration form

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<sup>1173</sup> P-0038: [T-116](#), p. 24, line 8 – p. 26, line 18, p. 29, line 7 – p. 30, line 2, p. 73, lines 7-20, p. 79, lines 16-24; [T-117](#), p. 18, lines 5-23 (‘[w]e have a whole intelligence department with so many different actors. There is an analysis branch of this department, where I belong. I was scanning through basically thousands of documents. I do not think I even had the competence to go through all these letters that I handed over to the ICC. There’s no way. It would have taken me years. Some of these documents I’m just even reading them now, selecting documents because of relevance does not mean I have read them thoroughly’).

<sup>1174</sup> P-0038: [T-116](#), p. 18, line 21 – p. 23, line 1.

<sup>1175</sup> P-0038: [T-116](#), p. 15, line 6 – p. 16, line 25; [T-117](#), p. 48, line 21 – p. 53, line 12, p. 55, line 11 – p. 56, line 14, p. 60, line 6 – p. 62, line 13. *See also* [T-117](#), p. 18, line 24 – p. 19, line 13.

<sup>1176</sup> *E.g.* paragraphs 760, 798 below.

corresponding to that particular recording. The Chamber has then verified that the pre-registration form's contents are consistent with this metadata.

*ii Audio recordings*

648. The original audio cassettes prepared by the UPDF and ISO are the initial recordings of intercepted radio communications. Short hand notes were prepared while the original audio cassettes were being recorded, and both served as basis for the logbook summaries. The enhanced audios prepared at a later stage are equally derived from the original audio cassettes. The Chamber notes that not all of these recordings have translated transcripts, and accordingly has focused only on those recordings which could be understood in the working languages of the Court.<sup>1177</sup>
649. The audio cassettes provide limited information as to when they were recorded. Some cassettes – either on their label or the cassette paper – provide information on the date of the recording or its contents.<sup>1178</sup> Most do not. Tapes coming specifically from ISO provide the serial tape number, but often nothing else.<sup>1179</sup> This necessitates the Chamber having to consult the corresponding ISO logbook in order to date the tape in question.
650. The contents of the audio recordings are in non-working languages, predominantly Acholi or Luo. They are impossible for the Chamber to understand without translated transcripts, and even then generally require further testimony from witnesses to understand their contents. The Chamber does not consider it has the requisite ability to identify voices on these recordings itself, and has resorted to witness testimony for such identifications. What the Chamber has been able to discern from the original recordings is only the general impression that all intercepts concern men speaking in a non-working language over the radio.

*iii Enhanced audio recordings*

651. The Prosecution selected certain audio recordings for enhancement. Two witnesses were primarily responsible for this enhancement: Alan French<sup>1180</sup> and Xavier Laroche.<sup>1181</sup> In

<sup>1177</sup> See [Defence Closing Brief](#), para. 293.

<sup>1178</sup> E.g. Audio Cassette, UGA-OTP-0039-0006; Audio Cassette, UGA-OTP-0025-0625.

<sup>1179</sup> E.g. Audio Cassette, UGA-OTP-0052-0026.

<sup>1180</sup> P-0242: [T-128](#); P-0242 Statement, UGA-OTP-0261-0333-R01.

<sup>1181</sup> P-0256: [T-119](#); P-0256 Statement, UGA-OTP-0269-0015.

the words of Alan French, the enhancement exercise was ‘striving to enhance the quality of audio material to enable members of the court to comprehend or interpret the material to the best possible standard without adding to or detracting from the content of the original’.<sup>1182</sup> The intercept witnesses were primarily played enhanced audios during their testimony, requiring the Chamber to further assess the probative value of the enhanced audios.

652. Alan French is an audio forensic specialist, who set out his detailed experience in enhancing audio for purposes of criminal proceedings.<sup>1183</sup> The audio-enhancement company where Alan French works sells specialised software to clients who want to conduct their own audio enhancement.<sup>1184</sup> The Prosecution is one such client, and Xavier Laroche is the Prosecution forensic officer trained by Alan French to conduct this enhancement.<sup>1185</sup> Xavier Laroche enhanced audios with the assistance of one of his colleagues, also trained by Alan French.<sup>1186</sup>

653. The Chamber found both Alan French and Xavier Laroche to be truthful witnesses, and takes note of the careful steps taken by each to ensure that no speech would be lost in the process of audio enhancement.<sup>1187</sup> The Chamber considers the Defence’s arguments that content could have possibly been lost/distorted is speculative and without a clear evidentiary basis.<sup>1188</sup> Xavier Laroche was quite clear in stating his limitations in this field, and that he was unable to answer specific questions on the science of audio enhancement. Xavier Laroche often deferred to Alan French’s expertise on these points.<sup>1189</sup> Thus, the Chamber has given more weight to Alan French on matters related to the science or mechanics of audio enhancement. But, noting Xavier Laroche’s own training and

<sup>1182</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 17; P-0242: [T-128](#), p. 12, line 2 – p. 13, line 2.

<sup>1183</sup> P-0242: [T-128](#), p. 4, lines 11-16, p. 18, line 16 – p. 20, line 17; P-0242 CV, UGA-OTP-0261-0343-R01.

<sup>1184</sup> P-0242: [T-128](#), p. 4, lines 11-16, p. 20, line 18 – p. 21, line 9.

<sup>1185</sup> P-0242: [T-128](#), p. 21, line 16 – p. 23, line 15, p. 57, lines 1-13; P-0256: [T-119](#), p. 18, line 6 – p. 19, line 1.

<sup>1186</sup> P-0256: [T-119](#), p. 18, line 6 – p. 19, line 1, p. 20, line 6 – p. 24, line 3.

<sup>1187</sup> P-0242: [T-128](#), p. 13, line 3 – p. 16, line 11; P-0256: [T-119](#), p. 25, lines 1-22, p. 32, lines 12-23, p. 39, line 18 – p. 40, line 18. The Defence argues that the Chamber draw adverse inferences due to it having insufficient time to consider Alan French’s documents outlining his enhancement process. [Defence Closing Brief](#), para. 277. The Defence had this information in 2017 – any time constraints it had to consider these materials cannot still be true.

<sup>1188</sup> See [Defence Closing Brief](#), paras 269-74, 276.

<sup>1189</sup> P-0256: [T-119](#), p. 25, lines 19-22, p. 30, lines 2-15, p. 34, lines 2-16, p. 36, line 10 – p. 37, line 21, p. 40, line 25 – p. 41, line 7, p. 44, line 5 – p. 45, line 3.

experience,<sup>1190</sup> the Chamber is satisfied that Alan French and Xavier Laroche both have the requisite qualifications to enhance audio recordings.<sup>1191</sup>

654. When evaluating a particular enhanced audio, the Chamber has considered various indicators to ensure that an enhanced audio is a copy of an original. The Chamber verified whether the labelling of the enhanced audio matches the original recording it is purportedly linked to. The Chamber listened to the enhanced audio to ensure it has at least the same general impression that it contains men speaking in a non-working language over the radio. In this broad sense, and despite being unable to understand the non-working languages spoken, the Chamber checked that the enhanced audio contents are consistent with the original audios. The Chamber also compared the recorded track times on the original and enhanced tapes to see if they sufficiently correspond. If more than *de minimis* discrepancies exist, the Chamber endeavoured to determine why this was so. The Chamber has also considered these indicators against the full body of evidence, meaning that there may still be sufficient evidence to conclusively link an enhanced audio to an original even if – for instance – the original/enhanced audio track times do not align.
655. The Chamber finds nothing in the evidence to suggest that the enhanced audios are anything other than faithful reproductions of the originals. It must be emphasised that the Prosecution always provided the unenhanced and enhanced recordings together, so that any listener could identify potential discrepancies in the recorded contents.<sup>1192</sup> Alan French and Xavier Laroche also provided technical reports on the exact processes applied to each audio.<sup>1193</sup> The Defence spoke of many possible issues which can come from enhancing an audio,<sup>1194</sup> but generally made no substantiated challenge that any of these

<sup>1190</sup> P-0256: [T-119](#), p. 7, line 25 – p. 8, line 5, p. 14, line 23 – p. 16, line 21; P-0256 CV, UGA-OTP-0269-0034, at 0035.

<sup>1191</sup> See [Defence Closing Brief](#), paras 264-68.

<sup>1192</sup> See P-0242: [T-128](#), p. 16, lines 6-11 ('I mean, one of the things in this particular case that we have done almost as like a safety net is also to supply enhanced versions of the cassette tapes as digital files but also unenhanced versions of the, of the cassette tapes so that if there was any question about whether or not the enhanced material was of poorer quality than the original material, the two could be compared.').

<sup>1193</sup> E.g. Process Manager Chain for UGA-OTP-0039-0006, UGA-OTP-0281-1219; Process Manager Chain for UGA-OTP-0195-0022, UGA-OTP-0247-1199; Processing Chain for UGA-OTP-0053-0046, UGA-OTP-0261-0349-R01.

<sup>1194</sup> P-0242: [T-128](#), p. 25, line 6 – p. 28, line 21 (possibility of non-Acholi enhancer altering Acholi words), p. 37, lines 3-25, p. 80, line 19 – p. 81, line 21 (possibility of edits being made to the original tape), p. 38, line 1 – p. 40, line 12 (possibility that part of a cassette recorded prior to being re-copied survives on the re-copied version), p. 60, line 13 – p. 62, line 6, p. 64, line 7 – p. 68, line 16 (possibility that adaptive filters unduly affected the quality of the recording, but only directing witness to a recording where an adaptive filter was applied), p. 70, line 25 – p. 71, line 11 (possibility of altering voices when removing frequencies).

issues affected the particular recordings in this case. Even when the Defence did exceptionally do so, its arguments failed to persuade.<sup>1195</sup>

656. The Chamber cannot find reasonable doubt that the intercepted audio recordings (as enhanced) are altered on the basis of abstract possibilities not grounded in the evidentiary record. The Chamber emphasises that no witness played the enhanced audios – including former LRA soldiers – commented on there being anything unusual about the way they sounded. The Chamber is also able to compare the intercept witnesses’ summaries of the enhanced audio to the logbook entries prepared contemporaneously to when the recording occurred. When the summary matches the logbook – as it consistently did – then this further demonstrates that the audio enhancement did not distort the spoken contents of the original tape.

657. For these reasons, the Chamber considers the enhanced audios to be accurate enhancements of the originals and fully reliable.

*iv Interceptor logbooks*

658. The primary interceptor logbooks are a contemporaneous written record of the LRA’s intercepted communications. They are written in plain language, and have formed an essential part of the Chamber’s assessment of particular recordings.

659. The logbooks before the Chamber are written in a systematic manner, have marks indicating that commanding officers read them, and summarise LRA communications. They give every indication of being what the witnesses describe them to be, and the various witnesses who authored or were otherwise familiar with these books identified them in the course of their testimony. The Chamber can confirm the provenance of the following logbooks:

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<sup>1195</sup> See paras 772-773 below.

- i. UPDF (Gulu): UGA-OTP-0254-3399;<sup>1196</sup> UGA-OTP-0254-0455;<sup>1197</sup> UGA-OTP-0254-0229;<sup>1198</sup> UGA-OTP-0254-0725;<sup>1199</sup> UGA-OTP-0254-1077;<sup>1200</sup> UGA-OTP-0254-2982;<sup>1201</sup> UGA-OTP-0254-3833;<sup>1202</sup> UGA-OTP-0254-4143.<sup>1203</sup>

<sup>1196</sup> Re-scan of UGA-OTP-0197-2162. The Chamber is satisfied of the authenticity of this logbook, containing entries from 5 January 2003 – 5 April 2003, considering that it shows identical characteristics to all UPDF logbooks the authenticity of which is considered established, that its ecourt metadata indicates that P-0038 of the UPDF provided this re-scanned book to the Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0024 to UPDF 0029’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), and that ‘UPDF 0024’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-3399, at 3400).

<sup>1197</sup> Re-scan of UGA-OTP-0197-1224. The Chamber is satisfied of the authenticity of this logbook, containing entries from 8 April 2003 – 25 June 2003, considering that it shows identical characteristics to all UPDF logbooks the authenticity of which is considered established, that its ecourt metadata indicates that P-0038 of the UPDF provided this re-scanned book to the Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0024 to UPDF 0029’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), that ‘UPDF 0025’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-0455, at 0456-0457 – the slip of paper is scanned backwards), and that this book fits in chronological sequence with another Gulu UPDF logbook the authenticity of which is also established (book UGA-OTP-0254-0725’s first entry is 26 June 2003, the day after the book at issue closed).

<sup>1198</sup> Re-scan of UGA-OTP-0197-2040. It is noted that there seem to have been errors in scanning this logbook. Both re-scanned and original books clearly start with the same entry (dated 12 October 2003), but the re-scanned book contains additional entries not scanned in the original. These errors make it impossible to determine exactly when this logbook ends. Nevertheless, the authenticity of the overlapping pages is established, as this book shows identical characteristics to all UPDF logbooks the authenticity of which is considered established, the ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 1 August 2015, a pre-registration form signed by P-0038 confirms that certain UPDF logbooks (including with the sequence number 23, which can be found on a separate slip of paper scanned in UGA-OTP-0254-0229, at 0258-59) were provided on this date (UGA-OTP-0244-0920-R01, at 0944), and the beginning of this book fits in chronological sequence with another Gulu UPDF logbook the authenticity of which is also established (book UGA-OTP-0254-0725’s last entry is 11 October 2003, the day before this book opens).

<sup>1199</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0400 in this regard (P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(k)), and considering that it shows identical characteristics to other UPDF logbooks, that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0024 to UPDF 0029’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), that ‘UPDF 0028’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-0725, at 0726-27), and that this book fits in chronological sequence with other Gulu UPDF logbooks (book UGA-OTP-0254-0455’s last entry is 25 June 2003 at 11:00, the day before this book opens, while book UGA-OTP-0254-0229’s first entry is 12 October 2003 at 8:00, the day after this book is closed).

<sup>1200</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0400 in this regard (P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(1)), and considering that it shows identical characteristics to other UPDF logbooks, that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0024 to 0029’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), that ‘UPDF 0029’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-1077, at 1078-79), and that this book fits in chronological sequence with another Gulu UPDF logbook (book UGA-OTP-0254-3833’s last entry is 3 December 2004, at 11:00, while this logbook starts on 3 December 2004, at 18:30).

<sup>1201</sup> Re-scan of UGA-OTP-0197-1670. The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0003, P-0400 and P-0404 in this regard (P-0003: [T-42](#), p. 32, line 25 – p. 36, line 10; [T-44](#), p. 34, line 20 – p. 36, line 18; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(b); P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 49(a)), and considering that it shows identical characteristics to other UPDF logbooks, that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the

- ii. UPDF (Achol Pii): UGA-OTP-0242-6018;<sup>1204</sup> UGA-OTP-0242-7309.<sup>1205</sup>

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Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0021 to 0023’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), that ‘UPDF 0022’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-2982, at 2983), and that this book fits in chronological sequence with other UPDF Gulu logbooks (book UGA-OTP-0254-4143’s last entry is 21 April 2004 at 9:00, while this book opens on 21 April 2004 at 18:30, and book UGA-OTP-0254-3833’s first entry is 2 August 2004 at 11:00, while this book closes on 2 August 2004 at 9:00).

<sup>1202</sup> Re-scan of UGA-OTP-0197-0308. The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0400 and P-0404 in this regard (P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(l); P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 49(b)), and considering that it shows identical characteristics to other UPDF logbooks, that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0024 to UPDF 0029’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), that ‘UPDF 0026’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-3833, at 3834), and that this book fits in chronological sequence with other Gulu UPDF logbooks (book UGA-OTP-0254-2982’s last entry is 2 August 2004 at 9:00, while this book opens on 2 August 2004 at 11:00, and book UGA-OTP-0254-1077’s first entry is 3 December 2004 at 18:30, while this book closes on 3 December 2004 at 11:00). The Chamber notes that P-0339 also identified as his the handwriting on a number of pages which were identified by P-0404 to be his handwriting (*see* P-0339: [T-134](#), p. 34, line 22 – p. 35, line 17). However, in light of the fact that two other witnesses identified this logbook as having been written in Gulu, and bearing in mind that it concerned a time at which P-0339 no longer worked in Gulu, but rather in Lira (the book contains entries from 2 August 2004 – 3 December 2004), the Chamber disregards the evidence of P-0339 on this point.

<sup>1203</sup> Re-scan of UGA-OTP-0197-0697. The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0400 in this regard (P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(a)), and considering that it shows identical characteristics to other UPDF logbooks, that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 1 August 2015, that a pre-registration form signed by P-0038 confirms that logbooks ‘UPDF 0024 to UPDF 0029’ were provided on this date (UGA-OTP-0244-0920-R01, at 0944), that ‘UPDF 0027’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-4143, at 4153), and that this book fits in chronological sequence with other Gulu UPDF logbooks (book UGA-OTP-0254-0229’s last entry is 10 December at 11:00, the day before this book opens, while book UGA-OTP-0254-2982’s first entry is 21 April 2004 at 18:30, and this book closes on 21 April 2004 at 9:00).

<sup>1204</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0400 in this regard (P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(f)), and considering that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 29 May 2015, that a pre-registration form signed by P-0038 on 1 August 2015 (and indicating a ‘collection date’ of 29 May 2015) confirms that logbooks ‘UPDF 0015 to 0017’ were provided on this date (UGA-OTP-0244-0920-R01, at 0943), that ‘UPDF 0015’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0242-6018, at 6019), and that this book fits in chronological sequence with another Achol Pii UPDF logbook (book UGA-OTP-0242-7309’s first entry is 21 November 2003, the day after this book closes).

<sup>1205</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0400 in this regard (P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(g)), and considering that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 29 May 2015, that a pre-registration form signed by P-0038 on 1 August 2015 (and indicating a ‘collection date’ of 29 May 2015) confirms that logbooks ‘UPDF 007 to 0010’ were provided on this date (UGA-OTP-0244-0920-R01, at 0942), that ‘UPDF 0008’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0242-7309, at 7309), and that this book fits in chronological sequence with another Achol Pii UPDF logbook (book UGA-OTP-0242-6018’s last entry is 20 November 2003, the day before this book opens).

- iii. UPDF (Soroti): UGA-OTP-0254-2284;<sup>1206</sup> UGA-OTP-0242-6212;<sup>1207</sup> UGA-OTP-0254-1991.<sup>1208</sup>
- iv. UPDF (Lira): UGA-OTP-0255-0228;<sup>1209</sup> UGA-OTP-0255-0451.<sup>1210</sup>

<sup>1206</sup> Re-scan of UGA-OTP-0197-1866. The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0339 in this regard (P-0339: [T-134](#), p. 36, lines 19-24), and considering that its e-court metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 29 May 2015, that a pre-registration form signed by P-0038 on 1 August 2015 (and indicating a ‘collection date’ of 29 May 2015) confirms that logbooks ‘UPDF 0011 to 0012’ were provided on this date (UGA-OTP-0244-0920-R01, at 0942), that ‘UPDF 0012’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-2284, at 2285), and that this book fits in chronological sequence with another Soroti UPDF logbook (book UGA-OTP-0254-1991’s last entry is 13 November 2003 at 11:00 (also headed ‘Compact No. 4’), while this book opens on 13 November 2003 at 11:00 (equally headed ‘Compact No. 4’). P-0400 identified this book as emanating from Lira, noting that he recognised P-0339’s handwriting within it. P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(d). P-0339 testified to recording some of this book in both Soroti and Lira and therefore, there is no significant inconsistency. P-0339: [T-134](#), p. 30, lines 15-19; [T-135](#), p. 11, line 24 – p. 13, line 10.

<sup>1207</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0339 in this regard (P-0339: [T-134](#), p. 37, lines 2-13), and considering that its e-court metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 29 May 2015, that a pre-registration form signed by P-0038 on 1 August 2015 (and indicating a ‘collection date’ of 29 May 2015) confirms that logbooks ‘UPDF 0015 to 0017’ were provided on this date (UGA-OTP-0244-0920-R01, at 0943), and that ‘UPDF 0016’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0242-6212, at 6213).

<sup>1208</sup> Re-scan of UGA-OTP-0197-1078. The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0339 in this regard (P-0339: [T-134](#), p. 36, lines 9-18), and considering that its e-court metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 29 May 2015, that a pre-registration form signed by P-0038 on 1 August 2015 (and indicating a ‘collection date’ of 29 May 2015) confirms that logbooks ‘UPDF 0011 to 0012’ were provided on this date (UGA-OTP-0244-0920-R01, at 0942), that ‘UPDF 0011’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0254-1991, at 1992), and that this book fits in chronological sequence with another Soroti UPDF logbook (book UGA-OTP-0254-2284’s first entry is 13 November 2003 at 11:00 (also headed ‘Compact No. 4’), while this book closes on 13 November 2003 at 11:00 (equally headed ‘Compact No. 4’).

<sup>1209</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0339 in this regard (P-0339: [T-134](#), p. 39, lines 17-23), and considering that its e-court metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 24 August 2015, that a pre-registration form signed by P-0038 on this date indicates that ‘3 message books’ were provided on this date (UGA-OTP-0244-0920-R01, at 0946), and that this book fits in chronological sequence with another Lira UPDF logbook (book UGA-OTP-0255-0451’s first entry is 8 August 2004 at 11:30, while this book closes on 8 August 2004 at 9:21). The Defence pointed P-0339 to his prior statement whereby he did not recognise his handwriting on page 0231 of this logbook – P-0339 indicated his prior statement is in error on this point. [T-135](#), p. 13, line 13 to – p. 14, line 6. Whatever confusion occurred here does not affect the authenticity of this logbook, noting that no challenge is raised against P-0339 further identifying his handwriting on page 0409 of this same book. It is also noted that there appear to be two different handwritings on both pages 0231 and 0409 – the writing in black ink on p. 0231 appears to match that found on the top half of p. 0409.

<sup>1210</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0339 and P-0400 in this regard (P-0339: [T-134](#), p. 39, line 24 – p. 40, line 3; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(e)), and considering that its e-court metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 24 August 2015, that a pre-registration form signed by P-0038 on this date indicates that ‘3 message books’ were provided on this date (UGA-OTP-0244-0920-R01, at 0946), and that this book fits in chronological sequence with another Lira UPDF logbook (book UGA-OTP-0255-0228’s last entry is 8 August 2004 at 9:21, while this book opens on 8 August 2004 at 11:30).

- v. UPDF (P-0400 Sudan Logbook): UGA-OTP-0242-7194.<sup>1211</sup>
- vi. ISO (Gulu): UGA-OTP-0061-0002;<sup>1212</sup> UGA-OTP-0061-0206;<sup>1213</sup> UGA-OTP-0062-0002;<sup>1214</sup> UGA-OTP-0062-0145;<sup>1215</sup>

<sup>1211</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0339 and P-0400 in this regard (P-0339: [T-134](#), p. 38, lines 4-8; P-0400 Statement, UGA-OTP-0264-0015-R01, at para. 44(i)), and considering that its ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 29 May 2015, that a pre-registration form signed by P-0038 on 1 August 2015 (and indicating a ‘collection date’ of 29 May 2015) confirms that logbooks ‘UPDF 007 to 0010’ were provided on this date (UGA-OTP-0244-0920-R01, at 0942), and that ‘UPDF 0007’ appears in a slip of paper in this logbook, matching the identification number range in the pre-registration form (*see* UGA-OTP-0242-7194, at 7195).

<sup>1212</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0386 in this regard (P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(i)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0066-0002-R01’s last entry is 17 January 2004 at 8:00 (with tape 747A), while this book opens on 18 January 2004 at 8:00 (with tape 748A), and book UGA-OTP-0061-0206’s first entry is 2 April 2004 at 9:00 (with tape 791A), while this book closes on 1 April 2004 at 18:30 (with tape 790B+791A)).

<sup>1213</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0386 in this regard (P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(h)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0061-0002’s last entry is 1 April 2004 at 18:30 (with tape 790B+791A), while this book opens on 2 April 2004 at 9:00 (with tape 791A), and book UGA-OTP-0062-0002’s first entry is 30 May 2004 at 18:30 (with tape 830B), while this book closes on 30 May 2004 at 8:00 (with tape 830A)).

<sup>1214</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0386 in this regard (P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(g)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0061-0206’s last entry is 30 May 2004 at 8:00 (with tape 830A), while this book opens on 30 May 2004 at 18:30 (with tape 830B), and book UGA-OTP-0062-0145’s first entry is 30 July 2004 at 9:00 (with tape 874B+875A), while this book closes on 29 July 2004 at 18:30 (with tape 874B)).

<sup>1215</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0386 in this regard (P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(f)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0062-0002’s last entry is 29 July 2004 at 18:30 (with tape 874B), while this book

UGA-OTP-0063-0002;<sup>1216</sup> UGA-OTP-0063-0194;<sup>1217</sup> UGA-OTP-0064-0002;<sup>1218</sup>  
 UGA-OTP-0064-0093;<sup>1219</sup> UGA-OTP-0065-0002;<sup>1220</sup> UGA-OTP-0066-0002-

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opens on 30 July 2004 at 9:00 (with tape 874B+875A), and book UGA-OTP-0152-0002's first entry is 22 October 2004 at 9:00 (with tape 922B), while this book closes on 21 October 2004 at 18:30 (with tape 922B)).

<sup>1216</sup> This specific book contains entries from 13 March 2003 to 8 May 2003 (0800, Tape 651). The Chamber is satisfied of its authenticity, considering that it shows identical characteristics to all Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word 'seen' following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 'Books English Transcripts' were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with another Gulu ISO logbook the authenticity of which is considered established, with an opening entry of 8 May 2003 (11:00 entry, Tape 652. *See* ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0147).

<sup>1217</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0384 and P-0385 in this regard (P-0384 Statement, UGA-OTP-0260-0491-R01, at para. 28(a); P-0385 Statement, UGA-OTP-0260-0498-R01, at para. 30(a)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word 'seen' following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 'Books English Transcripts' were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with another Gulu ISO logbook (book UGA-OTP-0064-0002's first entry is 4 August 2002 at 8:00 (with tape 518B), while this book closes on 3 August 2002 at 8:00 (with tape 517B+518B)).

<sup>1218</sup> The Chamber is satisfied of the authenticity of this logbook, containing entries from 4 August 2002 – 2 September 2002, considering that it shows identical characteristics to all Gulu ISO logbooks the authenticity of which is also established (most notably tick marks following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 'Books English Transcripts' were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with another Gulu ISO logbook the authenticity of which is also established, with an opening entry of 4 August 2002 (0800, Tape 518B) which follows the last entry in book UGA-OTP-0063-0194, at 0344-47 (on 3 August 2002, at 08:00-11:30, referring to Tape 518A).

<sup>1219</sup> This specific book contains entries from 2 September 2002 (1100, Tape 539A) – 23 September 2002 (1100, Tape 553B). The Chamber is satisfied of its authenticity, considering that it this book shows identical characteristics to all Gulu ISO logbooks the authenticity of which is also established (most notably tick marks following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 'Books English Transcripts' were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with another Gulu ISO logbook the authenticity of which is considered established, with an opening entry of 24 September 2002 (0800, also referring to Tape 553B. *See* ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0003).

<sup>1220</sup> The Chamber is satisfied of the authenticity of this logbook, containing entries from 5 November 2002 – 4 January 2003, considering that it shows identical characteristics to all Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word 'seen' following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 'Books English Transcripts' were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with another Gulu ISO logbook the authenticity of which is considered established, with an opening entry of 5 November 2002 (08:00 entry, Tape 577) which follows the last entry in book UGA-OTP-0068-0002, at 0144-45 (on 4 November 2002, also referring to Tape 577).

R01;<sup>1221</sup> UGA-OTP-0068-0002;<sup>1222</sup> UGA-OTP-0068-0146;<sup>1223</sup> UGA-OTP-0152-0002;<sup>1224</sup> UGA-OTP-0232-0234.<sup>1225</sup>

<sup>1221</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0386 in this regard (P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(j)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0232-0234’s last entry is 26 October 2003 at 8:00 (with tape 704B+705A), while this book opens on 27 October 2003 at 8:00 (with tape 705A), and book UGA-OTP-0061-0002’s first entry is 18 January 2004 at 8:00 (with tape 748A), while this book closes on 17 January 2004 at 8:00 (with tape 747A)).

<sup>1222</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0032 in this regard (P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 34(e)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0064-0093’s last entry is 23 September 2002 at 11:00 (with tape 553B), while this book opens on 24 September 2002 at 8:00 (with tape 553B+554), and book UGA-OTP-0065-0002’s first entry is 5 November 2002 at 8:00 (with tape 577A+B), while this book closes on 4 November 2002 at 11:00 (with tape 577A)).

<sup>1223</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0059, P-0032 and P-0303 in this regard (P-0059: [T-36](#), p. 31, line 21 – p. 33, line 17; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 34(a); P-0303 Statement, UGA-OTP-0258-0723-R01, at para. 37(e)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 7 March 2005, that a pre-registration form signed by P-0027 confirms that 18 ‘Books English Transcripts’ were provided on this date (Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0040; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(b)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0063-0002’s last entry is 8 May 2003 at 8:00 (with tape 651B), while this book opens on 8 May 2003 at 11:00 (with tape 652A), and book UGA-OTP-0232-0234’s first entry is 2 August 2003 at 8:00 (with tape 675A), while this book closes on 1 August 2003 at 18:00 (with tape 675A)).

<sup>1224</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witnesses P-0032 and P-0386 in this regard (P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 34(c); P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(b)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0038 of the UPDF provided this book to the Prosecution on 21 July 2005, that a pre-registration form signed by P-0038 confirms that an ‘ISO (LRA) book of intercepts from 22 Oct 2004 to 05 April 2005’ was provided on this date (UGA-OTP-0244-0920-R01, at 0933), and that this book fits in chronological sequence with another Gulu ISO logbook (book UGA-OTP-0062-0145’s last entry is 21 October 2004 at 18:30 (with tape 822B), while this book opens on 22 October 2004 at 9:00 (with tape 822B)).

<sup>1225</sup> The Chamber is satisfied of the authenticity of this logbook, considering the testimony provided by Witness P-0386 in this regard (P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 29(k)), and considering that it shows identical characteristics to other Gulu ISO logbooks the authenticity of which is also established (most notably tick marks or the word ‘seen’ following many entries, *see* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 33), that the ecourt metadata indicates that P-0027 of the ISO provided this book to the Prosecution on 23 April 2015, that a pre-registration form signed by P-0027 confirms that a ‘blue manuscript book opened on 2 Aug 2003, last entry is 26 Oct 2003’ was provided on this date (Pre-Registration Form, UGA-OTP-

vii. Police: UGA-OTP-0037-0002;<sup>1226</sup> UGA-OTP-0151-0002 through UGA-OTP-0151-0042.<sup>1227</sup>

660. While other logbooks have been submitted into evidence, the logbooks listed above include content the Chamber considers to be specifically relevant to its evidentiary discussion. These logbooks have been extensively used during the hearings at trial, making it quite clear to all involved what parts of them are most relevant.

661. As discussed previously, there is evidence that, despite orders to the contrary, UPDF and ISO personnel would sometimes help each other to understand the meaning of certain parts of communications.<sup>1228</sup> However, all those who acknowledged that such discussions occurred described them in a way which made it clear that each agency was still working independently from the other.<sup>1229</sup> There is, for instance, no evidence suggesting that the UPDF simply copied the entries in the ISO logbooks, or vice-versa. The Chamber considers that, despite the possibility that the UPDF and ISO may have

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0246-0039-R01, at 0045; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 35(g)), and that this book fits in chronological sequence with other Gulu ISO logbooks (book UGA-OTP-0068-0146's last entry is 1 August 2003 at 18:00 (with tape 675A), while this book opens on 2 August 2003 at 8:00 (with tape 675A), and book UGA-OTP-0066-0002-R01's first entry is 27 October 2003 at 8:00 (with tape 705A), while this book closes on 26 October 2003 at 8:00 (with tape 704B+705A)).

<sup>1226</sup> The Chamber is satisfied of the authenticity of this material, considering the testimony provided by Witnesses P-0125 and P-0370 in this regard (P-0125: [T-135](#), p. 59, line 14 – p. 62, line 9; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 55), and considering that its e-court metadata indicates that P-0038 of the UPDF provided this material to the Prosecution on 14 December 2004, and that a pre-registration form signed by P-0038 on this date confirms that 'civilian intercept folder/docs 12 Apr – 04 Nov 04' was provided on this date (UGA-OTP-0244-0920-R01, at 0929), with a date range matching the entries in these papers. The police themselves described such papers as 'fair copies', and they were not written into a single logbook like those of the UPDF and ISO. However, the collection of papers is functionally equivalent to a 'police logbook', and for consistency in referencing the Chamber will describe these collected papers as a logbook.

<sup>1227</sup> The Chamber is satisfied of the authenticity of this material, considering the testimony provided by Witnesses P-0125, P-0126 and P-0370 in this regard (P-0125: [T-135](#), p. 62, line 13 – p. 64, line 16; P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. 69; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 56), and considering that its e-court metadata indicates that P-0126 of the Police provided this material to the Prosecution on 24 June 2005, and that a pre-registration form, although not signed by P-0126, confirms that a 'set of handwritten transcripts of radio-intercepts' was provided on this date (Pre-Registration Form, UGA-OTP-0151-0001-R01; P-0126 First Statement, UGA-OTP-0253-0764-R01, at para. 76), with an ERN range matching this collection of papers (indicated as 'UGA.00151.001 to UGA.00151.044', with the end page being the last page of item UGA-OTP-0151-0042). The Chamber notes that these 'fair copies' were registered into e-court separately, and will therefore refer to them as 'police notes'. However, this collection of papers contains notes of the same kind as those included in Police Logbook, UGA-OTP-0037-0002.

<sup>1228</sup> See para. 563 above.

<sup>1229</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 50; P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 40; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 44-46 (would read both sets of logbooks, and point out to UPDF or ISO if something caught in one logbook was missing in the other); P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 18 ('[w]e worked independently from [ISO], but would occasionally compare our findings if there was something we had difficulty with').

compared findings about aspects of some communications, the work in their respective logbooks still can be understood to be corroborative when their entries are consistent.

662. Further, the UPDF operations in Gulu, Achol Pii, Soroti and Lira were conducted independently.<sup>1230</sup> Matching logbook entries from each of these places can likewise be understood as corroborating each other.
663. The police interception operation was also independent of those of the UPDF/ISO.<sup>1231</sup> For those communications where a police logbook entry exists, these logbooks provide a further layer of corroboration as to what the LRA was saying and when.
664. When considering the corroborative effect of different logbooks, the Chamber is not expecting word-for-word mirroring across the agencies. To the contrary, this would actually suggest the logbook authors did not prepare them independently. It is of particular import in this regard that differences in details are to be expected, noting the diverse experience levels of the interceptors, the potential for varying quality of what could be heard at each interception site, and the inevitability that different people will summarise different parts and focus on varying details of a long conversation. In assessing whether logbooks corroborate each other or witness or documentary evidence (such as transcripts) for a given LRA conversation, the Chamber is only looking for overlapping content sufficient for it to conclude that each logbook is describing the same overall conversation.
665. As to legibility, the Chamber is able to easily read the police logbook in evidence. The contents of ISO logbooks are generally legible, though sometimes the dates of the entries are written faintly. Noting that ISO logbooks are written in chronological order, the Chamber has occasionally made recourse to more legible dates near cited entries in order to confirm the dates of the cited entries themselves. For UPDF logbooks, the Prosecution also re-scanned a number of them to make them easier to read. The initial scans of the logbooks are also provided, meaning that the Chamber has been able to compare versions of these logbooks. As a general rule, the Chamber will cite to the clearest version of the

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<sup>1230</sup> See n. 1118 above.

<sup>1231</sup> P-0125: [T-135](#), p. 66, lines 18-23; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 47; P-0370 Statement, UGA-OTP-0258-0687-R01, at para. 46.

evidence in the record. This means that the Chamber generally cites to the re-scanned UPDF logbook entries in its reasoning (as well as enhanced audios for recordings).

666. The Defence argues that logbook entries may discuss conversation topics out of order or may have inaccurately interpreted proverbs or coded messages.<sup>1232</sup> But the Chamber considers that much of the value of these logbooks comes precisely from their providing a plain language summary of an otherwise indecipherable conversation. As will be shown in the discussion on specific intercepted communications, it must also be noted that the summaries in these logbooks have been extensively corroborated by witnesses who were played the corresponding recorded conversations in court. In principle in its evidentiary discussion, the Chamber has taken care to verify the meaning of any LRA conversation sourced from a single logbook, relying on available audio recording transcripts, witness testimonies or other logbooks to corroborate their accuracy. That said, the Chamber notes that in certain instances, it has not been possible to match the details of conversations as recorded in specific logbooks to other available evidence. This holds true in particular when looking at the logbooks produced by ISO in 2002, time for which the Chamber was not provided with logbooks from other intercepting agencies.<sup>1233</sup> In such cases, while the Chamber may be referencing the content of LRA communications sourced from a single logbook, the Chamber considers such logbook entries sufficiently reliable in the context of its evidentiary discussion and in light of the evidence received on how the logbooks were produced. This is also the case in particular bearing in mind the discussion of the specific intercepts below which demonstrates that witnesses corroborated summaries in logbooks when played the corresponding sound recordings, as well as that for years subsequent 2002, for which logbooks from other intercepting agencies are available, in many cases the logbook entries across agencies match to an extent which allows the Chamber to conclude sufficiently on the reliability of the ISO logbooks from 2002. To the extent possible, the Chamber has also noted corroboration for the content of such logbooks entries by reference to other material available. Furthermore, throughout the evidentiary discussion, and as regards logbook entries relevant to the entire period of the charges, in cases in which the Chamber found especially variations in the amount of details recorded across different logbook entries which are of significance to the

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<sup>1232</sup> [Defence Response to Prosecution's Submission of Intercept Material](#), paras 30-32.

<sup>1233</sup> The Chamber notes the existence of two logbooks which appear to have been produced by the UPDF between January and April as well as May-June 2002, but considers them of no immediate relevance for the current discussion as they concern a period before the time relevant to the charges.

Chamber's discussion, additional reasoning has been provided as to why the Chamber may have decided to rely on one specific logbook entry.

v *Short hand notes*

667. The Chamber has received a large number of short hand notes from the UPDF and ISO intercept operations.<sup>1234</sup> Interceptors wrote these notes as the communications transpired to inform the formal logbook entries made subsequently.
668. On some level, these notes should be probative in that they provide an even more contemporaneous record of LRA conversations compared to the logbook summaries. But there are several competing considerations. First, and understandably, the witnesses' short hand notes are not as complete a record of the conversation as when they can collect their thoughts for the full logbook entry.<sup>1235</sup> Second, many of the notes are so hard to read as to be illegible.<sup>1236</sup> Third, even when the text is clear enough to read, the notes themselves are written in a mixture of Acholi and English and lack full translations. Fourth, full sentences are not always used, making it difficult for someone other than the author to know the import of isolated words or phrases.
669. All told, this has led to the Chamber placing little reliance on these short hand notes. The Chamber instead uses the logbook summaries for a contemporaneous written record of the intercepted conversation.

vi *Copies of ISO logbooks*

670. ISO interception operations also generated copies of the logbook entries prepared in Gulu. The ISO operation in Gulu often faxed a copy of their logbook entry to Kampala (sometimes after being rewritten more legibly in Gulu).<sup>1237</sup> The Chamber has received

<sup>1234</sup> E.g. UPDF Shorthand Notes, UGA-OTP-0254-2619 (re-scan of UGA-OTP-0197-2319); ISO Shorthand Notes, UGA-OTP-0242-3630; ISO Shorthand Notes, UGA-OTP-0242-5078.

<sup>1235</sup> P-0003: [T-42](#), p. 23, lines 11-21; P-0059: [T-36](#), p. 27, line 18 – p. 28, line 2 ('[s]ometimes their speed is high, you have to draft very fast and you do not write everything, you skip some things. And then you start rewriting directly in the logbook. That is what can happen. You may not have it in the rough book, but it can surface in the notebook or on the paper.').

<sup>1236</sup> E.g. UGA-OTP-0254-2619, at 2815 (itself a re-scan of UGA-OTP-0197-2319, at 2513), *discussed by* P-0003: [T-42](#), p. 23, line 22 – p. 29, line 25. The Chamber is unable to read the words on this page and is dependent upon P-0003's description as to what is written.

<sup>1237</sup> Footnote 1136 above.

these faxed copies.<sup>1238</sup> ISO staff in Kampala would also copy Gulu logbook entries into new logbooks, and some of these logbooks are in evidence as well.<sup>1239</sup>

671. These faxed copies and additional logbooks are ‘new evidence’ in the sense that a fax or handwritten copy is not entirely identical to the original logbook, and some evidence indicates that the handwritten Kampala copies contain some corrected typos or other marginal differences.<sup>1240</sup> That these copies exist provides further proof that the ISO logbooks from Gulu are authentic, but the Chamber has ample witness testimony on the authenticity of these same books. As to the contents of these copied books, the Chamber considers it self-evident that they cannot be considered as corroborative in any way of the original logbooks.

672. As a result, in order to avoid double-counting repetitive evidence, the Chamber will not use copied logbooks – be they faxes or handwritten duplicates – to prove anything beyond the originals. The Chamber has referred to copied logbooks in some limited instances in which the copies assisted with the legibility of an entry in the original logbook.

*vii Intercept evidence in intelligence reports*

673. On a regular basis during the period relevant to the charges, the Ugandan army would prepare intelligence reports.<sup>1241</sup> These reports commonly contain exchanges amongst the LRA in intercepted communications.<sup>1242</sup> The police also prepared certain intelligence reports on the basis of information received from the Kamdini police interceptors.<sup>1243</sup>

674. Other aspects of these intelligence reports will be considered elsewhere in this judgment.<sup>1244</sup> But, for purposes of understanding intercepted communications, the Chamber considers that the probative value of these reports is minimal. The sources of

<sup>1238</sup> *E.g.* ISO Faxed Copy, UGA-OTP-0163-0007; ISO Faxed Copy, UGA-OTP-0163-0292.

<sup>1239</sup> Footnote 1137 above. *E.g.* ISO Logbook (Kampala), UGA-OTP-0067-0002; ISO Logbook (Kampala), UGA-OTP-0067-0148.

<sup>1240</sup> P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 27; P-0385 Statement, UGA-OTP-0260-0498-R01, at para. 24.

<sup>1241</sup> P-0003: T-44-CONF, p. 85, line 21 – p. 88, line 25; P-0029 Second Statement, UGA-OTP-0267-0455, at paras 64-81.

<sup>1242</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at paras 25, 28, 71, 74. *E.g.* 27 April 2004 Intelligence Report, UGA-OTP-0017-0130; 30 April 2004 Intelligence Report, UGA-OTP-0017-0150; 21 May 2004 Intelligence Report, UGA-OTP-0017-0268; 9 June 2004 Intelligence Report, UGA-OTP-0017-0353.

<sup>1243</sup> *E.g.* UGA-OTP-0256-0232 to 0233; UGA-OTP-0256-0243, *both discussed in* P-0126 Second Statement, UGA-OTP-0264-0002-R01, at paras 13-17, 26-27 (discussing other similar reports in subsequent paragraphs).

<sup>1244</sup> *See* section IV.B.3.iii below.

information used to create the intercept sections of these intelligence reports seem to be the same logbook entries disseminated from the various intercept operations.<sup>1245</sup> As such, these reports do not provide any meaningful information about intercepted communications beyond the logbooks.

675. Contrary to what the Defence intimates,<sup>1246</sup> the Chamber also does not consider intelligence reports to be necessarily more reliable because they incorporate information from sources beyond the intercepted communications. An intelligence report's recounting of an intercepted communication is derivative on at least two levels – the actual communication is summarised in a logbook entry, whose contents are then communicated and further summarised by the author of the intelligence report. Many details are lost in highly abbreviated summaries, as these intelligence reports are only a handful of pages each and cover various subjects beyond intercepted communications. If the goal is to fully understand the contents of an intercepted communication, the Chamber considers that the recorded conversations (as explained by witnesses) and corresponding logbook summaries more accurately reflect the LRA's communications than such intelligence reports.
676. This is not to say that these intelligence reports have not been useful to the Chamber. They assist in providing general context to what was going on in the conflict at any given point in time, such as what other attacks may have been going on (or not) at the time of a particular intercepted communication. This may, for instance, help to date certain communications.<sup>1247</sup> But, for the purpose of interpreting the intercepted communications, the Chamber considers that better evidence is available for establishing who actually said what during a particular LRA communication.

*viii Miscellaneous intercept evidence*

677. The Chamber will briefly address three miscellaneous kinds of evidence: (i) intercept operation pictures or sketches; (ii) TONFAS codes<sup>1248</sup> and (iii) materials used to

<sup>1245</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at paras 25, 28, 71, 74; P-0126 First Statement, UGA-OTP-0253-0764-R01, at paras 47-48, 61.

<sup>1246</sup> See P-0059: [T-39](#), p. 12, lines 7-10, p. 21, line 17 – p. 22, line 17.

<sup>1247</sup> See para. 734 below.

<sup>1248</sup> Not all witnesses had a uniform understanding as to why these were called 'TONFAS' codes, but P-0301 describes TONFAS as an acronym for 'Time of opening/closing net, Operator, Nicknames, Frequencies, Address group, and Security'. P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 39.

understand the intercept collection. The collection of intercept materials contains items on other subjects – such as LRA command structure lists<sup>1249</sup> and information on the UPDF direction-finding operation<sup>1250</sup> – but these are discussed more fully elsewhere in the judgment to the extent relevant for the evidentiary discussion.

678. The Prosecution provides various photographs of the ISO/UPDF intercept operations in Gulu and the police interception operation in Kamdini.<sup>1251</sup> Witnesses also commented on sketches showing which rooms they worked in during intercept operations.<sup>1252</sup> These pictures and sketches – which do not seem to be highly contested – provide a more complete understanding of the interception equipment and the conditions under which the operation was undertaken. Beyond this, they are not particularly relevant to the Chamber’s assessment.
679. The Prosecution provides several documents related to the LRA’s TONFAS codes, most notably a series of code books designed by the LRA.<sup>1253</sup>
680. The Chamber understands TONFAS codes as being the LRA version of a well-known classical cryptogram technique, where the letters of a word are defined by indicating their position in a secret code book, according to page, line and numerical position in a real word or group of letters.<sup>1254</sup> In this system, the encrypting person can choose a different combination when they have to code the same letter for the second time onwards.<sup>1255</sup> By using the same code book at both ends of the communication, the encrypting party puts

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<sup>1249</sup> E.g. LRA Commander List, UGA-OTP-0244-3328; LRA Commander List, UGA-OTP-0242-1021; LRA Commander List, UGA-OTP-0242-1008; LRA Commander List, UGA-OTP-0242-1005.

<sup>1250</sup> See section IV.B.3.iii below.

<sup>1251</sup> E.g. Picture of Gulu Intercept House, UGA-OTP-0244-3348; Picture of P-0003’s Office Location, UGA-OTP-0244-3308; Picture of Gulu Barracks Radio Antenna, UGA-OTP-0244-3352; Picture of Kamdini Police Radio Room, UGA-OTP-0254-1647.

<sup>1252</sup> E.g. Gulu Intercept House Sketch, UGA-OTP-0246-0022, *discussed by* P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 21.

<sup>1253</sup> E.g. TONFAS Code, UGA-OTP-0025-0173, *discussed by* P-0003: [T-42](#), p. 63, line 20 – p. 71, line 22; P-0339: [T-134](#), p. 42, line 5 – p. 44, line 1; [T-135](#), p. 35, lines 10-17; TONFAS Code, UGA-OTP-0053-0118, *discussed by* P-0059: [T-36](#), p. 51, line 12 – p. 53, line 4; P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 34.

<sup>1254</sup> P-0003: [T-42](#), p. 63, line 20 – p. 71, line 22; P-0339: [T-134](#), p. 42, line 5 – p. 44, line 14; [T-135](#), p. 35, lines 10-17; P-0059: [T-36](#), p. 51, line 12 – p. 53, line 4; P-0386 Statement, UGA-OTP-0260-0508-R01, at para. 22 (‘TONFAS code is a pre-agreed written code between LRA commanders and signallers. By following stage-by-stage instructions to go to a particular place in the code book, certain letters were picked out which then formed the message’); P-0440: T-39-CONF, p. 69, line 9 – p. 71, line 5; [T-40](#), p. 8, line 10 – p. 11, line 3, p. 12, line 13 – p. 13, line 13; D-0100: [T-234](#), p. 30, line 3 – p. 31, line 12.

<sup>1255</sup> See P-0003: [T-42](#), p. 70, line 16 – p. 71, line 18.

the text into coded format and, upon receipt, the decrypting party transcribes the text into an understandable format.

681. Following military practice, the LRA code books (or rather code pages) were regularly changed by the LRA leaders in order to render more difficult the understanding of the intercepted communications, especially when they knew or presumed that the current code book was seized by the Ugandan authorities.<sup>1256</sup>
682. Communicating in TONFAS code was used by the LRA only for select messages.<sup>1257</sup> Part of the Ugandan government's intercept operation was to decode these messages for their plain language logbook entries, relying in large part on seized code books in these efforts.<sup>1258</sup>
683. None of the specific intercepted communications discussed in the next section required the Chamber to consult TONFAS code books in order to understand. So, despite the importance of these books to the government intercept operation, the evidence related to TONFAS code is of limited relevance to the Chamber.
684. Finally, the Chamber notes the materials the Prosecution provides to facilitate the Chamber's understanding of the intercept evidence. Most notably, a Prosecution evidence analyst – P-0403 – prepared a detailed report describing the intercept evidence collection.<sup>1259</sup> He also testified, giving a general overview of the relevant materials.<sup>1260</sup> The Prosecution also provides typed summaries of all relevant ISO logbooks, a chart showing the range of dates covered by each logbook and a spread sheet providing all information corresponding to each recording in evidence.<sup>1261</sup>
685. All these materials have been helpful in guiding the Chamber through the evidence related to the intercepted communications. However, the actual intercept evidence (the

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<sup>1256</sup> P-0440: T-39-CONF, p. 69, line 17 – p. 70, line 1.

<sup>1257</sup> See P-0003: [T-42](#), p. 63, line 20 – p. 71, line 22 (discussing UGA-OTP-0025-0173); P-0016: [T-34](#), p. 3, line 1 – p. 5, line 4; P-0339: [T-134](#), p. 40, line 11 – p. 42, line 2.

<sup>1258</sup> P-0003: [T-44](#), p. 52, line 5 – p. 53, line 12; P-0059: [T-38](#), p. 27, line 15 – p. 28, line 2 ('I still repeat that we do not record the TONFAS in the logbook. The person who works on the radio is the one who needs the TONFAS. Whatever is recorded in the logbook is for our superiors.');

<sup>1259</sup> P-0403 Report, UGA-OTP-0272-0446.

<sup>1259</sup> P-0403 Report, UGA-OTP-0272-0446.

<sup>1260</sup> P-0403: [T-30](#); [T-31](#).

<sup>1261</sup> Intercept Analytical Materials, W16/03294 (Records Manager folder).

recordings, interceptor and LRA witnesses, logbooks, etc.) was the basis for the Chamber's assessments of particular communications. P-0403's testimony is useful, but he only analysed a collection of evidence given to him by the Prosecution.<sup>1262</sup> He is not able to say anything about how this evidence was created beyond what other witnesses said. Therefore, the Chamber does not rely upon P-0403 – or any chart/table prepared by the Prosecution – as proof.

*ii. Specific intercepted communications*

686. All intercepted evidence of LRA's radio communications has been considered and, overall, the Chamber considers these communications to be highly probative evidence in this case. They reveal the LRA's contemporaneous communications during the period relevant to the charges, giving a unique window into their conversations. Their importance demands that the Chamber set out a precise foundation for its conclusions on when a recorded conversation occurred and who was communicating.

687. The Chamber will now set out its foundational assessment for recordings it considers necessary for purposes of its evidentiary discussion. This includes the recordings played by the parties during the trial or referenced in their closing briefs. The present section establishes the following four points with respect to these recordings:

- i. That a given recording, as enhanced, contains radio communications intercepted by the Ugandan authorities.
- ii. The approximate date on which a conversation at issue occurred.
- iii. Who is speaking.
- iv. Where available, the accuracy of the transcript reflecting what was said.

688. As stated previously, LRA communications are often not readily intelligible. They are mostly in non-working languages, and on the basis of other evidence on the record, they are replete with jargon, proverbs and ambiguous phrasing. Here, the Chamber establishes the necessary foundation for an intercepted communication. The Chamber will not discuss the contents of the intercepted communications in this section, including differing interpretations witnesses may give on certain conversations. This will be discussed in the appropriate parts of the evidentiary discussion. To the extent the LRA may not always

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<sup>1262</sup> Letter of Instruction to P-0403, UGA-OTP-0262-0032.

have been truthful on the radio, including the possibility of commanders falsely claiming responsibility for certain attacks, this is likewise considered elsewhere when addressing the contents of individual conversations.

689. Generally, the assessments of the individual witnesses testifying on the contents of the specific intercepts – namely P-0003, P-0016, P-0059, Patrick Lumumba Nyeru, P-0138, P-0339, P-0440 and Francis Ocen – can be found in section IV.B.2.v above. For any such witness not covered in that section, the Chamber will briefly explain whether it considers the witness’s testimony about the recordings to be reliable.

a. 31 March 2003 – Tape 638 (UGA-OTP-0241-0303)

690. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘638/G<sup>3RD</sup>’.<sup>1263</sup> Its e-court metadata indicates that P-0027 of the ISO provided this tape on 3 June 2015. A pre-registration form related to P-0027 on this date memorialises the exchange of this tape.<sup>1264</sup> The recording is of men speaking over the radio in a non-working language.

691. Tape 638 was not audio enhanced.

692. Tape 638 has no date on its label. The ISO logbook entries for Tape 638 indicate a specific communication at 11:00 on 31 March 2003.<sup>1265</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on this date<sup>1266</sup> that the UPDF heard the same overall conversation recorded in the ISO logbook.

693. The Prosecution played part of this intercepted communication to D-0032, a long-time former LRA member who, despite having significant issues concerning other parts of his testimony,<sup>1267</sup> is well-placed to identify Joseph Kony’s voice. D-0032 confirmed certain

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<sup>1263</sup> UGA-OTP-0241-0303.

<sup>1264</sup> Pre-Registration Form 0155, UGA-OTP-0246-0039-R01, at 0058-59 (item #2).

<sup>1265</sup> UGA-OTP-0063-0002, at 0066-67.

<sup>1266</sup> UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3544-45. The UPDF logbook from Soroti has entries on 31 March 2003, but does not summarise any communication at 11:00 that day. UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6255-56. There are no police logbook entries on these dates.

<sup>1267</sup> See paras 283-284 above.

statements he heard, recognising Joseph Kony as speaking.<sup>1268</sup> D-0032's summary concerns part of the same conversation recorded in the logbooks.

694. From the above, the Chamber concludes that Tape 638 contains a recording of Joseph Kony and others speaking over the radio on 31 March 2003.

b. 20-22 April 2003 – Tape 646 (UGA-OTP-0241-0313)

695. The Chamber recognised the formal submission of the audio contents of a cassette identified as '646/G<sup>3RD</sup>'.<sup>1269</sup> Its e-court metadata indicates that P-0027 of the ISO provided this tape on 3 June 2015. A pre-registration form related to P-0027 on this date memorialises the exchange of this tape.<sup>1270</sup> The recording is of men speaking over the radio in a non-working language.

696. Tape 646 was not audio enhanced.

697. Tape 646 has no date on its label. The ISO logbook entries for Tape 646 indicate dates of 20-22 April 2003.<sup>1271</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on these dates<sup>1272</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.

698. The Defence produced a partial transcript of side B of this tape.<sup>1273</sup> The Defence played part of this intercepted communication to P-0138. P-0138 recognised certain voices, gave an overall summary of the recorded conversation, and annotated one section of the transcript.<sup>1274</sup> P-0138's summary and the Defence's transcript concern part of the same conversations recorded in the logbooks. Accordingly, and despite concerns raised by the Prosecution that parts of the Defence transcript may be inaccurate,<sup>1275</sup> the Chamber will

<sup>1268</sup> D-0032: [T-201](#), p. 15, line 22 – p. 16, line 24. *See also* Transcript Tape 638, UGA-OTP-0286-0165, at 0195-98.

<sup>1269</sup> UGA-OTP-0241-0313.

<sup>1270</sup> Pre-Registration Form 0155, UGA-OTP-0246-0039-R01, at 0058-59 (item #3).

<sup>1271</sup> UGA-OTP-0063-0002, at 0133-44.

<sup>1272</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0502-16; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6273-76, 6278-79. There are no police logbook entries on these dates.

<sup>1273</sup> Tape 646 Transcript, UGA-D26-0026-0001.

<sup>1274</sup> P-0138: [T-121](#), p. 57, line 11 – p. 60, line 25; [T-122](#), p. 5, line 4 – p. 15, line 3; P-0138 Annotations on Tape 646, UGA-REG-0001-0006, at 0013.

<sup>1275</sup> *See* P-0138: [T-121](#), p. 61, line 4 – p. 67, line 5; [T-122](#), p. 2, line 21 – p. 4, line 13; [Annex I to the Registration into the Record of the Case of a Document presented during the Trial Hearing held on 1 November 2017 \(ICC-02/04-01/15-HNE-1\)](#), 16 November 2017, ICC-02/04-01/15-1075-AnxI.

proceed on the understanding that this transcript, as annotated, accurately reflects the conversation. The voices recognised by P-0138 were Joseph Kony and Vincent Otti.

699. P-0231 was played the same excerpt. P-0231 did not comment on a transcript, but he did identify the same voices as P-0138.<sup>1276</sup> P-0231 is a witness with direct knowledge about the activities of the LRA, and the Chamber considers him well-placed to identify the voices of the LRA senior leadership on the radio.

700. From the above, the Chamber concludes that: (i) Tape 646 contains a recording of Joseph Kony, Vincent Otti and others speaking over the radio at some point in the period of 20-22 April 2003; and (ii) the corresponding Defence transcript – as annotated by P-0138 – accurately reflects the speakers and words spoken.

c. 9-10 October 2003 – Tape 693 (enhanced: UGA-OTP-0247-1102)

701. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘693/G<sup>3RD</sup>’.<sup>1277</sup> Its e-court metadata indicates that P-0027 of the ISO provided this tape to a Prosecution staff member on 23 February 2005. A pre-registration form related to P-0027 on this date which memorialises the exchange of ‘12 [c]assette tapes containing relevant data’ to this same staff member mentions the ERN range including this tape.<sup>1278</sup> The recording is of men speaking over the radio in a non-working language.

702. The Prosecution gave this tape to Xavier Laroche and his colleague for audio enhancement.<sup>1279</sup> These persons then performed this enhancement and registered the enhanced digital copy.<sup>1280</sup> An enhanced audio file (UGA-OTP-0247-1102) with a cover page indicating the ERN of Tape 693 is in evidence. The length of the recorded content on Tape 693’s side B corresponds to the length of the track in this enhanced audio.<sup>1281</sup>

<sup>1276</sup> P-0231: T-123-CONF, p. 54, line 20 – p. 56, line 25.

<sup>1277</sup> UGA-OTP-0054-0010 (and copied disc at 0013).

<sup>1278</sup> Pre-Registration Form 0155, UGA-OTP-0246-0039-R01, at 0039 (the ERN range including this tape appears on the bottom of the form); P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(a).

<sup>1279</sup> Inventory, UGA-OTP-0269-0044, at 0047; P-0256 Statement, UGA-OTP-0269-0015, at paras 22, 51.

<sup>1280</sup> P-0256 Statement, UGA-OTP-0269-0015, at paras 37-39; Pre-Registration Form, UGA-OTP-0269-0087, at 0093 (item #19).

<sup>1281</sup> Compare UGA-OTP-0054-0010 (31:41) with UGA-OTP-0247-1102 (31:41). For this and all similar determinations subsequently, *see* para. 654 above.

The general impression of the enhanced audio's contents is consistent with that of Tape 693's side B contents.

703. Tape 693 has no date on its label. The ISO logbook entries for Tape 693's side B indicate dates of 9-10 October 2003.<sup>1282</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on these dates<sup>1283</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.
704. In the course of its investigation, the Prosecution played part of this intercepted communication to P-0003. He reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1284</sup>
705. Upon being played part of the enhanced audio in court, P-0003 recognised certain voices, gave an overall summary of the recorded conversation, explained certain transcript annotations and confirmed that his annotated transcript matched what was played.<sup>1285</sup> The summary describes part of the same conversations recorded in the logbooks. Although P-0138 did not discuss a transcript of this conversation, he was played part of a recording in court and gave a similar overall summary and some of the same speaker identifications as P-0003.<sup>1286</sup> The voices consistently recognised were those of Joseph Kony and Vincent Otti.
706. This said, the Chamber notes two significant points where the witnesses diverged in their summaries of the recording.
707. First, P-0003 testified that the speakers were discussing an attack that the accused was responsible for.<sup>1287</sup> P-0138 did not indicate this information in his testimony, and the transcript P-0003 annotated shows no clear reference to Dominic Ongwen. Noting that P-0003 was unable to indicate where the lines he claimed to hear appeared in this transcript,<sup>1288</sup> the Chamber cannot conclude that there is any reference to Dominic

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<sup>1282</sup> UGA-OTP-0232-0234, at 0542-48.

<sup>1283</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1065-71; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6158-60; UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2111-19. There are no police logbook entries on these dates.

<sup>1284</sup> P-0003 Tape 693 Transcript, UGA-OTP-0132-0105-R01, at 0133-36.

<sup>1285</sup> P-0003: [T-43](#), p. 3, line 17 – p. 12, line 21.

<sup>1286</sup> P-0138: [T-120](#), p. 65, line 25 – p. 68, line 14.

<sup>1287</sup> P-0003: [T-43](#), p. 4, lines 6-9, p. 5, lines 4-13.

<sup>1288</sup> P-0003: [T-43](#), p. 10, line 21 – p. 12, line 13.

Ongwen in this part of the recording. The Chamber does not consider that this warrants any broader concern about P-0003's abilities or any potential bias on his part against the accused – the witness did not insist on Dominic Ongwen being referenced in every recording he heard<sup>1289</sup> and other recordings where P-0003 actually heard Dominic Ongwen speaking were independently corroborated by other witnesses.<sup>1290</sup> The Chamber considers P-0003 to simply be mistaken on this occasion.

708. Second, P-0138 indicated that the recording relates to orders to attack Adilang and Orum.<sup>1291</sup> P-0003 did not give these locations in his summary, nor do they appear in his annotated transcript. But it must be noted that P-0138 did not provide this information in his initial in-court summary of the recording,<sup>1292</sup> and he says quite clearly that the speakers 'did not mention a place' in their discussion.<sup>1293</sup> P-0138 rather seems to have attempted to speculate on the incidents being discussed based on information beyond what is in the recording itself. The Chamber therefore does not consider P-0138's discussion of these locations to be part of his overall summary of the recording, and therefore sees no conflict between P-0003 and P-0138 on this point.

709. From the above, the Chamber concludes that: (i) UGA-OTP-0247-1102 is an enhanced audio copy of Tape 693's side B; (ii) Tape 693's side B – as enhanced – contains a recording of Joseph Kony, Vincent Otti and others speaking over the radio at some point in the period of 9-10 October 2003; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcript accurately reflects the speakers and words spoken.

d. 13-14 October 2003 – Tape 695 (enhanced: UGA-OTP-0247-1110)

710. The Chamber recognised the formal submission of the audio contents of a cassette identified as '695/G<sup>3RD</sup>'.<sup>1294</sup> Its e-court metadata indicates that P-0027 of the ISO provided this tape to a Prosecution staff member on 23 February 2005. A pre-registration form related to P-0027 on this date which memorialises the exchange of '12 [c]assette

<sup>1289</sup> *E.g.* P-0003: [T-43](#), p. 12, line 22 – p. 17, line 25 (Tape 695).

<sup>1290</sup> *See* as examples, the discussion of Tapes 808, 824 and 837 below.

<sup>1291</sup> P-0138: [T-120](#), p. 67, line 6 – p. 68, line 9.

<sup>1292</sup> P-0138: [T-120](#), p. 66, lines 12-21.

<sup>1293</sup> P-0138: [T-120](#), p. 67, line 25 – p. 68, line 2.

<sup>1294</sup> UGA-OTP-0054-0014 (and copied disc at 0017).

tapes containing relevant data' to this same staff member mentions the ERN range including this tape.<sup>1295</sup> The recording is of men speaking over the radio in a non-working language.

711. The Prosecution gave this tape to Xavier Laroche and his colleague for audio enhancement.<sup>1296</sup> These persons then performed this enhancement and registered the enhanced digital copy.<sup>1297</sup> An enhanced audio file (UGA-OTP-0247-1110) with a cover page indicating the ERN of Tape 695 is in evidence. The length of the recorded content on Tape 695's side A corresponds to the length of the track in this enhanced audio.<sup>1298</sup> The general impression of the enhanced audio's contents is consistent with that of Tape 695's side A contents.
712. Tape 695 has no date on its label. The ISO logbook entries for Tape 695's side A indicate dates of 13-14 October 2003.<sup>1299</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on these dates<sup>1300</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.
713. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0003 and P-0138. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1301</sup>
714. Upon being played part of the enhanced audio in court, both witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was

<sup>1295</sup> Pre-Registration Form 0155, UGA-OTP-0246-0039-R01, at 0039 (the ERN range including this tape appears on the bottom of the form); P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(a).

<sup>1296</sup> Inventory, UGA-OTP-0269-0044, at 0047; P-0256 Statement, UGA-OTP-0269-0015, at paras 22, 51.

<sup>1297</sup> P-0256 Statement, UGA-OTP-0269-0015, at paras 37-39; Pre-Registration Form, UGA-OTP-0269-0087, at 0093 (item #20).

<sup>1298</sup> Compare UGA-OTP-0054-0014 (31:42) with UGA-OTP-0247-1110 (31:42).

<sup>1299</sup> UGA-OTP-0232-0234, at 0559-71. Note that some entries across these pages have no ISO tape reference (they are marked 'not rec'd' where the reference should be). However, ISO logbooks follow a pattern whereby entries are prepared in chronological order. The first and last entries in this range of pages explicitly refer to Tape 695's side A, and the 'unreferenced' entries are dated in chronological order (13 October at 08:00, then 11:00, then 13:00, and finally 14 October at 08:00). It is therefore understood that all pages in this range are part of the same side of the same ISO tape.

<sup>1300</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0234-42; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6162-64; UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2130-40. There are no police logbook entries on these dates.

<sup>1301</sup> P-0003 Tape 695 Transcript, UGA-OTP-0132-0243-R01, at 0263-69 (Tape 695 transcript begins at 0253); P-0138 Tape 695 Transcript, UGA-OTP-0191-0623-R01, at 0635-39 (each individual page is a separate ERN).

played.<sup>1302</sup> The summaries describe part of the same conversations recorded in the logbooks. Although P-0016 did not review a transcript of this intercept prior to testifying, he was played the recording in court and gave the same overall summary and speaker identifications as the other witnesses.<sup>1303</sup> The voices consistently recognised were those of Joseph Kony and Vincent Otti.

715. From the above, the Chamber concludes that: (i) UGA-OTP-0247-1110 is an enhanced audio copy of Tape 695's side A; (ii) Tape 695's side A – as enhanced – contains a recording of Joseph Kony, Vincent Otti and others speaking over the radio at some point in the period of 13-14 October 2003; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

e. 22-24 November 2003 – Tape UGA-OTP-0037-0314  
(enhanced: UGA-OTP-0239-0062)

716. The Chamber recognised the formal submission of the audio contents of an un-numbered cassette with no label other than an ICC ERN (UGA-OTP-0037-0314). Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 14 December 2004. A pre-registration form related to Timothy Kanyogonya on this date which memorialises the exchange of, amongst other items, 113 intercept tapes to this same staff member mentions the ERN range including this tape.<sup>1304</sup> The recording is of men speaking over the radio in a non-working language.

717. The Prosecution gave Tape UGA-OTP-0037-0314 to Alan French for audio enhancement.<sup>1305</sup> Alan French then enhanced the audio and labelled the copy 'AF/37'.<sup>1306</sup> An enhanced audio disc (UGA-OTP-0239-0062) marked with Alan French's company name, the code 'AF/37' and the ERN of the original tape is in evidence. The length of the recorded content on the tapes does not entirely correspond, with over a minute of additional recording on the original tape tracks relative to those on the enhanced

<sup>1302</sup> P-0003: [T-43](#), p. 12, line 22 – p. 17, line 25; P-0138: [T-120](#), p. 54, line 8 – p. 65, line 24.

<sup>1303</sup> P-0016: [T-33](#), p. 53, line 13 – p. 55, line 10.

<sup>1304</sup> Pre-Registration Form 00311, UGA-OTP-0244-0920-R01, at 0929 (the ERN range including this tape appears on the bottom of the form); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 29.

<sup>1305</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1306</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 1).

audio.<sup>1307</sup> The Chamber nevertheless notes the number of Alan French's other enhanced audios whose provenance the Chamber establishes elsewhere in this section, confirming the overall accuracy of the purported associations between original and enhanced audios. The general impression of the enhanced audio's contents is consistent with that of the original tape's contents. Overall, the Chamber is satisfied that what is captured on the enhanced audio derives from Tape UGA-OTP-0037-0314.

718. Also, in the course of its investigation, the Prosecution played part of an intercepted communication to P-0003, P-0016 and P-0059. Each reviewed the draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1308</sup>

719. Tape UGA-OTP-0037-0314's cassette paper indicates 'Recorded Ended 25-11-03', but no further information is given as to when the recording began.<sup>1309</sup> However, by comparing the contents of the transcripts reviewed by the witnesses to the ISO logbook entries, it appears that this tape's recorded contents are dated 22-24 November 2003 (corresponding to ISO tape 720).<sup>1310</sup> The overlapping content in the corresponding UPDF logbook entries on these dates<sup>1311</sup> further indicates that the UPDF heard the same conversations recorded in the relevant part of the ISO logbook.

720. Upon being played part of the enhanced audio in court, P-0003, P-0016 and P-0059 recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript

<sup>1307</sup> Compare UGA-OTP-0037-0314 (track 1: 32:27; track 2: 32:23) with UGA-OTP-0239-0062 (track 1: 31:33; track 2: 31:37).

<sup>1308</sup> P-0003 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0224-R01, at 0251-54; P-0016 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0259-0128; P-0059 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0342-R01, at 0369-72.

<sup>1309</sup> UGA-OTP-0037-0314, at 0315.

<sup>1310</sup> ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0076-87. Compare, e.g., UGA-OTP-0066-0002-R01, at 0086-87 (reference to Taban Amin, followed by discussion of overthrowing Yuweri Museveni) with P-0003 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0224-R01, at 0250-54 (same); UGA-OTP-0066-0002-R01, at 0085 ('Kony seriously blamed LC 5 c/man Mahaman Ojwee as being a very bad man') with P-0003 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0224-R01, at 0248 ('[t]he other day you heard me saying Ojwee is very bad, Ojwee is very bad, Ojwee is someone that among all the Acholi's should be killed and he should not stay amongst the Acholi's Over.');

UGA-OTP-0066-0002-R01, at 0077 ('...one civilian tried to grab the gun from one of his soldiers and what he did was to shoot him dead') with P-0003 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0224-R01, at 0228 ('[s]ome guy tried to grab my gun Over, then I just started firing, then everybody I captured I hit them all on the back of their head Over.').

<sup>1311</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0390-402; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2342-58; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7311-14.

matched what was played.<sup>1312</sup> As already indicated, the summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Joseph Kony and Buk Abudema.

721. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0062 is an enhanced audio copy of Tape UGA-OTP-0037-0314; (ii) Tape UGA-OTP-0037-0314 – as enhanced – contains a recording of Joseph Kony, Buk Abudema and others speaking over the radio at some point in the period of 22-24 November 2003; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

f. 25-26 November 2003 – Tape 721 (enhanced: UGA-OTP-0239-0101)

722. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘721 A+B/G 3rd’.<sup>1313</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanoygonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1314</sup> The recording is of men speaking over the radio in a non-working language.

723. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1315</sup> Alan French then enhanced the audio and labelled the copy ‘AF/65’.<sup>1316</sup> An enhanced audio disc (UGA-OTP-0239-0101) marked with Alan French’s company name, the code ‘AF/65’ and the ERN of Tape 721 is in evidence. The length of the recorded content on both tapes corresponds to the length of the audio tracks in Tape 721.<sup>1317</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape 721’s contents.

<sup>1312</sup> P-0003: [T-43](#), p. 48, line 22 – p. 51, line 20; P-0016: [T-33](#), p. 51, line 11 – p. 52, line 23; P-0059: [T-37](#), p. 29, line 17 – p. 31, line 11.

<sup>1313</sup> UGA-OTP-0049-0068.

<sup>1314</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1315</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1316</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 15).

<sup>1317</sup> Compare UGA-OTP-0049-0068 (track 1: 48:00 re-encoded; track 2: 48:00) with UGA-OTP-0239-0101 (track 1: 32:09; track 2: 32:14). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape’s two tracks. Alan French explains that such gaps are commonly seen when using a

724. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0016 and P-0059. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1318</sup>
725. Tape 721 is undated.<sup>1319</sup> The ISO logbook entries for Tape 721 do not follow the standard sequencing in logbooks, as entries for Tape 721 appear both before and after entries for Tape 720.<sup>1320</sup> This makes it more difficult to precisely date Tape 721, as its contents could correspond to dates ranging anywhere from 23-26 November 2003.<sup>1321</sup> However, by comparing the contents of the transcripts reviewed by the witnesses to the ISO logbook entries, it appears that the ISO logbook entries actually corresponding to Tape 721 are only those from 25-26 November 2003.<sup>1322</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on 25-26 November 2003<sup>1323</sup> that the UPDF heard the same conversations recorded in the relevant part of the ISO logbook.
726. Upon being played the enhanced audio in court, P-0016 and P-0059 recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1324</sup> As already indicated, the summaries describe part of the same conversation recorded in the logbooks. The voices consistently recognised were those of Joseph Kony and Vincent Otti.

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fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60.

<sup>1318</sup> P-0016 Tape 721 Transcript, UGA-OTP-0265-0439, at 0439-68; P-0059 Tape 721 Transcript, UGA-OTP-0258-0791-R01.

<sup>1319</sup> UGA-OTP-0049-0068, at 0068-69.

<sup>1320</sup> UGA-OTP-0066-0002-R01, at 0081-93.

<sup>1321</sup> UGA-OTP-0066-0002-R01, at 0081-93. The date on the first page is illegible. The date immediately preceding the relevant entries clearly reads ‘22/11/2003’ (p. 0076), meaning that date on p. 0081 should be ‘23/11/2003’. The dates listed around the end of the relevant entries are faint, but legible in the logbook. The last date in the cited entries is ‘26/11/2003’ on p. 0090, and the date just after the cited entries is ‘27/11/2003’ on p. 0094.

<sup>1322</sup> UGA-OTP-0066-0002-R01, at 0087-93. *Compare* UGA-OTP-0066-0002-R01, at 0087 (discussion of an attack at ‘Labwor Omor’ – the only entry in the entire logbook mentioning this exact place), *with* P-0016 Tape 721 Transcript, UGA-OTP-0265-0439, at 0440-41; P-0059 Tape 721 Transcript, UGA-OTP-0258-0791-R01, at 0792-93 (discussing an attack at this same location at the beginning of the transcript).

<sup>1323</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0403-08; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2359-71; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7315-16. There are no police logbook entries on these dates.

<sup>1324</sup> P-0016: [T-33](#), p. 36, line 20 – p. 45, line 12; P-0059: [T-37](#), p. 42, line 18 – p. 47, line 15. Note that P-0016 was played approximately one minute more of this tape than P-0059.

727. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0101 is an enhanced audio copy of Tape 721; (ii) Tape 721 – as enhanced – contains a recording of Joseph Kony, Vincent Otti and others speaking over the radio at some point in the period of 25-26 November 2003; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

g. 6 February 2004 – Tape 757 (UGA-OTP-0141-0005) and  
Tape UGA-OTP-0025-0625

728. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘757/G<sup>3RD</sup>’.<sup>1325</sup>

729. The Chamber further recognised the formal submission of the audio contents of an un-numbered tape (UGA-OTP-0025-0625) whose cassette label only reads ‘Abiya Attack’.<sup>1326</sup>

730. For Tape 757, its e-court metadata indicates that P-0027 provided this tape to a Prosecution staff member on 14 April 2005. A pre-registration form related to P-0027 on this date memorialises the exchange of, amongst other items, Tape 757 to this same staff member.<sup>1327</sup>

731. For Tape UGA-OTP-0025-0625, its e-court metadata indicate that Timothy Kanyogonya provided this tape to a Prosecution staff member on 17 October 2004. A pre-registration form related to Timothy Kanyogonya on this date memorialises the exchange of, amongst other items, six audio tapes of intercepts to this same staff member.<sup>1328</sup> P-0032 confirms that the writing on this tape as well as the voice which can be heard at the beginning of side A is his.<sup>1329</sup>

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<sup>1325</sup> UGA-OTP-0141-0005.

<sup>1326</sup> The following is written on the cassette paper: ‘LRA attack on Abiya IDP Camp. Odyambo reported to Kony that he attacked the camp and fought with UPDF 31<sup>st</sup> Bri, charged weapons, killed civ. indiscriminately whose no, he doesn’t know and burnt all their huts’.

<sup>1327</sup> Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0042; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(d).

<sup>1328</sup> Pre-Registration Form 00193, UGA-OTP-0244-0920-R01, at 0924 (the ERN range including this tape appears on the bottom of the form); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 24.

<sup>1329</sup> P-0032 Third Statement, UGA-OTP-0246-0003-R01, at para. 55(h).

732. Both recordings are of men speaking over the radio in a non-working language.
733. Neither Tape 757 nor Tape UGA-OTP-0025-0625 was audio enhanced.
734. Tape UGA-OTP-0025-0625 is undated, but a UPDF report states that the Abiya attack referenced on the tape label took place on 4 February 2004.<sup>1330</sup> ISO and UPDF logbook entries for 6 February 2004 contain detailed discussions about an Abiya attack one or two days after it occurred.<sup>1331</sup> The ISO logbook entry on this date indicates it corresponds to Tape 757. The intercepted conversation is described similarly in both logbooks, indicating that both agencies heard the same conversations.<sup>1332</sup>
735. The Defence played part of Tape 757 to P-0339, and arranged for him to annotate a short transcript extract.<sup>1333</sup> P-0339 was also asked to identify voices, give an overall summary of the recorded conversation, and explain certain transcript annotations.<sup>1334</sup> The voice recognised by P-0339 in the excerpt played was that of Joseph Kony. The Prosecution did not prepare an annotated transcript for Tape 757.
736. In the course of its investigation, the Prosecution played part of Tape UGA-OTP-0025-0625 to P-0016. He reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1335</sup>
737. Upon being played part of Tape UGA-OTP-0025-0625 in court, P-0016 recognised certain voices, gave an overall summary of the recorded conversation, explained certain parts of the transcript having listened to the related excerpts of the audio and confirmed

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<sup>1330</sup> UGA-OTP-0069-0423. *See also* Pre-Registration Form 00561, UGA-OTP-0244-0920-R01, at 0931 (including this document in the provided ERN range, and indicating in the catalogue of items description that P-0038 gave a document on ‘witnesses in Abiya/Barlonyo attacks’ to the Prosecution on 17 March 2005); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 31.

<sup>1331</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0047-51 (corresponding to Tapes 756-57); UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4227-28; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7364-65. There are no police logbook entries on this date.

<sup>1332</sup> The partial transcript for tape UGA-OTP-0025-0625 also includes details equally mentioned in the ISO logbook entry corresponding to Tape 757 on 6 February 2004 and the UPDF logbook entries for 6 February 2004. *Compare* UGA-OTP-0167-0118, at 0121-0123 *with* UGA-OTP-0061-0002, at 0047 and UGA-OTP-0254-4143, at 4227; UGA-OTP-0242-7309, at 7364.

<sup>1333</sup> Tape 757 Transcript, UGA-D26-0027-0003; P-0339 Annotations to Tape 757 Transcript, UGA-REG-0001-0021, at 0035-36.

<sup>1334</sup> P-0339: [T-134](#), p. 47, line 21 – p. 49, line 6; [T-135](#), p. 15, line 4 – p. 26, line 4.

<sup>1335</sup> P-0016 Tape UGA-OTP-0025-0625 Transcript, UGA-OTP-0167-0118.

that his annotated transcript matched what was played.<sup>1336</sup> The voices recognised by P-0016 in the excerpt played were Joseph Kony and Raska Lukwiya.

738. P-0016 and P-0339 discuss entirely distinct conversations, and neither was played the part of the intercepted conversation specifically mentioning Abiya.<sup>1337</sup> Both witnesses testified exclusively concerning separate transcript extracts, making it impossible for the Chamber to confirm whether the contents of Tape 757 and Tape UGA-OTP-0025-0625 overlap. But both witnesses describe parts of the same overall conversations recorded in the logbooks for 6 February 2004.
739. From the above, the Chamber concludes that: (i) Tape 757 contains a recording of Joseph Kony and others speaking over the radio on 6 February 2004; (ii) Tape UGA-OTP-0025-0625 contains a recording of Joseph Kony, Raska Lukwiya, and others speaking over the radio on this same date; and (iii) the corresponding annotated transcripts accurately reflect the speakers and words spoken.

h. 12 February 2004 – Tape 760 (enhanced: UGA-OTP-0239-0079)

740. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘760/G<sup>3RD</sup>’.<sup>1338</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1339</sup> The recording is of men speaking over the radio in a non-working language.
741. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1340</sup> Alan French then enhanced the audio and labelled the copy ‘AF/51’.<sup>1341</sup> An enhanced audio disc (UGA-OTP-0239-0079) marked with Alan French’s company name, the code ‘AF/51’

<sup>1336</sup> P-0016: [T-33](#), p. 19, line 7 – p. 24, line 18.

<sup>1337</sup> This said, reference to an attack at Abiya can be found in an earlier part of P-0016’s transcript. P-0016 Tape UGA-OTP-0025-0625 Transcript, UGA-OTP-0167-0118, at 0120-23.

<sup>1338</sup> UGA-OTP-0046-0063.

<sup>1339</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1340</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1341</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 8).

and the ERN of Tape 760 is in evidence. The length of the recorded content on Tape 760 corresponds to the length of the audio tracks in this enhanced audio.<sup>1342</sup> The general impression of the enhanced audio's contents is consistent with that of Tape 760's contents.

742. Tape 760 is undated.<sup>1343</sup> The ISO logbook entries for Tape 760 indicate dates of 12-14 February 2004.<sup>1344</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on 12-14 February 2004<sup>1345</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.
743. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0016 and P-0059. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1346</sup>
744. Upon being played part of the enhanced audio in court, P-0016 and P-0059 recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1347</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Dominic Ongwen, Vincent Otti and Labalpiny.
745. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0079 is an enhanced audio copy of Tape 760; (ii) Tape 760 – as enhanced – contains a recording of Dominic Ongwen, Vincent Otti, Labalpiny and others speaking over the radio at some point in the period of 12-14 February 2004; and, (iii) at least for all portions where the reviewing

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<sup>1342</sup> Compare UGA-OTP-0046-0063 (track 1: 47:44; track 2: 47:04) with UGA-OTP-0239-0079 (track 1: 31:46; track 2: 31:48). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape's two tracks. Alan French explains that such gaps are commonly seen when using a fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60.

<sup>1343</sup> UGA-OTP-0046-0063, at 0063-64.

<sup>1344</sup> UGA-OTP-0061-0002, at 0067-78. The dates in the entries are a little faint, but the entry right before it is '11/2/2004' (p. 0063) and the one just after is '15/2/2004' (p. 0078).

<sup>1345</sup> UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4235-40; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7368-72. There are no police logbook entries on this date.

<sup>1346</sup> P-0016 Tape 760 Transcript, UGA-OTP-0259-0106; P-0059 Tape 760 Transcript, UGA-OTP-0258-0772-R01.

<sup>1347</sup> P-0016: [T-33](#), p. 16, line 19 – p. 18, line 21; P-0059: [T-37](#), p. 37, line 13 – p. 42, line 17.

witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

i. 6 March 2004 – Tape 771 (enhanced: UGA-OTP-0239-0085)

746. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘771/G<sup>3RD</sup>’.<sup>1348</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1349</sup> The recording is of men speaking over the radio in a non-working language.
747. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1350</sup> Alan French then enhanced the audio and labelled the copy ‘AF/55’.<sup>1351</sup> An enhanced audio disc (UGA-OTP-0239-0085) marked with Alan French’s company name, the code ‘AF/55’ and the ERN of Tape 771 is in evidence. The length of the recorded content on Tape 771 corresponds to the length of the audio tracks in this enhanced audio.<sup>1352</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape 771’s contents.
748. Tape 771 is undated.<sup>1353</sup> The ISO logbook entries for Tape 771 cover, in relevant part, 6 March 2004.<sup>1354</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on 6 March 2004<sup>1355</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.

<sup>1348</sup> UGA-OTP-0047-0044.

<sup>1349</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1350</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1351</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 10).

<sup>1352</sup> Compare UGA-OTP-0047-0044 (track 1: 47:37; track 2: 47:39) with UGA-OTP-0239-0085 (track 1: 32:04; track 2: 32:03). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape’s two tracks. Alan French explains that such gaps are commonly seen when using a fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60.

<sup>1353</sup> UGA-OTP-0047-0044, at 0046.

<sup>1354</sup> UGA-OTP-0061-0002, at 0128-30. The date ‘6/3/2004’ can be seen within the page range (p. 0128), and the date immediately following the cited entry is ‘7/3/2004’ (p. 0130).

<sup>1355</sup> UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4272-73; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2556-58; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7404-06. There are no police logbook entries on this date.

749. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0016 and P-0059. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1356</sup>
750. Upon being played part of the enhanced audio in court, P-0016 and P-0059 recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1357</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Dominic Ongwen and Vincent Otti.
751. Both witnesses also identify a signaller of Joseph Kony speaking, but diverge on which signaller it is.<sup>1358</sup> The Chamber considers this discrepancy immaterial, as both witnesses are consistent in identifying Joseph Kony as the ultimate source behind the words relayed.
752. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0085 is an enhanced audio copy of Tape 771; (ii) Tape 771 – as enhanced – contains a recording of Dominic Ongwen, Vincent Otti, a signaller of Joseph Kony and others speaking over the radio at some point in the period of 5-6 March 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

j. 20 March 2004 – Tape 781 (enhanced: UGA-OTP-0239-0106)

753. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘781/G<sup>3RD</sup>’.<sup>1359</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the

<sup>1356</sup> P-0016 Tape 771 Transcript, UGA-OTP-0259-0094; P-0059 Tape 771 Transcript, UGA-OTP-0258-0782-R01.

<sup>1357</sup> P-0016: [T-32](#), p. 67, line 20 – p. 75, line 13; P-0059: [T-37](#), p. 26, line 16 – p. 29, line 17.

<sup>1358</sup> P-0016: [T-32](#), p. 67, line 25 – p. 68, line 21 (Okot Odoge); P-0059: [T-37](#), p. 26, line 19 – p. 27, line 17 (Labalpin).

<sup>1359</sup> UGA-OTP-0051-0020.

exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1360</sup> The recording is of men speaking over the radio in a non-working language.

754. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1361</sup> Alan French then enhanced the audio and labelled the copy ‘AF/69’.<sup>1362</sup> An enhanced audio disc (UGA-OTP-0239-0106) marked with Alan French’s company name, the code ‘AF/69’ and the ERN of Tape 781 is in evidence. The length of the recorded content on Tape 781 corresponds to the length of the audio tracks in this enhanced audio.<sup>1363</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape 781’s contents.

755. Tape 781 is undated.<sup>1364</sup> The ISO logbook entries for Tape 781 cover, in relevant part, 20 March 2004.<sup>1365</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on 20 March 2004<sup>1366</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.

756. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0016 and P-0059. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1367</sup>

757. Upon being played part of the enhanced audio in court, P-0016 and P-0059 recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what

<sup>1360</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1361</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1362</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 17).

<sup>1363</sup> Compare UGA-OTP-0051-0020 (track 1: 47:22 re-encoded; track 2: 47:27) with UGA-OTP-0239-0106 (track 1: 32:02; track 2: 32:14). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape’s two tracks. Alan French explains that such gaps are commonly seen when using a fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60.

<sup>1364</sup> UGA-OTP-0051-0020, at 0020-21.

<sup>1365</sup> UGA-OTP-0061-0002, at 0165-67.

<sup>1366</sup> UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4293-97; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7415-16 (while this logbook does not include an entry on 19 March 2004 at 13:00 hours, which corresponds to the start of Tape 781, it is clear from the entries for 20 and 21 March 2004 that the same overall conversation was recorded). There are no police logbook entries on these dates.

<sup>1367</sup> P-0016 Tape 781 Transcript, UGA-OTP-0265-0402, at 0407-9, 0411-20; P-0059 Tape 781 Transcript, UGA-OTP-0266-0260, at 0265-79.

was played.<sup>1368</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Dominic Ongwen, a signaller, Joseph Kony and Raska Lukwiya.<sup>1369</sup>

758. As to the signaller in the conversation, P-0059 identified him as Lukwiya's signaller in his annotated transcript.<sup>1370</sup> But, during his testimony, P-0059 only referred to the signaller as 'Two Victor' and could not recognise the voice.<sup>1371</sup> P-0016 testified to being unsure whether this signaller worked for Lukwiya or Charles Tabuley.<sup>1372</sup> The evidence is unclear, and the Chamber cannot conclude the identity of this signaller's commander with certainty.

759. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0106 is an enhanced audio copy of Tape 781; (ii) Tape 781 – as enhanced – contains a recording of Dominic Ongwen, Raska Lukwiya, Joseph Kony, a signaller and others speaking over the radio on 20 March 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

k. 30 April 2004 – Tape 808 (enhanced: UGA-OTP-0235-0038)

760. The Chamber recognised the formal submission of the audio contents of a cassette identified as '808/G<sup>3RD</sup>'.<sup>1373</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1374</sup> P-0059

<sup>1368</sup> P-0016: [T-33](#), p. 8, line 22 – p. 16, line 17; P-0059: [T-38](#), p. 5, line 17 – p. 8, line 14.

<sup>1369</sup> P-0059 did not testify to hearing Raska Lukwiya, but he was not played the part of the tape where P-0016 clearly heard Raska Lukwiya speaking. Compare P-0016: [T-33](#), p. 12, line 9 – p. 13, line 4 (recording played until 15:29), with P-0059: [T-38](#), p. 5, line 17 – p. 8, line 14 (recording played until 12:03). P-0059's annotated transcript also indicates Lukwiya ('LOK') as a speaker just after timestamp 12:03. P-0059 Tape 781 Transcript, UGA-OTP-0266-0260, at 0275.

<sup>1370</sup> P-0059 Tape 781 Transcript, UGA-OTP-0266-0260, at 0265; P-0059: [T-38](#), p. 7, lines 14-20.

<sup>1371</sup> P-0059: [T-38](#), p. 5, line 17 – p. 6, line 20.

<sup>1372</sup> P-0016: [T-33](#), p. 11, lines 14-20, p. 14, line 20 – p. 15, line 11.

<sup>1373</sup> UGA-OTP-0051-0074.

<sup>1374</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

recognised his handwriting on the tape label.<sup>1375</sup> The recording is of men speaking over the radio in a non-working language.

761. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1376</sup> Alan French then enhanced the audio and labelled the copy ‘AF/23’.<sup>1377</sup> An enhanced audio disc (UGA-OTP-0235-0038) marked with Alan French’s company name, the code ‘AF/23’ and the ERN of Tape 808 is in evidence. The length of the recorded content on Tape 808 corresponds to the length of the audio tracks in this enhanced audio.<sup>1378</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape 808’s contents.
762. Tape 808 is undated.<sup>1379</sup> The ISO logbook entries for Tape 808 indicate a date of 30 April 2004.<sup>1380</sup> The corresponding UPDF and police logbooks do not contain the ISO tape numbers, but it is clear from their entries of 30 April 2004<sup>1381</sup> that these agencies heard the same overall conversations recorded in the ISO logbook.
763. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0003, P-0016, P-0059 and P-0440. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1382</sup>

<sup>1375</sup> P-0059: [T-36](#), p. 38, line 25 – p. 39, line 12.

<sup>1376</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 20.

<sup>1377</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 21; Enhanced Copies Schedule, UGA-OTP-0261-0347 (line 13; duplicate ERN UGA-OTP-0235-0055).

<sup>1378</sup> Compare UGA-OTP-0051-0074 (track 1: 47:20 re-encoded; track 2:47:25) with UGA-OTP-0235-0038 (track 1: 31:35; track 2: 31:34). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape’s two tracks. Alan French explains that such gaps are commonly seen when using a fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60.

<sup>1379</sup> UGA-OTP-0051-0074, 0074-75.

<sup>1380</sup> UGA-OTP-0061-0206, at 0267-70. The date ‘30/04/2004’ can be seen just before the cited entry of the same date (at p. 0266) and the date ‘1/5/2004’ can be seen just after the cited entry associated with the sequentially following tape number (at p. 0271).

<sup>1381</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3003-05 (the entry with date ‘30<sup>th</sup> April 2004’ starts at 3002, but the summary for the communication at 11:00 hours can be found at 3003); UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7480-81; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7244-46 (the entry with date ‘Friday 30<sup>th</sup> Apr 2004’ starts at 7243, but the summary for the communication at 11:00 hours can be found at 7244-45); Police Logbook, UGA-OTP-0037-0002, at 0144-46 (describing conversations from this date).

<sup>1382</sup> P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, 0300-04, 0315-24; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0499-501, 0513-22; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0336-42, 0352-62.

764. Upon being played part of the enhanced audio in court, all four witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1383</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Dominic Ongwen, Ocen, Joseph Kony, Vincent Otti and Labalpiny. It is also noted that the Defence played 20 seconds of this tape to Patrick Lumumba Nyero, but only for the limited purpose of asking whether the witness heard a particular person's call sign and any instructions given to or from this call sign.<sup>1384</sup>
765. P-0003 and P-0016 further recognised the voice of Labongo (first name Ocen or Ocan) when summarising this recording while testifying.<sup>1385</sup> These witnesses also attributed certain lines of their annotated transcripts to him.<sup>1386</sup> P-0059 did not mention Labongo when summarising this recording in court. His annotated transcript attributed these same lines to an 'LAB', but P-0059 is not consistent in whether this is a reference to Labongo or Labalpiny.<sup>1387</sup> P-0440 appears to have identified yet another speaker in his annotated transcript of this recording, but when testifying was not played the part of the recording where other witnesses heard Labongo.<sup>1388</sup> The Chamber is satisfied on the basis of the corroborating testimony of P-0003 and P-0016 that Labongo also speaks on this tape, noting further that neither party appears to contest that this is the case. But these discrepancies do suggest that this portion of the recording may be particularly difficult to follow, even for those with lots of experience in recognising voices on LRA radio communications.
766. From the above, the Chamber concludes that: (i) UGA-OTP-0235-0038 is an enhanced audio copy of Tape 808; (ii) Tape 808 – as enhanced – contains a recording of Dominic Ongwen, Ocen, Joseph Kony, Labongo (first name Ocen or Ocan), Vincent Otti,

<sup>1383</sup> P-0003: [T-43](#), p. 18, line 1 – p. 31, line 2; [T-45](#), p. 50, line 14 – p. 52, line 16; P-0016: [T-32](#), p. 42, line 4 – p. 64, line 9; P-0059: [T-37](#), p. 2, line 23 – p. 13, line 5; [T-39](#), p. 25, line 23 – p. 27, line 23; P-0440: [T-40](#), p. 21, line 17 – p. 27, line 24; [T-41](#), p. 28, lines 12-25.

<sup>1384</sup> P-0125: [T-136](#), p. 27, line 20 – p. 30, line 8.

<sup>1385</sup> P-0003: [T-43](#), p. 18, line 7 – p. 19, line 18 (appearing to distinguish an 'Ocen', also called 'Madilu', with 'Ocen Labongo'); P-0016: [T-32](#), p. 42, line 21 – p. 43, line 3.

<sup>1386</sup> P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0302; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0068.

<sup>1387</sup> P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0501; *Compare* P-0059: [T-37](#), p. 21, line 22 – p. 22, line 3 *with* P-0059: [T-39](#): p. 23, lines 4-11.

<sup>1388</sup> P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0338-41 (indicating 'KWO' as the speaker of these lines); P-0440: [T-40](#), p. 21, line 17 – p. 22, line 21 (timestamp of recording ends at 07:40).

Labalpiny and others speaking over the radio on 30 April 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

1. 1 May 2004 – Tape UGA-OTP-0039-0006 (enhanced: UGA-OTP-0235-0015)

767. The Chamber recognised the formal submission of the audio contents of an un-numbered cassette labelled only with a date and an ICC ERN (UGA-OTP-0039-0006). Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 14 December 2004. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 113 intercept tapes to this same staff member.<sup>1389</sup> The recording is of men speaking over the radio in a non-working language.

768. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1390</sup> Alan French then enhanced the audio and labelled the copy ‘AF/3’.<sup>1391</sup> An enhanced audio disc (UGA-OTP-0235-0015) marked with Alan French’s company name, the code ‘AF/3’ and the ERN of the original tape is in evidence. The length of the recorded content on Tape UGA-OTP-0039-0006 corresponds to the length of the audio tracks in this enhanced audio.<sup>1392</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape UGA-OTP-0039-0006’s contents.<sup>1393</sup>

<sup>1389</sup> Pre-Registration Form 00311, UGA-OTP-0244-0920-R01, at 0929; P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 29.

<sup>1390</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 20.

<sup>1391</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 21; Enhanced Copies Schedule, UGA-OTP-0261-0347 (line 2; duplicate ERN UGA-OTP-0235-0055).

<sup>1392</sup> Compare UGA-OTP-0039-0006 (track 1: 31:55; track 2: 31:58) with UGA-OTP-0235-0015 (track 1: 31:36; track 2: 31:34). The small discrepancy in track times is due almost entirely to there being unrecorded sections in approximately the first five seconds and last 10 seconds on the original tape’s two tracks. The enhanced audio tracks do not have these small gaps.

<sup>1393</sup> The Chamber notes the Defence argument that, having been played excerpts of UGA-OTP-0039-0006 in Court, Alan French would have noted pauses and a possible edit in the recording caused at the source of the recording (*see* [Defence Closing Brief](#), para. 387). However, it is clear from Alan French’s testimony that he referred to the possibility of there being pauses or clicks in the relevant excerpts, while at the same time insisting that further investigation in a laboratory setting would be necessary to make any further determinations (*see*, in particular, [T-218](#), p. 42, lines 12-13, p. 43, line 6 – p. 44, line 2, p. 46, line 8-23, p. 48, lines 8-10, p. 49, lines 2-5), and that he also referred to possible causes of a technical nature (*see* [T-218](#), p. 41, lines 1-11, p. 46, line 24 – p. 47, line 22). Bearing this in mind, the Chamber considers that Alan French’s testimony does not undermine its findings as regards the nature and reliability of tape UGA-OTP-0039-0006 and its related enhanced recording.

769. Tape UGA-OTP-0039-0006's label reads '01 May 2004 1830 HRS'. The ISO logbook entry for this time corresponds with parts of ISO Tapes 809 and 810.<sup>1394</sup> The corresponding UPDF logbook entries for this date and time<sup>1395</sup> show that the UPDF heard the same overall conversations recorded in the ISO logbook.
770. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0059 and P-0440. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1396</sup>
771. Upon being played part of the enhanced audio in court, both witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1397</sup> Francis Ocen was also played part of the enhanced audio and gave a similar overall summary of the recorded conversation.<sup>1398</sup> The summaries describe part of the same conversations recorded in the logbooks. This is further indication that Tape UGA-OTP-0039-0006 concerns a conversation from the evening of 1 May 2004. The voices consistently recognised were those of Dominic Ongwen and Joseph Kony.
772. The Chamber notes that the Defence focused on certain audio discontinuities in the unenhanced Tape UGA-OTP-0039-0006 when examining Alan French.<sup>1399</sup> Alan French suggested that these discontinuities could be caused by stopping the tape recorder and then starting it again.<sup>1400</sup>
773. To the extent the Defence suggests that these discontinuities may demonstrate that the conversation was edited – such as by combining audio from different days to make it

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<sup>1394</sup> UGA-OTP-0061-0206, at 0272-74. Entries for '1/5/2004' begin on page 0271, and the date '2/5/2004' is clearly visible on the last page of the cited entry.

<sup>1395</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3006-07; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7481-83; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7247-7250. There is a police logbook entry with a date of '1/5/2004', but it does not record any conversations from 18:30 on that day. *See* Police Logbook, UGA-OTP-0037-0002, at 0144-46.

<sup>1396</sup> P-0059 Tape UGA-OTP-0039-0006 Transcript, UGA-OTP-0258-0809-R01; P-0440 Tape UGA-OTP-0039-0006 Transcript, UGA-OTP-0262-0205-R01.

<sup>1397</sup> P-0059: [T-37](#), p. 47, line 16 – p. 50, line 21; P-0440: [T-40](#), p. 27, line 25 – p. 30, line 2.

<sup>1398</sup> D-0100: [T-234](#), p. 50, line 13 – p. 52, line 20, p. 54, lines 16-20.

<sup>1399</sup> *See also* [Defence Closing Brief](#), paras 386-87.

<sup>1400</sup> [Defence Closing Brief](#), paras 249-52; P-0242: [T-128](#), p. 41, line 18 – p. 49, line 13.

sound like a single conversation – the Chamber does not consider this to be a reasonable possibility.

774. First, and most importantly, none of the testifying witnesses commented about hearing anything abnormal in this recorded conversation.
775. Second, no evidence indicates that the Ugandan government ever deliberately altered the contents of this or any other intercept tape. To the contrary, such tapes were made as part of a broader procedure intended to ensure accurate, timely interception.<sup>1401</sup>
776. Third, it is equally unclear what motive the Ugandan government would have had in doing so. This tape was collected and stored for military operations, not the Prosecution's investigation.<sup>1402</sup> Altering tapes would have risked the accuracy of the intelligence needed for the war effort. To the extent the Defence insinuates that alterations may have been made to overstate Dominic Ongwen's personal culpability, it must also be noted that this tape was given to the Court before the Prosecution had filed any arrest warrant applications targeting particular LRA commanders.
777. Fourth, if new audio content was edited into this recording then there would be a large discrepancy between the recording and the logbook summaries contemporaneously prepared by the UPDF and ISO. But there is no such discrepancy.
778. Whatever issues there may have been in the recording of Tape UGA-OTP-0039-0006, the only reasonable conclusion inferable from the evidence is that this tape is a single conversation.
779. From the above, the Chamber concludes that: (i) UGA-OTP-0235-0015 is an enhanced audio copy of Tape UGA-OTP-0039-0006; (ii) Tape UGA-OTP-0039-0006 – as enhanced – contains a recording of Dominic Ongwen, Joseph Kony and others speaking over the radio on 1 May 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

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<sup>1401</sup> See generally section IV.B.3.i.a above.

<sup>1402</sup> See n. 1095 above.

m. 18 May 2004 – Tape 822 (enhanced: UGA-OTP-0235-0043)

780. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘822/G<sup>3RD</sup>’.<sup>1403</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1404</sup> The recording is of men speaking over the radio in a non-working language.
781. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1405</sup> Alan French then enhanced the audio and labelled the copy ‘AF/27’.<sup>1406</sup> An enhanced audio disc (UGA-OTP-0235-0043) marked with Alan French’s company name, the code ‘AF/27’ and the ERN of Tape 822 is in evidence. The length of the recorded content on Tape 822 corresponds to the length of the audio tracks in this enhanced audio.<sup>1407</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape 822’s contents.
782. Tape 822’s cassette label and paper indicate the date of ‘18/5/2004’.<sup>1408</sup> The ISO logbook entries for Tape 822 correspond to this same date.<sup>1409</sup> The corresponding UPDF and police logbooks do not contain the ISO tape numbers, but it is clear from their entries of 18 May 2004<sup>1410</sup> that these agencies heard the same overall conversations recorded in the ISO logbook.

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<sup>1403</sup> UGA-OTP-0052-0038.

<sup>1404</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1405</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 20.

<sup>1406</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 21; Enhanced Copies Schedule, UGA-OTP-0261-0347 (line 15; duplicate ERN UGA-OTP-0235-0055).

<sup>1407</sup> Compare UGA-OTP-0052-0038 (track 1: 48:05; track 2: 48:09) with UGA-OTP-0235-0043 (track 1: 31:28; track 2: 31:04). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape’s two tracks. Alan French explains that such gaps are commonly seen when using a fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60.

<sup>1408</sup> UGA-OTP-0052-0038, at 0038-39.

<sup>1409</sup> UGA-OTP-0061-0206, at 0316-17. The date is a little faint, but the date just prior to the one in the cited entry is ‘17-05-2004’ (on p. 0314).

<sup>1410</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3039-41; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0250-54; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7280-84; Police Logbook, UGA-OTP-0037-0002, at 0127-28.

783. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0003, P-0016, P-0059 and P-0440. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1411</sup>

784. Upon being played part of the enhanced audio in court, all four witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1412</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Joseph Kony and Vincent Otti.<sup>1413</sup> While he did not comment on any transcript, D-0032, to whom the recording was also played, gave a similar overall summary and equally recognised the voices of Joseph Kony and Vincent Otti.<sup>1414</sup>

785. From the above, the Chamber concludes that: (i) UGA-OTP-0235-0043 is an enhanced audio copy of Tape 822; (ii) Tape 822 – as enhanced – contains a recording of Joseph Kony, Vincent Otti and others speaking over the radio on 18 May 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

n. 21-22 May 2004 – Tape 824 (enhanced: UGA-OTP-0239-0123)

786. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘824/G<sup>3RD</sup>’.<sup>1415</sup> Its e-court metadata indicates that P-0027 provided this tape to a Prosecution staff member on 23 February 2005. A pre-registration form related to P-0027 on this date which memorialises the exchange of ‘12 [c]assette tapes containing

<sup>1411</sup> P-0003 Tape 822 Transcript, UGA-OTP-0248-0198-R01, at 0201-06; P-0016 Tape 822 Transcript, UGA-OTP-0259-0044; P-0059 Tape 822 Transcript, UGA-OTP-0248-0436-R01, at 0437-46; P-0440 Tape 822 Transcript, UGA-OTP-0262-0399-R01, at 0400-09.

<sup>1412</sup> P-0003: [T-43](#), p. 31, line 3 – p. 33, line 13; P-0016: [T-33](#), p. 6, line 16 – p. 8, line 17; P-0059: [T-37](#), p. 13, line 8 – p. 15, line 24; P-0440: [T-40](#), p. 40, line 1 – p. 42, line 10.

<sup>1413</sup> P-0016 did not address who Joseph Kony was speaking to in his testimony, but identifies Vincent Otti as this person in his annotated transcript. P-0016 Tape 822 Transcript, UGA-OTP-0259-0044, at 0049-50 (‘OT’ and ‘JK’ appearing across the lines corresponding to timestamp played in court, namely from 04:03-06:31).

<sup>1414</sup> D-0032: T-201-CONF, p. 26, line 7 – p. 29, line 13.

<sup>1415</sup> UGA-OTP-0054-0046. *See also* UGA-OTP-0052-0044.

relevant data’ to this same staff member mentions the ERN range including this tape.<sup>1416</sup> The recording is of men speaking over the radio in a non-working language.

787. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1417</sup> Alan French then enhanced the audio and labelled the copy ‘AF/83’.<sup>1418</sup> An enhanced audio disc (UGA-OTP-0239-0123) marked with Alan French’s company name, the code ‘AF/83’ and the ERN of Tape 824 is in evidence. The length of the recorded content on Tape 824 corresponds to the length of the audio tracks in this enhanced audio.<sup>1419</sup> The general impression of the enhanced audio’s contents is consistent with that of Tape 824’s contents.
788. The cassette paper accompanying Tape 824 indicates that: ‘21/5/04 is partly on 824A and partly 824B. The text is from 1830-1915Hrs only’ and ‘824/G 3rd 22/5/04’.<sup>1420</sup> The ISO logbook entries for Tape 824 correspond to these same dates.<sup>1421</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on these dates<sup>1422</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook.
789. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0003, P-0016, P-0059 and P-0440. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1423</sup>
790. Upon being played part of the enhanced audio in court, all four witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained

<sup>1416</sup> Pre-Registration Form 0155, UGA-OTP-0246-0039-R01, at 0039 (the ERN range including this tape appears on the bottom of the form); P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 34(a).

<sup>1417</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1418</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 24).

<sup>1419</sup> Compare UGA-OTP-0054-0046 (track 1: 31:57; track 2: 31:56) with UGA-OTP-0239-0123 (track 1: 31:50; track 2: 31:52).

<sup>1420</sup> UGA-OTP-0054-0046, at 0047-48.

<sup>1421</sup> UGA-OTP-0061-0206, at 0320-22.

<sup>1422</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3045-47; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0263-66; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7291-92. There are police logbook entries discussing communications on 20 and 23 May 2004, but there appear to be no entries corresponding to these conversations. See Police Logbook, UGA-OTP-0037-0002, at 0121-26.

<sup>1423</sup> P-0003 Tape 824 Transcript, UGA-OTP-0132-0093-R01, 0102-03; P-0016 Tape 824 Transcript, UGA-OTP-0129-0419, 0428-29; P-0059 Tape 824 Transcript, UGA-OTP-0266-0084, at 0113-15, 0137-39; P-0440 Tape 824 Transcript, UGA-OTP-0262-0235-R01, at 0277, 0288-90.

certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1424</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Dominic Ongwen and Vincent Otti.<sup>1425</sup>

791. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0123 is an enhanced audio copy of Tape 824; (ii) Tape 824 – as enhanced – contains a recording of Dominic Ongwen, Vincent Otti, and others speaking over the radio at some point in the period of 21-22 May 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

o. 30-31 May 2004 – Tape 830 (enhanced: UGA-OTP-0239-0112)

792. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘830/G<sup>3RD</sup>’.<sup>1426</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1427</sup> The recording is of men speaking over the radio in a non-working language.

793. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1428</sup> Alan French then enhanced the audio and labelled the copy ‘AF/73’.<sup>1429</sup> An enhanced audio disc (UGA-OTP-0239-0112) marked with Alan French’s company name, the code ‘AF/73’ and the ERN of Tape 830 is in evidence. The length of the recorded content on Tape 830

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<sup>1424</sup> P-0003: [T-42](#), p. 78, line 11 – p. 88, line 17; [T-46](#), p. 26, line 14 – p. 30, line 2; P-0016: [T-32](#), p. 75, line 14 – p. 77, line 17; [T-35](#), p. 29, line 18 – p. 33, line 13; P-0059: [T-36](#), p. 73, line 14 – p. 77, line 2; [T-38](#), p. 60, line 7 – p. 74, line 15; [T-39](#), p. 3, line 18 – p. 21, line 15; P-0440: [T-40](#), p. 30, line 3 – p. 36, line 13.

<sup>1425</sup> The Chamber notes that while for a small part of the communication, P-0440 also identified Joseph Kony as speaking (*see* P-0440: [T-40](#), p. 34, line 21 – p. 35, line 20), he equally recognised the voice of Vincent Otti in the exchange with Dominic Ongwen, as did the other witnesses. *See* P-0440: [T-40](#), p. 30, line 3 – p. 36, line 13.

<sup>1426</sup> UGA-OTP-0052-0056.

<sup>1427</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1428</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 22.

<sup>1429</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 23; Enhanced Copies Schedule, UGA-OTP-0261-0348 (line 19).

corresponds to the length of the audio tracks in this enhanced audio.<sup>1430</sup> The general impression of the enhanced audio's contents is consistent with that of Tape 830's contents.

794. Tape 830's cassette label and paper indicate that the tape 'covers 30/5/2004 partly and 31/5/04 partly'.<sup>1431</sup> The ISO logbook entries for Tape 830 correspond – a small part of the tape seems to have been recorded at the end of 29 May 2004 with the remainder on the dates indicated on the cassette label.<sup>1432</sup> The corresponding UPDF and police logbooks do not contain the ISO tape numbers, but it is clear from their entries of 29-31 May 2004<sup>1433</sup> that these agencies heard the same overall conversations recorded in the ISO logbook.
795. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0003, P-0016, P-0059 and P-0440. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1434</sup>
796. Upon being played part of the enhanced audio in court, all four witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1435</sup> The summaries describe part of the same conversations recorded in the logbooks. Vincent Otti's voice was consistently recognised,<sup>1436</sup> and all witnesses were

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<sup>1430</sup> Compare UGA-OTP-0052-0056 (track 1: 47:31; track 2: 47:34) with UGA-OTP-0239-0112 (track 1: 31:53; track 2: 32:57). The discrepancy in track times is due almost entirely to there being a long unrecorded section on the original tape's two tracks. Alan French explains that such gaps are commonly seen when using a fast copier to transfer a 60 minute cassette onto a 90 minute one. P-0242: [T-128](#), p. 8, line 3 – p. 10, line 14; P-0242 Statement, UGA-OTP-0261-0333-R01, at paras 27-32, 60. Even accounting for this, there is still a gap of about 1 minute and 20 seconds for track 2. But this remaining discrepancy is explained by unrecorded sections at the beginning and end of the enhanced audio's track 2 being significantly longer than those on the original.

<sup>1431</sup> UGA-OTP-0052-0056, at 0056-57.

<sup>1432</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0341-42 (with the '29/05/2004' date indicated on p. 0340); ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0003-06.

<sup>1433</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3060-63; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0301-07; Police Logbook, UGA-OTP-0037-0002, at 0104-07.

<sup>1434</sup> P-0003 Tape 830 Transcript, UGA-OTP-0248-0143-R01, at 0179-82; P-0016 Tape 830 Transcript, UGA-OTP-0259-0116; P-0059 Tape 830 Transcript, UGA-OTP-0248-0381-R01, at 0417-19; P-0440 Tape 830 Transcript, UGA-OTP-0262-0425-R01, at 0438-45.

<sup>1435</sup> P-0003: [T-43](#), p. 40, line 18 – p. 43, line 15; P-0016: [T-33](#), p. 3, line 2 – p. 6, line 15; P-0059: [T-37](#), p. 23, line 21 – p. 26, line 13; P-0440: [T-40](#), p. 42, line 11 – p. 44, line 13.

<sup>1436</sup> P-0016 did not address who Joseph Kony was speaking to in his testimony, but identifies Vincent Otti as one of these persons in his annotated transcript. P-0016 Tape 830 Transcript, UGA-OTP-0259-0116, at 0118-23 ('OT'

likewise consistent that he was speaking to either Joseph Kony or a signaller acting on Joseph Kony's behalf.

797. From the above, the Chamber concludes that: (i) UGA-OTP-0239-0112 is an enhanced audio copy of Tape 830; (ii) Tape 830 – as enhanced – contains a recording of Joseph Kony (or a signaller acting on his behalf), Vincent Otti and others speaking over the radio at some point in the period of 30-31 May 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

p. 9-10 June 2004 – Tape 837 (enhanced: UGA-OTP-0235-0049)

798. The Chamber recognised the formal submission of the audio contents of a cassette identified as '837'.<sup>1437</sup> Its e-court metadata indicates that Timothy Kanyogonya provided this tape to a Prosecution staff member on 15 February 2005. The only pre-registration form related to Timothy Kanyogonya on this date is one memorialising the exchange of, amongst other items, 136 ISO tapes to this same staff member.<sup>1438</sup> P-0059 further confirms that the ISO made Tape 837.<sup>1439</sup> The recording is of men speaking over the radio in a non-working language.

799. The Prosecution gave this tape to Alan French for audio enhancement.<sup>1440</sup> Alan French then enhanced the audio and labelled the copy 'AF/31'.<sup>1441</sup> An enhanced audio disc (UGA-OTP-0235-0049) marked with Alan French's company name, the code 'AF/31' and the ERN of Tape 837 is in evidence. The length of the recorded content on Tape 837 corresponds to the length of the audio tracks in this enhanced audio.<sup>1442</sup> The general

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and 'JK' primary speakers appearing across the lines corresponding to timestamp played in court, namely from 12:25-15:47, starting at p. 0117).

<sup>1437</sup> UGA-OTP-0053-0006.

<sup>1438</sup> Pre-Registration Form 0153, UGA-OTP-0244-0920-R01, at 0930 (UGA-OTP-0045-0001); P-0038 Second Statement, UGA-OTP-0244-0912-R01, at para. 30.

<sup>1439</sup> P-0059: [T-36](#), p. 39, line 13 – p. 40, line 2.

<sup>1440</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 20.

<sup>1441</sup> P-0242 Statement, UGA-OTP-0261-0333-R01, at para. 21; Enhanced Copies Schedule, UGA-OTP-0261-0347 (line 17; duplicate ERN UGA-OTP-0235-0055).

<sup>1442</sup> Compare UGA-OTP-0053-0006 (track 1: 31:22; track 2: 31:17) with UGA-OTP-0235-0049 (track 1: 31:27; track 2: 31:26).

impression of the enhanced audio's contents is consistent with that of Tape 837's contents.

800. The label on Tape 837 and its cassette shell indicates 'Tape 837 covers 9/6/04 to 10/6/04'.<sup>1443</sup> The ISO logbook entries for Tape 837 correspond – a small part of the tape seems to have been recorded at the end of 8 June 2004, with the remainder on the dates indicated on the cassette label.<sup>1444</sup> The corresponding UPDF and police logbooks do not contain the ISO tape numbers, but it is clear from their entries of 8-10 June 2004<sup>1445</sup> that these agencies heard the same overall conversations recorded in the ISO logbook.
801. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0003, P-0016, P-0059 and P-0440. Each reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1446</sup>
802. Upon being played part of the enhanced audio in court, all four witnesses recognised certain voices, gave the same overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1447</sup> The summaries describe part of the same conversations recorded in the logbooks. The voices consistently recognised were those of Dominic Ongwen, Vincent Otti, Raska Lukwiya, Labalpiny (Joseph Kony's signaller) and Joseph Kony.<sup>1448</sup>

<sup>1443</sup> UGA-OTP-0053-0006, at 0006-07.

<sup>1444</sup> UGA-OTP-0062-0002, at 0022-26. The date on p. 0022 is not visible, and the dates of the two 09:00 entries on p. 0023 are difficult to see, but ISO logbooks follow a pattern whereby entries are marked in chronological order. Looking before the relevant entries, the most recent visible date is the 09:00 entry for '7/6/2004' on p. 0019. The next entries leading up to p. 0023 are at the following times: 11:00, 18:30, 09:00 (an entry for the next day, i.e. 8 June 2004) and 18:30. This means that the first 09:00 entry on p. 0023 is the entry for 9 June 2004, and the second is an entry for 10 June 2004. The date immediately after the relevant entries clearly reads '11/6/2004' (p. 0026), confirming that the two dates on p. 0023 should be '9/6/2004' and '10/6/2004', respectively.

<sup>1445</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3076-80; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0324-26; Police Logbook, UGA-OTP-0037-0002, at 0099-101 (describing conversations from 9 and 10 June 2004).

<sup>1446</sup> P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0121-34; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0539-52; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0378-90.

<sup>1447</sup> P-0003: [T-43](#), p. 33, line 14 – p. 40, line 17; [T-45](#), p. 61, line 17 – p. 64, line 14; P-0016: [T-32](#), p. 64, line 10 – p. 67, line 17; P-0059: [T-37](#), p. 15, line 25 – p. 23, line 18; P-0440: [T-40](#), p. 36, line 14 – p. 39, line 25.

<sup>1448</sup> P-0440 did not testify to hearing Vincent Otti, but he did indicate him as one of the main speakers in the transcript annotated by him and related to the audio excerpt that he was played in court (*see* UGA-OTP-0262-0363-R01, at 0381-5 (approx. lines 399-497)). P-0016 did not testify to hearing Labalpiny or Joseph Kony, but was not played the portion of the tape where the other three witnesses heard them speaking. *Compare* P-0016: [T-](#)

803. From the above, the Chamber concludes that: (i) UGA-OTP-0235-0049 is an enhanced audio copy of Tape 837; (ii) Tape 837 – as enhanced – contains a recording of Dominic Ongwen, Vincent Otti, Raska Lukwiya, Labalpinny, Joseph Kony and others speaking over the radio at some point in the period of 8-10 June 2004; and, (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcripts accurately reflect the speakers and words spoken.

q. 31 July-1 August 2004 – Tape 876 (enhanced: UGA-OTP-0258-0143)

804. The Chamber recognised the formal submission of the audio contents of a cassette identified as ‘876’.<sup>1449</sup> Its e-court metadata indicates that P-0027 of the ISO provided this tape on 1 June 2015. A pre-registration form related to P-0027 on this date memorialises the exchange of, amongst other items, Tape 876 to the Prosecution.<sup>1450</sup> The recording is of men speaking over the radio in a non-working language.

805. The Prosecution gave this tape to Xavier Laroche and his colleague for audio enhancement.<sup>1451</sup> These persons then performed this enhancement and registered the enhanced digital copy.<sup>1452</sup> An enhanced audio file (UGA-OTP-0258-0143) with a cover page indicating the ERN of Tape 876’s side B is in evidence.

806. Tape 876 has no date on its label.<sup>1453</sup> A second page of cassette paper reads ‘Tape No 03 24<sup>th</sup> 6-97’.<sup>1454</sup> This suggests the tape dates back to June 1997, but this is irreconcilable with the other evidence available. First, the reference to ‘Tape No 3’ suggests this 1997 date corresponds to an entirely different tape number than the one listed on the first page of the cassette paper (876). Second, as ISO tapes in the relevant time period were numbered sequentially, other tapes with numbers close to 876 – and which the Chamber has already dated above – suggest that Tape 876 must actually date sometime in mid-

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[32](#), p. 64, line 10 – p. 67, line 17, *with* P-0003: [T-43](#), p. 37, line 20 – p. 40, line 17; P-0059: [T-37](#), p. 20, line 25 – p. 23, line 18; P-0440: [T-40](#), p. 38, line 17 – p. 39, line 25.

<sup>1449</sup> UGA-OTP-0241-0257.

<sup>1450</sup> Pre-Registration Form, UGA-OTP-0246-0039-R01, at 0054; P-0027 Second Statement, UGA-OTP-0249-0444-R01, at para. 37(p).

<sup>1451</sup> Inventory, UGA-OTP-0269-0044, at 0053; P-0256 Statement, UGA-OTP-0269-0015, at paras 22, 51.

<sup>1452</sup> P-0256 Statement, UGA-OTP-0269-0015, at paras 37-39; Pre-Registration Form, UGA-OTP-0269-0101, at 0101 (item # 2).

<sup>1453</sup> UGA-OTP-0241-0257, at 0257.

<sup>1454</sup> UGA-OTP-0241-0257, at 0258.

2004. The ISO logbook entries for Tape 876 confirm this, as they are dated 31 July-1 August 2004.<sup>1455</sup> The corresponding UPDF logbooks do not contain the ISO tape numbers, but it is clear from their entries on these same dates<sup>1456</sup> that the UPDF heard the same overall conversations recorded in the ISO logbook. Considering the above, the Chamber finds that the conversations recorded on Tape 873's side B, and as reflected in the corresponding logbook entries, took place on 31 July-1 August 2004.

807. In the course of its investigation, the Prosecution played part of an intercepted communication to P-0016 and P-0059. They reviewed a draft transcript prepared by the Prosecution, identifying speakers and annotating amendments where necessary.<sup>1457</sup>
808. Upon being played part of the enhanced audio in court, P-0016 and P-0059 recognised certain voices, gave an overall summary of the recorded conversation, explained certain transcript annotations and confirmed that their annotated transcript matched what was played.<sup>1458</sup> The summary describes part of the same conversations recorded in the logbooks, providing further proof that Tape 876 concerns a conversation from mid-2004. The voices consistently recognised were those of Dominic Ongwen and Ocen (identified by P-0059 as a signaller of Abudema).
809. The Chamber notes a massive discrepancy between the length of the recorded content on the original audio's side B (05:35) and the enhanced audio's track 2 (33:17). This discrepancy makes it impossible to hear whether the original and enhanced audio tracks actually sound like each other throughout the tape. But both P-0059 and P-0016 seemed to hear the same conversation on the enhanced audio segment, and this conversation is reflected in the ISO logbook under Tape 876 (i.e. the number on the label of the original tape). The Defence also seems to consider the words said by Dominic Ongwen on this tape to be exculpatory,<sup>1459</sup> suggesting that it does not contest the provenance of this

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<sup>1455</sup> UGA-OTP-0062-0145, at 0150-54. The dates are hard to read, but the book itself is opened on 30 July 2004 (p. 0146), the date '31 July' appears just before the cited entry (p. 0149), and a faint '2 Aug 2004' can be seen in the date just after the cited entry (p. 0156).

<sup>1456</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3166-68 (the date of '31<sup>st</sup> July 2004' is visible on p. 3165); UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0427-29. There is a police logbook entry partially corresponding to these dates, but any LRA communications before 1830 on 1 August 2004 were not summarised. *See* Police Logbook, UGA-OTP-0037-0002, at 0044-45.

<sup>1457</sup> P-0016 Tape 876 Transcript, UGA-OTP-0265-0481, at 0490; P-0059 Tape 876 Transcript, UGA-OTP-0266-0146, at 0154-55.

<sup>1458</sup> P-0016: [T-33](#), p. 24, line 20 – p. 32, line 5; P-0059: [T-37](#), p. 31, line 12 – p. 37, line 2; [T-38](#), p. 52, line 23 – p. 55, line 1.

<sup>1459</sup> P-0059: [T-38](#), p. 54, line 9 – p. 55, line 1.

particular enhanced audio. In these circumstances, the Chamber is satisfied that the parts of the enhanced audios reviewed and discussed by the witnesses are part of the original tapes.

810. From the above, the Chamber concludes that: (i) UGA-OTP-0258-0143 is an enhanced audio copy of Tape 876's side B, at least for the part commented upon by the witnesses; (ii) Tape 876 – as enhanced – contains a recording of Dominic Ongwen, Ocen and others speaking over the radio at some point in the period of 31 July-1 August 2004; and (iii) at least for all portions where the reviewing witnesses had a consistent understanding, the corresponding annotated transcript accurately reflects the speakers and words spoken.

*iii. Direction-finding evidence*

811. The evidence in the case includes a specific category of information produced by the UPDF in the course of its particular operation to determine the location of LRA commanders by intercepting and analysing their radio communications with special equipment. This information, which has been referred to during the trial as 'direction-finding evidence', is contained in several UPDF intelligence reports, some of which are specifically relied upon by the Defence in its closing brief.<sup>1460</sup>
812. In its pre-trial brief, the Prosecution averred that it would not rely on the direction-finding evidence since it was not satisfied as to the reliability of the process by which direction-finding information was obtained.<sup>1461</sup>
813. Also the Defence initially indicated that it intended to 'challenge' the direction-finding process and 'explain the deficiencies in the UPDF techniques'.<sup>1462</sup>
814. While the Prosecution then submitted the UPDF intelligence reports into evidence, it reiterated that it would not rely on the direction-finding information.<sup>1463</sup> Although the

<sup>1460</sup> See 27 April 2004 Intelligence Report, UGA-OTP-0017-0130; 30 April 2004 Intelligence Report, UGA-OTP-0017-0150; 1 May 2004 Intelligence Report, UGA-OTP-0017-0157; 18 May 2004 Intelligence Report, UGA-OTP-0017-0262; 9 June 2004 Intelligence Report, UGA-OTP-0017-0353.

<sup>1461</sup> [Prosecution's Pre-Trial Brief](#), 6 September 2016, ICC-02/04-01/15-533 (hereinafter: '[Prosecution Pre-Trial Brief](#)'), para. 78. See also Prosecution's second request for introduction of prior recorded testimony pursuant to rule 68(2)(b) of the Rules, 20 September 2016, ICC-02/04-01/15-538-Conf (public redacted version available: [ICC-02/04-01/15-538-Red](#)), para. 29.

<sup>1462</sup> Defence Response to Prosecution's second Request pursuant to Rule 68(2)(b), 5 October 2016, ICC-02/04-01/15-555-Conf (public redacted version available: [ICC-02/04-01/15-555-Red2](#)), para. 17.

<sup>1463</sup> [Prosecution's formal submission of intercept evidence via the 'bar table'](#), 28 October 2016, ICC-02/04-01/15-580, para. 43. See also Confidential Annex D, ICC-02/04-01/15-580-Conf-AnxD.

Defence generally opposed the submission of all intercept-related material by the Prosecution, it did not, in this context, specify its position regarding the direction-finding data included in the UPDF intelligence reports.<sup>1464</sup>

815. In November 2016, prior to the commencement of the trial, the Chamber decided on whether certain previously recorded testimonies, some of which partly discussed the process for the collection of the UPDF direction-finding data and were intended to be relied upon for other purposes by the Prosecution, could be introduced under Rule 68(2)(b) of the Statute. On the basis of the initial positions expressed by the parties, the Chamber concluded that the unreliability of the UPDF direction-finding evidence was not disputed between the parties, neither of which intended to rely on this material in the trial,<sup>1465</sup> and that the information concerning this process was therefore irrelevant to the case.<sup>1466</sup> However, because the Chamber found the conditions of Rule 68(2)(b) of the Rules to be met, the statements were introduced in their entirety, including the parts in which the witnesses refer to the direction-finding process. The witness statements concerned were those of P-0029,<sup>1467</sup> P-0337,<sup>1468</sup> P-0384,<sup>1469</sup> and P-0404.<sup>1470</sup>

816. The Defence subsequently argued that its position on the direction-finding evidence had been misinterpreted<sup>1471</sup> and that it ‘provisionally’ considered the material reliable, ‘hop[ing] to be able to establish through questioning that the material was collected correctly’.<sup>1472</sup> It sought reconsideration of the decision allowing the introduction of the statements of P-0029, P-0337, P-0384 and P-0404, and submitted that ‘[i]f the Prosecution wishe[d] to rely upon these witnesses, they should be called to testify *viva*

<sup>1464</sup> See [Defence Response to Prosecution’s Submission of Intercept Material](#). See also [Decision on Prosecution’s Submission of Intercept Material](#).

<sup>1465</sup> [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), para. 160.

<sup>1466</sup> [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), paras 183, 191.

<sup>1467</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01; P-0029 Second Statement, UGA-OTP-0267-0455.

<sup>1468</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01; P-0337 Second Statement, UGA-OTP-0267-0445-R01.

<sup>1469</sup> P-0384 Statement, UGA-OTP-0260-0491-R01. The Chamber notes that while P-0384 seems to have been involved in ISO direction-finding activities, he did not provide any specific information in this regard.

<sup>1470</sup> P-0404 Statement, UGA-OTP-0267-0470-R01.

<sup>1471</sup> [Defence Request for Re-Consideration of ‘Decision on the Prosecution’s Applications for Introduction of Prior Recorded Testimony under Rule 68\(2\)\(b\) of the Rules’ with Regards to Four Individuals](#), 19 January 2017, ICC-02/04-01/15-659, para. 13.

<sup>1472</sup> [Defence Request for Re-Consideration of ‘Decision on the Prosecution’s Applications for Introduction of Prior Recorded Testimony under Rule 68\(2\)\(b\) of the Rules’ with Regards to Four Individuals](#), 19 January 2017, ICC-02/04-01/15-659, para. 17.

*voce*'.<sup>1473</sup> The Defence also specified 'that in no way ha[d] it waived its rights to rely upon the direction-finding material, raise questions in cross-examination with interception-related witnesses, and present expert-testimony or expert-reports in the Defence case or prior to any ruling upon the reliability of the direction-finding evidence'.<sup>1474</sup>

817. The Chamber then held that the new interpretation by the Defence of its previous submissions was untenable, and that in fact the Defence had (legitimately) changed its strategy.<sup>1475</sup> The Chamber further held that, in any case, the Defence could rely on the evidence of the four witnesses which had been introduced pursuant to Rule 68(2)(b) of the Rules,<sup>1476</sup> as well as attempt to obtain supplementary statements from the same witnesses or call its own witnesses with respect to the direction-finding operations.<sup>1477</sup>

818. Subsequently, in its closing brief, the Defence relied on material originating from direction-finding<sup>1478</sup> with a view to supporting its submissions that Dominic Ongwen could not have been in the vicinity of attacks relevant to the charges at the time of their occurrence.<sup>1479</sup>

819. In consequence, the Prosecution reiterated in its closing statements that it did not rely on the direction-finding material<sup>1480</sup> and did not ask the Chamber to rely on it to convict Dominic Ongwen.<sup>1481</sup> The Prosecution submitted that there was not much evidence about direction-finding and how precise or reliable it is, and even if reliable, it had limitations.<sup>1482</sup>

<sup>1473</sup> [Defence Request for Re-Consideration of 'Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68\(2\)\(b\) of the Rules' with Regards to Four Individuals](#), 19 January 2017, ICC-02/04-01/15-659, para. 20.

<sup>1474</sup> [Defence Request for Re-Consideration of 'Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68\(2\)\(b\) of the Rules' with Regards to Four Individuals](#), 19 January 2017, ICC-02/04-01/15-659, para. 21.

<sup>1475</sup> [Decision on the Defence Request for Partial Reconsideration of the Decision under Rule 68\(2\)\(b\) of the Rules of Procedure and Evidence](#), 23 February 2017, ICC-02/04-01/15-711, para. 8.

<sup>1476</sup> [Decision on the Defence Request for Partial Reconsideration of the Decision under Rule 68\(2\)\(b\) of the Rules of Procedure and Evidence](#), 23 February 2017, ICC-02/04-01/15-711, para. 11.

<sup>1477</sup> [Decision on the Defence Request for Partial Reconsideration of the Decision under Rule 68\(2\)\(b\) of the Rules of Procedure and Evidence](#), 23 February 2017, ICC-02/04-01/15-711, para. 11.

<sup>1478</sup> [Defence Closing Brief](#), para. 347.

<sup>1479</sup> [Defence Closing Brief](#), paras 346-48, 351, 372-74, 396-98, 405-07, 409-10, 444-45. *See also* Defence Opening Statement: [T-179](#), p. 39, lines 12-22.

<sup>1480</sup> Prosecution Closing Statement: [T-256](#), p. 72, lines 19-20.

<sup>1481</sup> Prosecution Closing Statement: [T-256](#), p. 74, lines 13-14, p. 76, lines 23-24.

<sup>1482</sup> Prosecution Closing Statement: [T-256](#), p. 74, lines 15-25.

820. The Defence in turn restated its position on the direction-finding evidence in its own closing statements.<sup>1483</sup>
821. According to the witness evidence before the Chamber,<sup>1484</sup> the UPDF direction-finding operation was set up in Gulu as of 1999 and further developed in 2003-2004.<sup>1485</sup> It developed incrementally until it became part of the UPDF strategy,<sup>1486</sup> with information gathered through direction-finding being used for UPDF operational planning<sup>1487</sup> and included in intelligence reports.<sup>1488</sup>
822. Further witness evidence indicates that while direction-finding – also called radio wave surveillance<sup>1489</sup> – and interception of radio communications formed separate operations,<sup>1490</sup> they were both part of technical intelligence.<sup>1491</sup>
823. According to P-0337, the purpose of the direction-finding operation was to determine the locations of certain LRA commanders at the time of their radio communications by intercepting the transmissions and calculating the geographical coordinates of their whereabouts.<sup>1492</sup>
824. Witnesses stated that the direction-finding operation was commanded by P-0337,<sup>1493</sup> who set up the operation in Gulu.<sup>1494</sup> He deployed staff to the field, collected the information

<sup>1483</sup> Defence Closing Statement: [T-258](#), p. 37, lines 10-11, p. 38, lines 7-10. The Chamber notes in this regard that the Defence relied on a statement of P-0027 which, however, has not been submitted into evidence (UGA-D26-0011-0508. *See* Defence Closing Statement: [T-258](#), p. 87, line 15 – p. 88, line 1). Therefore, the Chamber will not consider it further.

<sup>1484</sup> The Chamber considered, most importantly, witnesses P-0029, P-0291, P-0337 and P-0404.

<sup>1485</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 55.

<sup>1486</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 54.

<sup>1487</sup> P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 25.

<sup>1488</sup> *See* para. 835 below. *See also* P-0029 Second Statement, UGA-OTP-0267-0455, at para. 67.

<sup>1489</sup> P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 25.

<sup>1490</sup> P-0029 First Statement, UGA-OTP-0027-0231-R01, at para. 64.

<sup>1491</sup> P-0003: T-44-CONF, p. 23, line 18 – p. 24, line 1; [T-44](#), p. 29, lines 2-3.

<sup>1492</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 36, 40. *See also* P-0029 Second Statement, UGA-OTP-0267-0455, at para. 54; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 25; P-0003: T-46-CONF, p. 11, lines 15-25.

<sup>1493</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 58; P-0291 Statement, UGA-OTP-0246-0061-R01, at para. 55; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 15.

<sup>1494</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 30, 35; P-0339: [T-134](#), p. 20, lines 22-24.

and disseminated it to UPDF military commanders.<sup>1495</sup> P-0029 was P-0337's direct supervisor<sup>1496</sup> and ordered direction-finding equipment and trained the team.<sup>1497</sup>

825. P-0337 specified that in about 2003, he became the commanding officer of both static interception team and direction-finding team when they were merged, although in practice nothing changed in terms of reporting.<sup>1498</sup> He also took administrative control over all UPDF interception operations in Northern Uganda.<sup>1499</sup>
826. P-0404 stated that several direction-finding teams worked in different locations,<sup>1500</sup> including Soroti, Masindi and Nebbi.<sup>1501</sup> In addition, P-0337 explained that the staff involved in the direction-finding operation trained on the job and improved the accuracy of their capabilities and speed of deployment over time.<sup>1502</sup>
827. P-0337 testified that in 2005, the direction-finding operation was disbanded because it became obsolete in light of technical failures and fewer LRA radio communications.<sup>1503</sup>
828. The witness evidence indicates that direction-finding staff worked in mobile teams of at least three people<sup>1504</sup> with vehicles that carried the technical equipment.<sup>1505</sup> A minimum of two direction-finding staff were assigned to each vehicle.<sup>1506</sup> The teams deployed every day, except if there was equipment failure, which it could take several days to fix.<sup>1507</sup>

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<sup>1495</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 30; P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 27.

<sup>1496</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 34; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 15; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 38.

<sup>1497</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 24.

<sup>1498</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 28; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 15; P-0003: T-44-CONF, p. 35, lines 15-23.

<sup>1499</sup> P-0337 Second Statement, UGA-OTP-0267-0445-R01, at paras 16-17. The Chamber notes in this context that P-0339 maintained that P-0337 was only engaged in direction-finding and did not assume any other role (*see* P-0339: [T-134](#), p. 21, lines 1-6). However, the Chamber is of the view that P-0339 may not have been aware of all organisational details, also bearing in mind that by that time he had left Gulu to intercept at other locations, and that indeed P-0337 is best placed to indicate which roles he assumed in the course of his career, and therefore does not consider this small discrepancy to cast doubt on P-0337's statement regarding this aspect.

<sup>1500</sup> P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 25.

<sup>1501</sup> P-0404 Statement, UGA-OTP-0267-0470-R01, at para. 27.

<sup>1502</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 31.

<sup>1503</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 33.

<sup>1504</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 59.

<sup>1505</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 31, 37.

<sup>1506</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 51.

<sup>1507</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 32.

829. P-0029 stated that the teams went into the field with their equipment to locate the strongest signal.<sup>1508</sup> P-0337 and P-0029 further specified that a minimum of two intercepting teams with vehicles were needed to pinpoint the geographical coordinates of a transmitting LRA commander.<sup>1509</sup> Both witnesses also explained that the staff searched for the right frequency,<sup>1510</sup> ensured that both teams were listening to the same communication<sup>1511</sup> and that it was also the same LRA radio signal as the one being intercepted in Gulu.<sup>1512</sup> According to P-0029, one person recorded the geographic coordinates while the operation was ongoing.<sup>1513</sup>
830. P-0337 and P-0029 elaborated on the steps followed in the field: the mounted antennae<sup>1514</sup> identified the strongest signal from a certain direction relative to the north, the ‘directional bearing’.<sup>1515</sup> The equipment automatically calculated the direction from where the signal came and issued the bearings, also called line of sight or line of bearing.<sup>1516</sup> The geographical coordinates of the target (Northings and Eastings) were calculated by the command station computer in a third vehicle.<sup>1517</sup> Liaison officers stationed in Gulu coordinated between the direction-finding vehicles and the vehicle carrying the command station computer.<sup>1518</sup>
831. The evidence shows that the accuracy of readings gained through direction-finding depended on a number of factors. P-0337 explained how distance from the target affected the accuracy of the results. He stated that most accurate results were obtained if the direction-finding vehicles were less than 30 kilometres from the target, receiving the so-called ‘ground wave’.<sup>1519</sup> According to P-0337, direction-finding was entirely impossible in the so-called ‘skip zone’, at a distance between 30 and 100 kilometres from the target, due to the fact that the interception devices were receiving the signal as it bounced off

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<sup>1508</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 58.

<sup>1509</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 37; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 57.

<sup>1510</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 39.

<sup>1511</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 39; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 60.

<sup>1512</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 59.

<sup>1513</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 62.

<sup>1514</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 38.

<sup>1515</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 56.

<sup>1516</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 40.

<sup>1517</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 42-43.

<sup>1518</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 45.

<sup>1519</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 52.

the sky, at a too steep angle.<sup>1520</sup> Beyond 100 kilometres from the target, direction-finding became possible again, but results were inaccurate, with a range of accuracy around five kilometres.<sup>1521</sup> Even further away from the target, at over 150 kilometres, the results became more accurate again, with a range of accuracy of about three kilometres.<sup>1522</sup> Significantly, P-0337 stated that the coordinates were transferred as intelligence in the same way, irrespective of whether they were intercepted from under 30 or over 100 kilometres away from the target.<sup>1523</sup>

832. P-0029 testified that in general the results came with a range of accuracy of around three kilometres, and also depended on variables such as signal strength, number of readings and terrain.<sup>1524</sup> Further, P-0337 clarified that the direction-finding vehicles and the target had to form a triangle with the target at the apex.<sup>1525</sup> P-0337 stated that if the triangle was not well formed, the coordinates could not be accurately determined<sup>1526</sup> and were discarded.<sup>1527</sup> Even taking these factors into account, P-0029 also testified that the UPDF direction-finding operation was not able to produce reliable direction-finding intelligence until after 2004.<sup>1528</sup>
833. P-0337 stated that the direction-finding team was told in advance which LRA commander to target on any given day or week.<sup>1529</sup> Further according to P-0337, the bearings of each commander were recorded as they transmitted – because usually one person communicated at a time, there was little chance of making a mistake with the coordinates.<sup>1530</sup>
834. P-0337 also testified that after an intercepted radio communication, at the end of the communication time, the liaison officers liaised with the UPDF interception team in Gulu

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<sup>1520</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 53.

<sup>1521</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 54.

<sup>1522</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 55.

<sup>1523</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 62.

<sup>1524</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 67. *See also* P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 55. The Chamber notes that even from this it is unclear whether this was the case throughout, or whether the range of accuracy of three kilometres was an improved result which started being achieved after 2004.

<sup>1525</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 41.

<sup>1526</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 43.

<sup>1527</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 43.

<sup>1528</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 55.

<sup>1529</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 56.

<sup>1530</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 43.

which could identify the real names of the targets.<sup>1531</sup> Witness evidence indicates that the data collected by all direction-finding teams was collated and communicated up the UPDF chain of command.<sup>1532</sup> Both P-0337 and P-0029 testified that any notes taken by the teams in the field were destroyed for security reasons.<sup>1533</sup>

835. According to witnesses, UPDF intelligence reports included the directional data gathered by the direction-finding operation, in Eastings and Northings, as well as locations.<sup>1534</sup> P-0337 made clear that these reports were not produced by the direction-finding team.<sup>1535</sup> P-0029 testified that the synopses of LRA communications included in the reports were based on merging the direction-finding intelligence and information received from the interception team.<sup>1536</sup>
836. P-0337 testified that the direction-finding liaison officers as well as he himself had access to the UPDF and ISO interception logbooks; P-0337 consulted them on a daily basis to understand what the LRA commanders were talking about.<sup>1537</sup>
837. Bearing in mind the above, and as further outlined below, the Chamber finds that the reliability of information gathered through direction-finding cannot sufficiently be established.
838. First, the Chamber notes that according to P-0029, the UPDF direction-finding operation – which was disbanded in mid-2005 *inter alia* due to technical failures<sup>1538</sup> – was not able to produce reliable intelligence until after 2004.<sup>1539</sup> This evidence is significant for two reasons: first, because it comes from the person who supervised the operation and was therefore well suited to give an assessment of its reliability, and, second, because the

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<sup>1531</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 46-47.

<sup>1532</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 48-49; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 62.

<sup>1533</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 44; P-0029 Second Statement, UGA-OTP-0267-0455, at para. 63.

<sup>1534</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 67; P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 60.

<sup>1535</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at paras 58-59.

<sup>1536</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 73. Additional considerations regarding the probative value of the content of these reports can be found in the section discussing the interception operation, *see* paras 673-676 above.

<sup>1537</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 27; P-0337 Second Statement, UGA-OTP-0267-0445-R01, at para. 44.

<sup>1538</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 33.

<sup>1539</sup> P-0029 Second Statement, UGA-OTP-0267-0455, at para. 55.

reliability of direction-finding evidence is a live issue with respect to events which occurred in 2004, in particular the attacks on the Odek, Lukodi and Abok IDP camps.

839. Second, the evidence indicates that, irrespective of how far developed the operation or how skilled the participating staff, direction-finding could only produce accurate results under specific circumstances, as to which it is unclear whether they were present at the relevant time.<sup>1540</sup> By design, precision was limited as the results came with a range of accuracy, sometimes up to five kilometres.<sup>1541</sup> It appears that coordinates were transmitted in the same format, irrespective of whether they were gathered at less than 30 kilometres or more than 100 kilometres from the target.<sup>1542</sup> The UPDF intelligence reports including direction-finding results do not specify if a given result was collected at under 30 kilometres distance to the target or any other distance. Yet as explained above, distance from the target was a crucial factor for accuracy.
840. In fact, it is equally unclear in which way it was determined whether a specific target could be found at a certain distance. While the evidence suggests that the direction-finding teams would attempt to first set up at over 100 kilometres from the target, and then, having determined the coordinates, approach to under 30 kilometres for more accurate results before the next communication,<sup>1543</sup> there is no information in which way the direction-finding teams knew that a specific target was indeed at over 100 kilometres away from their own location to begin with.
841. While P-0337 claimed that the location of a target would be accurate if the teams set up well and recorded the coordinates accurately,<sup>1544</sup> and that positive feedback was received about the accuracy of the coordinates,<sup>1545</sup> he did not refer to any process of assessment or verification of the accuracy of the coordinates.
842. Third, additional questions arise when analysing the direction-finding data included in the intelligence reports. P-0337 stated that, based on his experience, a forward slash separating two Eastings and Northings in the reports meant either (i) that the two sets

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<sup>1540</sup> See paras 831-832 above.

<sup>1541</sup> See paras 831-832 above.

<sup>1542</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 62.

<sup>1543</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 56.

<sup>1544</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 65.

<sup>1545</sup> P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 64.

give a general range of transmitting location, or (ii) a target communicated at one time from a particular location and then moved to another for a later communication.<sup>1546</sup> Yet nowhere in the intelligence reports is it specified which of these two options it would be, either generally or with respect to particular entries. The Chamber is therefore unable to determine whether the data in fact provides general areas in which a target could have been or if a target may have moved. It is also impossible to tell whether the double entries were intended to take into account the range of accuracy, or whether the range of accuracy would have to be considered with each entry. This is of particular note insofar as of all reports analysed, only a minority provides merely one reading (Easting/Northing) for each LRA commander listed.<sup>1547</sup> Indeed, some reports include not only two Eastings and Northings for a specific commander, but three or even four.<sup>1548</sup>

843. While the format of the reports slightly changed over time, the Chamber notes that some reports show readings indeed listed by different communication times, and yet still include several readings for an individual within what appears to be the same communication time.<sup>1549</sup> Even if not explicitly separated into different communication

<sup>1546</sup> See P-0337 First Statement, UGA-OTP-0256-0201-R01, at para. 63.

<sup>1547</sup> Of the 271 reports analysed, merely 36 (approx. 13%) include not more than one reading for each LRA commander reported (the number of 271 takes into account that the total of 285 intelligence reports submitted to the Chamber includes some duplicates, but at the same time also reports for two or more dates within one ERN; it does not discount those intelligence reports which do not include any direction-finding data at all (either because the first page is blank, or because there is no page for direction-finding data included)).

<sup>1548</sup> See, e.g., 19 December 2003 Intelligence Report, UGA-OTP-0025-0756, at 0756; 23 December 2003 Intelligence Report, UGA-OTP-0025-0772, at 0772; 21 January 2004 Intelligence Report, UGA-OTP-0012-0065, at 0065; 23 January 2004 Intelligence Report, UGA-OTP-0012-0057, at 0057; 24 January 2004 Intelligence Report, UGA-OTP-0012-0052, at 0052; 25 January 2004 Intelligence Report, UGA-OTP-0012-0049, at 0049; 2 February 2004 Intelligence Report, UGA-OTP-0016-0009, at 0009; 12 February 2004 Intelligence Report, UGA-OTP-0016-0053, at 0053; 13 February 2004 Intelligence Report, UGA-OTP-0016-0059, at 0059; 17 February 2004 Intelligence Report, UGA-OTP-0016-0078, at 0078; 20 February 2004 Intelligence Report, UGA-OTP-0016-0092, at 0092; 23 February 2004 Intelligence Report, UGA-OTP-0016-0107, at 0107; 11 March 2004 Intelligence Report, UGA-OTP-0016-0196, at 0196; 27 March 2004 Intelligence Report, UGA-OTP-0016-0298, at 0298; 15 April 2004 Intelligence Report, UGA-OTP-0017-0065, at 0065; 17 April 2004 Intelligence Report, UGA-OTP-0017-0074, at 0074; 18 April 2004 Intelligence Report, UGA-OTP-0017-0078, at 0078; 21 April 2004 Intelligence Report, UGA-OTP-0017-0093, at 0093.

<sup>1549</sup> See, e.g., 6 November 2003 Intelligence Report, UGA-OTP-0025-0523, at 0523; 8 November 2003 Intelligence Report, UGA-OTP-0025-0514, at 0514; 9 November 2003 Intelligence Report, UGA-OTP-0025-0509, at 0509; 14 November 2003 Intelligence Report, UGA-OTP-0025-0481, at 0481; 17 November 2003 Intelligence Report, UGA-OTP-0025-0460, at 0460; 8 March 2004 Intelligence Report, UGA-OTP-0016-0181, at 0181; 9 March 2004 Intelligence Report, UGA-OTP-0016-0185, at 0185; 10 March 2004 Intelligence Report, UGA-OTP-0016-0191, at 0191; 16 March 2004 Intelligence Report, UGA-OTP-0016-0228, at 0228; 23 March 2004 Intelligence Report, UGA-OTP-0016-0263, at 0263; 24 March 2004 Intelligence Report, UGA-OTP-0016-0270, at 0270; 25 March 2004 Intelligence Report, UGA-OTP-0016-0278, at 0278. Similarly, in the 25 May 2004 Intelligence Report, UGA-OTP-0016-0515, at 0515, even though not separated into different communication times, two commanders (Kony and Anum) are listed twice, with an indication of 'same as above' for the readings of the second mentioning, which would suggest that the entries are meant for different communication times.

times,<sup>1550</sup> other intelligence reports mention commanders more than once with several readings in one,<sup>1551</sup> several,<sup>1552</sup> or all<sup>1553</sup> of the listings. This indicates that the different readings included for a single commander within the same communication time indeed related to broader areas of transmission. It could be argued that for a number of reports which include several readings for the first mention of a commander, but not the second,<sup>1554</sup> that these were instances in which the direction-finding team first established

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<sup>1550</sup> The Chamber notes that some reports include remarks which relate a second entry for a specific commander in the report to an earlier entry, thereby suggesting that the different listings do indeed relate to different communication times (*see*, for example, 15 March 2004 Intelligence Report, UGA-OTP-0016-0218, at 0218; 23 April 2004 Intelligence Report, UGA-OTP-0017-0101, at 0101; 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108; 29 April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141; 30 April 2004 Intelligence Report, UGA-OTP-0017-0150, at 0150; 3 May 2004 Intelligence Report, UGA-OTP-0017-0170, at 0170; 4 May 2004 Intelligence Report, UGA-OTP-0016-0573, at 0573; 13 May 2004 Intelligence Report, UGA-OTP-0016-0544, at 0544; 13 May 2004 Intelligence Report, UGA-OTP-0017-0232, at 0232; 25 May 2004 Intelligence Report, UGA-OTP-0016-0515, at 0515; 11 June 2004 Intelligence Report, UGA-OTP-0016-0428, at 0428; 12 June 2004 Intelligence Report, UGA-OTP-0016-0424, at 0424; 15 June 2004 Intelligence Report, UGA-OTP-0016-0412, at 0412; 26 June 2004 Intelligence Report, UGA-OTP-0016-0384, at 0384; 26 June 2004 Intelligence Report, UGA-OTP-0016-0384, at 0384 (a duplicate of this report is at UGA-OTP-0017-0411); 28 June 2004 Intelligence Report, UGA-OTP-0017-0423, at 0423; 4 July 2004 Intelligence Report, UGA-OTP-0016-0366, at 0366). However, this is not the case for all intelligence reports.

<sup>1551</sup> *See, e.g.*, 2 February 2004 Intelligence Report, UGA-OTP-0016-0009, at 0009; 7 February 2004 Intelligence Report, UGA-OTP-0016-0033, at 0033; 8 February 2004 Intelligence Report, UGA-OTP-0016-0038, at 0038; 20 February 2004 Intelligence Report, UGA-OTP-0016-0092, at 0092; 21 February 2004 Intelligence Report, UGA-OTP-0016-0097, at 0097; 26 February 2004 Intelligence Report, UGA-OTP-0016-0125, at 0125; 7 March 2004 Intelligence Report, UGA-OTP-0016-0176, at 0176; 1 April 2004 Intelligence Report, UGA-OTP-0017-0010, at 0010-11; 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108; 28 April 2004 Intelligence Report, UGA-OTP-0017-0134, at 0134; 29 April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141-42; 30 April 2004 Intelligence Report, UGA-OTP-0017-0150, at 0150; 1 May 2004 Intelligence Report, UGA-OTP-0017-0157, at 0157; 3 May 2004 Intelligence Report, UGA-OTP-0017-0170, at 0170; 4 May 2004 Intelligence Report, UGA-OTP-0016-0573, at 0573; 13 May 2004 Intelligence Report, UGA-OTP-0016-0544, at 0544 (a duplicate of this report is at UGA-OTP-0017-0232); 22 May 2004 Intelligence Report, UGA-OTP-0016-0538, at 0538; 23 May 2004 Intelligence Report, UGA-OTP-0016-0528, at 0528-29; 11 June 2004 Intelligence Report, UGA-OTP-0016-0428, at 0428; 12 June 2004 Intelligence Report, UGA-OTP-0016-0424, at 0424; 15 June 2004 Intelligence Report, UGA-OTP-0016-0412, at 0412; 16 June 2004 Intelligence Report, UGA-OTP-0016-0405, at 0405; 26 June 2004 Intelligence Report, UGA-OTP-0016-0384, at 0384 (a duplicate of this report is at UGA-OTP-0017-0411); 28 June 2004 Intelligence Report, UGA-OTP-0017-0423, at 0423; 1 July 2004 Intelligence Report, UGA-OTP-0016-0371, at 0371-72 (a partial duplicate of this report is at UGA-OTP-0017-0433).

<sup>1552</sup> *See, e.g.*, 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108; 29 April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141-42.

<sup>1553</sup> *See, e.g.*, 25 January 2004 Intelligence Report, UGA-OTP-0012-0049, at 0049; 2 February 2004 Intelligence Report, UGA-OTP-0016-0009, at 0009; 12 February 2004 Intelligence Report, UGA-OTP-0016-0053, at 0053; 24 February 2004 Intelligence Report, UGA-OTP-0016-0113, at 0113; 6 March 2004 Intelligence Report, UGA-OTP-0016-0170, at 0170; 7 March 2004 Intelligence Report, UGA-OTP-0016-0176, at 0176; 11 March 2004 Intelligence Report, UGA-OTP-0016-0196, at 0196; 15 March 2004 Intelligence Report, UGA-OTP-0016-0218, at 0218; 23 April 2004 Intelligence Report, UGA-OTP-0017-0101, at 0101; 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108; 25 April 2004 Intelligence Report, UGA-OTP-0017-0119, at 0119; 4 May 2004 Intelligence Report, UGA-OTP-0016-0573, at 0573; 25 May 2004 Intelligence Report, UGA-OTP-0016-0515, at 0515; 1 July 2004 Intelligence Report, UGA-OTP-0016-0371, at 0371 (a partial duplicate of this report is at UGA-OTP-0017-0433); 4 July 2004 Intelligence Report, UGA-OTP-0016-0366, at 0366.

<sup>1554</sup> *See, e.g.*, 9 November 2003 Intelligence Report, UGA-OTP-0025-0509, at 0509-10; 20 February 2004 Intelligence Report, UGA-OTP-0016-0092, at 0092; 21 February 2004 Intelligence Report, UGA-OTP-0016-0097, at 0097; 26 February 2004 Intelligence Report, UGA-OTP-0016-0125, at 0125; 8 March 2004 Intelligence Report, UGA-OTP-0016-0181, at 0181; 1 April 2004 Intelligence Report, UGA-OTP-0017-0010, at 0010-11; 29

a range of transmission and then was able to further narrow down the location in the course of the day.<sup>1555</sup> However, the Chamber notes that numerous reports either include several readings for each mentioning of the commander in question,<sup>1556</sup> or include several readings only the second or third time a commander is mentioned in a specific report.<sup>1557</sup> Bearing in mind the discussion above that it is also not clear whether several readings linked to one commander may refer to general ranges of transmission or a commander having moved – which further raises questions when considering that a commander being mentioned several times in a report may already account for a commander having been targeted by the direction-finding team several times during the day –, this leads to the conclusion that the multiple entries cannot simply be explained as part of a process of obtaining more accurate readings.

844. In this context it is also of note that some reports at times indicate the same location for the second mention of a commander or also a different commander while, however, at

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April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141-42; 1 May 2004 Intelligence Report, UGA-OTP-0017-0157, at 0157; 3 May 2004 Intelligence Report, UGA-OTP-0017-0170, at 0170; 4 May 2004 Intelligence Report, UGA-OTP-0016-0573, at 0573; 13 May 2004 Intelligence Report, UGA-OTP-0016-0544, at 0544 (a duplicate of this report is at UGA-OTP-0017-0232); 22 May 2004 Intelligence Report, UGA-OTP-0016-0538, at 0538; 23 May 2004 Intelligence Report, UGA-OTP-0016-0528, at 0528-29; 12 June 2004 Intelligence Report, UGA-OTP-0016-0424, at 0424; 15 June 2004 Intelligence Report, UGA-OTP-0016-0412, at 0412; 16 June 2004 Intelligence Report, UGA-OTP-0016-0405, at 0405; 1 July 2004 Intelligence Report, UGA-OTP-0016-0371, at 0371-72 (a partial duplicate of this report is at UGA-OTP-0017-0433).

<sup>1555</sup> See para. 840 above, suggesting that a team would attempt to set up at a further distance in the beginning and then approach closer to the target before the next communication time.

<sup>1556</sup> See, e.g., 14 November 2003 Intelligence Report, UGA-OTP-0025-0481, at 0481; 25 January 2004 Intelligence Report, UGA-OTP-0012-0049, at 0049; 12 February 2004 Intelligence Report, UGA-OTP-0016-0053, at 0053; 24 February 2004 Intelligence Report, UGA-OTP-0016-0113, at 0113; 6 March 2004 Intelligence Report, UGA-OTP-0016-0170, at 0170; 7 March 2004 Intelligence Report, UGA-OTP-0016-0176, at 0176; 8 March 2004 Intelligence Report, UGA-OTP-0016-0181, at 0181; 9 March 2004 Intelligence Report, UGA-OTP-0016-0185, at 0185; 10 March 2004 Intelligence Report, UGA-OTP-0016-0191, at 0191; 11 March 2004 Intelligence Report, UGA-OTP-0016-0196, at 0196; 15 March 2004 Intelligence Report, UGA-OTP-0016-0218, at 0218; 16 March 2004 Intelligence Report, UGA-OTP-0016-0228, at 0228; 23 March 2004 Intelligence Report, UGA-OTP-0016-0263, at 0263; 24 March 2004 Intelligence Report, UGA-OTP-0016-0270, at 0270; 23 April 2004 Intelligence Report, UGA-OTP-0017-0101, at 0101; 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108; 3 May 2004 Intelligence Report, UGA-OTP-0017-0170, at 0170; 4 May 2004 Intelligence Report, UGA-OTP-0016-0573, at 0573; 25 May 2004 Intelligence Report, UGA-OTP-0016-0515, at 0515; 1 July 2004 Intelligence Report, UGA-OTP-0016-0371, at 0371 (a partial duplicate of this report is at UGA-OTP-0017-0433); 4 July 2004 Intelligence Report, UGA-OTP-0016-0366, at 0366.

<sup>1557</sup> See, e.g., 7 February 2004 Intelligence Report, UGA-OTP-0016-0033, at 0033; 7 March 2004 Intelligence Report, UGA-OTP-0016-0176, at 0176; 25 March 2004 Intelligence Report, UGA-OTP-0016-0278, at 0278; 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108; 28 April 2004 Intelligence Report, UGA-OTP-0017-0134, at 0134; 29 April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141; 30 April 2004 Intelligence Report, UGA-OTP-0017-0150, at 0150; 11 June 2004 Intelligence Report, UGA-OTP-0016-0428, at 0428; 26 June 2004 Intelligence Report, UGA-OTP-0016-0384, at 0384 (a duplicate of this report is at UGA-OTP-0017-0411); 28 June 2004 Intelligence Report, UGA-OTP-0017-0423, at 0423.

the same time providing slightly different geographical coordinates.<sup>1558</sup> This again supports the assumption that the direction-finding data was reported as accurate and relating to a specific location even in cases in which the location was in fact not a pinpoint determination, but rather, as discussed above, concerned a range of transmission. The Chamber is of the view that this is an indication that direction-finding data in general related to broader areas of transmission, and that it is therefore not possible to conclude from the reported data on the accurate location of a specific target (meaning, LRA commander), at any given communication time. This is of note also insofar as some intelligence reports provide several readings for a particular listing, yet at the same time giving pinpoint locations going down to mere hundreds of metres.<sup>1559</sup>

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<sup>1558</sup> See, e.g., 29 August 2003 Intelligence Report, UGA-OTP-0025-0619, at 0619 (Tabuley is listed at 1°57'18"N and 33°31'11"E, with location 'Amatikile, Katini county', while Okulu is listed at 1°55'00"N and 33°33'07"E, with the same location); 8 March 2004 Intelligence Report, UGA-OTP-0016-0181, at 0181 (Odiambo is listed for 09:00 hours, at 2°35'54"/2°36'02"N and 33°17'55"/33°20'56"E, with location '3 Km E, of Patongo-Corner Adwari rd, 21Km N of Orum', and listed for 16:00 hours, at 2°37'11"/2°32'10"N and 33°17'25"/33°18'52"E, with the same location reference); 12 March 2004 Intelligence Report, UGA-OTP-0016-0202, at 0202 (Otti is listed at 4°02'49"/4°03'51"N and 32°38'47"/32°39'47"E, with location 'Katire Valley', while Kony is listed at 4°05'32"N and 32°39'49"E, also with location 'Katire Valley'); 13 April 2004 Intelligence Report, UGA-OTP-0017-0057, at 0057 (Kony is listed at 4°32'37"/4°30'39"N and 31°45'40"/31°45'04"E, with location 'Lubanga Tek, 5.5 Km S of Jabelin, 9Km E of R. Kit') compare with 14 April 2004 Intelligence Report, UGA-OTP-0017-0061, at 0061 (Kony is listed at 4°31'51"/4°32'26"N and 31°45'33"/31°46'26"E, with location 'Lubanga Tek area, 5.5 Km S of Jabelin, 9 Km E of R. Kit as per loc of 130404'); 24 April 2004 Intelligence Report, UGA-OTP-0017-0108, at 0108-09 (Angola is first listed at 2°49'59"/2°48'35"N and 32°39'26"/32°40'37"E, with location 'At the confluence of R. Chome and Aswa in Lalogi/Atanga boundary. 13 Km Nort of Acet IDP', and then at 2°48'35"/2°50'16"N and 32°40'37"/32°37'10"E, with indication 'Same loc as previous at 130 Hrs.'; Abudema appears in a second listing at 2°56'52"/2°53'02"N and 32°59'52"/33°02'38"E, with location '01 Km North of Pader IDP', while Lamola is listed at 2°57'14"/2°51'19"N and 33°01'33"/33°04'29"E, with indication 'Same location with Abudema'); 4 July 2004 Intelligence Report, UGA-OTP-0016-0366, at 0366 (Raska is listed first at 4°07'20"/4°08'27"N and 32°26'59"/32°26'26"E, with location '9.8 Km North of Palabek, 18.4 Km East of Magwi, 6.3 Km NW [illegible], 9.5 Km NW of Ngong Peak', and then at 4°05'11"/4°05'16"/4°07'25"N and 32°27'17"/32°28'47"/32°27'43"E, with indication 'Same as loc at 1100Hrs'). The Chamber also notes that when reports draw relations between different locations, yet the locations are reported with several different readings per specific commanders, it remains unclear in which way these relations are determined (see, e.g., 4 May 2004 Intelligence Report, UGA-OTP-0016-0573, at 0573 (Abudema is first listed at 3°02'23"/3°00'56"N and 33°09'59"/33°09'00"E, with location 'Along the Eastern bank of R. Kimiya, 13.2 Km Se of Latanya IDP, 15 Km SW of Wol IDP (per yester evening 030405)', and then listed a second time at 3°00'02"/3°00'20"N and 33°09'00"/33°10'14"E, with location '2.7 Km S of his loc. as of 040504 at 0900 hrs'). From these coordinates it appears that the distance between the reported locations could be anywhere between approximately 1.6 and 4.7 kilometres, depending on whether the first or the second readings are related, or the first with the second readings and *vice versa*. A similar example can be found in 29 April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141.

<sup>1559</sup> See, e.g., 10 March 2004 Intelligence Report, UGA-OTP-0016-0191, at 0191 (for Odiambo, two readings related to specific distances seem to be approximately four kilometres apart; for Dominic, two readings related to specific distances from a trading centre seem to be approximately 10 kilometres apart); 11 March 2004 Intelligence Report, UGA-OTP-0016-0196, at 0196 (for Raska, two readings related to specific distances seem to be approximately eight kilometres apart); 15 March 2004 Intelligence Report, UGA-OTP-0016-0218, at 0218 (for Ochan Bunia, two readings related to specific distances from a trading centre and other landmarks seem to be approximately five and a half kilometres apart); 16 March 2004 Intelligence Report, UGA-OTP-0016-0228, at 0228 (for Ochan Bunia, two readings related to specific distances from a town seem to be approximately ten

845. Fourth, even for reports which provide a single reading for a specific commander, and this reading, to the extent it can be determined, at least approximately corresponds to the location indicated in the report,<sup>1560</sup> the above leaves doubts as to whether the commander in question was indeed present at that specific location, or in its wider area. The Chamber recalls in particular in this regard that the direction-finding data were transmitted in the same format, even if they were in fact collected with varying ranges of accuracy,<sup>1561</sup> and that, in addition, the intelligence reports were not compiled by the direction-finding team

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kilometres apart); 4 June 2004 Intelligence Report, UGA-OTP-0016-0462, at 0462 (for Otti, two readings related to specific distances from a number of IDP camps seem to be approximately 10 kilometres apart).

<sup>1560</sup> See, e.g., 10 March 2004 Intelligence Report, UGA-OTP-0016-0191, at 0191 (for c/s Bogi); 19 March 2004 Intelligence Report, UGA-OTP-0016-0239, at 0239 (for Raska); 24 March 2004 Intelligence Report, UGA-OTP-0016-0270, at 0270 (for Abudema); 25 March 2004 Intelligence Report, UGA-OTP-0016-0278, at 0278 (for Lagulu); 26 March 2004 Intelligence Report, UGA-OTP-0016-0287, at 0287 (for Lapanyikwara); 29 March 2004 Intelligence Report, UGA-OTP-0016-0308, at 0308 (for Lapanyikwara); 10 April 2004 Intelligence Report, UGA-OTP-0017-0042, at 0042 (for Angola) (a partial duplicate of this report is at UGA-OTP-0016-0588); 11 April 2004 Intelligence Report, UGA-OTP-0017-0047, at 0047 (for Abudema); 14 April 2004 Intelligence Report, UGA-OTP-0017-0061, at 0061 (for Angola); 22 April 2004 Intelligence Report, UGA-OTP-0017-0097, at 0097 (for Abudema); 26 April 2004 Intelligence Report, UGA-OTP-0017-0124, at 0124 (for Abudema, Odiambo); 28 April 2004 Intelligence Report, UGA-OTP-0017-0134, at 0134 (for Kapere, Abudema); 29 April 2004 Intelligence Report, UGA-OTP-0017-0141, at 0141 (for Kapere, Otti, Lagulu); 9 May 2004 Intelligence Report, UGA-OTP-0017-0207, at 0207 (for Abudema, Angola, Onen Kamdule); 11 May 2004 Intelligence Report, UGA-OTP-0016-0556, at 0556 (for Otti); 12 May 2004 Intelligence Report, UGA-OTP-0016-0548, at 0548 (for Otti); 14 May 2004 Intelligence Report, UGA-OTP-0017-0236, at 0236 (for Otti); 16 May 2004 Intelligence Report, UGA-OTP-0017-0250, at 0250 (for Wokorach, Abudema); 21 May 2004 Intelligence Report, UGA-OTP-0017-0268, at 0268 (for Lakati, Kapere); 22 May 2004 Intelligence Report, UGA-OTP-0016-0538, at 0538 (for Kapere); 24 May 2004 Intelligence Report, UGA-OTP-0016-0522, at 0522 (for Dominic, Abudema) (a duplicate of this report is at UGA-OTP-0017-0284); 25 May 2004 Intelligence Report, UGA-OTP-0016-0515, at 0515 (for Otti (1<sup>st</sup>), Angola); 26 May 2004 Intelligence Report, UGA-OTP-0016-0509, at 0509 (for Wokorach, Angola); 28 May 2004 Intelligence Report, UGA-OTP-0016-0500, at 0500 (for RT-Otti) (a duplicate of this report is at UGA-OTP-0017-0309); 29 May 2004 Intelligence Report, UGA-OTP-0016-0493, at 0493 (for Kapere, Otti); 31 May 2004 Intelligence Report, UGA-OTP-0016-0481, at 0481 (for Labong, Dominic); 3 June 2004 Intelligence Report, UGA-OTP-0016-0466, at 0466 (for Labong) (a duplicate of this report is at UGA-OTP-0017-0340); 8 June 2004 Intelligence Report, UGA-OTP-0016-0445, at 0445 (for Abudema, Kapere); 9 June 2004 Intelligence Report, UGA-OTP-0016-0440, at 0440 (for Dominic) (a duplicate of this report is at UGA-OTP-0017-0353); 11 June 2004 Intelligence Report, UGA-OTP-0016-0428, at 0428 (for Bunia, Angola, Otti); 12 June 2004 Intelligence Report, UGA-OTP-0016-0424, at 0424 (for Abudema) (a duplicate of this report is at UGA-OTP-0017-0370); 13 June 2004 Intelligence Report, UGA-OTP-0016-0420, at 0420 (for Otti); 15 June 2004 Intelligence Report, UGA-OTP-0016-0412, at 0412 (for Dominic, Kamdule); 16 June 2004 Intelligence Report, UGA-OTP-0016-0405, at 0405 (for Kapere, Dominic); 20 June 2004 Intelligence Report, UGA-OTP-0016-0395, at 0395 (for Bunia); 26 June 2004 Intelligence Report, UGA-OTP-0016-0384, at 0384 (for c/s Labongo Lworo) (a duplicate of this report is at UGA-OTP-0017-0411); 27 June 2004 Intelligence Report, UGA-OTP-0017-0416, at 0416 (for Abudema, Angola); 28 June 2004 Intelligence Report, UGA-OTP-0017-0423, at 0423 (for Angola); 30 June 2004 Intelligence Report, UGA-OTP-0016-0378, at 0378 (for Otti, Abudema); 1 July 2004 Intelligence Report, UGA-OTP-0016-0371, at 0371-72 (for Otti, Abudema, Angola); 4 July 2004 Intelligence Report, UGA-OTP-0016-0366, at 0366 (for Otti); 28 July 2004 Intelligence Report, UGA-OTP-0016-0326, at 0326 (for Labong) (a duplicate of this report is at UGA-OTP-0017-0444); 29 July 2004 Intelligence Report, UGA-OTP-0016-0319, at 0319 (for Kapere 1<sup>st</sup> listing, Abudema); 31 July 2004 Intelligence Report, UGA-OTP-0016-0314, at 0314 (for Otti, Kapere, Kamdule, Abudema); 1 August 2004 Intelligence Report, UGA-OTP-0017-0453, at 0453 (for Kapere, Ocan Bunia, Labong, Otti); 9 August 2004 Intelligence Report, UGA-OTP-0017-0469, at 0469 (for Labong); 14 August 2004 Intelligence Report, UGA-OTP-0017-0487, at 0487 (for Dominic, Abudema); 21 August 2004 Intelligence Report, UGA-OTP-0017-0499, at 0499 (for Labong).

<sup>1561</sup> See paras 831-832 above.

which only transmitted the geographical data.<sup>1562</sup> It is not clear from the evidence if the UPDF staff compiling the intelligence reports merely mapped the geographical coordinates as received, without taking into account that they may involve ranges of accuracy and areas of transmission.<sup>1563</sup>

846. All of the above are important issues affecting the reliability of information gathered through direction-finding and of its derivative location data in this particular case. Of special note is the fact that, according to the evidence and information available to the Chamber, it is not possible to ultimately determine the range of accuracy and that this range of accuracy may well have been in the range of several kilometres, which renders the direction-finding evidence inconclusive for purposes of the Chamber in the sense that it merely represents another estimate. Further, it must be recalled that according to the supervisor of the operation, it was not possible to produce reliable direction-finding results until after 2004<sup>1564</sup> and that, at the same time, the commanding officer of that operation stated that it was disbanded in mid-2005 *inter alia* due to technical failures.<sup>1565</sup> In light of the information before the Chamber, the Chamber does not consider that the reliability of direction-finding evidence has been established to the extent that it would be possible to rely on it, in particular as concerns the whereabouts of Dominic Ongwen at the time of the attacks on the Odek, Lukodi and Abok IDP camps. For this reason, the Chamber does not rely on direction-finding evidence.

*iv. Other documentary evidence*

847. Apart from the intercept and direction-finding evidence, the parties and the legal representatives of the participating victims have submitted other documentary evidence including, *inter alia*, photographic material, police investigation reports, forensic reports, official documentation and documents obtained from the LRA. The Chamber has

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<sup>1562</sup> See paras 834-835 above.

<sup>1563</sup> This is supported by the fact that for some reports which provide several readings for a specific commander, any indicated specific location appears to approximately correspond with one of the readings, but not necessarily with the other (*see, e.g.*, 16 March 2004 Intelligence Report, UGA-OTP-0016-0228, at 0228 (for Lagulu); 4 June 2004 Intelligence Report, UGA-OTP-0016-0462, at 0462 (for Bunia) (a duplicate of this report is at UGA-OTP-0017-0346); 14 June 2004 Intelligence Report, UGA-OTP-0016-0416, at 0416 (for Dominic); 1 July 2004 Intelligence Report, UGA-OTP-0016-0371, at 0371 (for Labong) (a partial duplicate of this report is at UGA-OTP-0017-0433)). This suggests that the UPDF staff mapping the coordinates in these instances simply took one of the readings to find a map location, without assessing the possible area of transmission implicated in the reporting of several readings.

<sup>1564</sup> See paras 832, 838 above.

<sup>1565</sup> See paras 827, 838 above.

reviewed this evidence, and considered the arguments of the parties made at the time of submission, the use of the evidence in the courtroom, and any further arguments made during closing submissions. The Chamber's reasoning for the use or non-use of a particular item, as the case may be, is given below in pertinent context in the evidentiary analysis as appropriate.

848. The Defence argued generally against the reliability of documentary evidence obtained with the assistance of the Government of Uganda. In its closing brief, the Defence submitted that '[t]he Court should treat with caution and avoid overly relying on evidence procured from, or with the assistance of investigations carried out by the GoU, one of the protagonists in the conflict of which the case is a direct consequence'.<sup>1566</sup>
849. Whereas the Defence is factually correct in asserting that the Prosecution obtained large amounts of evidence through requests for assistance made to the Government of Uganda, the Chamber sees no basis to hold that the reliability of the evidence thus obtained is generally impaired for this reason. It is natural that a State may possess evidence in relation to crimes allegedly committed on its territory, and it is the duty of the Prosecution to seek access to such evidence through the appropriate statutory avenues. The Defence does not allege any specific irregularity, and its argument is based exclusively on the mere fact that the Government of Uganda is the LRA's adversary in the conflict. No irregularity has also become apparent during the trial. As such, the suggestion is speculative and therefore rejected. The Chamber does not see any general impediment to the use of the evidence obtained through the assistance of the Government of Uganda, and, in principle, makes use of such evidence. As stated, the Chamber provides below further specific reasoning, as appropriate, for the use or non-use of a particular item.

#### 4. *Agreed Facts*

850. As provided in Rule 69 of the Rules, the Prosecution and Defence submitted 23 agreed facts related to Dominic Ongwen's background, the parentage of certain children, geographical facts, the meaning of certain acronyms and the occurrence of an attack on Pajule.<sup>1567</sup> These agreed facts are proven for the purposes of the judgment.<sup>1568</sup>

<sup>1566</sup> [Defence Closing Brief](#), para. 9. *See also* Defence Closing Statement: [T-258](#), p. 13, lines 14-22.

<sup>1567</sup> [Agreed Facts](#).

<sup>1568</sup> [Decision on Joint Agreed Facts Submission](#), 19 July 2016, ICC-02/04-01/15-500.

### C. Evidentiary analysis for findings of fact

851. The Chamber sets out below its assessment of the evidence submitted and discussed before it at trial with respect to each of the findings of fact identified above in Section III ('Findings of fact'). In particular, the Chamber details below the evidence which supports each of those findings of fact, and explains how any such finding was reached in light of the available evidence – and the arguments made at trial – both in support of and against that particular finding, as appropriate. This also includes instances when findings on the facts and circumstances described in the charges are reached by way of inference – thus, through facts which are of 'intermediate' or 'subsidiary' nature – on the basis of circumstantial evidence. At the same time, the Chamber clarifies that while it structures its discussion below delineating its analysis of evidence with respect to each individual finding of fact, evidence may be relevant to more than one factual finding even if not necessarily reiterated in each instance, and all evidence submitted and discussed before it at trial has been considered holistically.

#### 1. *LRA as an organisation in 2002-2005*

852. The analysis of the evidence begins with a discussion of the basic features of the LRA as an organisation. Because the charges focus on the Sinia brigade, this brigade is analysed in more detail in section IV.C.2, further below.

853. The Chamber obtained relevant information in relation to the issues at hand from different witnesses, and mostly from insider witnesses. The value of their evidence, however, differs. In particular, the Chamber considers that certain witnesses are better placed than others to provide reliable information on the issues under consideration. This primarily includes insiders who held a relatively high position in the LRA or spent a long time in the organisation, such as P-0070 and P-0205, [REDACTED]. These witnesses were in a position to give reliable descriptions of the structure of the LRA and of the interactions within the LRA leadership. In addition, the Chamber relies on the evidence of lower ranking insiders, or of insiders who spent a comparatively shorter period of time within the organisation, when it relates to facts or events these witnesses directly observed. The records of intercepted radio communications are also of significance in order to establish certain dynamics within the LRA at the relevant time.

**At the time relevant for the charges, i.e. from 1 July 2002 to 31 December 2005, the LRA had a hierarchical structure. Joseph Kony was the highest authority in the LRA. During the time period relevant for the charges, his deputy was Vincent Otti, who led a headquarters unit called Control Altar. Further, the LRA was divided into four brigades: Sinia, Stockree, Gilva and Trinkle. From 2003, there was also a division called Jogo. The brigades were divided into battalions and further into companies or ‘coys’. Each of these units was led by a commander.**<sup>1569</sup>

854. It is agreed between the parties that Joseph Kony was ‘in charge’ of the LRA between 1 July 2002 and 31 December 2005.<sup>1570</sup> Witnesses with knowledge of the internal structure of the LRA refer to his position as ‘overall leader’,<sup>1571</sup> ‘overall commander’,<sup>1572</sup> ‘chief commander’,<sup>1573</sup> ‘chairman’,<sup>1574</sup> or to him being ‘like the president of the LRA’.<sup>1575</sup>

855. Insider witnesses testified that Vincent Otti was Joseph Kony’s deputy at the relevant time.<sup>1576</sup> P-0070 further explained that Vincent Otti was in Control Altar, which was ‘the high command’ with several departments, of which P-0070 could recall the support department, a ‘Yard’ department, an elders group, a religious affairs group, a medical group and the group of signallers.<sup>1577</sup> P-0144 defined ‘Yard’ as ‘a place to hold ceremonies, prayers’.<sup>1578</sup> P-0070 further stated that Nyeko Tolbert Yadin was an army commander in Control Altar, and that Raska Lukwiya was a brigade general, also in Control Altar.<sup>1579</sup>

856. Other witnesses provided essentially compatible definitions of Control Altar as the ‘overall group’<sup>1580</sup> and headquarters of the LRA.<sup>1581</sup> P-0209 defined Control Altar as ‘the big group where most senior commanders are’.<sup>1582</sup> P-0231 corroborated the fact that

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<sup>1569</sup> Para. 123 above. For ease of reference, the findings of fact serving as headings in this evidentiary analysis include a footnote directing to the corresponding paragraph of the findings of fact in section III above.

<sup>1570</sup> Agreed Fact, A8.

<sup>1571</sup> P-0054: [T-94](#), p. 6, lines 21-23; P-0209: [T-161](#), p. 20, line 22 – p. 21, line 2; P-0379: [T-58](#), p. 45, lines 4-8.

<sup>1572</sup> P-0070: [T-105](#), p. 56, lines 6-11; P-0440: [T-39](#), p. 75, lines 5-8.

<sup>1573</sup> P-0264: [T-65](#), p. 73, lines 3-7.

<sup>1574</sup> D-0074: [T-187](#), p. 40, lines 22-24.

<sup>1575</sup> P-0264: [T-65](#), p. 73, lines 3-7. *See also* P-0070: [T-105](#), p. 56, lines 12-15.

<sup>1576</sup> P-0070: [T-105](#), p. 56, line 20 – p. 57, line 2; P-0085: [T-158](#), p. 27, lines 9-11; P-0138: [T-120](#), p. 13, lines 18-21; P-0205: [T-48](#), p. 20, lines 4-6; P-0209: [T-161](#), p. 21, lines 5-7. The Chamber notes that evidence indicates that at some point after the period relevant to the charges, Vincent Otti was killed on the orders of Joseph Kony, *see* para. 2613 below.

<sup>1577</sup> P-0070: [T-105](#), p. 57, line 12 – p. 59, line 3.

<sup>1578</sup> P-0144: [T-92](#), p. 19, lines 8-16. *See also* P-0054: [T-94](#), p. 4, lines 12-15; P-0231: [T-123](#), p. 31, lines 5-9; P-0264: [T-66](#), p. 31, lines 11-15.

<sup>1579</sup> P-0070: [T-105](#), p. 59, lines 11-21.

<sup>1580</sup> P-0440: [T-39](#), p. 68, lines 1-4.

<sup>1581</sup> P-0138: [T-120](#), p. 13, lines 22-23; P-0144: T-91-CONF, p. 15, lines 7-8.

<sup>1582</sup> P-0209: [T-160](#), p. 9, lines 7-12.

during the period relevant to the charges Control Altar was within the domain of Vincent Otti.<sup>1583</sup>

857. The principal unit in the LRA hierarchy was the brigade, of which there were four, referred to as Sinia, Stockree, Gilva and Trinkle.<sup>1584</sup> It is noted that according to P-0070 and Ray Apire, Trinkle brigade was responsible for providing security to Control Altar and Joseph Kony.<sup>1585</sup>
858. Brigades were headed by a brigade commander, and there was also a brigade second-in-command (2IC).<sup>1586</sup> According to an intercepted radio message of 20 September 2002, the brigade commander of Sinia at the time was Buk Abudema, of Stockree Charles Tabuley, of Gilva Ocan Bunia, and of Trinkle Okot Odhiambo.<sup>1587</sup> Changes to the individuals who held the position of brigade commander in the context of Sinia brigade are discussed in more detail further below.<sup>1588</sup>
859. P-0070 testified that initially, each brigade had two commanders of equal rank, but that with the creation of the division, this was reduced to one.<sup>1589</sup> At another point in his testimony, he indicated that Stockree brigade had switched from two commanders to one already at the time of Iron Fist.<sup>1590</sup> Charles Lokwiya testified that at the time when he went to Soroti in 2003, Stockree brigade had ‘Tabuley as a commander, and Okullu’.<sup>1591</sup>

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<sup>1583</sup> P-0231: [T-122](#), p. 46, lines 16-17.

<sup>1584</sup> P-0070: [T-105](#), p. 57, lines 3-6, p. 60, lines 6-12; P-0085: [T-158](#), p. 20, lines 13-18. The four-brigade structure is also revealed in some intercepted radio messages, such as in the list of radio call signs recorded in the ISO logbook on 4 December 2002 (ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0083-84. The Chamber notes that the date for this specific entry in the logbook is not legible. However, the Chamber considers it likely that this conversation was intercepted on 4 December 2002. This is based on the fact that the entries preceding the relevant excerpt are dated 3 December 2002, with tape number 593A and B, recorded at 08:00 and 11:00 (at 0079, 0081), while the following entry still under tape reference 593B is recorded on 5 December 2002 at 09:00 (at 0085). Indeed, the entry with the same tape and time reference, as well as reproducing the same content, in the ISO Logbook (Kampala), UGA-OTP-0066-0201, at 0261, is recorded under the date of 4 December 2002., and in the schedule of commanders transmitted on 20 September 2002 (ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0166-67).

<sup>1585</sup> P-0070: [T-105](#), p. 60, lines 6-12; P-0172: [T-114](#), p. 3, lines 17-21.

<sup>1586</sup> This structure is clearly visible from an intercepted radio communication dated 20 September 2002; *see* ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0167. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above. *See also* P-0085: [T-158](#), p. 24, line 16 – p. 25, line 6; P-0205: [T-48](#), p. 51, lines 5-10.

<sup>1587</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0167. The same source also gives the names of the brigade 2IC's: Lapaniyikwara (Sinia), Okulu Ben (Stockree), John Lagoga (Gilva) and Opiro Livingstone (Trinkle).

<sup>1588</sup> *See* section IV.C.2.i below.

<sup>1589</sup> P-0070: [T-105](#), p. 62, lines 3-14.

<sup>1590</sup> P-0070: [T-105](#), p. 64, lines 18-25.

<sup>1591</sup> D-0134: [T-240](#), p. 53, line 23 – p. 54, line 7.

A similar testimony was provided by P-0016, who stated that he was told brigades within the LRA had two brigade commanders that were working together.<sup>1592</sup> On the other hand, when asked whether each brigade had one or two commanders at the time of the LRA's re-entry into Uganda, P-0145 stated that there was one brigade commander in each brigade.<sup>1593</sup> Kenneth Oyet testified that there were two brigade commanders per brigade at the time of Iron Fist, but added that one was superior to the other.<sup>1594</sup> These testimonies, given by witnesses who were questioned specifically on the matter, are not univocal. Overall, the Chamber considers that the evidence discussed above, which demonstrates that each brigade had one commander and one second-in-command, is not undermined by the evidence of witnesses who testified about the presence of two commanders simultaneously in each brigade also during the period of the charges. Specifically, the Chamber also emphasises that as to the period and the events relevant for the charges, there is no evidence that Dominic Ongwen's authority as Sinia brigade commander was shared with another person.<sup>1595</sup>

860. P-0070 testified that a brigade commander had departments, such as the operation room and intelligence.<sup>1596</sup> As the charges in the present case focus on the Sinia brigade, the organisation of that particular brigade as well as Dominic Ongwen's positions during the relevant period first as battalion commander and later as brigade commander in Sinia are analysed in more detail below.<sup>1597</sup>

861. Brigades were divided into battalions.<sup>1598</sup> The evidence indicates that the number of battalions fluctuated in the range of between two and four per brigade.<sup>1599</sup> Battalions were headed by a commander, commonly referred to as 'CO'.<sup>1600</sup> The evidence also indicates

<sup>1592</sup> P-0016: T-34-CONF, p. 71, line 25 – p. 73, line 17.

<sup>1593</sup> P-0145: [T-144](#), p. 11, line 24 – p. 12, line 2.

<sup>1594</sup> D-0026: [T-191](#), p. 35, lines 4-21.

<sup>1595</sup> See paras 1075-1083 below. See also para. 890.

<sup>1596</sup> P-0070: [T-105](#), p. 61, line 15 – p. 62, line 2.

<sup>1597</sup> See section IV.C.3 below.

<sup>1598</sup> P-0070: [T-105](#), p. 60, lines 13-14; ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0166-67.

<sup>1599</sup> P-0070: [T-105](#), p. 60, line 22 – p. 61, line 1 (indicating that, initially, there were three battalions per brigade, which was increased to four at some point in 2003 and reduced back to three sometime thereafter); ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0167 (radio communication intercept dated 20 September 2002, indicating four battalion commanders per brigade); ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0414-15 (radio communication intercept dated 17 September 2003, indicating two battalion commanders per brigade). The communication of 17 September 2003 can also be found in the UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0992-94.

<sup>1600</sup> P-0205: [T-48](#), p. 20, lines 17-19. See also as examples of specific references to battalion commanders, P-0054: [T-94](#), p. 22, lines 5-8; P-0070: [T-105](#), p. 64, lines 2-10.

that battalions were still further divided in companies, commonly referred to as ‘coys’, again under the control of a designated commander.<sup>1601</sup>

862. As to the division, P-0070 explained that it went by the name of ‘Jogo’, and that it was created in 2003 because ‘it was realised that LRA has many soldiers’ and ‘because in the army when there is a brigade then there also has to be a division’.<sup>1602</sup> This fact is also corroborated by the intercepted communication recorded in the ISO logbook on 17 September 2003.<sup>1603</sup> According to P-0070, the division commander ‘was in charge of all the brigades’ and was ‘second-in-command after Control Altar’.<sup>1604</sup> He also stated that Charles Tabuley was the commander when the division was created, and that after Charles Tabuley’s death in late 2003, Raska Lukwiya and then Buk Abudema held this post.<sup>1605</sup>
863. LRA soldiers also carried ranks, as demonstrated by the testimonies of a number of witnesses.<sup>1606</sup>
864. The Chamber notes that the Defence argued that the LRA was ‘not a conventional army’<sup>1607</sup> and had a ‘highly irregular structure’ in which only Joseph Kony exercised effective control.<sup>1608</sup> However, irrespective of what the initial or claimed origin of any orders within the organisation may have been, the evidence outlined above and below clearly shows that the LRA exhibited an established functioning structure which operated across hierarchically built units.

<sup>1601</sup> P-0205: [T-48](#), p. 20, lines 20-21, p. 53, lines 2-23; P-0070: [T-105](#), p. 61, lines 11-14; P-0379: [T-57](#), p. 68, line 21 – p. 69, line 9. *See also* P-0054: [T-93](#), p. 31, lines 6-8. *See also* as examples of specific references to coy commanders, P-0205: [T-47](#), p. 39, line 25 – p. 40, line 3; P-0205: T-47-CONF, p. 59, lines 14-17.

<sup>1602</sup> P-0070: [T-105](#), p. 57, lines 7-11, p. 62, lines 15-17.

<sup>1603</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0413. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0992.

<sup>1604</sup> P-0070: [T-105](#), p. 62, lines 18-20.

<sup>1605</sup> P-0070: [T-105](#), p. 62, line 21 – p. 63, line 20. *See also* P-0231: T-122-CONF, p. 29, lines 18-20; P-0205: [T-47](#), p. 36, lines 13-15; ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0413 (mentioning Tabuley as new division commander); UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0992 (mentioning Tabuley as new division commander); UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6138 (mentioning Tabuley as division commander). In relation to the death of Tabuley, *see* para. 1076 below.

<sup>1606</sup> P-0016: T-34-CONF, p. 18, lines 1-3; P-0054: [T-93](#), p. 13, lines 4-5; [T-94](#), p. 7, line 13 – p. 8, line 7; P-0142: [T-70](#), p. 17, lines 3-6; P-0205: T-47-CONF, p. 11, lines 6-10; P-0440: T-39-CONF, p. 68, line 25 – p. 69, line 1.

<sup>1607</sup> [Defence Closing Brief](#), para. 22. *See also* [Defence Closing Brief](#), para. 23.

<sup>1608</sup> [Defence Closing Brief](#), para. 164.

865. Finally in this context, the Chamber notes that witness testimonies have indicated that movement of people from one unit to another, including between brigades, was a relatively common occurrence in the LRA.<sup>1609</sup>

**Orders were generally communicated from Joseph Kony directly or through Vincent Otti to the brigade commanders, who communicated them to the battalion commanders, who in turn passed them to their subordinates. Joseph Kony's orders were generally complied with. At the same time, in particular when Joseph Kony was geographically removed from LRA units, brigade and battalion commanders took their own initiatives. This was regularly the case during the period of the charges, when Joseph Kony was in Sudan while various LRA units operated in Northern Uganda.**<sup>1610</sup>

866. Insider witnesses agreed that, in principle, orders in the LRA originated from Joseph Kony.<sup>1611</sup> P-0070 stated that Joseph Kony could give orders via radio directly to all units, or through Vincent Otti, his second-in-command.<sup>1612</sup> In such cases, Vincent Otti passed the orders down to the brigade commanders.<sup>1613</sup> P-0205 similarly testified that there were a number of ways in which Joseph Kony issued orders: on some occasions, he convened everybody and issued an order directly,<sup>1614</sup> otherwise, he only convened the senior commanders or gave the order to a specific person.<sup>1615</sup> The witness described a standard procedure for military orders, by which Joseph Kony issued the order to his second-in-command Vincent Otti, from whom the orders were passed down to brigade, battalion and company commanders.<sup>1616</sup>

867. Daniel Opiyo similarly testified that there were 'two different ways communication would move'.<sup>1617</sup> In Sudan, Joseph Kony would summon the brigade commanders and hold a meeting, after which some of the information would trickle down to the lower ranking officers.<sup>1618</sup> In Uganda, when Vincent Otti was the highest ranking officer, information would go from Joseph Kony to Vincent Otti, through a signaller or

<sup>1609</sup> P-0054: [T-93](#), p. 9, line 23 – p. 10, line 3, p. 12, line 20 – p. 13, line 3; P-0205: T-47-CONF, p. 10, line 17 – p. 11, line 2; P-0231: T-122-CONF, p. 29, lines 15-17; P-0264: [T-65](#), p. 78, lines 16-24.

<sup>1610</sup> Para. 124 above.

<sup>1611</sup> P-0070: [T-105](#), p. 79, lines 23-25; P-0142: [T-71](#), p. 28, lines 14-16; P-0205: [T-48](#), p. 19, lines 3-4; P-0231: [T-123](#), p. 28, lines 15-24.

<sup>1612</sup> P-0070: [T-105](#), p. 80, lines 1-7.

<sup>1613</sup> P-0070: [T-105](#), p. 80, lines 8-17.

<sup>1614</sup> P-0205: [T-48](#), p. 19, lines 5-9, 23-25.

<sup>1615</sup> P-0205: [T-48](#), p. 19, lines 9-13.

<sup>1616</sup> P-0205: [T-48](#), p. 19, line 9 – p. 20, line 21.

<sup>1617</sup> D-0056: [T-229](#), p. 37, line 18 – p. 38, line 11.

<sup>1618</sup> D-0056: [T-229](#), p. 38, lines 12-15.

directly.<sup>1619</sup> However, if Joseph Kony wanted a message to go to a brigade commander directly, he could do that, and the brigade commander would then assign tasks down the hierarchy.<sup>1620</sup>

868. P-0070 observed generally that in the LRA, ‘there was no strict following of the chain of command’.<sup>1621</sup> More specifically, P-0205 testified that occasionally Joseph Kony would bypass the hierarchy and issue orders directly to battalion commanders.<sup>1622</sup> P-0016 also stated that Joseph Kony could choose to give orders directly to the battalion commanders, and clarified that Joseph Kony could not directly approach platoon commanders because they did not have radio communication equipment.<sup>1623</sup> P-0070’s testimony also indicates that Joseph Kony did not give orders to persons lower than battalion commanders.<sup>1624</sup> Similar testimony was provided by D-0027, who stated that Joseph Kony could issue direct orders to a splinter group if that group had a radio device, but otherwise had to go through the brigade commander.<sup>1625</sup>

869. The Chamber considers that the terms in which witnesses have spoken of Joseph Kony issuing orders directly to brigade or battalion commanders indicates that these were occasional deviations from an otherwise effective hierarchical organisation. Indeed, these same witnesses are also among the main witnesses who testified about the hierarchical organisation of the LRA. Their testimonies, laid out in appropriate detail above, indicate that the witnesses perceived the LRA hierarchy to be effective. Accordingly, what is at hand is not a contradiction in the evidence, but a precise and nuanced description of the LRA as an organisation.

870. While this is also an issue explored below in the context of duress,<sup>1626</sup> the Chamber notes that several insider witnesses explained how Joseph Kony’s orders were received and implemented.

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<sup>1619</sup> D-0056: [T-229](#), p. 38, lines 16-19.

<sup>1620</sup> D-0056: [T-229](#), p. 38, lines 19-22.

<sup>1621</sup> P-0070: [T-107](#), p. 34, lines 11-17.

<sup>1622</sup> P-0205: [T-49](#), p. 54, line 20 – p. 55, line 21.

<sup>1623</sup> P-0016: [T-34](#), p. 86, lines 5-23.

<sup>1624</sup> P-0070: [T-107](#), p. 34, lines 1-4.

<sup>1625</sup> D-0027: [T-202](#), p. 27, lines 3-13.

<sup>1626</sup> See section IV.D.2.ii below.

871. In this regard, P-0440 stated, in response to the question whether subordinate commanders obeyed Joseph Kony's order to stop abductions, that 'some people could violate the orders'.<sup>1627</sup> He testified that some commanders 'like Onen Unita and Odongo' disobeyed Joseph Kony's orders, assigning tasks to others rather than going on mission themselves, and that Joseph Kony complained about them and called them lazy.<sup>1628</sup> P-0440 explained that commanders would also make up excuses not to go on mission, such as pretending to be ill.<sup>1629</sup> Conversely, the witness named Dominic Ongwen and Odhiambo as commanders who obeyed Joseph Kony's orders.<sup>1630</sup> Whereas this distinction made by P-0440 between obedient and disobedient commanders appears based on reputation rather than personal knowledge of facts – in particular noting that, as discussed just below, Dominic Ongwen would not always execute orders from above –, it is nonetheless indicative of the fact that the high commanders of the LRA had a considerable degree of choice and independence.

872. In addition, many of Joseph Kony's orders were general, such as orders to conduct attacks, or to abduct.<sup>1631</sup> For much of the relevant period of the charges, Joseph Kony was also in Sudan, while LRA units were in Uganda, communicating mostly by radio and in person only during occasional visits from the units operating in Uganda.<sup>1632</sup> As a result, it fell upon the commanders closer to the units on the ground to translate these general orders into concrete acts.<sup>1633</sup> This necessitated that the commanders display a considerable degree of initiative. Daniel Opiyo's testimony is illustrative in this regard. Asked specifically about Dominic Ongwen, he stated that Dominic Ongwen 'would not just engage in something without being sure', that if there was an order from his senior, Dominic Ongwen 'would sit down with his officers and they would assess', and that

<sup>1627</sup> P-0440: [T-39](#), p. 84, lines 10-14.

<sup>1628</sup> P-0440: [T-40](#), p. 4, line 17 – p. 5, line 12.

<sup>1629</sup> P-0440: [T-40](#), p. 6, line 18 – p. 7, line 9.

<sup>1630</sup> P-0440: [T-40](#), p. 3, line 21 – p. 4, line 13.

<sup>1631</sup> See the discussion of Joseph Kony's orders in section IV.C.4III.D below. See also sections IV.C.11.ii and IV.C.12.ii below.

<sup>1632</sup> See P-0070: [T-105](#), p. 81, line 24 – p. 82, line 1; P-0205: [T-48](#), p. 5, lines 1-4; P-0233: [T-111](#), p. 26, lines 6-14; P-0314: [T-75](#), p. 56, lines 19-24; P-0372: [T-149](#), p. 51, lines 16-25. See also P-0138: [T-121](#), p. 30, line 14 – p. 31, line 7.

<sup>1633</sup> P-0205's testimony indicates that a similar relationship could also exist at brigade and battalion levels. P-0205 testified about a specific gathering at Koyo, during which Dominic Ongwen instructed the LRA soldiers subordinate to him to 'attack', but did not give specifics on the targets to be selected, and instead stated that, as reported by P-0205: '[W]henever you get the opportunity to make an attack or to stage an ambush, you should do so when you think you can do it, if you feel capable of doing it', P-0205: T-48-CONF, p. 13, line 17 – p. 14, line 8.

Dominic Ongwen would only act if he knew he could accomplish the objective.<sup>1634</sup> Intercepted radio communications also demonstrate that attacks were typically reported to Joseph Kony only after they had already been carried out.<sup>1635</sup> In light of this evidence, which is more specific and/or coming largely from well-informed high-level insiders, the Chamber does not accept the general evidence of Simon Tabo to the effect that Joseph Kony did not give blanket authorisations, but only specific instructions to attack specific locations, and that carrying out an operation without authorisation by Joseph Kony would be punished by execution.<sup>1636</sup>

873. In sum, the Chamber finds that the LRA had a functioning hierarchy, but that it relied also on the independent actions and initiatives of commanders at division, brigade and battalion levels. For the organisation to operate and sustain itself, coordinated action by its leadership, including the brigade and battalion commanders, was necessary. In other words, the LRA was a collective project, and the Chamber does not accept the proposition of the Defence that the LRA should be equated with Joseph Kony alone, and all its actions attributed only to him.<sup>1637</sup>

**The LRA had at its disposal weapons and ammunition for use in military operations. It regularly seized weapons from the UPDF during combat. It also obtained weapons and other supplies from Sudan. The LRA supplied itself with food, medicines and other items of use by looting from civilians in Northern Uganda, in particular from IDP camps. The LRA relied on high-frequency radio as the principal mode of communication between units in various locations in Northern Uganda and Sudan.**<sup>1638</sup>

874. The evidence indicates that the LRA possessed personal firearms which it distributed among its soldiers.<sup>1639</sup> It also possessed other kinds of weapons, including heavy

<sup>1634</sup> D-0056: [T-229](#), p. 33, line 17 – p. 34, line 9.

<sup>1635</sup> See sections IV.C.5, IV.C.8.v, IV.C.9.v below.

<sup>1636</sup> D-0034 Statement, UGA-D26-0022-0385, at para. 34.

<sup>1637</sup> [Defence Closing Brief](#), paras 6, 30, 164, 174, 202, 466, 501. See also Defence Closing Statement: [T-258](#), p. 20, line 20 – p. 22, lines 21.

<sup>1638</sup> Para. 125 above.

<sup>1639</sup> P-0309: [T-60](#), p. 53, line 22 – p. 54, line 12, p. 77, lines 10-21. See also paras 942-945 below.

weapons, such as PKM machine guns, RPG, recoilless, SPG-9, 12.7 and 60 mm mortars.<sup>1640</sup> Grenades were also available.<sup>1641</sup>

875. There are also numerous references in the evidence before the Chamber to the LRA obtaining weapons from adversaries during combat.<sup>1642</sup> P-0205 testified about a specific order by Dominic Ongwen, as brigade commander, to engage in attacks on places where ammunition and weapons could be found.<sup>1643</sup> There are numerous reports in records of intercepted communications of LRA units seizing weapons, as well as uniforms and boots.<sup>1644</sup> Indicative is also the entry in the ISO logbook on 21 September 2003, which records Joseph Kony instructing Vincent Otti to order that ammunition be replenished by taking it from the UPDF.<sup>1645</sup>

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<sup>1640</sup> P-0070: T-105-CONF, p. 55, lines 8-16 (identifying a 12.7 and an SPG-9 on a photograph shown in the courtroom: Photo compilation, UGA-OTP-0028-0073, at 0082); P-0142: [T-70](#), p. 13, lines 6-10 (mentioning grenades, RPG, SPG-9, SMG and B-10); P-0144: [T-91](#), p. 30, lines 15-18 (mentioning SMG, PKM machine gun, RPG, recoilless, SPG-9, 12.7 and 60 mm mortar); P-0264: [T-64](#), p. 67, lines 15-18 (referring to ‘PK, RPG, mortar, B10 and SPG9’).

<sup>1641</sup> P-0142: [T-70](#), p. 13, lines 5-8.

<sup>1642</sup> P-0205: [T-47](#), p. 29, lines 19-25; P-0309: [T-61](#), p. 28, lines 17-20. *See also* paras 1380, 1382, 1710 below.

<sup>1643</sup> P-0205: [T-47](#), p. 41, lines 9-13.

<sup>1644</sup> *See, for example*, ISO Logbook (Gulu), UGA-OTP-0063-0194 at 0209, 0211, 0213, 0217, 0219, 0230, 0236, 0238, 0249 (*see* Chamber’s discussion on the reliability of the 2002 ISO logbooks, para. 666 above); ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0147, 0168, 0175, 0191, 0200, 0209, 0238, 0244, 0299, 0302 (*see also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0596, 0602-03, 0630, 0641-42, 0675, 0683-84; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6358, 6367-68, 6377, 6405; UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6022); ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0169-70 (*see also* UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1194; Police Notes, UGA-OTP-0151-0021, at 0021-22).

<sup>1645</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0442. The Chamber notes that this detail is not included in the corresponding UPDF logbook entries. However, these entries clearly concern the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0441 (Michael reporting on entering UPDF ambush on Bobi road on 17 September, capturing one UPDF soldier called Okot from Pabo alive, with list of items taken; Kony recorded as being ‘very happy’) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1006 (Michael reporting on clash with UPDF in Bobi on 17 September, capturing one UPDF soldier called Okot from Pabbo alive, with same list of items taken; Kony recorded as being ‘very happy’) *and* UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6140 (Michael reporting on entering UPDF ambush on Pabo road on 17 September, capturing one UPDF soldier called Okot from Pabbo alive, with same list of items taken; Kony recorded as congratulating Michael ‘with great happiness’) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2030-31 (Michael reporting on clash with UPDF at Bobi on 17 September, capturing one UPDF soldier called Okot from Pabbo alive)); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0441-42 (Kony telling Otti he wants LRA ‘to start killing seriously, right from Soroti up to Atyka (Acholi), mercilessly, as if LRA are going to finish pple’) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1006 (Kony instructing Otti to ‘refragment LRA rebels in all corners for havocs’ and ‘kill very many civs’) *and* UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6140-41 (Kony telling Otti should ‘begin serious operations starting from Soroti district to Gulu district without mercy’) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2031 (Kony telling Otti to issue orders to all units to start ‘serious heavy atrocities against the civilians starting fm Soroti to Atiak areas’)). Bearing this in mind, as well as the fact that the entries are overall less detailed, the Chamber consider its appropriate to refer to this particular detail of the radio communication as recorded by ISO.

876. In addition, the LRA received significant support from Sudan. The historical context of this support, which was at its most intense in the mid- to late 1990s, is briefly laid out above.<sup>1646</sup> However, the evidence indicates that even after Operation Iron Fist, there were LRA units based in Sudan, including an LRA armoury.<sup>1647</sup> There is consistent witness evidence to the effect that the Government of Sudan provided weapons, as well as ammunition and uniforms, to the LRA. P-0085,<sup>1648</sup> P-0144,<sup>1649</sup> P-0231,<sup>1650</sup> D-0006,<sup>1651</sup> D-0013,<sup>1652</sup> Joseph Okilan,<sup>1653</sup> Francis Okot,<sup>1654</sup> D-0032,<sup>1655</sup> Kenneth Oyet,<sup>1656</sup> Daniel Opiyo,<sup>1657</sup> and Acama Jackson<sup>1658</sup> are among the witnesses who testified to this effect. P-0410 testified specifically that the heavy weapons brought from Sudan were used in the attacks on Odek and Lukodi IDP camps.<sup>1659</sup> Several witnesses mentioned that the Government of Sudan also trained LRA fighters in the use of heavy weapons.<sup>1660</sup> In addition to weapons, a number of witnesses stated that the Government of Sudan provided food and medicine to the LRA.<sup>1661</sup> There is also evidence that in some cases LRA members received medical treatment at hospitals in Juba and Khartoum.<sup>1662</sup> Daniel Opiyo explained that even after Operation Iron Fist assistance to the LRA continued, and that some LRA remained in Sudan.<sup>1663</sup> Finally, the Chamber notes that there is evidence

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<sup>1646</sup> See section I.A above.

<sup>1647</sup> P-0205: [T-48](#), p. 34, lines 5-13; P-0138: T-121, p. 27, lines 13-18 (stating that they frequently went to Sudan from Uganda to collect ammunition).

<sup>1648</sup> P-0085: [T-158](#), p. 19, lines 5-13. It is noted that P-0085 stated that he saw, on one occasion, how the weapons were brought.

<sup>1649</sup> P-0144: [T-91](#), p. 14, lines 8-14.

<sup>1650</sup> P-0231: T-123-CONF, p. 59, line 6 – p. 60, line 3.

<sup>1651</sup> D-0006: T-194, p. 39, lines 4-5.

<sup>1652</sup> D-0013: T-244, p. 28, lines 22-25.

<sup>1653</sup> D-0019: T-236, p. 14, lines 10-21.

<sup>1654</sup> D-0024: T-192, p. 9, line 21.

<sup>1655</sup> D-0032: T-199, p. 42, lines 12-17.

<sup>1656</sup> D-0026: T-191, p. 13, lines 6-10.

<sup>1657</sup> D-0056: T-228, p. 28, lines 14-16.

<sup>1658</sup> D-0074: T-187, p. 29, lines 20-23.

<sup>1659</sup> P-0410: T-151, p. 31, lines 12-15, p. 64, lines 13-17.

<sup>1660</sup> D-0019: T-236, p. 25, lines 17-19; D-0056: T-228, p. 27, line 18 – p. 28, line 11; D-0074: T-187, p. 30, lines 5-19.

<sup>1661</sup> P-0172: T-114, p. 18, lines 18-19; P-0231: T-123-CONF, p. 59, line 6 – p. 60, line 3; P-0233: T-112, p. 35, line 25 – p. 36, line 12; D-0006: T-194, p. 38, line 22 – p. 39, line 3; D-0019: T-236, p. 25, lines 4-8; D-0056: T-228, p. 28, lines 12-17; D-0068: T-222, p. 32, lines 8-17; D-0074: T-187, p. 29, line 24 – p. 30, line 1.

<sup>1662</sup> D-0026: T-191, p. 17, line 6 – p. 18, line 15; D-0056: T-228, p. 28, lines 17-22. See also D-0006: T-194, p. 39, lines 4-10. This evidence, however, does not indicate that professional medical care was generally available. See also para. 1009 below.

<sup>1663</sup> D-0056: T-228, p. 29, lines 15-20.

that before the time of the charges, the LRA received some support from the Government of Kenya.<sup>1664</sup>

877. There is considerable evidence of the LRA engaging, in a systematic manner, in looting from civilians in order to obtain food, medicines and other items of use. P-0070 stated generally that the LRA obtained food and livestock from IDP camps, or from the fields left behind by civilians.<sup>1665</sup> P-0379 testified that food, in particular beans, goats, chicken and cattle, was looted from civilians, and that ‘[t]here was no other way other than getting the items from the civilians’.<sup>1666</sup> It is also notable that P-0379, when asked about any instructions before a specific attack, stated that ‘[w]e were instructed that we were going on a mission to the centre, but we were not told not to abduct, but you knew that when you go on mission, abduction is part of the mission, looting is part of the mission’.<sup>1667</sup> There is further corroboration of this evidence by P-0406, who testified that the LRA took food, including goats, chicken and cattle, from civilians.<sup>1668</sup> He further stated that items other than food, such as gumboots or jackets, were also taken from civilians.<sup>1669</sup> P-0314 testified that orders to pillage were given to obtain food for the LRA fighters, and that for this purpose, camps or vehicles were attacked.<sup>1670</sup> P-0307 is another witness who testified that the LRA used to supply itself with food by looting, in particular from IDP camps.<sup>1671</sup> This topic is explored in further detail in the Chamber’s evidentiary analysis concerning the four attacks relevant to the charges.<sup>1672</sup>

878. Turning to communications, the Chamber refers to its analysis above of the evidence on intercepted radio communications.<sup>1673</sup> The evidence discussed there conclusively establishes that high-frequency radio was the principal mode of communication in the LRA.

879. As stated by witnesses, and demonstrated by the records of intercepts, in particular comprehensive series of logbooks, radio communication took place consistently and

<sup>1664</sup> D-0032: T-199, p. 42, lines 24-25.

<sup>1665</sup> P-0070: [T-105](#), p. 79, lines 10-19; [T-106](#), p. 24, lines 4-12.

<sup>1666</sup> P-0379: [T-56](#), p. 25, lines 12-16.

<sup>1667</sup> P-0379: [T-56](#), p. 49, lines 2-6. *See also* P-0379: [T-57](#), p. 36, lines 3-12.

<sup>1668</sup> P-0406: [T-154](#), p. 79, lines 15-20.

<sup>1669</sup> P-0406: [T-154](#), p. 79, line 21 – p. 80, line 6.

<sup>1670</sup> P-0314: [T-74](#), p. 59, lines 10-18.

<sup>1671</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 25; [T-152](#), p. 65, line 24 – p. 66, line 10.

<sup>1672</sup> *See* sections IV.C.6.iii, IV.C.7.vi, IV.C.8.iv, IV.C.9.iv below.

<sup>1673</sup> *See* section IV.B.3.i above.

methodically several times a day.<sup>1674</sup> As explained above, a code system was used to increase security.<sup>1675</sup> Solar energy was used to power the radios, using equipment obtained through looting.<sup>1676</sup> Notably, the radio communications system used by the LRA made possible the exchange of messages between LRA units around Northern Uganda and in Sudan.<sup>1677</sup>

880. P-0016 and P-0264 testified that radios were available in the LRA from the battalion level and upwards.<sup>1678</sup> P-0440 stated that radios were only systematically available from brigade level and upwards, but not usually below brigade level, unless there was a specific mission for which the commander was given a radio.<sup>1679</sup> This evidence is not necessarily contradictory, and the Chamber in any case considers that it suffices to conclude, on the basis of the witness testimonies, that access to radio equipment below brigade level was limited.

881. There were designated radio operators, or signallers.<sup>1680</sup> However, as explained by P-0205, commanders spoke on the radio in person too.<sup>1681</sup> P-0101 testified that she saw Dominic Ongwen operate the radio by himself to communicate.<sup>1682</sup>

882. In addition to the long-range radio communication system, there is also evidence that the LRA used walkie-talkies.<sup>1683</sup>

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<sup>1674</sup> P-0070: [T-105](#), p. 83, line 14 – p. 84, line 1; P-0379: [T-57](#), p. 64, lines 12-17; P-0440: [T-40](#), p. 7, line 25 – p. 8, line 5; ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0103. *See also* generally the logbooks listed at paras 659-660 above.

<sup>1675</sup> *See* para. 616 above.

<sup>1676</sup> P-0440: [T-39](#), p. 75, line 23 – p. 76, line 4.

<sup>1677</sup> P-0016: [T-32](#), p. 21, lines 12-20. *See also* P-0372: [T-149](#), p. 51, lines 16-25 (stating that when Joseph Kony was in Sudan, he communicated with the units in Uganda by radio).

<sup>1678</sup> P-0016: [T-32](#), p. 20, lines 11-16; P-0264: [T-65](#), p. 18, lines 6-8.

<sup>1679</sup> P-0440: [T-40](#), p. 7, lines 16-24.

<sup>1680</sup> P-0016: [T-32](#), p. 20, lines 4-10; P-0070: [T-105](#), p. 84, lines 2-5; P-0205: [T-48](#), p. 55, lines 10-20; P-0264: [T-65](#), p. 18, lines 9-10.

<sup>1681</sup> P-0205: [T-48](#), p. 55, lines 21-23.

<sup>1682</sup> P-0101: T-13-CONF, p. 38, lines 18-24.

<sup>1683</sup> P-0016: T-35-CONF, p. 16, line 21 – p. 17, line 14; P-0070: [T-105](#), p. 83, lines 1-11; P-0252: [T-88](#), p. 7, lines 17-25; P-0144: [T-91](#), p. 31, line 19 – p. 32, line 19; P-0045: T-104-CONF, p. 68, line 24 – p. 69, line 8; P-0067: [T-126](#), p. 11, lines 1-14, p. 46, lines 5-11; P-0264: [T-64](#), p. 47, lines 10-15.

## 2. Organisational features of the Sinia brigade

883. The following section explores in detail some organisational features of the Sinia brigade. It commences with a description of the structure itself, before focusing on the various mechanisms employed in the Sinia brigade to ensure effectiveness of the organisation and – in essence – compliance with orders. As laid out further below, Dominic Ongwen held commanding positions in Sinia during the period relevant to the charges.<sup>1684</sup> Indeed, the charges in this case focus primarily on Sinia.<sup>1685</sup> However, on the basis of the evidence it can be stated that Sinia was a typical LRA brigade, and that the below conclusions can also be drawn with respect to the LRA generally.

### *i. Structure and command*

**At the time relevant for the charges, i.e. from 1 July 2002 to 31 December 2005, Sinia brigade was led by a brigade commander, who had at his disposal a headquarters unit, which included the brigade intelligence officer, the brigade major, and the support commander.**<sup>1686</sup>

884. Witness evidence indicates that from 2002, and until Dominic Ongwen took over the position, Buk Abudema was Sinia brigade commander.<sup>1687</sup> This is confirmed by the ISO logbook entries of intercepted communications for 20 September 2002,<sup>1688</sup> 2 December 2002,<sup>1689</sup> and 17 September 2003,<sup>1690</sup> which indeed list Buk Abudema as Sinia brigade commander.

885. Dominic Ongwen was officially appointed Sinia commander on 4 March 2004, as discussed in detail below as part of the Chamber's assessment of Dominic Ongwen's position within the LRA.<sup>1691</sup>

<sup>1684</sup> See section IV.C.3 below.

<sup>1685</sup> See also para. 12 of the charges ([Confirmation Decision](#), p.73).

<sup>1686</sup> Para. 126 above.

<sup>1687</sup> P-0085: [T-158](#), p. 24, lines 22-23; P-0138: [T-120](#), p. 38, lines 9-11; P-0231: T-122-CONF, p. 29, lines 13-14; P-0235: T-17-CONF, p. 5, lines 4-9. It is noted that at some point, P-0205 stated that Buk Abudema replaced Tabuley as brigade commander in 2003 (see P-0205: [T-47](#), p. 21, lines 20-25). However, in light of all other evidence, the Chamber considers that this was simply an inaccurate recollection of the year by the witness.

<sup>1688</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0167. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above. See also P-0085: [T-158](#), p. 24, lines 22-24.

<sup>1689</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0079. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above. See also P-0085: [T-158](#), p. 24, lines 22-24.

<sup>1690</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0414. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above. See also P-0085: [T-158](#), p. 24, lines 22-24.

<sup>1691</sup> See paras 1075-1077 below.

886. P-0205, a witness well-placed to describe the internal structure of the Sinia brigade, was questioned on the matter. He described the Sinia brigade headquarters as including the brigade commander, the brigade intelligence officer (BIO), the brigade major (BM), the administrator and the support commander in charge of heavy weapons.<sup>1692</sup> These people were assisted by persons assigned to support them.<sup>1693</sup> P-0205 also stated that there was an operations room, the function of which was to receive orders from the brigade commander and implement them.<sup>1694</sup> The operations room included the BIO, the BM, the administrator, as well as the ‘RCM’, who was the officer who supervised foot soldiers.<sup>1695</sup> Other witnesses also spoke of the headquarters unit in Sinia.<sup>1696</sup>

**Sinia brigade was composed of three battalions: Oka, Terwanga and Siba. Each of these battalions was led by a battalion commander, who reported to the brigade commander, and was composed of companies, or ‘coys’.**<sup>1697</sup>

887. Insider witnesses stated consistently that Sinia included three battalions, and gave their names as Oka, Terwanga and Siba.<sup>1698</sup> Each battalion was controlled by a battalion commander, commonly referred to as ‘CO’.<sup>1699</sup>

888. In relation to the hierarchy under the battalion commander, P-0205 testified that battalions also had a deputy commander (2IC),<sup>1700</sup> and that intelligence officers and support commanders at battalion level reported to the brigade intelligence officer and the brigade support commander, respectively.<sup>1701</sup> He further explained that the equivalent of an administrator at battalion level was referred to as the adjutant.<sup>1702</sup> Similarly, Daniel Opiyo testified that, at least at battalion level, the deputy commander and the intelligence officer worked together in the operation room which the battalion had at its disposal.<sup>1703</sup>

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<sup>1692</sup> P-0205: [T-48](#), p. 51, lines 5-16. *See also* P-0205: T-47-CONF, p. 11, lines 9-10. The Chamber notes that the witness was specifically asked about the composition of Sinia brigade headquarters in 2004-2005.

<sup>1693</sup> P-0205: [T-48](#), p. 51, lines 17-19.

<sup>1694</sup> P-0205: [T-48](#), p. 51, line 20 – p. 52, line 4.

<sup>1695</sup> P-0205: [T-48](#), p. 52, lines 5-12. *See also* P-0264: [T-64](#), p. 69, lines 13-14.

<sup>1696</sup> P-0054: [T-93](#), p. 12, line 23 – p. 13, line 3; P-0231: [T-123](#), p. 50, lines 2-5; P-0264: [T-64](#), p. 38, lines 17-19.

<sup>1697</sup> Para. 127 above.

<sup>1698</sup> P-0054: [T-93](#), p. 11, lines 8-13; P-0016: [T-34](#), p. 8, lines 8-17; P-0142: [T-70](#), p. 17, lines 11-16; P-0264: [T-64](#), p. 38, lines 17-19. *See also* P-0406: [T-154](#), p. 33, lines 13-16.

<sup>1699</sup> *See* P-0205: [T-48](#), p. 52, lines 17-21.

<sup>1700</sup> P-0205: [T-48](#), p. 53, lines 13-15.

<sup>1701</sup> P-0205: [T-48](#), p. 53, line 24 – p. 54, line 13. *See also* P-0379: [T-58](#), p. 56, line 7 – p. 58, line 1.

<sup>1702</sup> P-0205: [T-48](#), p. 52, line 22 – p. 53, line 1.

<sup>1703</sup> D-0056: [T-229](#), p. 12, lines 3-8.

889. P-0205 stated that the unit below battalion level was the ‘coy’ or company, and that each coy was headed by an ‘OC’.<sup>1704</sup> He also stated that a battalion would typically have three companies.<sup>1705</sup> This evidence is confirmed by other witness testimonies.<sup>1706</sup>

890. In addition to Buk Abudema and Dominic Ongwen, the two successive brigade commanders during the period of the charges, prominent members of Sinia who held various positions during the period relevant to the charges were Kalalang,<sup>1707</sup> Lapaicho (also Lapaico, Lapanyikwara or Paicho),<sup>1708</sup> Pokot,<sup>1709</sup> Celestino Akuri,<sup>1710</sup> Loum Icaya,<sup>1711</sup> [REDACTED],<sup>1712</sup> Okwer (also Okwee or Okwera),<sup>1713</sup> Ocaka,<sup>1714</sup> and Ben Acellam.<sup>1715</sup> In light of certain submissions made by the Defence in relation to the attack on Odek IDP camp on 29 April 2004,<sup>1716</sup> the Chamber notes in particular that Ocan

<sup>1704</sup> P-0205: [T-48](#), p. 53, lines 19-23. *See also* P-0205: [T-48](#), p. 20, lines 20-21.

<sup>1705</sup> P-0205: [T-48](#), p. 54, lines 24-25.

<sup>1706</sup> P-0070: [T-105](#), p. 61, lines 11-14; P-0379: [T-57](#), p. 68, line 21 – p. 69, line 2; D-0056: [T-229](#), p. 11, lines 14-18.

<sup>1707</sup> P-0054: [T-93](#), p. 11, line 24 – p. 12, line 5 (stating that Kalalang was Terwanga battalion commander at some point).

<sup>1708</sup> P-0054: [T-93](#), p. 11, line 24 – p. 12, line 1 (stating that Lapaicho was Terwanga battalion commander at the time of Operation Iron Fist); P-0264: [T-64](#), p. 80, line 25 – p. 81, line 5. *See also* P-0264: [T-64](#), p. 81, lines 9-25 (stating that at the time of his abduction in 2002, Lapaico was the commander of Terwanga); P-0406: [T-154](#), p. 33, line 20 – p. 34, line 2 (stating that Paicho was Terwanga battalion commander at the time of Tabuley’s death).

<sup>1709</sup> P-0205: T-49-CONF, p. 62, lines 7-10 (stating that Okello Pokot was Terwanga battalion commander at the time Dominic Ongwen was commander of the Sinia brigade).

<sup>1710</sup> P-0264: T-64-CONF, p. 15, lines 19-21. *See also* P-0264: [T-64](#), p. 82, lines 10-15 (stating that ‘Cele Akuri’ was Oka commander at some point).

<sup>1711</sup> P-0205: [T-47](#), p. 35, lines 11-18 (stating that Loum Icaya was Terwanga commander at the time of Tabuley’s death).

<sup>1712</sup> [REDACTED]

<sup>1713</sup> P-0016: [T-35](#), p. 36, lines 7-10 (stating that Okwer was an intelligence officer in Control Altar who was transferred to Sinia and later also to other brigades); P-0142: T-70-CONF, p. 21, lines 17-19 (referring to Okwee as the brigade intelligence officer of Sinia brigade); P-0205: [T-47](#), p. 39, lines 5-10 (also stating that Okwer was brigade intelligence officer of Sinia brigade).

<sup>1714</sup> P-0054: T-93-CONF, p. 12, line 20 – p. 13, line 20 (stating that Ocaka was a support commander in Sinia brigade); P-0016: [T-35](#), p. 35, line 7 – p. 36, line 16 (stating that Ocaka was a lieutenant and later a captain in Sinia brigade); P-0142: [T-70](#), p. 44, lines 19-25 (also stating that Ocaka was a captain in Sinia, specifically at the time of the attack on Lukodi IDP camp).

<sup>1715</sup> P-0264: [T-64](#), p. 83, lines 12-16 (stating that Ben Acellam was Oka commander after Celestino Akuri).

<sup>1716</sup> P-0016: [T-34](#), p. 62, line 2 – p. 63, line 7; P-0059: [T-39](#), p. 29, lines 8-17; P-0440: [T-41](#), p. 28, line 12 – p. 13, line 5; P-0003: [T-45](#), p. 39, line 10 – p. 40, line 9; P-0205: [T-51](#), p. 5, line 21 – p. 6, line 15; T-51-CONF, p. 30, line 1 – p. 31, line 24; P-0330: [T-55](#), p. 43, lines 17-20; P-0309: [T-63](#), p. 17, lines 13-14; P-0264: [T-66](#), p. 68, line 18 – p. 69, line 18; P-0269: [T-86](#), p. 64, line 23 – p. 65, line 14; P-0340: [T-103](#), p. 53, line 17 – p. 54, line 14; P-0359: [T-110](#), p. 48, line 9 – p. 50, line 7; P-0372: [T-149](#), p. 77, lines 7-10. However, in its closing brief, it appears the Defence holds the view that at the time of the attack on Odek IDP camp, Dominic Ongwen was as brigade commander superior to Ocan Labongo, *see* [Defence Closing Brief](#), para. 377.

Labongo is attested in the evidence as commander of Siba battalion.<sup>1717</sup> There is also an entry in the ISO logbook indicating that at the time of Dominic Ongwen's appointment to Sinia brigade commander, Ocan Labongo had been left as caretaker when Buk Abudema departed for Sudan.<sup>1718</sup> P-0205 testified unequivocally that upon his appointment to brigade commander of Sinia, Dominic Ongwen was hierarchically superior to Ocan Labongo.<sup>1719</sup> There is no evidence that Ocan Labongo was, in particular at the time of the attack on Odek IDP camp on 29 April 2004, brigade commander of Sinia individually or jointly with Dominic Ongwen.

**Altogether, at the time relevant to the charges, between 1 July 2002 and 31 December 2005, Sinia brigade included several hundred soldiers.**<sup>1720</sup>

891. The Chamber received evidence on the approximate size of the Sinia brigade and its battalions from several witnesses in a position to make informed estimates. P-0231 estimated the number of people in Sinia brigade at 'about 700 to 800',<sup>1721</sup> of which 'approximately 200 and over' were in Oka battalion when he was there.<sup>1722</sup> P-0205 estimated that there were 120 men in Terwanga in 2004, and about 180 in Siba at the same time.<sup>1723</sup> In relation to Oka, P-0205 testified that there were about 100 men.<sup>1724</sup> P-0379 testified that, at the time he was in Oka battalion in 2002-2003, the battalion had 'perhaps more than 150 [men]'.<sup>1725</sup> More generally, P-0054 estimated that a brigade in

<sup>1717</sup> P-0205: [T-47](#), p. 35, lines 11-18 (stating that Ocan Labongo was Siba commander at the time of Tabuley's death); P-0264: [T-64](#), p. 83, line 25 – p. 84, line 8; [T-65](#), p. 78, lines 10-15 (also stating that Ocan Labongo was Siba commander).

<sup>1718</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002 at 0128. The intercepted message is Joseph Kony's order to Dominic Ongwen to meet with Ocan Labongo for the handover. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4272; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7405. The Chamber notes that the UPDF Soroti logbook records Ben Acellam as being instructed to take over the command of Sinia brigade (*see* UGA-OTP-0254-2284, at 2556). However, in light of the other logbooks consistently referring to Dominic Ongwen, as well as the other evidence on Dominic Ongwen taking over the command of Sinia Brigade, the Chamber disregards this aspect of the UPDF Soroti logbook. *See also* Enhanced audio Tape 771, UGA-OTP-0239-0085; P-0016 Tape 771 Transcript, UGA-OTP-0259-0094; P-0016: [T-32](#), p. 67, line 20 – p. 75, line 13; P-0059 Tape 771 Transcript, UGA-OTP-0258-0782-R01; P-0059: [T-37](#), p. 26, line 16 – p. 29, line 17. The Chamber notes its discussion of this particular audio tape at section IV.B.3.ii.i.

<sup>1719</sup> P-0205: [T-49](#), p. 46, line 25 – p. 47, line 9. P-0205 testified that after the attack on Abok IDP camp, Ocan Labongo was brought to the Sinia brigade headquarters and started working together with Dominic Ongwen; P-0205: [T-48](#), p. 3, line 24 – p. 4, line 2. The Chamber does not understand this particular testimony to be that Ocan Labongo and Dominic Ongwen were sharing the position of brigade commander.

<sup>1720</sup> Para. 128 above.

<sup>1721</sup> P-0231: [T-122](#), p. 42, lines 12-17. The Chamber notes that P-0231 did not place any specific time frame on this estimate, but referred generally to when he was 'in the bush', which was a period from 1994-2007. *See* P-0231: [T-122-CONF](#), p. 27, lines 2-5, p. 30, lines 16-19.

<sup>1722</sup> P-0231: [T-122](#), p. 42, lines 5-11.

<sup>1723</sup> P-0205: [T-48](#), p. 28, lines 10-15.

<sup>1724</sup> P-0205: [T-48](#), p. 27, lines 16-21.

<sup>1725</sup> P-0379: [T-57](#), p. 37, lines 11-19.

the LRA included from 500 people upwards, whereas a battalion was 50 to 100 people.<sup>1726</sup>

892. While actual numbers may in fact differ in the estimates provided by the different witnesses at varying times, the Chamber considers that their approximations remain at a coherent scale and that it can be concluded that at the relevant time the Sinia brigade was composed of several hundred soldiers.

*ii. Ways to ensure capability to undertake military operations*

*a. Recruitment through abduction*

**Sinia brigade obtained new fighters through abductions of civilians. These abductions were targeted at civilians deemed capable for fighting, including young children.**<sup>1727</sup>

893. During the course of the trial, the Chamber heard numerous personal stories of abduction into the LRA by persons who came to testify as insiders.<sup>1728</sup> For the relevant time period, there is no evidence of any recruitment system based on voluntary enlistment. Witnesses also mentioned that they had no knowledge of anyone voluntarily joining the LRA.<sup>1729</sup> It is an uncontested fact of the case that Dominic Ongwen himself was abducted into the LRA as a child.<sup>1730</sup>

<sup>1726</sup> P-0054: [T-94](#), p. 38, line 24 – p. 39, line 17. P-0054 was in the LRA from 1992-2005. P-0054: [T-93](#), p. 8, lines 11-19, p. 10, line 24 – p. 11, line 2.

<sup>1727</sup> Para. 129 above.

<sup>1728</sup> See P-0205: T-47-CONF, p. 9, lines 11-17; P-0054: [T-93](#), p. 7, line 15 – p. 8, line 15; P-0233: T-111-CONF, p. 8, lines 1-6; P-0231: T-122-CONF, p. 27, lines 5-7; P-0016: T-32-CONF, p. 12, lines 19-21; P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 18-21; P-0097: [T-108](#), p. 6, line 23 – p. 7, line 5; P-0138: [T-120](#), p. 8, lines 2-8; P-0142: [T-70](#), p. 9, lines 20-25; P-0144: [T-91](#), p. 7, line 23 – p. 8, line 8; P-0145: [T-143](#), p. 7, lines 8-14; P-0209: [T-160](#), p. 8, lines 9-17; P-0252: [T-87](#), p. 9, line 25 – p. 10, line 5; P-0264: T-64-CONF, p. 10, lines 11-18; P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 29-35; P-0280: [T-83](#), p. 50, line 3 – p. 51, line 19; P-0286: [T-131](#), p. 10, line 14 – p. 12, line 16; P-0314: T-74-CONF, p. 7, lines 12-17; P-0340: [T-102](#), p. 10, lines 20-23; P-0372: T-148-CONF, p. 8, lines 4-7; P-0379: T-56-CONF, p. 7, lines 6-20; P-0406: [T-154](#), p. 8, lines 15-22; P-0440: [T-39](#), p. 65, lines 12-25; P-0070: T-105-CONF, p. 40, lines 16-25; P-0085: T-158-CONF, p. 6, lines 19-24; P-0307 Statement, UGA-OTP-0266-0425-R01, at paras 14-16; P-0309: T-60-CONF, p. 12, lines 14-24; P-0410: [T-151](#), p. 6, lines 18-25; P-0040 Interview Transcript, UGA-OTP-0209-0406-R01, at lines 562-582; P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18; P-0130 Statement, UGA-OTP-0191-0272-R01, at paras 9-17; P-0096 Interview Transcript, UGA-OTP-0228-1698-R01, at lines 1130-57; D-0007: [T-193](#), p. 5, line 15 – p. 6, line 6; D-0024: [T-192](#), p. 5, lines 12-19; D-0026: [T-191](#), p. 4, lines 8-22; D-0027: [T-202](#), p. 10, lines 6-23; D-0076: [T-219](#), p. 11, lines 7-18; D-0079: [T-189](#), p. 7, lines 18-21; D-0081: [T-220](#), p. 23, line 19 – p. 24, line 18; D-0092: [T-208](#), p. 7, lines 10-14; D-0134: [T-240](#), p. 10, lines 17-23; D-0100: [T-234](#), p. 9, lines 6-7; D-0034 Statement, UGA-D26-0022-0385, at paras 2-4; P-0028 Interview Transcript, UGA-OTP-0217-0075-R01, at lines 508-35.

<sup>1729</sup> P-0233: [T-111](#), p. 49, lines 12-15; D-0024: [T-192](#), p. 45, line 20.

<sup>1730</sup> See section I.C above.

894. There is ample evidence of the LRA abducting persons in Northern Uganda, and of the integration of the abductees into the LRA as fighters. Although there is evidence of female LRA members participating in military training and operations, including combat,<sup>1731</sup> the evidence discussed below indicates that the role of fighter was primarily intended for male abductees. The phenomenon of abduction of women and girls, of great significance in this case, is discussed separately.<sup>1732</sup> Similarly, the Chamber will address at the relevant juncture below the phenomenon of abduction and recruitment into the LRA of children under the age of 15.<sup>1733</sup> While that specific evidence is also relevant in the present context, the Chamber focuses its analysis on the more general matter of abduction of civilians as a method through which the LRA obtained new recruits.

895. The evidence establishes that abduction of civilians for the purpose of increasing ranks was a long-standing policy of the LRA, including the Sinia brigade. A very succinct and clear description of this policy is contained in a radio communication intercepted by the ISO on 29 July 2002, wherein Joseph Kony is recorded as stating that the LRA will not stop abductions, because they were replacing those released, escaped or killed in the war.<sup>1734</sup>

896. P-0205 testified that, shortly after becoming commander of Sinia, Dominic Ongwen instructed the LRA soldiers going to attack an IDP camp that ‘if they found anybody who can participate in the army, then that person should be abducted’.<sup>1735</sup>

897. P-0231 testified very similarly, stating:

You know, at the time when we were in the bush during the period of abduction, as I stated earlier, even when you’re on the move, for example if we are leaving one location going across some road, at the time when people were still at home, before the camps were established, whoever you come across, whoever you think is able to fight you abduct that person. You abduct that person. And the abduction means an initiation into the army, starting from 10 or – if you estimate that the person is older, so anybody from between the ages of 10 to 30. But there are certain times when some operations are organised and you’re sent to collect food, you’re

<sup>1731</sup> P-0045 testified in detail about her experience as a female fighter in the LRA, in addition to being made a so-called ‘wife’, see P-0045: T-103-CONF, p. 90, line 19 – p. 92, line 10. See also P-0252: [T-87](#), p. 52, lines 4-5; P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 67; P-0448: [T-157](#), p. 24, line 17 – p. 25, line 5.

<sup>1732</sup> See sections IV.C.10, IV.C.11 below.

<sup>1733</sup> See section IV.C.12 below.

<sup>1734</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0331. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>1735</sup> P-0205: [T-47](#), p. 40, line 16 – p. 41, line 8.

sent to fight, when you fight if you overran the soldiers, if you find anybody who is capable of joining the ranks of the LRA, that person is abducted and put in the LRA.<sup>1736</sup>

898. P-0379, speaking from his vantage point as a lower-ranking soldier, stated that during an operation, ‘it was automatic [...] that whoever was fit to be in the bush, there was no reservation about abducting such a person because that is part of the operation’.<sup>1737</sup> Asked to explain further, he stated:

What I know is that, personally, if, for instance, I entered into a house and I found food items, I would not carry that food item alone unless I get somebody to abduct. I would abduct that person to come and carry the food items. That person can – could be later released but for those who were within the age that could be kept would not be released. That was something that kept on happening over and over again. So that was part of the operation.<sup>1738</sup>

899. Asked still further what was ‘within the age that could be kept’, P-0379 indicated the range from 10 up to about 20 to 25 years of age.<sup>1739</sup> He also stated that abductees who were not ‘useful’ were released.<sup>1740</sup>

900. Similar is the evidence of P-0307, who, from his experience of an ordinary Sinia soldier, observed:

[A]s a standard practice, each time we came across young people, we would abduct them and take them to the bush. We had to do this as we had to increase our numbers in the bush. So abducting new recruits was part of routine activities during attacks so that there was no need for any commander to order you to abduct because this was part of the job.<sup>1741</sup>

901. The Chamber also notes the testimony of P-0233, who observed that ‘in the bush when you have been selected to go and do something [...], fighting and abduction go hand in hand’.<sup>1742</sup>

902. One ISO logbook records a report given to Joseph Kony by LRA commander Lapanyikwara on 29 September 2002, where it was stated that in the period of 13 to 25

<sup>1736</sup> P-0231: [T-122](#), p. 73, lines 11-21.

<sup>1737</sup> P-0379: [T-56](#), p. 45, lines 18-23.

<sup>1738</sup> P-0379: [T-56](#), p. 45, line 24 – p. 46, line 6.

<sup>1739</sup> P-0379: [T-56](#), p. 46, lines 7-9.

<sup>1740</sup> P-0379: T-57-CONF, p. 36, lines 13-17.

<sup>1741</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 36.

<sup>1742</sup> P-0233: T-111-CONF, p. 11, lines 17-19.

September 2002 Dominic Ongwen ‘charged’ 127 recruits.<sup>1743</sup> It is further recorded that Joseph Kony was ‘very happy’ with Dominic Ongwen’s results, and told Lanyikwara to ‘reduce on the rate of abduction because it might be a problem to handle them when the [number] has become so big’.<sup>1744</sup> It is noted that Dominic Ongwen is recorded as speaking during the conversation, and in particular as stating that his recruits have high morale and are disciplined.<sup>1745</sup>

903. Following abduction, abductees deemed suitable for recruitment were integrated into the LRA. P-0205 stated that abductees were ‘distributed amongst the people’ according to the need, and that they could also be sent to the ‘commander in charge of that place’ or to ‘the person who went to conduct the operation’.<sup>1746</sup> Thereafter, their training commenced.<sup>1747</sup>

904. P-0231 also explained that following abduction, the abductee would initially stay with the specific unit that abducted him.<sup>1748</sup> According to this witness, it was following the training that a person could be transferred to another battalion or elsewhere.<sup>1749</sup>

905. Daniel Opiyo similarly stated that while in Uganda, an abducted person would stay with the unit that abducted that person.<sup>1750</sup> He distinguished the situation in Sudan and testified that there all abductees would be gathered together and distributed, some to Joseph Kony’s household, and others to the various other households.<sup>1751</sup>

#### b. Initiation of recruits

**Following their abduction, recruits generally passed through initiation rituals, most regularly including anointment with shea butter, intended to instil obedience and prevent escape. Beating was also a common feature of such initiation.**<sup>1752</sup>

906. In relation to the initiation rituals, the evidence before the Chamber establishes that, while displaying variations and while not used in all cases, they were a stable feature of the

<sup>1743</sup> ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0022. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>1744</sup> ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0022.

<sup>1745</sup> ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0022.

<sup>1746</sup> P-0205: [T-48](#), p. 31, line 23 – p. 32, line 5.

<sup>1747</sup> P-0205: [T-48](#), p. 31, line 23 – p. 32, line 5.

<sup>1748</sup> P-0231: [T-122](#), p. 45, lines 5-21.

<sup>1749</sup> P-0231: [T-122](#), p. 45, line 22 – p. 46, line 6.

<sup>1750</sup> D-0056: [T-229](#), p. 17, lines 1-5.

<sup>1751</sup> D-0056: [T-229](#), p. 17, lines 5-8.

<sup>1752</sup> Para. 129 above.

LRA. The evidence, in particular the statements of witnesses who underwent initiation rituals and testified of what they were told during such rituals, indicates that the LRA's initiation rituals were intended to instil obedience and prevent escape.<sup>1753</sup>

907. P-0252, who was still a child at that time,<sup>1754</sup> testified that the day after his abduction during the attack on Odek, he passed through a ritual in the presence of Dominic Ongwen, during which P-0252's shirt was removed, and a substance ('I don't know what it is, but it's – they say it's an oil') was used to smear the sign of the cross on his forehead, chest, knees, and the back of his legs; the witness was thereafter told that 'when you want to escape and flee, you will walk in circles and be confused. You will not be able to escape.'<sup>1755</sup> P-0252 also stated that he was beaten as part of the initiation process, and told that the reason why they did that was 'for you to become a soldier and to leave your civilian life behind'.<sup>1756</sup>
908. Similarly, P-0307 testified that his initiation consisted of the rubbing of 'some sort of oil' on his forehead, and of caning, with the explanation that this was 'to take away the civilian life from [him]'.<sup>1757</sup>
909. P-0264 testified about the use of caning as a form of initiation.<sup>1758</sup> He explained that while this did not happen to him, he saw his older colleagues with whom they were abducted be initiated in this way.<sup>1759</sup> The witness also described a separate ceremony, during which a group of about 20-30 persons including him were summoned, undressed to bare chests and told they would be anointed.<sup>1760</sup> Then, they were told to start clapping and sung a praise song.<sup>1761</sup> After they stopped, each of them had to put shea oil on their forehead, chest, feet and hands.<sup>1762</sup> On all those spots, including the back, a sign of the cross was put.<sup>1763</sup> Thereafter, the recruits were told that 'if you want to escape that thing will make you confused and you – you keep rotating until you go back to where you left

<sup>1753</sup> On the latter, *see also* section IV.C.2.ii.e below.

<sup>1754</sup> *See* section IV.B.2.ii.b.xiii above.

<sup>1755</sup> P-0252: [T-87](#), p. 47, lines 4-21.

<sup>1756</sup> P-0252: [T-87](#), p. 50, lines 3-11.

<sup>1757</sup> P-0307: [T-153](#), p. 23, lines 3-11.

<sup>1758</sup> P-0264: [T-64](#), p. 23, line 21 – p. 24, line 2.

<sup>1759</sup> P-0264: [T-64](#), p. 24, lines 3-9.

<sup>1760</sup> P-0264: [T-64](#), p. 24, line 10-20, p. 25, line 25 – p. 26, line 2.

<sup>1761</sup> P-0264: [T-64](#), p. 24, lines 21-22.

<sup>1762</sup> P-0264: [T-64](#), p. 24, lines 22-24.

<sup>1763</sup> P-0264: [T-64](#), p. 24, line 25 – p. 25, line 1.

from, and if you go to the battlefield it will shield bullets and you will not be touched by any bullet'.<sup>1764</sup>

910. P-0379 stated that following abduction, recruits were beaten with a stick, anointed with shea oil, with the sign of the cross on the forehead and hand, and instructed to declare that they would not escape, and that they should be killed in case they do.<sup>1765</sup>
911. P-0016 also referred to the practice of anointing recruits with shea oil with the stated purpose of preventing escape.<sup>1766</sup>
912. P-0231, who was abducted in 1994,<sup>1767</sup> testified that after he was anointed with shea butter oil, soil was smeared on him, and he was also made to drink a mixture of the two.<sup>1768</sup> The witness stated that he was told that the rituals were to cleanse him so that he could join the LRA.<sup>1769</sup> The witness stayed in the LRA for a long time, including in a relatively important position,<sup>1770</sup> which is why the Chamber also considers reliable the witness's testimony that most newly abducted people were initiated using the same ritual.<sup>1771</sup>
913. P-0227 testified that her brothers, who were abducted at the same time as her in April 2005,<sup>1772</sup> were beaten with canes on the orders of Dominic Ongwen, 'so that they may forget about their homes'.<sup>1773</sup>
914. P-0097, who was abducted in February 2005,<sup>1774</sup> testified that when he was brought to the group together with other new abductees, they were whipped with freshly cut canes, and told that 'that is how [the LRA] welcome people so that you do not have any thoughts of escaping'.<sup>1775</sup>

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<sup>1764</sup> P-0264: [T-64](#), p. 25, lines 2-5.

<sup>1765</sup> P-0379: [T-57](#), p. 48, line 16 – p. 49, line 9.

<sup>1766</sup> P-0016: [T-34](#), p. 37, lines 16-19.

<sup>1767</sup> P-0231: T-122-CONF, p. 27, lines 2-5.

<sup>1768</sup> P-0231: [T-123](#), p. 19, lines 1-8.

<sup>1769</sup> P-0231: [T-123](#), p. 19, lines 9-13.

<sup>1770</sup> See section IV.B.2.ii.a.ix above.

<sup>1771</sup> P-0231: [T-123](#), p. 19, lines 19-22.

<sup>1772</sup> P-0227: T-10-CONF, p. 6, lines 8-9, p. 8, lines 3-8.

<sup>1773</sup> P-0227: T-10-CONF, p. 21, line 20 – p. 22, line 3.

<sup>1774</sup> P-0097: [T-108](#), p. 7, line 3-5, p. 53, lines 9-11.

<sup>1775</sup> P-0097: [T-108](#), p. 13, lines 5-21.

915. P-0249, who was abducted during the Pajule attack,<sup>1776</sup> testified that after leaving Pajule, Dominic Ongwen told the abductees that if anyone tried to escape or dropped the load they were assigned to carry, they would be killed.<sup>1777</sup> According to P-0249, Dominic Ongwen also said that the abductees would be trained to become soldiers.<sup>1778</sup>

**With some regularity, recruits were forced to brutally kill, or were forced to witness brutal killings, shortly after their abduction.**<sup>1779</sup>

916. As explained below, the evidence demonstrates that new recruits were often forced to kill and/or to witness brutal killings. It is notable that even though memory fades with time, witnesses were able to describe their own experience in striking detail. This is in itself, in the Chamber's opinion, an indication of the significance of this traumatic experience. In the Chamber's evaluation, this experience largely contributed, as an instrument of control, to obtain, and maintain, a tight grip on the part of the LRA commanders over newly abducted, often young individuals.

917. The Chamber recognises the evidence of P-0314 as particularly informative in this context. P-0314 testified that newly abducted people would be instructed to kill a person, while the 'older people' watched;<sup>1780</sup> a general observation which he was in position to make on the basis of his personal experience in the LRA. P-0314 then went on and stated:

This was a way of showing the person that if you also escape, then your friends will kill you. So that was a way to instill fear into the younger people, the people who had been newly abducted. The older people, if, for example, someone is extremely tired and – because sometimes people would walk for long distances carrying heavy luggage, if your feet are swollen, if you are tired, yeah, the people would disappear. But if somebody disappears, you don't know whether the person has been released and sent back home or killed.<sup>1781</sup>

918. Indeed, the Chamber has heard evidence relating to a number of specific events of this kind.

919. P-0264 testified that on the second day after he was abducted, and before the witness was given any training, his unit 'found' some civilians.<sup>1782</sup> The witness and other abductees,

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<sup>1776</sup> See para. 1344 below.

<sup>1777</sup> P-0249: [T-79](#), p. 39, line 23 – p. 40, line 3.

<sup>1778</sup> P-0249: [T-79](#), p. 40, lines 4-6.

<sup>1779</sup> Para. 129 above.

<sup>1780</sup> P-0314: [T-74](#), p. 29, lines 18-22.

<sup>1781</sup> P-0314: [T-74](#), p. 29, line 22 – p. 30, line 3.

<sup>1782</sup> P-0264: [T-64](#), p. 17, lines 14-18.

who had been tied and were carrying items, were instructed to put down the items, untied and told that if anybody tried to run away, they would be shot.<sup>1783</sup> An old civilian man was bound, and the abductees were instructed to beat him.<sup>1784</sup> In the words of the witness:

There were so many of us, we beat the old man to death. [...] We were told to, to get the old man's blood and put it on our foreheads. We were still new, we were civilians, we were scared, there was blood, there was brains. We started taking the old man's blood and put it on our foreheads.<sup>1785</sup>

920. In addition, P-0264 referred to another occasion in Teso, where 'kadogi', in the witness's own definition the 'children or the young soldiers', executed an order to kill three civilian women by stoning them to death.<sup>1786</sup>
921. As discussed below, P-0252, who was abducted during the attack on Odek, [REDACTED] [REDACTED].<sup>1787</sup> P-0252 testified that [REDACTED] the LRA soldiers asked him: 'Are you still going to escape?', to which the witness responded 'In the name of God I will not escape'.<sup>1788</sup>
922. P-0236 stated that shortly after her abduction, after she had been handed over to Dominic Ongwen, two people who had allegedly escaped were killed in front of her and three other newly abducted persons.<sup>1789</sup> The abductees were told that if they tried to escape, the same thing would be done to them.<sup>1790</sup>
923. The Chamber also considers in this context the evidence provided by P-0379, discussed in detail below, in relation to an incident where a young boy was killed ostensibly because he had tried to escape, and the abductees were forced to beat and touch the body.<sup>1791</sup>
924. A specific subset of evidence concerns abductees witnessing, shortly after their abduction, the killings of other abductees who were unable to keep up with the movement of the group that abducted them.

<sup>1783</sup> P-0264: [T-64](#), p. 17, lines 22-24.

<sup>1784</sup> P-0264: [T-64](#), p. 17, lines 24-25.

<sup>1785</sup> P-0264: [T-64](#), p. 17, line 25 – p. 18, line 4.

<sup>1786</sup> P-0264: [T-65](#), p. 23, line 5 – p. 25, line 12.

<sup>1787</sup> See [REDACTED].

<sup>1788</sup> P-0252: T-87-CONF, p. 67, line 25 – p. 68, line 1.

<sup>1789</sup> P-0236: T-16-CONF, p. 10, line 21 – p. 11, line 21.

<sup>1790</sup> P-0236: T-16-CONF, p. 11, lines 1-2. See also p. 11, line 22 – p. 12, line 3.

<sup>1791</sup> See para. 981 below.

925. P-0340 testified about two children from his neighbourhood who he used to play football with and who were abducted at the same time as the witness.<sup>1792</sup> He testified that during the walk to Sudan following their abduction, on a mountain, ‘their feet were swollen, they were weak, there was no food because we did not have enough food on top of that mountain’.<sup>1793</sup> The witness stated that while walking, he saw two corpses along the road, one next to a tree, and the other a little further down the road.<sup>1794</sup> He explained that he did not himself identify the two bodies as it was not possible to stop and do that, but that he was told that the two bodies belonged to his friends and he also noticed their absence from the group.<sup>1795</sup> In more general terms, P-0340 stated:

At the time, if somebody became weak and was unable to walk, they would, they would say that the person should be put to rest or sent to rest. And the rest, we came to understand that rest meant that you would be killed.<sup>1796</sup>

926. P-0406 testified that he saw the killing of one Ojuko in the Gulu area.<sup>1797</sup> According to the witness, Ojuko was killed because he was unable to walk, and it was the newly abducted who were made to kill him.<sup>1798</sup>

927. P-0307 testified about an occasion in Pader, after the return from Teso, when the new abductees who could no longer keep up with the group’s movement were killed by bayonet or clubbing.<sup>1799</sup> The witness stated that at the time, the commanders, including Dominic Ongwen, were there.<sup>1800</sup>

928. This is brought in context by the testimony of P-0070, who convincingly and logically explained the link between the killings of abductees with the policy of the LRA to attack civilians in Northern Uganda who were perceived as supporting the government.<sup>1801</sup> Speaking specifically in the context of the LRA operation in Lango and Teso, P-0070 stated that Joseph Kony gave the instruction to abduct more soldiers, but that the adults

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<sup>1792</sup> P-0340: T-102-CONF, p. 19, line 12 – p. 20, line 10.

<sup>1793</sup> P-0340: [T-102](#), p. 18, lines 12-14.

<sup>1794</sup> P-0340: [T-102](#), p. 18, lines 16-17.

<sup>1795</sup> P-0340: [T-102](#), p. 18, line 21 – p. 19, line 7.

<sup>1796</sup> P-0340: [T-102](#), p. 18, lines 4-8.

<sup>1797</sup> P-0406: [T-154](#), p. 13, lines 2-7.

<sup>1798</sup> P-0406: [T-154](#), p. 13, lines 6-21.

<sup>1799</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 57.

<sup>1800</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 58.

<sup>1801</sup> See section IV.C.4 below.

who ‘are not able to move’ should be killed so as not to ‘send the secret of the group’.<sup>1802</sup> The Chamber understands this to be a reference to the perception on the part of the LRA leadership that civilians in Northern Uganda were cooperating with the government, which is discussed in detail below.<sup>1803</sup>

929. P-0070 further described the order given by Joseph Kony for what the LRA should be doing in Gulu, Kitgum and Pader:

The order that was there was purely an operation to add on to our number. People were supposed to be abducted. Those who could walk were to continue with us, those who could not were supposed to be killed.<sup>1804</sup>

930. P-0070 also testified:

If somebody is unable to walk, if – or if the person is weak, the person would be released from the ropes and killed. The rebels had a rule that you do not release people, because if you release somebody, if you release an abductee, then you are showing where you were, you are showing your direction.<sup>1805</sup>

#### c. Training

**Upon abduction into Sinia brigade, recruits were given training in fighting skills, including the use of firearms. Weapons were distributed to recruits. As part of the training, recruits were also taught military discipline.**<sup>1806</sup>

931. P-0070, asked specifically about boys under 15 years of age, testified that after their abduction, they would immediately be subjected to training on how to operate a gun and how to march.<sup>1807</sup> P-0231 similarly stated that training commenced immediately upon ‘arrival in the bush’.<sup>1808</sup>

932. P-0205 explained that the training of the recruits was generally within the domain of the commander of the unit to which they were assigned.<sup>1809</sup> According to the witness, only at the base in Sudan was it possible for all recruits to be gathered and trained together.<sup>1810</sup>

<sup>1802</sup> P-0070: [T-105](#), p. 86, lines 5-12, p. 86, line 24 – p. 87, line 4.

<sup>1803</sup> See section IV.C.4 below.

<sup>1804</sup> P-0070: [T-106](#), p. 23, lines 13-18.

<sup>1805</sup> P-0070: [T-106](#), p. 56, lines 16-21.

<sup>1806</sup> Para. 130 above.

<sup>1807</sup> P-0070: [T-106](#), p. 3, lines 17-20.

<sup>1808</sup> P-0231: [T-122](#), p. 43, lines 6-12.

<sup>1809</sup> P-0205: [T-48](#), p. 32, lines 22-25.

<sup>1810</sup> P-0205: [T-48](#), p. 32, line 25 – p. 33, line 3.

933. The fact that the training of recruits was not centrally organised is corroborated by several other witnesses. P-0309 stated that he was trained within the household where he was, and did not see any other person being trained.<sup>1811</sup> P-0252 testified that training took place ‘when people are having down time’, and not on the move.<sup>1812</sup> P-0340 described the training as ‘spontaneous’ and stated that ‘each group would be in charge of training the people who were composed of it’.<sup>1813</sup> P-0406 also explained that recruits were trained within their groups: in his group, four people were being trained, but in other groups other people were being trained as well.<sup>1814</sup> P-0249 testified that training took place ‘wherever people encamp, at any time’.<sup>1815</sup> A point about this was made by P-0101 who stated that some recruits were ‘not actually trained’, and continued: ‘As soon as you are abducted they put a gun in your hand and you are sent out to fight’.<sup>1816</sup>
934. As to the content of training, P-0054 stated that LRA recruits were given training on how to dismantle a gun, how to shoot, how to parade, and ‘how to manage yourself when you are at the fighting or fighting front’.<sup>1817</sup> P-0205 stated that recruits were trained in observation post (OP) work, and in fighting, including combat skills and in what to ‘pick’ from ‘houses’.<sup>1818</sup> P-0252 testified that the skills taught were how to march, how to handle a gun, and fighting tactics during battle.<sup>1819</sup> He stated that he was taught how to shoot a gun.<sup>1820</sup>
935. P-0264 testified that he was trained to be an escort by the person who abducted him, and that the training involved carrying the person’s chair, walking with him, and how to use a gun.<sup>1821</sup> Later, the witness was further trained as escort by another commander.<sup>1822</sup> He

<sup>1811</sup> P-0309: [T-61](#), p. 34, lines 15-18.

<sup>1812</sup> P-0252: [T-87](#), p. 50, line 23 – p. 51, line 15.

<sup>1813</sup> P-0340: [T-102](#), p. 23, line 22, p. 24, lines 3-8.

<sup>1814</sup> P-0406: [T-154](#), p. 23, lines 15-20.

<sup>1815</sup> P-0249: [T-79](#), p. 40, line 24 – p. 41, line 4.

<sup>1816</sup> P-0101: T-13-CONF, p. 64, line 24 – p. 65, line 1. The Chamber clarifies that it does not understand P-0101’s testimony to be even on its face contradictory of the testimonies of witnesses who testified as to their military training in Sinia. In any case, P-0101’s evidence is valuable, in the context of the other evidence, as the impression of a person who spent a long time in Sinia.

<sup>1817</sup> P-0054: [T-93](#), p. 23, lines 4-11. P-0054 testified that he saw this training take place in Sinia brigade after Operation Iron Fist, and that he himself trained recruits in Sinia, *see* P-0054: [T-93](#), p. 23, lines 12-13; [T-94](#), p. 3, lines 17-18.

<sup>1818</sup> P-0205: [T-48](#), p. 33, line 14 – p. 34, line 4.

<sup>1819</sup> P-0252: [T-87](#), p. 50, lines 12-19, p. 51, line 23 – p. 52, line 3. *See also* p. 51, lines 5-15.

<sup>1820</sup> P-0252: [T-87](#), p. 50, lines 20-22.

<sup>1821</sup> P-0264: T-64-CONF, p. 12, lines 14-21.

<sup>1822</sup> P-0264: [T-64](#), p. 28, lines 9-19.

also told the Court that he received training in the operation of the SMG – short machine gun.<sup>1823</sup> Further, the witness stated that when he was in Sudan, he was trained in target shooting,<sup>1824</sup> in how to defend and to attack a position, and how to ambush.<sup>1825</sup>

936. P-0309 testified that within Dominic Ongwen’s household, the veteran LRA soldiers taught P-0309 to operate the AK-47 gun.<sup>1826</sup> He testified that he was also taught how PK and RPG weapons were operated.<sup>1827</sup> In addition to training in the use of weapons, the witness stated that he was trained ‘to be disciplined and have respect’.<sup>1828</sup> P-0309 stated that he was trained ‘how to be respectful to the commanders like Dominic, the battle-hardened LRA soldiers’.<sup>1829</sup>

937. P-0314 stated that a month or two after he was abducted he was trained in marching, use of guns, and in ‘how to show respect’.<sup>1830</sup>

938. P-0340 testified that while in Sudan he was trained in marching, assembling and disassembling the gun.<sup>1831</sup> P-0340 confirmed that the training also included how to behave during a live attack.<sup>1832</sup> The witness testified that he received a gun at a later time, after his group returned to Uganda.<sup>1833</sup>

939. P-0379 testified that he received training on how to dismantle and reassemble a gun and the names of the various parts.<sup>1834</sup> He stated that the veterans or the commander of the unit would instruct the newly abducted on discipline.<sup>1835</sup>

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<sup>1823</sup> P-0264: [T-64](#), p. 28, line 20 – p. 29, line 8.

<sup>1824</sup> P-0264: [T-64](#), p. 29, lines 13-21.

<sup>1825</sup> P-0264: [T-64](#), p. 29, line 24 – p. 30, line 2.

<sup>1826</sup> P-0309: [T-61](#), p. 32, lines 1-8.

<sup>1827</sup> P-0309: [T-61](#), p. 32, line 9 – p. 33, line 2.

<sup>1828</sup> P-0309: [T-61](#), p. 34, line 1-5.

<sup>1829</sup> P-0309: [T-61](#), p. 34, lines 1-5.

<sup>1830</sup> P-0314: [T-74](#), p. 18, line 8 – p. 19, line 5.

<sup>1831</sup> P-0340: [T-102](#), p. 23, line 17 – p. 24, line 2, p. 52, lines 18-22.

<sup>1832</sup> P-0340: [T-102](#), p. 52, lines 23-25.

<sup>1833</sup> P-0340: [T-102](#), p. 25, lines 12-17.

<sup>1834</sup> P-0379: [T-56](#), p. 23, lines 10-20.

<sup>1835</sup> P-0379: [T-57](#), p. 67, line 22 – p. 68, line 5.

940. P-0307 stated that he was trained in how to salute a superior, and in the use of a gun.<sup>1836</sup> He stated that he once saw Dominic Ongwen come to the training area during his training.<sup>1837</sup>
941. P-0406 confirmed that he received military training in the LRA, and stated that this training took place in Sudan.<sup>1838</sup> He stated that he was trained in a group of ‘about four’.<sup>1839</sup> He stated that he was trained in marching, how to dismantle and reassemble a gun, how to clean a gun.<sup>1840</sup> In addition, this witness testified that after the training the recruits were given three bullets each to try out.<sup>1841</sup>
942. As to the distribution of weapons to recruits, the evidence indicates that this was related to their performance. P-0054 stated that a recruit who was ‘liked by [his] boss’ could be given a gun after two or three months, but if a recruit was ‘lazy’, they could stay long without one.<sup>1842</sup>
943. P-0054 testified that the brigade commander and ‘CO’ were the ones to decide on the distribution of weapons, based on the maturity and strength of the person.<sup>1843</sup> P-0205 similarly stated that a recruit was given a gun when they ‘have already got used to the activities’ and had the courage to stay in the bush.<sup>1844</sup>
944. P-0307 testified that he received a gun after training, around Pader in about May 2003, when the person carrying it previously was killed in an exchange of fire.<sup>1845</sup> He stated that his superior officer ordered that the gun be given to him.<sup>1846</sup> He also testified more generally that a gun was given to a recruit when it was established that he would not escape, and that this could take up to about nine months.<sup>1847</sup>

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<sup>1836</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at paras 68-69, 71.

<sup>1837</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 69; P-0307: [T-153](#), p. 20, lines 13-18.

<sup>1838</sup> P-0406: [T-154](#), p. 17, lines 14-18.

<sup>1839</sup> P-0406: [T-154](#), p. 21, lines 1-6.

<sup>1840</sup> P-0406: [T-154](#), p. 22, lines 22-25.

<sup>1841</sup> P-0406: [T-154](#), p. 22, line 25 – p. 23, line 5.

<sup>1842</sup> P-0054: [T-93](#), p. 22, line 25 – p. 23, line 3.

<sup>1843</sup> P-0054: [T-93](#), p. 23, lines 14-21.

<sup>1844</sup> P-0205: [T-48](#), p. 34, lines 16-21.

<sup>1845</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 72; [T-153](#), p. 24, lines 13-23.

<sup>1846</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 72.

<sup>1847</sup> P-0307: [T-153](#), p. 23, lines 13-18.

945. P-0314 testified that AK-47 guns were distributed to recruits who had spent around six months in the LRA after abduction, including to himself.<sup>1848</sup>

**Recruits were not taught, as part of their training, to distinguish between civilians and combatants, or between civilian objects and military objectives.**<sup>1849</sup>

946. Even though, as can be seen from the above analysis, many witnesses were asked about the content of their training upon integration into the LRA, they did not provide any information which would go to indicating that there was any training in the distinction between enemy combatants and civilians, or between legitimate targets and protected objects, let alone any training in international humanitarian law. In fact, the testimonies of the witnesses who spoke about training in the LRA provide a basis to find that any such training was not given.

947. The only witness to assert that the LRA paid any attention to the principles of international humanitarian law was P-0054, who testified that as an instructor in Sinia he taught his soldiers not to mistreat civilians.<sup>1850</sup> However, whereas the Chamber generally deems P-0054 to be a credible witness, it remains unconvinced by this particular statement. As observed, no witness other than him – who, as an LRA instructor, had an interest in presenting himself in a positive light – provided any statement to the same effect, nor did P-0054, who merely accepted a general proposition put to him, provide any particulars of how this training would have taken place.

948. In fact, the Chamber cannot but make specific reference to P-0142's response to the question whether shooting a civilian during the course of an attack would constitute an offence, which was that 'nobody would see it as a crime if a civilian is injured or if a civilian is shot at'.<sup>1851</sup>

949. In any case, the Chamber recalls the evidence laid out just above by those who underwent training upon integration into the group, the evidence leading to the finding that the LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda,<sup>1852</sup> and the evidence of the orders given to, and the

<sup>1848</sup> P-0314: [T-74](#), p. 20, line 18 – p. 21, line 6.

<sup>1849</sup> Para. 130 above.

<sup>1850</sup> P-0054: [T-94](#), p. 3, line 19 – p. 4, line 3.

<sup>1851</sup> P-0142: [T-71](#), p. 25, lines 18-21.

<sup>1852</sup> See section IV.C.4 below.

behaviour of LRA soldiers during operations, including during the four attacks relevant to the charges.<sup>1853</sup> In light of this, the Chamber concludes on the basis of the evidence that the LRA did not pay attention to the protection of civilians or civilian objects in the training of its soldiers.

d. Rules of obedience and disciplinary system

**There were clear rules requiring obedience of LRA soldiers, and a violent disciplinary system that guaranteed adherence to them. LRA soldiers were punished, for example, for not executing orders, losing a gun, or failing to prevent abducted persons from escaping. Penalties ranged from beating to execution. Dominic Ongwen personally ordered disciplinary measures.**<sup>1854</sup>

950. As laid out below, several insider witnesses testified about the basic rules applicable to soldiers within the LRA. The Chamber finds instructive in this context the evidence of those insider witnesses who were asked whether, during their time in the LRA, they could refuse orders. This evidence, while general or even hypothetical, provides insight into the insiders' understanding of their own status within the LRA, and is as such of assistance to the Chamber.

951. A considerable number of witnesses, in particular lower ranking insiders, testified categorically that in the LRA, no one could refuse orders,<sup>1855</sup> most commonly referring to the risk of being killed.<sup>1856</sup> In the view of the Chamber, this evidence of how LRA soldiers perceived their situation while integrated into the organisation, is highly indicative of the nature of the organisation and demonstrative of the ability of its commanders to rely on their subordinates for the execution of the orders they issued.

952. P-0252 summarised the rules applicable in the LRA as follows:

The rules that was given to me, one, respect your superior, when he is passing refer to him as 'lapwony'. When they call you, you should respond while calling the name of that person and say – when you mention the name, make sure it accompanies with the word 'lapwony'. When you are sent to do something, ensure that you do it and you do it quickly.<sup>1857</sup>

<sup>1853</sup> See sections IV.C.6, IV.C.7, IV.C.8, IV.C.9 below.

<sup>1854</sup> Para. 131 above.

<sup>1855</sup> P-0067: [T-126](#), p. 37, lines 14-18; P-0142: [T-72](#), p. 62, lines 7-14; P-0226: T-9-CONF, p. 36, lines 5-8; P-0252: [T-87](#), p. 61, lines 4-5; P-0264: [T-65](#), p. 15, lines 9-21, p. 16, lines 4-11; P-0379: [T-57](#), p. 67, lines 10-18.

<sup>1856</sup> P-0142: [T-72](#), p. 62, lines 7-14; P-0226: T-9-CONF, p. 36, lines 9-10; P-0252: [T-87](#), p. 61, lines 6-13; P-0264: [T-65](#), p. 15, lines 22-24, p. 16, lines 4-11.

<sup>1857</sup> P-0252: [T-89](#), p. 35, lines 19-25.

953. P-0264 also testified that LRA members were obliged to address their commanders by titles indicating their higher seniority, in particular ‘lapwony’, ‘ladit’ or ‘afande’.<sup>1858</sup> On this point, the evidence indeed demonstrates that Dominic Ongwen was referred to by the title ‘lapwony’,<sup>1859</sup> as well as by the title ‘afande’.<sup>1860</sup>
954. Asked about whether he could have refused the order to participate in an attack on Acet, P-0252 stated: ‘You cannot refuse. There is no way out when you are told to go.’<sup>1861</sup> Asked what would happen if one refused, the witness stated one would be considered as wanting to escape or being a collaborator and killed.<sup>1862</sup>
955. P-0264 summarised as follows the rules of obedience applicable in battle:

The rules about battles is that when you are instructed not to capture people, then when you’re a soldier you should not capture anybody. If you’re instructed to go and fight and charge every item that you will find, so if any of the soldier does not charge the items, then there are rules that will also target you. Or there could be rules that says when you fight do not charge any item, but you go against and you go ahead to charge, then you will also be punished. If you get money, a big sum of money and you hide that money, you don’t declare, then there are also rules that will be used because they will say you want to escape. If you get a woman during when you go to fight and you rape that woman, yes, then there are also rules that will apply against you.<sup>1863</sup>

956. More generally in relation to the rules enforced in the LRA, P-0264 stated:

The rules that are put in the LRA, which were general rules for all – for everybody, is that when instructions are given not to do a certain thing and you violate it, then you are taken as somebody who has violated. Then the appropriate punishment will be decided.<sup>1864</sup>

957. The record of the case contains consistent evidence of disciplinary measures being applied in the LRA in an immediate, crude and brutal manner. It was not based on clear rules and procedures, but on arbitrariness and fear.

<sup>1858</sup> P-0264: [T-65](#), p. 16, line 20 – p. 17, line 11.

<sup>1859</sup> P-0097: [T-108](#), p. 41, lines 4-6. *See also* P-0097: [T-108](#), p. 14, lines 14-21; P-0226: T-8-CONF, p. 18, lines 16-19; P-0233: T-111-CONF, p. 69, lines 11-16; P-0249: [T-79](#), p. 42, lines 19-21; P-0280: [T-84](#), p. 69, line 4 – p. 70, line 23; P-0340: [T-102](#), p. 17, lines 8-9.

<sup>1860</sup> P-0293: [T-139](#), p. 18, lines 11-18.

<sup>1861</sup> P-0252: [T-87](#), p. 61, lines 4-5.

<sup>1862</sup> P-0252: [T-87](#), p. 61, lines 6-13.

<sup>1863</sup> P-0264: [T-65](#), p. 15, lines 10-19.

<sup>1864</sup> P-0264: [T-65](#), p. 16, lines 3-7.

958. P-0379 made this point very clearly, testifying about a certain Olet, who was severely punished by beating for forgetting his gun during an attack.<sup>1865</sup> Asked about who carried out the beating, the witness responded:

You know, when you are in the army, if you, if you breach any rules, if somebody is supposed to be beaten we all usually rush to beat that person, because that person, whoever it is, you also feel that you have to punish that person regardless of whether or not that person is your friend. Because if next time you are the one who is in breach of the rules the same thing will happen to you. So everybody actually [beat] Olet.<sup>1866</sup>

959. P-0314 testified in some detail about his experience of disciplinary measures in Sinia. He gave the example of a soldier who was beaten with sticks and later had to carry luggage ‘like newly abductees’ because he had lost his gun.<sup>1867</sup> He also gave the example of himself, testifying that on one occasion he was beaten with sticks because he had forgotten the salt that he was assigned to carry.<sup>1868</sup> More generally, he mentioned letting prisoners or abductees escape as a reason for beating.<sup>1869</sup>

960. P-0252 further described an incident in the Atoo hills after the Abok attack when he, and another LRA soldier, were ordered to kill a cow.<sup>1870</sup> The witness stated:

We were helpless. We were not strong enough. I refused, that I could not kill the animal. I was hit on my chest with a big stick. I still have the scar up to now. And when I bent down, then I was kicked that I should get up. I got up but I would fall again.<sup>1871</sup>

961. In the end, P-0252 participated in killing the animal.<sup>1872</sup>

962. P-0406 stated that he was beaten with a stick for imitating radio communications for fun.<sup>1873</sup> The witness testified that he was also beaten in Teso, because two abductees who

<sup>1865</sup> P-0379: [T-57](#), p. 50, lines 10-22.

<sup>1866</sup> P-0379: T-57-CONF, p. 51, lines 8-13.

<sup>1867</sup> P-0314: [T-74](#), p. 31, line 6 – p. 32, line 10.

<sup>1868</sup> P-0314: [T-74](#), p. 32, lines 11-19.

<sup>1869</sup> P-0314: [T-74](#), p. 32, lines 19-20.

<sup>1870</sup> P-0252: [T-87](#), p. 82, lines 7-23.

<sup>1871</sup> P-0252: [T-87](#), p. 82, line 23 – p. 83, line 1.

<sup>1872</sup> P-0252: [T-87](#), p. 83, lines 1-8.

<sup>1873</sup> P-0406: [T-154](#), p. 40, line 17 – p. 41, line 5.

were put under his guard escaped.<sup>1874</sup> P-0406 also testified that not making the commander's bed properly was another offence punished by beating.<sup>1875</sup>

963. P-0205 referred to a specific instance after the attack on Lukodi, when a soldier was given 100 lashes for refusing to 'go on the standby to collect food'.<sup>1876</sup> The witness also mentions himself being punished by beating, [REDACTED]  
[REDACTED]  
[REDACTED].<sup>1877</sup>

964. Even though Dominic Ongwen was battalion and brigade commander, respectively, in Sinia during the period of the charges, and therefore relatively high in the hierarchical organisation of the brigade, witness evidence indicates that he also intervened in specific disciplinary matters, including minor ones. For the Chamber, this is an important indicator that Dominic Ongwen was fully aware of the organisational features of Sinia, and that he contributed to sustaining it.

965. An example of Dominic Ongwen enforcing discipline and hierarchy was reported by P-0307. He stated that soon after his abduction, in one instance he failed to salute properly.<sup>1878</sup> According to the witness, Dominic Ongwen then held a knife to the witness's chest and reprimanded the witness, commanded him to lie down and ordered the others to hit him on the back of his head with a club.<sup>1879</sup> The witness specified that he was hit lightly and was in the end left unharmed.<sup>1880</sup> Upon suggestion by Defence counsel that it could have been meant as a joke by Dominic Ongwen, the witness rejected this and stated 'he was threatening me'.<sup>1881</sup> He also stated: 'From that day I knew who Dominic Ongwen was and never forgot him'.<sup>1882</sup>

<sup>1874</sup> P-0406: [T-154](#), p. 41, lines 12-16.

<sup>1875</sup> P-0406: [T-154](#), p. 41, lines 9-11.

<sup>1876</sup> P-0205: [T-48](#), p. 44, line 11 – p. 45, line 4.

<sup>1877</sup> P-0205: T-48-CONF, p. 49, lines 14-25.

<sup>1878</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 20.

<sup>1879</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 20.

<sup>1880</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 20.

<sup>1881</sup> P-0307: [T-153](#), p. 12, lines 20-25.

<sup>1882</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 20.

966. P-0097 testified that he saw that on a specific occasion, Dominic Ongwen ordered the beating of a boy who had been instructed to prepare meals and ‘did not cook well’.<sup>1883</sup>
967. The evidence indicates that corporal punishment was predominant, but there is some evidence of other types of punishment. P-0070 testified that if somebody fled from battle they would be punished by having to carry heavy weapons, or by being sent onto the battlefield without weapons.<sup>1884</sup>
968. The Chamber notes that while, as stated above, LRA soldiers referred to the threat of being killed if they did not obey orders, the actual occurrence of killings as punishment is mainly attested in relation to escapes and in the context of the LRA treatment of women and girls, and is as such addressed below.<sup>1885</sup> The Chamber also returns to this topic in the section on duress as a ground excluding criminal responsibility.<sup>1886</sup>
969. The Chamber also notes the evidence in relation to ‘arrest’ and ‘prison’ in the LRA, which is discussed in detail below in the context of the brief arrest of Dominic Ongwen in April 2003.<sup>1887</sup>
970. The evidence on the record leaves no doubt to the Chamber that the LRA was effective in the use of a disciplinary system to ensure compliance. But to accurately reflect the evidence, the findings in the present section need to be juxtaposed with findings in relation to a particular issue discussed above in respect of the higher echelons of the LRA hierarchy. Whereas LRA commanders at levels such as brigade or battalion did not have the general power to ignore or refuse orders from Joseph Kony – coming directly or indirectly through in particular Vincent Otti –, there is indication in the evidence that they were at least occasionally able to do so.<sup>1888</sup> In addition, as discussed above, the commanders possessed a degree of autonomy on which also the operation of the LRA as such depended.<sup>1889</sup> Thus, it is clear that the constant fear of violence affected the lower levels of the LRA hierarchy more strongly. Indeed, the narrative of the LRA as an organisation where all decisions and orders emanated exclusively from Joseph Kony

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<sup>1883</sup> P-0097: [T-108](#), p. 42, lines 3-15.

<sup>1884</sup> P-0070: [T-106](#), p. 41, lines 20-24.

<sup>1885</sup> See sections IV.C.2.ii.e and IV.C.11.iv below.

<sup>1886</sup> See section IV.D.2 below.

<sup>1887</sup> See section IV.C.3 below.

<sup>1888</sup> See para. 870 above.

<sup>1889</sup> See para. 872 above.

while any other person was constrained to simply execute them regardless of their will, is not demonstrated by the evidence in such absolute terms; to the contrary, as outlined above, any such narrative needs to be relativised as concerns persons at relatively high positions in the hierarchy, such as brigade and battalion commanders, who, instead, maintained agency within the organisation.

e. Preventing escape

**Sinia members, and LRA members generally, were threatened with death if they attempted escape. On certain occasions, execution of re-captured escapees in fact took place. Dominic Ongwen personally issued threats to LRA members that they would be killed if they attempted to escape, and ordered killings of abductees in front of LRA members to illustrate this threat.**<sup>1890</sup>

971. Considering that, as explained above,<sup>1891</sup> the LRA obtained new members through abduction, it is not surprising that in any examination of the LRA as an organisation the topic of escape must feature prominently. In the present case, due to duress having been raised by the Defence as a ground excluding criminal responsibility, the possibility of escaping in particular of the accused from the LRA has become one of the central disputed issues of fact. It is discussed within the context of duress below.<sup>1892</sup> But the possibility of escape, and the measures taken to prevent escape by the leaders of Sinia, and the LRA in general, are also relevant for a determination of the nature of the organisation. In the view of the Chamber, the repression of escape from Sinia and the LRA was one of the crucial factors in how the organisation sought to and succeeded in having at its disposal a sufficient number of individuals to execute the orders and instructions given by the leaders. As shown below, Dominic Ongwen personally participated in sustaining the LRA system of repression of escape.

972. The issue before the Chamber is not whether people escaped from the LRA as it is clear that many did. The subject of interest is rather the stance that the LRA took towards members escaping, and the effect it had on the membership.

973. Several witnesses testified generally about this topic. The Chamber begins its analysis by reference to those witnesses who, on account of their position within the LRA and/or on

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<sup>1890</sup> Para. 132 above.

<sup>1891</sup> See section IV.C.2.ii.a above.

<sup>1892</sup> See section IV.D.2.iv below.

account of their long stay inside the organisation, were well positioned to make general observations.

974. P-0054 testified that LRA members were told that if they escaped and were captured again, they would be killed.<sup>1893</sup> He further stated that he indeed witnessed someone being killed.<sup>1894</sup> P-0070 similarly stated that if an abducted person attempted to escape, they would be beaten to death with a log.<sup>1895</sup>

975. P-0205 stated that when abductees were brought in, they were told that they were to stay, that they were not to try to escape, and that they would be killed if they escaped and were caught.<sup>1896</sup> When asked whether any other form of punishment was applied to those who tried to escape, the witness responded:

With the LRA if you escape and they follow you, if they apprehend you, if you are lucky, you are beaten. If you are unlucky, you are killed.<sup>1897</sup>

976. P-0205 also explained that sometimes, recaptured escapees were killed on the spot, but on other occasions they were brought back into the group where they were killed in the presence of others.<sup>1898</sup> P-0226 similarly made the point that ‘[i]f the person who tried to escape was a boy, then they would call the other boys, his peers to come and kill him’, and that if it was a girl who tried to escape, ‘[t]hen it would be the girls who would be called to beat the person to death’.<sup>1899</sup> This evidence of execution for attempted escape regularly taking place in front of other members is important, as it indicates that such executions had a deterrent purpose.

977. Several other witnesses provided evidence of having been present when threats were made towards members of Sinia during gatherings to prevent escape attempts. Notably, P-0309 and P-0379 provided testimony indicating that at least on two occasions, on Dominic Ongwen’s specific order, abductees were killed in front of LRA members for

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<sup>1893</sup> P-0054: [T-94](#), p. 45, line 21 – p. 46, line 10.

<sup>1894</sup> P-0054: [T-94](#), p. 46, lines 11-14.

<sup>1895</sup> P-0070: [T-106](#), p. 63, lines 10-12.

<sup>1896</sup> P-0205: [T-48](#), p. 31, lines 11-22.

<sup>1897</sup> P-0205: [T-49](#), p. 6, lines 10-13.

<sup>1898</sup> P-0205: [T-49](#), p. 7, lines 3-16.

<sup>1899</sup> P-0226: T-8-CONF, p. 64, lines 12-16. *See also* P-0226: T-9-CONF, p. 3, lines 3-4.

no reason other than to impress on those present that they would also be killed if they attempted to escape.

978. P-0309 stated that one day, Dominic Ongwen gathered people together, sat in front of them and spoke about the escapes from the LRA.<sup>1900</sup> The witness testified that Dominic Ongwen ordered some more senior LRA soldiers to select four newly abducted people and kill them.<sup>1901</sup> Four persons were indeed selected, tied using the shirts that they were wearing, pushed so that they fell down and then stabbed with knives until they died; in the presence of others, including the witness.<sup>1902</sup> Those present were warned that if they attempted to escape, that was what would happen to them.<sup>1903</sup> The Chamber clarifies that, in light of its general assessment of P-0309's credibility, and on the basis that this particular part of his testimony is detailed and coherent, it fully accepts the testimony of the witness in this regard, including on the personal involvement of Dominic Ongwen.
979. A similar description of an incident personally involving Dominic Ongwen is given by P-0379, who stated that at one point near Pajule, Dominic Ongwen addressed the soldiers at a parade and stated that he did not know why people were escaping, and why people did not want to stay in the bush 'when the whole world is crying out against us'.<sup>1904</sup> According to the testimony of P-0379, Dominic Ongwen asked those present: 'If you escape where are you going to stay?'<sup>1905</sup> Dominic Ongwen continued stating that if anybody tried to escape, he was going to teach them a lesson and let them know that it is bad to escape.<sup>1906</sup> Dominic Ongwen then instructed two boys who had been tied up to be brought in, and ordered those present, [REDACTED], and persons under 15 years of age, to kill them as a lesson that it is bad to escape.<sup>1907</sup> They, [REDACTED], started beating the two boys, and killed them.<sup>1908</sup>

<sup>1900</sup> P-0309: [T-60](#), p. 40, lines 7-9.

<sup>1901</sup> P-0309: [T-60](#), p. 39, lines 19-24, p. 40, lines 21-23.

<sup>1902</sup> P-0309: [T-60](#), p. 40, lines 10-12, p. 40, line 24 – p. 41, line 3.

<sup>1903</sup> P-0309: [T-60](#), p. 40, lines 10-12.

<sup>1904</sup> P-0379: T-57-CONF, p. 75, lines 13-24. *See also* T-57-CONF, p. 78, lines 4-7.

<sup>1905</sup> P-0379: T-57-CONF, p. 75, line 24.

<sup>1906</sup> P-0379: T-57-CONF, p. 76, lines 4-6.

<sup>1907</sup> P-0379: T-57-CONF, p. 76, lines 6-8, p. 77, line 22 – p. 78, line 3.

<sup>1908</sup> P-0379: T-57-CONF, p. 75, lines 9-11, p. 76, line 9.

980. P-0379 also described a parade shortly after his abduction, after which the abductees were gathered together and a boy who had been bound was brought.<sup>1909</sup> The witness stated that he and the other abductees were told the following:

[I]n the LRA what we really don't want is the issue of escaping, or having to think about home. Whenever you are here forget about home. Whoever tried to escape will be killed. And we are going to show you as an example, we abducted him earlier and he thought he was wise, he refused to stay with us, he escaped thinking we would not find him again. We shall not forgive him. We shall kill him. You will be the ones to kill him.<sup>1910</sup>

981. Still according to the witness, thereafter some more senior LRA soldiers went away from the scene with the boy and killed him using a bayonet.<sup>1911</sup> Afterwards the abductees, including the witness, were told to go see the body, touch it, and beat it, which they did.<sup>1912</sup>

982. Also in this regard, it is noted that P-0231 testified that he was told in the LRA that if he tried to escape and was caught, he would be killed.<sup>1913</sup> P-0330 stated the same.<sup>1914</sup>

983. P-0309 testified that on another occasion, one boy called Cidoro attempted to escape but was apprehended, brought back and flogged.<sup>1915</sup> P-0309 testified that this 'really scared' him.<sup>1916</sup> Indeed, when asked why he did not try to escape during his time in the LRA, the witness stated that this was 'because of the things that I witnessed, killing people, the extreme punishment of anybody who tried to escape, and the killing of people who tried to escape'.<sup>1917</sup> Noting that the witness did in the end escape after about a year and a half,<sup>1918</sup> the Chamber finds his testimony compelling, emblematic of the fate of LRA members in general, and indicative of the effectiveness of the organisation.

984. P-0406 testified that he was present when Joseph Kony addressed the LRA soldiers in Sudan from the top of a rock, telling them not to escape and warning that if they did

<sup>1909</sup> P-0379: [T-56](#), p. 21, lines 22-24.

<sup>1910</sup> P-0379: [T-56](#), p. 21, line 24 – p. 22, line 5.

<sup>1911</sup> P-0379: [T-56](#), p. 22, lines 10-11.

<sup>1912</sup> P-0379: [T-56](#), p. 22, lines 11-16.

<sup>1913</sup> P-0231: [T-123](#), p. 20, lines 18-20.

<sup>1914</sup> P-0330: [T-52](#), p. 72, lines 9-14.

<sup>1915</sup> P-0309: [T-61](#), p. 41, lines 11-18.

<sup>1916</sup> P-0309: [T-61](#), p. 41, line 18.

<sup>1917</sup> P-0309: [T-61](#), p. 41, lines 6-10.

<sup>1918</sup> P-0309: T-61-CONF, p. 42, lines 1-23.

escape, they would be caught and killed.<sup>1919</sup> Asked what impression these words made on him, the witness stated: ‘At that time I believed it because he warned us that if you don’t believe, he would know.’<sup>1920</sup>

985. In fact, witnesses have stated that they were afraid during their time in the LRA of engaging in actions, even if innocuous, which could make it appear that they were thinking of escaping and thus put them at risk of violence.<sup>1921</sup> Witnesses were also hesitant about sharing their escape plans with others.<sup>1922</sup> This fear, entirely explicable in light of the evidence, also finds validation in radio intercept evidence. On 11 November 2003, the ISO logbook records a message sent by Joseph Kony instructing that if any plans of escaping are discovered, the person must immediately be killed.<sup>1923</sup>

986. Further on this topic, P-0264 provided a personal story of how the threats and fear affected his thinking about escape. He testified that after the first battle in his life, the fighters were convened in the evening, and went on to say the following:

[W]e were given instructions to boost our morale, we were told not to be afraid of those kind of things. The people who had sustained injuries were thinking about escaping and that’s why they got shot. So each and every individual should stop thinking about going home. If you’re still thinking about escaping, thinking about going home, then, yes, you will be shot and, yes, you will be shot and killed. So every individual should stop thinking about going home. And, well, I was – personally I was extremely afraid of that happening. After that, I kept on thinking [...] about the instructions that we’d been given and I decided not to think about home and I decided to follow what my commanders [...] were instructing me. And that’s how I remained in the LRA.<sup>1924</sup>

987. P-0264 also testified that shortly after his abduction, one of his friends escaped, and was chased by LRA soldiers.<sup>1925</sup> These soldiers later returned and said that they had found and killed the escapee.<sup>1926</sup> It was only when the witness returned back home that he

<sup>1919</sup> P-0406: [T-155](#), p. 17, lines 3-24.

<sup>1920</sup> P-0406: [T-155](#), p. 18, lines 3-7.

<sup>1921</sup> See, for example, P-0097: [T-108](#), p. 71, lines 12-18; P-0138: [T-121](#), p. 47, lines 13-16; P-0374: [T-150](#), p. 45, lines 15-21; P-0406: [T-156](#), p. 12, lines 7-14; D-0006: T-194-CONF, p. 19, line 23 – p. 20, line 4; D-0074: [T-187](#), p. 49, line 20 – p. 50, line 3.

<sup>1922</sup> See, for example, P-0016: [T-34](#), p. 37, lines 20-25; P-0097: [T-108](#), p. 51, line 24 – p. 52, line 2; D-0024: [T-192](#), p. 45, lines 15-23; D-0068: [T-222](#), p. 46, lines 2-8; D-0092: [T-208](#), p. 54, lines 4-16; D-0119: [T-196](#), p. 44, lines 15-21; D-0134: T-241-CONF, p. 21, lines 6-9.

<sup>1923</sup> ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0038.

<sup>1924</sup> P-0264: [T-64](#), p. 36, lines 6-16. It is noted that in the end, P-0264 succeeded in escaping when the LRA was in the Central African Republic, see P-0264: [T-65](#), p. 35, line 23 – p. 40, line 10.

<sup>1925</sup> P-0264: [T-64](#), p. 18, lines 14-17.

<sup>1926</sup> P-0264: [T-64](#), p. 18, line 17 – p. 19, line 7.

learned that in fact the friend who had escaped was still alive.<sup>1927</sup> In the assessment of the Chamber, this event – indicating that ensuring that individuals in the organisation believed that punishments for persons who disobeyed the rules were carried out was more important than actually inflicting those punishments – also helps to understand that the repression of escapes in the LRA was employed primarily as a tool to maintain control within the organisation over the individuals at large, going beyond the mere function of punishment of persons who disobeyed the rules.

988. There is further evidence of specific incidences of persons being killed for attempting to escape from Sinia. P-0314 testified about one Opoka who escaped with ‘some young girls who belonged to the commander’, and was caught.<sup>1928</sup> He stated that Opoka was killed, while the girls were ‘just beaten because there was somebody else who was trying to escape with them’.<sup>1929</sup>
989. P-0351 stated specifically that while she was staying in Dominic Ongwen’s group, a man who had attempted escape was re-apprehended and brought back.<sup>1930</sup> A group of men and boys beat the man with a log and killed him.<sup>1931</sup> P-0307 also referred to a specific occasion when an escapee was re-apprehended and beaten to death.<sup>1932</sup>
990. Finally, P-0264 reported that he attempted to escape at some point but was re-apprehended.<sup>1933</sup> He provided a detailed account of how he was beaten with a machete and stepped on and told to ‘[l]ook at the sun for the last time’, but then his punishment was interrupted by the arrival of a helicopter which started dropping bombs and shooting at the LRA.<sup>1934</sup> He explained that afterwards, the people who had beat him decided to let

<sup>1927</sup> P-0264: [T-64](#), p. 19, lines 8-11.

<sup>1928</sup> P-0314: [T-74](#), p. 34, line 10 – p. 35, line 12. The witness remembered that Opoka and the girls were staying at ‘the superior commander’s household’, but initially could not remember who that person was. After the regular hearing break, he stated that that commander was Buk. When read a prior statement to the effect that Opoka was one of the soldiers who stayed with Dominic Ongwen, he stated that he was not sure which was right. P-0314: [T-74](#), p. 36, lines 4-24. In light of this, without this having any further effect on the reliability of the witness, the Chamber cannot make any finding as to who was the senior commander in question.

<sup>1929</sup> P-0314: [T-74](#), p. 35, lines 2-5.

<sup>1930</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 66.

<sup>1931</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 66.

<sup>1932</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 56.

<sup>1933</sup> P-0264: [T-64](#), p. 20, lines 15-19.

<sup>1934</sup> P-0264: [T-64](#), p. 20, line 18 – p. 21, line 24.

him live.<sup>1935</sup> P-0264 specified that this incident happened when he was in Terwanga battalion, and gave the names of the persons involved in his beating.<sup>1936</sup>

**Members were also threatened that their home areas would be attacked by the LRA if they escaped.**<sup>1937</sup>

991. There is consistent witness evidence that LRA members were threatened with collective punishment of their home areas if they attempted to escape. P-0205 testified that all abductees in the LRA would be told that their home areas would be attacked if they tried to escape.<sup>1938</sup> He also stated that he was himself in fear that if he escaped, his village would be punished.<sup>1939</sup> P-0231 provided similar testimony, stating that he was told that if someone escaped and survived they would go to their home area and kill people there, and that they would leave a letter stating that people were killed because the person escaped.<sup>1940</sup> P-0406 also confirmed that he heard this threat in the LRA.<sup>1941</sup>

992. P-0070, speaking in general terms, stated that if somebody escaped and the LRA knew their home area, when they passed through the area there would be repercussions in the form of attacking and killing people.<sup>1942</sup> The witness testified that on abduction, the abductee's name as well as the names of their parents and their home area would be written down, and they would be told that in case they escaped this information would be used.<sup>1943</sup>

993. Turning to whether this form of punishment in fact occurred, the Chamber first notes that there is evidence that this was the case before the relevant period for the charges, in particular in the 1990s. [REDACTED] two such operations, in Padibe in 1995 and in Mucwini in 1997.<sup>1944</sup> Daniel Opiyo also testified about an LRA attack directed at the home area of an escaped child, around the end of 1996, in Cetkana.<sup>1945</sup>

<sup>1935</sup> P-0264: [T-64](#), p. 22, lines 2-5.

<sup>1936</sup> P-0264: [T-64](#), p. 22, line 16 – p. 23, line 16.

<sup>1937</sup> Para. 132 above.

<sup>1938</sup> P-0205: [T-49](#), p. 10, line 24 – p. 11, line 2.

<sup>1939</sup> P-0205: [T-49](#), p. 11, lines 3-8.

<sup>1940</sup> P-0231: [T-123](#), p. 20, lines 21-25.

<sup>1941</sup> P-0406: [T-156](#), p. 10, lines 10-13.

<sup>1942</sup> P-0070: [T-106](#), p. 62, lines 17-22.

<sup>1943</sup> P-0070: [T-107](#), p. 10, lines 10-16.

<sup>1944</sup> [REDACTED]

<sup>1945</sup> D-0056: T-228-CONF, p. 18, lines 10-24.

994. The Defence has emphasised that at least one such attack occurred also during the period of the charges, in July 2002 at Mucwini.<sup>1946</sup>

995. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>1947</sup> [REDACTED]  
[REDACTED]<sup>1948</sup>  
[REDACTED]<sup>1949</sup>

996. In addition, an entry in the ISO logbook for the date of 27 July 2002 records Joseph Kony explaining to Vincent Otti that the killings of civilians which had recently been undertaken by the LRA in Mucwini came as a result of one person grabbing the gun from an LRA soldier.<sup>1950</sup> According to the ISO logbook, Joseph Kony also stated that up to 54 people were killed in the operation.<sup>1951</sup> [REDACTED]

[REDACTED]  
[REDACTED]<sup>1952</sup> [REDACTED]  
[REDACTED]<sup>1953</sup>

997. In conclusion on this point, the Chamber accepts as established that the attack on civilians in Mucwini took place and that it was executed in response to escape by an abductee, immediately preceding it.

998. The Chamber also accepts that this event was significant and became notorious in the LRA, as demonstrated by the fact that it was reported by witnesses who heard about it.<sup>1954</sup> In the view of the Chamber, the collective awareness of the attack in Mucwini added to the believability of the threat issued to LRA members that if they escaped, their home areas would be attacked. This was explicitly acknowledged by P-0233.<sup>1955</sup> This is independent from the fact that, actually, as it appears on the evidence, the circumstances of the attack on Mucwini, i.e. in particular the fact that the person who escaped did so

<sup>1946</sup> [Defence Closing Brief](#), para. 690.

<sup>1947</sup> [REDACTED]

<sup>1948</sup> [REDACTED]

<sup>1949</sup> [REDACTED]

<sup>1950</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0327.

<sup>1951</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0327.

<sup>1952</sup> [REDACTED]

<sup>1953</sup> [REDACTED]

<sup>1954</sup> See P-0233: [T-112](#), p. 24, lines 13-23; P-0352: [T-67](#), p. 90, lines 4-10.

<sup>1955</sup> P-0233: [T-112](#), p. 24, line 24 – p. 25, line 2.

after stealing a weapon and opening fire on the LRA, are distinguishable. It is notable that the fact that a gun was stolen and that [REDACTED] were emphasised in Joseph Kony's radio message.

**A further measure taken to discourage escaping was giving soldiers false or negative information about life outside of the LRA, including that they would be killed by government soldiers if they escaped and went home, and preventing them from obtaining information through public radio broadcasts.**<sup>1956</sup>

999. There is witness testimony in relation to LRA members being given false or negative information about life outside of the LRA. Several witnesses testified that LRA members were told that government soldiers would kill them if they escaped from the LRA and went home.<sup>1957</sup> P-0070 confirmed that LRA members were told that the UPDF would kill them.<sup>1958</sup> P-0231 stated that it was frequently explained to people that if they escaped and returned home, the government soldiers would capture and imprison them, and not allow visits from their family members.<sup>1959</sup>

1000. In addition, very specifically, P-0264 testified that he was told by an LRA soldier about two weeks after his abduction that his parents had both been killed and that there was 'no reason for you to go home'.<sup>1960</sup> This was, however, not true.<sup>1961</sup>

1001. As concerns the prohibition of listening to public radio broadcasts, the Chamber first notes that the radio broadcasts in question were primarily those of Mega FM, a Gulu-based radio station which frequently reported on LRA activities and also broadcast a radio show known as Dwog Cen Paco, which featured persons who had successfully escaped from the LRA and published direct appeals to LRA members to defect, including by publicising the promise of amnesty.<sup>1962</sup>

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<sup>1956</sup> Para. 132 above.

<sup>1957</sup> P-0054: [T-94](#), p. 45, line 21 – p. 46, line 7; P-0138: T-121-CONF, p. 20, lines 2-11; P-0172: [T-113](#), p. 45, line 21 – p. 46, line 7; P-0314: [T-74](#), p. 62, line 25 – p. 63, line 4; P-0372: [T-149](#), p. 22, line 19 – p. 23, line 1.

<sup>1958</sup> P-0070: [T-107](#), p. 35, line 24 – p. 36, line 5.

<sup>1959</sup> P-0231: [T-123](#), p. 24, lines 7-13.

<sup>1960</sup> P-0264: [T-64](#), p. 19, line 12 – p. 20, line 2.

<sup>1961</sup> P-0264: [T-64](#), p. 20, lines 3-5.

<sup>1962</sup> See P-0145: [T-143](#), p. 35, line 21 – p. 36, line 25; P-0307: [T-152](#), p. 69, lines 2-13; P-0440: [T-40](#), p. 15, lines 2-14; [T-41](#), p. 5, lines 2-7.

1002.P-0054 stated that it was generally not allowed in the LRA to listen to the radio, and that this prohibition came from Joseph Kony.<sup>1963</sup> P-0440 testified identically on this issue.<sup>1964</sup> The ISO logbook contains a reference to Joseph Kony instructing LRA members not to listen to Radio Uganda and other FM radio stations, with the explanation that they only ‘talk lies’.<sup>1965</sup> P-0145 stated that there were times when LRA soldiers were prohibited from listening to Mega FM except for senior commanders, but, at times, junior commanders or officers were allowed to listen too.<sup>1966</sup> This means that in spite of the prohibition, some information broadcasted did reach the members of the LRA. P-0145 confirmed that the main programme of interest to those in the bush was Dwog Paco: ‘what most people wanted to find out was whether it was true; if you went home, would you be killed, would you survive?’<sup>1967</sup> P-0307 also testified that he was able to listen to Mega FM while in the LRA.<sup>1968</sup>

1003.P-0054 also stated that ‘[t]he LRA would say if you returned home the government soldiers would take you to the radio, but while holding you [at] a gunpoint, they would require you to speak only what they would want you to communicate out’.<sup>1969</sup> Similarly, P-0406 testified that he was told that the voices of escapees on Mega FM were just recordings, and that the people who spoke were recorded and killed thereafter.<sup>1970</sup> P-0145 stated that in the LRA, people were told that as soon as they came out of the bush they would be killed, and that voices would be recorded and put on Mega FM as a hoax.<sup>1971</sup>

1004.This evidence indicates convincingly that the LRA sought to manage the information available to its members, in order to prevent them from developing a realistic view on the possibility and consequences of escaping. As such, this is a means squarely fitting within the measures employed in the LRA to sustain a sufficient number of individuals on whom to rely for the execution of orders. This measure affected mostly the lower ranking soldiers, who were largely prohibited from listening to public radio broadcasts.

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<sup>1963</sup> P-0054: [T-94](#), p. 40, lines 13-21.

<sup>1964</sup> P-0440: [T-41](#), p. 5, lines 8-10.

<sup>1965</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0499. *See also* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2069.

<sup>1966</sup> P-0145: [T-143](#), p. 37, lines 18-22.

<sup>1967</sup> P-0145: [T-143](#), p. 38, lines 16-20.

<sup>1968</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 79; P-0307: [T-152](#), p. 69, lines 2-18.

<sup>1969</sup> P-0054: [T-94](#), p. 46, lines 15-19.

<sup>1970</sup> P-0406: [T-156](#), p. 11, lines 12-20. *See also* P-0231: [T-123](#), p. 24, line 22 – p. 25, line 4.

<sup>1971</sup> P-0145: [T-143](#), p. 36, lines 14-22.

On the other hand, the evidence demonstrates that commanders generally had the ability to and did listen to public radio.

f. Living conditions

**Sinia, and more generally LRA members, especially those of lower rank, suffered from hunger and lack of adequate clothing. They regularly slept outside on the ground. There was no or very limited treatment available in case of sickness or injury.**<sup>1972</sup>

1005. In the view of the Chamber, hunger, as well as lack of adequate clothing and medical treatment, which were reported by witnesses as regular problems faced in the LRA, compounded the suffering of the LRA members. Some witnesses described specifically the emotional strain this placed on them during their time in the LRA. It is only natural to conclude that this situation made LRA members more susceptible to the authority of the leaders, and less able to resist their control.

1006. P-0252 testified that LRA soldiers survived on ‘greens and leaves and whatever you find edible from the bush’, and that there was a difference between what the commanders ate and what the foot soldiers ate.<sup>1973</sup> He gave the specific example of the practice of drying beef so that the commander could ‘keep[] eating that dried meat’.<sup>1974</sup> P-0340 similarly testified that in periods of shortage, food was reserved only for commanders, and the rest of the LRA members had to continue moving until food was looted, when they could eat again.<sup>1975</sup> P-0379 testified that if there was enough food, and if they were not being pursued, there could have been two meals a day in his unit.<sup>1976</sup> However, during a pursuit or when there was a helicopter gunship hovering above, there would be no meal during the day, but only in the evening.<sup>1977</sup> The witness also testified that the quantity of the available food depended entirely on the looting from civilians, and that in times of shortage items like chicken or beans were given to the commanders.<sup>1978</sup> P-0406 stated that when he was abducted in 2002 there was enough food, but ‘between 2003 and 2004, life became extremely hard, and we did not have sufficient food. If you wanted food, you

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<sup>1972</sup> Para. 133 above.

<sup>1973</sup> P-0252: [T-88](#), p. 30, lines 11-16.

<sup>1974</sup> P-0252: [T-88](#), p. 30, lines 17-20.

<sup>1975</sup> P-0340: [T-102](#), p. 50, lines 19-25.

<sup>1976</sup> P-0379: [T-58](#), p. 9, lines 15-21.

<sup>1977</sup> P-0379: [T-58](#), p. 9, lines 22-23.

<sup>1978</sup> P-0379: [T-58](#), p. 9, line 24 – p. 10, line 8.

had to go to the camps and fight.’<sup>1979</sup> P-0314 also testified that there was a food shortage in the LRA.<sup>1980</sup>

1007.P-0070 testified that sometimes things were fine for the newly abducted, and sometimes not, depending on the situation.<sup>1981</sup> He stated that in particular following an abduction of a large number of persons, they could not have anywhere to sleep, blankets or anything to cover themselves, or enough food.<sup>1982</sup> Asked specifically about footwear, the witness explained that new abductees who arrived with shoes kept them, but otherwise were not given any.<sup>1983</sup> Similarly, P-0406 stated that in 2003-2004, LRA members were wearing tattered clothing, and did not have bedsheets to cover themselves.<sup>1984</sup>

1008.P-0264 testified that there was nowhere else to sleep except in the bush.<sup>1985</sup> After arriving at a position each day, ordinary soldiers had to set up their own beds, using a net or tent if they had one, and otherwise using grass in the rainy season.<sup>1986</sup> P-0314 testified that when he was abducted there was no tent that he could use, so he slept in the open, but that during the rainy season a tent was put up and eight persons slept inside.<sup>1987</sup> The witnesses consistently testified that relatively more comfort was available to commanders. P-0340 stated that tents were only meant for the commanders, and the rest of the people would sleep around a bonfire without the protection of a tent.<sup>1988</sup> P-0286 also testified that only commanders had tents,<sup>1989</sup> whereas P-0379 stated that some foot soldiers also had tents.<sup>1990</sup> P-0379 testified that in many cases commanders had thin, foldable mattresses, but that the ordinary soldiers and the newly abducted people did not have beds.<sup>1991</sup> P-0410 also mentioned that his commander’s bed was made using a foldable mattress.<sup>1992</sup> Some soldiers had polythene bags that they used for sleeping as a

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<sup>1979</sup> P-0406: [T-154](#), p. 84, lines 16-20.

<sup>1980</sup> P-0314: [T-75](#), p. 52, lines 5-7.

<sup>1981</sup> P-0070: [T-106](#), p. 57, lines 2-6.

<sup>1982</sup> P-0070: [T-106](#), p. 57, lines 6-9.

<sup>1983</sup> P-0070: [T-106](#), p. 58, lines 9-14.

<sup>1984</sup> P-0406: [T-154](#), p. 84, lines 21-25.

<sup>1985</sup> P-0264: [T-65](#), p. 58, lines 8-10.

<sup>1986</sup> P-0264: [T-65](#), p. 58, lines 13-18.

<sup>1987</sup> P-0314: [T-75](#), p. 50, line 23 – p. 51, line 7.

<sup>1988</sup> P-0340: [T-102](#), p. 52, lines 2-7.

<sup>1989</sup> P-0286: [T-131](#), p. 58, lines 13-14.

<sup>1990</sup> P-0379: [T-58](#), p. 9, lines 1-7.

<sup>1991</sup> P-0379: [T-58](#), p. 9, lines 8-13.

<sup>1992</sup> P-0410: [T-151](#), p. 24, lines 10-20.

bed.<sup>1993</sup> P-0406 testified that while commanders had beds, ‘we just slept anywhere we could rest our heads’.<sup>1994</sup> In this context, the Chamber also refers to its findings below, to the effect that commanders, including Dominic Ongwen, forced abducted women and girls to perform domestic work in their households.<sup>1995</sup>

1009. P-0070 stated that in the LRA, people also died of sickness, and mentioned in particular that during the time the LRA was in Sudan, a cholera epidemic killed a lot of people.<sup>1996</sup> P-0205 also stated that in the LRA, obtaining medicines was a problem.<sup>1997</sup> P-0372 stated that no medicine was available in the LRA, and that apart from dressing the wounds, no other treatment could be given to the injured.<sup>1998</sup>

1010. In addition, the Chamber also heard evidence describing generally the emotional condition of LRA members. P-0070 stated that newly abducted people were very fearful, because they were not used to gunshots or being pursued by gunships or armoured vehicles.<sup>1999</sup> Indeed, P-0309 testified that he had never seen killings before his abduction, and that the first time he saw it he got ‘so scared’ and was shaking.<sup>2000</sup>

1011. The Chamber also finds very compelling the testimony of P-0340, who, asked about the relationships with other abductees, responded as follows:

In the bush there was nowhere you could form friendship. Because if you stay close to each other they would think you are either planning to escape and it was therefore difficult for you to create friendship with others.<sup>2001</sup>

1012. This, even if just a personal perception on the part of the witness, illustrates the constant state of fear and apprehension created by the conditions in which LRA members lived.

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<sup>1993</sup> P-0379: [T-58](#), p. 9, lines 13-14.

<sup>1994</sup> P-0406: [T-154](#), p. 85, lines 1-3.

<sup>1995</sup> See sections IV.C.10.ii.c, IV.C.11.vi below.

<sup>1996</sup> P-0070: [T-106](#), p. 63, lines 13-15. See, on the cholera epidemic before the period of the charges, also P-0231: [T-123](#), p. 5, lines 9-10; P-0226: T-8-CONF, p. 43, lines 16-19.

<sup>1997</sup> P-0205: [T-49](#), p. 66, lines 19-22.

<sup>1998</sup> P-0372: [T-148](#), p. 65, line 25 – p. 66, line 4.

<sup>1999</sup> P-0070: [T-106](#), p. 61, line 22 – p. 62, line 2.

<sup>2000</sup> P-0309: [T-61](#), p. 50, line 22 – p. 51, line 2.

<sup>2001</sup> P-0340: [T-102](#), p. 52, lines 8-12. See also P-0330: [T-53](#), p. 47, lines 10-15.

### 3. *Dominic Ongwen's position within the LRA*

**At the beginning of the period relevant for the charges, on 1 July 2002, Dominic Ongwen was battalion commander, in charge of the Oka battalion of Sinia brigade. Dominic Ongwen was promoted to the rank of major on 1 July 2002.**<sup>2002</sup>

1013. In the present section, the Chamber lays out its analysis of evidence in relation to the position occupied by Dominic Ongwen in the LRA, and in particular within Sinia, during the period relevant for the charges, i.e. between 1 July 2002 and 31 December 2005. It is important to note that the evidence in relation to how Dominic Ongwen exercised his authority, discussed at various other points in this judgment, is also relevant and supports the conclusions reached in this section.

1014. Dominic Ongwen was born in or around 1978 and abducted into the LRA in 1987.<sup>2003</sup> At the commencement of the period relevant for the charges, he held the position of commander of Oka battalion in Sinia brigade. This is established by the testimonies of P-0205 and P-0231, who testified that Dominic Ongwen was the commander of Oka battalion at the time the LRA returned from Sudan following Operation Iron Fist.<sup>2004</sup>

1015. ISO logbooks of radio communications provide further corroboration. They record, on 20 September 2002<sup>2005</sup> and 2 December 2002,<sup>2006</sup> transmissions of overviews of the structure of the LRA, including references to Dominic Ongwen as battalion commander in Sinia brigade.

1016. As to Dominic Ongwen's rank, the ISO logbook indicates that he was promoted from the rank of captain to the rank of major on 1 July 2002.<sup>2007</sup> This is confirmed by P-0231, who testified that at the time of his injury, which as discussed in the following section occurred in October or November 2002, Dominic Ongwen held the rank of major.<sup>2008</sup>

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<sup>2002</sup> Para. 134 above.

<sup>2003</sup> See section I.C above.

<sup>2004</sup> P-0205: [T-47](#), p. 17, line 25 – p. 18, line 7; P-0231: T-122-CONF, p. 27, line 24 – p. 28, line 5. See also P-0070: [T-105](#), p. 67, line 24 – p. 68, line 3 (testifying that Dominic Ongwen was battalion commander in Sinia '[f]rom the time we left Sudan during the Iron Fist' up to 2003). As explained above, the LRA move from Sudan following Operation Iron Fist occurred a short time before 1 July 2002. See section I.A above.

<sup>2005</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0166-67.

<sup>2006</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0079. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>2007</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0246, 0248. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>2008</sup> P-0231: [T-122](#), p. 53, lines 12-15.

**In October or November 2002 Dominic Ongwen was injured and placed in sickbay until around mid-2003. From at least December 2002 onwards, he again exercised his authority as battalion commander. In April 2003, Dominic Ongwen was briefly arrested by Vincent Otti. The arrest did not interrupt the exercise of his authority for any significant period.**<sup>2009</sup>

1017. There are two particular events in Dominic Ongwen's personal chronology in the LRA of which the particular relevance for the charges has been extensively discussed during the trial and is disputed by the parties: Dominic Ongwen's injury in late 2002, and his arrest by Vincent Otti in 2003.

1018. As to the injury, the parties agree,<sup>2010</sup> and the evidence consistently demonstrates that Dominic Ongwen was injured in late 2002. The disagreement between the parties relates to the effect this injury had on his performance of tasks as an active senior LRA commander. While the Prosecutor submits that even if injured, Dominic Ongwen retained control over Sinia fighters and was operational again by at least 6 December 2002,<sup>2011</sup> the Defence submits that Dominic Ongwen 'spent the next one to one and a half years in sickbay', did not retain command of his unit at the time, and, in the final instance, could not have participated in the LRA attack on Pajule in October 2003.<sup>2012</sup>

1019. As concerns the arrest, the Defence case is that at the time of the Pajule attack, while in sickbay, Dominic Ongwen was under arrest by Vincent Otti.<sup>2013</sup> The Prosecution, relying primarily on the radio intercepts, concedes that Dominic Ongwen was indeed arrested 'briefly' in 2003, but argues that this occurred around 20 April 2003 and that Dominic Ongwen was 'back in action two days after his arrest'.<sup>2014</sup>

1020. In the following paragraphs, the Chamber considers first the evidence relating to Dominic Ongwen's injury in late 2002 and, second, the evidence in relation to his arrest by Vincent Otti in April 2003. Third, the Chamber addresses the question of the impact of either of these events on Dominic Ongwen's activities in the LRA in mid-2003.

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<sup>2009</sup> Para. 135 above.

<sup>2010</sup> [Prosecution Closing Brief](#), para. 33 (stating that Dominic Ongwen was injured 'on or around 9 November 2002'); [Defence Closing Brief](#), para. 313 (stating that the injury took place in 'late 2002').

<sup>2011</sup> [Prosecution Closing Brief](#), paras 34-45.

<sup>2012</sup> [Defence Closing Brief](#), paras 313-314.

<sup>2013</sup> [Defence Closing Brief](#), paras 308, 315, 322, 685.

<sup>2014</sup> [Prosecution Closing Brief](#), paras 46-49.

1021. The circumstances of Dominic Ongwen's injury are described consistently by witnesses P-0231, P-0205 and P-0379, who have detailed knowledge of the matter, based on their personal observation as LRA fighters in close proximity to Dominic Ongwen.

1022. P-0231 stated that Dominic Ongwen was injured during a mission 'towards the border between Acholi and Karamoja', specifically 'between Adilang and Patongo, towards the Lango side'.<sup>2015</sup> He testified that the unit did not actually arrive at the place of the mission but turned back before, and engaged in fighting with some UPDF soldiers during their return, at which point Dominic Ongwen was shot in the leg.<sup>2016</sup>

1023. P-0205 testified that Dominic Ongwen was injured at Ngora on the way to attack Abim.<sup>2017</sup> Specifically, P-0205 states that Dominic Ongwen was shot in the leg during an ambush while they were trying to cross the Ngora road.<sup>2018</sup> P-0205 stated that he had already crossed the road, when an escort of Dominic Ongwen found him and told him that Dominic Ongwen had been injured.<sup>2019</sup> P-0205 turned back with the escort and went to the location where Dominic Ongwen was.<sup>2020</sup> P-0205 carried Dominic Ongwen from there.<sup>2021</sup>

1024. P-0379 and P-0330 corroborated this sequence of events from their viewpoint. P-0379 stated that Dominic Ongwen was shot in the thigh when crossing a road, and initially left behind with his escort.<sup>2022</sup> The witness was in a group that had already gone ahead, when Dominic Ongwen's escort came and told them Dominic Ongwen had been shot.<sup>2023</sup> They returned to where Dominic Ongwen was and carried him away from there.<sup>2024</sup> P-0330 in turn stated that he was in the same group with Dominic Ongwen when the latter was shot in the leg in an ambush while crossing a road.<sup>2025</sup>

<sup>2015</sup> P-0231: [T-122](#), p. 52, lines 13-25.

<sup>2016</sup> P-0231: [T-122](#), p. 53, lines 1-4.

<sup>2017</sup> P-0205: [T-47](#), p. 22, lines 4-10, p. 25, lines 10-18.

<sup>2018</sup> P-0205: [T-47](#), p. 22, lines 4-10.

<sup>2019</sup> P-0205: [T-47](#), p. 22, lines 15-21.

<sup>2020</sup> P-0205: [T-47](#), p. 22, lines 21-22.

<sup>2021</sup> P-0205: T-47-CONF, p. 22, line 22.

<sup>2022</sup> P-0379: [T-56](#), p. 55, lines 4-11. The Chamber notes that P-0379 stated that Dominic Ongwen was injured on the 'road leading to Patongo' ([T-57](#), p. 3, lines 9-11), around Kalongo (T-59-CONF, p. 20, line 23 – p. 21, line 11), which is compatible with P-0205's evidence.

<sup>2023</sup> P-0379: [T-56](#), p. 55, lines 12-13.

<sup>2024</sup> P-0379: [T-56](#), p. 55, lines 16-20.

<sup>2025</sup> P-0330: [T-52](#), p. 67, lines 13-25.

1025. Further corroboration of the above testimonies was provided by P-0226 and P-0235.<sup>2026</sup>

1026. The Chamber observes that the witnesses referred to above have used different place names to indicate the approximate location, but that these indications are compatible, and all indicate that Dominic Ongwen was injured at a location somewhere in the area of Patongo, Kalongo, and Adilang.

1027. Regarding the approximate date of the injury, the Chamber notes that the testimonies of P-0231 and P-0205, who testified about the date, are relatively consistent. P-0231 stated that it happened at some point in the period between August and October 2002, after operation Iron Fist and during the rainy season when the grass had overgrown.<sup>2027</sup> P-0205 testified that the injury took place in October or November 2002.<sup>2028</sup>

1028. The Prosecution puts forward the specific date of 9 November 2002, referring in particular to logbook evidence as ‘mak[ing] clear that Mr Ongwen was injured in early November’.<sup>2029</sup> The logbook entry in question, summarising a radio conversation intercepted by the ISO on 12 November 2002, reads as follows:

M/while Kony asked Dominic to send him the loses he incurred in the two contacts with UPDF recently. Dominic told Kony that 54 soldiers were wounded in Saturdays clash with UPDF at Olung [?] Primary school. He reported among the wounded were some offr, and one offr has his right leg broken.<sup>2030</sup>

1029. In the view of the Chamber, the content of the logbook entry is not conclusive by itself because it does not explicitly refer to Dominic Ongwen as the injured officer. Also from the other information given, that link cannot be made with confidence. For this reason,

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<sup>2026</sup> P-0226 testified that Dominic Ongwen was shot after an attack on Patongo, when they were walking away and crossing a road. P-0226: T-9-CONF, p. 67, line 22 – p. 68, line 13. P-0235 also testified that Dominic Ongwen was injured near the Kalongo road, which is an indication of location compatible with the above-cited witnesses, and that he was carried away by his escort to a meeting with Vincent Otti. P-0235: T-17-CONF, p. 57, line 10 – p. 58, line 3.

<sup>2027</sup> P-0231: [T-122](#), p. 52, lines 13-17; [T-123](#), p. 48, lines 16-24.

<sup>2028</sup> P-0205: [T-47](#), p. 22, lines 4-10, p. 25, lines 10-18.

<sup>2029</sup> [Prosecution Closing Brief](#), para. 33.

<sup>2030</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0025. The Saturday before 12 November 2002 was 9 November 2002. The same clash had been reported the day before, on 11 November 2002, as having taken place ‘y/day’, i.e. on 10 November 2002, ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0021-22. The ISO logbook also records Dominic Ongwen as sending a report in the morning of 10 November 2002, reporting a clash with the UPDF ‘in a place called Ciga Ciga’, ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0019-20. It is not possible to determine on the face of the logbook whether this is the same or a separate clash, or indeed to conclusively date the clash in which the officer had his leg broken.

the Chamber does not rely on this logbook entry for the determination of the date of Dominic Ongwen's injury, and instead relies on witness testimonies.

1030. The Chamber also acknowledges the statement of P-0236 as it is relatively precise as to when Dominic Ongwen's injury occurred. P-0236 stated that Dominic Ongwen was brought injured during Independence Day celebrations around one month after her abduction,<sup>2031</sup> meaning around 9 October 2002. Accounting for the difficulties in estimating the dates of distant events, P-0236's testimony may be considered in line with the rest of the evidence. The reference to Independence Day celebrations, however, is not confirmed by P-0231, P-0205 or P-0379, all witnesses with more immediate direct knowledge, and therefore the Chamber attributes no significance to it.

1031. It must in any case be noted that a finding on the specific date of the injury is not required. The Chamber considers the evidence to be overall compatible, and finds it sufficient to conclude that the injury took place in October or November 2002.

1032. On this specific point, the Chamber considered, but ultimately did not accept, the evidence of P-0235. P-0235 spontaneously placed the time of injury in 2003,<sup>2032</sup> and testified it took place 'around August'.<sup>2033</sup> In light of other evidence, discussed above, which is detailed and contextualised, the estimation of the date given by P-0235 is unconvincing.<sup>2034</sup>

1033. The evidence is clear that following his injury, Dominic Ongwen was placed in an LRA sickbay.<sup>2035</sup> According to the evidence, in the LRA a sickbay was where the sick and injured as well as nursing mothers were kept grouped together.<sup>2036</sup> A sickbay was organised for one or more brigades, depending on the location where an injury occurred and where the nearest sickbay was.<sup>2037</sup> Notably, a sickbay was not fixed at a particular

<sup>2031</sup> P-0236: T-16-CONF, p. 38, line 18 – p. 39, line 13.

<sup>2032</sup> P-0235: T-17-CONF, p. 57, lines 9-18.

<sup>2033</sup> P-0235: T-17-CONF, p. 59, lines 9-15.

<sup>2034</sup> It is also noted that P-0235 estimated the duration of Dominic Ongwen's recovery at one and a half years (*see* para. 1043 below), which would bring the recovery towards the end of 2004 if not further, a proposition which is entirely out of line with the rest of the evidence.

<sup>2035</sup> P-0231: [T-122](#), p. 53, lines 16-21; P-0205: [T-47](#), p. 25, lines 3-9; P-0309: [T-61](#), p. 38, lines 4-24; P-0379: [T-56](#), p. 56, lines 11-14. *See also* P-0330: [T-52](#), p. 69, lines 7-9. In light of the other consistent evidence, the Chamber attributes no consequence to P-0330 describing the sickbay as a 'Gilva bay'.

<sup>2036</sup> P-0142: [T-71](#), p. 22, lines 2-7; P-0016: [T-34](#), p. 7, line 22-23.

<sup>2037</sup> P-0142: [T-71](#), p. 22, lines 13-16.

place, but moved, depending on the danger posed by government soldiers.<sup>2038</sup> As such, the Chamber observes that an LRA sickbay was not so much a fixed place, but rather an organisational unit.

1034. The evidence indicates that part of the Oka battalion, the battalion under Dominic Ongwen's command, stayed at the sickbay with him, and that altogether there were about 20-25 people at the sickbay.<sup>2039</sup> P-0231 stated that Odong Cowboy, Oka deputy commander at the time, was in charge of the sickbay until his surrender to the government.<sup>2040</sup> Evidence indicates that Odong Cowboy escaped from the LRA in March 2003.<sup>2041</sup>

1035. Another part of the Oka battalion, however, did not stay at the sickbay with Dominic Ongwen.<sup>2042</sup> These soldiers were under the responsibility of another person from the Oka battalion, whom P-0205 identified as Cele.<sup>2043</sup>

1036. Some of the charges brought against Dominic Ongwen span across the period of his injury and subsequent stay in sickbay. The Chamber must therefore determine whether Dominic Ongwen exercised his powers as commander of Oka battalion also during that period.

1037. In this regard, the Chamber concludes that any disruption to Dominic Ongwen's exercise of his powers as Oka battalion commander was limited in time. As laid out in the following paragraphs, as early as December 2002, Dominic Ongwen was again exercising his authority as battalion commander.

1038. This is demonstrated first by the evidence which shows that Dominic Ongwen retained command while in sickbay. P-0231 testified that the sickbay sustained itself through

<sup>2038</sup> P-0142: [T-71](#), p. 22, lines 17-22. *See also* P-0205: [T-49](#), p. 68, lines 8-10.

<sup>2039</sup> P-0205: [T-47](#), p. 25, lines 19-23; P-0231: [T-122](#), p. 55, lines 21-24; P-0309: [T-62](#), p. 27, line 22 – p. 28, line 2.

<sup>2040</sup> P-0231: [T-122](#), p. 53, line 22 – p. 54, line 3; [T-123](#), p. 50, lines 19-25. P-0205 corroborated that Odong Cowboy was at the sickbay with Dominic Ongwen and that he was Oka deputy commander at the time, P-0205: [T-47](#), p. 25, line 19 – p. 26, line 13.

<sup>2041</sup> *See* para. 2622 below.

<sup>2042</sup> P-0231: [T-122](#), p. 57, lines 6-13.

<sup>2043</sup> P-0205: [T-50](#), p. 12, lines 14-16. *See also* P-0205: T-49-CONF, p. 64, lines 18-21. P-0231 testified that the part of Oka battalion which did not stay with Dominic Ongwen at the sickbay was under the responsibility of Otto Agweng, the IO in Oka battalion, while there were also 'some other officers (P-0231: [T-122](#), p. 59, lines 6-17). Noting that P-0231 explained that he was not sure about the matter, and noting that the issue is of limited importance, the Chamber considers that there is no need to further address the matter.

‘operations’, which meant going to ‘collect food’, and that whenever fighters went on such operations, they informed Dominic Ongwen and obtained his go ahead in advance.<sup>2044</sup> P-0231 testified generally that during Dominic Ongwen’s time in sickbay, the members of Oka battalion who were in sickbay followed Dominic Ongwen’s instructions, but that Dominic Ongwen otherwise did not issue any orders to other members of the group during that time.<sup>2045</sup> Daniel Opiyo also testified that at the time Dominic Ongwen did not have any authority, but was ‘respected as a high ranking officer who was a patient at the sickbay’.<sup>2046</sup>

1039. The matter-of-fact observation of P-0101 is also valuable in this context. She stated in respect of Dominic Ongwen’s authority while in sickbay: ‘[e]ven if he was still weak physically he could still use his mouth to give instructions or orders because if a superior gives instructions, you have to go and follow what he says’.<sup>2047</sup>

1040. P-0205 testified that while in sickbay, Dominic Ongwen sent people to ‘work’.<sup>2048</sup> Specifically, P-0205 stated that in December 2002, Dominic Ongwen ‘sent people to collect cows, cattle from Pajule’,<sup>2049</sup> and that in February 2003 Dominic Ongwen, while still in sickbay, ordered an attack on Opit.<sup>2050</sup> P-0205 also testified that a month after the attack on Opit, he attended an RV where it was stated that Dominic Ongwen was promoted.<sup>2051</sup> According to the witness, Buk Abudema had come from Sudan and handed over to Dominic Ongwen the items he had brought, and gave him instructions.<sup>2052</sup> P-0205 testified that because Dominic Ongwen ‘couldn’t move far’, he was taken back to the sickbay.<sup>2053</sup>

1041. P-0379 similarly stated that sometime between February and April 2003, Dominic Ongwen sent people to conduct an ambush on the UPDF who were patrolling on the Lalogi road, but did not himself go.<sup>2054</sup> He stated that at that time, Dominic Ongwen

<sup>2044</sup> P-0231: T-122-CONF, p. 54, lines 16-23.

<sup>2045</sup> P-0231: [T-122](#), p. 60, lines 8-16.

<sup>2046</sup> D-0056: [T-228](#), p. 61, lines 22 – p. 62, line 1.

<sup>2047</sup> P-0101: T-13-CONF, p. 57, lines 3-5.

<sup>2048</sup> P-0205: [T-47](#), p. 28, lines 23-25.

<sup>2049</sup> P-0205: [T-47](#), p. 29, lines 1-3.

<sup>2050</sup> P-0205: [T-47](#), p. 29, line 16 – p. 30, line 10.

<sup>2051</sup> P-0205: [T-47](#), p. 32, lines 15-23.

<sup>2052</sup> P-0205: [T-47](#), p. 32, line 24 – p. 33, line 11.

<sup>2053</sup> P-0205: [T-47](#), p. 33, lines 7-9.

<sup>2054</sup> P-0379: T-59-CONF, p. 36, line 8 – p. 37, line 2.

could walk, but was still limping, and ‘wasn’t yet doing very well’.<sup>2055</sup> He also testified that while in sickbay, Dominic Ongwen sent soldiers to Awere.<sup>2056</sup> P-0379 also testified that Dominic Ongwen personally led an attack on Opit, and that he was able to walk at the time.<sup>2057</sup> Considering that P-0379 placed this attack after the attack on Awere,<sup>2058</sup> which took place in April 2003,<sup>2059</sup> this was a separate event than the one described by P-0205 as taking place in February 2003.

1042. Further, P-0366 testified that at the time when she escaped, Dominic Ongwen was able to ‘walk for short distances and rest’.<sup>2060</sup> As discussed above, P-0366 escaped around February 2003.<sup>2061</sup> In turn, P-0231 testified that at the time of Dominic Ongwen’s arrest he was able to ‘walk but using a stick’.<sup>2062</sup>

1043. It can be concluded from the above that Dominic Ongwen was able to walk by around February – April 2003. Because the evidence of P-0205, P-0379, P-0366 and P-0231 is more specific and contextualised, the Chamber does not base itself on P-0235’s statement that Dominic Ongwen’s recovery took about one and a half years until he was able to finally walk.<sup>2063</sup> While the Chamber does not doubt that P-0235 spent time with Dominic Ongwen during this period, her evidence is but a general estimate, and is affected also by her claim that Dominic Ongwen was injured in August 2003, which, as outlined above, is unconvincing and does not accord with the rest of the evidence.<sup>2064</sup>

1044. The evidence also indicates that while in sickbay, Dominic Ongwen maintained communication with other high commanders of the LRA. P-0379 testified that during the time in sickbay ‘many people’ came to visit Dominic Ongwen.<sup>2065</sup> He stated that Buk Abudema came once, Charles Tabuley came several times, and Lagoga and Odhiambo also came.<sup>2066</sup> P-0205 also testified that he visited Dominic Ongwen while he was in

<sup>2055</sup> P-0379: [T-59](#), p. 37, lines 3-13.

<sup>2056</sup> P-0379: [T-57](#), p. 8, lines 10-15. *See* para. 1160 below.

<sup>2057</sup> P-0379: [T-57](#), p. 13, lines 14-15, p. 14, lines 3-5.

<sup>2058</sup> P-0379: [T-57](#), p. 8, lines 10-17.

<sup>2059</sup> *See* para. 1160 below.

<sup>2060</sup> P-0366: [T-147](#), p. 93, line 25 – p. 94, line 17.

<sup>2061</sup> *See* para. 410 above.

<sup>2062</sup> P-0231: T-122-CONF, p. 63, line 23 – p. 64, line 1.

<sup>2063</sup> P-0235: T-17-CONF, p. 59, lines 2-8.

<sup>2064</sup> P-0235: T-17-CONF, p. 59, lines 9-15.

<sup>2065</sup> P-0379: [T-57](#), p. 5, lines 8-9.

<sup>2066</sup> P-0379: [T-57](#), p. 5, lines 10-16.

sickbay.<sup>2067</sup> The Chamber notes that P-0309 stated that he did not see Vincent Otti, Raska Lukwiya, Charles Tabuley or Tolbert Yadin come visit Dominic Ongwen at the sickbay, and that he did not know whether Buk Abudema, David Oyenga or Cesar Acellam visited either.<sup>2068</sup> However, the Chamber considers that this evidence does not bring into question the reliability of the testimonies of P-0379 and P-0205, especially given that P-0309 was a low-ranking LRA member and that visits to Dominic Ongwen could occur without his knowledge.<sup>2069</sup>

1045. As to radio communications, P-0231 testified that at the sickbay Dominic Ongwen did not have any radio communication equipment.<sup>2070</sup> But asked how Dominic Ongwen would communicate from the sickbay with the rest of the Oka battalion, the witness stated that ‘they would find us’.<sup>2071</sup> There was a scheduled RV every month for this purpose.<sup>2072</sup> P-0231 testified that while Dominic Ongwen did not normally attend these meetings, he came for meetings with the brigade commander, or if there was anything specific that he wanted to discuss.<sup>2073</sup> Similarly, Daniel Opiyo stated that there was no radio at the sickbay, but that the units which brought food sometimes came with the radio.<sup>2074</sup> He stated that it was important for Dominic Ongwen to know what was going on.<sup>2075</sup> In line with these witnesses on the point that Dominic Ongwen used a radio device brought by visitors while in sickbay, P-0016 stated that when he visited Dominic Ongwen in sickbay, his own radio was used to send out a message that Dominic Ongwen was fine, as Dominic Ongwen did not have a radio at the time.<sup>2076</sup> P-0205 further testified that Dominic

<sup>2067</sup> P-0205: [T-47](#), p. 27, lines 2-5.

<sup>2068</sup> P-0309: [T-62](#), p. 24, lines 5-12.

<sup>2069</sup> See also section IV.B.2.ii.b.xvi above.

<sup>2070</sup> P-0231: [T-122](#), p. 57, lines 16-18. See also P-0330: [T-52](#), p. 81, lines 6-13.

<sup>2071</sup> P-0231: [T-122](#), p. 57, lines 16-20. Indeed, the ISO logbook indicates that in late November 2002, arrangements were made to transfer Dominic Ongwen’s radio to another unit, ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0063, 0067.

<sup>2072</sup> P-0231: [T-122](#), p. 57, line 21 – p. 58, line 2.

<sup>2073</sup> P-0231: [T-122](#), p. 59, line 20 – p. 60, line 3.

<sup>2074</sup> D-0056: [T-228](#), p. 61, lines 8-11.

<sup>2075</sup> D-0056: [T-228](#), p. 61, lines 12-21. D-0056 testified that he spent time with Dominic Ongwen at the sickbay, [T-228](#), p. 60, line 20 – p. 61, line 1.

<sup>2076</sup> P-0016: T-34-CONF, p. 19, lines 8-17; T-35-CONF, p. 16, lines 8-16.

Ongwen had access to radio communications when he visited him in sickbay.<sup>2077</sup> P-0235 testified that in sickbay, Dominic Ongwen used a radio to communicate.<sup>2078</sup>

1046. Finally, in this context, it is noted that Dominic Ongwen's name is included in the list of call signs transmitted by Joseph Kony's signaller on 2 December 2002,<sup>2079</sup> and a number of radio communications were intercepted which indicate that Dominic Ongwen was active on radio shortly after this time.

1047. According to the ISO logbook, on 8 December 2002, Dominic Ongwen told Joseph Kony that he ambushed a vehicle on 6 December 2002 on the Kitgum-Gulu road at Ogom near Angagura.<sup>2080</sup> The logbook records Joseph Kony responding that 'what Dominic did was very good by ambushing [a] veh[icle]'.<sup>2081</sup> A UPDF logbook of intercepted communication records Dominic Ongwen as active on radio on 1, 5, 6 and 9 February 2003.<sup>2082</sup> Then, on 10 February 2003, Dominic Ongwen is recorded as informing Raska Lukwiya that Pokot was with him, but that Ojok had gone for another mission.<sup>2083</sup> This entry specifically corroborates the evidence of witnesses who stated that even when in sickbay, Dominic Ongwen exercised his role as commander, including by sending his subordinates on missions. Further logbook evidence indicates that on 12 February 2003, Dominic Ongwen reported that he ambushed and burnt a vehicle the previous day.<sup>2084</sup>

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<sup>2077</sup> P-0205: [T-47](#), p. 27, lines 6-8.

<sup>2078</sup> P-0235: T-17-CONF, p. 67, line 25 – p. 68, line 5. In light of the evidence cited in this paragraph, the Chamber does not find decisive the evidence of P-0330, who responded negatively to the question whether he saw anyone visit Dominic Ongwen at the sickbay with a radio, *see* P-0330: [T-52](#), p. 81, lines 14-15.

<sup>2079</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0079. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>2080</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0093. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>2081</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0093. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>2082</sup> UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3446, 3450, 3452, 3457. The Chamber notes that there are no corresponding logbook entries from other intercepting agencies for these specific dates, but considers, in light of its general discussion of the reliability of intercept evidence, that the UPDF logbook is sufficiently reliable in the context at hand.

<sup>2083</sup> UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3459. The Chamber notes that there are no corresponding logbook entries from other intercepting agencies for this specific date, but considers, in light of its general discussion of the reliability of intercept evidence, that the UPDF logbook is sufficiently reliable in the context at hand.

<sup>2084</sup> UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3461. The Chamber notes that there are no corresponding logbook entries from other intercepting agencies for this specific date, but considers, in light of its general discussion of the reliability of intercept evidence, that the UPDF logbook is sufficiently reliable in the context at hand.

1048. On 18 March 2003, Vincent Otti is recorded in the ISO logbook as sending a message to Dominic Ongwen instructing him to ‘make sure he plants landmines (APM) in the position he is moving to attack’.<sup>2085</sup> On 1 April 2003, Dominic Ongwen is recorded in the ISO logbook as reporting to Joseph Kony that a soldier, ‘left to keep women in the camp (hideout)’, had sex with Abudema’s and Charles Otim’s so-called ‘wives’.<sup>2086</sup> On 2 April 2003, Dominic Ongwen reported that he had already killed the soldier pursuant to Joseph Kony’s order.<sup>2087</sup> On 9 April 2003, Vincent Otti is recorded as giving an order to, *inter alia*, Dominic Ongwen to mobilise soldiers.<sup>2088</sup> On 16 April 2003, Joseph Kony is recorded in the ISO logbook as ‘blast[ing]’ Dominic Ongwen, calling him a ‘weak’ commander and saying that ‘if Dominic is not careful, then he will be demoted so that another off[ic]er take charge of that BN’.<sup>2089</sup>

1049. The Chamber therefore concludes, on the evidence, that Dominic Ongwen’s access to radio communication during his stay in sickbay may not have been permanent, but that he nevertheless had access to a radio at times and did communicate on radio with some regularity.

1050. Following the chronology of the relevant historical facts, the Chamber considers at this juncture the evidence in relation to Dominic Ongwen’s arrest by Vincent Otti. As submitted by the Prosecutor, on 20 April 2003, in a radio communication which was intercepted and logged by both the ISO and the UPDF, Joseph Kony ordered the arrest

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<sup>2085</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0026-27. The Chamber notes that while the entries in the corresponding UPDF logbooks do not mention this specific detail, both in fact stop their entries after recording the conversation between Joseph Kony and the person not affiliated with the LRA, while the ISO logbook clearly recorded more details of the LRA radio communication at this broadcast time (*see* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3523; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6248).

<sup>2086</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0071-72. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3548; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6257.

<sup>2087</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0073. The Chamber notes that while the entries in the corresponding UPDF logbooks do not seem to contain this detail, they appear overall less detailed than the ISO logbook entry for this specific communication time (*see* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3548-49 or UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6257-58).

<sup>2088</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0098. The Chamber notes that while not containing the specific instruction given by Vincent Otti, the UPDF Gulu logbook does mention Tabuley as passing on the order from Kony to Otti which precedes the instruction from Otti (*see* UGA-OTP-0254-0455, at 0463). While the UPDF Soroti logbook does not mention either instruction, it overall contains much less detail than the other logbook entries for this communication time (*see* UGA-OTP-0242-6212, at 6265-66).

<sup>2089</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0124. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0491.

of Dominic Ongwen over a matter involving contact with General Saleh of the UPDF.<sup>2090</sup> On 21 April 2003, Vincent Otti reported that Dominic Ongwen had been arrested.<sup>2091</sup>

1051.P-0231 testified that Dominic Ongwen was arrested by Vincent Otti and accused of communicating with the Government of Uganda by phone.<sup>2092</sup> As a result, the senior soldiers who had been at the sickbay with Dominic Ongwen were told that they were going to be monitored by Vincent Otti's security, while the rest of the people would be staying nearby.<sup>2093</sup> Vincent Otti stated that he would wait for an instruction from Joseph Kony.<sup>2094</sup> The order was given that their weapons be taken away.<sup>2095</sup> Dominic Ongwen and the rest of the group remained under arrest by Vincent Otti for 'between three weeks and a month'.<sup>2096</sup> Thereafter, the arrestees were summoned by Vincent Otti and told they were now free.<sup>2097</sup> They separated from Vincent Otti and went to an area close to the Aswa River.<sup>2098</sup> At some point afterwards, they went to Teso.<sup>2099</sup>

1052. There is a great amount of detail both in the record of the intercepted communication and in the testimony of P-0231, which leads the Chamber to conclude that both sources refer to the same event and complement each other. P-0231's evidence provides detail as to how Dominic Ongwen's arrest came about and what it meant for him to be arrested, whereas the intercept evidence assists in dating the occurrence. In this last regard, the Chamber notes that P-0231 understandably did not provide a date when Dominic Ongwen was arrested. Nevertheless, the relative references to the timing of the event in his testimony, i.e. the reference that it happened while Dominic Ongwen was in sickbay and after the first escape of Odong Cowboy in 2003,<sup>2100</sup> are entirely compatible with the logbook evidence.

<sup>2090</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0136-37; UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0505-06. *See also* section IV.B.3.ii.b above.

<sup>2091</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0139; UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0509-10.

<sup>2092</sup> P-0231: T-122-CONF, p. 62, lines 2-19.

<sup>2093</sup> P-0231: T-122-CONF, p. 62, line 24 – p. 63, line 4.

<sup>2094</sup> P-0231: T-122-CONF, p. 62, lines 15-18.

<sup>2095</sup> P-0231: T-123-CONF, p. 56, lines 13-17.

<sup>2096</sup> P-0231: T-122-CONF, p. 64, lines 8-11.

<sup>2097</sup> P-0231: T-122-CONF, p. 64, lines 11-14.

<sup>2098</sup> P-0231: T-122-CONF, p. 64, lines 15-18.

<sup>2099</sup> P-0231: T-122-CONF, p. 78, lines 4-9.

<sup>2100</sup> The evidence generally indicates that Odong Cow escaped in March 2003. *See* para. 2622 below.

1053. The Chamber notes that whereas P-0379 admitted to having only very limited knowledge, he stated that Kidega at one point, after Odong Cow had already escaped, brought a phone to Dominic Ongwen, which P-0379 saw.<sup>2101</sup> This, in the specific circumstances, provides additional corroboration to the logbook evidence and the evidence of P-0231.

1054. The Chamber clarifies that it does not base its findings on the issue of Dominic Ongwen's arrest on the UPDF intelligence report referred to by the Defence.<sup>2102</sup> The report, dated August 2003, and signed by a UPDF intelligence officer, states that 'Comdr Odomi narrowly escaped firing squad when he was [*sic*] reportedly received some bags and money from Saleh'.<sup>2103</sup> However, it is not possible to ascertain the source from which the UPDF obtained the information. For this reason, the Chamber does not rely on the UPDF intelligence report and instead relies on the available reliable evidence of events surrounding Dominic Ongwen's arrest, in particular the logbook evidence and the testimony of P-0231.

1055. Together with the above witness and logbook evidence, which relates specifically to the question of arrest, it is pertinent to also take into account other evidence which indicates Dominic Ongwen's activities in the immediate period following this arrest around April 2003. This is because, in the final instance, the question of fact is not whether Dominic Ongwen was arrested, but rather whether he was active as LRA commander throughout this period, without any significant interruption. It may be added that the same evidence also allows for determining any impact that the continuing effects of Dominic Ongwen's injury may have had on his activities.

1056. In this regard, the Chamber notes that already on 22 April 2003, Dominic Ongwen is recorded in the logbooks as communicating with other senior LRA commanders in relation to the retrieval of certain hidden weapons.<sup>2104</sup> He is recorded as on air in the UPDF logbook on 25, 26 and 27 April 2003.<sup>2105</sup> On 28 April 2003, according to both the ISO and UPDF records of intercepted communications, he reported to Joseph Kony on

<sup>2101</sup> P-0379: [T-59](#), p. 67, lines 13-23.

<sup>2102</sup> [Defence Closing Brief](#), para. 685, n. 1113 referring to UPDF Report, UGA-OTP-0255-0943, at 0945.

<sup>2103</sup> UPDF Report, UGA-OTP-0255-0943, at 0945.

<sup>2104</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0141; UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0512.

<sup>2105</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0522, 0525, 0527. See also ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0149, 0152, 0155.

the situation on the ground in Lagile, and received instructions.<sup>2106</sup> The intercept logbooks also record Dominic Ongwen as communicating on the radio on 29 April 2003,<sup>2107</sup> 1 May 2003,<sup>2108</sup> 3 May 2003,<sup>2109</sup> 4 May 2003,<sup>2110</sup> and 5 May 2003.<sup>2111</sup>

1057. At this point, the Chamber makes several observations. First, the Chamber notes the evidence received in relation to ‘arrest’ and ‘prison’ within the LRA. This evidence indicates that these concepts referred not to punishment by detention in a confined space, but rather to a specific measure used for commanders, of which the central feature was the (temporal) stripping of usual authority. P-0054 explained, in general terms:

[I]f, for example, someone does something bad, that person will be removed from there and transferred to another brigade. Once you arrive there you would be told to remain there as a prisoner. When you arrive there you may have been transferred with your whole family so you would still be doing some duties. So when you are transferred sometimes you are transferred with the whole family. And when there is work to be done you may be deployed. Or at least one of your soldiers would go for that duty.<sup>2112</sup>

1058. The witness also stated that being in prison meant that one’s rank has been removed, and that the person has been put under someone else.<sup>2113</sup>

1059. P-0070 testified that this punishment was applied ‘regularly’, ‘on several occasions’.<sup>2114</sup> He explained that the arrest or jailing of a commander meant the loss of the right of leadership, whereas a junior soldier would be given luggage to carry under this punishment.<sup>2115</sup> P-0070 specified that an imprisoned person would not be taken to

<sup>2106</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0161; UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0531.

<sup>2107</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0164; UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0534.

<sup>2108</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0171; UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0543.

<sup>2109</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0552. *See also* ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0177.

<sup>2110</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0559. *See also* ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0183.

<sup>2111</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0562-63. *See also* ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0186-87.

<sup>2112</sup> P-0054: [T-94](#), p. 13, lines 16-25.

<sup>2113</sup> P-0054: [T-94](#), p. 14, lines 14-20.

<sup>2114</sup> P-0070: [T-106](#), p. 41, line 25 – p. 42, line 1.

<sup>2115</sup> P-0070: [T-106](#), p. 42, lines 2-6.

another place, but would stay in the convoy; only a brigade commander would be sent to Control Altar.<sup>2116</sup>

1060.P-0070's evidence received corroboration from P-0144, who stated that when a commanding officer of a unit was detained, he would be free to move, but would lose control of his unit until he was reinstated.<sup>2117</sup> Simon Tabo also provided a similar description of 'prison' as a form of punishment in the LRA.<sup>2118</sup>

1061.Second, for this reason the Chamber does not see a contradiction between the radio intercept evidence, which shows Dominic Ongwen as active mere days after the order for his arrest was given by Joseph Kony, and the evidence of P-0231, who stated that the arrest continued for up to one month. Even under arrest and under close supervision by Vincent Otti, Dominic Ongwen could in fact continue to act. There is evidence of his actions as LRA commander from the end of April onwards and in light of this evidence, the fact whether he was formally under arrest fades in importance.

1062.Third, Dominic Ongwen was promoted in September 2003 as discussed below.<sup>2119</sup> In the assessment of the Chamber, this is another element which shows that the effect of Dominic Ongwen's arrest in April 2003 was limited.

1063.On the basis of the above, the Chamber concludes that Dominic Ongwen's arrest in April 2003 did not for any significant period interrupt the exercise of his authority as commander.

1064.As discussed in the following paragraphs, the evidence indicates that at some point in mid-2003, Dominic Ongwen also left the sickbay where he had stayed following his injury. However, the relevance of this fact for the charges is limited, given the evidence that he was active also during his stay in the sickbay. The time that Dominic Ongwen finally left the sickbay can be distilled from the following evidence, consisting of various broadly compatible estimates.

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<sup>2116</sup> P-0070: [T-106](#), p. 42, lines 7-14.

<sup>2117</sup> P-0144: [T-91](#), p. 27, 3-10.

<sup>2118</sup> D-0034 Statement, UGA-D26-0022-0385, at para. 21.

<sup>2119</sup> See para. 1071 below.

1065. The evidence also demonstrates that for some time in mid-2003, Dominic Ongwen was assigned to Control Altar and operated together with Vincent Otti.<sup>2120</sup> It is not clear what the reason was for this arrangement, but, as discussed in detail below, the evidence does not indicate that it meant that Dominic Ongwen was deprived of his authority as LRA commander.<sup>2121</sup>

1066. P-0205 testified that Dominic Ongwen stayed in sickbay for about eight months.<sup>2122</sup> He stated that ‘while we were moving to Teso we were all out of the sickbay. Dominic was now able to walk.’<sup>2123</sup> The Chamber notes that the Defence raised with the witness, on the basis of his prior statement, the question whether or not his evidence was that at the time of Charles Tabuley’s death Dominic Ongwen was still in sickbay.<sup>2124</sup> P-0205 clarified that at the time of Charles Tabuley’s death Dominic Ongwen was out of sickbay and in a convoy with Vincent Otti.<sup>2125</sup> This evidence is consistent with the evidence of Dominic Ongwen’s movements around the time of the attack on Pajule IDP camp, discussed below.<sup>2126</sup>

1067. In line with P-0205’s testimony, P-0231 confirmed that Dominic Ongwen left sickbay to go to Teso.<sup>2127</sup> He stated that this was between August and September 2003.<sup>2128</sup> It is noted that P-0231 testified that this was the time that he separated from Dominic Ongwen to serve under Charles Tabuley.<sup>2129</sup> For this reason, as also explained below, the Chamber does not rely on P-0231 stating that Dominic Ongwen was ‘not involved’ in the attack on Pajule IDP camp, but in fact, as is explained below, concludes the opposite on the basis of other evidence, in particular that given by witnesses who were present and had

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<sup>2120</sup> P-0205: [T-47](#), p. 35, line 7 – p. 36, line 7; T-49-CONF, p. 64, line 10; P-0209: [T-160](#), p. 15, lines 6-8 (stating that Dominic Ongwen was in Control Altar at the time of the attack on Pajule); P-0231: [T-122](#), p. 32, line 25 – p. 33, line 3, p. 35, line 22 – p. 36, line 20 (notably stating that Dominic Ongwen moved to Control Altar because of a disagreement with Buk Abudema, who was brigade commander in Sinia at the time, and that Dominic Ongwen was still in Control Altar at the time of the attack in Abia, which took place in February 2004, *see paras 1164-1165 below*).

<sup>2121</sup> *See paras 1181-1182 below.*

<sup>2122</sup> P-0205: [T-49](#), p. 59, lines 13-20.

<sup>2123</sup> P-0205: T-49-CONF, p. 64, lines 8-10.

<sup>2124</sup> P-0205: [T-49](#), p. 60, lines 7-11; T-50-CONF, p. 10, line 20 – p. 11, line 10. Charles Tabuley died in late 2003, *see para. 1076 below.*

<sup>2125</sup> P-0205: T-50-CONF, p. 10, line 20 – p. 11, line 10.

<sup>2126</sup> *See section IV.C.6 below.*

<sup>2127</sup> P-0231: T-122-CONF, p. 29, lines 4-8.

<sup>2128</sup> P-0231: [T-123](#), p. 49, lines 5-10.

<sup>2129</sup> P-0231: [T-122](#), p. 66, lines 4-14.

an opportunity to observe the planning and execution of the attack on Pajule IDP camp.<sup>2130</sup>

1068. The Chamber also notes that P-0309 estimated that Dominic Ongwen was at the sickbay for four to six months.<sup>2131</sup> P-0379 estimated the time to be between five and six months,<sup>2132</sup> and P-0330 at approximately three months.<sup>2133</sup> P-0214 estimated the time Dominic Ongwen stayed at sickbay at over one year.<sup>2134</sup> In the assessment of the Chamber, such variations can be explained by the difficulty of estimating the duration of time while in the bush. Because P-0205 and P-0231 provided context, the Chamber relies on their testimonies, and does not consider that they are brought in doubt by P-0309 and P-0214's estimates.

1069. An ISO logbook records, under the date of 22 August 2003, Vincent Otti giving an instruction that some soldiers should be sent to 'keep those [...] casualties who are in the sickbay together with Dominic', and noting that 'Dominic [was] one of the injured who [were] being kept at the sickbay'.<sup>2135</sup> On 16 September 2003, the logbook summarises a communication by Joseph Kony as follows:

Kony told Otti to give Dominic radio call as he does not have one but was talking fm that of Michael. He said since Dominic is now a dis-abled comdr he can operate in Acholi areas mostly Gulu side but should have radio call.<sup>2136</sup>

1070. Importantly, further analysis of the logbook evidence militates against allowing for the possibility that the consequences of the injury continued to affect the exercise of his authority as a senior LRA commander. Joseph Kony's appointment of Dominic Ongwen

<sup>2130</sup> See para. 1184 and generally section IV.C.6 below.

<sup>2131</sup> P-0309: [T-61](#), p. 39, lines 4-18.

<sup>2132</sup> P-0379: [T-59](#), p. 62, lines 4-10.

<sup>2133</sup> P-0330: [T-52](#), p. 69, lines 11-13.

<sup>2134</sup> P-0214: T-15-CONF, p. 38, lines 11-16.

<sup>2135</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0297-98. The Chamber notes that the corresponding UPDF logbook entries do not contain this particular detail. However, bearing in mind its discussion on the general reliability of the intercept logbooks above, in particular that different interceptors at different agencies were bound to, at times, focus on summarising varying details of specific radio communications (see para. 666 above), the Chamber finds it appropriate to rely on this particular detail from the ISO logbook.

<sup>2136</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0411. The Chamber notes that the corresponding UPDF logbooks do not seem to contain this specific detail. However, bearing in mind its discussion on the general reliability of the intercept logbooks above, in particular that different interceptors at different agencies were bound to, at times, focus on summarising varying details of specific radio communications (see para. 666 above), the Chamber finds it appropriate to rely on this particular detail from the ISO logbook. The Chamber also notes in this context that part of the relevant tape was played to D-0025 (see [T-226](#), p. 55, line 9 – p. 58, line 6), but that this witness's evidence has been set aside by the Chamber (see paras 377-378 above).

to the position of second-in-command of Sinia is discussed just below. In addition, a radio communication intercepted by the ISO on 27 September 2003 indicates that Joseph Kony praised Dominic Ongwen for his hard work.<sup>2137</sup> Then on 30 September 2003, the ISO intercepted Joseph Kony as telling Dominic Ongwen to stay behind with Vincent Otti on account of Dominic Ongwen having good plans which could help Vincent Otti.<sup>2138</sup>

**On 17 September 2003, Joseph Kony appointed Dominic Ongwen as second-in-command of the Sinia brigade. On 15 November 2003, Joseph Kony promoted Dominic Ongwen to the rank of lieutenant colonel.**<sup>2139</sup>

1071. The records of intercepted radio communications indicate that, in the second half of 2003, Dominic Ongwen progressed within the LRA hierarchy twice, by order of Joseph Kony. In particular, the ISO logbook records that on 17 September 2003, Vincent Otti ‘sent the

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<sup>2137</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0477. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly reflect the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0477 (Lamola reporting attack as planned the previous day, with details to follow at 11:00) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1024-25 (Lamola reporting attack on UPDF detachment with 300 soldiers, capturing one alive, with details to follow at 11:00) *and* UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6147 (Lamola reporting attack on UPDF detachment with 300 soldiers, as planned the day before, capturing one alive, with details to follow at 11:00) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2052 (Lamola reporting attack on UPDF, capturing one UPDF soldier alive); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0475-76 (report on attack in ‘market in Bar Oriyo’, with details on items taken) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1025 (report on attack in ‘market call Bar Oriyo’, with same details on items taken) *and* UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6147 (report on attack in ‘Bar-Riu’, with same details on items taken)). Bearing this in mind, but noting at the same time that these entries are overall less detailed than the entry in the ISO logbook, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>2138</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0501. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly reflect the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0498 (Otti reporting on contact with UPDF the previous day, without sending anything on items taken) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1036 (Otti reporting on contact with UPDF the previous day, stating he could not take anything due to bushy grass) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2067 (Otti reporting on contact with UPDF the previous day, stating he could not take anything due to grass being very tall); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0499 (Kony stating that ‘highest tactics/styles of guerrilla war fare are surprise attacks and ambushes’) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1036 (Kony advising Otti that ‘highest tactic of guerrilla’ should be ‘surprise attack and ambush and planting mines’) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2067 (Kony informing Otti that ‘highest tactics of gorillas is to surprise’); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0501 (Kony wanting all LRA to move to Teso) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1038 (Kony ordering Otti to inform all LRA units to immediately advance to Soroti) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2069 (Kony ordering that all LRA groups in Uganda move to Teso)). The UPDF Acholi Pii logbook does not include an entry for this communication time (*see* UGA-OTP-0242-6018, at 6149-50). Bearing this in mind, and noting at the same time that the entries in the UPDF logbooks are overall less detailed than the entry in the ISO logbook and that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>2139</sup> Para. 136 above.

details of their meeting with senior LRA Com[man]d[e]rs as below'.<sup>2140</sup> Vincent Otti stated that 'they formed a new LRA Division and also reshuffled the Bde Comds'.<sup>2141</sup> The report then lists the various units and their commanders as well as other officers, including referring to Dominic Ongwen as second-in-command of Sinia brigade, with the following note: 'but since he is still sick, Lapanyikwara (Lapaico) should act'.<sup>2142</sup> On 18 September 2003, Joseph Kony is recorded as asking Vincent Otti 'whether Dominic now can walk properly as he was injured some time ago and if he can take up his post of 2I/C Bde Co as Vincent Otti appointed him recently'.<sup>2143</sup> Vincent Otti responded that 'Dominic can now walk and can manage that post very well without any problem'.<sup>2144</sup>

1072. The Defence points to the absence of Dominic Ongwen's name on a UPDF overview of 68 LRA commanders dated 21 September 2003.<sup>2145</sup> However, also noting that the list, which is well-organised as reflecting the LRA command structure, does not include any entry as to the second-in-command of Sinia or any other brigade, the Chamber considers that this list is outweighed by the specific evidence relating to the position of Dominic Ongwen at the time, and does not rely on it.

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<sup>2140</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0413. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0992.

<sup>2141</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0413. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0992.

<sup>2142</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0414. The same source indicates that on the same day, Kony decided that Lapanyikwara take Isaya Lowum's post of Division second-in-command, and that Isaya Lowum take his position as Sinia second-in-command. The Chamber considers, also in light of the communication between Joseph Kony and Otti on 18 September 2003, that this appointment was an exchange of roles between Lapanyikwara and Isaya Lowum, and did not have a bearing on Dominic Ongwen's appointment; *see* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0419. The communication of 17 September 2003 can also be found in the UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0992-94. The Chamber notes that the corresponding UPDF Logbook does not record Dominic Ongwen as still being sick, but rather indicates him being still far from Soroti as a reason for Lapanyikwara to act as second-in-command (at 0993). However, the Chamber, noting the additional details provided by the communication of 18 September 2003 recorded in the ISO Logbook, which do not appear in the UPDF Logbook record of the 18 September 2003 communication (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0996), considers the ISO Logbook record of the communication to be more reliable in this regard.

<sup>2143</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0422. The Chamber notes that while the entries in the corresponding UPDF logbooks do not contain this particular exchange, they are overall much less detailed (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0996; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6138-39) or do not contain any entry for the same communication time (*see* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2015). This said, and bearing in mind its general discussion on the reliability of intercept logbooks, the Chamber considers it appropriate to rely on this information from the ISO logbook.

<sup>2144</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0422.

<sup>2145</sup> Defence Closing Statement: [T-258](#), p. 22, line 22 – p. 23, line 2; LRA Commander List, UGA-OTP-0242-1005.

1073. On 10 October 2003, the LRA attack on Pajule IDP camp took place. Dominic Ongwen exercised a command role during that attack, as laid out in detail below.<sup>2146</sup>

1074. Another entry in the ISO logbook indicates that on 15 November 2003, Joseph Kony promoted Dominic Ongwen to the rank of lieutenant colonel.<sup>2147</sup>

**On 4 March 2004, Joseph Kony officially appointed Dominic Ongwen as brigade commander of Sinia brigade.**<sup>2148</sup>

1075. An intercepted radio communication indicates that Joseph Kony appointed Dominic Ongwen to Sinia brigade commander on 4 March 2004.<sup>2149</sup>

1076. The Chamber notes that several witnesses testified about Dominic Ongwen's promotion to the top of Sinia brigade, but mostly linked that promotion to the death of Charles Tabuley, which took place in late 2003 during the LRA operation in Teso.<sup>2150</sup> P-0205 testified that at an RV at Omot following the death of Charles Tabuley, Dominic Ongwen was the brigade commander of Sinia, and that Buk Abudema became Division commander.<sup>2151</sup> P-0070 testified that Dominic Ongwen became Sinia brigade commander 'in the year 2003 at the height of the operation', after the death of Charles Tabuley and Tolbert Yadin.<sup>2152</sup> P-0264 testified that the first time he realised that Dominic Ongwen was brigade commander was when he was with him in Teso, and that this was after Charles Tabuley's death.<sup>2153</sup> P-0231 also testified that Dominic Ongwen became Sinia brigade commander after the death of Charles Tabuley, and also after the attack on Abia.<sup>2154</sup> P-0406 similarly testified that he learnt of Dominic Ongwen's appointment to brigade commander of Sinia on the return from Teso, around November-

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<sup>2146</sup> See section IV.C.6 below.

<sup>2147</sup> ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0051. See also UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0366.

<sup>2148</sup> Para. 137 above.

<sup>2149</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0122. See section IV.B.3.ii.i above. See also UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4269.

<sup>2150</sup> See P-0070: [T-106](#), p. 23, lines 5-8; P-0205: [T-47](#), p. 35, lines 7-10; P-0231: [T-122](#), p. 67, lines 9-17; P-0372: [T-148](#), p. 25, lines 6-24; D-0100: [T-234](#), p. 43, line 23 – p. 44, line 3; D-0125: [T-242](#), p. 11, line 21 – p. 12, line 14.

<sup>2151</sup> P-0205: [T-47](#), p. 36, line 13 – p. 38, line 25.

<sup>2152</sup> P-0070: [T-105](#), p. 68, line 19 – p. 69, line 13.

<sup>2153</sup> P-0264: [T-66](#), p. 40, line 17 – p. 41, line 6.

<sup>2154</sup> P-0231: [T-122](#), p. 32, line 14 – p. 33, line 3. The attack on Abia took place in February 2004. See paras 1164-1165 below.

December 2003, when Buk Abudema informed the soldiers that he was from that time in charge of Division, and that Dominic Ongwen would be Sinia commander.<sup>2155</sup>

1077. Thus, it would appear that the witnesses place Dominic Ongwen's promotion to brigade commander at an earlier time than 4 March 2004. However, in light of the specific and clear record of a promotion ordered by Joseph Kony on that date, the Chamber concludes that Dominic Ongwen was officially appointed Sinia brigade commander on 4 March 2004.

**Dominic Ongwen remained Sinia commander until 31 December 2005, and further. On 30 May 2004, Joseph Kony promoted him to the rank of colonel, and sometime in late 2004 to the rank of brigadier.**<sup>2156</sup>

1078. Three of the attacks central to the charges in the case took place in the months following Dominic Ongwen's appointment to Sinia brigade commander, between April and June 2004. P-0142, P-0231 and P-0264 testified that at the time of the Odek attack in April 2004, Dominic Ongwen was in charge of Sinia.<sup>2157</sup> P-0054 testified that Dominic Ongwen was brigade commander at the time of Lukodi,<sup>2158</sup> as well as at Abok.<sup>2159</sup> Dominic Ongwen's role and exercise of authority at the time of each attack are discussed in the respective sections below.<sup>2160</sup>

1079. Radio intercept evidence indicates that on 30 May 2004, Joseph Kony promoted Dominic Ongwen to the rank of colonel.<sup>2161</sup>

1080. The evidence indicates that Dominic Ongwen maintained his position as Sinia brigade commander in the ensuing period. P-0440 testified that when he left the LRA in August 2004, Dominic Ongwen was Sinia brigade commander.<sup>2162</sup> P-0406, who served as soldier

<sup>2155</sup> P-0406: [T-154](#), p. 34, lines 3-15.

<sup>2156</sup> Para. 138 above.

<sup>2157</sup> P-0142: [T-71](#), p. 3, lines 18-23; P-0231: [T-122](#), p. 68, lines 13-24; P-0264: [T-64](#), p. 40, lines 2-8. *See also* section IV.C.7 below.

<sup>2158</sup> P-0054: [T-93](#), p. 31, lines 4-11; P-0142: [T-70](#), p. 43, lines 13-15. *See also* section IV.C.8 below.

<sup>2159</sup> P-0054: [T-93](#), p. 34, lines 18-19. *See also* section IV.C.9 below.

<sup>2160</sup> *See* sections IV.C.7, IV.C.8, IV.C.9 below.

<sup>2161</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0004; section IV.B.3.ii.o above. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3062. P-0205 testified that Dominic Ongwen was promoted to the rank of colonel 'after he had sent the operation report of Lukodi', which corresponds to the radio intercept evidence; P-0205: [T-48](#), p. 4, lines 9-21.

<sup>2162</sup> P-0440: [T-40](#), p. 15, lines 18-20.

in Sinia, testified that they went to Sudan in November 2004 and that Dominic Ongwen was commander of Sinia at that time.<sup>2163</sup>

1081. A faxed copy of an entry in the ISO logbook indicates that Joseph Kony promoted Dominic Ongwen to the rank of brigadier on 4 December 2004.<sup>2164</sup> In the UPDF logbook, the corresponding promotion is dated 23 October 2004.<sup>2165</sup> The Chamber notes that both radio messages were logged by the intercepting agencies in mid-2005, which was – at least in case of the UPDF – attributed to the fact that the LRA code was broken only at that time.<sup>2166</sup> In any case, the Chamber considers that the evidence is sufficient to conclude that the promotion did occur, and that it occurred sometime in late 2004.

1082. The Chamber notes that the Prosecution claims that on 16 March 2005, Dominic Ongwen was made deputy to Vincent Otti.<sup>2167</sup> The UPDF logbook cited by the Prosecution as evidentiary basis indeed contains such an entry.<sup>2168</sup> However, in the corresponding ISO logbook, the same message is logged as praise for Dominic Ongwen and another person as ‘still having LRA at heart’ and continuing that ‘they are the ones now *following* Otti Vincent’.<sup>2169</sup> Records of intercepts by the police do not assist in resolving the matter. Indeed, while a typed report dated 17 March 2005 states that Dominic Ongwen and another person were ‘appointed [...] to second deputy LRA chief’ by an ‘unknown commander’,<sup>2170</sup> a hand-written report, dated 16 March 2005, instead states that Dominic Ongwen and another person were ‘pinpointed [...] as second to deputy LRA chief for their operations/activities’.<sup>2171</sup> In light of this different interpretations of the radio communication by the intercepting agencies, the Chamber does not see a basis to make the finding as proposed by the Prosecution.

<sup>2163</sup> P-0406: [T-154](#), p. 34, lines 16-22.

<sup>2164</sup> ISO Faxed Copy, UGA-OTP-0163-0007, at 0165.

<sup>2165</sup> UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1363.

<sup>2166</sup> UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1360. Note that likewise in the ISO logbook, the message appears out of timeline, in a short section entitled ‘Enemies msgs sent in codes’, ISO Faxed Copy, UGA-OTP-0163-0007, at 0164.

<sup>2167</sup> [Prosecution Closing Brief](#), para. 66.

<sup>2168</sup> UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1208.

<sup>2169</sup> ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0181 (emphasis added). It is the date of the message and the information logged before and after that establish conclusively that this is the same radio communication.

<sup>2170</sup> Police Intelligence Report, UGA-OTP-0256-0241, at 0241.

<sup>2171</sup> Police Notes, UGA-OTP-0151-0016, at 0017.

1083. In any case, P-0054 testified that he was in Sinia until 2005,<sup>2172</sup> and that at the time he left, Dominic Ongwen was still the commander of Sinia brigade.<sup>2173</sup> Finally, P-0231 testified that Dominic Ongwen stayed in the position of Sinia brigade commander for ‘[m]aybe one year, eight, nine months or two years’, after which he became a ‘director of operations’ when they went to the DRC.<sup>2174</sup> The Chamber understands these latter events to already fall outside of the period of the charges.

#### 4. Objectives and policies of the LRA

##### **The LRA pursued an armed rebellion against the Government of Uganda.**<sup>2175</sup>

1084. As to the objective of the LRA, P-0138 testified that, to his understanding, Joseph Kony’s aim was to overthrow President Museveni’s government ‘so that he can become the president of Uganda’.<sup>2176</sup>

1085. P-0406 testified about a speech given by Joseph Kony to the assembled members of the LRA, in which Joseph Kony stated that he was a prophet, sent to ‘save the Acholi community from poverty’, and spoke of his intention to overthrow the Government of Uganda and rule ‘places like Gulu town, Kitgum’.<sup>2177</sup> P-0085 similarly testified that he came to know that the LRA was fighting because of ‘bad government’, which ‘took away the wealth of the Acholi people and the Langi’.<sup>2178</sup> P-0097 also reported hearing senior LRA members, including Dominic Ongwen, state that they were fighting to overthrow the government.<sup>2179</sup> P-0145 testified that he was told the same during his training in the LRA.<sup>2180</sup>

1086. P-0231 stated that when he had just been abducted, he was told that they were ‘fighting to overthrow the Government of Uganda’, that this government included civilians, and that the guns they had were to kill people, including those civilians.<sup>2181</sup>

<sup>2172</sup> P-0054: [T-93](#), p. 10, lines 23-24.

<sup>2173</sup> P-0054: [T-93](#), p. 12, lines 17-19.

<sup>2174</sup> P-0231: [T-122](#), p. 35, lines 2-10.

<sup>2175</sup> Para. 139 above.

<sup>2176</sup> P-0138: [T-120](#), p. 24, lines 7-11. *See also* P-0138: [T-121](#), p. 33, line 18 – p. 34, line 4.

<sup>2177</sup> P-0406: [T-155](#), p. 17, lines 9-22. *See also* the similar theme of Joseph Kony’s speeches to the membership as recalled by P-0045: [T-104](#), p. 44, lines 13-21. *See also* P-0410: [T-151](#), p. 10, lines 7-16.

<sup>2178</sup> P-0085: [T-158](#), p. 13, lines 18-24.

<sup>2179</sup> P-0097: [T-108](#), p. 35, line 15 – p. 36, line 2.

<sup>2180</sup> P-0145: [T-143](#), p. 42, line 22 – p. 43, line 5.

<sup>2181</sup> P-0231: [T-123](#), p. 20, lines 8-12.

1087.P-0264 stated that while in the bush, they used to be told that Joseph Kony would say that when they eventually overthrow the government, they will have a ‘very good life’ ahead of them.<sup>2182</sup>

1088.Certain documentary evidence is relied on by the Prosecution to demonstrate that the LRA aimed to overthrow the Government of Uganda.<sup>2183</sup> In particular, an undated document entitled ‘LRA Manifesto’, an (undated) LRA ‘Constitution’, and a 1997 document entitled ‘A brief look of the struggle’, contain language indicating that the objective of the LRA was to ‘liberate’ Uganda from the rule of the government in place.<sup>2184</sup>

1089.The first document was provided to the Prosecution by Professor Allen, who testified before the Chamber that there was ‘consensus’ (in the understanding of the Chamber, this refers to a consensus in the academic community to which Professor Allen belongs), that this document ‘came from the LRA in some way’.<sup>2185</sup> He pointed out that in an interview, Joseph Kony referred to the manifesto.<sup>2186</sup> The second and third documents were instead provided to the Prosecution by Timothy Kanyogonya. However, neither his prior recorded testimony introduced pursuant to Rule 68(3) of the Rules – in which he explains his transmission to the Court of documents that had been seized from the LRA<sup>2187</sup> – nor his in-court testimony<sup>2188</sup> provide any further information on these two particular documents. The documents were also not discussed with any insider witnesses.

1090.The Chamber does not have concerns on the authenticity as such of these documents, while noting that some were raised by the Defence in respect of the manifesto at the time of its submission into evidence.<sup>2189</sup> The Chamber is mindful, however, of the testimony of Professor Allen, who stated that ‘[i]t is not clear the degree to which [these documents]

<sup>2182</sup> P-0264: [T-65](#), p. 59, lines 1-8.

<sup>2183</sup> [Prosecution Pre-Trial Brief](#), para. 158.

<sup>2184</sup> LRA Manifesto, UGA-OTP-0269-0791, at 0794, 0796; LRA Constitution, UGA-OTP-0012-0326, at 0329-30; LRA Policy Document, UGA-OTP-0012-0242, at 0246.

<sup>2185</sup> P-0422: [T-28](#), p. 40, line 6 – p. 41, line 4.

<sup>2186</sup> P-0422: [T-28](#), p. 41, lines 7-8. *See also* Book, UGA-OTP-0272-0002, at 0129.

<sup>2187</sup> P-0038 First Statement, UGA-OTP-0069-0784-R01; P-0038 Second Statement, UGA-OTP-0244-0912-R01.

<sup>2188</sup> P-0038: [T-116](#); [T-117](#).

<sup>2189</sup> Confidential Annex A to [Defence Response to “Prosecution’s request to submit 1006 items of evidence from the ‘bar table’” \(ICC-02/04-01/15-654\)](#), 7 February 2017, ICC-02/04-01/15-701 (hereinafter: ‘[Defence Response to “Prosecution’s request to submit 1006 items of documentary evidence”](#)’), ICC-02/04-01/15-701-Conf-AnxA, pages 126-27, 152. *See also* [Defence Response to “Prosecution’s request to submit 1006 items of documentary evidence”](#), para. 66.

genuinely represented the views of the movement as a whole’, and that he did not think that ‘we can say with any certainty that [...] these documents were adopted consciously by all those figures within the LRA forces’.<sup>2190</sup> In these circumstances, as it is not clear how the documents were prepared and in the absence of an indication in the available evidence to the effect that they were in fact widely used as reference documents for LRA members, the Chamber decides not to use them for its findings in relation to the objectives of the LRA.

1091. In any case, in addition to the evidence provided by witnesses referred to above, there are regular references in the records of intercepted communications to the overall goal of the LRA being the removal of President Museveni from power.<sup>2191</sup> Among the clearest and most explicit is the message intercepted by the ISO as transmitted by Joseph Kony on 29 July 2002, wherein Joseph Kony stated that the LRA had a political agenda for fighting President Museveni’s government and that they must remove him from power.<sup>2192</sup>

**The LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda. LRA commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA. Dominic Ongwen knew that the LRA perceived, and also himself**

<sup>2190</sup> P-0422: [T-28](#), p. 41, lines 4-24.

<sup>2191</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0204 (Kony referring to LRA capturing state power), 0234 (Kony instructing that prayers be held saying that ‘Museveni must go’), 0245 (Kony and Otti discussing that they want to remove Museveni from state power), 0339 (Kony stating that the LRA will struggle until Museveni is removed from power); ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0056 (Kony stating that he was fighting to remove Museveni from power, and that Museveni must go); ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0073 (Otti stating that it is only the LRA who will remove Museveni from power); ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0254 (Otti referring to the LRA struggle to remove Museveni from power) (*see* Chamber’s discussion on the reliability of the 2002 ISO logbooks, para. 666); ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0484 (Kony stating that the LRA have started an attack to remove Museveni from power), 0485 (Otti calling on all LRA units to start a real war to remove Museveni from power) (*see also* UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6147-48); ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0045 (Kony stating that the LRA were fighting to remove Museveni from power because he was a dictator), 0055-56 (Kony vowing that the war will not end until Museveni is removed from power) (*see also* UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0356-59); ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0098 (Kony stating that the LRA will continue fighting and killing people for as long as Museveni is president), 0176 (Kony stating that by all means Museveni must go); ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0289 (Kony stating that the LRA did not want peace talks and that Museveni would be removed from power ‘through gun’), 0327 (Kony swearing that he himself would be the one to remove Museveni from power) (*see also* UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7491-93; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7262-64; Police Logbook, UGA-OTP-0037-0002, at 0139-40).

<sup>2192</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0331. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

**perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.**<sup>2193</sup>

1092. There is considerable evidence on the record demonstrating that the LRA perceived civilians in Northern Uganda as the enemy. In this section, the Chamber lays out the most relevant evidence demonstrating that this perception was specifically articulated by the LRA leadership, including by Dominic Ongwen. However, the Chamber emphasises that this is not the only basis on which the conclusion is taken. Indeed, the pattern of attacks against civilians, explored below,<sup>2194</sup> is an equally powerful indicator of the same.

1093. Asked generally whether at the end of 2003 or in 2004 in Pader the LRA perceived the civilians as supporting or opposing the LRA, P-0070 responded:

They looked at the civilians as not supporting them, because whenever the civilians saw the LRA moving, it will not take long before they come under attack. In a very short while you will see the gunship above trying to attack the LRA. So they knew the civilians were not for the LRA.<sup>2195</sup>

1094. D-0032 confirmed that by the time of Operation Iron Fist, Joseph Kony was regularly ordering civilians to be killed and issued an order to attack, *inter alia*, homes and camps, and to commit a lot of atrocities.<sup>2196</sup> He explained that, as civilians in Lango, Teso and Acholi were supporting the government through militia groups that fought the LRA, Joseph Kony ordered attacks on civilians in those areas.<sup>2197</sup>

1095. P-0138 testified that in 2003, after the arrival of the LRA in Soroti and from the time that the Arrow groups started organising, ‘Kony gave an instruction that we needed to start killing the civilians because they had become stubborn’.<sup>2198</sup> Asked what ‘stubborn’ meant in this context, P-0138 stated that, in his view, Joseph Kony meant that the civilians were joining the army or taking information to the UPDF.<sup>2199</sup> The witness also stated that in Teso, all male civilians were presumed to be part of the Arrow groups, and consequently targeted by the LRA.<sup>2200</sup>

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<sup>2193</sup> Paras 140-141 above.

<sup>2194</sup> See sections IV.C.5, IV.C.6, IV.C.7, IV.C.8, IV.C.9 below.

<sup>2195</sup> P-0070: [T-106](#), p. 24, line 21 – p. 25, line 2.

<sup>2196</sup> D-0032: [T-201](#), p. 8, lines 1-13.

<sup>2197</sup> D-0032: [T-201](#), p. 14, lines 3-12.

<sup>2198</sup> P-0138: [T-120](#), p. 20, lines 8-14.

<sup>2199</sup> P-0138: [T-120](#), p. 21, lines 4-11.

<sup>2200</sup> P-0138: [T-120](#), p. 22, lines 20-23.

1096.P-0145 also testified about having seen Joseph Kony gather people and issue an order to kill civilians because they were ‘stubborn’.<sup>2201</sup>

1097.P-0406 also testified that Joseph Kony told the LRA that Acholi people ‘do not want to support his war’ because they inform the government forces of encountering the LRA, after which government forces come and attack the LRA.<sup>2202</sup> P-0406 stated that this was the reason Joseph Kony gave for killing civilians.<sup>2203</sup>

1098.P-0264 referred to a specific occasion in Apala in Lango, during the time that Dominic Ongwen commanded the Sinia brigade, when the Oka battalion abducted civilians, but because an order had been given that civilians should not be abducted or know of the presence of the LRA, the abductees were killed rather than released, so they would not ‘come back with soldiers’.<sup>2204</sup>

1099.The Chamber also takes into account the testimony of P-0101, who stated that the LRA ‘did not like civilians’,<sup>2205</sup> and elaborated as follows:

The reason why the LRA didn’t like civilians was they said that it was civilians who would inform government soldiers, as when the government soldiers are in the area civilians would inform them that there are Holy soldiers in the area and then the government soldiers would go and attack the Holy soldiers.<sup>2206</sup>

1100.P-0101’s testimony is a valuable indication of the perception of the LRA from the viewpoint of a person who spent a long period of time within the organisation.

1101.The Chamber also notes the testimony of P-0205 to the effect that there was an order in the LRA that every civilian who raised alarm on the LRA, or who was captured and it was found out that that civilian was the one who reported about the LRA, should be killed.<sup>2207</sup>

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<sup>2201</sup> P-0145: [T-143](#), p. 51, line 22 – p. 52, line 6. Although the witness does not use the word ‘civilians’ but ‘people’ and ‘Acholi’, context makes it clear that he is referring to orders in relation to civilians.

<sup>2202</sup> P-0406: [T-155](#), p. 20, lines 7-12.

<sup>2203</sup> P-0406: [T-155](#), p. 20, lines 12-13.

<sup>2204</sup> P-0264: [T-65](#), p. 26, lines 5-25. *See also* para. 1169 below.

<sup>2205</sup> P-0101: T-13-CONF, p. 65, lines 2-6.

<sup>2206</sup> P-0101: T-14-CONF, p. 3, lines 18-21.

<sup>2207</sup> P-0205: [T-48](#), p. 61, lines 2-9.

1102. Hillary Daniel Lagen equally testified that Joseph Kony gave the order that in addition to the UPDF, the LRA should also target civilians ‘because they are the ones [...] who also join[] the UPDF and make it difficult for us to, to win’.<sup>2208</sup>

1103. Furthermore, Hillary Daniel Lagen provided evidence which gives a basis to reconstruct a slightly different, yet fully compatible, purported rationale for the LRA’s aggressive attitude to civilians. He testified that he heard Joseph Kony order that ‘a lot of civilians’ be killed in order to draw the attention of the international community and put pressure on the Government of Uganda to accept talks with the LRA as a result of its inability to protect civilians.<sup>2209</sup> According to the witness, Joseph Kony gave this order on 31 December 2003 while on the bank of the Agago River.<sup>2210</sup> Considering that the witness simultaneously stated that the order was given before Charles Tabuley’s death and insisted even when the interviewer suggested to him that Charles Tabuley died in 2003<sup>2211</sup> – as indeed clearly emerges from the evidence available to the Chamber<sup>2212</sup> –, the precise date given by the witness is possibly inaccurate. Instead, it is more likely that the order was given in December 2002, in light of the evidence of Joseph Kony’s movements as reported in the records of intercepted radio communications.<sup>2213</sup> Nonetheless, the Chamber considers that the precise date is not of crucial importance, given that the witness otherwise described the event in detail and in a manner which is internally consistent.

1104. The Chamber also notes that the evidence supporting the conclusion that the LRA perceived civilians in Northern Uganda as associated with the government also includes evidence which indicates a specific focus on people residing in government-established IDP camps.

<sup>2208</sup> P-0040 Interview Transcript, UGA-OTP-0220-0704-R01, at 0706-07, lines 40-100.

<sup>2209</sup> P-0040 Interview Transcript, UGA-OTP-0220-0678-R01, at 0685-86, lines 246-57.

<sup>2210</sup> P-0040 Interview Transcript, UGA-OTP-0220-0678-R01, at 0686, lines 258-75.

<sup>2211</sup> P-0040 Interview Transcript, UGA-OTP-0220-0678-R01, at 0686-87, lines 291-316.

<sup>2212</sup> See para. 1076 above.

<sup>2213</sup> See ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0130 (including a comment on 28 December 2002 from the operator that Joseph Kony was going to Odek for prayers, which is relatively close to the Agago River); ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0134 (noting down: ‘Kony was very happy with this information he said LRA should continue hitting vehs until all vehs are finished here in the north. That it’s until p/talks begin between LRA and the gov’t when they will stop shooting or ambushing vehs’, displaying a similarity in substance with the testimony of P-0040), at 0135 (including a comment that Joseph Kony was preparing to go back to Sudan). See also ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0162 (placing Joseph Kony in Sudan on 31 December 2003). See also UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4179.

1105. The information available indicates that IDP camps came into existence in Northern Uganda before the period directly relevant to the charges, and further suggests that some people were moved into IDP camps against their will.<sup>2214</sup> Indeed, P-0081 stated that he believed that he did not have a choice to stay in his village at the time the government said people should move to the Pajule-Lapul IDP camp.<sup>2215</sup> P-0269 testified that she moved with her family to Odek IDP camp in 2003 because government soldiers said that if they stayed back home, ‘then it is the civilians who are actually sustaining the rebels’.<sup>2216</sup> D-0083 stated that the Ugandan government gave to the population an ‘ultimatum’ to move into the camps.<sup>2217</sup> Several witnesses testified of occurrences of abuse by camp residents at the hands of government soldiers,<sup>2218</sup> and that the government soldiers and local defence units mandated to protect IDP camps were understaffed and did not offer sufficient protection.<sup>2219</sup> Further, IDP camp residents gave testimony indicating poor living conditions, due to lack of food, access to water and adequate health facilities.<sup>2220</sup>

1106. P-0070 testified about Joseph Kony’s resentment towards the people residing in government-established IDP camps, stating that Joseph Kony said that ‘the people in the camps were not supporting him because every time they saw his people, they would run and report to the government soldiers that the LRA fighters have passed here or there’.<sup>2221</sup>

1107. Beyond witness evidence, there is ample evidence in the records of intercepted radio communications of orders having been given to LRA soldiers to direct violence against civilians, and that the reason given was collaboration with the Government of Uganda, or even mere absence of support for the LRA. The records of intercepts of radio communications also indicate the specific focus on residents of IDP camps. The records relate to a large number of specific occasions when instructions or reports were transmitted, are always placed in a context, and on most occasions provide unique detail.

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<sup>2214</sup> See section I.A above.

<sup>2215</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 9.

<sup>2216</sup> P-0269: [T-85](#), p. 32, lines 15-18.

<sup>2217</sup> D-0083: [T-217](#), p. 19, line 12 – p. 20, line 11.

<sup>2218</sup> P-0067: [T-125](#), p. 71, line 14 – p. 72, line 5; P-0269: [T-85](#), p. 33, lines 5-14.

<sup>2219</sup> P-0218: [T-90](#), p. 18, line 24 – p. 19, line 8; D-0113: [T-221](#), p. 13, lines 10-12; T-221-CONF p. 21, lines 15-23.

<sup>2220</sup> P-0269: [T-85](#), p. 59, lines 11-21, p. 60, lines 16-20; P-0280: [T-84](#), p. 6, line 2 – p. 7, line 1; D-0123: [T-238](#), p. 10, lines 7-9.

<sup>2221</sup> P-0070: [T-106](#), p. 26, lines 8-14.

Some of the intercepts, as indicated, were discussed in court in detail. The Chamber also notes its discussion of the reliability of the 2002 ISO logbooks above.<sup>2222</sup>

1108. According to the ISO logbook, on 27 July 2002, Joseph Kony instructed the LRA commanders to tell the fighters sent on mission ‘not to kill civilians who are pro-LRA’.<sup>2223</sup>

1109. On 9 August 2002, Joseph Kony is recorded in the ISO logbook as instructing a subordinate to ‘tell UN that LRA doesn’t kill innocent civilians’ and that ‘they only kill civilians who are siding with Museveni govt’,<sup>2224</sup> referring further to the attack in Mucwini discussed above.<sup>2225</sup>

1110. The ISO logbook records Joseph Kony as stating on 31 August 2002 that ‘this time LRA shouldn’t spare any civilian who doesn’t want to side with LRA’.<sup>2226</sup> During the same communication as recorded in the logbook, Joseph Kony also overruled Raska Lukwiya’s order that certain soldiers who had ‘forced mothers with young children to have sex with them’ be punished, stating that ‘Lukwiya shouldn’t punish any soldiers who do such thing’, and that ‘the Acholi even if you do something good to them they will not appreciate it’.<sup>2227</sup>

1111. Also on 31 August 2002, as recorded in the ISO logbook, Joseph Kony instructed LRA commanders in Uganda to write letters and distribute them in ‘all places’, telling people that the LRA would follow them into IDP camps if they do not join the LRA in the fight against Museveni.<sup>2228</sup> According to the same entry, Charles Tabuley next stated that since people do not want to listen, the LRA should start ambushes, plant mines and kill ‘mercilessly’ so people are ‘brought in line’.<sup>2229</sup> Joseph Kony is recorded as responding that Charles Tabuley’s ideas were ‘very ok[a]y’ and that he opened the ways for all LRA commanders to ‘resume atrocities on civilians’.<sup>2230</sup> P-0009 testified that occasionally the LRA would write letters to IDP camp residents telling them to leave the camps or be

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<sup>2222</sup> See para. 666 above.

<sup>2223</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0327-28.

<sup>2224</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0025.

<sup>2225</sup> See paras 994-998 above.

<sup>2226</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0086.

<sup>2227</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0085.

<sup>2228</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0086.

<sup>2229</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0086.

<sup>2230</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0086.

killed.<sup>2231</sup> It is noted that the statement of P-0084 corroborates the fact that on some occasions LRA sent threatening letters, including before the attack on Pajule in October 2003.<sup>2232</sup>

1112. On 9 September 2002, Joseph Kony is recorded in the ISO logbook as instructing Vincent Otti to tell his commanders to assess whether the people in a specific area supported the LRA and, if not, ‘then [people] in that area should be killed all’.<sup>2233</sup> Later on the same day, Vincent Otti is recorded as stating that all LRA should concentrate on this order of Joseph Kony rather than on peace talks, and that if the LRA intensified its killing, people, including the international community, would ‘come kneeling’ before the LRA, while at that moment people did not appreciate ‘the danger of siding with UPDF (govt)’.<sup>2234</sup>

1113. On 9 October 2002, the ISO logbook records an order by Joseph Kony ‘that his com[man]d[er]s should start killing civilians because they are siding with Museveni’.<sup>2235</sup>

1114. On 10 November 2002, Joseph Kony is recorded as instructing all LRA commanders to combine and attack one UPDF defence or ‘t/centre’ and kill all people there, and that if they fail to hit a ‘military target’, they ‘can plan and hit soft target even [local government officials] because these are Museveni’s p[eo]ple’.<sup>2236</sup> Joseph Kony added that his commanders could ‘use any type of gun they have on any target’, and that even people travelling on bicycles could be shot using support weapons.<sup>2237</sup> Dominic Ongwen is recorded as on air for this conversation.<sup>2238</sup>

1115. On 27 November 2002, Joseph Kony is recorded in the ISO logbook as ordering that ‘civilians should only be killed once any LRA gr[ou]p comes across.’<sup>2239</sup> He explained this order by stating that he wanted all people to be ‘in camps’ so that ‘fighting UPDF becomes easier because any person that you will meet you will know you have met with

<sup>2231</sup> P-0009: [T-81](#), p. 10, line 20 – p. 11, line 9.

<sup>2232</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 73-79.

<sup>2233</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0122.

<sup>2234</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0124.

<sup>2235</sup> ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0053.

<sup>2236</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0020.

<sup>2237</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0020.

<sup>2238</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0019.

<sup>2239</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0064.

UPDF and shot straight away on sight'.<sup>2240</sup> Joseph Kony also stated that 'support weapons like BIO and others should be used on any civilians they come across'.<sup>2241</sup>

1116. On 13 December 2002, Joseph Kony is recorded in the ISO logbook as stating that he was 'right' to kill innocent civilians, as he was accused of doing, since 'all Acholis are mobilising alongside with Museveni to kill him'.<sup>2242</sup>

1117. On 18 March 2003, an interaction is recorded in the ISO logbook between Joseph Kony and a person not affiliated with the LRA, who, *inter alia*, confronted Joseph Kony about the LRA killing innocent civilians travelling.<sup>2243</sup> Joseph Kony's response is noted down as: 'All p[eo]ple moving in veh[icle]s are agents of Museveni who are working ways of destroying LRA so they must all be killed'.<sup>2244</sup> It is noted that 'Dominic's squad' is recorded as on air during this communication.<sup>2245</sup>

1118. On 31 March 2003, according to the intercept evidence, Joseph Kony gave instructions in relation to civilians.<sup>2246</sup> The recorded intercept was played to D-0032 in court. The witness identified Joseph Kony as the speaker and stated that Joseph Kony was ordering a commander to shoot the people of Oroko, and to kill more than eight hundred people, on account of them being 'useless' and that, if left alive, they would be working for President Museveni.<sup>2247</sup> This is also the content of the message according to a transcript of the audio-recorded intercept.<sup>2248</sup> The message is noted in the ISO logbook as stating that 'civilians hate LRA and those who do[] not want to join LRA in the bush are enemies and must all be executed'.<sup>2249</sup> The corresponding UPDF logbook corroborates the content of the instruction given by Joseph Kony, and identifies Ocan Bunia as the recipient.<sup>2250</sup>

<sup>2240</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0064.

<sup>2241</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0064.

<sup>2242</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0105.

<sup>2243</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0026. The Chamber notes that while the entries in corresponding UPDF logbooks do not mention this specific detail, they do record the conversation between Joseph Kony and the person not affiliated with the LRA (*see* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3522-23; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6247-48).

<sup>2244</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0026.

<sup>2245</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0024.

<sup>2246</sup> *See* section IV.B.3.ii.a above.

<sup>2247</sup> D-0032: [T-201](#), p. 16, lines 5-24.

<sup>2248</sup> Transcript, UGA-OTP-0286-0165, at 0196-97.

<sup>2249</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0067.

<sup>2250</sup> UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3545.

During this communication, Dominic Ongwen is recorded as on air in the ISO and UPDF logbooks.<sup>2251</sup>

1119. According to the ISO logbook, on 4 April 2003 Dominic Ongwen reported to Vincent Otti that people in Lagile raise alarm when they see the LRA, and ‘jointly gang’ against LRA moving in the area.<sup>2252</sup> Vincent Otti responded that ‘Dominic should move there and sweep off any living being seen in that area’.<sup>2253</sup> Joseph Kony stated that LRA units should move to Lagile for that operation, killing anybody in that location.<sup>2254</sup> Joseph Kony also said that the people of Lagile ‘have been a problem’, and that Vincent Otti should organise an operation quickly.<sup>2255</sup> On 5 April 2003, Dominic Ongwen reported that he attacked Lagile IDP camp.<sup>2256</sup> On 28 April 2003, Dominic Ongwen is recorded as reporting to Joseph Kony that ‘all p[eo]ple shifted f[ro]m Lagile’, while others were in Awere.<sup>2257</sup> Joseph Kony responded this was ‘very good’ and instructed Dominic Ongwen to continue checking Lagile to find if any civilian still remained there and ‘should just destroy’.<sup>2258</sup> The attack on Lagile IDP camp in Awere sub-county is discussed further below.<sup>2259</sup>

1120. On 16 April 2003, Joseph Kony is recorded in the ISO logbook as stating that ammunition he had brought should be given out to all units in Uganda ‘purposely for killing civilians’

<sup>2251</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0066; UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3544.

<sup>2252</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0079. The relevant page of the logbook is poorly legible, but the Kampala copy of the logbook is legible and assists in understanding the content. *See* UGA-OTP-0065-0143, at 0242. *See also* section IV.B.3.i.b.vi. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3552. The Chamber notes that the Soroti UPDF logbook records Lapanyikwara as complaining about the civilians in Lagile (UGA-OTP-0242-6212, at 6259), which the Chamber deems to be an error in light of the ISO and Gulu UPDF logbooks, and in light of P-0379’s testimony in relation to the involvement of Dominic Ongwen in the attack.

<sup>2253</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0079.

<sup>2254</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0079. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3552; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6259.

<sup>2255</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0079. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3552-53.

<sup>2256</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0083; UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3558. *See also* para. 1160 below.

<sup>2257</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0161. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0531.

<sup>2258</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0161. The Chamber notes that while the UPDF Gulu logbook does not contain this specific instruction from Joseph Kony to Dominic Ongwen, it does also include the report from Dominic Ongwen to Joseph Kony that the Lagile area is empty (*see* UGA-OTP-0254-0455, at 0531).

<sup>2259</sup> *See* para. 1160 below.

since these were the people who were ‘very dangerous to LRA’.<sup>2260</sup> Dominic Ongwen is recorded as on air.<sup>2261</sup>

1121. On 27 April 2003, Joseph Kony is reported as stating that ‘of all tribes in Uganda only the Acholi are very useless tribe’, that ‘only those [who] are in the bush with LRA who are real and good Acholi’, and that ‘LRA should concentrate and if possible finish (wipe) out all Acholi’.<sup>2262</sup>

1122. On 5 May 2003, Vincent Otti is recorded as reporting to Joseph Kony that ‘his major objectives now is to step [*sic*] serious operations in such [a way] that the entire northern Uganda will all cry’, and that he was deploying ‘according to Joseph Kony[’s] instruction such that all parts of Acholi, Lango, Madi are covered and all camps, schools, t/centres and towns are attacked by LRA’.<sup>2263</sup> The logbook then records Joseph Kony being ‘very impressed about Otti’s plans’ and saying that ‘Otti should do exactly as he stated’.<sup>2264</sup>

1123. On 7 May 2003, Joseph Kony is recorded as stating that he wanted the LRA to ‘cover the entire northern Uganda purposely for waging serious atrocities for the community to blame the gov’t that they are not doing enough to keep them’.<sup>2265</sup> It is noted that ‘c/s 89 (Dominic unit)’ is recorded as being on air during this communication.<sup>2266</sup>

1124. On 9 May 2003, the ISO logbook recorded Joseph Kony stating that ‘if LRA come across any bicycle cyclists they should capture and cut off their lips’.<sup>2267</sup>

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<sup>2260</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0124. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0490.

<sup>2261</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0124. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0490.

<sup>2262</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0157. The Chamber notes that while the UPDF Gulu logbook does not record this specific statement by Joseph Kony, it records him as talking about killing Acholi (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0529). In light of the detail contained in the ISO logbook entry, the Chamber considers it appropriate in the current context to rely on this record.

<sup>2263</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0185. The Chamber considers that even though the corresponding UPDF logbook entries do not seem to contain this specific detail, they clearly overall record the same content of the communication, and that in any event the ISO logbook entry is sufficiently reliable. *See* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0560-62; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6309-10.

<sup>2264</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0185.

<sup>2265</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0191. *See also* UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6315. While this entry does not reflect the exact same wording, it also records Kony as directing for ‘heavy atrocities on civilians’ to be started.

<sup>2266</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0190.

<sup>2267</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0151. While the corresponding UPDF logbooks do not contain this exact language, they do mention Kony talking about cutting the lips of civilians/bicycle riders in an

1125. On 7 June 2003, Lapanyikwara is recorded in logbook evidence as reporting an attack on Opit conducted by Dominic Ongwen.<sup>2268</sup> Dominic Ongwen is indicated as on air during the radio communication.<sup>2269</sup> According to the logbook, Joseph Kony then responded that ‘Dominic should have burnt all civilians houses because they are wors[e] than UPDF’.<sup>2270</sup>

1126. On 9 August 2003, Vincent Otti is recorded in the ISO logbook as reporting that civilians in Lango were ‘pledging money for LRA killed’, and stated that therefore all civilians in Lango areas were enemies and should be dealt with severely.<sup>2271</sup> Vincent Otti also said on radio that ‘any person found with bows and arrows should be shot with his arrows on all his body to stand like a po[r]cupine’.<sup>2272</sup>

1127. According to the ISO logbook, on 2 September 2003, in a radio communication including Joseph Kony, Vincent Otti, Raska Lukwiya, Charles Tabuley, and others, Vincent Otti announced that ‘very soon he will start killing civilians seriously and the blood will flow into rivers and such river will be call[ed] “R. BLOOD”’.<sup>2273</sup>

1128. In an intercepted communication of 10 October 2003, Vincent Otti reported to Joseph Kony that he had sent soldiers to attack Pajule trading centre, and Joseph Kony responded by instructing Vincent Otti to make civilians his main target, because they were the ones making the UPDF fight the LRA.<sup>2274</sup> As discussed below, there is also evidence to the

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exchange with Ocan Bunia. *See* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0574; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6321. The Chamber further notes that the handwriting on this page of the ISO logbook was identified to be that of P-0059 (*see* P-0059: [T-36](#), p. 31, line 19 – p. 33, line 17; P-0303 Statement, UGA-OTP-0258-0723-R01, at para. 37(e)).

<sup>2268</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0228. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0664-65; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6395.

<sup>2269</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0226, 0229. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0664; UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6394. In fact, the Chamber notes that the Gulu UPDF logbook attributes the report of the attack to Dominic Ongwen himself, but considers this discrepancy in the logbook evidence to be immaterial.

<sup>2270</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0229. The Chamber notes that while the UPDF Soroti logbook does not include this specific remark by Joseph Kony, it also records the report by Lapanyikwara and Ocan Bunia on the attack at Opit, including the details of what was taken (*see* UGA-OTP-0242-6212, at 6395).

<sup>2271</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0257.

<sup>2272</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0257. The Chamber notes that while the corresponding UPDF logbooks do not seem to contain this specific statement by Vincent Otti, they do also record exchanges in which Joseph Kony instructs for ‘gun man or arrow men’ to be killed and civilian houses to be burned (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0823-24) and Tabuley states operating ‘to kill Teso people for holding guns and arrows against LRA’ (*see* UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6088).

<sup>2273</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0349; UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0888. *See also* UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6108.

<sup>2274</sup> *See* section IV.B.3.ii.c above. The content of this exchange is established by reference to the testimonies of P-0138: [T-120](#), p. 65, line 25 – p. 66, line 21, and to the ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547. Despite an issue with his testimony, discussed above para. 707, P-0003’s evidence is also corroborative on this

effect that Dominic Ongwen stated, on the ground during the attack on Pajule IDP camp, that ‘all the people from Pajule were going to be killed because they were supporting the government’.<sup>2275</sup>

1129. On 25 October 2003, according to the ISO logbook, when giving instructions for fighting Arrow groups, Joseph Kony stated that the LRA should ‘kill all of them including the civ[ilians] they get that they should just shoot whoever tries to escape’, and that ‘even mothers with kids should not be spared’.<sup>2276</sup> He specified that ‘even if LRA kills few Arrow grps but kill many civ its okay’.<sup>2277</sup>

1130. On 11 November 2003, Joseph Kony is recorded in an ISO logbook as stating that LRA soldiers should kill Lango, Acholi and Teso civilians because they made the UPDF follow the LRA.<sup>2278</sup>

1131. Certain intercepted communications from the period 22-24 November 2003 were discussed during the trial in detail.<sup>2279</sup> Among these is an exchange between Buk Abudema and Joseph Kony wherein the former stressed that the LRA needed to kill civilians because they were supporting President Museveni, to which the latter responds by saying that civilians were many and that no matter how many they killed, they would not finish all the civilians.<sup>2280</sup>

1132. On 23 December 2003, Joseph Kony is recorded as stating that ‘Acholi should truly be killed and if possible wiped off totally b[ecau]se instead of running to the bush to join hands with LRA so that Museveni is toppled, they go to Museveni’.<sup>2281</sup>

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point (P-0003: [T-43](#), p. 3, line 17 – p. 4, line 16). The Chamber notes that this intercepted communication is also discussed as part of the evidence relevant for the findings in relation to the attack on Pajule IDP camp on 10 October 2003, *see* section IV.C.6.iv below.

<sup>2275</sup> *See* para. 1274 below.

<sup>2276</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0612. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0286; UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6172.

<sup>2277</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0613. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0286; UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6172.

<sup>2278</sup> ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0038. *See also* UPDF Logbook (Acholi Pii), UGA-OTP-0242-6018, at 6194; UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2264-67.

<sup>2279</sup> *See* section IV.B.3.ii.e above.

<sup>2280</sup> P-0003 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0224-R01, at 0251-54; P-0016 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0259-0128, at 0129-32; P-0059 Tape UGA-OTP-0037-0314 Transcript, UGA-OTP-0248-0342-R01, at 0369-72; P-0003: [T-43](#), p. 48, line 22 – p. 51, line 20; P-0016: [T-33](#), p. 51, line 13 – p. 52, line 23; P-0059: [T-37](#), p. 29, line 17 – p. 31, line 11. *See also* section IV.B.3.ii.e above.

<sup>2281</sup> ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0147. *See also* UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2460-61.

1133. On 23 January 2004, an ISO logbook reports Joseph Kony as stating that ‘killing of civilians from infant to old age must start seriously. That civilians are the ones who put pressure on the Govt to fight LRA because LRA are the ones who make them suffer’.<sup>2282</sup>
1134. On 23 February 2004, during an intercepted communication during which Dominic Ongwen was indicated as on air,<sup>2283</sup> Joseph Kony is recorded as instructing ‘all units in Uganda to attack and kill civilians as Odyambo has done because it’s the same civilian which Museveni recruit to fight LRA. Therefore they should all be finished.’<sup>2284</sup>
1135. On 24 February 2004, an ISO logbook records Joseph Kony as stating that ‘all [people] should know that those who support Museveni will all be killed by LRA. He added that as long as Museveni is still the president, LRA will continue fighting and killing [people].’<sup>2285</sup> Dominic Ongwen is recorded as on air during this intercepted radio communication.<sup>2286</sup>
1136. On 25 February 2004, according to the ISO logbook, based on a report that at ‘Lira Palwo’ some civilians were trying to assist an LRA soldier pretending to defect, Joseph Kony stated that ‘p[eo]ple in Lira Palwo are very bad p[eo]ple and Onen should organise and kill them seriously’, and that ‘all Acholi should get finished b[eca]use they are useless tribe’.<sup>2287</sup> Dominic Ongwen is noted as on air during this exchange.<sup>2288</sup> It is noted that on 19 March 2004, an LRA attack on Lira Palwo IDP camp in fact took place.<sup>2289</sup>
1137. On 26 February 2004, the ISO logbook records a particular incident of an intruder joining the frequency urging the LRA to ‘think about the [people]’ and referring to a ‘peaceful

<sup>2282</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0016. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4208-09.

<sup>2283</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0094.

<sup>2284</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0096. *See also* UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7383; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2501. The Chamber also notes in this context that P-0339 identified his handwriting in the UPDF Soroti logbook for the entry on 23 February 2004 at 09:45 (*see* P-0339: [T-135](#), p. 12, lines 14-17; the logbook indicated here is a re-scan of the logbook shown to the witness, *see* UGA-OTP-0197-1866, at 1982). While P-0339 did not identify his handwriting on this exact page, the handwriting does appear to be the same. It is noted that a few days before, LRA soldiers under command of Odhiambo had attacked Barlonyo IDP camp, *see* paras 1164, 1166 below.

<sup>2285</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0098. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4252; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2506.

<sup>2286</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0097. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4252.

<sup>2287</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0101. *See also* UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2513.

<sup>2288</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0101.

<sup>2289</sup> *See* para. 1168 below.

solution to end the conflict'.<sup>2290</sup> According to the logbook, '[a]ll LRA [commanders] on the net blamed that voice seriously' and 'Otti said under all means LRA will remove M7 [Museveni] and LRA will kill all useless civilians who are siding with the govt'.<sup>2291</sup> On the same day, Vincent Otti also ordered that all LRA, 'wherever they are' must kill people 'in camps'.<sup>2292</sup> Dominic Ongwen is recorded as being on air for this communication.<sup>2293</sup>

1138. On 31 May 2004, according to the ISO logbook, Vincent Otti, referring to the attack on Lukodi some days previously, stated that Tulu 'should carry forward b[ecau]se civ[ilians] are their first enemy'.<sup>2294</sup> Buk Abudema 'also encouraged Tulu to increase on killing civilians'.<sup>2295</sup> Tulu replied stating that 'that is what their god has promised them to do'.<sup>2296</sup> It is noted that Dominic Ongwen was on air for this communication, during which he reported that the same day he had 'hit a veh[icle] carrying UPDF soldiers and civilians'.<sup>2297</sup>

1139. On 17 June 2004, Buk Abudema is recorded as stating, during a conversation with Dominic Ongwen, that 'civilians are the worst enemy to them and should all be killed b[ecau]se they are easily changed to become soldiers'.<sup>2298</sup>

1140. A UPDF logbook records Joseph Kony, on 7 July 2004, as stating that 'all people who are living in the camps will die due to the difficulties they are facing but that is not enough, he is encouraging his comdrs to help these people die more [because] they are the very people who are supporting govt to fight against LRA'.<sup>2299</sup>

<sup>2290</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0104. *See also* UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7389.

<sup>2291</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0104. *See also* UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7389; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2517-18.

<sup>2292</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0103.

<sup>2293</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0102. *See also* UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7388.

<sup>2294</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007. *See also* Police Logbook, UGA-OTP-0037-0002, at 0104-05. This communication is also discussed below as relevant for the Chamber's findings in relation to the attack on Lukodi IDP camp on or about 19 May 2004.

<sup>2295</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007. *See also* Police Logbook, UGA-OTP-0037-0002, at 0104-05.

<sup>2296</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007.

<sup>2297</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3063-64.

<sup>2298</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0040. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3091.

<sup>2299</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0355-56. The Chamber notes that this particular detail is not included in the corresponding ISO and UPDF logbooks. However, these entries clearly concern the same radio

1141. The Prosecution also refers in this context to a radio message sent out by Dominic Ongwen on 1 August 2004.<sup>2300</sup> However, because there are material discrepancies as to the interpretation of the message in the testimonies of the two witnesses with whom it was discussed, the Chamber cannot draw any conclusions relevant for its findings.<sup>2301</sup>

1142. According to the ISO logbook, on 1 August 2004, in a radio communication during which, *inter alia*, Joseph Kony, Vincent Otti, Buk Abudema and Dominic Ongwen were on air, Labongo stated that the ‘rate of ambushes and attack will be at its highest peak to show civilians that since they support Museveni [...] they should be destroyed all’.<sup>2302</sup>

1143. The same ISO logbook also records, under the date of 29 September 2004, a message by Dominic Ongwen in which he complained about the UPDF and civilians calling on the LRA to come out of the bush if they did not want to ‘get finished’, and stated that he did not want to hear such ‘foolish talks’ and that he would ‘organise more atrocities’.<sup>2303</sup>

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communication (*compare*, in particular, UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0355 (Abudema and Kony talking about escape of Acaye Ecomog) *with* ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0089-90 (Abudema and Kony talking about escape of Acaye Ecomog) *and* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3129 (Abudema and Kony talking about escape of Acaye Ecomog)). Of particular note is that none of these logbooks appear to contain the specific report of Abudema which, according to the UPDF Lira logbook, led to this statement by Kony. Bearing this in mind, and noting at the same time that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by UPDF (Lira).

<sup>2300</sup> [Prosecution Closing Brief](#), para. 191.

<sup>2301</sup> P-0016: [T-33](#), p. 26, line 15 – p. 27, line 5 (testifying that Dominic Ongwen was stating that he has dispersed people to ‘find their own way’, and that there was no hidden meaning to this expression); P-0059: [T-37](#), p. 32, line 24 – p. 35, line 7 (testifying that in line with his understanding, Dominic Ongwen was assembling his people and distributing them ‘to do operation as these people wanted’). It may further be noted that none of the two witnesses provided an interpretation of the message relevant for the present discussion. *See also* section IV.B.3.ii.q above.

<sup>2302</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0156. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3168; Police Logbook, UGA-OTP-0037-0002, at 0044.

<sup>2303</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0299. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly concern the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0298 (Otti coming briefly on air but closing down because on move) *with* UPDF Logbook (Gulu), UGA-OTP-0254-3833, at 4001 (Otti coming briefly on air but closing down because on move) *and* UPDF Logbook, UGA-OTP-0255-0451, at 0630 (Otti coming briefly on air but closing down because on move)); *compare* ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0298 (Dominic Ongwen reporting ambushes on 13 and 21 September 2004) *with* UPDF Logbook (Gulu), UGA-OTP-0254-3833, at 4002-03 (Dominic Ongwen reporting ambushes on 13 and 21 September 2004) *and* UPDF Logbook, UGA-OTP-0255-0451, at 0630-31 (Dominic Ongwen reporting ambush on 17 September 2004, but at same location and with same items taken)). While the UPDF Logbook, UGA-OTP-0255-0451, at 0631 also records Dominic Ongwen as talking about what he heard on radio Mega FM, it does not contain the same expressions as recorded in the ISO logbook. However, given the context involved, the Chamber is satisfied that it can rely on the wording as reported by ISO.

1144. On the basis of the above analysis, the Chamber understands that the LRA narrative and perception of the civilian population as the enemy was based on the perception of the civilians' cooperation with the Government of Uganda, rather than including an ethnic dimension as such. Most of the evidence refers to civilians as such, or frames the discussion in geographic terms (i.e. Northern Uganda). When ethnic designators are used, references to Acholi people are most frequent, but this derives primarily from the fact that the LRA had been operating in Acholi areas for the longest time; in a similar logic, when Iteso or Langi are referred to in the evidence, this is done in the specific context of operations in geographical areas of Northern Uganda predominately inhabited by either of these groups.

1145. In this regard, the Chamber observes that, according to the ISO logbook, on 26 February 2004 the issue of ethnicity was discussed on LRA radio. Reference was made to the tribal conflict between the Acholi and the Langi which had sparked off.<sup>2304</sup> Joseph Kony reacted by blaming the Acholi, Langi and 'Itesots' as being 'foolish' and stated that 'in the bush', i.e. in the LRA, Langi and 'Itesots' commanders are 'united without trible [i.e. tribal] conflicts among themselves', and adding that 'LRA have moved in all the Acholi, Lango and Teso regions committing atrocities everywhere they reach but still they are one in the bush'.<sup>2305</sup> Joseph Kony and Vincent Otti are further recorded as instructing that 'true Acholi, Langi and Itesots are only those ones who are in the bush with LRA' and that 'all those at home must all be killed'.<sup>2306</sup> This clearly indicates that, indeed, the decisive factor was the perceived lack of support for the LRA on the part of the civilian population, rather than their ethnicity. It is noted that Dominic Ongwen is recorded as having been on air during this communication.<sup>2307</sup>

1146. The finding of the Chamber that Dominic Ongwen both knew of the LRA's attitude towards civilians in Northern Uganda and himself shared that attitude is based on the

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<sup>2304</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0103. The Chamber notes that the word 'tribal' is consistently misspelled as 'trible' in this entry of the logbook, but is clear from context. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4255; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7389; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2515.

<sup>2305</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0103. *See also* UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7389.

<sup>2306</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0103. *See also* UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7389.

<sup>2307</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0102. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4255; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7388.

evidence cited above, which indicates that Dominic Ongwen regularly, and at times actively, participated in interactions, in particular of the LRA's radio communication network, during which intentions to harm civilians on account of their perceived association with the Government of Uganda were discussed. In addition, the Chamber finds support for this conclusion in its findings in relation to Dominic Ongwen's involvement in the four attacks relevant to the charges.<sup>2308</sup>

1147. The Chamber also notes in this context that the records of intercepted radio communications, as outlined in detail above, establish a clear awareness on the part of the correspondents of the distinction between civilians and combatants. The records regularly refer to 'civilians', 'innocent civilians', to people living in camps, or specifically distinguish between civilians and UDF soldiers. Indeed, the references in the intercepted radio communications for example to women, children, elderly, or population in the IDP camps clearly indicate an intention to attack civilians.

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<sup>2308</sup> See sections IV.C.6, IV.C.7, IV.C.8, IV.C.9 below.

5. *Armed conflict and the LRA's attack on civilians*

**Throughout the period of the charges, i.e. between 1 July 2002 and 31 December 2005, the LRA regularly fought the armed forces of the Government of Uganda and associated local armed units in Northern Uganda. Dominic Ongwen knew of this fact.**<sup>2309</sup>

1148. The Chamber has already provided in the introduction to this judgment a brief historical background to the conflict, and the major events leading up to the period relevant to the charges.<sup>2310</sup>

1149. As set out above, shortly before 1 July 2002, as a result of Operation Iron Fist, a considerable number of LRA units, including Sinia brigade and specifically the Oka battalion, crossed the border from Sudan and entered back into Uganda.<sup>2311</sup> P-0205 testified that in June 2002, Gilva, Sinia and Stockree brigades, as well as Control Altar, entered Uganda under the overall leadership of Vincent Otti.<sup>2312</sup> As found above, at the time Dominic Ongwen was battalion commander in the Oka battalion of Sinia brigade.<sup>2313</sup>

1150. The Ugandan People's Defence Forces (UPDF), which is the national military of Uganda,<sup>2314</sup> was the principal military opponent of the LRA.

1151. In addition, the LRA also fought local armed groups which were under the command of the UPDF and funded by the Government of Uganda.<sup>2315</sup> Joseph Balikudembe, a UPDF officer, explained that local defence units (LDUs) were under UPDF 'leadership guidance to make sure that they locally helped the UPDF fill the gap, especially in the protection of the IDP camps and maybe securing of routes'.<sup>2316</sup> They were recruited from a particular sub-county or village, and their purpose was to protect their own people.<sup>2317</sup> They were armed and given military training.<sup>2318</sup> John Lubwama, who was commander

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<sup>2309</sup> Para. 142 above.

<sup>2310</sup> See section I.A above.

<sup>2311</sup> See section I.A above.

<sup>2312</sup> P-0205: [T-47](#), p. 17, line 25 – p. 18, line 5.

<sup>2313</sup> See paras 1013-1015 above.

<sup>2314</sup> [Agreed Facts](#), A9.

<sup>2315</sup> In light of the evidence, the Chamber considers it appropriate to refer to the combined force of the UPDF and the associated LDUs as government forces. See also [Agreed Facts](#), A11.

<sup>2316</sup> P-0359: [T-110](#), p. 16, lines 7-18.

<sup>2317</sup> P-0359: [T-110](#), p. 17, lines 11-21.

<sup>2318</sup> P-0359: [T-110](#), p. 16, lines 21-25, p. 17, lines 21-23.

of the UPDF battalion based at Pajule during the relevant period,<sup>2319</sup> testified that he had LDU soldiers under his command.<sup>2320</sup> The LDUs were considered militia, but were integrated into the UPDF structure.<sup>2321</sup> P-0059 stated that LDUs were ‘part of the army’; they were locally recruited and armed by the UPDF.<sup>2322</sup> D-0065 stated that the LDUs belonged to the government and were generally paid monthly salaries and given flour each week.<sup>2323</sup> P-0047 indicated that like the UPDF, the LDUs were paid by the army and were subject to the same code of conduct as the UPDF.<sup>2324</sup> P-0218 agreed that the LDUs were made up of local men and youth who were trained and paid by the government.<sup>2325</sup>

1152. The evidence also demonstrates that ‘Amuka’ and ‘Arrow Boys’ were LDUs under UPDF command. P-0070 testified that the LRA’s adversaries included Amuka and the Arrow Boys, which were locally recruited armed militia and also known as LDUs.<sup>2326</sup> P-0070 stated that the Amuka operated in Langi and the Arrow Boys operated in Teso.<sup>2327</sup> P-0138 explained that ‘Arrow groups’ were composed of Teso and Lira youths and were established and trained by the government so that they would fight the LRA and ‘flush out the LRA from Teso’.<sup>2328</sup> He specified that despite their name, Arrow groups were armed with guns.<sup>2329</sup> Several witnesses have testified to having been part of LDU<sup>2330</sup> or Arrow Boys,<sup>2331</sup> at the relevant time, or otherwise testified about these groups in line with the Chamber’s findings.<sup>2332</sup>

1153. It is not disputed that the LRA engaged in regular fighting with the government forces during the period relevant to the charges. Evidence which establishes this fact is

<sup>2319</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 12-13.

<sup>2320</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 50-51.

<sup>2321</sup> P-0047: [T-115](#), p. 6, line 3 – p. 7, line 15.

<sup>2322</sup> P-0059: [T-38](#), p. 46, line 2 – p. 47, line 1.

<sup>2323</sup> D-0065: [T-211](#), p. 8, lines 13-15, p. 9, lines 11-16, p. 11, lines 6-14.

<sup>2324</sup> P-0047: [T-115](#), p. 9, line 10 – p. 10, line 10.

<sup>2325</sup> P-0218: [T-90](#), p. 51, lines 9-13.

<sup>2326</sup> P-0070: [T-106](#), p. 21, line 16 – p. 22, line 4.

<sup>2327</sup> P-0070: [T-106](#), p. 21, lines 16-17.

<sup>2328</sup> P-0138: [T-120](#), p. 20, line 22 – p. 21, line 2.

<sup>2329</sup> P-0138: [T-120](#), p. 21, lines 2-3.

<sup>2330</sup> D-0065: [T-211](#), p. 7, line 2 – p. 14, line 5; D-0066: [T-214](#), p. 5, line 9 – p. 9, line 15; D-0072: [T-212](#), p. 6, line 13 – p. 12, line 3.

<sup>2331</sup> D-0125: [T-242](#), p. 6, line 8 – p. 10, line 22; D-0138: [T-246](#), p. 8, line 4 – p. 14, line 5; D-0140: [T-206](#), p. 17, line 16 – p. 20, line 15.

<sup>2332</sup> D-0122: [T-237](#), p. 8, line 19 – p. 9, line 24; D-0123: [T-238](#), p. 10, line 10 – p. 12, line 2; D-0124: [T-238](#), p. 16, line 17 – p. 23, line 1. Some witnesses also testified about the Amuka, *see* D-0083: [T-217](#), p. 45, line 13 – p. 47, line 8; D-0113: T-221-CONF, p. 13, line 18 – p. 23, line 18.

discussed across this judgment.<sup>2333</sup> An uninterrupted timeline of hostilities between the LRA and the government forces is also discernible from the records of intercepted communication in general. Witnesses have equally referred to numerous instances of fighting with the government forces, outside of the specific contexts already discussed in this judgment.<sup>2334</sup>

1154. The Chamber notes that the Defence advanced the argument that the armed conflict between the LRA and the Ugandan government and associated forces should be considered international.<sup>2335</sup> This question, which is a legal one, is disposed of below.<sup>2336</sup> At this juncture the Chamber notes that there is evidence that the LRA obtained supplies and training in Sudan.<sup>2337</sup> There is, however, no indication, at least as concerns the relevant period, that the Government of Sudan in any way intervened in the conduct of LRA operations in Northern Uganda.

1155. As to its conclusion that Dominic Ongwen knew of the above facts, the Chamber considers that it is the only reasonable conclusion based on the position of Dominic Ongwen within the LRA, as discussed above.<sup>2338</sup>

**Throughout the period of the charges, in Northern Uganda, the LRA killed, injured and enslaved a large number of civilians in numerous attacks on individual civilians, IDP camps and other civilian locations. It also abducted and enslaved, and used as sexual slaves and so-called ‘wives’, and as domestic servants a large number of civilians. Dominic Ongwen knew of these facts.**<sup>2339</sup>

1156. Under the requirements of the law, in particular of Article 7(2)(a) of the Statute, the Chamber is mandated to verify that a course of conduct involving the multiple commission of acts referred to in Article 7(1) of the Statute can be established. Given the volume and degree of specificity of the evidence in the case, this task can be undertaken by establishing to a great degree of detail the timeline of individual acts of violence undertaken by LRA soldiers against civilians. It is to be emphasised at the same time that

<sup>2333</sup> See paras 1156-1171, sections IV.C.6, IV.C.7, IV.C.8, IV.C.9 below.

<sup>2334</sup> See, for example, P-0070: [T-106](#), p. 17, lines 2-6; P-0309: [T-61](#), p. 14, line 7 – p. 16, line 1, p. 22, line 23 – p. 24, line 1, p. 28, line 15 – p. 30, line 21; [T-62](#), p. 38, lines 17-18, p. 53, line 19 – p. 56, line 11, p. 58, line 24 – p. 59, line 15, p. 66, lines 22-25; P-0406: [T-154](#), p. 15, lines 10-16; D-0068: [T-222](#), p. 38, lines 5-12.

<sup>2335</sup> [Defence Closing Brief](#), para. 305.

<sup>2336</sup> See section V.A.2.ii below.

<sup>2337</sup> See para. 876 above.

<sup>2338</sup> See section IV.C.3 above.

<sup>2339</sup> Para. 143 above.

the individual acts of violence are not as such material to the charges, but are taken into account as evidence to demonstrate a course of conduct.

1157. This is, of course, with the exception of the four attacks which underlie a great number of charges in the case. These attacks at Pajule in October 2003, at Odek in April 2004, at Lukodi in May 2004, and at Abok in June 2004,<sup>2340</sup> – and the acts of killing, injury and enslavement of civilians carried out by the LRA in their contexts – are also relevant to the present determination. Similarly, the Chamber takes into account the findings below in relation to the acts of sexual and gender based violence committed by members of the LRA, including Dominic Ongwen against civilians in Northern Uganda, who were abducted, enslaved and used as sexual slaves and so-called ‘wives’, and as domestic servants.<sup>2341</sup>

1158. The Chamber notes that according to the evidence assessed above, LRA soldiers attacked Mucwini and killed civilians there in late July 2002.<sup>2342</sup>

1159. Several witnesses testified about an attack on Patongo in which Dominic Ongwen participated as commander of Oka Battalion.<sup>2343</sup> Witnesses testified that military barracks were attacked, that some goods were looted and some civilians abducted.<sup>2344</sup> An ISO logbook entry dated 1 July 2002 records Charles Tabuley reporting the attack on Patongo in the morning of that day.<sup>2345</sup> It is noted in particular that the report contains information on the capturing of two UPDF soldiers and one policeman, who was released some time after.<sup>2346</sup> P-0205 stated that two policemen and a UPDF soldier were captured during the attack on Patongo, and that the policemen were later released.<sup>2347</sup> The Chamber considers that the small discrepancy in relation to whether two soldiers and one policeman, or one soldier and two policemen, were captured, is immaterial; to the

<sup>2340</sup> See sections IV.C.6, IV.C.7, IV.C.8, IV.C.9 below.

<sup>2341</sup> See sections IV.C.10, IV.C.11 below.

<sup>2342</sup> See paras 994-998 above.

<sup>2343</sup> P-0016: T-34-CONF, p. 20, lines 18-21; P-0205: [T-47](#), p. 19, lines 21 – p. 20, line 12; P-0231: [T-122](#), p. 39, lines 2-6, p. 40, lines 9-23. See also P-0309: [T-61](#), p. 24, line 20 – p. 25, line 17.

<sup>2344</sup> P-0205: [T-47](#), p. 20, lines 1-3; P-0231: [T-122](#), p. 39, lines 2-6, p. 40, lines 9-23.

<sup>2345</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0246. See also ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0249-51; Report, UGA-OTP-0010-0006, at 0057; P-0340: [T-102](#), p. 11, line 25 – p. 12, line 1. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>2346</sup> ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0246-48. See also ISO Logbook (Gulu), UGA-OTP-0063-0194, at 0249-50, 0254, 0266-67.

<sup>2347</sup> P-0205: [T-47](#), p. 20, lines 2-10.

contrary, given the similarity in the evidence, the Chamber is of the view that the same event is being described, and that the attack in Patongo occurred on 1 July 2002.

1160. On 4 April 2003, LRA soldiers attacked Lagile IDP camp in Awere sub-county.<sup>2348</sup> According to both the ISO and UPDF logbooks, Dominic Ongwen reported to Joseph Kony after the attack, stating that he had burnt some houses in the camp, killed a number of civilians, and abducted others.<sup>2349</sup> P-0379, an insider, testified about this attack.<sup>2350</sup> He stated that Dominic Ongwen called a standby and announced that they were ‘going to work on the civilians of Awere so that they know that even us, we have guns that can shoot’.<sup>2351</sup> P-0379 stated that Dominic Ongwen’s instruction was: ‘When you reach there, do not leave anything. Anything that is living, don’t leave alive because the people there do not want us. They want us to die here in the bush.’<sup>2352</sup> P-0379 went on to describe the attack, stating that there was a group that went to the barracks, and another that went to the centre, and that the former was repelled from the barracks and joined the latter at the centre.<sup>2353</sup> He stated that some shops were broken into at the centre, there was a lot of gunfire and Kalalang was injured, after which the attackers retreated.<sup>2354</sup> According to the witness, about 8-12 civilians were captured and were later killed during the retreat from the camp, on the specific order of Dominic Ongwen.<sup>2355</sup>

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<sup>2348</sup> The date of the attack is established by the UPDF logbook, where Dominic Ongwen is recorded reporting the attack on 5 April 2003, stating that it took place ‘y/day’ (UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3558). *See also* ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0083. The Chamber notes that while this entry is hardly legible, the corresponding entry in the Kampala logbook assists in understanding the content (*see* UGA-OTP-0065-0143, at 0246). Further, the Chamber takes note that the UPDF Soroti logbook records the report on the attack as having been made by Lapanyikwara (*see* UGA-OTP-0242-6212, at 6260), but considers this to be less reliable in light of the way in which the message is recorded in both ISO and UPDF (Gulu) logbooks. The evidence concerning the discussion among Dominic Ongwen, Joseph Kony and Vincent Otti in advance of this attack is discussed above, *see* para. 1119.

<sup>2349</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0083 (giving the number of civilians killed as ‘over twenty’); UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3558. The Chamber notes that the Soroti UPDF logbook records this report as coming from Lapanyikwara (UGA-OTP-0242-6212, at 6260), which the Chamber deems to be an error in light of the ISO and Gulu UPDF logbooks, and in light of P-0379’s testimony in relation to the involvement of Dominic Ongwen.

<sup>2350</sup> It is noted that P-0379 referred to the attack as the attack in ‘Awere’, which may be either a reference to the sub-county or the town/place. In either case, the context indicates that P-0379 referred to the same attack as the one reported on the LRA radio and recorded in the logbooks.

<sup>2351</sup> P-0379: T-57, p. 9, lines 3-20.

<sup>2352</sup> P-0379: T-57, p. 9, lines 6-8.

<sup>2353</sup> P-0379: T-57-CONF, p. 9, line 22 – p. 10, line 3.

<sup>2354</sup> P-0379: T-57-CONF, p. 10, lines 4-8. The Chamber notes that Kalalang’s injury is also mentioned in Dominic Ongwen’s report on the attack (ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0083).

<sup>2355</sup> P-0379: T-57-CONF, p. 10, lines 5-18.

1161. According to witness evidence, on 23 June 2003, the LRA abducted by force a large number of girls from the Lwala Girls School.<sup>2356</sup> The ISO logbook provides corroboration for this testimony, as it records discussion of the distribution of the abducted girls on 22 July 2003,<sup>2357</sup> and again on 27 July 2003.<sup>2358</sup>

1162. P-0406 described an attack on Abalanga in Soroti, where the LRA clashed with government soldiers, but also abducted people, and looted food.<sup>2359</sup> He stated that during the attack, civilian houses were shot at and set on fire, and that some people were locked in the houses before they were set on fire.<sup>2360</sup>

1163. P-0309 described in detail an occasion in Labworomor, when LRA soldiers disguised themselves as members of the UPDF and entered the locality before being recognised and engaged by the UPDF.<sup>2361</sup> P-0309 testified that the LRA failed to overrun the barracks, but managed to loot food items in the civilian camp.<sup>2362</sup> According to this testimony, some civilians were abducted to carry away the looted items.<sup>2363</sup> P-0309 stated that it was Dominic Ongwen's idea to disguise as UPDF soldiers, and gave details of the instructions given by Dominic Ongwen.<sup>2364</sup> P-0372 provided very similar testimony.<sup>2365</sup> Full and detailed corroboration of this testimony is found in the ISO logbook, which also makes it possible to date the attack at 23 November 2003.<sup>2366</sup>

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<sup>2356</sup> P-0015, who testified to have been abducted from the school, estimated that initially, more than 100 girls were abducted, but stated that many were released and that afterwards, about 30 girls remained, P-0015 First Statement, UGA-OTP-0043-0131-R01, at paras 10-29; P-0015 Second Statement, UGA-OTP-0191-0254-R01, at paras 8-9. [REDACTED] also stated that she was abducted from the school, [REDACTED].

[REDACTED]. Other witnesses have also referred to the abduction at the school, *see* P-0070: T-106-CONF, p. 6, line 6 – p. 12, line 17; P-0144: T-91-CONF, p. 68, line 16 – p. 69, line 9; D-0125: T-242, p. 8, lines 12-21.

<sup>2357</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0324. The corresponding UPDF logbooks do not contain entries for the communication at 14:00 (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0786-88; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6074).

<sup>2358</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0330. The corresponding UPDF logbooks do not contain entries for the communication at 13:00 (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0796-98) or overall less detailed entries for that day (*see* UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6080).

<sup>2359</sup> P-0406: T-154, p. 28, line 18 – p. 29, line 3.

<sup>2360</sup> P-0406: T-154, p. 28, line 25 – p. 29, line 7.

<sup>2361</sup> P-0309: T-61, p. 17, line 18 – p. 18, line 22.

<sup>2362</sup> P-0309: T-61, p. 19, lines 1-25.

<sup>2363</sup> P-0309: T-61, p. 19, lines 24-25.

<sup>2364</sup> P-0309: T-61, p. 17, line 23 – p. 18, line 1, p. 19, lines 12-13.

<sup>2365</sup> P-0372: T-148, p. 34, line 24 – p. 37, line 22. P-0372 also stated that about 40 younger abductees were not released but remained with the LRA, P-0372: T-148, p. 38, lines 4-9.

<sup>2366</sup> ISO Logbook (Gulu), UGA-OTP-0066-0002-R01, at 0087. The date of the attack is based on its being reported on 25 November 2003 as having taken place 'last Sunday'. *See* section IV.B.3.ii.f above. *See also* UPDF Logbook

1164. According to the evidence, in February 2004, LRA soldiers under the command of Odhiambo attacked IDP camps at Abia and Barlonyo, killing civilians and burning houses. P-0070 recalled that LRA soldiers under the command of Odhiambo attacked Abia, Barlonyo and Lira Palwo when coming back from Teso, following Charles Tabuley's death and Joseph Kony's order that 'nothing should be left alive'.<sup>2367</sup> Witness Aldo Odoch stated that he participated in both attacks as an LRA soldier, and noted the high number of killings.<sup>2368</sup>

1165. Some details of the attack at Abia are found in the ISO logbook, which records Odhiambo reporting a fight with the UPDF in 'Apiya', and stating that he 'set the whole barracks and camp ablaze[] and killed all the p[eo]ple on sight'.<sup>2369</sup> A police report establishes 31 killings, injuries, abductions, the looting of food and other property and the burning of houses.<sup>2370</sup> The ISO logbook records Joseph Kony as being overjoyed at Odhiambo's report of the attack on Abia,<sup>2371</sup> while in a communication of 12 February 2004, Joseph Kony is recorded as stating that 'the attack Odyambo launched in Abia camp recently where very many p[eo]ple were killed should be the tactics all LRA units should adopt'.<sup>2372</sup> P-0233 testified that the attack on Abia was ordered by Odhiambo, who gave the instruction that nothing should be left alive.<sup>2373</sup>

1166. The attack at Barlonyo is demonstrated by the evidence provided by D-0032<sup>2374</sup> and Hillary Daniel Lagen,<sup>2375</sup> as well as by an ISO logbook entry,<sup>2376</sup> and a preliminary police

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(Gulu), UGA-OTP-0254-0229, at 0403-04; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2360-61; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7315.

<sup>2367</sup> P-0070: [T-106](#), p. 22, line 9 – p. 23, line 4. *See also* p. 21, lines 11-15.

<sup>2368</sup> P-0096 Interview Transcript, UGA-OTP-0228-1938-R01, at 1970-71, lines 1082-120.

<sup>2369</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0047. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4227; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7364.

<sup>2370</sup> Report, UGA-OTP-0025-0069, at 0072-74. At the time of submission of the document by the Prosecution, the Defence pointed out that there was 'limited reliability because some parts are too faint to be read'; *see* Confidential Annex A to [Defence Response to "Prosecution's request to submit 1006 items of documentary evidence"](#), ICC-02/04-01/15-701-Conf-AnxA, p. 131. The item registered under the same ERN in fact contains several handwritten portions, which may not be entirely legible. Be that as it may, the item also contains a typed self-contained three page report, which is entirely readable and is the part relied upon by the Chamber.

<sup>2371</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0047. *See* section IV.B.3.ii.g above. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4227; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7364.

<sup>2372</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0069. *See* section IV.B.3.ii.h above. *See also* UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7369.

<sup>2373</sup> P-0233: [T-111](#), p. 34, line 17 – p. 35, line 1.

<sup>2374</sup> D-0032: [T-201](#), p. 15, lines 6-18.

<sup>2375</sup> P-0040 Interview Transcript, UGA-OTP-0220-0729-R01, at 0734-35, lines 151-225.

<sup>2376</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0093. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4249-50; UPDF Logbook (Acholi Pii), UGA-OTP-0242-7309, at 7380-81; UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2497.

report, which reported that 121 bodies were exhumed, while noting that some bodies had been buried elsewhere or left unburied, and that 332 huts were burnt in the IDP camp.<sup>2377</sup> In addition, P-0054 testified that he heard about the attack from the other soldiers as well as on radio, including about the fact that houses were burnt and people killed.<sup>2378</sup>

1167. On 6 March 2004, Dominic Ongwen was intercepted on radio reporting that he had ‘recently’ attacked Alero camp.<sup>2379</sup>

1168. On 19 March 2004, LRA soldiers under the command of Odhiambo and Dominic Ongwen attacked Lira Palwo. According to the ISO logbook, Odhiambo reported that he set the UPDF barracks and ‘the camp’ ablaze, and that only a few houses survived.<sup>2380</sup>

1169. P-0264 testified that soldiers belonging to the Sinia brigade’s Oka battalion abducted and killed six or seven civilians in Apala so that they would not report on the LRA presence to the government forces.<sup>2381</sup> P-0264 testified that this happened at the time that Dominic Ongwen was Sinia commander, but before the Odek attack in April 2004.<sup>2382</sup>

1170. As recorded in the ISO logbook, Dominic Ongwen reported that, on or shortly before 11 August 2004, he ambushed people on the ‘Awach road’ killing a motorcycle (bodaboda) driver and removing all items from the vehicle.<sup>2383</sup>

1171. Finally, in relation to its conclusion that Dominic Ongwen knew that the LRA engaged in numerous attacks on civilians during which it killed or injured them, the Chamber deems it to be the only reasonable conclusion based on Dominic Ongwen’s own

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<sup>2377</sup> Police Report, UGA-OTP-0015-0158, at 0160. At the time of submission of the document by the Prosecution, the Defence argued that it ‘is not relevant and has no probative value’; *see* Confidential Annex A to [Defence Response to “Prosecution’s request to submit 1006 items of documentary evidence”](#), ICC-02/04-01/15-701-Conf-AnxA, p. 128. The relevance of the item is clear from the analysis in the present section. As to its probative value, the Chamber notes that the document is an official report prepared by the Ugandan Police following an investigative visit to the location of the attack five days after it had taken place. As such, the Chamber attributes to the report probative value, in the context of the other evidence relied upon by the Chamber as concerns the attack on Barlonyo, with which the report is compatible.

<sup>2378</sup> P-0054: [T-93](#), p. 14, line 13 – p. 15, line 2.

<sup>2379</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0128. *See* section IV.B.3.ii.i above. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4272; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7405.

<sup>2380</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0165. *See* section IV.B.3.ii.j above. *See also* UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7417.

<sup>2381</sup> P-0264: [T-65](#), p. 26, lines 5-25.

<sup>2382</sup> P-0264: [T-65](#), p. 27, lines 1-7.

<sup>2383</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0181. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3833, at 3863; UPDF Logbook, UGA-OTP-0255-0451, at 0467; Police Logbook, UGA-OTP-0037-0002, at 0040.

involvement in the acts, as discussed above in this section, and based on his position within the organisation, as laid out above.<sup>2384</sup>

## 6. *Attack on Pajule IDP camp*

### *i. Pajule IDP camp*

**Pajule and Lapul IDP camps were situated in Aruu County, Pader district. The two camps were across from each other, Pajule on the east side of the Lira-Kitgum road and Lapul on the west. They were commonly referred to as ‘Pajule IDP camp’. At the time of the attack, an estimated 15,000 to 30,000 people lived in the camp.**<sup>2385</sup>

1172. In October 2003, Pajule village was located in Pajule sub-county, Aruu County, Pader District, Uganda.<sup>2386</sup> Nearby, Pajule and Lapul IDP camps had existed since 1996.<sup>2387</sup> Many residents moved to the camps on the orders of the government, which were given in response to the LRA’s activities in the region.<sup>2388</sup> Pajule IDP camp was located on the east side of the Lira-Kitgum road and Lapul IDP camp on the west side of the road.<sup>2389</sup> Another road, towards Pader, branched off from the Lira-Kitgum road within the camp.<sup>2390</sup>

1173. Although the two camps were registered as separate camps by the Ugandan government,<sup>2391</sup> the World Food Programme, which appears to be the main aid agency providing food for the camp,<sup>2392</sup> treated Pajule and Lapul camps as one IDP camp,<sup>2393</sup>

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<sup>2384</sup> See section IV.C.3 above.

<sup>2385</sup> Para. 144 above.

<sup>2386</sup> [Agreed Facts](#), A1.

<sup>2387</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 8. See P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 7 (stating that many people started moving to the location of the current Lapul camp in 1997, and further explaining that most people moved back home in 2000, although he remained, and that the current Lapul IDP camp came into existence in 2002).

<sup>2388</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 9 (testifying that he moved to the Lapul side of the camp because the LRA were looting and abducting people and the government directed people to move to the camp); P-0009: [T-81](#), p. 7, line 16 – p. 8, line 6 (stating that the government came up with the instruction that since the LRA was abducting people from the villages, people were to leave their homes and come to the camps where they would be protected by the government); D-0076: [T-219](#), p. 5, line 19 – p. 6, line 1 (stating that he moved to the Pajule camp because the government instructed people to leave the villages and move to the camps; according to the witness, if people stayed in the village then the government would assume you were a rebel supporter).

<sup>2389</sup> D-0081: [T-220](#), p. 12, lines 14-17, p. 13, lines 5-8, p. 14, lines 5-15; D-0076: [T-219](#), p. 6, line 19 – p. 7, line 3. See P-0084’s sketch of Pajule IDP camp, UGA-OTP-0139-0178; P-0047’s sketch of Pajule IDP camp, UGA-OTP-0027-0198; P-0081’s sketch of Pajule IDP camp, UGA-OTP-0070-0029-R01, at 0050.

<sup>2390</sup> See P-0047’s sketch of Pajule IDP camp, UGA-OTP-0027-0198.

<sup>2391</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 7.

<sup>2392</sup> See P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 33-34. See also P-0249: [T-79](#), p. 19, lines 15-16.

<sup>2393</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 7 (for food distribution purposes, the World Food Programme treated both camps as one camp, Pajule-Lapul IDP camp); P-0081 Statement, UGA-OTP-0070-0029-

and the evidence shows that the LRA also attacked the camp as one entity.<sup>2394</sup> The witnesses have also commonly referred to both camps jointly as Pajule IDP camp.<sup>2395</sup> Thus, the Chamber jointly refers to the two camps as Pajule IDP camp unless otherwise specified.

1174. The evidence indicates that an estimated 15,000 to 30,000 people lived within the entirety of Pajule IDP camp in October 2003.<sup>2396</sup>

1175. There was a military barracks on the Lapul side of the camp.<sup>2397</sup> The evidence shows that the barracks was a small distance away and separated from the civilian dwellings.<sup>2398</sup> Each soldier also had his own hut within the barracks grounds and some soldiers' families slept inside the barracks.<sup>2399</sup> The evidence also demonstrates that there was a police

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R01, at para. 8 (administratively Pajule and Lapul are separate IDP camps; however the World Food Programme treats them as a single camp).

<sup>2394</sup> See section IV.C.6.iii, the Chamber's below discussion of the attack on Pajule IDP camp. The evidence indicates that prior to the attack on 10 October 2003, the LRA had attacked Pajule IDP camp several times, the most recent time being in January 2003. See P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 16-24; P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 12; P-0001 Statement, UGA-OTP-0138-0002-R01, at para. 11, P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 8.

<sup>2395</sup> See P-0081: [T-118](#), p. 27, lines 6-7; P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 33.

<sup>2396</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 66 (testifying that he believed there were over 15,000 people at Pajule in October 2003); P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 55 together with Handwritten report, UGA-OTP-0147-0239, at 0239 (indicating that in November 2003 the Lapul side of the camp had a population of 14,155); P-0009: [T-81](#), p. 78, line 22 – p. 79, line 6 (stating that there were three to four thousand people living in the camp); P-0008 lists of Pajule/Lapul residents, UGA-OTP-0137-0058, at 0058-9 (listing 17,432 residents on the Pajule side of the camp and 13,710 residents on the Lapul side as of November 2003). The Chamber notes that the document is stamped and signed by Okema John Brown (P-0008), as camp commandant of the Pajule IDP camp. In his testimony, Okema John Brown stated that he compiled the list from information provided to him by the block leaders of the Pajule side and from the camp commandant of the Lapul side (UGA-OTP-0137-0002-R01, para. 60). The Chamber considers this list to be an authentic record created by P-0008 on 30 November 2003.

<sup>2397</sup> P-0006: [T-140](#), p. 43, lines 17-21 (stating that the military barracks was initially on the Pajule side of the camp but then was moved to the Lapul side); P-0081: [T-118](#), p. 28, lines 3-12 (the military barracks was located on the western side of the Lira-Kitgum road, the Lapul side of the IDP camp). See P-0084's sketch of Pajule IDP camp, UGA-OTP-0139-0178; P-0047's sketch of Pajule IDP camp, UGA-OTP-0027-0198.

<sup>2398</sup> P-0006: [T-140](#), p. 44, lines 21-24 (stating that the military barracks was perhaps 500 metres from the civilian dwellings); D-0076: [T-219](#), p. 7, lines 16-19, p. 23, line 22 – p. 24, line 3 (stating that the barracks and the camp were 'very close' and the distance from the camp to the barracks was approximately 100 metres or about the length of the Pajule primary football field); P-0081: [T-118](#), p. 29, lines 4-9 (estimating that the distance between the military barracks and civilian dwellings 'could be about a hundred metres'). See P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 42; P-0047's sketch of Pajule IDP camp, UGA-OTP-0027-0198 (the sketch of Pajule IDP drawn by John Lubwama shows that the barracks is on the west side of the camp in the Lapul area and that the Pajule Mission is near to the barracks).

<sup>2399</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 54 (John Lubwama could not remember the number of huts in the barracks in October 2003).

station at the camp.<sup>2400</sup> There was also a trading centre<sup>2401</sup> and a Catholic mission at Pajule IDP camp.<sup>2402</sup>

ii. *LRA commanders, including Dominic Ongwen, planned and prepared for the attack*

a. Meeting of LRA units and their commanders

**Several days before the attack on Pajule IDP camp, Vincent Otti summoned a number of LRA units to join him. Around that time, Dominic Ongwen and his group of fighters joined Vincent Otti.**<sup>2403</sup>

1176. A useful introduction is provided by P-0372, who testified that in 2003 after a time in Teso, his group, commanded by Vincent Otti, returned to Acholi land and met with Joseph Kony at a place called Tim Pa Lukok.<sup>2404</sup> The commanders who met with Joseph Kony were Vincent Otti and Raska Lukwiya.<sup>2405</sup> After about two days at Tim Pa Lukok, the group turned south and after some time met with Dominic Ongwen and his group, somewhere in Pader.<sup>2406</sup> Shortly thereafter, LRA fighters were selected to attack Pajule IDP camp.<sup>2407</sup>

1177. According to the evidence, Vincent Otti had ordered other units to join him to go and attack Pajule. P-0144 testified that Vincent Otti, who was in LRA headquarters, had summoned the Trinkle brigade to come and support the group ‘to go and collect food from Pajule’.<sup>2408</sup> The Chamber notes that in the witness evidence, ‘LRA headquarters’ is synonymous with Control Altar, which indeed was the unit commanded by Vincent

<sup>2400</sup> P-0006: [T-140](#), p. 49, line 11 – p. 50, line 3 (testifying that there was a police station on the Pajule side of the road that separated the two camps); D-0076: [T-219](#), p. 9, lines 7-9 (stating that there was a police force based in the camp).

<sup>2401</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 7 (stating that Pajule trading centre was part of both IDP camps); P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 43 (testifying that Pajule trading centre lay between Pajule and Lapul camps, on both the east and west of the road). *See* P-0047’s sketch of Pajule IDP camp, UGA-OTP-0027-0198.

<sup>2402</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 34 (stating that Pajule Catholic mission was located ‘near the displaced Lapul people within Pajule IDP camp’); P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 24, 42, together with P-0047’s sketch of Pajule IDP camp, UGA-OTP-0027-0198 (indicating that Pajule Catholic Mission was on the Lapul side of the camp). *See* P-0084’s sketch of Pajule IDP camp, UGA-OTP-0139-0178.

<sup>2403</sup> Para. 145 above.

<sup>2404</sup> P-0372: [T-148](#), p. 13, line 13 – p. 14, line 25.

<sup>2405</sup> P-0372: [T-148](#), p. 15, lines 3-4.

<sup>2406</sup> P-0372: [T-148](#), p. 15, line 24 – p. 16, line 14.

<sup>2407</sup> P-0372: [T-148](#), p. 16, lines 15-19.

<sup>2408</sup> P-0144: [T-91](#), p. 19, lines 10-23.

Otti.<sup>2409</sup> P-0209, who was a captain in Trinkle brigade at the time, provided very similar testimony, stating that Trinkle brigade was operating around the Latanya hills when the brigade commander, which at the time was Charles Kapere, assembled the soldiers and told them that they were being summoned by Vincent Otti.<sup>2410</sup>

1178.D-0032 testified that he overheard some messages in relation to the attack on Pajule IDP camp on the LRA radio communication system.<sup>2411</sup> He stated that around 7 October 2003, Vincent Otti ‘gave orders to other people to go and join him in a place known as Wangduku’.<sup>2412</sup> He testified that those who were summoned by Vincent Otti included Raska Lukwiya, Charles Tabuley, Tolbert Nyeko Yadin, Opio Makas and Opiro Livingstone, who was together with Opiro Anaka.<sup>2413</sup>

1179.D-0032 was asked by the Presiding Judge if the name of Dominic Ongwen was mentioned among the people being summoned by Vincent Otti, and testified that ‘[l]ater on’, when Vincent Otti was mentioning the names, Joseph Kony asked about Dominic Ongwen, and Vincent Otti responded that Dominic Ongwen was also with him.<sup>2414</sup> D-0032’s evidence indicates that Vincent Otti reported Dominic Ongwen’s presence ‘when he was referring to the commanders who had joined him’, and therefore that this was before the attack itself,<sup>2415</sup> further corroboration of the evidence that Dominic Ongwen was with Vincent Otti at the time of the Pajule IDP camp attack.

1180.Indeed, there is evidence indicating that Dominic Ongwen had joined Vincent Otti and was moving with him from sometime after 20 September 2003, when an ISO logbook recorded Vincent Otti as summoning a number of LRA commanders to join him, including Bogi and Dominic Ongwen.<sup>2416</sup> That Dominic Ongwen was moving with or in

<sup>2409</sup> See section IV.C.1 above.

<sup>2410</sup> P-0209: [T-160](#), p. 11, line 20 – p. 12, line 15.

<sup>2411</sup> See D-0032: [T-200](#), p. 18, line 22 – p. 19, line 4.

<sup>2412</sup> D-0032: [T-200](#), p. 20, lines 16-21.

<sup>2413</sup> D-0032: [T-200](#), p. 21, lines 4-19.

<sup>2414</sup> D-0032: [T-200](#), p. 21, line 20 – p. 22, line 3.

<sup>2415</sup> D-0032: [T-200](#), p. 23, lines 5-9.

<sup>2416</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0431. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries, with the UPDF Achol Pii logbook not recording any particular information for this communication time (*see* UGA-OTP-0242-6018, at 6139-40). However, these entries clearly concern the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0431 (Abudema coordinating with Isaya Loum to meet, with the latter wanting to meet later) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0998 (Abudema coordinating with Isaya Loum to meet, with the latter wanting to meet later) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2022-23 (Abudema coordinating with Ayoli to meet, with the latter wanting to meet later); to be noted here is that the ISO logbook, while recording this

close proximity of Vincent Otti is also corroborated by a 30 September 2003 entry in the same logbook, indicating that Joseph Kony issued an order for the LRA to move to Teso, with the exception of the groups of Vincent Otti and Opiro Livingstone, and specifically adding that ‘Dominic should remain behind with Otti b[ecau]se he has good plans which can help Otti’.<sup>2417</sup>

1181. Several witnesses provided testimony, fully compatible with the above logbook evidence, to the effect that Dominic Ongwen was with Vincent Otti at the time. In particular, P-0070 testified that at the time of the Pajule attack Sinia brigade was ‘moving together’ with Control Altar and that this explained his prior testimony to the effect that Dominic Ongwen was in Control Altar at the time.<sup>2418</sup> P-0209 also testified that Dominic Ongwen was with Vincent Otti in Control Altar at the time.<sup>2419</sup> Further, P-0144 and P-0045 testified that at the time of the attack on Pajule IDP camp Dominic Ongwen was ‘in Control Altar at the headquarters’.<sup>2420</sup>

1182. The Chamber notes that P-0209 did not know why Dominic Ongwen was in Control Altar and stated that it is possible to go there as a prisoner or to be transferred.<sup>2421</sup> Asked by

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exchange to involve Isaya Lowum, indicates for the individuals on air ‘Isaya Lowum/Ayoli’)). Bearing this in mind, and noting at the same time that the entries in the UPDF logbooks are overall less detailed than the entry in the ISO logbook and that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>2417</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0501. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly reflect the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0498 (Otti reporting on contact with UPDF the previous day, without sending anything on items taken) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1036 (Otti reporting on contact with UPDF the previous day, stating he could not take anything due to bushy grass) and UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2067 (Otti reporting on contact with UPDF the previous day, stating he could not take anything due to grass being very tall); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0499 (Kony stating that ‘highest tactics/styles of guerrilla war fare are surprise attacks and ambushes’) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1036 (Kony advising Otti that ‘highest tactic of guerrilla’ should be ‘surprise attack and ambush and planting mines’) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2067 (Kony informing Otti that ‘highest tactics of gorillas is to surprise’); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0501 (Kony wanting all LRA to move to Teso) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1038 (Kony ordering Otti to inform all LRA units to immediately advance to Soroti) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2069 (Kony ordering that all LRA groups in Uganda move to Teso)). The UPDF Achol Pii logbook does not include an entry for this communication time (*see* UGA-OTP-0242-6018, at 6149-50). Bearing this in mind, and noting at the same time that the entries in the UPDF logbooks are overall less detailed than the entry in the ISO logbook and that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO. It is noted that Joseph Kony ordered Opiro Livingstone and his group to head for Sudan.

<sup>2418</sup> P-0070: [T-106](#), p. 34, lines 4-19.

<sup>2419</sup> P-0209: [T-160](#), p. 15, lines 6-8.

<sup>2420</sup> P-0144: [T-91](#), p. 26, lines 12-14; P-0045: [T-104](#), p. 67, lines 2-4.

<sup>2421</sup> P-0209: [T-160](#), p. 15, lines 9-16.

the Presiding Judge about whether it was possible to determine which possibility was the correct one, P-0209 observed that he saw that Dominic Ongwen was not ‘being mistreated or taken badly’.<sup>2422</sup> Very similarly, P-0144 mentioned tentatively that ‘it was a kind of detention or an imprisonment’, but immediately added that he did not understand the reasons for this arrangement.<sup>2423</sup> Later in the discussion, however, P-0144 reasoned that he thought that at the time of the Pajule attack Dominic Ongwen was no longer in detention.<sup>2424</sup> Contrary to the Defence submission,<sup>2425</sup> P-0045’s evidence on the reason why Dominic Ongwen was in Control Altar was entirely hypothetical, and she did not testify that Dominic Ongwen was in LRA prison at the time.<sup>2426</sup> In any case, the Chamber refers to its conclusions above that the brief arrest of Dominic Ongwen by Vincent Otti took place in April 2003 and that it did not affect Dominic Ongwen’s position and authority in the organisation for any significant period of time.<sup>2427</sup>

1183. The Chamber also refers to its analysis above in relation to the argument of the Defence that at the time of the attack on Pajule IDP camp Dominic Ongwen was injured and in sickbay.<sup>2428</sup> In particular, the Chamber recalls its finding that at least from December 2002, i.e. nine months before the attack on Pajule IDP camp, Dominic Ongwen exercised his authority as commander. This is entirely compatible with the evidence that in 2003, including at the time of the Pajule attack, Dominic Ongwen still suffered from some physical limitations as a result of the injury.<sup>2429</sup>

1184. The Chamber also notes the testimony of P-0231, who stated that Dominic Ongwen was ‘not involved’ in the Pajule attack.<sup>2430</sup> However, as P-0231 testified that he was around Soroti with Lapaicho when the attack on Pajule IDP camp took place,<sup>2431</sup> he might not have been in a position to know Dominic Ongwen’s actions at the time, and in the context of the attack. Also, his testimony on this discrete issue stands in contrast to evidence provided by witnesses who, instead, personally observed the relevant facts and testified

<sup>2422</sup> P-0209: [T-160](#), p. 18, line 24 – p. 19, line 4.

<sup>2423</sup> P-0144: [T-91](#), p. 26, lines 14-16.

<sup>2424</sup> See P-0144: [T-91](#), p. 27, lines 11-14. According to the witness, this was the case ‘because if you were in detention they would not give you the task to go and carry out an operation’.

<sup>2425</sup> [Defence Closing Brief](#), para. 322, footnote 521.

<sup>2426</sup> P-0045: [T-104](#), p. 67, lines 5-2; [T-105](#), p. 25, line 24 – p. 26, line 20.

<sup>2427</sup> See section IV.C.3 above. See also [Defence Closing Brief](#), paras 308, 322, 336.

<sup>2428</sup> See section IV.C.3 above. See also [Defence Closing Brief](#), paras 313-314, 316-321, 330-331, 336.

<sup>2429</sup> See D-0092: [T-208](#), p. 63, lines 16-24.

<sup>2430</sup> P-0231: [T-123](#), p. 65, lines 6-9.

<sup>2431</sup> P-0231: [T-123](#), p. 65, line 19 – p. 66, line 2.

convincingly and in detail as noted throughout this section. In this context, the Chamber does not accept the testimony of P-0231 that Dominic Ongwen was not involved in the attack on Pajule IDP camp.

1185. Finally in this context, the Chamber specifies that the evidence indicates that Dominic Ongwen was not moving with Vincent Otti's unit as an individual, but had a Sinia unit under him. This is the explicit testimony of P-0070, referred to above. In addition, as discussed below, Sinia members P-0309 and P-0330 as well as Dominic Ongwen's so-called 'wife' P-0101 testified to being present with Dominic Ongwen and his group at the time of the attack on Pajule IDP camp.<sup>2432</sup> P-0309 in particular named several individuals who went for the attack on Pajule IDP camp, who are otherwise well attested in the evidence as Dominic Ongwen's subordinates in Sinia.<sup>2433</sup> P-0330 also named individual Sinia members who participated in the attack.<sup>2434</sup>

1186. In this context, the Chamber notes the testimony of P-0379 who had previously been abducted by the LRA,<sup>2435</sup> was in captivity for eight months in Sinia's Oka battalion,<sup>2436</sup> and had escaped and returned to Pajule IDP camp around August 2003.<sup>2437</sup> During the attack on 10 October 2003, while trying to hide from the LRA, he saw an LRA fighter whom he recognised as Okello Tango, a member of Oka Battalion whom P-0379 had known while still in the bush.<sup>2438</sup> The Chamber recalls its finding that at the time of the Pajule IDP camp attack, Dominic Ongwen was commander of Oka battalion.<sup>2439</sup> The presence of an Oka battalion fighter in the camp corroborates the evidence that Dominic Ongwen's subordinates were present in the course of the Pajule IDP camp attack.

1187. Logbook evidence indicates that the commanders summoned by Vincent Otti gathered on or around 5 October 2003. A Soroti UPDF logbook records an intercepted communication on 5 October 2003 between 13:00 and 14:00, wherein Vincent Otti informed Joseph Kony that he has joined with 'Abudema's grps', while Okot Odhiambo, Ayoli, Dominic Ongwen and Michael reported to Charles Tabuley that they had reached

<sup>2432</sup> See paras 1214, 1356, 1367 below.

<sup>2433</sup> P-0309: [T-60](#), p. 53, lines 16-21.

<sup>2434</sup> See para. 1211 below.

<sup>2435</sup> P-0379: T-56-CONF, p. 7, lines 8-9; [T-58](#), p. 23, line 21 – p. 24, line 7, p. 53, lines 7-9.

<sup>2436</sup> P-0379: [T-58](#), p. 53, lines 7-12.

<sup>2437</sup> P-0379: [T-57](#), p. 20, line 4 – p. 21, line 12.

<sup>2438</sup> P-0379: [T-57](#), p. 22, line 14 – p. 24, line 7.

<sup>2439</sup> See section IV.C.3 above.

the RV with Vincent Otti.<sup>2440</sup> At 16:00, the same logbook noted: ‘While Otii V., Michael, Odyambo/Angola, Abudema and Dominic they are in the same RV together but they have camped separately with some distance among them’.<sup>2441</sup>

1188. On 7 October 2003 between 8:00 and 9:00, according to the Soroti UPDF logbook, Vincent Otti informed Joseph Kony that he had divided the commanders, and that Angola was moving with ‘Bogi Coach’, Dominic Ongwen was moving with him (i.e. Vincent Otti), and that Buk Abudema had separated from him and left for Teso following Charles Tabuley, who was ‘combined with’ Ocan Bunia.<sup>2442</sup> On the same day at 11:00, the logbook records Joseph Kony asking Vincent Otti whether ‘Mama Dominic’ was accompanying him, and Vincent Otti responding that ‘Mama Dominic’ was with him and that he (Vincent Otti) was moving together with Dominic Ongwen, Raska Lukwiya and Caesar Acellam.<sup>2443</sup> The Chamber notes specifically that this latter information as logged by the UPDF is similar to the radio conversation described by D-0032 and discussed above, wherein Joseph Kony asked Vincent Otti about the whereabouts of Dominic Ongwen, and Vincent Otti confirmed that Dominic Ongwen was with him.<sup>2444</sup>

**A meeting took place the day before the attack at a location east of Pajule IDP camp, including Vincent Otti, Raska Lukwiya, Okot Odhiambo, Dominic Ongwen and other LRA commanders. Several hundred LRA members were present nearby.**<sup>2445</sup>

1189. A number of witnesses have testified about a meeting, or ‘RV’, taking place the day before the attack at a location east of Pajule IDP camp. The witnesses belonged to various groups of the LRA and offered testimony on the basis of personal observation from

<sup>2440</sup> UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2097. The Chamber notes that the corresponding ISO and UPDF logbooks are either significantly less detailed (*see* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0529-31; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6156) or do not include any entry for this communication time at all (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1051-55). Bearing this in mind, including its discussion on the general reliability of logbooks, as well as noting in particular that the UPDF Achol Pii logbook does also make reference to Abudema joining Otti, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by UPDF (Soroti).

<sup>2441</sup> UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2097. The Chamber notes that the corresponding ISO and UPDF logbooks are either significantly less detailed (*see* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0529-31) or do not include any entry for this communication time at all (*see* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1051-55; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6156). Bearing this in mind, including its discussion on the general reliability of logbooks, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by UPDF (Soroti).

<sup>2442</sup> UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2102. *See also* UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6157; UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1057.

<sup>2443</sup> UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2104.

<sup>2444</sup> D-0032: [T-200](#), p. 21, line 20 – p. 22, line 3. It is noted that D-0032 testified that Joseph Kony and Vincent Otti referred to Dominic Ongwen as ‘Wanyama’ during the conversation.

<sup>2445</sup> Para. 146 above.

diverse vantage points. For this reason, the Chamber finds it natural that there is no perfect overlap in the evidence. Instead, it is to be expected that witnesses put emphasis on the facts which took place in their proximity or facts which they were better able to understand and contextualise. Still, in relation to the crucial findings of the Chamber, the witnesses are in agreement. The main area of divergence is the names of LRA commanders, who, according to each witness, attended the meeting with Vincent Otti. This divergence is at least in part explained by the witnesses' emphasis on persons who they knew better. Given that none of the witnesses who testified before the Chamber about the planning of the attack on the Pajule IDP camp were present at the meeting, the Chamber also does not attribute importance to the fact that certain persons, including Dominic Ongwen, are not mentioned by any particular witness as attending the meeting. Indeed, it is entirely plausible that the witness simply did not see the person in question, even if they knew that person. Having said that, the Chamber does address in the following paragraphs those discrepancies in the witness evidence which are of a nature that, if unexplored and unresolved, could affect the Chamber's findings.

1190. According to P-0144, following the summons by Vincent Otti, an RV took place about 10 kilometres east of Pajule.<sup>2446</sup> P-0144 stated that this was a large gathering and estimated the number of people in attendance at over 500.<sup>2447</sup> P-0144 testified that Vincent Otti was 'the overall commander who was leading the operation'.<sup>2448</sup> In addition, according to the witness, the other 'most senior commanders' present were Raska Lukwiya and Okot Odhiambo.<sup>2449</sup> Still further, P-0144 mentioned that there were several 'junior' commanders present, including Bogi and Dominic Ongwen.<sup>2450</sup>

1191. P-0209 testified that Trinkle brigade went to meet with Vincent Otti after being summoned by him, but was unable to describe the location of the meeting.<sup>2451</sup> He too estimated the distance from Pajule at about 10 kilometres.<sup>2452</sup> P-0209 testified that the Trinkle brigade arrived at the location of the meeting at around 16:00.<sup>2453</sup> There, P-0209

<sup>2446</sup> P-0144: [T-91](#), p. 20, lines 1-5.

<sup>2447</sup> P-0144: [T-91](#), p. 20, lines 9-11.

<sup>2448</sup> P-0144: [T-91](#), p. 20, lines 12-14.

<sup>2449</sup> P-0144: [T-91](#), p. 20, lines 14-16.

<sup>2450</sup> P-0144: [T-91](#), p. 20, lines 15-24.

<sup>2451</sup> P-0209: [T-160](#), p. 12, line 22 – p. 13, line 4.

<sup>2452</sup> P-0209: [T-160](#), p. 13, lines 5-9.

<sup>2453</sup> P-0209: [T-160](#), p. 13, lines 10-12.

saw members of Trinkle and Sinia brigades, as well as of Control Altar.<sup>2454</sup> Among the commanders, P-0209 saw Vincent Otti, Charles Kapere, Dominic Ongwen, Opoka and Raska Lukwiya.<sup>2455</sup> He also confirmed that Bogi, Caesar Acellam, Acel Calo Apar and Buk were present.<sup>2456</sup>

1192. The Defence put to P-0209 the contents of an intercepted radio communication suggesting that Charles Kapere was in Teso on 9 October 2003, and of another intercept indicating that on 10 October 2003 Joseph Kony gave Charles Kapere instructions in relation to an upcoming meeting between the two, to which P-0209 responded by stating that he was personally involved with Charles Kapere in the preparations for the attack in Pajule.<sup>2457</sup> The Chamber accepts the detailed testimony of P-0209, and in fact notes that the records of intercepted radio communications do not contradict it. The 9 October 2003 intercept does not record an LRA report on the location of Charles Kapere, but rather Vincent Otti reporting that ‘gov[ernmen]t keeps singing on the radio that Kapere and Onen are moving with Tabuley to kill p[eo]ple in Teso’.<sup>2458</sup> In turn, the 10 October 2003 entry records Joseph Kony stating that Charles Kapere, who was preparing to move and

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<sup>2454</sup> P-0209: [T-160](#), p. 13, lines 16-19. *See also* P-0209: [T-161](#), p. 37, lines 7-9.

<sup>2455</sup> P-0209: [T-160](#), p. 13, lines 20-25.

<sup>2456</sup> P-0209: [T-160](#), p. 14, lines 6-20.

<sup>2457</sup> P-0209: [T-161](#), p. 48, line 11 – p. 49, line 8. *See also* ISO Faxed Copy, UGA-OTP-0242-0780, at 0781; ISO Faxed Copy, UGA-OTP-0242-0775, at 0777. As explained above (*see* section IV.B.3.i.b.vi above), both faxed copies originate from the ISO Gulu logbook, which has also been submitted as evidence, *see* UGA-OTP-0232-0234, at 0543, 0549.

<sup>2458</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0543. *See also* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2112. While this logbook entry attributes the statement not to Otti, but rather to Kony, in an exchange with Otti and Tabuley, the Chamber considers this not to affect the information regarding them reportedly hearing on radio that Kapere and Onen Kamdule were moving with Tabuley in Teso.

meet him should move ‘with the battery’,<sup>2459</sup> without providing any indication of Charles Kapere’s location.<sup>2460</sup>

1193.P-0209 stated that once Trinkle brigade arrived at the location of the meeting with Vincent Otti, the latter summoned the high-ranking officers.<sup>2461</sup> From Trinkle brigade, brigade commander Charles Kapere went.<sup>2462</sup> P-0209 testified that according to what Charles Kapere told his subordinates, the meeting with Vincent Otti included Buk, Raska Lukwiya, Dominic Ongwen, and Opoka.<sup>2463</sup> P-0209 also stated that according to what

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<sup>2459</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0549. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly concern the same radio communication (*compare*, in particular, ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0549 (c/s 9A (part of Odhiambo’s squad) reporting ambush of dyna between Puranga and Rackoko, taking 9 radios, 5 walk men, 2 accumulators) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1072 (c/s 9A under command of Okullu reporting ambush of pick-up on Lira-Kitgum road between Puranga Rac-Koko, taking same items plus 36,000 UG shs) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2120 (Okurut reporting ambush of pick-up on Lira-Kitgum road between Puranga and Rackoko, taking same items plus 36,000 UG shs) *and* UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6160 (Okure reporting ambush of dyna pick-up on Lira-Kitgum road between Puranga and Rach-Koko, taking same items plus 36,000 UG shs). Of particular note is that the UPDF Achol Pii logbook also indicates Kony as instructing that the two batteries be kept for him. Bearing the above in mind, and noting at the same time that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>2460</sup> It may be noted that a 7 October 2003 entry in the same ISO logbook, which records Vincent Otti as reporting that he was ‘still waiting for Onen Kamdulu [...], then imm[ediately] he will organise Kapere to start his journey to Sudan’, provides a specific indication that at the time, Charles Kapere was with Vincent Otti; *see* UGA-OTP-0232-0234, at 0535. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly concern the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0534 (Tabuley reporting location as Acuna and coordinating with Lagulu and Lamola to meet) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1058 (Tabuley sending location as Acuna railway station, telling Lagulu to meet him there) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2101-03 (Tabuley coordinating with Lagulu to meet at Acuna); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0535 (Kony and Otti talking about reported complaints against Museveni for taking presidential jet to bring daughter to Germany for delivery) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1057 (Kony and Otti talking about reported complaints against Museveni for taking daughter, with a lot of money, abroad for treatment) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2103 (Kony and Otti talking about reported complaints against Museveni for taking presidential jet to take daughter outside country to deliver); *compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0536 (Otti telling Kony about failed attack against UPDF) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1058 (Otti telling Kony about failed attack against UPDF) *and* UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2103 (Otti telling Kony about failed attack against UPDF)). The UPDF Achol Pii logbook contains an overall much more succinct entry for this communication time (*see* UGA-OTP-0242-6018, at 6157). Bearing this in mind, and noting at the same time that the entries in the UPDF logbooks are overall slightly less detailed than the entry in the ISO logbook and that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>2461</sup> P-0209: [T-160](#), p. 21, lines 7-8.

<sup>2462</sup> P-0209: [T-160](#), p. 21, line 9. P-0209 explained that he did not himself go to the meeting because he was ‘not yet a high-ranking officer’ and ‘did not qualify to go there’; [T-160](#), p. 21, lines 18-20.

<sup>2463</sup> P-0209: [T-160](#), p. 21, lines 10-17.

Charles Kapere told them, at the meeting Vincent Otti assigned roles to each commander present.<sup>2464</sup>

1194. In relation to the presence of Buk Abudema, the Chamber notes that when the Defence read to the witness a government report dated 10 October 2003 which recorded Buk Abudema as reporting an attack at Adilang, P-0209 maintained his testimony.<sup>2465</sup> Moreover, the Chamber notes that P-0138 testified that while Buk Abudema did not attend the commanders' meeting, he was present afterwards when the soldiers selected for the Pajule attack were addressed.<sup>2466</sup> However, neither of these two nor any other witness who testified about the attack on Pajule IDP camp attributed to Buk Abudema any action or role. In addition, as noted above, on 7 October 2003, Vincent Otti reported to Joseph Kony Buk Abudema's departure for Teso. Accordingly, the Chamber makes no finding in relation to Buk Abudema's involvement at this point.

1195. Turning to further witnesses who described the meeting of LRA commanders on the day before the LRA attack on Pajule IDP camp, the Chamber notes the testimony of P-0309, who was Dominic Ongwen's escort and part of his household.<sup>2467</sup> He described the lead-up to the attack on Pajule IDP camp. He stated that LRA soldiers from different groups met in a place called Wanduku under the leadership of Vincent Otti.<sup>2468</sup> P-0309 testified that Pajule was attacked by 'many groups that came together', specifically mentioning that 'Dominic's group' was also involved.<sup>2469</sup> P-0309 understandably testified that he could not name all of the commanders involved because they were new to him, but was able to mention, in addition to Vincent Otti and Dominic Ongwen, also Raska Lukwiya.<sup>2470</sup>

1196. P-0309 testified that the commanders, including Dominic Ongwen and Vincent Otti, gathered together, and when they came back they gave the orders.<sup>2471</sup> Notably, P-0309 testified that he took Dominic Ongwen's stool for sitting to Vincent Otti's 'home', where

<sup>2464</sup> P-0209: [T-160](#), p. 21, lines 21-24.

<sup>2465</sup> P-0209: [T-160](#), p. 38, line 24 – p. 39, line 25. *See also* ISO Faxed Copy, UGA-OTP-0242-0775, at 0777.

<sup>2466</sup> P-0138: [T-120](#), p. 37, lines 12-20, p. 38, lines 9-14.

<sup>2467</sup> *See* section IV.B.2.ii.b.xvi above.

<sup>2468</sup> P-0309: [T-60](#), p. 41, lines 16-23.

<sup>2469</sup> P-0309: [T-60](#), p. 42, line 23 – p. 43, line 1.

<sup>2470</sup> P-0309: [T-60](#), p. 43, lines 2-5.

<sup>2471</sup> P-0309: [T-60](#), p. 45, lines 2-12.

the meeting took place.<sup>2472</sup> He confirmed that he saw those present at the meeting from a distance of approximately 20-30 metres.<sup>2473</sup> He testified that the meeting took place when it was getting dark, at around 17:00, and that it lasted for over 30 minutes.<sup>2474</sup>

1197.P-0138 stated that at the time of the Pajule attack, Vincent Otti was with Raska Lukwiya, Nyeko Tolbert Yadin, Sam Kolo, Okot Odhiambo, Charles Tabuley and other commanders.<sup>2475</sup> The Chamber notes that P-0138 was the only witness who placed Charles Tabuley among the commanders present near Pajule IDP camp in advance of the LRA attack.<sup>2476</sup> No witness attributed to him any action or role for the attack. There is also evidence that at the time, Charles Tabuley was in Teso.<sup>2477</sup>

1198. Asked specifically about the presence of Dominic Ongwen, P-0138 stated that at the time Dominic Ongwen was not a brigade commander and that due to his lower rank he could not sit together with the other commanders, but would only receive instructions from his brigade commander.<sup>2478</sup> This testimony is emphasised by the Defence as contradicting the Prosecution's allegation that Dominic Ongwen participated in the planning of the attack on Pajule IDP camp.<sup>2479</sup> However, the Chamber considers that the evidence of P-0138 on this specific point consists of supposition rather than his personal observation or another identifiable source of knowledge and for this reason sets it aside, relying instead on the evidence of witnesses who testified more reliably about Dominic Ongwen's presence, including P-0309 referred to just above.

1199. According to P-0138, the meeting of the commanders started at around 13:00 at a place where they had sat to rest because they had been moving.<sup>2480</sup> At 17:00, they started selecting the people for the attack, which happened at the same place where the meeting

<sup>2472</sup> P-0309: [T-60](#), p. 47, lines 5-11.

<sup>2473</sup> P-0309: [T-60](#), p. 47, lines 12-21.

<sup>2474</sup> P-0309: [T-60](#), p. 50, lines 3-7.

<sup>2475</sup> P-0138: [T-120](#), p. 35, lines 13-20.

<sup>2476</sup> It is noted that D-0032 stated that Vincent Otti summoned also Charles Tabuley before the attack, *see* para. 1178 above.

<sup>2477</sup> UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2102. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1056. The Chamber notes that while the ISO and UPDF Achol Pii logbooks do not contain this specific detail, they place Charles Tabuley in Teso at least the following day (8 October 2003). *See* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0537; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6158.

<sup>2478</sup> P-0138: [T-120](#), p. 36, lines 15-23. *See also* Defence Closing Statement: [T-258](#), p. 90, lines 19-23.

<sup>2479</sup> [Defence Closing Brief](#), paras 333, 335; *see also* para. 337.

<sup>2480</sup> P-0138: [T-120](#), p. 37, lines 1-8.

took place.<sup>2481</sup> This was also the location where those who did not go for the attack, including P-0138, waited for the attackers to return.<sup>2482</sup>

1200. Charles Lokwiya testified that at the gathering before the attack on Pajule IDP camp, the commanders present were Vincent Otti, Nyeko Yadin, Lakati, Mzee Banya, Ocaya, Opiru, Raska Lukwiya and others.<sup>2483</sup> Charles Lokwiya did not list Dominic Ongwen as present, but in light of what is said at the outset of this section, the Chamber does not consider this decisive, in light of the other detailed and contextualised witness evidence placing Dominic Ongwen at the meeting. Charles Lokwiya confirmed that the gathering took place in Wanduku.<sup>2484</sup> Charles Lokwiya also accepted the Prosecution's suggestion that different LRA units met up and that about 600 LRA fighters were present at the RV.<sup>2485</sup>

1201. The Chamber also notes the testimony of another low-ranking Sinia member who was present, P-0330, who stated that there was a 'standby between the leaders', where there were two groups: Vincent Otti's group and Dominic Ongwen's group.<sup>2486</sup> P-0330 gave the location of the standby as the foothill of Latanya.<sup>2487</sup> The leaders met, but P-0330 observed that the escorts were too far off to know what was discussed.<sup>2488</sup> However, P-0330 stated that he could see the leaders.<sup>2489</sup> According to P-0330, the leaders present were Dominic Ongwen, Okello Kalalang and Okello from Dominic Ongwen's group, and from the other group Vincent Otti and other people P-0330 could not recognise.<sup>2490</sup> P-0330 testified that he prepared the chair for Dominic Ongwen for the meeting of the leaders.<sup>2491</sup>

1202. The Chamber notes that there are several discrepancies in P-0330's description of the meeting as compared to the witnesses cited above. Most importantly, however, as opposed to the meeting described by the above witnesses, which took place the day

<sup>2481</sup> P-0138: [T-120](#), p. 37, lines 8-10.

<sup>2482</sup> P-0138: [T-120](#), p. 37, lines 9-11.

<sup>2483</sup> D-0134: [T-240](#), p. 57, lines 1-9.

<sup>2484</sup> D-0134: [T-241](#), p. 10, lines 22-24.

<sup>2485</sup> D-0134: [T-241](#), p. 10, line 25 – p. 11, line 6.

<sup>2486</sup> P-0330: [T-51](#), p. 74, lines 1-3.

<sup>2487</sup> P-0330: [T-55](#), p. 29, lines 12-13.

<sup>2488</sup> P-0330: [T-51](#), p. 74, lines 3-5. *See also* [T-55](#), p. 22, lines 6-17.

<sup>2489</sup> P-0330: [T-51](#), p. 74, lines 8-24.

<sup>2490</sup> P-0330: [T-51](#), p. 74, line 25 – p. 75, line 3.

<sup>2491</sup> P-0330: [T-51](#), p. 78, lines 5-6.

before the attack, P-0330 testified that the leaders talked ‘for a day’ and on the second day they selected the standby.<sup>2492</sup> Therefore, P-0330 is, on the face of his evidence, describing another previous meeting, involving Dominic Ongwen’s and Vincent Otti’s groups. Considering that P-0330 is the only witness who discussed this additional meeting, the Chamber will not delve into it further, but it is noted that for this meeting to have taken place is not incompatible with the evidence on record, in particular with the evidence in relation to when Dominic Ongwen joined Vincent Otti.

1203. Finally, P-0084 participated [REDACTED] in the UPDF military fact-finding mission following the attack on Pajule IDP camp.<sup>2493</sup> He stated that prior to the attack, the UPDF was aware of ‘the concentration east of Pajule of the LRA’,<sup>2494</sup> thereby corroborating the insider evidence.

b. Selection and briefing of the attackers

**After the meeting, on the eve of the attack, the LRA soldiers were selected from the Control Altar, as well as Trinkle and Sinia brigades. Raska Lukwiya was designated as the overall commander for the attack. The attackers were briefed about the attack and instructed to attack the UPDF at the barracks, as well as civilian areas of the camp in order to loot radio equipment, food and other items. The attackers were also told to abduct civilians.**<sup>2495</sup>

1204. A number of witnesses provided evidence on the preparation for the attack on Pajule IDP camp once the commanders’ meeting ended and the decision to attack was made known to the LRA members present at large. The Chamber notes that the evidence of the various witnesses is generally compatible, but that on occasion, as above, the evidence of witnesses is limited to what they could observe from their individual position. This particularly affects the evidence as to from which LRA units the attackers were selected.

1205. P-0144 testified that the decision to organise the force for the attack on Pajule IDP camp came from Vincent Otti.<sup>2496</sup> Vincent Otti gave the instruction to Raska Lukwiya, who then selected the soldiers to go and carry out the operation.<sup>2497</sup> P-0144 testified Raska

<sup>2492</sup> P-0330: [T-51](#), p. 75, lines 4-7.

<sup>2493</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 14-15.

<sup>2494</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 70.

<sup>2495</sup> Para. 146 above.

<sup>2496</sup> P-0144: [T-91](#), p. 21, lines 21-23. *See also* p. 79, line 15 – p. 80, line 3.

<sup>2497</sup> P-0144: [T-91](#), p. 21, lines 23-25.

Lukwiya also had ‘subordinate commanders as well who were instead commanding the smaller groups that went and carried out the operation’.<sup>2498</sup>

1206.P-0209 described in detail how the result of the commanders’ meeting reached his unit. He testified that Charles Kapere was at the meeting for about two hours and that immediately after he returned, he called the commanders under him, including Bogi, Sam Opio, the IO and the witness.<sup>2499</sup> Charles Kapere informed those present that Vincent Otti had told him that there was going to be an operation and that he wanted them to go and attack the UPDF in Pajule.<sup>2500</sup> From Trinkle brigade, 75 fighters were organised for the attack.<sup>2501</sup> Other fighters were prepared from Control Altar as well as from Sinia.<sup>2502</sup>

1207. According to P-0209 the instruction coming from Vincent Otti was to go to the barracks where the UPDF were, to the mission ‘to take the radio equipment’ and to the centre ‘to collect food, soap, salt and other items’.<sup>2503</sup> The plan was also to abduct civilians to carry items and to increase the numbers of LRA soldiers.<sup>2504</sup> Similarly, P-0330 testified that the LRA fighters had been instructed to abduct civilians, loot items and give it to the civilians to carry.<sup>2505</sup>

1208.P-0045 testified that before the attack on Pajule IDP camp, she was called to a standby where Vincent Otti announced that there would be an attack on Pajule.<sup>2506</sup> She stated that many people were present at the time.<sup>2507</sup>

1209.P-0309 stated that after the meeting of the commanders, he heard Dominic Ongwen give orders to Opio Korea to choose people from his group to go for an operation.<sup>2508</sup> Subsequently, Opio Korea selected about 10 people from Dominic Ongwen’s home to go for the attack.<sup>2509</sup> According to P-0309, people who were chosen were then addressed

<sup>2498</sup> P-0144: [T-91](#), p. 79, line 25 – p. 80, line 3.

<sup>2499</sup> P-0209: [T-160](#), p. 22, lines 5-19. It is noted that during examination by the Defence, P-0209 also mentioned Okwang Olero, but it is unclear whether this is a further participant in the meeting, or whether Okwang Olero was the IO; P-0209: [T-161](#), p. 42, lines 17-18.

<sup>2500</sup> P-0209: [T-160](#), p. 22, line 20 – p. 23, line 3.

<sup>2501</sup> P-0209: T-160-CONF, p. 25, lines 6-25.

<sup>2502</sup> P-0209: T-160-CONF, p. 27, lines 11-14.

<sup>2503</sup> P-0209: [T-160](#), p. 23, lines 7-14.

<sup>2504</sup> P-0209: [T-160](#), p. 24, lines 3-13.

<sup>2505</sup> P-0330: T-52-CONF, p. 5, lines 19-20.

<sup>2506</sup> P-0045: T-103-CONF, p. 90, lines 12-25.

<sup>2507</sup> P-0045: T-103-CONF, p. 91, lines 4-5.

<sup>2508</sup> P-0309: [T-60](#), p. 45, lines 9-10, p. 50, line 19 – p. 51, line 3.

<sup>2509</sup> P-0309: [T-60](#), p. 51, lines 8-12.

and told that they were going to Pajule.<sup>2510</sup> The group of soldiers addressed was well over 100 people.<sup>2511</sup>

1210.P-0309 testified that no specific orders were given to him, and stated: ‘I knew by default that since we were going to the barracks then we had to fight and win the battle’.<sup>2512</sup> When P-0309’s previous statement to the effect that the instruction was to go to Pajule centre, abduct people and loot food to eat was put to him, he responded: ‘What I can say is that whenever we are prepared to go fight, all those activities are part of the fighting, the part of the attack. I didn’t think it was necessary to outline them one by one.’<sup>2513</sup>

1211.P-0330 stated that Dominic Ongwen’s deputy for the standby was Okello, and that among the other people selected for the attack were Odoki and Bomek.<sup>2514</sup> On refreshing from previous testimony, P-0330 also confirmed the presence of Oyo and Oyet.<sup>2515</sup> P-0330 stated that they were Sinia soldiers.<sup>2516</sup> As to Bomek, P-0330 stated that he was in Sinia support.<sup>2517</sup> P-0330 testified that instructions were given to abduct civilians to carry ‘luggage’.<sup>2518</sup>

1212.P-0372 testified that when the meeting of the commanders took place, the foot soldiers did not know what would happen, but realised in the evening that some soldiers had been selected to go and attack Pajule.<sup>2519</sup> He testified that at the time that the soldiers were selected, the commanders present were Dominic Ongwen, Vincent Otti and Raska Lukwiya.<sup>2520</sup> P-0372 specifically confirmed having seen Dominic Ongwen.<sup>2521</sup> According to P-0372, there was no ‘major speech’ by a commander before the attack on Pajule.<sup>2522</sup> However, he stated that when people were selected and put in a group to start

<sup>2510</sup> P-0309: [T-60](#), p. 45, lines 10-12.

<sup>2511</sup> P-0309: [T-60](#), p. 48, lines 13-15.

<sup>2512</sup> P-0309: [T-60](#), p. 53, lines 3-6.

<sup>2513</sup> P-0309: [T-60](#), p. 56, line 15 – p. 57, line 22.

<sup>2514</sup> P-0330: [T-51](#), p. 75, lines 8-23.

<sup>2515</sup> P-0330: [T-51](#), p. 76, lines 5-12.

<sup>2516</sup> P-0330: [T-51](#), p. 76, lines 13-14.

<sup>2517</sup> P-0330: [T-51](#), p. 76, lines 18-21.

<sup>2518</sup> P-0330: [T-51](#), p. 79, lines 11-14. *See also* P-0330: T-52-CONF, p. 5, lines 19-20.

<sup>2519</sup> P-0372: [T-148](#), p. 16, lines 15-19.

<sup>2520</sup> P-0372: [T-148](#), p. 16, lines 20-23. *See also* P-0372: [T-149](#), p. 55, lines 9-18.

<sup>2521</sup> P-0372: [T-149](#), p. 67, lines 14-15.

<sup>2522</sup> P-0372: [T-148](#), p. 16, line 24 – p. 17, line 1.

moving, Dominic Ongwen gave information that they were going to Pajule with his group.<sup>2523</sup>

1213. Charles Lokwiya also testified about the briefing Vincent Otti gave before departure.<sup>2524</sup>

The instructions that Charles Lokwiya could recall were to attack the barracks, collect food and abduct people.<sup>2525</sup>

1214. P-0101 testified that she was present during the selection of soldiers for the Pajule attack.<sup>2526</sup> According to her testimony, Vincent Otti was doing the selection, and Dominic Ongwen was a commander chosen to go to Pajule.<sup>2527</sup>

1215. P-0138 stated that he did not personally go for the Pajule attack.<sup>2528</sup> [REDACTED]  
[REDACTED]<sup>2529</sup> and Vincent Otti selected people for the attack at about 19:00 at a place approximately a mile away from Pajule camp.<sup>2530</sup>

1216. According to P-0138, after the plan for the attack was finalised, Nyeko Tolbert Yadin, Raska Lukwiya and Ocitti Jimmy addressed the fighters.<sup>2531</sup> Asked about other LRA commanders who were present at this occasion, P-0138 mentioned ‘Colonel Bogi’, ‘several captains, among whom included Bosco’, ‘Lukwiya’, Buk Abudema, ‘Odhiambo, who was coming from Trinkle’ and ‘Tabuley coming from Stockree’.<sup>2532</sup> Furthermore, the witness’s testimony that Vincent Otti gave instructions to the soldiers necessarily implies that Vincent Otti was present at the gathering too.<sup>2533</sup> In any case, the Chamber considers P-0138’s testimony was not very clear as to the commanders present when the attackers were first assembled and addressed. The witness also did not provide a clear answer to the question whether Dominic Ongwen was present at this gathering.<sup>2534</sup>

<sup>2523</sup> P-0372: [T-148](#), p. 17, lines 2-5.

<sup>2524</sup> D-0134: [T-240](#), p. 57, lines 15-17.

<sup>2525</sup> D-0134: [T-240](#), p. 57, lines 18-21.

<sup>2526</sup> P-0101: [T-13](#), p. 24, lines 21-24.

<sup>2527</sup> P-0101: [T-13](#), p. 24, line 25 – p. 25, line 1, p. 25, lines 10-14. *See also* p. 58, lines 18-22 (stating that Dominic Ongwen commanded and selected the soldiers that went to Pajule).

<sup>2528</sup> P-0138: [T-120](#), p. 32, lines 3-6.

<sup>2529</sup> P-0138: T-120-CONF, p. 32, lines 6-7.

<sup>2530</sup> P-0138: [T-120](#), p. 32, lines 7-9. The Chamber notes that P-0138’s estimate of the distance between the location of the selection and Pajule IDP camp is notably lower than that of other witnesses. However, considering that P-0138 did not go to Pajule, the Chamber does not attribute value to this estimate.

<sup>2531</sup> P-0138: [T-120](#), p. 35, line 21 – p. 36, line 1.

<sup>2532</sup> P-0138: [T-120](#), p. 37, lines 12-20. In relation to P-0138’s identification of Charles Tabuley as present, *see* para. 1197 above.

<sup>2533</sup> P-0138: [T-120](#), p. 38, lines 18-24.

<sup>2534</sup> P-0138: [T-120](#), p. 37, line 21 – p. 38, line 8.

Consequently, even though the Chamber does not have doubts that P-0138 described facts that he personally observed, his evidence is not of assistance on details, including as concerns the presence of commanders.

1217.P-0138 testified that Control Altar, as well as Stockree, Trinkle and Sinia brigades, provided soldiers for the attack on Pajule IDP camp.<sup>2535</sup>

1218.P-0015, who was a *ting ting* in Vincent Otti's household at the time,<sup>2536</sup> stated that on 9 October 2003 at 19:00 Vincent Otti sent people from Control Altar to attack Pajule IDP camp.<sup>2537</sup> She said that 'many people' were sent, all from Control Altar.<sup>2538</sup>

1219.She stated that she heard the orders that Vincent Otti gave, which were 'that if they found huts they should burn them, to loot, and to abduct children of the age of 8 years and above, and to attack the barracks'.<sup>2539</sup> In addition, P-0015 stated that Vincent Otti told the group that 'even if they found insects on the way that they should kill them, that all houses in Pajule should be burnt, that civilian people and UPDF should be killed'.<sup>2540</sup> P-0015's evidence on the orders given to the attackers stands out from the evidence of other witnesses who testified about the same fact. The fact that other witnesses who were asked about the orders did not mention the explicit order to kill civilians prevents the Chamber from following P-0015 with respect to this specific issue. This, however, pertains exclusively to the issue of whether an explicit order of the kind described by P-0015 was issued in advance of the attack on Pajule IDP camp, and has, in the light of all the other evidence, no bearing on the Chamber's finding that the LRA perceived as enemy the civilians living in Northern Uganda.<sup>2541</sup>

1220.P-0015 also stated that she heard Vincent Otti make a telephone call to a commander at the UPDF barracks telling him that 'he had sent his people who should reach there at about 8pm'.<sup>2542</sup> However, given that there is no other evidence attesting to this contact,

<sup>2535</sup> P-0138: [T-120](#), p. 39, lines 14-18.

<sup>2536</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 61.

<sup>2537</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 87.

<sup>2538</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 88.

<sup>2539</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 87.

<sup>2540</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 87.

<sup>2541</sup> See section IV.C.4 above.

<sup>2542</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 89.

and in light of the fact that the issue is immaterial to the disposal of the charges in the present case, the Chamber does not make any findings in this regard.

1221. As is evident from the above, each witness who testified before the Chamber about the preparations for the attack on Pajule IDP camp described what they could personally observe in the specific surroundings where they found themselves at the time. Only a few witnesses had reliable overall knowledge of the organisation of the LRA soldiers for the attack. But the testimonies referred to, taken together, establish that after the meeting, soldiers were selected from the attack from the various groups present at the location.

1222. P-0144, an LRA fighter who participated in the attack,<sup>2543</sup> testified that two LRA groups went to lay ambushes along the way so that reinforcements from the Ugandan military would not interfere in the Pajule operation; another was meant to carry out the assault and attack the barracks; and the biggest group was sent to go and collect food items and abduct civilians.<sup>2544</sup> P-0144 stated that the purpose of the attack on the barracks was to weaken the government soldiers and to prevent them from attacking the LRA attackers who were looting food in the camp.<sup>2545</sup> P-0144 testified that the ‘major reason’ the LRA was in Pajule was to collect food.<sup>2546</sup> The witnesses agreed that Raska Lukwiya was designated as the overall commander on the ground.<sup>2547</sup>

1223. Finally, the Chamber notes the evidence of P-0070, who testified that he was injured and in sickbay at the time of the attack on Pajule IDP camp, but that he heard of the attack on ‘domestic radio’ and from those who were injured during the attack and were brought to the sickbay, including one [REDACTED], an LRA soldier in Control Altar.<sup>2548</sup> P-0070 testified that he was told that the attack on Pajule was undertaken by the combined forces of the Control Altar and the Sinia brigade.<sup>2549</sup> Further, P-0070 stated that he was told that the plan for the attack on Pajule had been to overrun the barracks and thereafter to abduct civilians and ‘burn down the entire place’.<sup>2550</sup> Even though P-0070 did not personally

<sup>2543</sup> P-0144: [T-91](#), p. 29, lines 1-11.

<sup>2544</sup> P-0144: [T-91](#), p. 21, lines 6-20, p. 32, lines 6-7.

<sup>2545</sup> P-0144: [T-91](#), p. 34, line 18 – p. 35, line 3.

<sup>2546</sup> P-0144: [T-91](#), p. 34, line 18 – p. 35, line 1.

<sup>2547</sup> P-0144: [T-91](#), p. 22, lines 14-18; P-0209: [T-160](#), p. 24, lines 17-18; D-0134: [T-240](#), p. 58, lines 4-6; P-0101: [T-13](#), p. 25, lines 15-21; P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 87.

<sup>2548</sup> P-0070: T-106-CONF, p. 27, line 12 – p. 28, line 20.

<sup>2549</sup> P-0070: [T-106](#), p. 29, lines 7-10.

<sup>2550</sup> P-0070: [T-106](#), p. 29, lines 19-25.

observe the facts, the Chamber sees value in his evidence as an element of corroboration.<sup>2551</sup>

c. The departure of the attackers

**The same evening after the briefing, the attackers, including Dominic Ongwen, departed for Pajule IDP camp. Vincent Otti remained behind.**<sup>2552</sup>

1224. Witnesses who were present provide consistent testimony, diverging only in inessential detail such as the precise time of departure and arrival, that after the setup of the attacking force, the attackers left for Pajule IDP camp on the evening of the day preceding the attack, moved during the night, and arrived near Pajule in the early morning of the day of the attack.

1225. P-0144 testified that after the ‘standby’ was selected, they went straight to Pajule.<sup>2553</sup> P-0144, who himself went for the attack, testified that it was not very far, only 10 kilometres, and that the attackers left at about 18:00, but did not go in a straight line and kept resting on the way.<sup>2554</sup>

1226. P-0045 testified that the orders for the Pajule attack were given at around 20:00, after which the attackers moved until dawn.<sup>2555</sup>

1227. P-0309 testified that when the attackers left Wanduku they moved to Pajule, which took about two to three hours.<sup>2556</sup> During examination by the Defence, P-0309 added that they did not go directly to Pajule, but stopped along the way and stayed in the bushes for a while.<sup>2557</sup> P-0309 testified that they arrived at Pajule ‘at the centre’ at about 4:00.<sup>2558</sup>

1228. P-0372 testified that the attackers left for Pajule at around 21:00, and arrived there at around 3:00 the next morning, after which they waited for dawn to commence the

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<sup>2551</sup> This is not undermined by the fact that P-0070 – in clear contradiction with the other witnesses who were present for the organisation of the attack – stated that according to what he was told, overall commander of the operation was Bosco Bogi of Control Altar. *See* P-0070: [T-106](#), p. 29, lines 11-16.

<sup>2552</sup> Para. 146 above.

<sup>2553</sup> P-0144: [T-91](#), p. 28, line 23 – p. 29, line 1.

<sup>2554</sup> P-0144: [T-91](#), p. 29, lines 15-17.

<sup>2555</sup> P-0045: T-103-CONF, p. 94, lines 20-21.

<sup>2556</sup> P-0309: [T-60](#), p. 54, lines 13-16.

<sup>2557</sup> P-0309: [T-63](#), p. 5, lines 11-16.

<sup>2558</sup> P-0309: [T-60](#), p. 57, lines 23-24.

attack.<sup>2559</sup> He estimated the distance at 12 miles.<sup>2560</sup> P-0372 also stated that it rained on the way, but in the morning it was clear.<sup>2561</sup>

1229. Charles Lokwiya stated that the attackers set off for Pajule at about 19:00 to 20:00.<sup>2562</sup>

1230. P-0209, who himself did not go to the attack, testified that the attacking force departed the meeting location at about 22:00, but added that he could not recall the time very well.<sup>2563</sup>

1231. Several witnesses who provided credible and detailed accounts of the attack on Pajule IDP camp also stated that they personally saw Dominic Ongwen in the attacking force. In particular, P-0144 specifically confirmed that he saw Dominic Ongwen in the group that went to Pajule.<sup>2564</sup> P-0309 also testified that in the vicinity of Pajule, P-0309 saw people separate into different groups and he himself joined Dominic Ongwen's group.<sup>2565</sup> P-0372 also testified that he saw Dominic Ongwen on the way.<sup>2566</sup>

1232. Turning to Vincent Otti, the Chamber notes that several witnesses testified that he remained behind.<sup>2567</sup> In the presence of this consistent evidence from multiple sources, including P-0138 who stated that he remained behind with Vincent Otti, the Chamber does not on this issue follow P-0045, who at some point indicated that Vincent Otti went to the mission,<sup>2568</sup> or the statement of P-0006, a civilian resident of Pajule IDP camp, who stated that shortly after she was abducted during the attack, she saw an old man for whom she 'thought that he looked like Otti Vincent' and that she recognised him from photographs at the camp.<sup>2569</sup>

<sup>2559</sup> P-0372: [T-148](#), p. 19, lines 16-23.

<sup>2560</sup> P-0372: [T-149](#), p. 65, lines 7-10.

<sup>2561</sup> P-0372: [T-149](#), p. 65, lines 11-17.

<sup>2562</sup> D-0134: [T-240](#), p. 58, lines 10-12.

<sup>2563</sup> P-0209: [T-160](#), p. 29, lines 5-8.

<sup>2564</sup> P-0144: [T-91](#), p. 30, lines 7-8.

<sup>2565</sup> P-0309: [T-60](#), p. 54, lines 16-18.

<sup>2566</sup> P-0372: [T-148](#), p. 19, lines 19-21.

<sup>2567</sup> P-0045: T-103-CONF, p. 95, lines 14-17; P-0138: T-120-CONF, p. 32, lines 13-19; P-0209: [T-160](#), p. 30, lines 6-9; P-0309: [T-60](#), p. 53, lines 13-15.

<sup>2568</sup> P-0045: T-103-CONF, p. 91, lines 23-25.

<sup>2569</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 33

iii. *The LRA's attack against the civilian population of Pajule IDP camp*

**On 10 October 2003, LRA fighters, including Dominic Ongwen, attacked Pajule IDP camp.<sup>2570</sup>**

**In the early morning of 10 October 2003, several hundreds of LRA fighters, including fighters under the age of 15, entered through the Pajule side of the camp on the east, armed with an assortment of weapons, including SPG-9, AK-47s, a 12.7 mm anti-aircraft gun, RPGs, a PKM machine gun as well as pangas/machetes and knives.<sup>2571</sup>**

**The LRA fighters were organised in several units, spreading throughout the camp. One group attacked the military barracks in the Lapul side of the camp, engaging with the Ugandan government forces. Another much smaller group went to the Catholic mission, from where it was repelled by government soldiers. Two small groups set up ambushes on the Pader and Kitgum roads, to prevent government military reinforcements from aiding the camp. A final large group of fighters went to attack the civilian camp. Amongst this group of fighters was Raska Lukwiya, the operations commander of the attack.<sup>2572</sup>**

**Government soldiers within the camp fled in the face of the attacking force, while government soldiers in the barracks managed to hold the barracks under heavy fire from the LRA.<sup>2573</sup>**

1233. The parties agree that on or about 10 October 2003, there was an attack on Pajule IDP camp.<sup>2574</sup> The evidence shows that this attack occurred in the early morning of 10 October 2003,<sup>2575</sup> the day after Uhuru day, the Ugandan Independence day.

1234. Regarding the number of fighters that attacked the camp, LRA fighter P-0144 testified that between 400 and 500 of them went to Pajule IDP camp.<sup>2576</sup> This estimate is compatible with the testimony of Charles Lokwiya, another LRA fighter, who stated that 80 to 100 fighters went to the barracks but that the majority of the attackers went to the centre.<sup>2577</sup> LRA fighter P-0372 estimated that there were at least 40 fighters from each

<sup>2570</sup> Para. 144 above.

<sup>2571</sup> Para. 147 above.

<sup>2572</sup> Para. 147 above.

<sup>2573</sup> Para. 148 above.

<sup>2574</sup> [Agreed Facts](#), C1.

<sup>2575</sup> P-0009: [T-81](#), p. 11, line 25 – p. 12, line 2; P-0379: [T-57](#), p. 21, lines 17-24; P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 14; P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 12. *See* enhanced audio recording, UGA-OTP-0247-1102 at section IV.B.3.ii.c above; P-0003 Tape 693 Transcript, UGA-OTP-0132-0105-R01, at 0133-36; P-0003: [T-43](#), p. 3, line 17 – p. 12, line 21; P-0138: [T-120](#), p. 65, line 25 – p. 68, line 14; UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2116-2117; ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547; UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1070.

<sup>2576</sup> P-0144: [T-92](#), p. 43, lines 10-13.

<sup>2577</sup> D-0134: T-240-CONF, p. 62, line 18 – p. 63, line 2, thus indicating that the 80 to 100 fighters mentioned were a minority of the fighters participating in the attack.

group selected to go to attack Pajule and about three groups participating in the attack.<sup>2578</sup> The Chamber considers this latter relatively lower estimate to still be compatible with the other evidence and the conclusion that several hundred LRA fighters participated in the attack on Pajule IDP camp on 10 October 2003.

1235. This conclusion is further supported by the testimonies of government soldiers. UPDF officer John Lubwama testified that about 400 LRA fighters attacked the camp.<sup>2579</sup> P-0084, an officer with the UPDF who observed the attack and participated in an investigation the next day, testified that he believed that about 200 to 250 rebels came to attack Pajule in October 2003.<sup>2580</sup>

1236. The evidence also demonstrates that among the LRA fighters who participated in the attack on Pajule IDP camp, there were also children younger than 15 years old. P-0144, who participated in the fight at the government barracks, testified that the youngest LRA fighters at the barracks could be about 13 or 14.<sup>2581</sup> Asked how he could tell their ages, P-0144 also testified that he could ‘see’ their age, and that they were ‘still tender’ and could have been 13, 14 or 15 years old.<sup>2582</sup> He also stated that he compared the soldiers to himself, who was 17 years old and was older, by ‘many years’, than even the people who abducted him.<sup>2583</sup>

1237. This evidence is corroborated by the testimony of camp resident P-0249, who stated that the rebels who abducted him and his wife were young, from 12 up to about 18 years old.<sup>2584</sup> P-0249 also testified that Rwot Oywak was abducted by an armed *kadogo*.<sup>2585</sup> P-0249 testified that he believed that the *kadogo* was approximately 13 or 14 years old.<sup>2586</sup> P-0249 testified that he could tell the soldiers’ ages by their sizes and estimating their age accordingly.<sup>2587</sup>

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<sup>2578</sup> P-0372: [T-148](#), p. 18, lines 9-11; [T-149](#), p. 67, lines 18-21. It is noted that the witness stressed that he was providing an estimate; P-0372: [T-149](#), p. 67, lines 18-21.

<sup>2579</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 96.

<sup>2580</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 137.

<sup>2581</sup> P-0144: [T-91](#), p. 32, line 25 – p. 33, line 7.

<sup>2582</sup> P-0144: [T-91](#), p. 33, lines 13-14.

<sup>2583</sup> P-0144: [T-91](#), p. 33, lines 15-19.

<sup>2584</sup> P-0249: [T-79](#), p. 11, line 23 – p. 12, line 11.

<sup>2585</sup> P-0249: [T-79](#), p. 21, lines 14-18, p. 23, lines 3-9.

<sup>2586</sup> P-0249: [T-79](#), p. 23, lines 3-6.

<sup>2587</sup> P-0249: [T-79](#), p. 12, lines 5-11. *See also* [T-80](#), p. 3, line 10 – p. 5, line 9.

1238. Further, camp resident P-0006 testified that she was abducted and beaten by young LRA fighters, she identified as *kadogos* around 14 years old.<sup>2588</sup> UPDF commander John Lubwama testified that he could see that the average age of the rebels in the attack were between 12 and 20 years old.<sup>2589</sup> He also stated specifically that he saw the bodies of the LRA fighters killed during the attack and that their ages were between 12 and 20 years old.<sup>2590</sup>

1239. In this context, the Chamber recalls the testimony of LRA fighter P-0379 who stated that he saw a very young boy, who appeared to be a rebel, who was shot around the shoulders and on his head and was dead and it appeared he had been holding bubble gum in his hand but it fell next to him.<sup>2591</sup> While P-0379 does not explicitly estimate the age of the ‘very young boy’ that he saw, the description that he gave makes it plain that he spoke of a child below the age of 15. The Chamber thus notes P-0379’s evidence as corroborative of the other evidence in relation to the participation of children under 15 years old in the LRA attack on Pajule IDP camp on 10 October 2003.

1240. Credible and consistent evidence shows that the LRA forces attacking Pajule IDP camp were heavily armed with weapons including an SPG-9, AK-47s, a 12.7 mm anti-aircraft gun, RPGs, a PKM machine gun as well as pangas/machetes and knives.<sup>2592</sup> The evidence

<sup>2588</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 11, 14; P-0006: [T-140](#), p. 9, lines 1-11, p. 37, lines 15-20.

<sup>2589</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 108.

<sup>2590</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 109-110.

<sup>2591</sup> P-0379: [T-57](#), p. 26, lines 6-8, p. 27, lines 8-18.

<sup>2592</sup> D-0134: T-240-CONF, p. 60, lines 19-25, p. 61, lines 10-16 (testifying that he was carrying a weapon called an SPG-9, an anti-tank weapon used mainly to shoot armoured vehicles); P-0144: [T-91](#), p. 30, lines 15-18 (stating that the LRA had an SMG, a PKM machine gun, an RPG, a recoilless, an SPG-9, a 12.7 and a 60 millimetre mortar); P-0209: [T-160](#), p. 29, lines 2-4 (stating that the LRA soldiers who participated in the Pajule attack from his group went with AK-47s, PKM, RPG and 12.7 gun); P-0309: [T-60](#), p. 53, line 22 – p. 54, line 12 (testifying that LRA fighters, including himself, had weapons such as AK-47s; fighters also had mortars and RPGs as well as ‘big guns’ whose names the witness could not recall); P-0045: T-103-CONF, p. 95, line 24 – p. 96, line 2 (stating that the LRA fighters went to the barracks with an LMG, a B-10, an SPG-9 and small arms); P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 30, 97, 98 (testifying that the attackers were armed with hoes, pangas and 1.5 metres spears. The LRA attackers also used AK-47s, an SPG-9 and the 12.7 mm anti-aircraft gun. After the attack the government soldiers recovered from LRA an SPG-9 (a self-propelled, anti-armour gun) and cartridges from the 12.7 anti-aircraft gun near the military barracks as well as 11 Ak-47s); P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 20 (testifying that after the attack, the government forces recovered 13 sub-machine guns (SMGs) and an SPG-9 from the LRA fighters); P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 14 (Benson Ojok was abducted by an LRA fighter carrying an AK-47 and a bayonet knife); P-0067: [T-125](#), p. 10, lines 3-6 (Dick Okot saw an RPG gun, and other smaller arms, foldable guns).

shows that Dominic Ongwen was also armed at Pajule IDP camp during the attack.<sup>2593</sup> P-0309 testified that Dominic Ongwen had a gun similar to an AK-47 gun.<sup>2594</sup>

1241. UPDF soldier P-0084 testified that prior to the attack, the military had noticed LRA commanders concentrating east of Pajule and were thus anticipating an attack somewhere in the region.<sup>2595</sup> The military was monitoring about seven LRA groups and these groups were moving towards Lanyatono village, which was about eight miles east of Pajule.<sup>2596</sup> P-0084 testified that just before the attack there had already been threats by the LRA of attacks on IDP camps, including on Pajule IDP camp.<sup>2597</sup> According to P-0084, the letter warned the people to leave the camp or they would be attacked.<sup>2598</sup>

1242. As planned,<sup>2599</sup> and as laid out in detail below, the LRA fighters split and went to different areas in the camp: the barracks; the Catholic mission; the civilian camp, including the trading centre; and also to set up ambushes of the incoming government reinforcements on the Pader and Kitgum roads. The Chamber notes that some witnesses did not mention certain groups referred to by other witnesses, in particular the groups that went to the Catholic mission and to lay ambushes to prevent government reinforcements from arriving. This is naturally explained by the different personal knowledge of the witnesses, and does not raise doubt as to the reliability of the evidence as a whole.

1243. LRA fighter P-0144 testified that each of the different groups that went to the attack had a different commander, Lieutenant Lalero for one of the ambushes,<sup>2600</sup> Bogi for the barracks, and Dominic Ongwen for the centre.<sup>2601</sup> According to P-0144, Raska Lukwiya, the operations commander for the entire attack, went to the centre with Dominic Ongwen and the group Dominic Ongwen commanded.<sup>2602</sup> Raska Lukwiya's role was to 'go and

<sup>2593</sup> P-0309: [T-60](#), p. 54, lines 4-8.

<sup>2594</sup> P-0309: [T-60](#), p. 54, lines 6-8.

<sup>2595</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 69-70.

<sup>2596</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 70.

<sup>2597</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 73, 76. In this regard, the witness testified about having seen a letter from the LRA, warning people to leave the camp or they would be attacked, that had been dropped at Pajule IDP camp about a week before the attack.

<sup>2598</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 76.

<sup>2599</sup> See section IV.C.6.ii above.

<sup>2600</sup> P-0144: [T-91](#), p. 32, lines 6-7 (testifying that he could not remember the name of the commander of the second ambush).

<sup>2601</sup> P-0144: [T-92](#), p. 45, lines 14-23.

<sup>2602</sup> P-0144: [T-92](#), p. 45, lines 14-23.

conduct abductions, supported by the commanders that he selected at the centre, and to coordinate the other groups that are not together with him at that time'.<sup>2603</sup> P-0144 confirmed that Raska Lukwiya was personally present and oversaw the operations in the centre.<sup>2604</sup>

1244. According to P-0144, the attacking force initially moved in one group and then, when the LRA fighters were close to Pajule IDP camp, they split into their respective groups. The ambush group went first, then the group assaulting the barracks and lastly the third group went to the trading centre to collect food and abduct people.<sup>2605</sup>

1245. Similarly, LRA fighter Charles Lokwiya testified that as the LRA approached Pajule IDP camp they split into three groups.<sup>2606</sup> He stated that Bogi led the groups going to the barracks,<sup>2607</sup> and the main group, led by Raska Lukwiya, went to the centre.<sup>2608</sup> According to Charles Lokwiya, another group, led by Vincent Otti's escort Onyee, proceeded to the mission.<sup>2609</sup>

1246. John Lubwama, the UPDF commander of the government forces stationed at the camp at the time of the attack, testified that the LRA split into two groups near the health centre and one group crossed the main road and advanced towards the barracks while another group moved towards Pajule IDP camp.<sup>2610</sup>

1247. John Lubwama testified that at the time of the attack there were a total of 150 government soldiers under his command.<sup>2611</sup> The soldiers were mostly LDUs and the commanders, UPDF.<sup>2612</sup> John Lubwama testified that 70 soldiers were deployed in the barracks and about 80 were deployed around the camp.<sup>2613</sup> At the time of the attack on the camp, the soldiers in the barracks slept in the trenches in order to be ready for fighting. The

<sup>2603</sup> P-0144: [T-92](#), p. 45, line 24 – p. 46, line 6.

<sup>2604</sup> P-0144: [T-92](#), p. 46, lines 4-6.

<sup>2605</sup> P-0144: [T-91](#), p. 29, lines 15-25.

<sup>2606</sup> D-0134: [T-240](#), p. 58, line 25 – p. 59, line 4.

<sup>2607</sup> D-0134: [T-240](#), p. 59, lines 7-10.

<sup>2608</sup> D-0134: [T-240](#), p. 59, lines 7-11.

<sup>2609</sup> D-0134: [T-240](#), p. 59, line 14 – p. 60, line 12.

<sup>2610</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 95.

<sup>2611</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92; P-0047: [T-115](#), p. 11, lines 13-15.

<sup>2612</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92.

<sup>2613</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92.

Chamber notes that while there was a police station in the camp there is no evidence that the police engaged in any discernible way during the LRA attack on 10 October 2003.

1248. The witnesses – LRA insiders, camp residents and government military officers – stated that the shooting began in the early morning of 10 October 2003, generally testifying to a range of times between 5:00 and 6:00.<sup>2614</sup> According to witness evidence, people had been celebrating Uhuru Day – Ugandan Independence Day – the night before, and for this reason some were still drunk and caught unaware by the attack.<sup>2615</sup>

1249. Camp resident Terrence Otika became aware of the attack when he heard the sounds of whistles being blown and ululations.<sup>2616</sup> He testified that he knew it was the ‘rebels’ attacking because they were blowing whistles and had girls with them making ululations.<sup>2617</sup>

1250. UPDF commander John Lubwama testified that he initially heard a gunshot from the north by the road, close to the primary school near the military barracks.<sup>2618</sup> He testified that two of his officers, who were about 100 meters from the main road, saw the rebels coming from the north of their position, advancing in fighting formation.<sup>2619</sup> The two soldiers fired at the rebels and the rebels started firing back.<sup>2620</sup> The soldiers then ran to

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<sup>2614</sup> P-0144: [T-91](#), p. 31, lines 6-8 (testifying that the attack began at about 5:00); P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 14 (stating that he first heard shooting between 5:00 and 6:00); P-0007 Statement, UGA-OTP-0147-0214-R01, at paras 10-11 (stating that he lived within the trading centre in the Lapul side of the IDP camp and first heard guns being fired at around 5:00 in the morning); P-0379: [T-57](#), p. 21, lines 17-24 (testifying that he started hearing gunshots at around 5:00 and knew that this meant that the camp was being attacked); P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 82 (testifying that he heard gunfire at about 5:30); D-0134: T-240-CONF, p. 62, lines 2-7 (stating that the attack began at 6:00); P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 25, 91 (testifying that the attack took place around 6:00 when he was awake inside his house listening to the BBC); P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 17-18 (stating that he woke up at around 6:00 the morning of 10 October 2003 to the sound of gunshots, he went outside and was sent back inside by an armed man who he assumed to be a government soldier, at that time he checked his watch and it said 6:00). *See also* D-0085: [T-239](#), p. 18, line 23 – p. 19, line 1 (testifying that the LRA forces arrived in Pajule ‘around dawn, around 7:00, 7:30’).

<sup>2615</sup> D-0076: [T-219](#), p. 11, lines 2-6. *See also* P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 8-9; P-0249: [T-79](#), p. 9, lines 18-22.

<sup>2616</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 11.

<sup>2617</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 13. The witness stated that this was, in his observation, the customary behaviour of the rebels during attacks.

<sup>2618</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92. *See* P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 49; P-0047’s sketch of Pajule IDP camp, UGA-OTP-0027-0198. In his sketch of Pajule IDP camp, the witness indicates the locations of the primary schools in Pajule with a ‘P.S’. The primary school he speaks of here is shown as being towards the north east of the military barracks.

<sup>2619</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92.

<sup>2620</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92.

the barracks and into the fighting trenches.<sup>2621</sup> John Lubwama testified that the government forces took position in the trenches, armed with AK-47s, mortars and 82 mm recoilless guns.<sup>2622</sup> John Lubwama testified that he called for reinforcement from the regular UPDF force, the 65<sup>th</sup> battalion, which was about seven kilometres south of the camp.<sup>2623</sup>

1251. According to John Lubwama, the attackers came from the east.<sup>2624</sup> Similarly, camp resident Santo Oweka confirmed that the LRA came from the east or northeast.<sup>2625</sup> Camp resident P-0006 also heard the noises signalling the beginning of the attack coming from the eastern direction.<sup>2626</sup>

1252. Other witnesses corroborate the above accounts. Okema Brown, a camp resident and leader, testified that he first heard shooting from the direction of the barracks and then he could hear shooting coming from all different directions, stating ‘the attack came from all directions in the camp’.<sup>2627</sup> UPDF officer P-0084 testified that he was at the UPDF divisional headquarters at Achol-Pii about 30 kilometres from Pajule and could hear gunshots coming from the camp.<sup>2628</sup> P-0084 stated that after hearing the gunshots the divisional headquarters received radio communication of the attack from Captain Lubwama, commander of the military detachment at Pajule,<sup>2629</sup> thereby confirming the latter’s testimony. P-0084 also testified that Captain Lubwama said that there was fighting in the barracks and some LRA were in the trading centre.<sup>2630</sup>

1253. P-0144 testified that about 100 LRA fighters went to the barracks.<sup>2631</sup> Charles Lokwiya corroborates this account.<sup>2632</sup> This number is also compatible with the testimony of John Lubwama, who stated that he saw about 150 rebels coming towards the barracks.<sup>2633</sup> The

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<sup>2621</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92.

<sup>2622</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 97.

<sup>2623</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 53.

<sup>2624</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 95.

<sup>2625</sup> D-0081: [T-221](#), p. 45, lines 20-22.

<sup>2626</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 9.

<sup>2627</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at paras 13-14.

<sup>2628</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 82.

<sup>2629</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 82. This testimony corroborates John Lubwama’s accounts of his reaction to the LRA’s attack. *See* para. 1250 above.

<sup>2630</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 83.

<sup>2631</sup> P-0144: [T-91](#), p. 32, lines 20-22.

<sup>2632</sup> D-0134: T-240-CONF, p. 62, line 18 – p. 63, line 2 (testifying that 80 to 100 fighters went to the barracks).

<sup>2633</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 92.

Chamber notes that LRA fighter P-0045's estimate as to the number of fighters that went to attack the barracks was much lower ('about 15 perhaps'), but does not consider this estimate decisive in light of the consistent estimates of the other witnesses and in light of P-0045's clarification that, in any case, she was not including in her count all the LRA fighters that actually went to the barracks.<sup>2634</sup>

1254. The evidence shows that heavy fighting occurred at the barracks.<sup>2635</sup> According to P-0144, a group of LRA fighters, led by Bogi, went straight to the barracks and engaged the government soldiers there.<sup>2636</sup> P-0144 testified that when the LRA started its attack on the barracks at the upper side of the barracks some of the government soldiers there fled in the southern direction.<sup>2637</sup> P-0144 stated that the LRA fighters initially overran part of the barracks but were ultimately not able to overpower the soldiers stationed at the barracks and so retreated in the direction of the trading centre.<sup>2638</sup> Several other witnesses, specifically LRA fighters, offered testimony consistent with and corroborative of this account. P-0045 stated that the government soldiers at the barracks initially retreated before coming back and defeating the LRA.<sup>2639</sup> Charles Lokwiya testified that the LRA fighters fought in the barracks and just as they were about to capture the barracks, the government soldiers returned in numbers.<sup>2640</sup> Camp resident P-0081 testified that he heard bombs being fired towards the barracks and coming out of the barracks.<sup>2641</sup>

1255. Witnesses reported that there was also shooting in the civilian areas of the camp. LRA fighter P-0330 provides testimony to the effect that LRA fighters engaged with government soldiers, stating that there were soldiers guarding the centre and he fired his gun at them.<sup>2642</sup> From his position in the military battalion headquarters, John Lubwama could see and hear the group in the camp attacking there at the same time as the group

<sup>2634</sup> P-0045: T-103-CONF, p. 95, lines 7-13.

<sup>2635</sup> P-0067: [T-126](#), p. 5, lines 6-7 (testifying that the barracks was 'where the heavy fighting was'); P-0372: [T-148](#), p. 20, line 25 – p. 21, line 2 (testifying that he was told by the people who went to the barracks the fighting at the barracks was 'very fierce').

<sup>2636</sup> P-0144: [T-91](#), p. 22, lines 1-4, p. 30, lines 21-23, p. 33, line 23 – p. 34, line 1.

<sup>2637</sup> P-0144: [T-91](#), p. 34, lines 7-17.

<sup>2638</sup> P-0144: [T-91](#), p. 33, line 23 – p. 34, line 6, p. 35, lines 21-24. *See also* P-0372: [T-148](#), p. 21, lines 7-12 (like P-0144, P-0372 also testified that the persons who went to the barracks later came back and joined the ones who were in the camp who were taking foodstuff).

<sup>2639</sup> P-0045: T-103-CONF, p. 91, lines 14-16; T-104-CONF, p. 6, lines 5-11, line 25 – p. 7, line 3.

<sup>2640</sup> D-0134: T-240-CONF, p. 62, lines 8-11, p. 63, lines 3-8.

<sup>2641</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 18.

<sup>2642</sup> P-0330: T-52-CONF, p. 7, lines 4-10.

attacking the barracks.<sup>2643</sup> UPDF commander John Lubwama testified that some of the government soldiers were present nearby to protect the camp, but they were overpowered and withdrew, after which the attackers entered the camp.<sup>2644</sup>

1256. Similarly, camp resident Dick Okot testified that there were government soldiers in the outskirts of the camp and a few soldiers were within the camp.<sup>2645</sup> The witness testified that there was a gun battle in the Pajule side of the camp and the UPDF soldiers retreated to the barracks on the Lapul side of the camp and were no longer there on the Pajule side.<sup>2646</sup> According to the witness, the LRA came and chased away the soldiers that were in the camp and the soldiers that were in the outskirts of the camp and the soldiers ran to the barracks.<sup>2647</sup> Dick Okot testified that the LRA fighters then entered the camp and started breaking into people's houses and into the shops.<sup>2648</sup> Likewise, P-0006 testified that she knew the government soldiers in the camp had run away because she did not see any government soldiers near the house when she and the other inhabitant were taken out by LRA fighters and abducted.<sup>2649</sup>

1257. Other witnesses' testimonies are consistent with and corroborative of these accounts.<sup>2650</sup> In this context, the Chamber notes the testimony of Okema Brown, who lived on the Pajule side of the camp, testified that after the shooting began he and his children lay on the floor of their hut.<sup>2651</sup> Okema Brown heard the rebels outside giving instructions 'you just abduct, maka maka'.<sup>2652</sup> Okema Brown testified that he also heard rebels giving instructions to other rebels that 'they should just shoot the drunkards'.<sup>2653</sup> Similarly, Richard Otim testified that it was dawn and he was asleep, when he heard gunshots on

<sup>2643</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 96.

<sup>2644</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 102.

<sup>2645</sup> P-0067: [T-126](#), p. 4, line 24 – p. 5, line 4.

<sup>2646</sup> P-0067: [T-125](#), p. 8, lines 7-10.

<sup>2647</sup> P-0067: [T-126](#), p. 5, lines 4-7.

<sup>2648</sup> P-0067: [T-125](#), p. 8, lines 7-12.

<sup>2649</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 18.

<sup>2650</sup> D-0077 Statement, UGA-D26-0022-0316, at paras 1, 12-13 (David Okwera testified that the LRA fighters ran away, leading to the abduction of the people. He also stated that towards the end of the attack, a government soldier kicked open the door and ran into his home. The soldier did not attack or hurt him and made no threatening statement or gestures and it seemed that he was just looking for safety). David Okwera's testimony indicates that there were government soldiers within the camp trying to escape from the LRA; P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 12 (testifying that he heard gunshots go off on and off, and when the guns fell silent, he could hear the sounds of loud hitting on the doors of houses).

<sup>2651</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 14.

<sup>2652</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 14.

<sup>2653</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 14.

the road from Pajule centre.<sup>2654</sup> Richard Otim realised that it could be LRA fighters attacking so he woke up; afraid of being abducted, he tried to run.<sup>2655</sup> However he was held back by his wife who was afraid that he would be shot by the bullets being fired outside.<sup>2656</sup>

1258. The very fact that LRA fighters were able to abduct so many civilians within Pajule IDP camp is further proof that they were not being impeded by a military force that remained in the centre.<sup>2657</sup>

1259. The evidence indicates that several LRA fighters and UPDF soldiers were injured, and some killed, in the exchange of fire that occurred at the barracks and within the camp.<sup>2658</sup>

1260. Whereas the charges in relation to the Pajule IDP camp attack do not include the destruction of property, the Chamber notes nonetheless that the evidence suggests that the LRA did burn down a limited number of civilian huts within the camp.<sup>2659</sup>

1261. UPDF commander John Lubwama testified that some of the rebels in the group tried to go to the Catholic mission and into the Lapul civilian area but they were repelled by his men.<sup>2660</sup> UPDF officer P-0084 testified that a nun at the Catholic mission told him that the LRA fighters did not enter the mission but stopped at the fence and called out to the

<sup>2654</sup> D-0076: [T-219](#), p. 11, lines 2-9.

<sup>2655</sup> D-0076: [T-219](#), p. 11, lines 11-15.

<sup>2656</sup> D-0076: [T-219](#), p. 11, lines 11-15.

<sup>2657</sup> See paras 1326-1355 below.

<sup>2658</sup> D-0134: T-240-CONF, p. 62, lines 9-11 (testifying that he was shot); P-0144: [T-91](#), p. 35, lines 4-12 (testifying that Charles Lokwiya was injured in the attack at the barracks when his SPG-9 gun was shot and the fragment of the gun hit him on the stomach and on the mouth); P-0045: T-103-CONF, p. 91, lines 14-18; P-0130 Statement, UGA-OTP-0191-0272-R01, at para. 62 (many LRA fighters were injured during the fight at the barracks); P-0372: [T-148](#), p. 20, line 25 – p. 21, line 3, p. 24, lines 14-18 (testifying that LRA fighter Oringa was killed at the barracks); P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 100, 111-112 (testifying that some of the rebels were killed among the huts near the military barracks. Ten rebels were killed by the military barracks and two government soldiers killed close to the barracks. One rebel was killed in the Pajule camp area as well as one government soldier who had been deployed around the camp to protect it.).

<sup>2659</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at paras 36, 46-49 (stating that when he went to his home to check the damage he saw that grass had been pulled from the thatched roof of his hut and was then told by his relative that after the arrival of the helicopter, the rebels said that they should burn the huts so that the smoke prevents the helicopter from seeing them; and testifying that on 11 October 2003, he counted, along with block leaders, 23 huts burnt on the Pajule sub-county side of the camp); P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 102 (stating that 11 huts were burned in ‘Pajule IDP camp north east’ and that he saw the huts on fire); P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 115 (testifying that his staff members counted 315 huts burnt in the camp); P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 18; P-0006: [T-140](#), p. 11, lines 8-15 (testifying that she saw the smoke from burnt grass-thatched houses in the trading centre of both sides of Pajule IDP camp; she guessed that it was the rebels attacking the camp who set the houses on fire because government soldiers had never set houses on fire before).

<sup>2660</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 100-101.

people within the mission to open the gate.<sup>2661</sup> According to P-0084, the mission housed captured or rescued former female or child LRA abductees.<sup>2662</sup> P-0084 testified that the mission was ‘less than 100-200 metres’ from the barracks.<sup>2663</sup>

1262. LRA insider evidence is consistent with these accounts. P-0144 testified that a group of about 10-11 fighters was supposed to go to the mission but did not manage to reach the mission because the government soldiers were able to thwart their attack.<sup>2664</sup> This group of fighters was commanded by Onyee, an LRA captain.<sup>2665</sup> P-0045 testified that the group that went to attack the mission included a fighter called Onyee, one of Vincent Otti’s escorts.<sup>2666</sup> In addition, P-0045 stated that she heard that ‘[n]othing happened at the mission’, because the LRA fighters sent there encountered soldiers and ran back.<sup>2667</sup>

1263. Regarding the groups of fighters who went to set up ambushes, P-0144 testified that Lieutenant Lalero commanded the ambush group and they went to the Pader road to lay an ambush for the government soldiers,<sup>2668</sup> a second ambush team who went to Kitgum road.<sup>2669</sup> P-0309 testified that some fighters went to stage an ambush along the way to take care of the government soldiers that would be coming from different directions.<sup>2670</sup> Corroborating these accounts, camp leader Okema Brown testified that he was later told by the commanding officer of the military barracks that the LRA had laid ambushes on the roads outside the camp to prevent the army from coming inside.<sup>2671</sup> UPDF officer P-0084 testified that the LRA fighters ambushed a UPDF vehicle coming to reinforce the camp with a landmine and anti-tank gun, about 3-5 kilometres from the trading centre on the Pajule-Pader road.<sup>2672</sup> Although the LRA was successful in damaging a vehicle, they

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<sup>2661</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 103.

<sup>2662</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 103-104.

<sup>2663</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 105.

<sup>2664</sup> P-0144: [T-91](#), p. 25, lines 19-25.

<sup>2665</sup> P-0144: [T-91](#), p. 25, line 19 – p. 26, line 1.

<sup>2666</sup> P-0045: T-104-CONF, p. 4, lines 6-10, p. 62, lines 21-23.

<sup>2667</sup> P-0045: T-104-CONF, p. 9, line 23 – p. 10, line 1.

<sup>2668</sup> P-0144: [T-91](#), p. 22, lines 10-13.

<sup>2669</sup> P-0144: [T-91](#), p. 32, lines 6-7 (P-0144 did not recall the name of the commander of this group).

<sup>2670</sup> P-0309: [T-60](#), p. 54, lines 13-20.

<sup>2671</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 16.

<sup>2672</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 86.

eventually retreated in the face of UPDF fire.<sup>2673</sup> P-0144 testified that he heard that Lieutenant Lalero, who had commanded the ambush, died in the operation.<sup>2674</sup>

**Dominic Ongwen led a group of attackers to fight at the barracks, before directing them to attack the trading centre within the camp.**<sup>2675</sup>

1264. As discussed above, Dominic Ongwen participated in the planning of the attack on Pajule IDP camp. He also personally went to the attack. Witnesses testified that they saw Dominic Ongwen leave for the attack on Pajule along with the brigades that were going on the attack.<sup>2676</sup> P-0144 also testified that after the attack, during the LRA retreat from Pajule, he saw Dominic Ongwen among a group of fighters moving ahead to the RV point.<sup>2677</sup>

1265. The Chamber recalls that almost a hundred fighters alone attacked the barracks and even more than a hundred attacked the trading centre, and that altogether several hundred persons participated in the LRA attack on Pajule IDP camp.<sup>2678</sup> Given the large number of LRA fighters participating in the attack, it is not unusual that several witnesses testified that they did not see Dominic Ongwen during the course of the attack.<sup>2679</sup> Additionally, at the time of the gathering of various LRA units, the preparations for the attack and during the attack itself, several officers more senior to Dominic Ongwen were present and active. It is therefore understandable that even fighters within the same group might not have noted and remembered each other's presence.

1266. As to where Dominic Ongwen went within the camp, some evidence suggests that Dominic Ongwen was present at the barracks, for at least some portion of the attack.

<sup>2673</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 87.

<sup>2674</sup> P-0144: [T-91](#), p. 47, lines 21-25.

<sup>2675</sup> Para. 149 above.

<sup>2676</sup> See section IV.C.6.ii.c, the Chamber's discussion of the departure of the attackers.

<sup>2677</sup> P-0144: [T-91](#), p. 44, lines 11-19. See P-0144: [T-91](#), p. 45, line 3 – p. 47, line 2; P-0144's sketch of Pajule, UGA-OTP-0243-0504 (showed the path of withdrawal and indicating that during the withdrawal, Dominic Ongwen was positioned in the main group of fighters who went to the camp).

<sup>2678</sup> See paras 1234, 1253 above.

<sup>2679</sup> P-0330: [T-51](#), p. 80, lines 3-7; [T-52](#), p. 11, lines 11-13 (testifying that he did not see Dominic Ongwen in Pajule during the attack and went to the attack with a different commander); D-0085: [T-239](#), p. 18, lines 4-6 (testifying, having been a low level attacker in Pajule to collect food, that she never met Dominic Ongwen); D-0134: [T-240](#), p. 65, lines 17-21, p. 66, lines 1-3 (testifying that he did not see Dominic Ongwen among the group that went to Pajule and did not see Dominic Ongwen at the RV after the attack). Regarding Charles Lokwiya's testimony, the Chamber recalls that he was injured during the attack, arrived at the RV location later than the other fighters and was moved to sickbay.

1267. LRA fighter P-0372 testified that Dominic Ongwen divided the fighting troops into groups and led the group that went to attack the barracks at Pajule.<sup>2680</sup> P-0372 testified that he saw Dominic Ongwen as he was going to the barracks.<sup>2681</sup> P-0372 testified that he saw Dominic Ongwen walk with a limp as if he was shot in the leg but noted that ‘his disability was not very serious, he would walk by himself.’<sup>2682</sup> The witness stated that although he did not see Raska Lukwiya in Pajule, he was not certain that Lukwiya was not there as ‘people were many and besides that people went at night and so you wouldn’t know everyone’.<sup>2683</sup>

1268. LRA fighter P-0309 provided similar testimony, including more detail. He also stated that Dominic Ongwen’s group went to the barracks, while another group went to the trading centre of Pajule IDP camp.<sup>2684</sup> Importantly, P-0309 testified that Dominic Ongwen went with a group of fighters straight to the barracks to engage with the soldiers there and that he was himself part of these fighters.<sup>2685</sup> The witness further stated that a group of LRA soldiers surrounded the government troops in the barracks and, led by Dominic Ongwen, had an armed exchange with government soldiers.<sup>2686</sup> As also discussed above, P-0309 testified that LRA fighters overpowered part but not the whole of the government barracks.<sup>2687</sup> P-0309 explained that the government soldiers retreated and then came back and defeated the LRA forces.<sup>2688</sup> He testified that his group, on Dominic Ongwen’s orders, then left the barracks and went to the centre to join the LRA group there.<sup>2689</sup> P-0309 testified in great detail about how he heard Dominic Ongwen blow a whistle and indicate with his hand that LRA fighters should retreat from the

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<sup>2680</sup> P-0372: [T-148](#), p. 18, lines 15-23, p. 20, lines 5-6. The Chamber notes that P-0372 testified that Dominic Ongwen was ‘[t]he most senior person in charge of that attack’. However, in light of the detailed evidence otherwise available in relation to the commanders involved in the planning and execution of the attack, and in light of P-0372’s status as a low level fighter which gave him an inherently limited possibility to observe the relevant facts and make this assessment, the Chamber does not attribute any consequence to this particular assertion of P-0372. The Chamber also notes that given P-0372’s status at the time of the attack, it is likely that Dominic Ongwen was indeed the most senior person he observed.

<sup>2681</sup> P-0372: [T-148](#), p. 21, lines 13-14.

<sup>2682</sup> P-0372: [T-148](#), p. 22, lines 3-8. The Chamber has no reason to believe that P-0372 mistook any other commander for Dominic Ongwen in light of the precise physical description of Dominic Ongwen that he was able to provide.

<sup>2683</sup> P-0372: [T-148](#), p. 18, line 25 – p. 19, line 7.

<sup>2684</sup> P-0309: [T-63](#), p. 7, lines 19-25.

<sup>2685</sup> P-0309: [T-60](#), p. 52, lines 1-2, p. 54, lines 13-22; [T-63](#), p. 9, lines 2-5.

<sup>2686</sup> P-0309: [T-60](#), p. 59, lines 19-25.

<sup>2687</sup> P-0309: [T-60](#), p. 59, line 23 – p. 60, line 2.

<sup>2688</sup> P-0309: [T-60](#), p. 60, lines 2-4.

<sup>2689</sup> P-0309: [T-60](#), p. 60, lines 3-16.

barracks and move to the trading centre of Pajule IDP camp.<sup>2690</sup> P-0309 testified that the LRA forces spent between 40 to 50 minutes at the barracks.<sup>2691</sup>

1269. The Chamber is persuaded by the details and context provided by P-0309 in his description of his participation under Dominic Ongwen in the attack on the UPDF barracks and the retreat therefrom towards the trading centre. Whereas there is contrary evidence, in particular from witnesses familiar with the planning of the attack, that Bogi was in charge of the group that attacked the barracks,<sup>2692</sup> the Chamber does not consider that this evidence contradicts P-0309, as he merely asserted that he participated in the attack in a group under the immediate orders of Dominic Ongwen. P-0309's evidence, taking into consideration the expected limits of his knowledge, should not be interpreted as implying that no other LRA groups were participating in the attack under other commanders. In fact, considering that a hundred LRA fighters attacked the barracks, the participation of multiple senior officers on the ground was logical. The Chamber notes the testimony of Charles Lokwiya and P-0045 – two fighters who knew Dominic Ongwen and who went to attack the barracks in the course of the attack. Given the number of fighters, including senior officers, on the ground in the course of the Pajule attack, the Chamber also does not consider these witnesses' accounts dispositive as such as to whether Dominic Ongwen, at the initial stages of the attack, in fact went to the barracks, as stated by P-0309 and P-0372.

1270. In light of the evidence, the Chamber finds that Dominic Ongwen participated in the attack on the barracks for a portion of the attack, before withdrawing with the fighters under his command towards the trading centre.

1271. The evidence is clear that Dominic Ongwen moved and led fighters to the trading centre to loot and abduct. P-0309 testified that the group commanded by Dominic Ongwen and acting on his orders, also went to the trading centre, after leaving the barracks, and joined another LRA group there in looting food, breaking into shops and abducting people.<sup>2693</sup>

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<sup>2690</sup> P-0309: [T-60](#), p. 60, line 14 – p. 61, line 1. See P-0309's sketch of the Pajule IDP camp attack, UGA-OTP-0258-0833-R01.

<sup>2691</sup> P-0309: [T-60](#), p. 60, lines 5-7; [T-63](#), p. 8, line 23 – p. 9, line 1.

<sup>2692</sup> See paras 1243, 1245, 1254 above.

<sup>2693</sup> P-0309: [T-60](#), p. 61, line 11 – p. 62, line 2.

P-0309 testified that his group of LRA fighters, including Dominic Ongwen, spent about 30 minutes at the trading centre.<sup>2694</sup>

1272. Camp residents who experienced the attack also place Dominic Ongwen at the scene of the attack. Rwot Oywak testified that he encountered Dominic Ongwen in the trading centre.<sup>2695</sup> He stated that Dominic Ongwen had a gun in one hand, a stick in another, a radio communication device and a number of soldiers with him and was walking with a limp.<sup>2696</sup> According to Rwot Oywak, Dominic Ongwen was firing his gun.<sup>2697</sup> He testified that the escorts around Dominic Ongwen were addressing him as Lapwony Dominic and reporting to him when they ‘brought’ persons.<sup>2698</sup> In relation to the identification of Dominic Ongwen by Rwot Oywak, the Chamber recalls that, as discussed above, Rwot Oywak had previously met Dominic Ongwen.<sup>2699</sup>

1273. Rwot Oywak testified that he thought Raska Lukwiya also participated in the Pajule attack; but he testified that he was taken to Dominic Ongwen during the attack.<sup>2700</sup> The Defence noted that in his 2005 statement to the Prosecution, the witness mentioned that Raska Lukwiya was firing his gun and that Dominic Ongwen was giving orders.<sup>2701</sup> The witness confirmed this account and explained that from his observation of Dominic Ongwen’s behaviour, he believed that Dominic Ongwen was in charge.<sup>2702</sup> Rwot Oywak testified that Raska Lukwiya was present among the fighters around Dominic Ongwen at the Pajule trading centre.<sup>2703</sup> The Chamber finds this explanation convincing.

1274. Rwot Oywak testified that Dominic Ongwen was giving directions to his fighters, ‘ordering them to go and abduct people, to go and take stuff, to burn things and to fire

<sup>2694</sup> P-0309: [T-60](#), p. 65, lines 4-6; [T-63](#), p. 9, lines 22-24.

<sup>2695</sup> P-0009: [T-81](#), p. 12, lines 17-19, p. 26, lines 20-24, p. 28, line 6 – p. 29, line 9, line 23 – p. 31, line 20. *See also* P-0009’s sketch of Pajule IDP camp, UGA-OTP-0241-0555; Annotated aerial map of Pajule IDP camp, UGA-OTP-0241-0556.

<sup>2696</sup> P-0009: [T-81](#), p. 13, lines 2-7, p. 18, line 16 – p. 19, line 3, p. 31, line 22 – 32, line 8. Rwot Oywak described the stick held by Dominic Ongwen as ‘long, but one could hold it in their hand’, and added that it was ‘already kind of shattered because they had been using it to beat a lot of people’; P-0009: [T-81](#), p. 20, lines 2-9.

<sup>2697</sup> P-0009: [T-81](#), p. 12, lines 17-19.

<sup>2698</sup> P-0009: [T-81](#), p. 19, lines 4-14.

<sup>2699</sup> *See* para. 447 above.

<sup>2700</sup> P-0009: [T-82](#), p. 76, lines 5-16.

<sup>2701</sup> P-0009: [T-82](#), p. 76, lines 17-22.

<sup>2702</sup> P-0009: [T-82](#), p. 76, line 17 – p. 78, line 1.

<sup>2703</sup> P-0009: [T-83](#), p. 9, line 22 – p. 11, line 5.

guns'.<sup>2704</sup> According to Rwot Oywak, Dominic Ongwen said that 'all the people from Pajule were going to be killed because they were supporting the government'.<sup>2705</sup>

1275. Richard Otim corroborates Rwot Oywak's account, testifying that he did not hear the name Dominic Ongwen in the bush,<sup>2706</sup> but when he returned from captivity,<sup>2707</sup> he was at a social gathering with Rwot Oywak when Rwot Oywak began to discuss the October 2003 attack on Pajule IDP camp and said that the group that attacked Pajule IDP camp included Dominic Ongwen, Vincent Otti and Raska Lukwiya.<sup>2708</sup> According to the witness, at that gathering, Rwot Oywak was talking about the attack on Pajule and mentioning some of the commanders that Rwot Oywak knew were involved in the attack.<sup>2709</sup>

1276. Also consistent and corroborative of Rwot Oywak's account is P-0249's testimony that Dominic Ongwen was in charge of the rebels who abducted him and his wife in the course of the attack.<sup>2710</sup> P-0249 stated that LRA fighters who abducted them took him towards the main road going to Lira.<sup>2711</sup> He testified that he saw Dominic Ongwen with a number of soldiers standing along the way and the whole group continued to walk together on the Lira road.<sup>2712</sup> P-0249 explained that he knew that these soldiers were under Dominic Ongwen's orders because he was the one who came with the rebels to the centre and was in command of those rebels.<sup>2713</sup> P-0249 testified that the LRA fighters in Pajule centre addressed Dominic Ongwen as Lapwony Odomi.<sup>2714</sup> According to P-0249, Dominic Ongwen was wearing army fatigues, had a large stick in his hand, a cap on his head, some sort of radio, and was also giving instructions to the fighters to loot and abduct.<sup>2715</sup>

<sup>2704</sup> P-0009: [T-81](#), p. 22, lines 3-11.

<sup>2705</sup> P-0009: [T-81](#), p. 22, lines 12-15.

<sup>2706</sup> See D-0076: [T-219](#), p. 34, line 24 – p. 35, line 14 (testifying that he had never seen Dominic Ongwen and that he would not have recognised him as Dominic Ongwen had he seen him in the course of his time with the LRA).

<sup>2707</sup> Richard Otim spent up to a week in captivity. D-0076: [T-219](#), p. 21, lines 1-4.

<sup>2708</sup> D-0076: [T-219](#), p. 21, lines 5-15, p. 35, line 15 – p. 36, line 12. See also p. 21, lines 1-4, p. 35, lines 3-10.

<sup>2709</sup> D-0076: [T-219](#), p. 22, lines 5-10.

<sup>2710</sup> P-0249: [T-79](#), p. 12, lines 12-13, p. 14, lines 11-18, p. 14, line 25 – p. 15, line 3.

<sup>2711</sup> P-0249: [T-79](#), p. 13, lines 15-20.

<sup>2712</sup> P-0249: [T-79](#), p. 13, lines 15-21, p. 14, lines 2-7; [T-80](#), p. 17, lines 4-25, p. 18, lines 15-20. See also P-0249's sketch of the attack, UGA-OTP-0238-0795-R01 (marking where he first saw Dominic Ongwen as 'A3').

<sup>2713</sup> P-0249: [T-79](#), p. 14, line 25 – p. 15, line 3.

<sup>2714</sup> P-0249: [T-79](#), p. 42, lines 19-21.

<sup>2715</sup> P-0249: [T-79](#), p. 15, lines 4-13, lines 18-25, p. 16, lines 1-6, p. 18, line 24 – p. 19, line 3; [T-80](#), p. 21, line 21 – p. 22, line 1. See also [T-79](#), p. 26, lines 1-8.

1277. The Chamber notes that this description of Dominic Ongwen, his behaviour and his soldiers' response to him is similar to Rwot Oywak's.

1278. It is noted that P-0249 did not indicate that Dominic Ongwen walked with a limp, testifying that 'you cannot be observing a soldier for a long time'.<sup>2716</sup> The Chamber finds it plausible that a person in P-0249's situation, as a new abductee, did not concentrate on this detail and chose not to observe his abductors closely. Indeed, in light of the fact that any continuing impediment as a result of the injury did not prevent Dominic Ongwen from participating in the Pajule IDP camp attack, it may have easily been one that a civilian in the process of being abducted would not notice.

1279. The Defence submits that Raska Lukwiya was the person ordering LRA fighters in the camp around using a stick, rather than Dominic Ongwen as stated by P-0249.<sup>2717</sup> In this context, they cite the testimony of P-0006 who testified that she saw Raska Lukwiya by the health centre, holding a walking stick, ordering LRA fighters around, and carrying a communication device.<sup>2718</sup> The Chamber first recalls its finding that P-0249 was clearheaded enough at the time of his abduction to have been fully aware of his experiences in Pajule IDP camp during the attack and to recall them accurately in his testimony before the Court.<sup>2719</sup> Second, the evidence shows that there were at least a hundred, possibly many more, LRA fighters within the camp,<sup>2720</sup> and it is entirely plausible that both P-0006 and P-0249 testified reliably, there is nothing inherently contradictory about their accounts. The Chamber notes that P-0249 separately identified Raska Lukwiya, as a different person from the one he identified as Dominic Ongwen.<sup>2721</sup> For these reasons, the Chamber does not follow the Defence's argumentation and relies on the testimony of P-0249.

1280. In addition to P-0309, discussed above, other insider witnesses stated that Dominic Ongwen participated in the LRA attack on the trading centre. According to P-0144,

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<sup>2716</sup> P-0249: [T-80](#), p. 23, line 14 – p. 24, line 24.

<sup>2717</sup> See [Defence Closing Brief](#), para. 328 (arguing that P-0249 was intoxicated the morning of the attack and that P-0006's account that she saw Raska Lukwiya with a stick ordering people around should be given more weight).

<sup>2718</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 31-32. See also P-0006: [T-140](#), p. 57, line 19 – p. 58, line 1.

<sup>2719</sup> See paras 472-474 above.

<sup>2720</sup> See paras 1234, 1235, 1253 above.

<sup>2721</sup> See P-0249: [T-80](#), p. 21, lines 14-17, p. 37, lines 3-8 (testifying that he saw Raska Lukwiya when the LRA stopped in the course of the retreat. He stated that he could not speak to whether Raska Lukwiya abducted people in Pajule IDP camp because he did not see him abduct people there).

Dominic Ongwen was the commander of the attack at the trading centre, and went there along with the overall operation commander Raska Lukwiya to loot and abduct.<sup>2722</sup> P-0144 did not recall seeing Dominic Ongwen in the trading centre.<sup>2723</sup>

1281. Consistent with P-0144's account, P-0045 provides corroboration that Dominic Ongwen went to the trading centre.<sup>2724</sup> P-0045 appeared to indicate that she did not see Dominic Ongwen personally going to the centre.<sup>2725</sup> She confirmed however, that Dominic Ongwen was initially in charge of the group going to the centre and that Raska Lukwiya came afterward, saying that he was the big person.<sup>2726</sup> P-0045 explained that '[y]ou cannot mention the smaller commander to lead the group'.<sup>2727</sup>

1282. Further, as discussed below, P-0379 testified that he was told by several abductees that they were abducted by Dominic Ongwen and his fighters within the camp and at trading centre during the attack.<sup>2728</sup>

1283. Camp resident Dick Okot testified that after leaving the camp, he was told by the LRA fighter leading his group that Dominic Ongwen was the LRA commander in charge of the fighters he saw in the camp.<sup>2729</sup> Dick Okot also testified that Dominic Ongwen's group was identified by the LRA fighter as the group coming from the road from Lapul.<sup>2730</sup> Dick Okot testified that he saw Dominic Ongwen.<sup>2731</sup>

1284. In light of the consistent and mutually corroborative evidence of the witnesses, the Chamber is satisfied that the evidence shows that Dominic Ongwen was present at the trading centre in a leadership role along with his soldiers whom, as discussed further below, he ordered to loot and abduct.

1285. The Chamber notes the testimony of witnesses who indicated that Dominic Ongwen did not participate in the attack on Pajule IDP camp. P-0214, one of Dominic Ongwen's so-

<sup>2722</sup> P-0144: [T-91](#), p. 22, lines 10-23, p. 25, lines 3-17, p. 46, lines 3-14.

<sup>2723</sup> P-0144: [T-91](#), p. 38, line 8 – p. 40, line 4.

<sup>2724</sup> P-0045: T-103-CONF, p. 92, lines 16-25, p. 94, lines 8-15.

<sup>2725</sup> P-0045: T-103-CONF, p. 92, lines 20-25, p. 93, lines 20-22.

<sup>2726</sup> P-0045: T-103-CONF, p. 94, lines 8-15; T-104-CONF, p. 4, lines 14-16.

<sup>2727</sup> P-0045: T-103-CONF, p. 94, lines 8-15.

<sup>2728</sup> P-0379: [T-57](#), p. 25, lines 12-21; P-0379: T-57-CONF, p. 31, line 7 – p. 32, line 3, p. 33, lines 10-24.

<sup>2729</sup> P-0067: [T-125](#), p. 10, line 7 – p. 11, line 1.

<sup>2730</sup> P-0067: [T-125](#), p. 10, line 21 – p. 11, line 1.

<sup>2731</sup> P-0067: [T-125](#), p. 10, line 21 – p. 11, line 1.

called ‘wives’ testified that Dominic Ongwen did not participate in an attack on Pajule IDP camp because he was injured and in the sickbay at the time and was unable to walk far.<sup>2732</sup> It is noted that there is nothing in the testimony of P-0214 establishing a link between her evidence and the attack relevant to the charges, and that the witness only stated that she heard about an attack in Pajule, without giving any details.<sup>2733</sup> In this regard, the Chamber notes that P-0214 was asked about ‘an attack on Pajule’ without any further specifications.<sup>2734</sup> In the absence of any further details, and considering that the evidence available to the Chamber indicates that there were several attacks on Pajule IDP camp,<sup>2735</sup> it remains unclear whether in her testimony the witness was referring to the attack on Pajule IDP camp under consideration or any other attack conducted on other occasions on the same camp. In the presence of more specific evidence given by witnesses with personal knowledge, the Chamber does not rely on P-0214 on this issue.<sup>2736</sup>

1286. Similarly, LRA insider P-0085 testified that some LRA fighters who had participated in the attack on Pajule IDP camp told him that Odomi was ‘present in that group’, but did not go to the battlefield himself because he had just returned from sickbay, so he did not go physically to fight in the front line.<sup>2737</sup> P-0085 testified that he did not know whether Dominic Ongwen had been given back his role or was still ‘being taken as a sick person’ after he was released from sickbay.<sup>2738</sup> Considering that the witness only received this information second-hand and that he conceded not knowing the details of Dominic Ongwen’s status at the time, and in the face of the overwhelming evidence that Dominic Ongwen was no longer in sickbay at the time of the October 2003 attack, had not been in

<sup>2732</sup> P-0214: [T-15](#), p. 39, lines 1-8.

<sup>2733</sup> See P-0214: [T-15](#), p. 39, lines 1-4.

<sup>2734</sup> P-0214: [T-15](#), p. 39, line 1.

<sup>2735</sup> See the assessment of P-0307’s testimony and the Chamber’s finding that the witness provided evidence with regard to another attack on Pajule. Section IV.B.2.ii.b.xv; para. 1173, n. 2394 above; P-0307 Statement, UGA-OTP-0266-0425-R01, at paras 32-44; P-0307: [T-152](#), p. 70, lines 8-17; [T-153](#), p. 33, lines 20-23.

<sup>2736</sup> In this context, the Chamber notes its discussion of Dominic Ongwen’s position within the LRA and his presence in the sickbay. See paras 1017-1073 above.

<sup>2737</sup> P-0085: [T-158](#), p. 40, line 24 – p. 41, line 5. The Chamber understands P-0085’s testimony to indicate that he was told that Dominic Ongwen was at the RV but did not participate in the attack.

<sup>2738</sup> P-0085: [T-159](#), p. 28, line 16 – p. 29, line 2.

sickbay for some time and was actively participating in attacks,<sup>2739</sup> the Chamber puts no weight on P-0085's testimony in this regard.<sup>2740</sup>

1287. While the Chamber finds LRA insiders D-0056 and D-0068 to have been generally credible witnesses, the Chamber does not consider that the Pajule attack they described is the attack at issue in these proceedings, as also argued by the Prosecution.<sup>2741</sup> While some details of the attack that D-0056 discussed are similar to other witnesses,<sup>2742</sup> the witness is alone among the credible witnesses to not recall that the day of the attack was related to a significant occasion,<sup>2743</sup> as opposed to most other witnesses who remembered that it was just after Uhuru Day. His testimony about important details of the attack greatly diverges from other credible evidence.<sup>2744</sup> Thus, the Chamber cannot rely on the evidence D-0056 provides about the Pajule IDP camp attack. Regarding D-0068, who testified that Dominic Ongwen did not participate in the Pajule IDP camp attack, the Chamber notes that he testified that the attack he referenced occurred in early 2003.<sup>2745</sup> The Chamber notes that the evidence indicates that there was an LRA attack on Pajule IDP camp in January 2003.<sup>2746</sup> In addition, the Chamber notes that D-0068 testified that in the attack he mentioned Charles Tabuley and Buk Abudema exercised a commanding role on the ground, a fact which does not correspond to the rest of the reliable evidence.<sup>2747</sup>

1288. At this juncture, the Chamber provides a more specific assessment of the available evidence concerning the numerous acts of violence and looting perpetrated by LRA fighters against civilians in the course of the attack on Pajule IDP camp, as well as in its immediate aftermath. As also emerges from the evidence analysed below, the victims targeted by the LRA attackers were civilian residents of the camp.

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<sup>2739</sup> See section IV.C.3, the Chamber discussion of the Dominic Ongwen's role in the LRA.

<sup>2740</sup> In this context, the Chamber notes its discussion of Dominic Ongwen's position within the LRA and his presence in the sickbay. See paras 1017-1073 above.

<sup>2741</sup> See [Prosecution Closing Brief](#), paras 236-237.

<sup>2742</sup> See D-0056: [T-228](#), p. 70, lines 11-16; T-229-CONF, p. 28, line 21 – p. 29, line 1; [T-229](#), p. 29, lines 8-19 (stating that the LRA was not able to overrun the barracks, that there was a helicopter gunship, and that Rwot Oywak had come with the captured people).

<sup>2743</sup> D-0056: [T-228](#), p. 64, lines 14-22.

<sup>2744</sup> D-0056: [T-228](#), p. 68, line 20 – p. 69, line 2, p. 71, line 8 – p. 72, line 24; T-228-CONF, p. 69, line 16 – p. 70, line 6; T-229-CONF, p. 27, line 5 – p. 28, line 20. The witness also does not mention the large scale abduction of civilians during the attack.

<sup>2745</sup> D-0068: [T-223](#), p. 32, lines 8-12. See [Prosecution Closing Brief](#), paras 236-237.

<sup>2746</sup> See para. 1173, n. 2394 above.

<sup>2747</sup> D-0068: [T-223](#), p. 30, lines 14-25.

**During the attack, LRA attackers, some of them led by Dominic Ongwen, broke into homes and shops and looted food and other property from them in Pajule IDP camp. There was widespread looting throughout the camp. The attackers raided the trading centre in the camp, broke into shops and took food items and supplies. Among the items looted by the LRA attackers were foodstuffs like beans, flour, salt, sugar, cooking oil, maize, sweets, biscuits, groundnuts, soda as well as household goods such as bedding, clothing, a radio set, saucepans and items such as medicine, livestock and money.<sup>2748</sup>**

**Dominic Ongwen personally ordered LRA attackers to loot within the trading centre, ordering them to loot items from shops and homes within the camp. The LRA attackers complied with this order.<sup>2749</sup>**

1289. Both LRA fighters and camp residents offered credible and consistent evidence to this Chamber that LRA fighters looted Pajule IDP camp during the course of the 10 October 2003 attack.

1290. LRA attackers provided credible and mutually corroborative evidence that household goods, particularly food, were looted from the camp. P-0045 testified that the group that went to the centre went to collect food items from the civilians.<sup>2750</sup> The witness testified to seeing the LRA coming back from the trading centre with food.<sup>2751</sup> D-0085 testified that she saw LRA forces take foodstuff from Pajule IDP camp.<sup>2752</sup> She stated that LRA attackers broke into shops in order to do so.<sup>2753</sup> D-0085 testified that the LRA also took food from the homes of civilians in the camp.<sup>2754</sup> P-0309 testified that LRA forces in the centre of Pajule IDP camp broke into people's shops and homes and were looting items from the homes of civilians, including such food items as beans, flour, maize, sugar and biscuits, among others.<sup>2755</sup>

1291. P-0330 testified that he was in a group of attackers that 'worked' in the trading centre, breaking into shops and looting items such as flour, beans, and money from Pajule IDP camp.<sup>2756</sup> P-0372 testified that the group of LRA fighters he was with collected items

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<sup>2748</sup> Para. 150 above.

<sup>2749</sup> Para. 150 above.

<sup>2750</sup> P-0045: T-104-CONF, p. 4, line 24 – p. 5, line 3.

<sup>2751</sup> P-0045: [T-104](#), p. 10, lines 2-5.

<sup>2752</sup> D-0085: [T-239](#), p. 18, lines 15-18.

<sup>2753</sup> D-0085: [T-239](#), p. 33, lines 15-20.

<sup>2754</sup> D-0085: [T-239](#), p. 33, lines 21-25.

<sup>2755</sup> P-0309: [T-60](#), p. 62, lines 12-25, p. 65, lines 17-21.

<sup>2756</sup> P-0330: T-52-CONF, p. 4, lines 8-22.

from Pajule centre, mostly foodstuffs.<sup>2757</sup> P-0372 testified that he personally saw people taking food from Pajule IDP camp.<sup>2758</sup>

1292. The evidence provided by camp residents and the UPDF officers who observed the attack is consistent with the LRA attackers' accounts of the LRA looting in shops and homes within the camp.

1293. Camp resident P-0006 testified that the LRA rebels broke into the house she was in during the attack and looted food items like maize, beans, salt, sugar and cooking oil from the house.<sup>2759</sup> She testified that she saw the LRA take maize from the house she was hiding in as well as cooking oil from a shop.<sup>2760</sup> P-0006 also stated that the items abductees carried from Pajule included foodstuffs such as maize, beans, salt and sugar.<sup>2761</sup> Rwot Oywak testified that abductees were carrying items like flour, chicken, goats, which the LRA had found in the homes of the civilians.<sup>2762</sup> Santo Oweka testified that the LRA looted a radio set, beddings and clothing from his house.<sup>2763</sup> Dick Okot testified that a lot of things were looted from his home including foodstuff, money and clothes.<sup>2764</sup> Items like soda, biscuits, clothes, and beans were taken from shops and civilian homes.<sup>2765</sup> Dick Okot testified that LRA fighters picked up a sack of groundnuts for him to carry.<sup>2766</sup> P-0081 testified that he learned after he came back from the bush that LRA rebels had entered his home and taken things.<sup>2767</sup> P-0081 indicated that he had a small store in the house and the LRA rebels took onions and small groceries.<sup>2768</sup> Benson Ojok was given a crate of soda to carry on his head.<sup>2769</sup> He saw the LRA break into shops and take other things like the soda he was made to carry.<sup>2770</sup> Santo Oweka testified that he could hear that shops were being broken into during the attack.<sup>2771</sup>

<sup>2757</sup> P-0372: [T-148](#), p. 20, lines 14-19.

<sup>2758</sup> P-0372: [T-148](#), p. 20, lines 20-21.

<sup>2759</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 12.

<sup>2760</sup> P-0006: [T-140](#), p. 11, lines 16-22; P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 13.

<sup>2761</sup> P-0006: [T-140](#), p. 12, lines 3-5, p. 40, lines 9-11.

<sup>2762</sup> P-0009: [T-81](#), p. 17, lines 11-19.

<sup>2763</sup> D-0081: [T-220](#), p. 25, lines 5-7.

<sup>2764</sup> P-0067: [T-125](#), p. 52, lines 2-4.

<sup>2765</sup> P-0067: [T-125](#), p. 23, lines 8-13.

<sup>2766</sup> P-0067: [T-125](#), p. 22, line 20 – p. 23, line 4; [T-126](#), p. 9, lines 9-12.

<sup>2767</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 22.

<sup>2768</sup> P-0081: [T-118](#), p. 32, lines 5-11.

<sup>2769</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18.

<sup>2770</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18.

<sup>2771</sup> D-0081: [T-220](#), p. 24, lines 4-6.

1294. According to P-0249, Dominic Ongwen was in the centre of the camp and was using a stick to point out and indicate where one of his fighters should go or what the fighter should do.<sup>2772</sup> P-0249 testified that Dominic Ongwen would tell fighters to go and loot a shop and use a stick to point to that shop and issue his instruction.<sup>2773</sup> P-0249 testified that when Dominic Ongwen directed his fighters to go and loot, they followed his instruction, taking ‘lots of things’ and giving them to people to carry.<sup>2774</sup> P-0249 testified that at Pajule trading centre, Dominic Ongwen indicated and issued instructions for fighters to take things quickly so they could leave the camp.<sup>2775</sup> P-0249 testified that he was close to Dominic Ongwen and could hear him issuing instructions, telling people ‘[h]urry up, go and take the things quickly, hurry up’.<sup>2776</sup>

1295. P-0249 testified that Dominic Ongwen ordered the looting in Pajule to the soldiers he was leading on the ground, explaining ‘[t]here was no other person other than Ongwen. He is the one who came with the soldiers and he is the one who was issuing instructions and giving orders to soldiers to go and take things and to take the food that was needed.’<sup>2777</sup> While the evidence shows that Dominic Ongwen was one of several commanders at Pajule – Raska Lukwiya was also present at the centre – P-0249’s testimony here demonstrates that Dominic Ongwen was in control of the fighters he was leading and he ordered fighters subordinate to him to loot.<sup>2778</sup> Indeed, P-0330 testified that Dominic Ongwen stated that he should bring him a goat or a chicken from Pajule.<sup>2779</sup>

1296. P-0249 testified that in response to Dominic Ongwen’s instructions, LRA attackers took salt, sugar, maize, beans, soap and anything that might be useful to them.<sup>2780</sup> P-0249 testified that he saw the LRA attackers take clothes that were in shops, and even saucepans from people’s houses.<sup>2781</sup> P-0249 testified that he personally witnessed LRA fighters directly under Dominic Ongwen’s command, looting the shops along the Lira road.<sup>2782</sup> P-0249 also testified that the LRA looted items from the shops in the Pajule

<sup>2772</sup> P-0249: [T-79](#), p. 15, lines 18-25; [T-80](#), p. 21, line 21 – p. 22, line 1.

<sup>2773</sup> P-0249: [T-79](#), p. 15, lines 24-25.

<sup>2774</sup> P-0249: [T-79](#), p. 18, line 24 – p. 19, line 3.

<sup>2775</sup> P-0249: [T-79](#), p. 17, line 22 – p. 18, line 4.

<sup>2776</sup> P-0249: [T-79](#), p. 18, lines 5-8.

<sup>2777</sup> P-0249: [T-79](#), p. 20, lines 9-13.

<sup>2778</sup> *See also* paras 1264-1287, the Chamber’s discussion of Dominic Ongwen’s role in the attack.

<sup>2779</sup> P-0330: [T-51](#), p. 78, lines 7-13.

<sup>2780</sup> P-0249: [T-79](#), p. 18, lines 9-13, p. 19, lines 14-15.

<sup>2781</sup> P-0249: [T-79](#), p. 18, lines 12-13.

<sup>2782</sup> P-0249: [T-79](#), p. 19, line 21 – p. 20, line 2; [T-80](#), p. 10, line 14 – p. 11, line 9.

trading centre and along the highway and from people's homes.<sup>2783</sup> P-0249 testified that the LRA looted merchandise from shops as well as personal things from people's houses.<sup>2784</sup> P-0249 testified that his own shop was looted as well as a number of other shops in the market.<sup>2785</sup> P-0249 stated that although he did not see his shop looted by the LRA, he knew that his shop was looted because after the attack it was left empty.<sup>2786</sup>

1297. Similarly, P-0081 testified that when he was passing through the camp, there was looting under way and he could hear rebels cutting the doors in the market place.<sup>2787</sup> P-0081 testified that the group of rebels he was with would open the doors of homes they passed by and take any loot they found interesting.<sup>2788</sup> P-0379 observed that the gate going to the market was broken and several shops within the market had been broken into.<sup>2789</sup> Richard Otim testified that the LRA looted flour, beans and other items from shops.<sup>2790</sup> Dick Okot testified that as he was leaving his home area with the LRA after being abducted, he could see LRA soldiers taking some items from shops which were near the market.<sup>2791</sup>

1298. UPDF officer P-0084 testified that he was told by drug shop owners that the rebels took medicine from their shops, both tablets and injections.<sup>2792</sup> Other traders in the trading centre also told him that the rebels had taken some foodstuffs, clothing and other household items.<sup>2793</sup>

1299. UPDF commander John Lubwama testified that the LRA pillaged articles they found in shops like foodstuffs, including sugar, clothing and also pillaged civilian homes.<sup>2794</sup>

1300. Camp leader Omona Lokilamoi testified that the LC-1 chairpersons of each village within the Palenga parish, which is one of the six parishes of Pajule Sub-County, compiled records of households of their respective villages pillaged by the LRA during the attack

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<sup>2783</sup> P-0249: [T-79](#), p. 17, line 22 – p. 21, line 4.

<sup>2784</sup> P-0249: [T-79](#), p. 19, lines 4-10.

<sup>2785</sup> P-0249: [T-79](#), p. 19, lines 21-25.

<sup>2786</sup> P-0249: [T-79](#), p. 20, lines 14-23.

<sup>2787</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 25.

<sup>2788</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 25.

<sup>2789</sup> P-0379: [T-57](#), p. 26, lines 15-16.

<sup>2790</sup> D-0076: [T-219](#), p. 16, lines 10-14.

<sup>2791</sup> P-0067: [T-125](#), p. 15, lines 9-13.

<sup>2792</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 113.

<sup>2793</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 114.

<sup>2794</sup> P-0047: [T-114](#), p. 37, lines 15-25.

on 10 October 2003.<sup>2795</sup> Such records provided by Omona Lokilamoi list over 650 households.<sup>2796</sup> Omona Lokilamoi testified that to the day of his statement he had not been able to locate the lists of pillaged households in parishes of Pajule Sub-County other than the Palenga parish, partly because they no longer had a permanent administration office for fear of an attack on the IDP camp.<sup>2797</sup> The Chamber finds that Omona Lokilamoi's list corroborates the witnesses' accounts in demonstrating that there was widespread looting in Pajule IDP camp.

**With the arrival of a government helicopter and reinforcement ground forces, LRA attackers left the camp with abductees and looted goods.**<sup>2798</sup>

1301. The evidence shows that while fighting was still ongoing at the barracks, a military helicopter arrived to reinforce the government soldiers. The helicopter's arrival precipitated the LRA's departure from the camp. The helicopter pursued the retreating fighters and their abductees through the bush. Additionally, reinforcements of government soldiers arrived in the camp and started engaging with the LRA fighters.

1302. P-0084 testified that the military helicopter was airborne within 25 minutes after the report that Pajule was under attack.<sup>2799</sup> The helicopter went to the barracks and started shooting at the rebels.<sup>2800</sup> P-0084 testified that an extended line of rebels faced the military barracks.<sup>2801</sup> According to P-0084, the rebels became disorganised and started running in disarray when the helicopter started firing.<sup>2802</sup> P-0084 testified that the LRA rebels had to withdraw from the barracks because of the counter attack from the barracks and the aerial attack from the helicopter.<sup>2803</sup>

1303. UPDF commander P-0084 testified that subsequently the military helicopter flew over the Pajule trading centre.<sup>2804</sup> According to the witness, the helicopter did not fire at anything in the trading centre.<sup>2805</sup> P-0084 testified that there were rebels running with

<sup>2795</sup> P-0001 Statement, UGA-OTP-0138-0002-R01, at paras 26-27.

<sup>2796</sup> See P-0001's lists of pillaged households compiled by the LC-1 chairpersons of the villages within the Palenga parish on 10 October 2003, UGA-OTP-0138-0168-R01.

<sup>2797</sup> P-0001 Statement, UGA-OTP-0138-0002-R01, at para. 28.

<sup>2798</sup> Para. 151 above.

<sup>2799</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 83.

<sup>2800</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 83.

<sup>2801</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 83.

<sup>2802</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 83.

<sup>2803</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 83.

<sup>2804</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 84.

<sup>2805</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 84.

loot as well as abductees who were forced to carry loot.<sup>2806</sup> He testified that [REDACTED] [REDACTED] the UPDF soldiers previously posted at the outskirts of the camp advancing towards the Pajule trading centre coming from the east.<sup>2807</sup> P-0084 testified that he was communicating on the radio with the commander of these UPDF soldiers.<sup>2808</sup> P-0084 also stated that the UPDF soldiers started engaging the enemy as they were running away from the Pajule trading centre, and that the UPDF soldiers killed three rebels there.<sup>2809</sup>

1304.P-0084 testified that outside the trading centre, the helicopter fired at the retreating rebels.<sup>2810</sup> When the rebels saw the helicopter firing they started running, some of the rebels were firing at the helicopter.<sup>2811</sup> P-0084 testified that the four rebels firing at the helicopter were killed.<sup>2812</sup>

1305.P-0084 further stated that the helicopter then went towards the east, in the direction in which the rebels were withdrawing.<sup>2813</sup> P-0084 said that he saw more than 300 civilians who had been taken captive by the LRA from Pajule carrying looted items stolen from Pajule towards Lanyatono.<sup>2814</sup> He testified that the helicopter did not fire at that point because of the presence of the civilians; however the noise and sight of the helicopter caused a number of abductees and rebels to run.<sup>2815</sup>

1306.P-0084's account of the movements and actions of the military helicopter is entirely credible. Multiple witnesses corroborate this account from their different vantage points during the attack.<sup>2816</sup>

<sup>2806</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 84.

<sup>2807</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 84.

<sup>2808</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 84.

<sup>2809</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 84.

<sup>2810</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 85.

<sup>2811</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 85.

<sup>2812</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 85.

<sup>2813</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 88. *See also* P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 70.

<sup>2814</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 88, 121.

<sup>2815</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 89.

<sup>2816</sup> P-0047 Statement, UGA-OTP-0027-0177-R01, at paras 12, 53, 104; P-0047: [T-115](#), p. 30, lines 13-17; P-0330: [T-51-CONF](#), p. 81, lines 23-24; [T-52-CONF](#), p. 5, lines 3-4, p. 8, lines 9-13; [T-52](#), p. 9, lines 1-3; P-0372: [T-148](#), p. 23, lines 3-7; P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 22-24; P-0006: [T-140](#), p. 53, lines 6-13, line 18 – p. 54, line 3; P-0045: [T-104](#), p. 6, lines 22-24; [T-104-CONF](#), p. 68, lines 15-17; P-0061 Statement, UGA-OTP-0144-0043-R01, at paras 25-26; D-0076: [T-219](#), p. 12, lines 3-14, p. 17, lines 8-10, p. 18, lines 6-12; P-0309: [T-60](#), p. 64, lines 18-23, p. 65, line 22 – p. 66, line 1; P-0009: [T-81](#), p. 13, lines 13-16, p. 22, lines 20-25; P-0379: [T-57](#), p. 24, lines 24-25, p. 25, lines 6-11, p. 29, lines 5-9; P-0008 Statement, UGA-OTP-0137-0002-R01,

1307. In the face of the arrival of these reinforcements, LRA fighters left the camp. The Chamber is satisfied that the evidence shows that the LRA spent one to two hours in the camp.<sup>2817</sup> The evidence indicates that LRA fighters did not leave in one group but rather left in stages as they retreated back to the RV with the abductees and the looted goods. Santo Oweka testified that he noticed that abductees arrived at the meeting place in different groups: when he arrived there were already people there and people continued to arrive at the RV location for another two hours.<sup>2818</sup>

**In the course of the attack, LRA fighters killed at least four civilians, most of whom were abductees killed because they tried to escape or refused to carry looted goods. The civilians killed by the LRA in the course of the attack on Pajule IDP camp included: an unnamed woman killed by machete, Kinyera Benson Lacung, Pangarasio Onek and unnamed abductee killed by the RV location.**<sup>2819</sup>

1308. The Chamber finds that the evidence shows that during the 10 October 2003 attack on Pajule, LRA fighters specifically targeted civilians and killed them.

1309. The evidence, presented above, shows that there were exchanges of gunfire between the LRA and the government soldiers at the military barracks and within the camp. However, it is clear that LRA fighters purposely targeted civilians in the course of the attack in Pajule.

1310. Camp resident Benson Ojok testified that he saw people in the camp being shot at by the rebels.<sup>2820</sup> Benson Ojok saw four people, both males and females, lying injured outside their houses; they had been shot at their doors and he did not see whether they were dead or not.<sup>2821</sup> Benson Ojok testified that he saw about seven rebels shooting at unarmed civilians at random.<sup>2822</sup> Some of the civilians had fallen down and were crying.<sup>2823</sup>

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at paras 16, 18-19; P-0067: [T-125](#), p. 13, line 24 – p. 14, line 1, lines 13-20, p. 15, lines 3-5; [T-126](#), p. 3, lines 1-25; P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 29-31; P-0081: [T-118](#), p. 11, lines 1-6; P-0130 Statement, UGA-OTP-0191-0272-R01, at para. 37; P-0249: [T-79](#), p. 28, lines 1-5; D-0081: [T-220](#), p. 24, lines 16-18, p. 27, lines 15-20, line 25 – p. 28, line 5; D-0077 Statement, UGA-D26-0022-0316, at paras 17-18. See P-0379's sketch of Pajule, UGA-OTP-0266-0071 (denoting the direction from which the UPDF mobile unit entered the camp).

<sup>2817</sup> P-0045: T-104-CONF, p. 7, lines 4-9; P-0209: [T-160](#), p. 30, lines 19-24; P-0007 Statement, UGA-OTP-0147-0214-R01, at paras 14-17; P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 16; P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 26.

<sup>2818</sup> D-0081: [T-221](#), p. 50, line 21 – p. 51, line 5.

<sup>2819</sup> Para. 152 above.

<sup>2820</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 20.

<sup>2821</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 20.

<sup>2822</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 21.

<sup>2823</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 21.

Benson Ojok testified that he saw a man about thirty years old being shot down when he attempted to escape.<sup>2824</sup> Benson Ojok testified that as the unarmed civilians were being shot down, a commander, whom the witness identified as Gala Gala, appeared and told the seven rebels that they were not sent to kill people but rather to get food.<sup>2825</sup> Benson Ojok testified that when the civilians were being shot at, a group of government soldiers that were some distance away in the direction of the mission started running towards the LRA and their abductees.<sup>2826</sup> The LRA fighters then fled, dragging the abductees with them, including Benson Ojok.<sup>2827</sup> Benson Ojok testified that the LRA fighters threatened the abductees that they would be killed if they threw away the items they were carrying.<sup>2828</sup> Benson Ojok testified that another group of government soldiers had previously been chased away by the rebels towards the barracks.<sup>2829</sup>

1311. UPDF officer P-0084 testified that he saw about five dead civilians in the camp, all of whom had been shot; their gunshot wounds were in various places; one was on the side of the head, one in the chest, one in the arm, in the legs and one in the stomach.<sup>2830</sup> P-0084 testified that there were both male and female civilians killed, mostly persons between 10 and 18 years old; one of the victims was 26 years old.<sup>2831</sup>

1312. Camp resident P-0006 stated that, outside the camp, she saw an older man beaten to death by the LRA because he was not walking fast.<sup>2832</sup> In testimony consistent with P-0006's, Richard Otim testified that after he returned to the camp, he was told that after his release the LRA began to kill abductees who were unable to walk.<sup>2833</sup> Okema Brown also testified that he was told by returned abductees about persons killed for not being able to walk anymore or for trying to escape.<sup>2834</sup>

<sup>2824</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 21.

<sup>2825</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 23.

<sup>2826</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 24.

<sup>2827</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 24.

<sup>2828</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 24.

<sup>2829</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 24.

<sup>2830</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 108.

<sup>2831</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 108.

<sup>2832</sup> P-0006: T-140-CONF, p. 16, lines 2-8.

<sup>2833</sup> D-0076: [T-219](#), p. 31, line 11 – p. 32, line 1.

<sup>2834</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 32.

1313. Below, the Chamber discusses the evidence presented in the proceedings of specific individuals killed by the LRA throughout the course of the Pajule IDP camp attack.

1314. **Unnamed woman killed by machete:** Camp resident Dick Okot testified that he saw the body of a woman who appeared to have been killed by a machete, her neck was cut and had a deep cut wound.<sup>2835</sup> Dick Okot testified that he saw the dead body of the woman; the woman had three kids and her children were around her crying ‘[o]ur mother has been killed’.<sup>2836</sup> The Chamber finds Dick Okot’s testimony here clear and credible. The Chamber notes that LRA fighters attacked Pajule IDP camp with blade weapons in addition to firearms,<sup>2837</sup> and, on the other hand, that there is no evidence, or even suggestion, that government soldiers attacked any civilian with a machete in the course of the attack. The necessary inference is that this woman was killed by the LRA.

1315. **Kinyera Benson Lacung:** Omona Lokilamoi, a local government official testified that while collecting information on the persons killed in the attack, he was told that Kinyera Benson Lacung, who was his copy-typist, was beaten to death by the LRA because he failed to carry the ‘load’ given to him.<sup>2838</sup> Residents of the camp described the killing of Kinyera Benson Lacung in detail as follows: Terrance Otika testified that Lacung was one of the people killed after being abducted.<sup>2839</sup> Terrance Otika saw the Lacung’s family gathering to go to collect his body.<sup>2840</sup> Lacung’s family retrieved his body and he was buried the day after the attack.<sup>2841</sup> Terrance Otika saw the body wrapped up and was told by Lacung’s brother, Ben Okema, that Lacung had been shot in the back.<sup>2842</sup> Ben Okema told Terrance Otika that he had collected the body from the road.<sup>2843</sup> Okema Brown testified that he saw the dead body of the sub-county typist, Kinyera Lacung.<sup>2844</sup> Okema Brown testified that he saw the body in Kinyera Lacung’s home after it had been carried from the bush to his home.<sup>2845</sup> Okema Brown testified that the body was wrapped tight

<sup>2835</sup> P-0067: [T-125](#), p. 18, lines 9-18; [T-126](#), p. 7, line 25 – p. 8, line 5.

<sup>2836</sup> P-0067: [T-125](#), p. 18, lines 9-18.

<sup>2837</sup> See para. 1240 above.

<sup>2838</sup> P-0001 Statement, UGA-OTP-0138-0002-R01, at para. 16.

<sup>2839</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 22.

<sup>2840</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 22.

<sup>2841</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 22.

<sup>2842</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 22.

<sup>2843</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 22.

<sup>2844</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 28.

<sup>2845</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 28.

so he could not see the wounds.<sup>2846</sup> Okema Brown testified that he was told by Kinyera Lacung's relatives that his head had been beaten and that his body was found about one kilometre away from the Pajule side of the camp where he had been killed.<sup>2847</sup> Okema Brown testified that he was later told by returning abductees that Kinyera Lacung had been killed by rebels because he could not carry the load that was given to him.<sup>2848</sup> Okema Brown testified that the rebels used a club that they had brought with them to kill Kinyera Lacung.<sup>2849</sup> Other witnesses also mention the killing of Lacung.<sup>2850</sup>

1316. The Chamber notes the testimony of Dick Okot, who stated that he saw Lacung killed by the LRA.<sup>2851</sup> According to Dick Okot, Lacung worked at the sub-country chief's office.<sup>2852</sup> Dick Okot testified that in the course of the retreat from the Pajule IDP camp, his group found people stopped and gathered around the place where Lacung was killed.<sup>2853</sup> According to Dick Okot, Lacung was told, 'you are a government worker, we are not going to leave you, we will kill you'.<sup>2854</sup> Dick Okot testified that LRA fighter Odongo called his bodyguards and the bodyguards instructed Lacung to lie down and the body guard picked a knife and fixed it on the barrel of a gun and then stabbed Lacung in the mouth and he fell down and died.<sup>2855</sup> Dick Okot also testified that Lacung was stabbed on his side of the abdomen.<sup>2856</sup> Dick Okot testified that he was not far away when Lacung was stabbed and personally witnessed it.<sup>2857</sup> Dick Okot testified that after Lacung was stabbed the LRA searched his pocket and took away his identity card and other personal effects.<sup>2858</sup> According to Dick Okot, Lacung was killed in Wangduku.<sup>2859</sup> Dick Okot testified that he saw Vincent Otti and Dominic Ongwen talk and after they completed their conversation, Lacung was killed.<sup>2860</sup> Dick Okot testified that Dominic Ongwen and Vincent Otti stopped and observed Lacung's body for a bit, but they did not say

<sup>2846</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 28.

<sup>2847</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 28.

<sup>2848</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 29.

<sup>2849</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 29.

<sup>2850</sup> P-0081: [T-118](#), p. 11, line 19 – p. 12, line 12; P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 44.

<sup>2851</sup> P-0067: [T-125](#), p. 30, lines 1-11.

<sup>2852</sup> P-0067: [T-125](#), p. 30, lines 12-20.

<sup>2853</sup> P-0067: [T-125](#), p. 30, lines 21-24.

<sup>2854</sup> P-0067: [T-125](#), p. 30, lines 21-25.

<sup>2855</sup> P-0067: [T-125](#), p. 30, line 25 – p. 31, line 6.

<sup>2856</sup> P-0067: [T-125](#), p. 32, lines 19-22.

<sup>2857</sup> P-0067: [T-125](#), p. 31, lines 18-19.

<sup>2858</sup> P-0067: [T-125](#), p. 31, lines 20-22.

<sup>2859</sup> P-0067: [T-125](#), p. 32, lines 13-18.

<sup>2860</sup> P-0067: [T-125](#), p. 31, lines 7-17.

anything.<sup>2861</sup> The Presiding Judge noted that in Dick Okot's statement to the Prosecution, he did not mention any discussion between Vincent Otti, Dominic Ongwen and Odongo.<sup>2862</sup> Dick Okot testified that he did not hear the conversation nor does he recall who gave the order for the killing of Lacung.<sup>2863</sup> The Chamber notes that Dick Okot describes details of the attack and places himself on the location in a manner which convinces the Chamber that he witnessed the killing of the victim. However, in light of the other evidence indicating that Lacung was killed before the LRA reached the RV location, the Chamber is unconvinced by his evidence that Vincent Otti and Dominic Ongwen witnessed the killing and conversed about it. Given the details Dick Okot provides and its view of the general credibility of his account, the Chamber is convinced that Dick Okot witnessed the killing of Lacung. The Chamber considers that Dick Okot's testimony corroborates the evidence that Lacung was killed by the LRA.

1317. While noting that the witnesses differ in their testimony as to the exact manner of his death, the Chamber is satisfied that the evidence proves that Kinyera Lacung was killed by LRA fighters in the course of the retreat from Pajule IDP camp.

1318. **Pangarasio Onek:** Camp leader Okema Brown testified that on the day after the attack on the upper side about half a kilometre to the north of Pajule IDP camp he saw the dead body of businessman Pangarasio Onek.<sup>2864</sup> Okema Brown testified that the body and head were already swollen and the body was so bloody he could not tell where the blood came from.<sup>2865</sup> Okema Brown testified that Pangarasio Onek's brother told them that before Okema Brown saw the body, the brother had turned it around and discovered that Pangarasio Onek was shot in the back.<sup>2866</sup>

1319. Dick Okot testified that in the course of the retreat, he saw Pangarasio Onek, a trader between 30 and 40 years of age, among the abducted.<sup>2867</sup> Dick Okot testified that Pangarasio Onek was carrying about three or four basins full of beans.<sup>2868</sup> He asked LRA fighter Odongo for help because the load was heavy, making the request about three

<sup>2861</sup> P-0067: [T-126](#), p. 16, line 23 – p. 17, line 6.

<sup>2862</sup> P-0067: [T-125](#), p. 33, lines 1-4.

<sup>2863</sup> P-0067: [T-125](#), p. 33, lines 4-13.

<sup>2864</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 27.

<sup>2865</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 27.

<sup>2866</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 27.

<sup>2867</sup> P-0067: [T-125](#), p. 23, line 23 – p. 24, line 1, lines 14-23.

<sup>2868</sup> P-0067: [T-125](#), p. 27, lines 2-5.

different times.<sup>2869</sup> Odongo did not accept the request.<sup>2870</sup> Dick Okot testified that Pangarasio Onek would walk from a distance and then put the load down to rest.<sup>2871</sup> Dick Okot described what happened next:

At that time a gunship was hovering about and firing small guns at the people. He was hurrying Pangarasio to move. Then at some point he stopped the people and said if Pangarasio didn't want to carry the load, he was going to be killed. At that time he summoned his escort, a young boy of about 9 or 10, and he said, "If this person does not want to go ahead, shoot him." And then he asked Pangarasio, "Are you sure you cannot manage?" And Onek said, "No, I cannot." Then they unbound him, the rope that was used to tie him was cut using a knife, and they told him to sit down. And he was shot in the head, three bullets in the head. That was what I saw. And then we were told to continue moving and they said if anybody refuses to move, they wouldn't waste time, they would be killed in a similar manner. And everyone else got on their feet to continue moving. That was what I witnessed.<sup>2872</sup>

1320. Dick Okot testified that after Pangarasio Onek was killed, Odongo told his bodyguard to search his body and the boy found money in Pangarasio Onek's pocket and gave it to Odongo.<sup>2873</sup> Dick Okot testified that before Pangarasio Onek was killed, the group was stopped and Vincent Otti arrived and spoke to Lapwony Odongo for about five minutes and then Lapwony Odongo returned to the group.<sup>2874</sup> Dick Okot testified that at the time Pangarasio Onek was killed, Dominic Ongwen was a little behind the group they were in.<sup>2875</sup> Dick Okot indicated that Dominic Ongwen would still have been able to see everything that was happening.<sup>2876</sup> Given the location in which Pangarasio Onek was killed, the Chamber is unconvinced that Vincent Otti, who was at the RV location, witnessed the killing. However, given the details he provided and the Chamber's view of the general credibility of Dick Okot's account, the Chamber is convinced that Dick Okot witnessed the killing of Pangarasio Onek.

1321. Richard Otim stated that he saw two civilians killed in Pajule IDP camp.<sup>2877</sup> Richard Otim testified that one of the persons was his neighbour and the other was a shop

<sup>2869</sup> P-0067: [T-125](#), p. 27, lines 2-7.

<sup>2870</sup> P-0067: [T-125](#), p. 27, line 6.

<sup>2871</sup> P-0067: [T-125](#), p. 27, lines 7-8.

<sup>2872</sup> P-0067: [T-125](#), p. 27, lines 9-20.

<sup>2873</sup> P-0067: [T-125](#), p. 28, lines 2-6.

<sup>2874</sup> P-0067: [T-125](#), p. 29, lines 1-11.

<sup>2875</sup> P-0067: [T-125](#), p. 27, lines 21-24.

<sup>2876</sup> P-0067: [T-125](#), p. 27, line 24 – p. 28, line 1.

<sup>2877</sup> D-0076: [T-219](#), p. 16, line 15 – p. 17, line 2, p. 25, lines 2-5 (testifying that he saw two dead civilians in Pajule camp, but at the time, the government soldiers were exchanging fire with the rebels, so he could not tell who killed the two persons. Richard Otim testified that he did not observe the rebels randomly and deliberately shoot anyone,

attendant in one of the shops in the centre named *Pangarasio Onek*.<sup>2878</sup> The Chamber also notes that unlike the other two witnesses who suggest that Pangarasio Onek was killed outside the camp, Richard Otim indicates that Pangarasio Onek was killed within the camp. Still, the Chamber considers Richard Otim's testimony to corroborate the accounts that Pangarasio Onek was killed in the course of the attack.

1322. The Chamber notes that witnesses also testified about the killing of 'Apang Onek'. Given the similarities in the names of the witnesses and the description of the circumstances of the killing, the Chamber is of the view that these witnesses likely refer to Pangarasio Onek. P-0249 testified that LRA soldiers killed a civilian, Apang, as abductees were leaving the centre.<sup>2879</sup> Apang was killed in an area called Wang Kweyo, as the abductees were going to the bush.<sup>2880</sup> According to P-0249, Apang was killed for refusing to carry baggage from the centre.<sup>2881</sup> P-0249 testified that when he returned from the bush Apang's wife told him of Apang's death.<sup>2882</sup> P-0249 testified that he was told that Apang was drunk at the time and became aggressive with the LRA.<sup>2883</sup> Corroborating this testimony, Terrance Otika testified that he heard that a man, Apang, was killed from the Pajule side of the camp.<sup>2884</sup> In addition, Santo Oweka testified that Onek Apang was killed during the course of the Pajule IDP camp attack.<sup>2885</sup> Importantly, Santo Oweka appears to suggest that he refers to Pangarasio Onek when he referenced Apang.<sup>2886</sup>

1323. In light of the evidence, the Chamber finds that Pangarasio Onek was killed by the LRA in the course of their attack on Pajule IDP camp.

1324. **Unnamed abductee killed by the RV location:** Camp resident P-0006 testified that after leaving the RV location, when she was in Ocitti's group heading towards Kitgum, she

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the only people he saw dead were the two civilians 'caught in the crossfire'). The Chamber notes that it understands Richard Otim's testimony to indicate that he did not see who killed the civilians.

<sup>2878</sup> D-0076: [T-219](#), p. 30, lines 2-5, p. 31, lines 2-7. Despite the different spelling of the first name, the Chamber considers it self-evident that the witnesses refer to the same person.

<sup>2879</sup> P-0249: [T-79](#), p. 35, lines 20-25, p. 36, lines 8-11.

<sup>2880</sup> P-0249: [T-79](#), p. 36, lines 12-15.

<sup>2881</sup> P-0249: [T-79](#), p. 35, lines 20-25, p. 36, lines 16-20.

<sup>2882</sup> P-0249: [T-79](#), p. 36, lines 3-7.

<sup>2883</sup> P-0249: [T-79](#), p. 36, lines 12-20.

<sup>2884</sup> P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 24. Terrance Otika heard of Apang's death from the people who brought the news of Lacung's death.

<sup>2885</sup> D-0081: [T-221](#), p. 47, lines 12-19.

<sup>2886</sup> D-0081: [T-221](#), p. 48, lines 1-3.

saw a dead person lying by the side of the road.<sup>2887</sup> P-0006 testified that the rebels she was with told her that the man was an abductee who had tried to escape and that if they tried to escape they would be killed like him.<sup>2888</sup> P-0006 testified that the man was an older man and was lying face down and looked as though he had been hit on the back of the head.<sup>2889</sup> Benson Ojok also testified that as they were leaving the meeting place, about one mile away, he saw a dead body beside the road.<sup>2890</sup> Benson Ojok testified that the man was wearing civilian clothes and it looked like he had been beaten, the back of his head looked like it had been hit.<sup>2891</sup> Benson Ojok testified that there was a stick near the man's body and the dead man's hands were tied with a rope behind his body.<sup>2892</sup> Benson Ojok testified that he did not know who the man was, but believed that he was one of the persons abducted from Pajule as he was unarmed, tied and was wearing civilian clothing and it looked like he had been killed recently.<sup>2893</sup> While neither witness knew the man, the testimony is overwhelmingly similar in their description of the body. The Chamber is convinced by Benson Ojok's testimony that the deceased was one of the Pajule abductees and the manner of his death as well as the fact that he was found just outside of the LRAs' RV location demonstrates that he was killed by the LRA.

1325. The Chamber is satisfied that the evidence shows that at least four civilians were killed by the LRA in the course of the 10 October 2003 attack on Pajule IDP camp.

**LRA fighters abducted hundreds of civilians from the camp and forced them to carry looted items, including heavy loads, for long distances while retreating from the camp.**<sup>2894</sup>

**Dominic Ongwen ordered a subordinate to abduct civilians. The order was immediately executed. Dominic Ongwen also led a group of abductees and ordered abductees to carry looted goods and instructed them not to drop items.**<sup>2895</sup>

**Some abductees were forced to carry injured LRA fighters. The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. Some were tied to each other. Many of the abductees were forced to walk bare foot or not**

<sup>2887</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 50. *See also* para. 49.

<sup>2888</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 50.

<sup>2889</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 50.

<sup>2890</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 45.

<sup>2891</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 45.

<sup>2892</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 45.

<sup>2893</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 46.

<sup>2894</sup> Para. 153 above.

<sup>2895</sup> Para. 153 above.

fully clothed through the bush for a long distance. LRA fighters beat abductees to make them walk faster.<sup>2896</sup>

Among the persons abducted from Pajule IDP camp were Witness P-0006, her neighbour, her three relatives; Witness P-0081; Richard Otim; Witness P-0249; Witness P-0249's wife; Benson Ojok; Dick Okot and his family members; Rwot Joseph Oywak; Charles Bongomin, Oryema Kadogo, Sunday Abalo, Charles Ayela, Concy Ayet; Ogen; Opira; Okumu; Santo Oweka; David Okwera; Francis Kitara; George; Ronald Labeja; Christopher; Celestino; Vincent Okot; Ocana; Charles Abonga; David Otti Moyo; Christine; Paska; Oluge; Opira Bosco and Oryema.<sup>2897</sup>

1326. The Chamber finds that the evidence shows that armed LRA fighters abducted civilians from Pajule IDP camp and prevented their escape and forced them to work. The Chamber recalls its above discussion of the killing of three abductees, Kinyera Benson Lacung, Pangarasio Onok and an unnamed abductee.<sup>2898</sup> The evidence also shows that the LRA fighters mistreated the civilians they abducted from the camp.

1327. The witnesses' accounts of the LRA's abduction and treatment of civilians are credible, mutually corroborative and show that the LRA, including fighters under Dominic Ongwen's direct command, forcibly abducted civilians in Pajule IDP camp and severely mistreated them in accordance with the orders they had received.<sup>2899</sup>

1328. P-0330 testified that the LRA abducted civilians from Pajule, tied them around the waist, put them together in a line and gave them looted items to carry.<sup>2900</sup> P-0330 testified to abducting two civilians himself, a boy and a girl, and estimated that the boy he abducted was around 18 and the girl between 15 and 16 years old.<sup>2901</sup> P-0330 testified that the abducted civilians from Pajule were made to carry looted items to the meeting point where the fighters met up with other members of the LRA.<sup>2902</sup> P-0330 also testified that

[REDACTED]  
[REDACTED].<sup>2903</sup> The Chamber finds P-0330's testimony here specific and credible, noting that [REDACTED] in describing the abduction of the two persons.

<sup>2896</sup> Para. 153 above.

<sup>2897</sup> Para. 154 above.

<sup>2898</sup> See paras 1315-1324 above.

<sup>2899</sup> See section IV.C.6.ii, the Chamber's discussion of the planning of the attack.

<sup>2900</sup> P-0330: T-52-CONF, p. 4, line 23 – p. 5, line 3.

<sup>2901</sup> P-0330: T-52-CONF, p. 5, line 25 – p. 6, line 11.

<sup>2902</sup> P-0330: [T-52](#), p. 9, lines 2-14.

<sup>2903</sup> P-0330: T-52-CONF, p. 12, line 17 – p. 13, line 4.

1329. In line with P-0330's testimony, other witnesses reported seeing abductees who were tied up so that they could not escape.<sup>2904</sup> LRA fighter P-0372 explained that abductees were guarded and some of the abductees were bound on their waists while others were walking without being tied but under guard.<sup>2905</sup> Camp resident P-0081 credibly testified that the LRA abducted all manner of people in the course of the attack, testifying:

Whatever they find you wearing, they would abduct you in it; even if you were wearing an underwear, even if you were bare chested, they would take you and mix up people. They abducted all categories of people.<sup>2906</sup>

1330. Similarly, P-0309 testified that LRA fighters abducted civilians from the trading centre.<sup>2907</sup> P-0309 credibly testified that Dominic Ongwen ordered him to abduct two people from Pajule IDP camp and ask them to carry flour and beans.<sup>2908</sup> P-0309 testified that he entered the civilian's home and called them and they came out and carried the items.<sup>2909</sup> P-0309 explained:

They were helpless, they did not refuse. When I called them they left and they were shaking with fear. They were trembling and they came and carried the luggage that I'd asked them to carry. [...] Because they feared that I could – I could kill them or I could do worse things if they did not carry the things I asked them to carry.<sup>2910</sup>

1331. In line with P-0309's testimony, P-0249, a camp resident and abductee, testified that Dominic Ongwen directed his fighters to go and loot, they followed his instruction, taking 'a lot of things' and giving them to people to carry.<sup>2911</sup> P-0249 testified that while still at Pajule trading centre, Dominic Ongwen told the abductees not to drop their luggage.<sup>2912</sup> P-0249 testified that as they were walking, Dominic Ongwen would move and walk anywhere within the group.<sup>2913</sup> Consistent with the other accounts, P-0372 also testified that some of the abductees were given loot to carry.<sup>2914</sup> Similarly, D-0085

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<sup>2904</sup> P-0249: [T-79](#), p. 13, lines 10-14; P-0067: [T-125](#), p. 37, lines 5-12; D-0077 Statement, UGA-D26-0022-0316, at para. 29.

<sup>2905</sup> P-0372: [T-148](#), p. 24, lines 7-11.

<sup>2906</sup> P-0081: [T-118](#), p. 27, lines 15-18. *See also* D-0076: [T-219](#), p. 29, lines 9-21 (Richard Otim testified that the persons were abducted in the condition they were found in, so some people were half dressed).

<sup>2907</sup> P-0309: [T-60](#), p. 63, lines 1-2.

<sup>2908</sup> P-0309: [T-60](#), p. 62, lines 5-10, p. 63, lines 3-5.

<sup>2909</sup> P-0309: [T-60](#), p. 63, lines 3-6.

<sup>2910</sup> P-0309: [T-60](#), p. 63, lines 8-13.

<sup>2911</sup> P-0249: [T-79](#), p. 15, lines 4-13, lines 18-25, p. 18, line 24 – p. 19, line 3; [T-80](#), p. 21, line 21 – p. 22, line 1. *See* para. 1344 below, the Chamber's further discussion of P-0249's testimony.

<sup>2912</sup> P-0249: [T-79](#), p. 42, lines 13-18.

<sup>2913</sup> P-0249: [T-79](#), p. 31, line 24 – p. 32, line 5.

<sup>2914</sup> P-0372: [T-148](#), p. 24, lines 12-13.

testified that the LRA forced civilians to carry the food the LRA had taken from the camp.<sup>2915</sup> Additionally, P-0138 stated that he saw the civilians that had been abducted, including children.<sup>2916</sup> P-0138 testified that the abductees were brought back to the RV location in different battalions, staying with the group that abducted them and carrying the goods looted by that group.<sup>2917</sup> P-0015 also stated that when the attackers returned from Pajule, they ‘brought back little boys and girls and big men who were carrying the luggage of things they had taken from Pajule’.<sup>2918</sup>

1332. Camp resident Dick Okot testified that abductees were also carrying items including merchandise like soda and biscuits, taken from shops.<sup>2919</sup> Dick Okot also saw an abductee carrying clothes and one person was carrying about four gallons of beans.<sup>2920</sup>

1333. In addition to carrying looted items, P-0138 explained that injured LRA fighters coming back from the attack were carried back to the RV location by civilian abductees.<sup>2921</sup> P-0015 testified that she saw male abductees from Pajule IDP camp carrying an injured LRA fighter on a stretcher made of logs and polythene paper.<sup>2922</sup> P-0144 testified that the group that went to collect food items in the camp abducted civilians to carry looted items or injured LRA fighters and some to be recruited into the ranks.<sup>2923</sup> P-0144 testified that Raska Lukwiya was carried by civilians.<sup>2924</sup>

1334. Further elaborating on the use of threats by LRA to abduct civilians and force them to work, witnesses also testified about the environment of fear in which the LRA abducted civilians. D-0085 testified that the LRA was carrying guns as they forced civilians to carry the looted food.<sup>2925</sup> P-0330 testified that the two civilians he abducted to carry looted items could not refuse to do as he instructed because he had a gun.<sup>2926</sup> P-0144 testified that no civilian could reject being abducted by a person wielding a gun.<sup>2927</sup> The

<sup>2915</sup> D-0085: [T-239](#), p. 34, lines 1-6.

<sup>2916</sup> P-0138: [T-120](#), p. 41, lines 14-16.

<sup>2917</sup> P-0138: [T-120](#), p. 43, line 20 – p. 44, line 2.

<sup>2918</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 92.

<sup>2919</sup> P-0067: [T-125](#), p. 23, lines 5-10.

<sup>2920</sup> P-0067: [T-125](#), p. 23, lines 8-11.

<sup>2921</sup> P-0138: [T-120](#), p. 44, lines 11-15.

<sup>2922</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 92.

<sup>2923</sup> P-0144: [T-91](#), p. 40, line 12 – p. 41, line 25.

<sup>2924</sup> P-0144: [T-91](#), p. 41, lines 21-23.

<sup>2925</sup> D-0085: [T-239](#), p. 34, lines 4-6.

<sup>2926</sup> P-0330: T-52-CONF, p. 7, lines 1-3. *See* para. 1328 above.

<sup>2927</sup> P-0144: [T-91](#), p. 41, lines 1-7.

Chamber recalls its finding that several hundred LRA fighters attacked Pajule IDP camp armed with an assortment of weapons, including guns.<sup>2928</sup>

1335. UPDF commander Joseph Balikudembe testified that his troops were amongst the ones who pursued the LRA some days after the attack on Pajule IDP camp and managed to rescue some abductees.<sup>2929</sup> He testified that these abductees were ‘exhausted’.<sup>2930</sup> Some had swollen legs from moving barefoot and some of their feet were swollen because they were not used to walking for such distances.<sup>2931</sup> Joseph Balikudembe assessed their condition as ‘totally emaciated and exhausted because they were not used to that kind of treatment’.<sup>2932</sup>

1336. P-0249 testified that the LRA fighters instructed the abductees that anyone who threw their load would be killed.<sup>2933</sup> P-0249 attested to a difficult journey walking to the RV location; he stated that the abductees, including himself, were ‘manhandled’, kicked and beaten.<sup>2934</sup> P-0249 stated that when the group entered the bush, the fighters ‘were beating people seriously’.<sup>2935</sup> According to P-0249, the LRA fighters used their hands, sticks, guns to beat people, sometimes they just kicked people.<sup>2936</sup> P-0249 testified that the LRA fighters beat people for various reasons:

They would beat people every time, every single time we were moving they would keep beating people. Sometimes they would beat you because they say you are not walking fast, at another moment why you let part of your luggage fall down. For flimsy reasons they would still beat you up. Sometimes when the commanders were passing, and the escorts were also moving them, as they are passing by they would kick you. You wouldn’t even know they are passing by because you’d be burdened by your load. But these people would really do anything on you.<sup>2937</sup>

1337. P-0249 testified that Dominic Ongwen was present during the times all the beating was occurring; however the witness did not see him beating anyone.<sup>2938</sup>

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<sup>2928</sup> See para. 1240 above.

<sup>2929</sup> P-0359: [T-109](#), p. 56, lines 2-14, lines 22-24, p. 58, lines 16-18.

<sup>2930</sup> P-0359: [T-109](#), p. 58, lines 19-23.

<sup>2931</sup> P-0359: [T-109](#), p. 56, lines 17-19, p. 58, lines 21-22.

<sup>2932</sup> P-0359: [T-109](#), p. 58, lines 22-23.

<sup>2933</sup> P-0249: [T-79](#), p. 35, lines 20-22.

<sup>2934</sup> P-0249: [T-79](#), p. 13, line 22 – p. 14, line 1, p. 28, lines 18-22.

<sup>2935</sup> P-0249: [T-79](#), p. 33, lines 7-9.

<sup>2936</sup> P-0249: [T-79](#), p. 33, line 25 – p. 34, line 8.

<sup>2937</sup> P-0249: [T-79](#), p. 34, lines 9-17.

<sup>2938</sup> P-0249: [T-79](#), p. 35, lines 10-15, p. 37, lines 13-18. See para. 1344 below, the Chamber’s further discussion of P-0249’s testimony.

1338. LRA insider Santo Oweka testified that the LRA fighters were moving the abductees ‘in a haste’ and beating them to get them to hurry.<sup>2939</sup> Consistent and corroborative of this and other evidence of beatings discussed above, P-0379 testified that civilian Okony was also abducted from Pajule IDP camp and escaped after about a week.<sup>2940</sup> P-0379 testified that Okony said he was beaten.<sup>2941</sup> P-0379 testified that Okony stayed in Kitgum hospital for a long time because he was vomiting blood.<sup>2942</sup>

1339. The Chamber heard a number of accounts of the abduction of specific civilians in the course of the LRA attack on Pajule IDP camp on 10 October 2003, which are discussed below. As with the above discussion, the below is evidence of the abduction of camp residents and their mistreatment by LRA fighters.

1340. **P-0006, her neighbour, her three relatives and other abductees:** P-0006, sixteen years old at the time of the attack, had been asleep in her neighbour’s house in the Lapul side of the camp when she heard ululations and gunshots coming from the eastern direction.<sup>2943</sup> She stated that she knew she had nowhere to run and nowhere to hide, so she stayed in bed in the house.<sup>2944</sup> She testified that the LRA kicked in the door of the house, whereupon seven armed young LRA fighters, whom she referred to as ‘kadogos’, entered the house.<sup>2945</sup> P-0006 testified that the fighters commanded her and another woman who lived in the house as well to carry items the fighters took from the house.<sup>2946</sup> P-0006 testified that she was made to carry maize and cooking oil.<sup>2947</sup> At the time, she was wearing a dress and no shoes.<sup>2948</sup> P-0006 testified that the LRA fighters told her to run towards the barrack and a ‘boy’ LRA fighter of approximately 14 years old and carrying a gun, beat her twice on her back with a stick.<sup>2949</sup> P-0006 testified that after being beaten, she began to run as instructed.<sup>2950</sup> P-0006 testified that other abductees

<sup>2939</sup> D-0081: [T-220](#), p. 27, lines 1-5.

<sup>2940</sup> P-0379: T-57-CONF, p. 34, lines 18-22.

<sup>2941</sup> P-0379: T-57-CONF, p. 34, lines 18-21.

<sup>2942</sup> P-0379: T-57-CONF, p. 34, lines 18-23.

<sup>2943</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 7-9.

<sup>2944</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 10.

<sup>2945</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 11; P-0006: T-140-CONF, p. 37, lines 15-20.

<sup>2946</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 12-13. *See also* P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 10.

<sup>2947</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 13.

<sup>2948</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 13.

<sup>2949</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 14; P-0006: [T-140](#), p. 9, lines 1-11.

<sup>2950</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 15.

were beaten as well, on their backs, necks and buttocks.<sup>2951</sup> P-0006 testified that the stick used to beat people were big pieces of wood the size of walking sticks used by the elderly and had been taken from civilian houses.<sup>2952</sup> P-0006 testified that she was forced to carry ‘extremely heavy’ items away from the camp, ‘maybe two and a half basins full of goods’.<sup>2953</sup> Other abductees were also forced to carry heavy loads, things that had been taken from shops.<sup>2954</sup> P-0006 testified that she saw the other abductees struggling to carry the load, stating ‘[i]t appears the luggage was also heavy for them the way I would see’.<sup>2955</sup> P-0006 testified that despite the fact that the LRA rebels were beating abductees to make them walk faster, the abductees could only walk slowly because of the heavy items they were carrying.<sup>2956</sup> P-0006 testified that the other woman abducted with her was also made to carry luggage but was released the day after the attack.<sup>2957</sup> In addition, P-0006 testified that [REDACTED] were abducted during the attack.<sup>2958</sup> P-0006 testified that [REDACTED].<sup>2959</sup> P-0006 testified that [REDACTED].<sup>2960</sup> P-0006 testified that she was integrated into the LRA until her escape on 28 April 2004.<sup>2961</sup> She was taken by an LRA commander to his place and forced to become the so-called ‘wife’ of the commander.<sup>2962</sup> P-0006 testified that she was raped and became pregnant in the bush.<sup>2963</sup> The Chamber finds P-0006’s account of her and other civilians’ experience during their abduction credible, specific, full of details and internally consistent. It is also consistent with the evidence of other witnesses’ abductions and the abductions of other civilians in Pajule IDP camp.

<sup>2951</sup> P-0006: [T-140](#), p. 9, lines 12-23, p. 10, lines 15-18.

<sup>2952</sup> P-0006: [T-140](#), p. 10, lines 5-11.

<sup>2953</sup> P-0006: [T-140](#), p. 11, lines 16-24.

<sup>2954</sup> P-0006: [T-140](#), p. 12, lines 3-5.

<sup>2955</sup> P-0006: [T-140](#), p. 12, line 23 – p. 13, line 3.

<sup>2956</sup> P-0006: [T-140](#), p. 13, lines 4-12.

<sup>2957</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 15.

<sup>2958</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 15.

<sup>2959</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 15.

<sup>2960</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 15; P-0006: [T-140-CONF](#), p. 16, line 23 – p. 17, line 9.

<sup>2961</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 60.

<sup>2962</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 37, 56-57.

<sup>2963</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 56.

1341. **P-0081**: Camp resident P-0081 lived on the Lapul side of the camp.<sup>2964</sup> After being woken up by the sound of gunshots, P-0081 went outside his home where he saw an armed man who told him to return inside.<sup>2965</sup> After a short time, the same armed man knocked on P-0081's door and ordered him back outside.<sup>2966</sup> P-0081 testified that when he came out this man told him to remove his shirt, which he did.<sup>2967</sup> P-0081 testified that he was taken to an injured person who had been brought some distance behind his house.<sup>2968</sup> According to P-0081, two other civilians were already carrying the injured person.<sup>2969</sup> P-0081 testified that the three abductees were tied to each other with a rope and made to carry the injured person whom P-0081 identified as 'Lapwony Lukwiya'.<sup>2970</sup> According to P-0081, Lukwiya was shot in the head and the side and was one of the people who had been carrying and operating the SPG-9 used during the attack.<sup>2971</sup> P-0081 testified that he moved out of the camp with the group, consisting of about eight to ten rebels and led by Okot, Lukwiya's escort.<sup>2972</sup> P-0081 testified that he saw several rebels behind the house, coming to see the injured Lukwiya.<sup>2973</sup> P-0081 testified that Okot lead the group to the Wanduku primary school which was about six to seven miles from the camp and there they met more people, including Lukwiya's wife.<sup>2974</sup> P-0081 testified that a group of rebels including Lukwiya's wife arrived after him at Wangduku School with a large group of other abductees.<sup>2975</sup> P-0081 testified that he, other abductees and LRA fighters then moved to the RV location.<sup>2976</sup> P-0081 testified that he carried Lukwiya for a week before Lukwiya was taken to a sickbay.<sup>2977</sup> P-0081 testified that he was integrated into LRA until he escaped in April 2004.<sup>2978</sup> Given the name, Lapwony Lukwiya, and the witness's mention of an SPG-9, the Chamber is certain that P-0081 testified that he was forced to carry LRA fighter Charles Lokwiya. Charles Lokwiya testified before the Chamber about his injury, stating that the SPG-9 he was carrying was

<sup>2964</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 8; P-0081: [T-118](#), p. 33, lines 2-4.

<sup>2965</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 17-18.

<sup>2966</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 18.

<sup>2967</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 18-19.

<sup>2968</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 18.

<sup>2969</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 18.

<sup>2970</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 19-20.

<sup>2971</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 20.

<sup>2972</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 21.

<sup>2973</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 23.

<sup>2974</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 27-28.

<sup>2975</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 34-35; P-0081: [T-118](#), p. 35, line 17 – p. 36, line 1.

<sup>2976</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 36.

<sup>2977</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 20.

<sup>2978</sup> P-0081 Statement, UGA-OTP-0070-0029-R01, at paras 64, 104.

shot and the barrel exploded and the shattered pieces of the barrel came and injured him.<sup>2979</sup> P-0144 corroborates this account that Lokwiya was injured in the attack at the barracks when his SPG-9 gun was shot and the fragment of the gun hit him on the stomach and on the mouth.<sup>2980</sup>

1342. Charles Lokwiya testified that after he was injured, he was left behind and his ‘wife’ came and carried him from the camp up until the time when she found people to help carry him.<sup>2981</sup> Charles Lokwiya testified that only his ‘wife’ dragged him from the barracks.<sup>2982</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>2983</sup> [REDACTED]

[REDACTED]<sup>2984</sup> The Chamber

finds these witnesses’ testimonies credible and mutually corroborative. In light of the details P-0081 knew of Charles Lokwiya, the Chamber is convinced that P-0081 was abducted by the LRA and forced to carry Charles Lokwiya – likely from the RV onwards; however, the Chamber is of the view that his testimony about carrying Lokwiya from the camp is not reliable.

1343. **Richard Otim:** Richard Otim testified that LRA rebels forced the door of his home open and he was forcibly captured and brought out and tied with a rope at the waist.<sup>2985</sup> Richard Otim testified that it was around 4:00; he had just woken up and was barefoot and only wearing shorts.<sup>2986</sup> Richard Otim testified that the LRA fighters had guns.<sup>2987</sup> Richard Otim testified that from the RV location he helped to carry Charles Lokwiya and Acel Calo Apar along with other abductees.<sup>2988</sup> Richard Otim testified that the soldiers were on stretchers and the abductees carried the stretchers on their shoulders.<sup>2989</sup> In the course of the LRA’s trek in the bush, Richard Otim’s feet and shoulders were injured, as he

<sup>2979</sup> D-0134: T-240-CONF, p. 63, lines 5-8; T-241-CONF, p. 13, line 21 – p. 14, line 2.

<sup>2980</sup> P-0144: [T-91](#), p. 35, lines 4-15.

<sup>2981</sup> D-0134: T-240-CONF, p. 63, lines 9-21; T-241-CONF, p. 13, line 21 – p. 14, line 7.

<sup>2982</sup> D-0134: T-241-CONF, p. 14, lines 3-7.

<sup>2983</sup> [REDACTED]

<sup>2984</sup> [REDACTED]

<sup>2985</sup> D-0076: [T-219](#), p. 11, lines 16-18, p. 26, line 17 – p. 27, line 1, p. 37, lines 8-19.

<sup>2986</sup> D-0076: [T-219](#), p. 27, lines 2-13.

<sup>2987</sup> D-0076: [T-219](#), p. 27, line 24 – p. 28, line 4.

<sup>2988</sup> D-0076: [T-219](#), p. 13, lines 11-12, p. 19, line 10 – p. 20, line 3.

<sup>2989</sup> D-0076: [T-219](#), p. 13, lines 12-14.

feared that he was no longer able to perform the tasks the LRA had assigned to him and would be killed, he managed to escape from the LRA.<sup>2990</sup> Richard Otim testified that he stayed with the LRA from about four days to a week before managing to escape.<sup>2991</sup> The Chamber considers Richard Otim's testimony credible, detailed and specific.

**1344.P-0249 and his wife:** At the time of the attack, P-0249 was a trader within the Pajule trading centre.<sup>2992</sup> According to P-0249, the gunshots carried on until they reached his doorstep and LRA fighters began to kick his door and fired a bullet into his house.<sup>2993</sup> P-0249 testified that his wife opened the door of the house and they came out of the house.<sup>2994</sup> P-0249 stated that he and his wife were bound around the waist with ropes that were normally used for tying cattle.<sup>2995</sup> P-0249 testified that the LRA fighters tied his waist together with another person; however other people were bound differently.<sup>2996</sup> The Chamber recalls the above determination that P-0249's identification of Dominic Ongwen in the trading centre was credible and reliable.<sup>2997</sup> P-0249 credibly testified that Dominic Ongwen was in charge of the rebels who abducted him and his wife.<sup>2998</sup> P-0249 testified that he was given about two or more basins of beans to carry, which the LRA poured into a sack and put on his head and he carried as they walked.<sup>2999</sup> P-0249 testified that until the LRA arrived at the RV location, he was carrying food.<sup>3000</sup> After they left the RV, the witness carried a stretcher with an injured LRA soldier.<sup>3001</sup> P-0249 testified that he still has scars on his shoulders from carrying the injured LRA soldier.<sup>3002</sup> According to P-0249, the injured soldier was very heavy and he carried him with another person.<sup>3003</sup> P-0249 testified that abductees could not escape because they were being 'protected' by the rebels.<sup>3004</sup> P-0249 explained that the abductees did not have the

<sup>2990</sup> D-0076: [T-219](#), p. 13, line 18 – p. 15, line 19, p. 22, line 11 – p. 23, line 1.

<sup>2991</sup> D-0076: [T-219](#), p. 13, line 18 – p. 15, line 18, p. 21, lines 1-4, p. 22, line 11 – p. 23, line 1.

<sup>2992</sup> P-0249: T-79-CONF, p. 9, lines 1-5.

<sup>2993</sup> P-0249: [T-79](#), p. 10, lines 16-19.

<sup>2994</sup> P-0249: [T-79](#), p. 10, lines 20-21.

<sup>2995</sup> P-0249: [T-79](#), p. 10, lines 20-22.

<sup>2996</sup> P-0249: [T-79](#), p. 31, lines 14-18.

<sup>2997</sup> See paras 1276-1279 above, the Chamber's discussion of Dominic Ongwen's role in the attack.

<sup>2998</sup> P-0249: [T-79](#), p. 12, lines 12-13, p. 14, lines 11-18.

<sup>2999</sup> P-0249: [T-79](#), p. 22, line 14 – p. 23, line 2.

<sup>3000</sup> P-0249: [T-79](#), p. 47, lines 19-22.

<sup>3001</sup> P-0249: [T-79](#), p. 47, line 19 – p. 48, line 1.

<sup>3002</sup> P-0249: [T-79](#), p. 47, line 19 – p. 48, line 1, p. 53, line 11 – p. 54, line 5. See photographs of P-0249's injuries: UGA-OTP-0238-0804; UGA-OTP-0238-0805.

<sup>3003</sup> P-0249: [T-79](#), p. 48, line 16 – p. 50, line 1.

<sup>3004</sup> P-0249: [T-79](#), p. 28, lines 10-17.

freedom to move anywhere, ‘[y]ou were like a prisoner, and every now and then you will be guarded’.<sup>3005</sup> Abductees were unbound so that they could carry items and then bound behind their backs at night.<sup>3006</sup> P-0249 testified that after the rebels separated in groups and moved in different directions; he moved with Dominic Ongwen’s group.<sup>3007</sup> After about two weeks of being with the LRA, P-0249 was no longer able to walk further, LRA fighters beat him until he was unconscious and left him.<sup>3008</sup> The witness managed to drag himself for nine days trying to get home.<sup>3009</sup> The Chamber considers P-0249’s testimony to be credible. It was detailed, contextualised, specific and corroborated by other witnesses’ similar accounts of their experiences during their abduction.

**1345. Benson Ojok and other abductees:** Benson Ojok, then a 15 year old boy, was staying at a house in the Pajule side of the camp, with two other boys, around 16 and 17 years old, when he woke up to the sound of the kicking of doors, plastic whistles and gunshots.<sup>3010</sup> The two other boys in the house escaped and Benson Ojok was alone when a rebel knocked on the door and said that anyone inside the house should come out or they would be shot.<sup>3011</sup> The LRA fighter pushed open the door and Benson Ojok fell because he had been standing behind it.<sup>3012</sup> According to Benson Ojok, the LRA fighter was about 19 years old, and carried an AK-47 and a bayonet knife.<sup>3013</sup> Benson Ojok testified that the LRA fighter grabbed him, took his shirt off and used the shirt to tie Benson Ojok’s hands together.<sup>3014</sup> Then the LRA fighter took Benson Ojok to another house in the trading centre and abducted a man and three boys; two of the boys were about ten and nine years old and one was even younger.<sup>3015</sup> The abductees were tied together around their waist and their hands were freed.<sup>3016</sup> Their shirts were removed and if they had been wearing good footwear, it was removed from them.<sup>3017</sup> Benson Ojok saw other people who had just been abducted in the camp, including boys about 15 years

<sup>3005</sup> P-0249: [T-79](#), p. 28, lines 13-17.

<sup>3006</sup> P-0249: [T-79](#), p. 52, lines 18-25.

<sup>3007</sup> P-0249: [T-79](#), p. 41, lines 17-23, p. 43, line 18 – p. 44, line 7.

<sup>3008</sup> P-0249: [T-79](#), p. 67, lines 6-23, p. 72, line 17 – p. 73, line 19.

<sup>3009</sup> P-0249: [T-79](#), p. 72, line 17 – p. 74, line 12, p. 77, lines 3-6; T-79-CONF, p. 74, lines 12-16.

<sup>3010</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at paras 8-13.

<sup>3011</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 13.

<sup>3012</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 13.

<sup>3013</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 14.

<sup>3014</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18.

<sup>3015</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18.

<sup>3016</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18.

<sup>3017</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 19.

old and below and girls about ten and 11 years and older.<sup>3018</sup> The youngest abducted boy Benson Ojok saw was about nine years old.<sup>3019</sup> In his estimation, the oldest male abductee was around 35 years old and the oldest female abductee about 30 years old.<sup>3020</sup> Benson Ojok testified that he saw his friend Ocaya as well as a teacher from his school among the abductees.<sup>3021</sup> Benson Ojok was given a crate of soda to carry on his head.<sup>3022</sup> Benson Ojok testified that the LRA fighters threatened the abductees that they would be killed if they threw away the items they were carrying.<sup>3023</sup> Benson Ojok was integrated into the LRA before he eventually escaped.<sup>3024</sup> The Chamber finds Benson Ojok's testimony about his abduction credible and reliable. It was detailed, specific and rich with the details that showed that he spoke of his personal experiences.

**1346. Dick Okot and his family members:** Dick Okot, who lived in the Pajule trading centre, testified that the LRA fighters broke down his door, entered into his house and brought him out along with his wife, his brother, his sister and her children.<sup>3025</sup> Dick Okot testified that one of his neighbours was also brought out.<sup>3026</sup> Dick Okot testified that the door to his house was a steel door so it was not easy to break; the LRA attackers used an axe to break down the wall and bring down the door.<sup>3027</sup> Two armed LRA fighters entered the house and ordered the inhabitants out and told them to sit down.<sup>3028</sup> According to Dick Okot, when he came outside, he saw around 14 LRA fighters, a mixture of men and women, out in front of the shops and spread around the house and buildings there.<sup>3029</sup> Dick Okot testified that when he was taken out of the house, LRA fighters tied his arms behind his back with a rope and his brother's arms were also tied and they were ordered to start moving.<sup>3030</sup> Dick Okot testified that he was bare foot and only wearing underwear and had a light vest over his chest.<sup>3031</sup> Dick Okot testified that among his abductors was

<sup>3018</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 19.

<sup>3019</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 19.

<sup>3020</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 19.

<sup>3021</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 19.

<sup>3022</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 18.

<sup>3023</sup> P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 24.

<sup>3024</sup> See P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 61.

<sup>3025</sup> P-0067: [T-125](#), p. 8, lines 13-21.

<sup>3026</sup> P-0067: [T-125](#), p. 12, lines 6-9.

<sup>3027</sup> P-0067: [T-125](#), p. 8, lines 19-25.

<sup>3028</sup> P-0067: [T-125](#), p. 9, lines 4-12.

<sup>3029</sup> P-0067: [T-125](#), p. 9, line 20 – p. 10, line 1.

<sup>3030</sup> P-0067: [T-125](#), p. 11, line 21 – p. 12, line 2.

<sup>3031</sup> P-0067: [T-125](#), p. 12, lines 3-4.

a commander named Lapwony Odongo from the Trinkle brigade.<sup>3032</sup> Dick Okot testified that there were children among the group of civilians and that the LRA commander Odongo told the abductees that '[w]e will show you that it is not good to stay in the camp. We will take you guys, we will take the older people. But the children, we will burn them inside the house'.<sup>3033</sup> Dick Okot testified that Odongo sent his bodyguards to go and collect fire but then the helicopter gunship arrived and he ordered the adults in the group to get up and move.<sup>3034</sup> Dick Okot testified that after the helicopter arrived, the LRA fighters and their adult abductees started moving away from the camp.<sup>3035</sup> Dick Okot testified that his hands were tied when he left the camp with his abductors but he was unbound when the LRA came across a woman who was carrying a sack of groundnuts and LRA fighters picked up the sack for him to carry.<sup>3036</sup> Dick Okot testified that his brother Okello David, his wife Grace Aringo and Janet Acan were abducted and in his group as he left Pajule IDP camp.<sup>3037</sup> Dick Okot testified that he stayed with the LRA for about three weeks to a month before he escaped.<sup>3038</sup> Dick Okot testified that he was to be tied when sleeping at night.<sup>3039</sup> The Chamber recalls its assessment of Dick Okot's credibility and notes that in this account of his abduction, the witness was clear, internally consistent, detailed and specific. His testimony was also corroborated in part by Okema Brown, the camp commandant of the Pajule side of the camp, who testified that Dick Okot was one of the returned abductees that he spoke with about the persons who commanded the attack.<sup>3040</sup>

**1347. Rwot Joseph Oywak:** Rwot Oywak testified that he heard gunshots the morning of the attack, as well as people screaming and crying.<sup>3041</sup> According to Rwot Oywak, armed LRA fighters kicked down the door of his house and ordered him to leave the house.<sup>3042</sup> Rwot Oywak testified that he was kicked and hit with the butt of a gun and pushed out

<sup>3032</sup> P-0067: [T-125](#), p. 11, lines 9-16. It is noted that P-0067 testified that Odongo himself mentioned that he was under the Trinkle battalion.

<sup>3033</sup> P-0067: [T-125](#), p. 12, lines 6-11.

<sup>3034</sup> P-0067: [T-125](#), p. 12, lines 12-17.

<sup>3035</sup> P-0067: [T-125](#), p. 13, line 24 – p. 14, line 1.

<sup>3036</sup> P-0067: [T-125](#), p. 14, lines 2-4, p. 22, line 20 – p. 23, line 2; [T-126](#), p. 9, lines 9-12.

<sup>3037</sup> P-0067: [T-125](#), p. 23, lines 20-25.

<sup>3038</sup> P-0067: [T-125](#), p. 43, line 21 – p. 44, line 17.

<sup>3039</sup> P-0067: [T-125](#), p. 37, lines 5-12.

<sup>3040</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 20.

<sup>3041</sup> P-0009: [T-81](#), p. 11, line 25 – p. 12, line 3.

<sup>3042</sup> P-0009: [T-81](#), p. 12, lines 3-8, p. 16, line 17 – p. 17, line 2.

of the house.<sup>3043</sup> Rwot Oywak stated that he started walking and joined the people, including his neighbour, who had been abducted.<sup>3044</sup> Rwot Oywak testified that there were men, women and children among the abductees, from the ages of 12 to 50, some of whom were carrying items LRA looted from civilians.<sup>3045</sup> Rwot Oywak testified that once the group was on the main road, LRA fighters gave him a heavy sack of rice to carry and he was hit and told to move with the people.<sup>3046</sup> Rwot Oywak insisted that any statement that he did not in fact carry luggage is not correct, explaining further ‘[i]t could be he’s saying the correct thing because you carry luggage and then you pass on to another person as you’re moving. Along the way, you carry for some time and then you pass it on to another person. So he could have seen because I did not carry right from Pajule up to Latanya’.<sup>3047</sup> The Chamber recalls its conclusion above that Rwot Oywak credibly identified Dominic Ongwen as being at the trading centre in Pajule.<sup>3048</sup> Rwot Oywak also testified that Dominic Ongwen hit and kicked him and ordered him to sit down.<sup>3049</sup> When the group started walking,<sup>3050</sup> Dominic Ongwen was kicking him and other people.<sup>3051</sup> Rwot Oywak stated that as they moved along, whoever was unable to walk was left behind and the LRA continued to add people as they moved along.<sup>3052</sup> Rwot Oywak testified to walking six to eight miles from Pajule before eventually reaching the RV location.<sup>3053</sup> As is discussed further below, Rwot Oywak was released along with other abductees the day after the attack.<sup>3054</sup>

1348. Multiple witnesses testified about Rwot Oywak’s abduction and his treatment by the LRA. P-0249 largely corroborates his account. Camp resident P-0249 indicated that Rwot Oywak was abducted by Dominic Ongwen’s group.<sup>3055</sup> P-0249 testified that ‘Rwot Oywak’ was abducted by an armed ‘kadogo’.<sup>3056</sup> According to P-0249, the fighter had taken Rwot Oywak’s shirt off and brought him to meet with the others while the group

<sup>3043</sup> P-0009: [T-81](#), p. 12, lines 7-8.

<sup>3044</sup> P-0009: [T-81](#), p. 12, lines 10-13.

<sup>3045</sup> P-0009: [T-81](#), p. 17, lines 10-19.

<sup>3046</sup> P-0009: [T-81](#), p. 12, lines 13-15, p. 17, lines 3-9; [T-82](#), p. 78, lines 2-16.

<sup>3047</sup> P-0009: [T-82](#), p. 78, line 17 – p. 79, line 3.

<sup>3048</sup> See paras 1272-1273 above.

<sup>3049</sup> P-0009: [T-81](#), p. 12, lines 18-20, p. 19, lines 15-20; [T-82](#), p. 80, line 18 – p. 81, line 9.

<sup>3050</sup> P-0009: [T-81](#), p. 13, lines 1-2.

<sup>3051</sup> P-0009: [T-81](#), p. 13, lines 1-3, p. 19, lines 15-21.

<sup>3052</sup> P-0009: [T-81](#), p. 13, lines 8-10.

<sup>3053</sup> P-0009: [T-81](#), p. 13, lines 21-23, p. 22, lines 20-25.

<sup>3054</sup> See para. 1366 below.

<sup>3055</sup> P-0249: [T-79](#), p. 44, lines 14-19.

<sup>3056</sup> P-0249: [T-79](#), p. 21, lines 14-18, p. 23, lines 3-9.

was branching off to go into the bushes from the camp.<sup>3057</sup> P-0249 testified that he believed the kadogo had found Rwot Oywak in his house and brought him to his commander.<sup>3058</sup> P-0249 testified that a soldier asked the kadogo if he knew who he had abducted and told the boy to give Rwot Oywak his shirt back and not to touch or beat him or give him luggage to carry.<sup>3059</sup> P-0249 testified that the group continued on and Rwot Oywak was the only person among the abductees who was not carrying anything, while everyone else had heavy loads on their heads.<sup>3060</sup> P-0249 testified that no harm was done to Rwot Oywak, that he ‘appeared to be free while, while he was there’ and it was ‘possible for him to do anything’.<sup>3061</sup> P-0249 testified that he did not see Rwot Oywak speaking with Dominic Ongwen along the route of retreat from Pajule camp but P-0249 saw Dominic Ongwen sit together with Rwot Oywak at the gathering with all the other commanders.<sup>3062</sup> Camp resident P-0006 testified that Rwot Oywak was among the persons abducted from Pajule by the LRA fighters and that she saw him outside the camp at a stream when the group stopped briefly.<sup>3063</sup> P-0006 testified that when she saw him, he had all his clothes on and he had been given rice to carry.<sup>3064</sup> P-0006 and P-0249, who both testified to seeing Rwot Oywak at an early point in his abduction, corroborate his account that he was abducted and initially treated like the other abductees. The Chamber does not consider it dispositive that P-0249 did not also testify to seeing Rwot Oywak carry a bag of rice. Other witnesses also testify as to the LRA’s treatment of Rwot Oywak in the course of the attack.<sup>3065</sup>

<sup>3057</sup> P-0249: [T-79](#), p. 21, lines 15-20.

<sup>3058</sup> P-0249: [T-79](#), p. 22, lines 5-10.

<sup>3059</sup> P-0249: [T-79](#), p. 21, lines 15-22, p. 22, lines 11-15; [T-80](#), p. 33, lines 1-20.

<sup>3060</sup> P-0249: [T-79](#), p. 21, lines 23-25.

<sup>3061</sup> P-0249: [T-79](#), p. 21, line 25 – p. 22, line 1; [T-80](#), p. 34, lines 7-13, p. 36, lines 15-21.

<sup>3062</sup> P-0249: [T-80](#), p. 33, lines 21-25.

<sup>3063</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 35.

<sup>3064</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 35.

<sup>3065</sup> D-0076: [T-219](#), p. 18, line 22 – p. 19, line 6, p. 39, line 4 – p. 40, line 2 (testifying that Joseph Oywak was the only person not given anything to carry. From Richard Otim’s observation, Rwot Oywak was relaxed and did not look like he was in fear or under threat. He did not see Rwot Oywak being beaten during the gathering where the abductees were addressed by Vincent Otti); P-0081 Statement, UGA-OTP-0070-0029-R01, at para. 43; P-0081: [T-118](#), p. 40, line 16 – p. 41, line 16 (testifying that he knew Rwot Oywak from home and saw him at the RV point; Rwot Oywak was wearing his shirt and a watch and was wearing shoes unlike the other abductees. Before Vincent Otti addressed the abductees, P-0081 saw Rwot Oywak shaking hands with Vincent Otti and they both looked happy and were laughing and even hugged); D-0081: [T-220](#), p. 30, lines 10-21 (testifying that during the walk to the meeting place, Rwot Oywak was conversing and laughing with LRA commander Raska Lukwiya. Rwot Oywak looked different than the rest of the abductees because they did not remove his clothes and he was not carrying any luggage); P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 127, 130 (testifying that Joseph Oywak told him that when the rebels discovered that he was one of the abductees, he was separated from the others and treated differently from the other abductees. P-0084 was also told by other abductees that Rwot Oywak

1349. The Chamber is satisfied that this evidence demonstrates that Rwot Oywak was abducted by force and initially treated harshly by the LRA. In this context, the Chamber notes the 10 October 2003 communication in which Vincent Otti reports on the attack on Pajule to Joseph Kony, and states that ‘he instructed soldiers to target all the big pple in Pajule including Oywak and the priests’.<sup>3066</sup> P-0085 also testified that Vincent Otti reported Rwot Oywak’s abduction to Joseph Kony after the operation and the people had returned.<sup>3067</sup> However, neither P-0006 nor P-0249 corroborates his account that he was beaten by Dominic Ongwen. In the Chamber’s view, given Rwot Oywak’s position and fame in the community, had he been beaten by Dominic Ongwen in a public setting, other witnesses who testified in these proceedings would have mentioned it. P-0249, who testified to also being abducted by Dominic Ongwen’s group and noted Rwot Oywak’s abduction by that same group, should certainly have observed or heard about the beating had it occurred in that manner. Rather, the evidence indicates that P-0249’s above account is credible and reliable in that after being recognised as the Rwot, LRA fighters no longer mistreated Rwot Oywak.

1350. **Charles Bongomin, Oryema Kadogo, Sunday Abalo, Charles Ayela:** [REDACTED] testified that [REDACTED], Charles Bongomin, was captured by the LRA during the attack on Pajule IDP camp and held captive for about a month.<sup>3068</sup> [REDACTED] testified that [REDACTED] [REDACTED] he was abducted by Dominic Ongwen.<sup>3069</sup> [REDACTED] testified that [REDACTED] [REDACTED] when the LRA fighters and their abductees left Pajule, they joined a bigger convoy under Vincent Otti’s leadership.<sup>3070</sup> [REDACTED] testified that Oryema Kadogo was also abducted by the LRA.<sup>3071</sup> [REDACTED] testified that Oryema Kadogo [REDACTED] [REDACTED] was in Dominic Ongwen’s group as an abductee.<sup>3072</sup> [REDACTED] testified that Oryema Kadogo [REDACTED] when he was walking with the LRA, his feet were swollen and he was beaten and left for dead, until he was found by the government soldiers pursuing the LRA, who took him to the hospital.<sup>3073</sup> [REDACTED] testified that Oryema Kadogo remains

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was not treated like other captive but was able to move freely with the rebel commanders and had meetings with them that the abductees could not hear).

<sup>3066</sup> See para. 1375, discussing ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547-48.

<sup>3067</sup> P-0085: [T-158](#), p. 41, lines 10-12.

<sup>3068</sup> [REDACTED]  
<sup>3069</sup> [REDACTED]  
<sup>3070</sup> [REDACTED]  
<sup>3071</sup> [REDACTED]  
<sup>3072</sup> [REDACTED]  
<sup>3073</sup> [REDACTED]

disabled to this day.<sup>3074</sup> In addition, ██████ testified that Sunday Abalo ██████ ██████ was in Dominic Ongwen's convoy.<sup>3075</sup> According to ██████, Sunday Abalo stayed in the bush and escaped in 2004.<sup>3076</sup> ██████ testified that Charles Ayela was also abducted by the LRA.<sup>3077</sup> ██████ testified that Charles Ayela ██████ was in Dominic Ongwen's group.<sup>3078</sup> ██████ testified that Charles Ayela ██████ in the movement from the camp, he encountered Patrick Acire, an LRA abductee who had been taken after ██████ and was in Odhiambo's group.<sup>3079</sup> ██████ testified that Charles Ayela had to carry an injured person during the retreat from the camp.<sup>3080</sup> ██████ testified that when Patrick Acire escaped, ██████ had met Charles Ayela in the bush, but that there was nothing he could do to help Charles Ayela because he was in a different group.<sup>3081</sup> While ██████ recounts the accounts ██████, the Chamber considers this hearsay testimony to be sound evidence corroborative of the other reliable evidence that Dominic Ongwen and his fighters abducted civilians from the trading centre of the camp and forced them to work for the LRA.

**1351. Concy Ayet and other abductees:** ██████ testified that his ██████, Ayet Concy, was abducted from Pajule as was a boy name Ogen and two men, Opira and Okumu.<sup>3082</sup> ██████ testified that after seeing his sister among the abductees Dominic Ongwen agreed to help him ensure that she was released; when ██████ could not find his sister Dominic Ongwen told him that he supposed she had already been released.<sup>3083</sup> The Chamber considers his account here credible and further proof that the LRA abducted civilians from Pajule IDP camp.

**1352. Santo Oweka:** Santo Oweka testified that about an hour after he first heard gunshots in the camp, LRA fighters kicked open his door and broke into his house.<sup>3084</sup> The LRA fighters pulled him out of his hut.<sup>3085</sup> Santo Oweka testified that when he came out, he

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See also P-0249: T-79-CONF, p. 23, line 22 – p. 24, line 5; D-0081: [T-221](#), p. 46, line 14 – p. 47, line 11.

D-0081: [T-220](#), p. 24, lines 1-4, p. 25, lines 1-4; [T-221](#), p. 44, lines 8-18.

D-0081: [T-220](#), p. 24, lines 6-7.

saw so many abductees outside and some gun-wielding people who were giving items to the abductees to carry.<sup>3086</sup> Santo Oweka testified that he was initially given a box of soap to carry, and then later he was made to carry an injured person, Odong Murefu.<sup>3087</sup> Santo Oweka stayed in the LRA for about five months.<sup>3088</sup> The Chamber considers Santo Oweka's account of his abduction credible and reliable. P-0249 also corroborates this account.<sup>3089</sup>

**1353. David Okwera:** David Okwera lived just east of the Pajule market on the Pajule side of the camp.<sup>3090</sup> David Okwera testified that a rebel came into his house and took him to the market where there were many LRA fighters and many abductees.<sup>3091</sup> David Okwera stated that the LRA gave him three basins of rice to carry.<sup>3092</sup> David Okwera testified that the abductees walked through the bush with the LRA in front and behind.<sup>3093</sup> He stated that this formation was so the LRA could protect people from ambushes and pursuing forces.<sup>3094</sup> David Okwera stated that he escaped from the LRA after about six weeks.<sup>3095</sup>

**1354. Other abductees:** Camp residents provided relevant, credible and mutually corroborative accounts of other residents abducted by the LRA. Omona Lokilamoi, a Pajule local government official, testified that Francis Kitara and George, both officials of Pajule camp were abducted during the attack.<sup>3096</sup> Both Francis Kitara and George were with the rebels for about two months before escaping.<sup>3097</sup> According to P-0084, the LRA abducted Ronald Labeja, a student of Kitgum High School named Christopher, Celestino, Vincent Okot and Ocana, among others.<sup>3098</sup> All but Ocana returned to the camp a few days after the attack; Ocana was with the rebels for about one month.<sup>3099</sup> P-0249 testified that his wife was abducted as was Charles Abonga, David Otti Moyo, Christine and a

<sup>3086</sup> D-0081: [T-220](#), p. 24, lines 7-9.

<sup>3087</sup> D-0081: [T-220](#), p. 24, lines 10-12; [T-221](#), p. 46, lines 1-10.

<sup>3088</sup> D-0081: [T-220](#), p. 34, lines 11-13.

<sup>3089</sup> P-0249: T-79-CONF, p. 40, lines 12-18.

<sup>3090</sup> D-0077 Statement, UGA-D26-0022-0316, at para. 2.

<sup>3091</sup> D-0077 Statement, UGA-D26-0022-0316, at para. 13.

<sup>3092</sup> D-0077 Statement, UGA-D26-0022-0316, at para. 13.

<sup>3093</sup> D-0077 Statement, UGA-D26-0022-0316, at para. 16.

<sup>3094</sup> D-0077 Statement, UGA-D26-0022-0316, at para. 16.

<sup>3095</sup> D-0077 Statement, UGA-D26-0022-0316, at paras 27, 37.

<sup>3096</sup> P-0001 Statement, UGA-OTP-0138-0002-R01, at para. 19.

<sup>3097</sup> P-0001 Statement, UGA-OTP-0138-0002-R01, at para. 19.

<sup>3098</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 122.

<sup>3099</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 122.

number of other people.<sup>3100</sup> Santo Oweka testified that after he returned from the bush, he learnt that the LRA abducted a woman called Paska, a teacher named Oluge, Opira Bosco as well as David Otti, Oryema and Ayela, who were all abducted from Pajule IDP camp and stayed with the LRA for some time before returning back home.<sup>3101</sup>

1355. Estimates of the number of persons abducted by the LRA attackers from Pajule IDP camp on 10 October 2003 range from 100 to 1,210.<sup>3102</sup> Pajule camp commandant Brown explained that it was difficult to ascertain the exact numbers of how many persons were abducted from the camp because it was assumed that some of the people thought to be missing had simply run away to relatives outside the camp and people returning reported to various places.<sup>3103</sup> Noting in particular the testimonies of Rwot Oywak<sup>3104</sup> and UPDF soldier P-0084<sup>3105</sup> – who both observed the abductees taken from Pajule IDP camp – the Chamber is satisfied that the evidence shows that the LRA abducted hundreds of civilians from Pajule IDP camp.

**Abductees carried the looted items to a meeting place where the LRA met after the attackers left Pajule IDP camp. At this meeting point, the LRA collected the looted goods.**

<sup>3100</sup> P-0249: T-79-CONF, p. 23, line 22 – p. 24, line 5. *See also* D-0081: [T-221](#), p. 46, line 14 – p. 47, line 11 (regarding the abduction of David Otti).

<sup>3101</sup> D-0081: [T-221](#), p. 46, line 14 – p. 47, line 11.

<sup>3102</sup> P-0309: [T-60](#), p. 63, lines 15-17; [T-63](#), p. 11, lines 4-7 (testifying that he saw that there were well over 100 people abducted from Pajule IDP camp); D-0081: [T-221](#), p. 46, lines 14-16 (testifying that the LRA abducted hundreds of people from Pajule IDP camp); P-0138: [T-120](#), p. 33, lines 14-15 (testifying that about 300 persons were abducted from Pajule IDP camp); P-0372: [T-148](#), p. 22, line 23 – p. 23, line 2 (testifying that he estimated that over 300 civilians were abducted from Pajule, children, men and women); P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 119 (testifying that nearly 300 people were abducted); P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 88; P-0144: [T-91](#), p. 48, lines 3-8 (estimating that 400 civilians were captured from Pajule); P-0009: [T-81](#), p. 14, line 11, p. 23, lines 6-9, p. 79, lines 14-21; P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 40 (testifying that based on the information he received from people returning from the bush and from information from Rwot Oywak, he estimated that around 700 persons were abducted from Pajule IDP camp in total); D-0076: [T-219](#), p. 29, lines 9-12 (estimating that up to 700 persons were abducted from Pajule IDP camp); P-0001 Statement, UGA-OTP-0138-0002-R01, at para. 23 (testifying that according to lists collected by the 86 LC-1 chairpersons of Pajule IDP camp between 10 October 2003 and 25 October 2003, there were ‘a combined figure of 1,210 thought to be abducted. Then the next day 500 returned leaving 710 thought to be abducted. Some came back and some remain[ed] missing’). *See also* 18 September 2004 Letter requesting funds for joint prayers for peace in memory of LRA attack on Pajule/Lapul IDP camp on the 10<sup>th</sup> October 2003, UGA-OTP-0138-0284-R01; 27 October 2004 Pajule/Lapul Sub-Counties 10 October 2003, Commemoration Speech, UGA-OTP-0138-0291-R01; Enhanced audio recording, UGA-OTP-0247-1110; P-0016: [T-33](#), p. 54, lines 18-22 (in the 13-14 October 2003 intercepted radio recording, Otti states that ‘200 to 300 people’ were gathered from Pajule).

<sup>3103</sup> P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 50.

<sup>3104</sup> P-0009: [T-81](#), p. 14, line 11, p. 23, lines 6-9 (testifying that he estimated that there were about 400 to 500 abductees at the meeting place where the various LRA groups that had conducted the attack re-converged).

<sup>3105</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 88 (testifying that he saw at least more than 300 abducted civilians in the group leaving the camp after the attack).

**Looted items were distributed within the LRA, including within Dominic Ongwen’s group.<sup>3106</sup>**

1356. The evidence shows that abducted civilians took the items they were carrying to the LRA’s chosen destination.<sup>3107</sup> P-0138 testified that after the attack at the meeting point he saw the food that was pillaged from Pajule IDP camp.<sup>3108</sup> Charles Lokwiya testified that when he arrived back at the meeting point, he saw food that had been taken from the centre of Pajule IDP camp.<sup>3109</sup> Similarly, P-0015 testified that she was present when LRA soldiers returned from the attack on Pajule and they came back with items such as sweets, biscuits, cooking oil and clothes.<sup>3110</sup> P-0081 testified that at the RV location, he saw people carrying items, these items would have been taken out of their homes or from the shops.<sup>3111</sup> P-0101, one of Dominic Ongwen’s so-called ‘wives’, corroborated these accounts, confirming that she saw Dominic Ongwen return from the attack in Pajule with luggage.<sup>3112</sup>

1357. Rwot Oywak also testified that at the gathering place, the LRA collected all the food items from the abductees.<sup>3113</sup> P-0330 testified that once the LRA was back at the meeting point, the looted items were distributed amongst the LRA, including to Dominic Ongwen’s group.<sup>3114</sup> P-0330 testified that Opige, a commander in Dominic Ongwen’s group, was among the people distributing the looted items.<sup>3115</sup>

**At the meeting point, Vincent Otti and other commanders addressed the abductees. Vincent Otti told abductees that the LRA reproached the civilians for settling in IDP camps set up by the government, and that there was a punitive nature to the LRA’s attack on the camp. Dominic Ongwen also spoke to a group of abductees, telling them that**

<sup>3106</sup> Para. 155 above.

<sup>3107</sup> P-0330: [T-52](#), p. 9, line 20 – p. 10, line 1 (testifying that the civilians were told to put down their items and most were released); P-0047 Statement, UGA-OTP-0027-0177-R01, at para. 124 (stating that returned abductees told him that they were released after they brought loot to the places where the LRA wanted them to bring the loot, in Lira district and Soroti); P-0138: [T-120](#), p. 45, lines 10-22 (stating that abductees arrived at the RV location carrying food that had been pillaged from the camp); P-0209: [T-160](#), p. 31, line 22 – p. 32, line 14 (testifying that the LRA fighters who went to Pajule IDP camp came back with civilians who were carrying items on their heads).

<sup>3108</sup> P-0138: [T-120](#), p. 41, lines 10-16.

<sup>3109</sup> D-0134: T-240-CONF, p. 63, line 17 – p. 64, line 1.

<sup>3110</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 92.

<sup>3111</sup> P-0081: [T-118](#), p. 34, line 16 – p. 35, line 3.

<sup>3112</sup> P-0101: [T-13](#), p. 26, lines 6-13.

<sup>3113</sup> P-0009: [T-81](#), p. 24, lines 12-14.

<sup>3114</sup> P-0330: [T-52](#), p. 10, lines 5-8.

<sup>3115</sup> P-0330: [T-52](#), p. 10, lines 9-11.

**anyone who escaped or dropped looted goods would be killed and that abductees would be trained as soldiers.**<sup>3116</sup>

1358. The evidence shows that at the RV location, Vincent Otti and other commanders spoke to abductees before ordering the release of some.<sup>3117</sup> In this context, the Chamber notes a police report dated 13 October 2003 concerning the LRA's attack on Pajule IDP camp.<sup>3118</sup> The report states:

On [...] 11.10.2003 during day time at Pajule T/C in Aruu city, Pader District (.) 504 former abductees reportedly released by rebels, returned (.) They included Rwot Joseph Oywak the Acholi Traditional Chief of Koyo Lalogi [...] who was abducted on 10.10.2003 with several others (.) The former captives were reported to have said that they were addressed by Maj. Gen Otti Vincent, Brig. Tolbert Nyeko Yadi, Brig. Kolo and Lt. Col. Opiru before their released [...] that the rebel commanders said their aim to attack Pajule T/C was to discipline the people in the area and that the release was not because of pressure from UPDF but because they were innocent civilians (.) the October 10<sup>th</sup> attack was reported to have been commanded by Lokwiya Raska who is said to be the LRA's deputy army commander [...].<sup>3119</sup>

1359. Rwot Oywak testified that Vincent Otti introduced his soldiers, including Dominic Ongwen, Acel Calo Apar, and Raska Lukwiya.<sup>3120</sup> Rwot Oywak testified that Dominic Ongwen was the person who took abductees from Pajule.<sup>3121</sup> Rwot Oywak also testified that after arriving at the RV location, Dominic Ongwen went and spoke with Vincent Otti.<sup>3122</sup> John Lubwama stated that Rwot Oywak did not mention that he saw Dominic Ongwen at the RV location when he was debriefed on the attack; John Lubwama noted that he could not remember the other names mentioned by Rwot Oywak.<sup>3123</sup> Given the discussions of Rwot Oywak's testimony in relation to Dominic Ongwen,<sup>3124</sup> as well as the testimonies of P-0144, P-0249 and Dick Okot that they saw Dominic Ongwen at the

<sup>3116</sup> Para. 156 above.

<sup>3117</sup> P-0009: [T-81](#), p. 14, line 4 – p. 16, line 5; D-0076: [T-219](#), p. 19, lines 7-9; P-0144: [T-91](#), p. 48, line 25 – p. 49, line 4; P-0249: [T-79](#), p. 37, line 25 – p. 40, line 6. See UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6160-61 (On 10 October 2003 at 13:00, Otti is recorded as stating to Kony that 'he is going to release the civilians who were abducted to carry food stuffs charged if he finishes talking to them as Kony agreed [...]').

<sup>3118</sup> Police Intelligence Report, UGA-OTP-0256-0335. P-0126 authenticated the report. See P-0126 Second Statement, UGA-OTP-0264-0002-R01, at para. 68. P-0126 stated that he signed the report and the information contained within it was derived from human intelligence sources. See P-0126 Second Statement, UGA-OTP-0264-0002-R01, at para. 68. The Chamber is satisfied that the report reflects information known by the Ugandan police in relation to the 10 October 2003 Pajule IDP camp attack.

<sup>3119</sup> Police Intelligence Report, UGA-OTP-0256-0335.

<sup>3120</sup> P-0009: [T-81](#), p. 15, lines 9-11.

<sup>3121</sup> P-0009: [T-81](#), p. 16, lines 1-3.

<sup>3122</sup> P-0009: [T-81](#), p. 14, lines 2-3.

<sup>3123</sup> P-0047: [T-115](#), p. 39, lines 10-12; P-0084 Statement, UGA-OTP-0139-0149-R01, at paras 128, 131.

<sup>3124</sup> See paras 1272-1274 above.

RV after the attack,<sup>3125</sup> John Lubwama's testimony does not undermine the Chamber's view that Rwot Oywak is credible in this aspect of his testimony. The Chamber is satisfied that the evidence shows that Dominic Ongwen was present at the RV location after the attack.

1360. According to Rwot Oywak, Vincent Otti addressed the gathered abductees and said:

You, the people of Pajule, you thought that we would not come to you, haven't we come? Haven't we come? We are going to kill all of you [...]. We are fighting to overthrow the government, but at the moment you are supporting the UPDF.<sup>3126</sup>

1361. The Chamber notes also that P-0084 corroborates Rwot Oywak's account, stating that after the attack, Rwot Oywak told him that Vincent Otti said that Pajule was attacked because:

First, the people of Pajule were not supporting the rebels but were accusing and reporting them to the government troops so that the rebels wanted to show them their power that the people are not protected and the rebels can do anything. Secondly, because the people were allowing their children to be recruited as LDUs. Thirdly, that the rebels did not want the peace talks, as earlier on they had been meeting in peace talks, because the government troops were fighting them. Fourthly, they thought that the people should leave the camps and go back to their homes.<sup>3127</sup>

1362. P-0138 testified that Vincent Otti spoke with Rwot Oywak about the strength of the LRA and that the UPDF was not able to properly protect the camps.<sup>3128</sup> Santo Oweka also testified about the address, and specifically that Vincent Otti stated that 'he was happy to meet the people and he was telling the people that people should leave the camps, people should not stay in the camps. The reason why they went to Pajule was not to go and fight and attack the civilians or cause any harm to the civilians, they went there to fight with their enemies, who were the UPDF soldiers'.<sup>3129</sup> Santo Oweka stated that Vincent Otti continued that the civilians would be caught in the crossfire if they stayed in the camps, that the LRA had been telling civilians to leave the camps but that the civilians did not heed the LRA's words and getting hurt 'is the result of the defiance'.<sup>3130</sup>

<sup>3125</sup> P-0144: [T-91](#), p. 48, lines 1-2; P-0249: [T-79](#), p. 37, line 25 – p. 38, line 6; P-0067: [T-125](#), p. 33, lines 21-25.

<sup>3126</sup> P-0009: [T-81](#), p. 14, lines 4-6, lines 19-20; *see also* p. 24, lines 12-25.

<sup>3127</sup> P-0084 Statement, UGA-OTP-0139-0149-R01, at para. 127.

<sup>3128</sup> P-0138: [T-120](#), p. 45, line 25 – p. 46, line 8.

<sup>3129</sup> D-0081: [T-220](#), p. 28, lines 17-22.

<sup>3130</sup> D-0081: [T-220](#), p. 28, line 23 – p. 29, line 6.

1363. Dick Okot stated that Vincent Otti said that the LRA did not want people to stay in the camp and that they should stay in their homes.<sup>3131</sup> He testified also that an old man asked Vincent Otti why the rebels did not return home.<sup>3132</sup> According to Dick Okot, Vincent Otti responded that the LRA was in the process of overthrowing the Ugandan government and could therefore not come back home.<sup>3133</sup> Dick Okot testified that Vincent Otti also said that if the civilians continued to stay in the camps, the LRA would kill them.<sup>3134</sup>

1364. The Chamber considers that the witnesses' testimony regarding Vincent Otti's speech is substantively similar. Each witness testifies that Vincent Otti indicated that the LRA reproached the civilians for settling in IDP camps set up by the government, and that there was a punitive nature to the LRA's attack on the camp.<sup>3135</sup>

1365. P-0249 testified that Dominic Ongwen also addressed abductees saying anyone who tried to escape or dropped looted goods would be killed and that the abductees would be trained to be soldiers.<sup>3136</sup> The Chamber finds P-0249's account credible and notes that P-0249 testified that he moved with Dominic Ongwen's group for several weeks. Thus while it is unclear whether Dominic Ongwen spoke to the entire group of abductees taken from Pajule,<sup>3137</sup> the Chamber is satisfied that Dominic Ongwen at least spoke to the group of abductees in his custody.

**After the fighters returned from the camp, some abductees remained in the LRA and were distributed to various units, including among Dominic Ongwen's group.**<sup>3138</sup>

1366. In the course of the retreat, some abductees managed to escape or were rescued, either during the course of the retreat with the arrival of the helicopter or in the weeks and months after their abduction.<sup>3139</sup> Older abductees were released the day after the attack,

<sup>3131</sup> P-0067: [T-125](#), p. 34, lines 14-25.

<sup>3132</sup> P-0067: [T-125](#), p. 38, lines 2-7.

<sup>3133</sup> P-0067: [T-125](#), p. 38, lines 8-12.

<sup>3134</sup> P-0067: [T-125](#), p. 38, lines 11-21.

<sup>3135</sup> See sections IV.C.4 and IV.C.6.ii.a above, the Chamber's discussion of the LRA's objectives and policies and of the preparation for the attack on Pajule IDP camp.

<sup>3136</sup> P-0249: [T-79](#), p. 39, line 23 – p. 40, line 6.

<sup>3137</sup> See P-0144: [T-91](#), p. 48, line 25 – p. 49, line 4 (indicating that Vincent Otti alone spoke in the large gathering of abductees).

<sup>3138</sup> Para. 157 above.

<sup>3139</sup> P-0101: [T-13](#), p. 26, lines 19-22 (testifying that when after the Pajule attack, a government helicopter came and shot at people, some civilians managed to escape); P-0008 Statement, UGA-OTP-0137-0002-R01, at para. 21 (stating that abductees, who managed to escape when the helicopter came, came back to camp on their own); P-0007 Statement, UGA-OTP-0147-0214-R01, at para. 20 (testifying that his neighbour Masimino Oyat had been

along with Rwot Oywak, and younger abductees were retained and continued with the LRA.<sup>3140</sup>

1367. Witnesses report that the civilians that continued with the LRA were distributed into the households of LRA commanders.<sup>3141</sup> Abductees were also distributed to Dominic Ongwen. P-0309 testified that some civilians were distributed to Dominic Ongwen's household.<sup>3142</sup> P-0144's testimony is consistent with P-0309; he stated that the abductees were distributed to the various units, including those of Dominic Ongwen, Bogi and Raska Lukwiya.<sup>3143</sup> P-0144 testified that there were girls and women among the abductees distributed within the LRA, including the abductees distributed to Dominic Ongwen.<sup>3144</sup> P-0101, one of Dominic Ongwen's so-called 'wives', confirmed that she saw Dominic Ongwen return from the attack in Pajule with seven civilians he had abducted from Pajule, this included four young girls and three men.<sup>3145</sup>

1368. P-0006 testified that younger girls were taken to the commanders' 'wives' to act as babysitters, called *ting-tings* and older girls were given as 'wives' to the commanders.<sup>3146</sup>

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abducted by the LRA to carry sodas and returned the day of the attack saying that he had escaped when the government helicopter hovered over the escaping LRA and abductees).

<sup>3140</sup> P-0372: [T-148](#), p. 23, lines 12-14 (testifying that at the rendezvous point, mature abductees were released while the younger abductees were retained), p. 54, lines 1-6 (testifying that the young boys abducted from Pajule remained with the LRA and moved along with them while the older ones were released); P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 36, 45-47 (stating that at the LRA's meeting place she heard Rwot Oywak say to Vincent Otti that small children, women with children and old men and women could not work as soldiers for the LRA and he would take them back with him. Vincent Otti responded that the mothers with children and old persons would be released but the children would stay and be later released as they were needed to carry items looted from the camp. She heard Vincent Otti instruct his soldiers to count the people who would be released and the figure they came up with was about 160. The people released included mothers with children, small children, older people and Joseph Oywak. The rest of the people continued with the LRA); P-0101: [T-13](#), p. 27, lines 3-18 (testifying the LRA released the elderly, weak, mothers, and those who could not walk, persons who were healthy and young were kept and moved on with the LRA); P-0144: [T-91](#), p. 49, line 12 – p. 50, line 2 (testifying that Vincent Otti ordered that the older people should be released and the younger persons remain); P-0309: [T-60](#), p. 68, lines 11-25, p. 69, lines 14-17 (testifying that some adults were released and returned to the camp with Joseph Oywak); P-0061 Statement, UGA-OTP-0144-0043-R01, at para. 40 (testifying that Rwot Oywak and some other people were released, including older people, very young children and some women); D-0076: [T-219](#), p. 12, line 17 – p. 13, line 7 (testifying that the LRA and their abductees reached a gathering place where they were addressed by a man who introduced himself as Vincent Otti. Vincent Otti told Joseph Oywak that he would like him to take the elderly, weak and very young children back home. The LRA sorted the abductees; older, disabled or very young people were released with Rwot Oywak. Richard Otim and other abductees continued with the LRA).

<sup>3141</sup> P-0309: [T-60](#), p. 70, lines 12-14 (stating that the civilians who were not released remained behind and were distributed to the various homes of the commanders); P-0372: [T-148](#), p. 54, lines 16-17 (testifying that some abducted boys were distributed to other brigades); P-0209: [T-160](#), p. 34, lines 2-16 (testifying that six civilians abducted from Pajule were sent to Trinkle to be soldiers).

<sup>3142</sup> P-0309: [T-60](#), p. 70, lines 20-22.

<sup>3143</sup> P-0144: [T-91](#), p. 51, line 3 – p. 53, line 16, p. 55, line 16 – p. 56, line 3.

<sup>3144</sup> P-0144: [T-91](#), p. 66, line 15 – p. 67, line 7.

<sup>3145</sup> P-0101: [T-13](#), p. 26, lines 9-13.

<sup>3146</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at paras 38-39.

Similarly, P-0372 testified that some girls abducted from Pajule were distributed to become ‘wives’.<sup>3147</sup>

1369. Witnesses reported that there were children younger than 15 years old among the abductees that remained with the LRA. P-0144 testified that younger abductees, from 11 to about 15 to 17 years old, were taken in as newly recruited members of the LRA.<sup>3148</sup> P-0006 testified that the youngest abductees she saw were about twelve years old.<sup>3149</sup> Richard Otim testified that the youngest civilian abductee from Pajule that he saw kept by the LRA was between 12 and 13.<sup>3150</sup> P-0138 testified that he saw young people between the ages of 10 and 17 years old among the boys and girls abducted from Pajule who stayed behind.<sup>3151</sup> P-0138 stated that he could identify the ages of the abducted because he was able to identify when somebody was a child and some of them stayed with his group and he spoke to them and asked questions to determine their ages.<sup>3152</sup> P-0330 offered testimony consistent with these accounts, testifying that a 12 or 13 year old girl was one of the abductees not released by the LRA.<sup>3153</sup>

*iv. Report of the attack to Joseph Kony*

**Vincent Otti, the overall commander for the attack, communicated the results of the attack to Joseph Kony on the LRA radio communication system.**<sup>3154</sup>

1370. The Defence argues that the ‘[Government of Uganda] failed to give the Prosecution ISO tape 694/G, which allegedly contains the intercept audio file from 10 October 2003’.<sup>3155</sup> According to the Defence, this audio file would confirm that Dominic Ongwen did not command the group which attacked Pajule trading centre and serves as corroborating evidence of his injury and state of punishment at the time of the attack.<sup>3156</sup> Indeed, the Chamber notes that while Tape 693 and Tape 695 are in the record, there is no Tape 694.<sup>3157</sup> However, the contents of Tape 694 can be gleaned from the relevant entries in

<sup>3147</sup> P-0372: [T-148](#), p. 57, lines 13-16.

<sup>3148</sup> P-0144: [T-91](#), p. 49, line 12 – p. 50, line 2.

<sup>3149</sup> P-0006 Statement, UGA-OTP-0144-0072-R01, at para. 47.

<sup>3150</sup> D-0076: [T-219](#), p. 34, lines 6-11.

<sup>3151</sup> P-0138: [T-120](#), p. 34, lines 8-12.

<sup>3152</sup> P-0138: [T-120](#), p. 47, lines 5-15.

<sup>3153</sup> P-0330: [T-52](#), p. 11, lines 1-3.

<sup>3154</sup> Para. 158 above.

<sup>3155</sup> See [Defence Closing Brief](#), para. 315.

<sup>3156</sup> [Defence Closing Brief](#), para. 315.

<sup>3157</sup> See sections IV.B.3.ii.c and IV.B.3.ii.d below.

the ISO logbook,<sup>3158</sup> discussed as relevant also below.<sup>3159</sup> These logbooks suggests that the intercept evidence from 10 October 2003, discussed below, in which LRA commanders report on and discuss the Pajule attack, appear to have been recorded, in parts, on Tapes 693 and 694.<sup>3160</sup> The logbooks do not confirm the Defence's allegations and are consistent with the Chamber's findings, discussed in detail above, about Dominic Ongwen's role in the LRA's attack on Pajule IDP camp. Indeed the existence of this Tape 693, and its contents, as well as of the relevant ISO logbook entries concerning also Tape 694, makes the lack of Tape 694 somewhat irrelevant.

1371. A record of an intercepted radio communication – from Tape 693 – involving Vincent Otti and Joseph Kony and others speaking in the morning of 10 October 2003 of the Pajule IDP camp attack was discussed during these proceedings. In the communication, Joseph Kony castigates civilians, saying that 'civilians are very bad people' because they are the ones requesting for the army and they are the ones joining the 'home guard'.<sup>3161</sup> Vincent Otti describes an attack, saying:

[t]here are people who went to homes, there are also people who went to the homes and civilians and there are also people who went everywhere else, were there over [...] the way I have organised it if it is done like that, then it is good. Because I have planned that, going for the army will be hard so the bullets should start and go and loot, go to the centre, burn houses more than that of [Atiak] even all civilian homes should be burnt, anything that is found should be done over.<sup>3162</sup>

1372. Vincent Otti and Joseph Kony then discuss the arrival and activity of an army aircraft at the scene of the attack.<sup>3163</sup> The Chamber notes that the transcripts of the radio communication do not expressly mention Pajule IDP camp, however given the day of the communication and the descriptions Vincent Otti provides, it is clear to the Chamber that

<sup>3158</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547-51.

<sup>3159</sup> See paras 1374-1381 below.

<sup>3160</sup> See ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547-48 which refers to the communication at 8:00-8:35 to have been recorded on side B of Tape 693 and side A of Tape 694.

<sup>3161</sup> See the Chamber's discussion of enhanced audio recording, UGA-OTP-0247-1102 at section IV.B.3.ii.c above; P-0003 Tape 693 Transcript, UGA-OTP-0132-0105-R01, at 0134; P-0003: [T-43](#), p. 3, line 17 – p. 4, line 21; P-0138: [T-120](#), p. 65, line 25 – p. 68, line 14.

<sup>3162</sup> See P-0003 Tape 693 Transcript, UGA-OTP-0132-0105-R01, at 0134; P-0003: [T-43](#), p. 3, line 17 – p. 12, line 21. P-0003 explained that he understood the 'people' referenced by Otti to refer to the LRA. P-0003: [T-43](#), p. 8, lines 9-17.

<sup>3163</sup> See P-0003 Tape 693 Transcript, UGA-OTP-0132-0105-R01, at 0135-36; P-0003: [T-43](#), p. 3, line 17 – p. 12, line 21.

the commanders spoke of the Pajule IDP camp attack. This is further proven by the records of the communications in the logbooks prepared by ISO and UPDF officers.

1373. The Chamber notes the Defence argument that there exist ‘extreme inconsistencies’ in the various logbooks.<sup>3164</sup> The Defence mischaracterises the contents of these logbooks. While they do not contain all of the same details or language, such differences can be expected of material made by interceptors working in different locations and taking contemporaneous records of radio communications. The Chamber is satisfied that the logbooks, discussed in detail below, contain contemporaneous written records of the radio communications, offer descriptions in line with the radio recording as described above, and connect the attack discussed therein to the attack on Pajule IDP camp.

1374. The following entry appears in a Soroti UPDF logbook entry for 10 October 2003, at 8:00:

Otii V. has info. Kony that he has deployed his [...] GRPs to go and attack a certain UPDF position and the centre and the mission and Otti V. also said he has instructed Raska who is the o/rall opn. Comdr to deploy as follows:

→ Dominic’s/Bwona they shd attack the mission to loot drugs and other properties.

→ Koch-C Bogi shd attac the brrks of UPDF and then Kuma-Kech shd attack the centre and burn all the civilians houses.<sup>3165</sup>

1375. The ISO logbook for 10 October 2003 at 8:00 to 8:35 noted the same conversation. It reports Vincent Otti telling Joseph Kony that he sent a ‘big force to attack Pajule trading centre under the com[man]d of Lukwiya Raska’, adding that they have not yet come back.<sup>3166</sup> The logbook records Joseph Kony as intervening by stating that ‘Otti’s main target would have been civilians b[ecau]se they are the ones making UPDF to continue following the LRA’.<sup>3167</sup> Vincent Otti is then recorded as explaining the setup of the attack to Joseph Kony:

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<sup>3164</sup> [Defence Closing Brief](#), para. 315. The Defence also asserts that none of the logbooks list Dominic Ongwen as going to Pajule trading center, that more than half of the logbooks do not mention Dominic Ongwen, and that D-0134 corroborates that other commanders went to the Catholic mission, the barracks and the trading centre. In this context, the Chamber notes its above detailed discussion about its findings as to Dominic Ongwen’s participation in the attack.

<sup>3165</sup> UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2117.

<sup>3166</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547.

<sup>3167</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547.

Otti told Kony that he deployed in all strategic points. That he send Onyee to go and attack the mission, Bogi to attack the barracks and Ociti Jimmy and Bwona [?] to attack the camps and he instructed them to burn all the houses there. Otti also said he deployed all types of support weapons for that attack and move so to target at mambas and gunships in case they are seen. [...] Otti said he instructed soldiers to target all the big pple in Pajule including Oywak and the priests<sup>3168</sup>

1376. The same logbook entry records that Joseph Kony's 'felt so happy with Otti's plan'.<sup>3169</sup>

1377. Further, the same message was also logged by the UPDF in Achol Pii. The logbook for 10 October 2003 at 8:00 notes that Vincent Otti has informed Joseph Kony that he has made a 'very strong deployment' in 'various positions' under the commands of 'Raska Lukwiya, [...], Dominic and Kapere' to move and attack the mission, IDP camp, trading centre and the UPDF barracks, and deploy ambushes 'in all routes'.<sup>3170</sup> The logbook also records Vincent Otti as stating that he 'briefed the comdrs to burn all civs' houses in the places'.<sup>3171</sup>

1378. P-0138 identifies this radio communication as recording the exchange between Vincent Otti and Joseph Kony following the Pajule attack and discussing the attack.<sup>3172</sup> P-0138 testified that [REDACTED] and the LRA did not discuss the attack on the radio before the day of the attack.<sup>3173</sup> P-0138 testified that the morning after the attack was planned, he heard Vincent Otti tell Joseph Kony that he had prepared soldiers to go for the attack.<sup>3174</sup>

1379. Another intercepted radio recording contains an audio recording of Joseph Kony, Vincent Otti and others speaking on 13 October 2003,<sup>3175</sup> several days after the attack on Pajule IDP camp. In the intercepted communication, Vincent Otti and Joseph Kony discuss the

<sup>3168</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0547-48. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 1070 (the UPDF Logbook (Gulu) records the following: 'Otti informed Kony to have deployed many LRA rebels under the command of Brig. Lukwiya Raska to attack all positions in Pajule. He claimed that he heard some bombardment at 0600 hrs where by he is expecting a good result fm Lukwiya Raska.').

<sup>3169</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0548.

<sup>3170</sup> UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6159. In this context, the Chamber notes that the logbook also records Raska Lukwiya reporting to Otti later in the same day that he had looted a B10 weapon and had many abductees whom he had 'abducted this morning' and that 'he is moving separately with Dominic, Kapere and Ongyer'. UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6159-60.

<sup>3171</sup> UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6159.

<sup>3172</sup> P-0138: T-120, p. 54, line 8 – p. 65, line 24.

<sup>3173</sup> P-0138: T-120-CONF, p. 48, lines 10-14, p. 49, lines 6-12.

<sup>3174</sup> P-0138: T-120-CONF, p. 48, lines 13-16.

<sup>3175</sup> *See* Enhanced audio recording, UGA-OTP-0247-1110. *See* the Chamber's discussion on enhanced audio recording UGA-OTP-0247-1110, at section IV.B.3.ii.d above.

Pajule attack, the reaction of the government military forces and continue to discuss the presence and activity of an army aircraft during the attack.<sup>3176</sup> Joseph Kony laughs in response to Vincent Otti's reference of killings.<sup>3177</sup> Logbooks, prepared by UPDF and ISO officers, contain contemporaneous written record of the radio communication.

1380. The following entry of this conversation appears in a ISO logbook entry for 13 October 2003, at 11:00:

Kony asked Otti whether Oywak was among those pple they abducted. Otti said Oywak was among them. He said he talked to about 200-300 people who were abducted from Pajule and even show them the weapons they captured from UPDF. That when the gunships came they shot at it using PKM and other support weapons and this forced the gunships to fly very high in the sky. That civilians truly witness the strength of the LRA and also the weakness of the gunships. That they told him that for them they use to believe that the gunships was so terrible of LRA but now they have seen with their eyes that gunships are first nothing to LRA.<sup>3178</sup>

1381. UPDF logbook entries in Gulu contain a similar description of the same conversation.<sup>3179</sup>

1382. P-0138 testified that after the attack, he heard Vincent Otti give a report on the attack to Joseph Kony in which he discussed the Pajule attack, stating that approximately 200 to 300 people had been abducted and a B-10 gun captured.<sup>3180</sup>

1383. D-0032 testified that the day after the attack he heard Vincent Otti giving a report on the military radio in which he stated that many civilians had been abducted in Pajule and some killed and houses burned and that Joseph Kony laughed in response.<sup>3181</sup> While the communication discussed above takes place several days after the attack, the Chamber is of the view that the witness described and corroborated the account heard in the intercepted radio communication.

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<sup>3176</sup> See Enhanced audio recording, UGA-OTP-0247-1110; P-0003 Tape 695 Transcript, UGA-OTP-0132-0243-R01, at 0265, 0267; P-0003: [T-43](#), p. 12, line 22 – p. 17, line 25; P-0138: [T-120](#), p. 54, line 8 – p. 65, line 24; P-0016: [T-33](#), p. 53, line 13 – p. 55, line 10.

<sup>3177</sup> See Enhanced audio recording, UGA-OTP-0247-1110; P-0003 Tape 695 Transcript, UGA-OTP-0132-0243-R01, at 0265.

<sup>3178</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0562.

<sup>3179</sup> UPDF Logbook (Gulu), UGA-OTP-0254-0229, at 0237.

<sup>3180</sup> P-0138: [T-120](#), p. 49, lines 19-24.

<sup>3181</sup> D-0032: [T-201](#), p. 29, line 19 – p. 30, line 5.

## 7. *Attack on Odek IDP camp*

### *i. Odek IDP camp*

**Odek IDP camp was situated in Odek sub-county, Omoro County, Gulu district and at the time of the attack between 2000 and 3000 people lived in the camp.**<sup>3182</sup>

1384. Odek is located in Odek sub-county, Omoro County, in the Gulu district of Uganda.<sup>3183</sup>

In April 2004, the Odek IDP camp was located around Odek village, having been created in mid-2003 to protect civilians from frequent LRA attacks in the area.<sup>3184</sup> The evidence indicates that there were between 2,000 and 3,000 residents in the camp at the time of the April 2004 attack.<sup>3185</sup>

1385. The Odek IDP camp received food from another IDP camp nearby at Awere, some humanitarian assistance from NGOs, in addition to subsistence farming undertaken by the residents.<sup>3186</sup> The Chamber refers to its earlier discussion of the LRA's policy to specifically target IDP camps to, amongst other things, obtain provisions.<sup>3187</sup> In this context, the Chamber notes LDU soldier Julius Nyeko's testimony that prior to the attack, food distribution had just taken place and he thought that '[the LRA] were also aware

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<sup>3182</sup> Para. 159 above.

<sup>3183</sup> [Agreed Facts](#), A3.

<sup>3184</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 11; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 13-15, 21.

<sup>3185</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 16 (Mario Ottober, the Camp Leader at the time of the attack, did not remember the exact number of the camp residents at the time but estimated that there were about 2000 people residing in the Odek IDP camp); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 15 (Zakeo Odora, one of the camp's leaders, testified that there were about 3000 people living in the camp at the time of the attack). *See also* P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0438 (P-0301's Incident Report listed the population of the camp at 2,600 persons); Mario Ottober provided two Odek Camp notebooks which listed the populations within the camp as over 6000 persons. UGA-OTP-0267-0180-R01 at 0181; UGA-OTP-0267-0182-R01, at 0183. Both of these notebooks are marked with the date '13/5/2005'. Mario Ottober indicated that these notations on the population of the camp were actually taken from January and February 2004. P-0274 Second Statement, UGA-OTP-0267-0174-R01, at paras 17, 22. Given the inconsistency between the date written on the notebooks and Mario Ottober's statement, as well as the fact that the witnesses, including Mario Ottober in an earlier statement, testified that the population of the camp was much less at the time of the attack, the Chamber places more weight on the testimony of the witnesses heard in these proceedings. This discrepancy does not undermine the Chamber's general view on Mario Ottober's credibility.

<sup>3186</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 13 (the residents of Odek IDP camp were receiving food from nearby Awere IDP camp); P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 19, 22 (the camp residents received food aid distributed once or twice a month depending on the amount of food rations and they also collected food from Awere camp); P-0325 Statement, UGA-OTP-0264-0242-R01, at paras 17-18 (local people dug for food and NGOs distributed food to the camp).

<sup>3187</sup> *See* section IV.C.4 above, the Chamber's discussion of the LRA's policy.

that food was being distributed monthly, and they also wanted to come and collect these food items from the civilians. So that's what [the LRA] did'.<sup>3188</sup>

1386. There was a government military barracks comprised of grass thatched huts and located in the north-western area of the camp along the Gulu-Moroto road, just a few hundred meters from the civilian IDP camp.<sup>3189</sup> The Chamber noted the location of the barracks at the time of the Odek IDP camp attack during their site visit to the location of the former Odek IDP camp.<sup>3190</sup>

*ii. Joseph Kony's order to attack Odek IDP camp*

**Shortly before the attack on Odek IDP camp, Joseph Kony ordered that the people of Odek be attacked, to punish their perceived failure to support the LRA. Dominic Ongwen knew of Joseph Kony's order before the attack.**<sup>3191</sup>

1387. The Chamber heard consistent evidence from former LRA members to the effect that shortly before the attack on Odek IDP camp Joseph Kony ordered that Odek IDP camp be attacked. P-0410 testified that he was present at a gathering in Sudan sometime after the death of Tabuley, where Joseph Kony addressed LRA members, telling them that '[p]eople should come back to Uganda knowing that we were coming for work', and that 'the first place that should be attacked and used as an example, so that the people of Uganda can be aware that they [i.e., the LRA] have started working, was attacking Odek'.<sup>3192</sup> Joseph Kony stated that Odek was 'their home' and for that reason should be used as an example, because the people there did not like the rebels.<sup>3193</sup> Still according

<sup>3188</sup> D-0066: [T-214](#), p. 22, lines 1-8. See P-0252: [T-87](#), p. 34, lines 9-15 (food had been distributed to the camp three days before the attack, so when the LRA arrived the food was still there).

<sup>3189</sup> See P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 15 (government soldiers were stationed at a barracks situated in the north-west part of the camp. The barracks was composed of grass thatched huts); P-0218 Sketch of Odek IDP camp, UGA-OTP-0238-0731-R01; P-0274 Sketch of Odek IDP camp, UGA-OTP-0244-3388-R01; P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0264: [T-64](#), p. 56, lines 15-18 (the army quarters were to the west of the camp); P-0406: [T-155](#), p. 47, line 25 – p. 48, line 3 (the barracks was close to the civilian camp); D-0066: [T-214](#), p. 15, lines 12-18 (the IDP camp was about 200 metres away from the government barracks).

<sup>3190</sup> See [Annex to the Registration into the Record of the Case of the Site Visit Report pursuant to Trial Chamber Decision ICC-02/04-01/15-1211 of 27 March 2018](#), 27 June 2018, ICC-02/04-01/15-1292-Anx, paras 16-17.

<sup>3191</sup> Para. 160 above.

<sup>3192</sup> P-0410: [T-151](#), p. 27, line 18 – p. 28, line 21.

<sup>3193</sup> P-0410: [T-151](#), p. 28, lines 22-23, p. 29, lines 15-18. P-0410 stated that 'their home' was a reference to the fact that Odek is Joseph Kony's birthplace.

to P-0410, Joseph Kony ‘gave the commanders an order to start operation’, and as soon as they came back to Uganda, they went and attacked Odek.<sup>3194</sup>

1388. Similarly, D-0032 testified that he heard Joseph Kony talking on radio, telling commanders: ‘My people are also stubborn’, referring to the people of Odek, and saying that they needed to be punished someday.<sup>3195</sup> According to D-0032, this message was transmitted on radio a short time before the attack on Odek.<sup>3196</sup> As D-0032’s testimony is based on his personal recollection of a specific radio communication, the Chamber accepts his evidence as truthful, even though the communication does not appear to have been recorded by the agencies that were intercepting radio communications at the time.

1389. P-0410 did not state that Dominic Ongwen was present for the gathering with Joseph Kony in Sudan. Similarly, D-0032’s testimony does not provide a basis to conclude that the message was received by Dominic Ongwen at the time.

1390. However, P-0142’s testimony indicates that by the time that concrete plans for the attack were being made, Joseph Kony’s order had indeed already reached the ground. In particular, according to P-0142’s testimony, Okwer told him, before the attack, that Joseph Kony had issued an order that Odek should be attacked.<sup>3197</sup> As discussed below, Okwer is one of the commanders consistently referred to by witnesses as having been involved in the Odek attack, including in its planning together with Dominic Ongwen. In light of Dominic Ongwen’s role in the preparation of the attack on Odek IDP camp, as discussed below, the Chamber finds that the necessary inference is that Dominic Ongwen also knew of Joseph Kony’s order.

1391. In this context, the Chamber notes the argument by the Defence that Dominic Ongwen did not receive an order to send soldiers to attack Odek, but that such an order from Joseph Kony was addressed directly to Ben Acellam.<sup>3198</sup> However, this submission is based on evidence merely stating that, on 30 April 2004, Ben Acellam was communicating on radio before Dominic Ongwen. From this, the Defence concludes that

<sup>3194</sup> P-0410: [T-151](#), p. 28, line 24 – p. 29, line 1.

<sup>3195</sup> D-0032: [T-200](#), p. 23, lines 13-23. It is noted that D-0032 specified that he heard Joseph Kony talk to the commanders in general and that he did not hear Joseph Kony issue instructions to a specific person.

<sup>3196</sup> D-0032: [T-200](#), p. 25, lines 2-6.

<sup>3197</sup> P-0142: [T-71](#), p. 4, line 3 – p. 5, line 11.

<sup>3198</sup> [Defence Closing Brief](#), para. 376.

Ben Acellam ‘was given the order to attack Odek, not Ongwen’.<sup>3199</sup> The Chamber finds that this argument is purely speculative, not confirmed by any other evidence, and therefore unfounded.

1392. In any case, the Chamber also emphasises that the significance of any order by Joseph Kony specifically for the attack on the Odek IDP camp is limited. As discussed above, there is evidence that in early 2004, in the period before the Odek attack, Joseph Kony, on several occasions, called upon the LRA commanders to engage in attacks against civilians in Northern Uganda, including specifically against IDP camps.<sup>3200</sup> At times, Joseph Kony ordered that a specific location be targeted.<sup>3201</sup> But the majority of his orders to commanders during this period were more general.<sup>3202</sup> By the terms of those orders, it fell upon the commanders to determine the specific times and locations of attacks.<sup>3203</sup> For this reason, and considering the relevant charges as brought by the Prosecution in this regard, it is not decisive for the determination of Dominic Ongwen’s criminal responsibility to establish conclusively that the attack on Odek took place pursuant to a specific order by Joseph Kony.

*iii. Dominic Ongwen’s order to attack Odek IDP camp*

**Dominic Ongwen decided that LRA soldiers under his command would attack Odek IDP camp. He coordinated with subordinate commanders and appointed them to lead the attack on the ground. Dominic Ongwen ordered the fighters to attack the camp in two groups, one focused on the military barracks in the camp and the other focused on the civilian areas. Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians, and also instructed them to loot food and abduct civilians. Dominic Ongwen ordered the selection of soldiers for the attack, and participated in a ritual and prayer before they set out. He encouraged the soldiers and repeated the orders to target everyone, including civilians, to loot and to abduct civilians.**<sup>3204</sup>

1393. Several insider witnesses were present when the plan to attack Odek was announced, at a gathering, to LRA members. Their testimonies elucidate the orders given to the attackers by Dominic Ongwen and the other commanders. The testimonies also indicate

<sup>3199</sup> See P-0125: [T-136](#), p. 26, line 19 – p. 30, line 10.

<sup>3200</sup> See section IV.C.4 above.

<sup>3201</sup> See paras 1118, 1119, 1136 above.

<sup>3202</sup> See section IV.C.4 above.

<sup>3203</sup> See also para. 872 above.

<sup>3204</sup> Para. 161 above.

that Dominic Ongwen was the person who decided that the attack would take place and set in motion the preparations.

1394. In particular, P-0410 stated that there was a gathering ('RV') where the groups from different places met and 'the commanders' gave the order to go to Odek.<sup>3205</sup> The Chamber refers to its analysis of P-0410's credibility, and in particular to its conclusion that P-0410's testimony that Vincent Otti and Buk Abudema were present for the Odek attack is not reliable, but that the issue does not have a general impact on the reliability of the evidence of P-0410.<sup>3206</sup>

1395. In any case, in relation to Dominic Ongwen, the evidence of P-0410 is detailed and specific. P-0410 stated that he got to know Dominic Ongwen at the assembly, when he introduced himself.<sup>3207</sup> P-0410 testified that he heard Dominic Ongwen say that there would be an operation in Odek, and that the intention was 'to exterminate everything, everything in Odek'.<sup>3208</sup> P-0410 stated that other commanders also spoke, saying that 'nothing should be left alive', that '[e]verything should be exterminated, even ants, even flies', and that '[a]nything alive, anything you see in front of you that is alive should be shot and killed'.<sup>3209</sup> P-0410 also testified that Dominic Ongwen explained where people were going to go, how the attack was going to be done, and ordered to bring food from the camp.<sup>3210</sup>

1396. This corresponds to the testimony of P-0205, who stated that after crossing the Aswa River, Dominic Ongwen planned the attack on Odek.<sup>3211</sup> P-0205 stated that he was present when Dominic Ongwen addressed the soldiers who were to go to Odek, and that

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<sup>3205</sup> P-0410: [T-151](#), p. 30, lines 10-22; [T-152](#), p. 32, line 25 – p. 33, line 16, p. 35, lines 2-10. P-0410 also stated specifically that the LRA soldiers did not cross the Aswa River on the day of the attack; P-0410: [T-152](#), p. 35, lines 11-15. P-0410 also testified that he had difficulty pinpointing the direction of Odek from the gathering place: 'It's difficult to point because at that time we were in the bush and it would be very difficult to even point the direction of your home. You will keep meandering while walking and you will not know which direction it was. It was difficult for me to point out which direction Odek was when we were at the riverbanks because the rebels do not move in a straight kind of movement. They can walk for about one or two hours, and you will not know the direction of your home. They don't move in a straight movement. So at that time it was difficult for me to point out the direction of Odek. Whenever you're moving, you keep on meandering. Sometimes you move ahead and then move backwards, and all that will confuse. You will not know how you have arrived in a certain place. So it's difficult for me to point out.' P-0410: [T-152](#), p. 33, lines 4-16.

<sup>3206</sup> See section IV.B.2.ii.b.xxiii above.

<sup>3207</sup> P-0410: [T-151](#), p. 33, line 22 – p. 34, line 8.

<sup>3208</sup> P-0410: [T-151](#), p. 34, lines 12-17.

<sup>3209</sup> P-0410: [T-151](#), p. 34, lines 17-21.

<sup>3210</sup> P-0410: [T-151](#), p. 35, line 21 – p. 36, line 18.

<sup>3211</sup> P-0205: [T-47](#), p. 41, line 25 – p. 42, line 4.

he heard Dominic Ongwen issue the order to ‘go and destroy Odek completely’ and to ‘only leave bare ground’.<sup>3212</sup> P-0205 also testified that Dominic Ongwen asked to abduct ‘good girls’ and boys, and said that those who were not fit to be in the army should be killed instead.<sup>3213</sup> P-0205 stated that he remained behind and did not go to Odek for the attack,<sup>3214</sup> [REDACTED]

[REDACTED].<sup>3215</sup> The Chamber does not deem it necessary for the present purposes to resolve this discrepancy in the evidence. Due to P-0205’s in Court testimony, the manner of recounting the events, as well as the corroboration by other witnesses, the Chamber finds that it is without bearing on the reliability of P-0205’s evidence as to the preparations for the attack.

1397. Further corroboration of the fact that Dominic Ongwen ordered the attack on Odek IDP camp is provided by P-0054, who stated that ‘when people were at a place called Orapwoyo, Ongwen instructed people to go and collect food from Odek’.<sup>3216</sup> P-0054 specified that ‘[a]t that time there was a big problem of hunger so he invited Kalalang and other commanding officers and instructed them that since we do not have food people should go to Odek’.<sup>3217</sup> While P-0054 initially stated that he did not remember any further order by Dominic Ongwen, he did confirm as truthful his prior testimony to the effect that Dominic Ongwen also ordered to ‘attack the civilians’.<sup>3218</sup> P-0054 stated that he was present when Dominic Ongwen gave this instruction.<sup>3219</sup>

1398. Still further, P-0264 testified that there was an ‘RV’ before the Odek attack, attended by soldiers from all three battalions of Sinia, as well as from Sinia headquarters.<sup>3220</sup> P-0264 stated that the RV took place the day before the attack.<sup>3221</sup> He stated that the LRA came

<sup>3212</sup> P-0205: [T-47](#), p. 43, lines 12-21. P-0205 stated that the gathering took place after crossing the river in the Lalage area, P-0205: T-50-CONF, p. 41, line 15 – p. 42, line 3. *See also* UGA-OTP-0233-1386, a sketch produced by P-0205 during his interview with the Prosecution.

<sup>3213</sup> P-0205: [T-47](#), p. 44, lines 3-9. *See also* [T-50](#), p. 45, lines 3 – p. 46, line 1. The Chamber accepts P-0205’s statement that his prior statement to the Prosecution was incomplete in relation to Dominic Ongwen’s order in respect of civilians because he had forgotten at the time.

<sup>3214</sup> P-0205: [T-47](#), p. 44, lines 10-13.

<sup>3215</sup> [REDACTED]

<sup>3216</sup> P-0054: [T-93](#), p. 15, lines 8-11; [T-94](#), p. 19, lines 17-23.

<sup>3217</sup> P-0054: [T-93](#), p. 16, lines 6-12.

<sup>3218</sup> P-0054: [T-93](#), p. 18, line 23 – p. 19, line 8.

<sup>3219</sup> P-0054: [T-93](#), p. 16, lines 19-23.

<sup>3220</sup> P-0264: [T-64](#), p. 38, lines 11-21.

<sup>3221</sup> P-0264: [T-64](#), p. 41, lines 6-16.

from the east, but was not able to name the location where the RV took place.<sup>3222</sup> P-0264 saw Dominic Ongwen at the RV<sup>3223</sup> and stated that Ben Acellam, his immediate commander, returned from the planning meeting of the commanders and informed his escorts and security, including P-0264, of the plan.<sup>3224</sup> P-0264 stated that they were told that there was going to be an operation involving looting food, warned that there would be government soldiers present, and told that if they found a weapon they should recover it.<sup>3225</sup> Asked whether anything was said about civilians, P-0264 stated that all the commanders, ‘even Dominic Ongwen’, said that people who can be recruited into the LRA should be abducted, and also that civilians should be abducted to carry the looted food.<sup>3226</sup>

1399. Two other witnesses offer testimony based on personal observation that confirms P-0264’s testimony that there was a planning meeting of the commanders before the wider announcement of the plan to attack Odek. First, P-0142 stated that he heard a gathering of Dominic Ongwen and the commanders who were designated for the attack, during which Dominic Ongwen gave the order to ‘attack the soldiers’ and ‘loot food’.<sup>3227</sup> The Chamber notes that P-0142 explained that whereas he himself did not participate in the discussion, he was at a distance where he could hear what was being discussed.<sup>3228</sup> P-0142 stated that the briefing took place ‘around Omel Kuru, in an area called Kanu’.<sup>3229</sup> Second, P-0330 testified that he saw the commanders ‘huddled together’ before the attack on Odek.<sup>3230</sup> Besides Dominic Ongwen, there were Okello, Kalalang and Bomek.<sup>3231</sup> P-0330 stated that he heard them say that they should ‘select a standby’, and that Kalalang would be in charge of this.<sup>3232</sup> P-0330 stated that at this point they were on the Gulu side of the Aswa River.<sup>3233</sup>

<sup>3222</sup> P-0264: [T-66](#), p. 58, lines 2-17. *See also* p. 58, line 24 – p. 59, line 8.

<sup>3223</sup> P-0264: [T-64](#), p. 39, line 23 – p. 40, line 1.

<sup>3224</sup> P-0264: [T-64](#), p. 41, line 17 – p. 42, line 2.

<sup>3225</sup> P-0264: [T-64](#), p. 41, lines 12-15.

<sup>3226</sup> P-0264: [T-64](#), p. 44, lines 4-15.

<sup>3227</sup> P-0142: [T-70](#), p. 26, line 18 – p. 28, line 7, p. 30, line 21 – p. 31, line 2, p. 36, lines 7-9.

<sup>3228</sup> P-0142: [T-70](#), p. 28, lines 3-7.

<sup>3229</sup> P-0142: [T-70](#), p. 28, line 24 – p. 29, line 3.

<sup>3230</sup> P-0330: [T-52](#), p. 13, lines 19-24.

<sup>3231</sup> P-0330: [T-52](#), p. 13, line 25 – p. 14, line 3.

<sup>3232</sup> P-0330: [T-52](#), p. 14, lines 7-12.

<sup>3233</sup> P-0330: [T-52](#), p. 16, lines 14-18.

1400. According to the evidence, after the initial announcement of the attack, there was a selection of fighters who were to participate. This selection is described by P-0410, who stated that after the RV finished, people returned to their respective groups, and each individual commander selected soldiers to go for the attack.<sup>3234</sup> P-0410 referred to two groups of people being selected, one to go to the barracks and the other to go to the camp.<sup>3235</sup>

1401. Similarly, P-0314 stated that soldiers were selected from various households and told that they were going to ‘collect food items’.<sup>3236</sup> According to the witness the selected soldiers, at that point in time, had not been told yet where exactly they would be going.<sup>3237</sup> As discussed above, however, other witnesses testified to the effect that there had already been an announcement that Odek would be the target prior to the selection of the soldiers. The Chamber is of the view that this discrepancy in the evidence could be explained by the fact that, for any reason, P-0314 may not have been present at the previous announcement. In any case, the Chamber is satisfied that the evidence shows that fighters were selected and told that they were to ‘collect food’.

1402. P-0340 similarly testified that he heard that there was a ‘standby’, even though he did not know at the time what that meant.<sup>3238</sup> Late in the evening, his commander Mukwaya, among others, started selecting people.<sup>3239</sup> The witness asked Mukwaya where they were going, and Mukwaya replied that they were going to collect food.<sup>3240</sup> P-0340’s testimony, given from his personal viewpoint, fits into the narrative established by the relevant witness testimonies altogether.

1403. Another credible personal account of this process was provided by P-0352. The witness, who [REDACTED] and participated in the Odek attack, stated that before the attack, they were staying in ‘an isolated area in Gulu’.<sup>3241</sup> She stated that there was a gathering of soldiers at Dominic Ongwen’s.<sup>3242</sup> Then she heard the soldiers whistling and

<sup>3234</sup> P-0410: [T-151](#), p. 36, lines 19-23.

<sup>3235</sup> P-0410: [T-151](#), p. 36, line 24 – p. 37, line 1.

<sup>3236</sup> P-0314: [T-75](#), p. 3, lines 1-16.

<sup>3237</sup> P-0314: [T-75](#), p. 3, lines 7-10.

<sup>3238</sup> P-0340: [T-102](#), p. 26, line 23 – p. 27, line 1.

<sup>3239</sup> P-0340: [T-102](#), p. 27, lines 2-3.

<sup>3240</sup> P-0340: [T-102](#), p. 27, lines 6-8.

<sup>3241</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 109.

<sup>3242</sup> P-0352 Statement. UGA-OTP-0260-0315-R01, at para. 109.

█ came and told her to leave the things she usually carried because she was going on a trip.<sup>3243</sup> Soldiers and people from the houses of different leaders gathered.<sup>3244</sup>

1404. There is also consistent evidence of a ritual and prayer, which followed the selection of soldiers. P-0410 testified that all soldiers who were going to the barracks were smeared with oil, and told to go bare-chested.<sup>3245</sup> There was also a prayer.<sup>3246</sup> P-0309 stated that as the soldiers were gathered, Dominic Ongwen led a short prayer and sprinkled water mixed with oil on the soldiers as a ‘blessing for [them] to go to fight’.<sup>3247</sup> P-0309 gave the location of this gathering as ‘in the bushes in Loyo Ajonga’.<sup>3248</sup> Asked about when it took place in relation to the attack itself, P-0309 stated that they moved for about three or four hours before reaching Odek.<sup>3249</sup> P-0314 also testified that there was a prayer and that the soldiers were ‘sprinkled [...] with some kind of water’.<sup>3250</sup> P-0264 also mentioned that soldiers were anointed before setting off for Odek.<sup>3251</sup>

1405. At this time, Dominic Ongwen addressed the soldiers and gave further instructions. P-0410 stated that Dominic Ongwen and ‘all of them’ were there, encouraging people and telling them to be bold, and that if they followed instructions, nothing would happen to them.<sup>3252</sup> Asked specifically about what Dominic Ongwen said or did on this occasion, P-0410 stated that Dominic Ongwen gave instructions to go to the battlefield and not backtrack, to not fire the gun before instructions are given, as well as to ‘be merciless’, to ‘exterminate everything’, and to come back with foodstuffs.<sup>3253</sup> Similarly, P-0309 testified that Dominic Ongwen told the soldiers that they were going to ‘work’, which P-0309 understood as fighting.<sup>3254</sup> P-0372 testified that before the Odek attack, Dominic Ongwen spoke to the soldiers selected for the attack and said that he was going to attack

<sup>3243</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 109.

<sup>3244</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 109.

<sup>3245</sup> P-0410: [T-151](#), p. 37, lines 2-16.

<sup>3246</sup> P-0410: [T-151](#), p. 37, lines 8-9.

<sup>3247</sup> P-0309: [T-60](#), p. 74, lines 17-23.

<sup>3248</sup> P-0309: [T-60](#), p. 75, lines 7-21.

<sup>3249</sup> P-0309: [T-60](#), p. 75, lines 22-24.

<sup>3250</sup> P-0314: [T-76](#), p. 57, lines 3-8.

<sup>3251</sup> P-0264: [T-64](#), p. 44, line 24 – p. 45, line 8.

<sup>3252</sup> P-0410: [T-151](#), p. 37, lines 18-23.

<sup>3253</sup> P-0410: [T-151](#), p. 38, line 8 – p. 39, line 3.

<sup>3254</sup> P-0309: [T-60](#), p. 74, line 24 – p. 75, line 3.

and to loot Odek.<sup>3255</sup> According to P-0372, Dominic Ongwen also spoke about the division of soldiers into two groups, one to go to the camp, another to the barracks.<sup>3256</sup> P-0406 testified that he heard Dominic Ongwen address the soldiers before the Odek attack, and that the order Dominic Ongwen gave was that ‘people from 18 under should be abducted, food should be taken, and the camp should be burned and the barracks should be attacked’.<sup>3257</sup> P-0406 specified that Dominic Ongwen addressed the soldiers at approximately 10:00 or 11:00 hours on the day of the attack.<sup>3258</sup> As to the location, P-0406 stated that this happened after crossing the Aswa River leaving Pader and entering into Gulu, adding that he did not know the more specific location.<sup>3259</sup> P-0314 similarly said that Dominic Ongwen addressed the selected people on the day of the attack before they set off, telling them to ‘abduct some children’ and ‘bring food items’.<sup>3260</sup>

1406. As can be seen above, every witness described in their own words the location of the above events. Some witnesses understandably stated that they were not able to tell the precise location, because they were unfamiliar with the area or due to the LRA’s practice of meandering movement, while others gave more or less precise geographical references. Considering that the gathering took place in the bush, which is confirmed by all witnesses, the Chamber finds their inability to provide a precise description of the location natural and expected. Bearing this in mind, the Chamber deems the witness evidence on this point compatible, and finds, taking into account the various geographical references given by the witnesses, that the gathering took place at a location in the bush, west of the Aswa River and northwest of Odek, at a distance of several walking hours. Accordingly, the argument of the Defence to the effect that the evidence of witnesses called by the Prosecution is inconsistent as to the location of the RV prior to the Odek attack is rejected.<sup>3261</sup> In this regard, the Chamber recalls that it rejects as unreliable all direction-finding evidence.<sup>3262</sup>

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<sup>3255</sup> P-0372: [T-148](#), p. 40, line 11 – p. 42, line 6. Asked where the standby and selection for the Odek attack took place, P-0372 responded: ‘[w]e were moving here and about. I – it’s a place which is called Alim, if I have not forgotten. It was in the bush’; P-0372: [T-149](#), p. 73, lines 8-11.

<sup>3256</sup> P-0372: [T-148](#), p. 42, lines 7-11.

<sup>3257</sup> P-0406: [T-154](#), p. 42, line 23 – p. 43, line 19.

<sup>3258</sup> P-0406: [T-154](#), p. 44, lines 5-9.

<sup>3259</sup> P-0406: [T-155](#), p. 42, lines 5-11.

<sup>3260</sup> P-0314: [T-75](#), p. 3, line 25 – p. 4, line 12.

<sup>3261</sup> [Defence Closing Brief](#), paras 353-364.

<sup>3262</sup> See section IV.B.3.iii above.

1407. The Chamber has paid particular attention to the content of the instruction given by Dominic Ongwen to the soldiers. Again, in the view of the Chamber, the fact that the witnesses expressed in their own terms their recollection is natural and expected. They described or emphasised different specific orders. Nonetheless, and contrary to the Defence's argument,<sup>3263</sup> the Chamber does not find that witnesses contradict each other on the point or that their evidence is otherwise inconsistent. The Chamber considers that the evidence before it justifies and necessitates the finding that Dominic Ongwen, as well as other commanders, ordered LRA fighters to target everyone they find at Odek, including civilians. This is plainly the content of the testimony of P-0205 and P-0410, who stated, respectively, that the order was to 'destroy Odek' and to 'exterminate everything', and who are corroborated by P-0054. Furthermore, there is consistent evidence from multiple witnesses that the orders included looting food and abducting civilians. At the same time, the Chamber makes reference to P-0340's elaboration on what it meant, in that particular context, to 'collect food':

They don't tell you there is going to be a fight. But when you ask, they will tell you we are going to collect food. Now, going to collect food, you do not know if you will go and they will give you or you go line up in a queue and you collect the food. When you go there, you have to fight, you have to shoot at them, and they shoot at you because they are the people who protect that food. So when we reached there, other people went to the barracks and other people went to the camp. That is what collecting food means.<sup>3264</sup>

1408. The conclusion that the purpose of the Odek attack, as designed by Dominic Ongwen, was indeed to target civilians is further supported by the fact that, as stated by several witnesses, the attackers were split into two groups – one which headed to the UPDF barracks, and another which went directly into the civilian camp.

*iv. Departure of attackers for Odek*

**Afterwards, the LRA fighters left for Odek. The LRA fighters who went to attack Odek IDP camp were subordinate to Dominic Ongwen. They included fighters belonging to Sinia brigade, as well as two fighters from the Gilva brigade. The subordinate**

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<sup>3263</sup> [Defence Closing Brief](#), paras 365-370.

<sup>3264</sup> P-0340: [T-103](#), p. 49, lines 8-19.

**commanders Dominic Ongwen sent to attack Odek IDP camp included Ben Acellam, Okwer and Kalalang.**<sup>3265</sup>

1409. After the events described above, the soldiers left for Odek.<sup>3266</sup> The consistent testimony of P-0264, P-0340 and P-0410 is that the soldiers walked during the day before stopping briefly in the afternoon at a location nearby Odek.<sup>3267</sup> P-0314 testified that they did not cross the Aswa River on the way from the RV to Odek.<sup>3268</sup> P-0410 testified that two civilians on their way to their gardens were abducted and questioned about the number of soldiers at the barracks of the camp.<sup>3269</sup> P-0314 testified that as the attackers were approaching the barracks of Odek camp, Abongomek addressed the soldiers, dividing people into two groups, one to attack the barracks, and the other to attack the camp.<sup>3270</sup>

1410. The evidence shows that the LRA soldiers who attacked Odek IDP camp on 29 April 2004 were subordinate to Dominic Ongwen. Former LRA members P-0142, P-0352, P-0205, P-0372, P-0264 and P-0314, all part of Dominic Ongwen's Sinia brigade at the time of the attack on Odek IDP camp,<sup>3271</sup> testified that the fighters sent to the camp were part of the Sinia brigade and under Dominic Ongwen's command.<sup>3272</sup>

<sup>3265</sup> Para. 161 above.

<sup>3266</sup> P-0410: [T-151](#), p. 37, line 17; P-0309: [T-60](#), p. 74, lines 17-23.

<sup>3267</sup> P-0264: [T-66](#), p. 63, lines 1-22 (stating that the attackers waited for the sun to settle down before they went for the attack); P-0340: [T-102](#), p. 27, lines 9-12; P-0410: [T-151](#), p. 31, lines 1-3. P-0352 also stated that the attackers arrived at Odek in the evening; P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 114; [T-68](#), p. 10, line 25 – p. 11, line 5. P-0054 testified that the attackers left the point where instructions were given at about 14:00-15:00 hours and arrived at Odek at around 19:00; P-0054: [T-93](#), p. 15, lines 8-12; [T-94](#), p. 21, lines 6-8. In the assessment of the Chamber, this is not a significant discrepancy in estimating the time, in particular because the chain of events is otherwise well established.

<sup>3268</sup> P-0314: [T-76](#), p. 61, line 25 – p. 62, line 1.

<sup>3269</sup> P-0410: [T-151](#), p. 31, lines 4-7. P-0410's testimony is corroborated by the testimony of P-0340; P-0340: [T-102](#), p. 26, line 23 – p. 27, line 13. *See also* P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 18; [T-90](#), p. 61, lines 11-21.

<sup>3270</sup> P-0314: [T-75](#), p. 6, lines 5-9. P-0314 explained that the same person is also referred to as Labongo, P-0314: [T-75](#), p. 16, line 22 – p. 17, line 1.

<sup>3271</sup> P-0142: [T-70](#), p. 16, lines 6-8, p. 17, lines 3-10 (P-0142 had the rank of a second lieutenant in the Sinia brigade); P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 25, 55, 108 (P-0352 participated in the attack on Odek IDP camp and was part of Sinia brigade); P-0205: T-47-CONF, p. 9, lines 18-22, p. 36, line 13 – p. 37, line 6; P-0372: [T-148](#), p. 14, lines 18-21, p. 30, lines 14-19; [T-149](#), p. 2, line 23 – p. 5, line 10 (while not technically assigned to Sinia, P-0372 was staying with Sinia and was under Dominic Ongwen's command at the time of the attack on Odek IDP camp); P-0264: [T-64](#), p. 33, lines 1-2, p. 37, lines 1-19 (P-0264 was in the Sinia brigade under Dominic Ongwen); P-0314: [T-74](#), p. 23, lines 15-19 (P-0314 was a fighter in Sinia under Dominic Ongwen).

<sup>3272</sup> P-0142: [T-70](#), p. 25, lines 5-10, p. 28, lines 16-23 (the soldiers who attacked Odek IDP camp came from the Sinia brigade, a mixture of fighters from the three Oka, Terwanga and Siba battalions); P-0142: [T-71](#), p. 3, lines 18-23 (Dominic Ongwen was the brigade commander of Sinia at the time of the attack); P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 63, 109 (while the LRA was staying in an isolated area in the Gulu area, P-0352 observed LRA fighters gathered at Dominic Ongwen's residence. She then saw fighters whistling and was told by ██████, one of Dominic Ongwen's direct subordinates, that she was going on a trip. Fighters and people from the households of different LRA leaders in Sinia gathered together and started moving to attack Odek); P-0205:

1411.P-0142 testified that two fighters from the Gilva brigade participated in the attack.<sup>3273</sup>

Apart from these Gilva fighters, the Chamber is of the view that no credible evidence indicates that other LRA groups participated in the attack on Odek IDP camp.<sup>3274</sup>

1412.The charges contain the allegation that Okwonga Alero commanded, together with Dominic Ongwen and others, the Odek attack.<sup>3275</sup> However, in light of the Chamber's findings in relation to the credibility of P-0245, this allegation is not established by the evidence.<sup>3276</sup>

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[T-47](#), p. 41, line 25 – p. 43, line 19; T-50-CONF, p. 28, lines 8-11 (some of the fighters that participated in the Odek IDP camp were from the Terwanga battalion of Sinia brigade. About six fighters and four officers were sent to join the attacking force from that battalion); P-0372: [T-148](#), p. 42, lines 14-19 (part of the Sinia brigade went to attack Odek IDP camp); P-0264: [T-64](#), p. 65, lines 2-4 (Dominic Ongwen was the overall commander in charge of the LRA fighters P-0264 saw come back from the Odek attack); P-0314: [T-74](#), p. 61, lines 16-20; [T-75](#), p. 2, line 24 – p. 3, line 24 (Dominic Ongwen sent the LRA fighters that went to attack Odek IDP camp. Otto Signaller selected P-0314 among six fighters from his household. Some other fighters were selected from Kalalang's household. Kalalang was Dominic Ongwen's 2IC). *See also* P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 35 (a former abductee told P'Oyoo Lakoch that Dominic Ongwen's group was operating in the Odek area at the time of the attack); P-0231: [T-122](#), p. 68, line 13 – p. 69, line 4 (along with others in a gathering P-0231 was told by Joseph Kony that in 2004 the Sinia brigade attacked Odek, shot at fighters, killed many people and actually overran the barracks. At the time P-0231 was told about this Odek attack, Dominic Ongwen was the brigade commander of Sinia brigade); P-0085: [T-158](#), p. 42, line 8 – p. 43, line 9; [T-159](#), p. 29, line 21 – p. 30, line 2 (soon after the attack, P-0085 heard over Mega radio that Odek had been attacked by Odomi's group. The radio reported that Odomi's group had attack the barracks, seized weapons and burned down the barracks and houses. A week and a few days later, he and his group met Dominic Ongwen in an area known as Te Atoo Opin and he asked Dominic Ongwen about the attack on Odek. P-0085 testified that he did not recall seeing any other commander with Dominic Ongwen. P-0085 testified that Dominic Ongwen stated that he had sent his people and they attacked the barracks, burned houses and took guns); P-0205's annotated Acholi Sub-Region Planning Map, UGA-OTP-0233-1386.

<sup>3273</sup> P-0142: [T-72](#), p. 67, lines 5-7 (Ojara Abin and Abonga Won Dano, two fighters from the Gilva brigade participated in the attack on Odek IDP camp).

<sup>3274</sup> In this regard, the Chamber notes P-0410's testimony that 'most groups' participated and all the senior commanders went. *See* P-0410: [T-151](#), p. 30, lines 15-21, p. 41, lines 5-11, p. 42, lines 1-11. The Chamber notes its assessment of P-0410's testimony above. The Chamber also notes that P-0410 is the only witness to testify to the presence of these other commanders and groups. In the Chamber's view, the witness's testimony is not reliable in this regard. *See also* P-0252: [T-89](#), p. 20, lines 13-19 (According to P-0252, who was abducted from Odek, during the retreat, there were no senior commanders from any other group apart from Dominic Ongwen's. He testified that apart from fighters from Dominic Ongwen's group, he saw no other group coming from Odek). The Chamber considers it reasonable that P-0252 would not have noticed the two solitary fighters from Gilva. However, the Chamber expects that the witness would have noticed had there been other large contingents of fighters.

<sup>3275</sup> Para. 27 of the charges ([Confirmation Decision](#), p. 77).

<sup>3276</sup> *See* section IV.B.2.ii.a.xi above. It is noted that in the Prosecution's Pre-Trial Brief, P-0245 was the only witness cited for the proposition that Okwonga Alero participated and that the attack on Odek was a joint attack between Sinia and Trinkle brigades. *See* [Prosecution Pre-Trial Brief](#), paras 334, 336, 339. Similarly in the Prosecution's Closing Brief, P-0245 is given as the sole basis for allegations of Okwonga Alero's involvement in the Odek attack. *See* [Prosecution Closing Brief](#), paras 197, 287. It is also noted that P-0142 and P-0406, whose evidence indicates that they knew Okwonga Alero, were asked about his involvement in the Odek attack, and did not confirm it. *See* P-0142: [T-72](#), p. 66, line 13 – p. 67, line 4; P-0406: [T-155](#), p. 52, lines 11-19. *See also* P-0309: [T-63](#), p. 16, lines 24-25.

1413. As to the command of the attack on the ground, consistent and mutually corroborating testimony shows that the subordinate commanders Dominic Ongwen sent to attack Odek IDP camp included Ben Acellam,<sup>3277</sup> Okwer<sup>3278</sup> and Kalalang.<sup>3279</sup>

*v. Dominic Ongwen's on-ground participation in the attack*

**Dominic Ongwen moved with the attackers in the direction of Odek IDP camp. He did not enter Odek IDP camp with the fighters sent to attack.**<sup>3280</sup>

1414. It is alleged in the charges that Dominic Ongwen 'commanded and coordinated the attack on the ground' in Odek IDP camp.<sup>3281</sup> The Prosecution alleges that Dominic Ongwen personally led the attack on the ground, accompanied by senior Sinia brigade officers.<sup>3282</sup> The Defence contends that the Prosecution has failed to present evidence which demonstrates that Dominic Ongwen, *inter alia*, led LRA personnel in the attack on Odek IDP camp.<sup>3283</sup> The Defence further suggests that Dominic Ongwen could not have walked the distance to Odek because he had been injured.<sup>3284</sup>

1415. The Chamber notes that the evidence in relation to Dominic Ongwen's injury does not indicate that he would have been physically incapable of walking to Odek IDP camp attack.<sup>3285</sup> The Chamber heard varying testimony about Dominic Ongwen's participation in the attack, particularly from witnesses P-0054, P-0142, P-0205, P-0264, P-0309, P-0314, P-0330, P-0340, P-0352, P-0406 and P-0410. Below, the Chamber discusses each witness's account. These witnesses were fighters in Sinia brigade who participated in the attack on Odek IDP camp. The Chamber notes its above individualised assessments of these witnesses' testimonies. At issue for the Chamber is the reliability of this aspect of the witnesses' testimony. As a general matter, the Chamber recalls that not relying on a

<sup>3277</sup> P-0142: [T-70](#), p. 25, lines 19-22; P-0205: [T-47](#), p. 43, line 22 – p. 44, line 2; P-0264: [T-64](#), p. 47, lines 10-18.

<sup>3278</sup> P-0142: [T-70](#), p. 25, lines 19-22; P-0205: [T-47](#), p. 43, line 22 – p. 44, line 2; P-0264: [T-64](#), p. 72, lines 2-8; [REDACTED]; P-0410: [T-151](#), p. 41, lines 5-14. The witnesses refer to 'Okwer', 'Okwe', or 'Okwee'. Given the overwhelming similarity in the names, and that the transcripts of the proceedings show a phonetic spelling of the name, the Chamber is of the view that they spoke of the same person, Okwer.

<sup>3279</sup> P-0205: [T-47](#), p. 43, line 22 – p. 44, line 2; P-0372: [T-148](#), p. 44, line 22 – p. 45, line 20; P-0264: [T-64](#), p. 38, line 25 – p. 39, line 5.

<sup>3280</sup> Para. 162 above.

<sup>3281</sup> Para. 29 of the charges ([Confirmation Decision](#), p. 78).

<sup>3282</sup> [Prosecution Closing Brief](#), paras 256, 258-265.

<sup>3283</sup> [Defence Closing Brief](#), paras 338, 359-363.

<sup>3284</sup> Defence Closing Statement: [T-258](#), p. 91, lines 8-11.

<sup>3285</sup> See paras 1020-1079 above, the Chamber's discussion of Dominic Ongwen's position within the LRA.

witness's testimony in this regard does not necessarily undermine other aspects of the witness's testimony.

1416.P-0054 testified that Dominic Ongwen commanded a group of LRA fighters into the centre of Odek IDP camp during the attack.<sup>3286</sup> P-0054 testified that a recruit, [REDACTED], accompanied him to Odek and went to the centre to loot food with Dominic Ongwen's group of attackers while P-0054 himself went to attack the barracks with other fighters and did not go to the centre.<sup>3287</sup> The source of P-0054's information about Dominic Ongwen's movements is not clear. It is significant to the Chamber that the witness does not testify to seeing Dominic Ongwen within the camp himself. P-0054 also testified to seeing Dominic Ongwen in the group as they were retreating from Odek IDP camp.<sup>3288</sup>

1417.P-0340, [REDACTED],<sup>3289</sup> testified that he was part of the group that went to attack the camp centre and Dominic Ongwen was not in the group that went to the camp centre; P-0340 did not know if Dominic Ongwen split and went to the barracks.<sup>3290</sup> P-0340 testified that he saw Dominic Ongwen among the fighters during the LRA's movement to Odek, stating, 'he was together with us while we were walking there. Sometimes would walk behind, sometimes would be ahead, sometimes would just be in the middle'.<sup>3291</sup> The Chamber notes that P-0340 does not testify to seeing Dominic Ongwen within Odek IDP camp during the attack.

1418.P-0309 testified that he saw Dominic Ongwen in the group moving to go to Odek IDP camp and that '[w]hen we were entering Odek camp, I did not look to see where he was, I – I ran, when we reached closer, we ran and split into smaller groups. I was among those who ran to the centre. At that point I did not know where he was'.<sup>3292</sup> P-0309 stated that he did not see Dominic Ongwen in the centre of the camp and did not look to see where Dominic Ongwen was as the fighters were entering Odek; he next saw Dominic Ongwen after he and the other attacking forces had left Odek IDP camp and were

<sup>3286</sup> P-0054: [T-93](#), p. 15, lines 21-22, p. 19, line 24 – p. 20, line 2, p. 53, lines 13-21.

<sup>3287</sup> P-0054: [T-93-CONF](#), p. 24, line 10-15, p. 26, lines 9-11; [T-93](#), p. 19, lines 13-14, p. 53, line 24 – p. 54, line 6; [T-94](#), p. 23, lines 1-3.

<sup>3288</sup> P-0054: [T-93](#), p. 16, lines 1-3; [T-94](#), p. 24, lines 6-23.

<sup>3289</sup> [REDACTED]

<sup>3290</sup> P-0340: [T-102](#), p. 34, line 21 – p. 35, line 12; [T-103](#), p. 49, line 20 – p. 50, line 10.

<sup>3291</sup> P-0340: [T-102](#), p. 28, line 21 – p. 29, line 3; [T-103](#), p. 47, line 24 – p. 48, line 1.

<sup>3292</sup> P-0309: [T-60](#), p. 77, line 1 – p. 78, line 5.

retreating back into the bush.<sup>3293</sup> P-0309 also did not see Dominic Ongwen within Odek IDP camp during the attack.<sup>3294</sup>

1419.P-0410 testified that all the top commanders went to attack Odek IDP camp, including Dominic Ongwen; he believed Dominic Ongwen was at the attack because all the top commanders went there.<sup>3295</sup> However, P-0410 indicated that he did not see Vincent Otti or Dominic Ongwen in the camp during the attack.<sup>3296</sup> P-0410 testified that he actually saw Dominic Ongwen in the pre-attack ceremony and did not see him again until after the returning fighters gathered after the attack.<sup>3297</sup> Given that P-0410 did not see Dominic Ongwen in the camp, and merely speculates that he would have been there, the Chamber does not put any weight on this aspect of his testimony.

1420.P-0264 testified that while Dominic Ongwen moved with the group that went to attack the camp but did not enter the camp, Dominic Ongwen stayed about a football pitch and a half span outside of the camp while the other attackers went into the camp.<sup>3298</sup>

1421.P-0142, a Sinia fighter who himself did not participate in the Odek attack but stayed in the RV location, testified that Dominic Ongwen remained with the rest of the group while the fighters left to attack Odek.<sup>3299</sup> According to P-0142, the LRA left behind at the pre-attack gathering point, including Dominic Ongwen, stayed in their position for a whole day until the next day when the fighters returned from the attack on Odek IDP camp.<sup>3300</sup> P-0142 testified that he was not personally with Dominic Ongwen during this period as Dominic Ongwen was a ‘big commander’ and P-0142, a low level fighter could not be close to him.<sup>3301</sup> P-0142 testified that he saw Dominic Ongwen at the pre-attack meeting;<sup>3302</sup> he did not report actually seeing Dominic Ongwen again until after the

<sup>3293</sup> P-0309: [T-60](#), p. 77, line 24 – p. 78, line 2; [T-63](#), p. 23, line 11 – p. 24, line 16.

<sup>3294</sup> P-0309: [T-60](#), p. 80, lines 15-19.

<sup>3295</sup> P-0410: [T-151](#), p. 41, lines 5-11, p. 42, lines 15-20; [T-152](#), p. 37, line 14 – p. 38, line 3.

<sup>3296</sup> See P-0410: [T-151](#), p. 41, lines 5-11; [T-152](#), p. 37, line 14 – p. 38, line 3.

<sup>3297</sup> P-0410: [T-151](#), p. 41, lines 5-11, p. 42, lines 1-20, p. 51, lines 18-25; [T-152](#), p. 37, line 14 – p. 38, line 3, p. 40, lines 12-15.

<sup>3298</sup> P-0264: [T-64](#), p. 46, line 8 – p. 47, line 8.

<sup>3299</sup> P-0142: [T-70](#), p. 28, lines 16-20, p. 29, lines 2-3, lines 16-19, p. 40, lines 13-24.

<sup>3300</sup> P-0142: [T-70](#), p. 29, lines 16-22.

<sup>3301</sup> P-0142: [T-70](#), p. 29, line 23 – p. 30, line 1.

<sup>3302</sup> See section IV.C.7.iii above, the Chamber’s discussion of the order to attack Odek IDP camp.

attack.<sup>3303</sup> P-0142 testified that after the attack, the commanders returned and gave Dominic Ongwen a report at the RV location.<sup>3304</sup>

1422. According to P-0205, Dominic Ongwen did not participate in the Odek IDP camp attack.<sup>3305</sup> P-0205 testified that he heard Dominic Ongwen give orders to the attackers and then returned to his position; he did not report interacting or observing Dominic Ongwen until the fighters returned from the attack.<sup>3306</sup>

1423. P-0314 stated that Dominic Ongwen stayed behind at the meeting place and did not go to Odek IDP camp personally.<sup>3307</sup> P-0314 testified that Dominic Ongwen remained behind at the RV location when the attacking group moved on to Odek.<sup>3308</sup> P-0314, who participated in the attack, next saw Dominic Ongwen after the attack when the returning attackers met him to brief him.<sup>3309</sup> When asked about other commanders participating in the attack, P-0314 stated that he could not see people who were in the group ahead of him.<sup>3310</sup>

1424. The Chamber also notes the testimony of P-0406 who participated in the attack and stated that after Dominic Ongwen ordered his fighters to attack Odek IDP camp, P-0406 went to attack the camp.<sup>3311</sup> While he testified that he and Dominic Ongwen ‘were in one formation’ when Dominic Ongwen gave orders to attack the camp, P-0406 explained that he did not see Dominic Ongwen again until the next day when the attackers returned from the operation in Odek.<sup>3312</sup>

1425. Similarly, P-0330 testified that Dominic Ongwen did not go to the Odek attack.<sup>3313</sup> Additionally, P-0352 testified that she did not remember seeing Dominic Ongwen during

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<sup>3303</sup> See P-0142: [T-70](#), p. 29, line 23 – p. 30, line 1.

<sup>3304</sup> P-0142: [T-70](#), p. 30, lines 2-6, p. 39, line 4 – p. 40, line 4.

<sup>3305</sup> P-0205: [T-50](#), p. 28, lines 6-7.

<sup>3306</sup> P-0205: [T-47](#), p. 43, line 7 – p. 45, line 14.

<sup>3307</sup> P-0314: [T-75](#), p. 9, lines 1-7; [T-76](#), p. 56, lines 19-22.

<sup>3308</sup> P-0314: [T-75](#), p. 9, lines 4-7.

<sup>3309</sup> P-0314: [T-75](#), p. 13, lines 13-17, p. 17, lines 2-18.

<sup>3310</sup> P-0314: [T-76](#), p. 56, lines 10-14.

<sup>3311</sup> P-0406: [T-154](#), p. 43, lines 1-8.

<sup>3312</sup> P-0406: [T-154](#), p. 44, line 24 – p. 45, line 5.

<sup>3313</sup> P-0330: [T-55](#), p. 38, lines 6-8.

the attack on Odek IDP camp, stating that there were many people and she could not see the ‘soldiers who were leading the way’.<sup>3314</sup>

1426. In this context, the Chamber also notes the testimony of P-0085, who credibly testified about an encounter with Dominic Ongwen during which Dominic Ongwen informed P-0085 that he had sent his people to attack Odek, indicating that Dominic Ongwen had not gone himself.<sup>3315</sup> The Chamber considers that P-0085’s testimony corroborates the accounts of witnesses who testified that Dominic Ongwen did not follow the attacking force into Odek himself.

1427. Upon considering the evidence of the above witnesses, the Chamber is not satisfied that the evidence proves that Dominic Ongwen entered Odek IDP camp as part of the attacking force, commanding and/or coordinating the LRA fighters. The Chamber considers it significant that although certain witnesses testified to seeing Dominic Ongwen outside of the camp before the attack, none of them testified that they actually saw him within the camp during the attack. While the chaos of an attack on an IDP camp can justify fighters, especially low ranking fighters, not knowing the exact location of the other fighters or commanders, the Chamber is of the view that, had Dominic Ongwen actually participated in the attack, at least one of the witnesses would have seen him within the camp.

1428. Noting that the witnesses who testified that Dominic Ongwen stayed behind at the RV location were not in fact staying with him and largely testified to observing him at the pre-attack meeting and after the attackers returned from the camp, the Chamber is convinced that the evidence shows that Dominic Ongwen moved with the attacking group towards the camp but did not actually enter the camp to attack.

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<sup>3314</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 110; P-0352: [T-68](#), p. 11, line 20 – p. 12, line 3.

<sup>3315</sup> P-0085: [T-158](#), p. 42, line 17 – p. 43, line 9. *See* paras 1484, 1639-1640 below.

vi. *The LRA's attack against the civilian population of Odek IDP camp*

**On 29 April 2004, LRA fighters subordinate to Dominic Ongwen, and acting on his orders, attacked Odek IDP camp.**<sup>3316</sup>

**In the late afternoon the day of the attack, Odek IDP camp residents gathered and a government soldier warned them to be vigilant as the LRA were believed to be operating in the area.**<sup>3317</sup>

**As the residents and several government soldiers were dispersing from that gathering in the early evening, at least 30 LRA attackers, including children under the age of 15, executed Dominic Ongwen's orders and, with an assortment of arms including AK guns, a mortar and an RPG, a PK and a 'B-10' gun, attacked Odek IDP camp from the northern side of the camp.**<sup>3318</sup>

1429. Witnesses residing at Odek camp at the time of the attack provided credible, consistent and overlapping testimony that in the mid to late afternoon of 29 April 2004, government soldiers gathered camp residents for a meeting in the camp centre and warned them that LRA forces were present in the area.<sup>3319</sup>

1430. In light of the testimonies of Mario Ottober, the elected Camp Leader, Joseph Balikudembe, a UPDF officer and Julius Nyeko, an LDU officer who served at Odek IDP camp, the Chamber is of the view that there were at least 20 to at most 60 government soldiers stationed at the camp at the time of the attack.<sup>3320</sup>

<sup>3316</sup> Para. 159 above.

<sup>3317</sup> Para. 163 above.

<sup>3318</sup> Para. 163 above.

<sup>3319</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 17-18; [T-90](#), p. 61, line 11 – p. 66, line 10 (stating that around 16:30-17:30, UPDF soldiers gathered camp residents at the centre of the camp under a mango tree. A government soldier, Second Lieutenant Odong, warned camp residents of the presence of LRA fighters in the area, as they had been sighted by civilians earlier in the day); P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 22 (stating that around 14:00, the UPDF called a meeting by the mango tree in the market. The UPDF commander told the civilians that rebels were present in the area and cautioned against civilians going to visit their gardens); P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 25 (testifying that around 15:00, LDU soldiers gathered the people of the camp for a meeting in the market place of the camp). See P-0218: [T-90](#), p. 62, line 20-24; P-0269: [T-86](#), p. 24, line 18 – p. 25, line 1 (stating that the reason a meeting was held was so that people in the camp could be aware that a visitor could be part of rebel activity. They were requested to report any visitor and advised that this person may need to be arrested so that the camp is not attacked).

<sup>3320</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 20 (stating that according to Mario Ottober, there were about 20-30 government soldiers stationed at the camp before the attack); P-0359: [T-110](#), p. 43, lines 8-10 (testifying there were about 40 UPDF soldiers and around 20 LDUs stationed in Odek IDP camp at the time of the attack); D-0066: [T-214](#), p. 13, lines 5-25, p. 14, lines 7-18, p. 20, line 22 – p. 21, line 7 (stating there were 38 LDUs stationed in Odek, commanded by an UPDF soldier. A mobile force of UPDF soldiers passed through the camp a day before the attack). See P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 15 (according to P'Oyoo Lakoch, a local resident, there were about 40 soldiers protecting Odek IDP camp, about 15 UPDF soldiers and 25 from the LDU. A mobile force of UPDF soldiers arrived at Odek IDP camp a short time before the attack on 29 April 2004). The Chamber notes that all these witnesses estimated the number of soldiers they believed was stationed at the camp at the time of the attack.

1431. The Chamber also recalls the credible testimony of local teacher P'Oyoo Lakoch that during the afternoon meeting, government soldiers informed residents that a number of government soldiers had left the camp to attempt to ambush the LRA and only about 11 soldiers remained at the camp, with three of them stationed at the barracks.<sup>3321</sup>

1432. Regarding the number of LRA fighters that attacked Odek IDP camp, the Chamber is convinced by the testimony offered by several LRA fighters who actively participated in the attack and were in a position to know roughly how large a force was sent to attack Odek IDP camp.<sup>3322</sup> P-0309 testified that there were 30-40 LRA fighters gathered when Dominic Ongwen told them they were going to 'work' in Odek.<sup>3323</sup> P-0330 did not recall the number of soldiers selected to attack Odek but estimated that the largest number was probably between 30 and 35 fighters.<sup>3324</sup> P-0406 testified that there were 40-50 LRA fighters selected to go attack Odek IDP camp.<sup>3325</sup> P-0314 testified that about 60-80 fighters were selected to carry out the operations in Odek IDP camp.<sup>3326</sup> In light of these witnesses' testimony,<sup>3327</sup> the Chamber considers that at least 30 LRA fighters went to attack Odek IDP camp.

1433. Witnesses provided credible, consistent and overlapping testimony that there were children younger than 15 years old among the LRA forces that attacked Odek IDP camp on 29 April 2004. P-0314 testified that the youngest fighters participating in the attack would have been between 13 and 14 years old.<sup>3328</sup> Similarly, P-0410 testified that among the persons that went to attack Odek IDP camp were persons as young as 13 years old.<sup>3329</sup>

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<sup>3321</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 19; P-0218: [T-90](#), p. 64, lines 7-15.

<sup>3322</sup> The Chamber notes that local teacher P-0218 testified that as many as 400 troops attacked Odek IDP camp. *See* P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 31. As noted above, the Chamber considers that LRA fighters who participated in the attack themselves were better positioned to know approximately how many fighters were sent than residents who were attempting to survive in the midst of an attack and also did not have an overview of what was happening in other areas of the camp. The Chamber notes also that, given the time that elapsed and the context of the attack, the LRA fighters are only able to provide an approximation of the number of forces sent to attack the camp.

<sup>3323</sup> P-0309: [T-60](#), p. 75, lines 4-6.

<sup>3324</sup> P-0330: [T-52](#), p. 16, lines 4-11.

<sup>3325</sup> P-0406: [T-155](#), p. 42, lines 12-15.

<sup>3326</sup> P-0314: [T-75](#), p. 5, lines 1-3.

<sup>3327</sup> The Chamber also notes the corroborating evidence of the Incident Report of the Odek IDP camp attack created by P-0301 in 15 May 2004. According to this report, the LRA attacked Odek IDP camp with a force of 60 armed fighters. P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0438; P-0301 Statement, UGA-OTP-0249-0423-R01, at paras 60 and 62.

<sup>3328</sup> P-0314: [T-75](#), p. 5, lines 9-14, p. 10, lines 8-14. *See also* P-0205: [T-48](#), p. 36, line 25 – p. 37, line 11 (indicating that one LRA fighter who participated in the Odek IDP camp attack and came back carrying luggage obtained from Odek would have been 13 at the time of the Odek IDP camp attack).

<sup>3329</sup> P-0410: [T-151](#), p. 39, line 15 – p. 40, line 8.

P-0275 testified that during the attack, he saw children beating jerry cans, some of the children looked younger than him.<sup>3330</sup> The Chamber recalls the finding that P-0275 was under 15 years old at the time of the Odek IDP camp attack.<sup>3331</sup> In line with P-0275's testimony, P-0054 testified that children, ranging from 10-13 years old as well as older children participated in the Odek IDP camp attack.<sup>3332</sup> P-0269 testified that the youngest persons she saw amongst the female contingent of the LRA forces in the camp could have been around 13 years old.<sup>3333</sup> In light of the evidence, the Chamber is satisfied that children under the age of 15 participated in the attack on Odek IDP camp.

1434. Credible and consistent evidence demonstrates that the LRA forces attacked Odek IDP camp with various weapons, including guns and heavy weaponry such AK guns, a mortar and an RPG, a PK and a 'B-10' gun.<sup>3334</sup>

1435. Witnesses in these proceedings, both LRA insiders and residents of the camp, agree that the LRA's attack on Odek IDP camp began in the early evening of 29 April 2004, generally testifying to a range of time between 17:00 and 18:00.<sup>3335</sup> The evidence shows

<sup>3330</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 25.

<sup>3331</sup> See the Chamber's discussion of P-0275's testimony in section IV.B.2.iv.c.v.

<sup>3332</sup> P-0054: [T-93](#), p. 29, lines 7-8.

<sup>3333</sup> P-0269: [T-85](#), p. 40, lines 5-7. The Chamber notes that P-0269 was abducted by LRA fighters and had the opportunity to observe the LRA forces in close proximity.

<sup>3334</sup> P-0264: [T-64](#), p. 67, line 15 – p. 68, line 12 (stating that heavy weapons were used by the LRA fighters in Odek IDP camp, including a PK, an RPG, a mortar and a B-10. P-0264 explained to the Chamber, 'a PK is a gun that uses a chain. The bullets are in a chain, a long chain, some of them up to 200, others 250, others 100', a 'B10 is a heavy weapon and it can also be put on a stand, but you can also use it without a stand', an RPG 'also uses a stand, but it's not too big. Depends on the bullets. others have longer bullets, others have short bullets'); P-0340: [T-102](#), p. 37, lines 8-15 (the LRA used several weapons at Odek IDP camp including a small gun called a Logos, a chain gun called a PK, and a big gun called a 'B-10'); P-0314: [T-75](#), p. 5, lines 4-8, lines 15-16 (the fighters going to Odek IDP camp were armed with heavy weapons like a 'B-10' and another gun with very big bullets and bullets in a chain as well as AK-47 guns and a PK. P-0314 stated that he was also armed with a gun during the attack); P-0309: [T-60](#), p. 77, lines 8-12, lines 15-16 (stating that the LRA went to Odek IDP camp with weapons, including 'AK' guns and some bombs. P-0309 was carrying an 'AK'); P-0330: [T-52](#), p. 15, line 22 – p. 16, line 3 (stating that he LRA took twelve smaller handguns and PKs to the Odek attack. P-0330 was also armed with a gun for the attack); P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 120-121 (testifying that the LRA attacks the camp with 'normal small guns' as well as 'a big gun that needed two people to carry it. It was like a bomb'. There were also two medium sized guns, one taken to the barracks and the other to the camp. P-0352 believed that these guns were called a 'PK').

<sup>3335</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 16 (stating that the LRA attacked Odek IDP camp on 29 April 2004); P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 22-23 (testifying that the rebels attacked Odek IDP camp on 29 April 2004, beginning the attack around 17:00); P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 24 (on 29 April 2004, after the children had come back from school, the LRA attacked Odek IDP camp); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (stating that the attack began around 17:00 on 29 April 2004); P-0269: [T-85](#), p. 34, line 19 – p. 35, line 3 (stating that the attack began around 17:00 on 29 April 2004); P-0264: [T-66](#), p. 64, lines 7-11 (testifying that the attack on Odek took place approximately 17:00 – 18:00); P-0309: [T-60](#), p. 78, lines 23-25 (stating that the attack on Odek IDP camp started around 17:00 or 18:00). See also P-0314: [T-75](#), p. 10, lines 21-22 (the LRA fighters arrived at Odek around 17:30 and 18:00).

that the attack began as civilians were returning to their various homes after the meeting with the government soldiers.<sup>3336</sup> Other camp residents were at their homes. As camp resident Helen Opoka Acan described, she was sitting in her home with her husband and children, ‘[w]e were just sitting there talking and laughing, enjoying ourselves [...]’.<sup>3337</sup>

1436. The evidence shows that the LRA forces entered Odek IDP camp from the northern side of the camp.<sup>3338</sup>

**The LRA fighters operated in two groups, pursuant to Dominic Ongwen’s orders. One group of fighters attacked the military barracks, situated about a few hundred meters from the camp, killed some soldiers there and burned the barracks down, overwhelming the soldiers at the barracks. The other group of fighters spread into the civilian area, including the trading centre, where they dispelled several government soldiers and proceeded to attack the civilian residents, shooting, beating, abducting and forcing them to carry looted goods.**<sup>3339</sup>

1437. The Chamber is convinced by the testimony of Odek IDP camp residents and LRA fighters who participated in the attack that as the LRA fighters entered the camp they divided into two groups: one group heading to the camp to collect food and the other group going to attack the soldiers in the barracks.<sup>3340</sup>

1438. Witnesses testified that, as they moved on the camp, LRA fighters, particularly children, would beat jerry cans together to scare government soldiers away and instil fear in the soldiers and civilians.<sup>3341</sup> In line with these testimonies, P-0252 also testified that he later learned after being abducted during the attack that the purpose of beating the cans was to

<sup>3336</sup> D-0066: [T-214](#), p. 22, lines 1-4; P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 19-21; P-0218: [T-90](#), p. 71, lines 11-20 (the crowd dispersed after meeting between the government soldiers and the civilians but before the soldiers could return to the barracks, the LRA attacked the camp. At the time of the attack, a few government soldiers were in the barracks and others were just leaving the gathering with camp residents).

<sup>3337</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 18.

<sup>3338</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 31; P-0218: [T-90](#), p. 9, line 24 – p. 10, line 2.

<sup>3339</sup> Para. 164 above.

<sup>3340</sup> P-0340: [T-102](#), p. 26, line 23 – p. 27, line 23; P-0218: [T-90](#), p. 9, line 24 – p. 10, line 4; P-0054: [T-93](#), p. 15, lines 14-19; P-0406: [T-154](#), p. 42, lines 7-10; [T-155](#), p. 43, lines 19-25; P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 114-115; P-0309: [T-60](#), p. 77, line 24 – p. 78, line 2; P-0410: [T-151](#), p. 31, lines 11-12. *See* P-0330: T-52-CONF, p. 18, line 13 – p. 19, line 16. Although P-0330 testified that the LRA fighters attacked Odek in one group, the Chamber understands his testimony that there was a group of fighters going to the barracks and a small contingent of LRA fighters stationed to loot in the centre of the camp to conform with the testimony of other witnesses, as described.

<sup>3341</sup> P-0275: [T-124](#), p. 44, lines 3-23; P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 25; P-0252: [T-87](#), p. 32, line 20 – p. 33, line 7; P-0410: [T-151](#), p. 43, lines 5-13.

confuse the government soldiers and civilians in the camp to give the impression that the LRA group attacking the camp was very large.<sup>3342</sup>

1439. The evidence shows that, along with banging jerry cans, the LRA forces were making noise and ululating, creating alarm in the camp.<sup>3343</sup> As they moved on the camp, a whistle was blown and the LRA fighters started shooting.<sup>3344</sup> P-0340, one of the LRA attackers, testified credibly that ‘nobody was supposed to retreat, nobody should return. Whoever had tried to retreat would be beaten seriously. And we ran and attacked the place.’<sup>3345</sup>

1440. The Chamber observes that the LRA fighters who participated in the attack on Odek IDP camp and credibly testified in these proceeding were generally consistent in their description of what occurred at the camp. Their accounts were also consistent with other credible testimony, particularly that of witnesses who were residents of the camp at the time. The witnesses recalled that the gunfire began at the barracks and then quickly spread to the civilian camp.

1441. P-0054, a fighter in Sinia brigade, was part of the group of LRA fighters who went to the fight at the barracks.<sup>3346</sup> P-0054 testified that the fighting began from the barracks, which was just by the roadside.<sup>3347</sup> Other witnesses corroborate P-0054’s account, testifying that they first heard gunfire or saw the LRA fighters coming from the direction of the barracks.<sup>3348</sup>

<sup>3342</sup> P-0252: [T-87](#), p. 32, line 20 – p. 33, line 7.

<sup>3343</sup> P-0340: [T-102](#), p. 30, lines 8-14 (LRA fighters removed their shirts and tied them around their waist, and were blowing whistles and making noise); P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 119 (the first group of LRA soldiers started moving towards the barracks while making an alarm and ululating. They were shouting ‘catch them’ and ‘kill them’).

<sup>3344</sup> P-0314: [T-75](#), p. 10, line 23 – p. 11, line 3 (that as they approached the location, the LRA troops lined up and prepared and when they reached very close to the camp a whistle was blown and the LRA fighters started shooting); P-0340: [T-102](#), p. 26, line 23 – p. 27, line 24 (the LRA fighters were blowing the whistle, making noise and started firing).

<sup>3345</sup> P-0340: [T-102](#), p. 27, lines 24-25.

<sup>3346</sup> P-0054: [T-93](#), p. 19, lines 13-14, p. 53, line 24 – p. 54, line 6.

<sup>3347</sup> P-0054: [T-93](#), p. 15, lines 15-18.

<sup>3348</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 20, 31 (the group within the camp heard gunfire coming from the direction of the barracks); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (from his position sitting outside his home, he saw the rebels enter from the side of the barracks). See P-0252: [T-87](#), p. 10, lines 18-21; [T-89](#), p. 7, lines 12-14 (the gunshots started from the direction of Lakim and Odek primary school). P-0252’s testimony is corroborated by P-0218’s account that the LRA fighters came in from the direction of Lakim and entered the camp from the northern side, shooting their guns. See P-0218: [T-90](#), p. 9, line 24 – p. 10, line 1; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 20; P-0218 Sketch of Odek IDP camp, UGA-OTP-0238-0731-R01.

1442. The evidence shows that LRA fighters conducted an assault on the government barracks.<sup>3349</sup> P-0054 testified that an LRA fighter, Abongomek, fired a heavy weapon and the shot landed on one of the huts in the barracks and burned that hut.<sup>3350</sup> The Chamber notes the Defence's contention that Michael Oryem, who was called Abongomek while in the LRA, did not participate in the Odek IDP camp attack and was instead with Dominic Ongwen in an area near Lapak at the time.<sup>3351</sup> The Chamber recalls its discussion of this witness's credibility above as well as its discussion of Dominic Ongwen's role in ordering the attack.<sup>3352</sup> Additionally other LRA fighters offered testimony which generally corroborates P-0054's account.<sup>3353</sup> Several of these witnesses independently place Abongomek at the scene of the attack and describe his active participation in it.<sup>3354</sup> Considering the above, the Chamber concludes that Abongomek did indeed participate in the Odek IDP camp attack and fired a heavy weapon during the fight at the barracks.

1443. Witnesses reported that the government soldiers at the barracks were quickly defeated and fled.<sup>3355</sup> In this context, the Chamber notes LDU soldier Julius Nyeko's testimony

<sup>3349</sup> P-0406: T-154-CONF, p. 45, lines 14-19 (at the barracks, a battle ensued); D-0066: [T-214](#), p. 22, lines 9-13 (the LRA attacked the barracks); P-0410: [T-151](#), p. 30, lines 15-25 (LRA forces attacked the barracks of Odek IDP camp. There was a heavy fight between the LRA forces and the government soldiers in the camp); P-0309: [T-60](#), p. 78, lines 6- 20 (LRA fighters went to the barracks and started exchanging fire with government troops); P-0264: [T-64](#), p. 44, lines 16-22 (when the LRA forces arrived in Odek IDP camp, there were government soldiers within the camp and in the barracks. The government soldiers started firing guns. There were gunshots in the barracks and in the camp centre as well).

<sup>3350</sup> P-0054: [T-93](#), p. 15, lines 19-21; [T-94](#), p. 22, lines 9-16 (P-0054 testified that the weapon was an RPG).

<sup>3351</sup> [Defence Closing Brief](#), paras 348-352. *See* [Prosecution Closing Brief](#), paras 266-273.

<sup>3352</sup> *See* Chamber's assessment of D-0075's testimony at section IV.B.2.ii.b.xxxi above.

<sup>3353</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 120-121 (there was a big gun, a medium size gun, as well as normal small guns used at the barracks. The big gun was like a bomb, and required two people to carry it. The gun was fired before the first group reached the camp. The bomb hit the barracks and the LRA fighters dispersed and ran to the barracks); P-0314: [T-75](#), p. 23, lines 13-19 (during the attack on the barracks Abongomek fired some bullets, from the big gun with chains, however the gun failed later on); P-0406: T-154-CONF, p. 45, line 21 – p. 46, line 1 (a 'support weapon' called a '12' was used in the course of the attack, fired by a commander known as Abongomek). While they do not each name the same gun, the Chamber is satisfied that P-0054, P-0314 and P-0406 describe Abongomek firing a heavy weapon and considers that this corroborates and is consistent with P-0054's account. *See also* P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 120-121 (two medium size guns were taken to the attack, one to the barracks and the other to the camp. This medium size gun had chains that hung around the body of the person carrying it. P-0352 believed that the gun was called a PK).

<sup>3354</sup> *See also* P-0330: [T-52](#), p. 14, lines 19-22 (P-0330 testified that he went to Odek under the command of Bomek, Dominic Ongwen's 2IC); P-0264: [T-64](#), p. 72, lines 15-20 (Abongomek participated in the Odek IDP camp attack).

<sup>3355</sup> P-0314: [T-75](#), p. 11, lines 8-12 (when the LRA fighters started shooting, the government soldiers in the barracks were caught off guard and they started running and retreating); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (after the rebels entered from the side of the barracks, they attacked and dislodged the government soldiers); P-0330: T-52-CONF, p. 18, lines 13-14 (the LRA fighters went to the barracks, shot at the government soldiers and the government soldiers fled); P-0252: [T-87](#), p. 11, lines 13-20 (after intense fighting in

that because there were so few government soldiers at the barracks, ‘they could not sustain.’<sup>3356</sup> Julius Nyeko testified that one of the soldiers in the barracks tried to fight back because he had a child with him in the barracks and the LRA came and eventually killed the soldier together with his child.<sup>3357</sup> LRA fighter P-0340 also testified that he saw the dead body of a soldier at the edge of the barracks; the soldier’s clothes had been removed.<sup>3358</sup> An LRA fighter was also shot at the barracks in the exchange of fire between the LRA and the government soldiers present at the barracks.<sup>3359</sup>

1444.LRA fighters reported that they surged forward and overran the barracks, taking ammunition and other supplies.<sup>3360</sup> Witnesses reported seeing government soldiers flee from the area of the barracks.<sup>3361</sup> Witnesses also reported that the LRA fighters burned down the barracks.<sup>3362</sup> In addition to the barracks, the evidence shows that the LRA also burned some civilian huts within the camp.<sup>3363</sup>

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the camp, the LRA chased the army out of the barracks. P-0252 heard someone say that the LRA had chased the soldiers out of the camp).

<sup>3356</sup> D-0066: [T-214](#), p. 22, lines 9-11.

<sup>3357</sup> D-0066: [T-214](#), p. 22, lines 9-13. The Chamber discusses the death of the soldier’s child further in its discussion of the killing and attempted killings committed by LRA fighters in Odek IDP camp.

<sup>3358</sup> P-0340: [T-102](#), p. 30, line 15 – p. 31, line 1. P-0340 testified that he knew the soldier was not an LRA fighter because his clothes would not have been removed if he was a fighter and typically the LRA removed uniforms from the bodies of soldiers. P-0340: [T-102](#), p. 31, lines 6-12.

<sup>3359</sup> P-0314: [T-75](#), p. 11, lines 13-16 (LRA fighter Owiny was shot in the neck and the LRA fighters left him in order to advance).

<sup>3360</sup> P-0314: [T-75](#), p. 11, lines 8-20 (P-0314 entered the barracks and took ammunition); P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 120 (after hitting the barracks, the first group of LRA fighters dispersed and ran to the barracks); P-0406: T-154-CONF, p. 45, lines 18-20 (the LRA fighters found weapons that fleeing government soldiers had left behind and took them); P-0410: [T-151](#), p. 32, lines 3-6 (after defeating the government soldiers, the LRA forces took things from the barracks, including the soldiers’ items, guns, ammunitions, uniforms and shoes).

<sup>3361</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 122 (P-0352 saw government soldiers firing their guns while running in the other direction from the barracks); P-0054: [T-94](#), p. 23, lines 18-25 (the government soldiers fled from the barracks).

<sup>3362</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 31; P-0218: [T-90](#), p. 81, lines 15-19 (the barracks were burned down); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (the rebels burned the huts surrounding the barracks and he saw the barracks go up in flames as well as his own civilian hut that was close by the barracks); P-0340: [T-102](#), p. 26, line 23 – p. 28, line 3, p. 30, lines 15-22 (LRA fighters set fire to the houses at the barracks). See P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29 (during the attack, he noticed that the barracks were on fire). See also P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0438 (P-0301’s Incident Report states that the LRA overran and burnt down the ‘LDU “Charlie” BN detach in Odek’).

<sup>3363</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (testifying that the rebels burned the huts surrounding the barracks and Zakeo Odora saw the barracks go up in flames as well as his own civilian hut that was close by the barracks); P-0406: [T-154](#), p. 46, line 23 – p. 47, line 4; T-154-CONF, p. 47, lines 5-10 (stating that he saw houses burning in the camp. According to P-0406, LRA fighters would light a match and then set fire to houses. P-0406 set a house of fire, upon orders of his LRA commander). See also P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 123 (stating that one house burned down with civilians inside); P-0330: [T-52](#), p. 20, line 9 – p. 21, line 1 (P-0330 saw dead people in Odek, including people burned in their huts by LRA fighters).

1445. Contrary to the Defence's suggestion during the examination of some witnesses, the Chamber is satisfied that these huts were not set on fire by crossfire stemming from the government forces. For instance, during the questioning of P-0340, Defence counsel suggested that certain types of guns can ignite a fire and that this could have caused the burning.<sup>3364</sup> However, in his responses P-0340 did not confirm that he knew whether the government soldiers had such weapons<sup>3365</sup> and, after further questioning, explained that he only saw the buildings on fire, not how they had been ignited.<sup>3366</sup> In any case, the Chamber notes that destruction of property was not among the charges confirmed in relation to the Odek IDP camp attack.

1446. Witnesses, both LRA fighters and camp residents, reported that as the LRA fighters attacked and overran the barracks, other LRA attackers spread into the camp, some firing their weapons. P-0352, a member of Dominic Ongwen's Sinia brigade, testified that she was among the forces sent to the civilian area.<sup>3367</sup> She stated that by the time the group going to the camp centre entered, the LRA fighters with guns had started shooting towards the barracks.<sup>3368</sup> She and the other LRA forces going to the camp centre ran into the camp, making 'an alarm'.<sup>3369</sup> P-0309, also one of the Sinia fighters that attacked the camp centre, testified that when LRA fighters in the centre heard gunshots start coming from the barracks, they also started shooting at the government soldiers they found mixed with civilians in the centre.<sup>3370</sup> P-0309 testified that he too shot his gun.<sup>3371</sup>

1447. P-0252, who was abducted during this attack, stated that LRA soldiers filled the camp.<sup>3372</sup> P-0252 testified that after the rebels overran the barracks there was gunfire everywhere; even while trying to apprehend the witness, P-0252's LRA abductor kept firing his gun.<sup>3373</sup> Similarly, P'Oyoo Lakoch, a local teacher at the time of the attack, saw the LRA rebels from about 100 metres, moving through the camp, carrying guns, and shooting as

<sup>3364</sup> P-0340: [T-103](#), p. 52, lines 4-5 and 12-16.

<sup>3365</sup> P-0340: [T-103](#), p. 52, lines 17-20.

<sup>3366</sup> P-0340: [T-103](#), p. 52, line 21 – p. 53, line 11.

<sup>3367</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 119-120.

<sup>3368</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 120. *See* P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 22 (stating that when the LRA attacked the camp centre, Zakeo Odora ran away towards the Odek River along with his wives and children).

<sup>3369</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 120.

<sup>3370</sup> P-0309: [T-60](#), p. 81, lines 3-21.

<sup>3371</sup> P-0309: [T-60](#), p. 81, lines 22-23.

<sup>3372</sup> P-0252: [T-87](#), p. 12, line 5.

<sup>3373</sup> P-0252: [T-89](#), p. 8, line 12 – p. 9, line 3.

they went along;<sup>3374</sup> they advanced through the camp, shouting and firing at civilians, running around while firing their guns.<sup>3375</sup>

1448.P-0264 offers testimony consistent with the other witnesses, stating that LRA forces were shooting towards the barracks and also shooting towards the camp.<sup>3376</sup> P-0264 described the scene at the camp from the point of view of one of the LRA fighters entering the camp centre:

Q. What happened [...]?

A. [...] there were soldiers among those people, so in order to enter and start abducting civilians in the presence of soldiers would be impossible. So we--we started shooting. I also personally shot my gun at the soldiers that were with the civilians.

Q. Did you shoot your gun at any civilians?

A. Not--no, not at Odek. At Odek I only shot at soldiers. I also shot in the houses, but that's--well, that's equal to shooting civilians because you're firing in a civilian camp.<sup>3377</sup>

1449.The Chamber finds the above witnesses' accounts credible, consistent and mutually corroborative.

1450.LRA fighter P-0352 and camp resident P'Oyoo Lakoch testified that some civilians started running away as LRA fighters moved into the camp.<sup>3378</sup> P'Oyoo Lakoch reported that many residents ran to their huts having previously been advised by the government soldiers to do so in the case of an attack.<sup>3379</sup> P'Oyoo Lakoch reported that because of the continued gunfire, the civilians began to panic; some ran away, some ran into houses and the rebels advanced through the camp, shouting and firing at civilians.<sup>3380</sup>

<sup>3374</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 21.

<sup>3375</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 20; P-0218: [T-90](#), p. 72, lines 2-8.

<sup>3376</sup> See P-0264: [T-64](#), p. 57, lines 8-13.

<sup>3377</sup> P-0264: [T-64](#), p. 54, lines 12-21. The Chamber notes that the witness later recalled that he personally shot and killed a civilian at the camp centre while shooting at the soldiers. P-0264: [T-64](#), p. 55, line 10 – p. 56, line 8.

<sup>3378</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 122; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 20.

<sup>3379</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 21; P-0218: [T-90](#), p. 63, line 25 – p. 64, line 6, p. 70, lines 14-20.

<sup>3380</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 20-21; P-0218: [T-90](#), p. 70, lines 11-20.

1451. Camp resident Hellen Adong corroborates these accounts, reporting that after hearing gunshots, people started running and she and her children ran into their house.<sup>3381</sup> Hellen Adong stated that at some point a bullet entered the house but missed her and her children because they were all lying down on the ground.<sup>3382</sup>

1452. The evidence indicates that there was some exchange of gunfire between the LRA fighters and government soldiers at the barracks and at the camp centre. The Chamber notes the above discussion of the fighting at the barracks.<sup>3383</sup> Within the camp centre, the government soldiers also shot back at the LRA fighters shooting at them.<sup>3384</sup> As P-0340 stated ‘[w]hen they say fighting, that means the government soldiers shot back. They are the ones who are being attacked and they should be the ones to defend. There was a battle’.<sup>3385</sup>

1453. However, witnesses credibly testified that the government soldiers within the camp, like the government soldiers in the barracks, were quickly overwhelmed and fled.<sup>3386</sup>

1454. The LRA forces within the camp proceeded to also loot goods and abduct civilians.<sup>3387</sup> In this context, the Chamber recalls P-0352’s testimony that before entering the camp, she and the LRA forces being sent to the camp were told that they were to go into the camp, enter houses and take food and clothes, if they came across a young person and

<sup>3381</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 23.

<sup>3382</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 23.

<sup>3383</sup> See the Chamber’s discussion of the fighting and deaths at the barracks in para. 1443 above.

<sup>3384</sup> P-0309: [T-60](#), p. 79, lines 9-12, p. 81, lines 12-16; [T-61](#), p. 4, lines 20-24 (P-0309’s group of LRA fighters found soldiers amongst the civilians and so they started shooting at the soldiers. The soldiers also shot back and then fled). See P-0264: [T-64](#), p. 58, lines 19-25 (P-0264 indicated that an LRA soldier was killed in the camp).

<sup>3385</sup> P-0340: [T-103](#), p. 51, lines 13-17.

<sup>3386</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 29; [T-90](#), p. 71, line 16 – p. 72, line 1 (testifying that there was not much fighting between the government soldiers and the LRA during the attack because the small numbers of government soldiers were overwhelmed and ran away. The government soldiers who were not in the barracks ran through the camp and headed towards Lango which was southwards of the camp. Some government soldiers ran together with some of the civilians fleeing the camp); P-0269: [T-86](#), p. 25, lines 10-14 (there was an exchange of fire between LRA soldiers and the government soldiers. The government soldiers were defeated and went across the stream); P-0264: [T-64](#), p. 54, lines 4-6, p. 57, line 4-18 (LRA forces continued going forward and fighting and defeated the government soldiers. P-0264 personally saw soldiers fleeing and entering into civilian houses). See also P-0142: [T-70](#), p. 29, lines 10-15 (when the LRA fighters returned from Odek, they told the LRA who had stayed behind, including P-0142, that ‘[w]e attacked Odek, the government soldiers were chased away’). The Chamber finds P-0142’s testimony convincing because he heard it immediately after the LRA fighters returned to the rendezvous point from attacking Odek IDP camp. See D-0066: [T-214](#), p. 22, lines 14-17 (testifying that there was a soldier running from the centre, he had his uniform on but had left his gun at the barracks, he started going towards the barracks and as he was approaching the barracks, he was shot and killed).

<sup>3387</sup> The Chamber discusses the crimes committed by LRA fighters within Odek IDP camp in the sections below.

could scare the person without a gun, then they should abduct that person<sup>3388</sup> and if someone refused to come out of the house then they were to burn the house with the person inside.<sup>3389</sup> P-0352, one of Dominic Ongwen's Sinia attackers, testified that she saw LRA fighters beating civilians with the butts of their guns in the camp.<sup>3390</sup>

1455. The Chamber notes that P-0054 testified about the actions of government soldiers in the centre of Odek IDP camp during the attack.<sup>3391</sup> However, given that he did not go to the centre himself and that he was participating in the attack on the barracks and was not in a position to have accurate information about what was occurring in the centre, the Chamber puts little weight on his testimony about the fighting in the centre of the camp.

1456. Additionally, the Chamber notes that Julius Nyeko testified about the shooting between the additional government forces and the LRA.<sup>3392</sup> The Chamber recalls its assessment above of the credibility of the evidence provided by Julius Nyeko.<sup>3393</sup> The Chamber also recalls Julius Nyeko's testimony that he fled from the attack and hid half a mile away. From the witness's testimony, the Chamber is unable to ascertain exactly when during the attack he fled and hid away. However, on the face of the evidence given, the Chamber is of the view that he was not in the position to witness much of the actual attack during the events. The Chamber does not place credence on his account of the movement and actions of the mobile forces.

1457. At this juncture, the Chamber provides a more specific assessment of the available evidence concerning the numerous acts of violence and looting perpetrated by LRA fighters against civilians in the course of the attack on Odek IDP camp, as well as its immediate aftermath. As also emerges from the evidence analysed below, the victims targeted by the LRA attackers were civilian residents of the camp.

**While in the camp, LRA attackers broke into homes and shops and looted food and other items from the camp, both from shops in the trading centre and from civilian homes,**

<sup>3388</sup> P-0352 was among the unarmed LRA attackers who participated in the attack on the camp. *See* P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 122.

<sup>3389</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 116.

<sup>3390</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 123.

<sup>3391</sup> P-0054: [T-93](#), p. 15, lines 21-23 (discussing the presence of government soldiers and mambas on the other side of the school).

<sup>3392</sup> D-0066: [T-214](#), p. 22, line 21 – p. 23, line 19, p. 24, lines 11-19 (testifying that the mobile forces on the other side of the river started firing on the camp and the mobile forces returning to the camp to come and save the camp were firing towards the camp as well).

<sup>3393</sup> *See* the Chamber's discussion of D-0066's testimony in section IV.B.2.v.b.ii.

**including items such as beans, cooking oil, maize, flour, soda and other beverages, biscuits, sugar, salt, posho, soap, clothes, saucepans, bedding, shoes. The food aid which had been recently distributed to the camp was looted by the attackers. The LRA distributed the items looted from Odek IDP camp to the households of different commanders, including Dominic Ongwen.**<sup>3394</sup>

1458. Both LRA fighters and camp residents offered credible and consistent evidence to this Chamber that LRA fighters looted Odek IDP camp during the course of the attack.

1459. LRA fighters testified that they looted the camp, taking items such as soap, clothes, shoes, money as well as food stuff including salt, beans, cooking oil, maize, flour, soda and biscuits.<sup>3395</sup> In this context, the Chamber recalls P-0264's testimony that after they defeated the government soldiers, LRA attackers started taking things from the camp.<sup>3396</sup> P-0264 testified that he was among the LRA forces that looted goods from Odek and took them back into the bush.<sup>3397</sup> Similarly, P-0340 testified that there were many LRA fighters who carried food from Odek,<sup>3398</sup> and that abductees were also made to carry foodstuffs.<sup>3399</sup> According to P-0340, after the LRA re-converged while retreating from Odek, he saw that some other LRA fighters came back with items.<sup>3400</sup>

1460. In line with the testimony of the LRA fighters, camp residents provided credible, detailed, specific and mutually corroborative evidence that the LRA looted goods, including food, from the camp. Hellen Adong testified that after being abducted, as she was moving with the LRA out of the camp, rebels entered the house of Thomas Anyayo Opio (Opiyo),

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<sup>3394</sup> Para. 165 above.

<sup>3395</sup> P-0372: [T-148](#), p. 42, lines 7-11, line 20 – p. 43, line 3 (P-0372 was among the group that was going to collect food items in the camp centre. He saw LRA fighters enter the camp to loot goods); P-0340: [T-102](#), p. 34, line 21 – p. 35, line 7 (P-0340 testified that he personally went into a civilian's house in the middle of Odek IDP camp and found beans and flour, took it and started running with others to return from the camp); P-0410: [T-151](#), p. 32, lines 7-8, p. 46, lines 15-18 (P-0410 observed that LRA fighters looted civilian property, including food stuff from the camp); P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 122 (after entering the camp, LRA fighters without guns entered the houses and looted); P-0309: [T-60](#), p. 82, line 14 – p. 83, line 1 (P-0309 saw LRA fighters loot items from civilians homes, including clothes, shoes, cooking oil and salt); P-0264: [T-64](#), p. 61, lines 12-21 (the LRA looted items from the camp, including soap, salt, clothes and food); P-0142: [T-70](#), p. 33, lines 17-19; [T-71](#), p. 5, lines 16-19 (one of P-0142's subordinates who had participated in the attack stated that the LRA took food from Odek. The majority of items looted from the camp were household items such as beans, groundnuts and biscuits); P-0330: T-52-CONF, p. 22, lines 1-4, p. 23, line 3 – p. 24, line 10 (the LRA took items from shops, including flour and money. P-0330 handed over the money he took from Odek to his immediate superior, in line with instructions received from Okello that money taken from an attack should be handed in to superiors). The Chamber notes that it found P-0330's account here credible.

<sup>3396</sup> P-0264: [T-64](#), p. 54, lines 5-6.

<sup>3397</sup> P-0264: [T-64](#), p. 61, lines 19-25.

<sup>3398</sup> P-0340: [T-102](#), p. 35, lines 8-12.

<sup>3399</sup> P-0340: [T-102](#), p. 36, lines 9-10, line 25 – p. 37, line 3 (foodstuff such as beans, cooking oil and flour).

<sup>3400</sup> P-0340: [T-102](#), p. 29, lines 13-18 (items like soda and biscuits).

who had been killed in the course of the attack, and LRA fighters took things from his house.<sup>3401</sup> Similarly, P-0269 testified that during the retreat she saw armed LRA fighters holding items, followed by residents of the camp also carrying items.<sup>3402</sup> She testified that an LRA fighter took flour from her house and made her carry it and follow him as the LRA retreated from the camp.<sup>3403</sup> Camp residents reported that the LRA fighters took items such as flour, maize, posho,<sup>3404</sup> beans, cooking oil, salt and soap from the camp.<sup>3405</sup> Camp leader Mario Ottober testified that returned abductees said that they all carried something during the LRA's retreat.<sup>3406</sup>

1461. The evidence shows that much of the goods taken from Odek IDP camp were taken from civilian homes. Hellen Adong testified that she saw armed LRA fighters looting maize, beans and flour from the houses near the barracks.<sup>3407</sup> The bag of maize she was forced to carry was taken from the home of a civilian.<sup>3408</sup>

1462. In testimony consistent with Hellen Adong's description of the LRA's behaviour, Helen Opoka Acan testified that LRA fighters came into her house and started looting things, taking everything they could find and leaving her with nothing.<sup>3409</sup> From her home, the LRA attackers took flour, maize, beans, oil, clothes, saucepans, even the bedding.<sup>3410</sup> Similarly, [REDACTED], an LRA fighter went into a hut and returned with a 20 kilogram bag of maize flour, with 'World Food Program' written on the bag; the soldier gave the bag to Hilary Kilama to carry.<sup>3411</sup> P-0275 testified that an LRA fighter took him and other abductees to a hut belonging to Aciga Ocaya, a

<sup>3401</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 33.

<sup>3402</sup> P-0269: [T-85](#), p. 35, line 20 – p. 36, line 2.

<sup>3403</sup> P-0269: [T-85](#), p. 36, line 7 – p. 37, line 5.

<sup>3404</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 44. P-0325 testifies that posho is one of the staple foods of the local people and is made from maize flour.

<sup>3405</sup> P-0269: [T-85](#), p. 39, lines 7-10 (civilian abductees carried flour, maize, beans, cooking oil and some other items that were looted from shops, like salt and soap); P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 34 (P'Oyoo Lakoch was told by returned abductees food items, such as posho, beans, sugar, soya flour and cooking oil, were carried out of the camp); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 44 (the rebels stole lots of food from the camp, such as cooking oil, maize, beans, and posho. Almost all of the food that had been recently distributed in the camp at the time of the attack was taken by the rebels).

<sup>3406</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 82 (the returned abductees said that they carried food items like beans, salt, and maize among other things).

<sup>3407</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 28.

<sup>3408</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 30.

<sup>3409</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 23.

<sup>3410</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 23.

<sup>3411</sup> [REDACTED]

local carpenter.<sup>3412</sup> P-0275 testified that the LRA fighter entered the hut and took a sack of beans tied at the top, he then took a can of cooking oil with ‘USA’ written on it, as well as a bag containing clothes and gave it to the abductees to carry.<sup>3413</sup>

1463. LRA fighters corroborate the camp residents’ account. P-0309 testified that he saw LRA fighters looting items from the homes of civilians during the attack.<sup>3414</sup> P-0309 testified that he saw items like cooking oil, clothes and shoes carried out from the homes of civilians.<sup>3415</sup> Similarly, P-0340 testified that he looted beans and flour from a civilian’s house in the middle of the camp.<sup>3416</sup>

1464. The Chamber notes P-0314’s testimony that he was told by the LRA fighters who went to the camp that there were a lot of government soldiers there so they did not loot a lot of food.<sup>3417</sup> The Chamber notes however that P-0314 did not go into the camp centre and testified that he did not know what happened in the camp or what the LRA forces did there, apart from looting food.<sup>3418</sup> Thus, given the ample evidence that indicated that LRA fighters looted widely in Odek IDP camp, the Chamber does not rely on this aspect of P-0314’s testimony. Indeed, the Chamber notes that P-0314 testified that during the retreat from Odek, he saw food that had been looted from Odek IDP camp, including salt, beans, flour, cooking oil, and other items such as soap.<sup>3419</sup>

1465. The Chamber is satisfied that the evidence shows that the LRA looted widely from the homes of civilians.

1466. The evidence also shows that LRA fighters looted from shops in Odek IDP camp. Zakeo Odora testified that the day after the attack, he went to the trading centre and all the doors of the shops had been broken and the rebels had stolen items like salt and sugar.<sup>3420</sup> Zakeo Odora testified that he could see for himself that the shops were empty inside.<sup>3421</sup> P-0264

<sup>3412</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 28. [REDACTED]

<sup>3413</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 28.

<sup>3414</sup> P-0309: [T-60](#), p. 82, lines 14-19.

<sup>3415</sup> P-0309: [T-60](#), p. 82, line 18 – p. 83, line 1.

<sup>3416</sup> P-0340: [T-102](#), p. 34, line 21 – p. 35, line 7.

<sup>3417</sup> See P-0314: [T-75](#), p. 12, lines 1-6.

<sup>3418</sup> P-0314: [T-75](#), p. 12, lines 10-12; [T-76](#), p. 25, lines 1-8.

<sup>3419</sup> P-0314: [T-75](#), p. 12, lines 13-15, p. 13, lines 9-12.

<sup>3420</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at paras 44-45.

<sup>3421</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 44.

testified LRA fighters took soap from shops in Odek.<sup>3422</sup> P-0252 testified that LRA fighter Onen Kamdulu took some soda, biscuits, and other edibles from a grocery stop by the roadside.<sup>3423</sup> P-0252 testified that LRA fighters forced the door of the shop open with a bayonet and looted soda, biscuits, beverages, cooking oil and soap.<sup>3424</sup>

1467. As camp leader Mario Ottober was in a position of authority in the camp and inspected the camp the day after the attack, the Chamber relies on his testimony that although the LRA wanted to break into the food store in the middle of the camp, they were unsuccessful because the government soldiers arrived and the LRA fled.<sup>3425</sup> Mario Ottober testified that he knows that the LRA did not break into the food store because he inspected it the next day with the store keeper after the attack.<sup>3426</sup>

1468. Although evidence is scant as to how and from whom the item was taken, the evidence indicates that, in line with Dominic Ongwen's reporting to Joseph Kony, a diamond was taken in the course of the LRA's attack on Odek IDP camp. P-0264 testified that a diamond was recovered from the camp by an LRA fighter Okeny Ginadyak.<sup>3427</sup>

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<sup>3422</sup> P-0264: [T-66](#), p. 64, lines 15-19. The Chamber notes that the witness testified that there was 'no marketplace in Odek'. The witness testified that there were shops, not a market. The Chamber is of the view that the witness observed a number of shops in the camp and was expressing his personal view of the volume of what would constitute a market. This is not inconsistent with the testimony of others that there was a trading centre in Odek and shops which were looted by the LRA.

<sup>3423</sup> P-0252: [T-87](#), p. 15, lines 13-15, p. 19, lines 9-14; [T-89](#), p. 9, lines 6-8.

<sup>3424</sup> P-0252: [T-87](#), p. 19, lines 17-23.

<sup>3425</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 82-83.

<sup>3426</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 83. For this reason the Chamber does not on this specific point accept the testimony of P'Oyoo Lakoch, who stated that he saw the food store being raided by LRA fighters. P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 34; P-0218: [T-90](#), p. 10, lines 25 – p. 11, line 3, p. 12, lines 6-14, p. 70, line 21 – p. 71, line 10. Noting that P'Oyoo Lakoch's larger testimony was consistent and corroborated by the other evidence in this case, the Chamber's non-reliance on P'Oyoo Lakoch's testimony in this instance does not undermine the Chamber's view of the general credibility of his accounts of what happened in Odek IDP camp.

<sup>3427</sup> P-0264: [T-64](#), p. 62, lines 1-5. The Chamber notes that the name of the LRA fighter P-0264 mentions is different from that mentioned by Dominic Ongwen in the radio communication in which he reported the looting of the item. The Chamber is of the view that this discrepancy does not undermine the consistency of P-0264's testimony with Dominic Ongwen's report.

1469. The evidence shows that LRA fighters returned to the other LRA fighters with the goods looted from Odek IDP camp<sup>3428</sup> and the items were distributed to various households, including Dominic Ongwen's.<sup>3429</sup>

1470. In the light of the foregoing, the Chamber finds that the LRA looted houses and shops in the trading centre during the 29 April 2004 Odek IDP camp attack.

**During the attack in the camp, a female LRA attacker raped [REDACTED], a civilian resident of the camp, with a comb and a stick used for cooking, while the victim's husband was forced to watch. The rape was committed with such force that [REDACTED] started to bleed.**<sup>3430</sup>

1471. One camp resident testified about being raped by a female LRA fighter. [REDACTED] testified that an armed female LRA fighter, wearing an army outfit with camouflage came into her house and found her sitting down in the hut.<sup>3431</sup> She described that the woman pulled her up and took a comb that was typically used for hair care and tried to stick in inside her vagina.<sup>3432</sup> The witness testified that the comb was very painful and would not go in so the soldier removed it.<sup>3433</sup> She explained that the soldier then took a 'mingling stick', used for cooking, and put that in [REDACTED]'s vagina.<sup>3434</sup> She testified that the soldier put the stick all the way in until blood started to come out of her body.<sup>3435</sup> The witness testified that the soldier used a lot of force.<sup>3436</sup> The witness testified that the soldier did not say anything during the attack nor did she.<sup>3437</sup> She described that after the soldier was finished, she threw [REDACTED] on the floor and stepped on

<sup>3428</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 35 (P'Oyoo Lakoch was told by two returned abductees, Helen Ottober and Nighty Olanya, that the pillaged food was brought back to a bigger group of LRA fighters at a place called Lakim, which was about four kilometres away from Odek IDP camp); P-0142: [T-71](#), p. 5, lines 20-22 (P-0142 saw the fighters who returned with looted items); P-0340: [T-102](#), p. 35, lines 8-12 (there were many people carrying food taken from Odek); P-0205: [T-47](#), p. 45, lines 10-18 (P-0205 testified that he saw the LRA fighters who went to attack Odek return to the rest of the Terwanga soldiers carrying food items taken from Odek).

<sup>3429</sup> P-0314: [T-75](#), p. 17, line 22 – p. 18, line 3 (when the fighters returned to the gathering place, some of the food items that were brought back were divided, while others were hidden. Dominic Ongwen's 2IC, Kalalang, was the one who divided the food); P-0330: [T-52](#), p. 25, lines 2-7 (all the items looted from Odek were distributed to various households, including to Dominic Ongwen and his deputy).

<sup>3430</sup> Para. 166 above.

<sup>3431</sup> [REDACTED]  
<sup>3432</sup> [REDACTED]  
<sup>3433</sup> [REDACTED]  
<sup>3434</sup> [REDACTED]  
<sup>3435</sup> [REDACTED]  
<sup>3436</sup> [REDACTED]  
<sup>3437</sup> [REDACTED]

her chest as the fighter left the hut and ran off.<sup>3438</sup> The witness then had to remove the stick herself.<sup>3439</sup> The witness testified that her husband saw what happened to her.<sup>3440</sup> She described that ‘the stick brought sickness as I have a wound inside of me...We could never live as husband and wife again but he did not leave me’.<sup>3441</sup>

1472. [REDACTED]<sup>3442</sup> The Chamber is convinced of the veracity of [REDACTED]’s testimony about her rape. Her narrative was detailed, comprehensive and internally consistent. The Chamber is convinced that she described an event she actually experienced and that remains a traumatic occurrence in her life. The Chamber is satisfied that the evidence shows that [REDACTED] was raped by a female LRA attacker in the course of the attack on Odek IDP camp.

**Under orders to shoot civilians in the chest and head to ensure that they died, LRA fighters fired their weapons at civilians during the attack. At least 52 civilians died as a result of the injuries sustained in the camp or in the course of the retreat, while at least ten were the victims of attempted killings. Many civilians were shot as they ran away from the LRA. Among the victims were elderly civilians, children, a pregnant woman as well as women carrying babies tied to their back. The bodies of the dead were scattered everywhere across the camp. Witness P-0264, an LRA fighter, was ordered to spray bullets inside civilian houses. He also shot a civilian man dead. LRA also fighters set at least one hut on fire with civilians inside.**<sup>3443</sup>

**The LRA killed the following persons within the camp during their attack: Adoni Okullu, Agudu’s wife and her grandson, Betty Adong and her daughter Ajok, Catherine Amono, Okeny, Aldo Okello, Ayita Labanya, Charles Obur, Doris Apiyo, Jenaro Ongwen, Jimmy Ojok, Catherine Laker, Kevin Apiyo, Kerobina Acayo, Kejikiya Okec, Veronica Auma, Mary Acayo, Monica Aciro, Wilson Okoya, Okoya, Obangomoko, Pedwang Opio, Thomas Opiyo, Thomas Ojok, Valentino Okot, Walter Ojok, Atikcon, an unnamed camp resident, Mary Agudu, Doreen Ojok, DP, Acayo, Aboni, Witness P-0269’s mother-in-law and her grandson, a girl found by the river.**<sup>3444</sup>

**LRA fighters also attempted to kill at least ten civilians. An LRA fighter fired shots through the door of a locked hut, killing the male inhabitant and wounding the female inhabitant in the neck. The LRA attempted to kill the following persons in the course of the attack: Santa Akello, Betty Atenyo, Christopher Moro, David Bua, Witness P-0252,**

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3438 [REDACTED]

3439 [REDACTED]

3440 [REDACTED]

3441 [REDACTED]

3442 [REDACTED]

3443 Para. 167 above.

3444 Para. 168 above.

**Kengali and his wife, a man by a borassus palm tree, Okot LC's mother and a woman shot in the mouth.**<sup>3445</sup>

1473. The Chamber finds that the evidence shows that during the 29 April 2004 attack on Odek IDP camp, LRA fighters specifically targeted civilians and killed them, as ordered by Dominic Ongwen. On some occasions, killings were not fully carried out because of independent circumstances.

1474. The Chamber first discusses the evidence that LRA fighters purposefully killed or attempted to kill people within Odek IDP camp during the course of their 29 April 2004 attack on the camp, specifically targeting civilians. The Chamber then discusses the evidence of specific named individuals killed by the LRA or whom the LRA attempted to kill both within the camp in the course of the attack and outside of the camp during the LRA's retreat from Odek IDP camp.

1475. In the course of the proceedings, the Defence suggested that civilians killed during the course of the attack on Odek IDP camp were shot during 'crossfire'.<sup>3446</sup> The Prosecution argues that LRA fighters were seen killing civilians within and outside of the camp and contends that '[w]hile it is entirely possible, even likely, that some civilians may have died in circumstances such as these, the overwhelming evidence establishes that the LRA intentionally killed at least 27 civilians'.<sup>3447</sup>

1476. Having considered the totality of the evidence, the Chamber is convinced that the evidence proves that LRA fighters killed the victims during the attack. The evidence does not suggest that the civilians killed in Odek IDP camp were killed during crossfire between government forces and the LRA fighters. The Chamber understands the killing of civilians in crossfire to mean the death of civilians in an exchange of gunfire between government soldiers and LRA fighters in which it is not possible to ascertain which party actually shot the victim.

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<sup>3445</sup> Para. 169 above.

<sup>3446</sup> See P-0269: [T-86](#), p. 25, lines 15-16.

<sup>3447</sup> See [Prosecution Closing Brief](#), paras 290-4.

1477.LRA fighters P-0372, P-0264, P-0085, P-0233, LDU officer Julius Nyeko, and camp residents P-0269 and P'Oyoo Lakoch raised the possibility of the deaths of civilians by crossfire. The Chamber addresses each witness's testimony in turn.

1478.P-0372 testified that there were civilians 'caught in the crossfire'.<sup>3448</sup> When questioned about whether this meant that civilians were 'shot by accident or just that they were shot during the gun-fight', P-0372 testified that 'that was by accident, they were not targeted. You know, when there is exchange of gunfire and you are trying to flee, you can be a victim of a stray'.<sup>3449</sup> It is clear that the witness was speaking of what could happen in a general manner and in so far as he speaks specifically, the witness indicates that he was stating that civilians were not specifically targeted and not speaking of death by crossfire as the Chamber understands it. The Chamber notes that P-0372 does not testify to actually seeing a civilian struck by crossfire. The witness also does not indicate that such a 'stray' bullet would have come from being fired by government soldiers.

1479.P-0264 also testified of 'crossfire', saying '[s]o civilians were also caught in the cross-fire'.<sup>3450</sup> The Chamber notes that in the context of P-0264's mention of crossfire, he was describing a scenario in which LRA forces were shooting at houses with closed doors on the suspicion that they housed government soldiers, and in the process shot civilians as well as government soldiers. The Chamber recalls that P-0264 also stated:

Well, there's – once you direct a barrel of a gun in a certain direction, the barrel of the gun is in that direction. I – my intention was to shoot at soldiers, but sometimes civilians get caught up in the cross-fire when you're shooting at soldiers.<sup>3451</sup>

1480. P-0264 offered an example which illustrated what he was describing: when the LRA arrived at the camp, a group of soldiers were drinking in the camp and there was a person in civilian clothing among them, '[a]nd these people go up. When they got up to flee [the LRA attackers] immediately started shooting at them and the civilian was caught in the crossfire – the civilian was shot at the time'.<sup>3452</sup> This is not 'crossfire' as the Chamber understands it; this is LRA fighters shooting at civilians.

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<sup>3448</sup> P-0372: [T-148](#), p. 46, lines 5-14.

<sup>3449</sup> P-0372: [T-148](#), p. 46, line 22 – p. 47, line 1.

<sup>3450</sup> P-0264: [T-64](#), p. 52, line 25.

<sup>3451</sup> P-0264: [T-64](#), p. 56, lines 3-8.

<sup>3452</sup> P-0264: [T-66](#), p. 66, lines 4-11.

1481. When P-0264 spoke about ‘crossfire’, he was generally describing scenarios in which LRA fighters shooting at government soldiers also shot civilians in the midst of the soldiers. The initial gunfire within Odek IDP camp centre, as described by P-0264, was not a scenario where government soldiers and LRA forces were on two sides of the camp and civilians were ‘accidentally’ caught in the middle. Rather, it was one in which civilians and government soldiers were on one side and the LRA fighters on the other. And LRA fighters started to attack and shot indiscriminately, without care as to the lives of the civilians present.

1482. In this context, the Chamber recalls the testimony of Sinia fighter P-0309, who testified that his group found soldiers amongst the civilians and so they started shooting at the soldiers.<sup>3453</sup> P-0309 testified that the soldiers also shot back and fled.<sup>3454</sup> In P-0309’s view he did not see anyone shooting directly at civilians,<sup>3455</sup> rather the LRA fighters shot their ‘guns, aiming at the soldiers who were mixed up with the civilians’.<sup>3456</sup> P-0309 testified that he saw five of these civilians who were mixed up with the soldiers who were being shot by the LRA, ‘[fall] down, they had blood over them’.<sup>3457</sup> P-0309 testified that he did not know whether the civilians were alive or dead, but he ‘can confirm that they were wounded’.<sup>3458</sup> This is further evidence that the LRA fighters failed to distinguish between civilians and soldiers.

1483. Both LRA fighters and camp residents reported that the LRA fighters shot indiscriminately at civilians.<sup>3459</sup> LRA fighters also shot at government soldiers and

<sup>3453</sup> P-0309: [T-60](#), p. 79, lines 9-11.

<sup>3454</sup> P-0309: [T-60](#), p. 81, lines 12-16; [T-61](#), p. 4, lines 20-24.

<sup>3455</sup> P-0309: [T-60](#), p. 79, lines 12-14.

<sup>3456</sup> P-0309: [T-60](#), p. 79, lines 15-17.

<sup>3457</sup> P-0309: [T-60](#), p. 79, lines 18-20; [T-61](#), p. 5, lines 3-6.

<sup>3458</sup> P-0309: [T-60](#), p. 79, lines 21-23.

<sup>3459</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 31 (stating that the fighters not at the barracks spread throughout the camp, killing civilians and looting); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (Zakeo Odora saw LRA fighters shooting at civilians. The rebels shot at anyone they saw, even opening the doors of huts and shooting the people inside); P-0218: [T-90](#), p. 72, line 9 – p. 73, line 16; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 21 (P’Oyoo Lakoch heard heavy gunshots coming towards his location in the camp and believing that the government soldiers had been defeated, he fled the camp. As he fled with other civilians, the LRA was running towards them, so the civilians scattered and ran off. P’Oyoo Lakoch stated that when the rebels started shooting at the civilians, the civilians ran in different directions). The Chamber discusses the LRA fighters shooting civilians in greater depth below in its discussion of the killing and attempted killing of civilians by LRA fighters.

civilians.<sup>3460</sup> P-0352 testified that she could see civilians and government soldiers crying and falling down when they were shot.<sup>3461</sup>

1484. The Chamber recalls P-0085's testimony that he was told by Dominic Ongwen that the civilians shot in Odek IDP camp were killed in the crossfire and also that Dominic Ongwen said he did not know what the civilians were actually doing.<sup>3462</sup> In addition to the ample evidence to the contrary, as discussed below, neither Dominic Ongwen nor P-0085 were present at the Odek IDP camp attack. So while their conversation is evidence that Dominic Ongwen sent his fighters to attack Odek IDP camp, it is not reliable evidence of what actually occurred in the camp. In this context, the Chamber recalls its findings that Dominic Ongwen ordered armed LRA fighters to attack Odek IDP camp and to target everyone they find at Odek IDP camp, including civilians.

1485. Similarly, P-0233 did not participate in the attack on Odek IDP camp; however, he was told about the attack by a fighter who did.<sup>3463</sup> P-0233 only testified that he was told that the LRA went to attack Odek, however he then speculated that '[y]ou know, when there is a battle [...] if animals are fighting, the grass also suffers [...] when soldiers are fighting, soldiers cannot – the bullets cannot bypass the civilians, so the civilians suffer like the grass that suffers under animals fighting'.<sup>3464</sup> In this context, P-0233 ventured that in Odek, civilians 'will be killed. They will be caught in the crossfire during the battle'.<sup>3465</sup> Noting that P-0233 was not at the attack, his comments were general in nature and not tied to anything he stated he was told about the Odek attack, the Chamber does not put weight on his testimony.

1486. Regarding LDU officer Julius Nyeko's indication of death of civilians by 'crossfire', the Chamber recalls its assessment of his credibility, particularly its view that his testimony was not clear as to what he witnessed or heard about during the attack, thus making it difficult for the Chamber to trust this aspect of his testimony. This is particularly true of Julius Nyeko's testimony about the actions of the mobile forces during the attack. Julius

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<sup>3460</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 122 (P-0352 could see LRA fighters shooting government soldiers and civilians in the camp).

<sup>3461</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 122.

<sup>3462</sup> P-0085: [T-158](#), p. 43, lines 10-15. *See also* [T-159](#), p. 37, lines 14-24.

<sup>3463</sup> P-0233: [T-111](#), p. 45, lines 11-15.

<sup>3464</sup> P-0233: [T-111](#), p. 45, lines 18-24.

<sup>3465</sup> P-0233: [T-111](#), p. 45, line 25 – p. 46, line 3.

Nyeko testified as though he was present in the camp and observed the mobile forces' behaviour in the attack.<sup>3466</sup> Yet he also indicated that he fled the camp during the attack and hid at a position about half a mile away from the camp and could not see what was happening in the camp.<sup>3467</sup> The Chamber notes that while other witnesses testified about the return of the mobile forces or reinforcement of government soldiers at the end of the attack, none testified as Julius Nyeko appears to have done that the mobile forces were engaged in the early period of the attack and were firing at the camp.<sup>3468</sup>

1487. Although Julius Nyeko testifies that 'many people were saying a lot of people were shot from the shots that were coming from the school,'<sup>3469</sup> the witness does not offer any particular detail to support this assertion. The Chamber also notes that no other witness testified along these lines. Indeed given the many witnesses that testified about the attack on Odek IDP camp, the Chamber is of the view that had there been widespread casualties from shots coming from government soldiers at the school, there would be further indication of this in the other available evidence. The Chamber also notes that Julius Nyeko did not testify that he personally witnessed any civilians being shot by the government soldiers. Nor does he testify that anyone told him of specific persons shot by government soldiers. Indeed of the 13 specific killings that the witness mentioned being told of after the attack,<sup>3470</sup> he described each of the victims as killed by the LRA.

1488. Regarding P-0269, the witness testified that there was an exchange of gunfire between the LRA and the government soldiers in which some government soldiers were killed.<sup>3471</sup> When asked whether it would be 'right to say that some civilians died in the crossfire', the witness replied '[y]es that is correct because there was exchange of fire, the rebels did not come quietly in the camp'.<sup>3472</sup> The Chamber notes here that the witness's testimony suggests that she believed that the LRA were at fault for the civilians killed.

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<sup>3466</sup> D-0066: [T-214](#), p. 26, line 14-17, p. 28, lines 1-10.

<sup>3467</sup> D-0066: [T-214](#), p. 23, lines 4-6, p. 24, lines 11-19.

<sup>3468</sup> See the Chamber's discussion of the course of the attack in para. 1552 below. See P-0264's sketch of Odek IDP camp, UGA-OTP-0256-0178 (indicating that the school is in the vicinity of the barracks, away from the camp centre).

<sup>3469</sup> D-0066: [T-214](#), p. 28, lines 13-14. See P-0264's sketch of Odek IDP camp, UGA-OTP-0256-0178.

<sup>3470</sup> The soldier shot at the barracks along with his son, the soldier shot returning to the barracks, the woman shot in the camp and the nine men killed by the LRA in the bush. See D-0066: [T-214](#), p. 22, lines 10-20, p. 23, line 25 – p. 24, line 4 and p. 25, line 15 – p. 26, line 13.

<sup>3471</sup> P-0269: [T-86](#), p. 25, lines 10-14.

<sup>3472</sup> P-0269: [T-86](#), p. 25, lines 15-18. From the context of her testimony, the witness here was discussing the initial phase of the attack when the government soldiers were defeated and fled.

Further, P-0269 hid inside during the course of the attack and generally could not see what was happening in the camp.<sup>3473</sup> The persons whom she did witness being killed, her neighbours, were shot by LRA fighters.<sup>3474</sup> Based on the witness's location in the course of the attack, she did not witness what happened in the camp, and the source of her testimony about 'crossfire' is not clear. The Chamber does not place any weight on this aspect of her testimony.

1489. As to her testimony about an exchange of gunfire between government soldiers and the LRA fighters during her abduction,<sup>3475</sup> the Chamber recalls that P-0269 testified that the group that abducted her was the last group of LRA fighters in the camp.<sup>3476</sup> In the Chamber's understanding, by the time the government soldiers arrived at the camp and engaged with the LRA fighters, most civilians had already fled and much of the LRA and their abductees were out of the camp. The Chamber also notes that P-0269 did not testify to seeing any civilian shot by government soldiers in the course of this exchange of gunfire.

1490. Lastly, P'Oyoo Lakoch testified that, as he was running away from the camp, he heard the government soldiers in the vicinity of Odek primary school.<sup>3477</sup> P'Oyoo Lakoch speculated that after hearing gunshots in the camp, these government soldiers returned from the earlier attempt to ambush the LRA.<sup>3478</sup> He testified that the soldiers started shooting at his group of camp residents because they thought they were rebels but stopped shooting when they realised that the group was not firing back.<sup>3479</sup> P'Oyoo Lakoch testified that the government soldiers then started shooting towards the camp.<sup>3480</sup> The Chamber is of the view that P'Oyoo Lakoch's testimony does not point to civilians being shot by government soldiers in the crossfire. Rather, he indicated that government

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<sup>3473</sup> P-0269: [T-86](#), p. 25, lines 19-22 (because P-0269 had hid inside, she could not tell who had killed the people whose corpses she saw lying on the group throughout the camp).

<sup>3474</sup> See P-0269: [T-85](#), p. 37, lines 6-18. See also the Chamber's discussion of the killing of Christopher Moro and David Bua in para. 1535 below.

<sup>3475</sup> P-0269: [T-85](#), p. 36, lines 7-25 (government soldiers shot and hit the soldier that abducted her and there was an exchange of gunfire between them).

<sup>3476</sup> P-0269: [T-85](#), p. 35, lines 12-19, p. 36, lines 7-20, p. 48, lines 14-16; [T-86](#), p. 77, lines 14-19 (P-0269 was abducted by the last group of LRA fighters that was fighting in the camp about an hour after the LRA arrived at the camp).

<sup>3477</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 23.

<sup>3478</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 23.

<sup>3479</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 23.

<sup>3480</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 23.

soldiers attempting to engage LRA fighters were responsive to information in their surroundings alerting them to the presence of civilians.

1491. When questioned whether it was possible that the government soldiers could have shot some of the people in the camp, P'Oyoo Lakoch testified that given the kind of death and killing at the camp, it 'must have been the LRA because they were opening the doors, when they open the door and they find you inside they will shoot you and kill you'.<sup>3481</sup> P'Oyoo Lakoch stated that it was possible that people were killed during the exchange of gunfire and bullets, but 'there is no confirmation'.<sup>3482</sup> P'Oyoo Lakoch stated that there was no way he could investigate whether LRA bullets or government bullets killed people, however 'actions such as shooting or firing inside the house, opening, breaking people's doors and finding people and killing them, that makes me to conclude that these were LRA doing it'.<sup>3483</sup> P'Oyoo Lakoch testified however that indeed, not all the persons killed were shot inside their houses, 'some were shot from outside when they were trying to run and escape'.<sup>3484</sup> However, P'Oyoo Lakoch does not indicate that he knew of anyone killed by a government soldier.

1492. In all the evidence heard by the Chamber, not one witness testified of a specific incident where a civilian was shot by government soldiers or of a civilian actually killed in alleged crossfire. However, there is ample evidence that LRA fighters shot and killed civilians. As discussed below, many witnesses personally saw LRA fighters shoot civilians.<sup>3485</sup> LRA fighters shot indiscriminately into civilian homes.<sup>3486</sup> Further, in his reporting of the attack to Joseph Kony, Dominic Ongwen himself stated that 'many' or 'all' civilians were killed.<sup>3487</sup> Given the evidence considered by the Chamber, the Chamber considers it a necessary inference that LRA forces were the ones that killed the civilians in Odek

<sup>3481</sup> P-0218: [T-90](#), p. 79, lines 15-23.

<sup>3482</sup> P-0218: [T-90](#), p. 79, lines 15-25.

<sup>3483</sup> P-0218: [T-90](#), p. 80, lines 11-19.

<sup>3484</sup> P-0218: [T-90](#), p. 80, lines 20-24.

<sup>3485</sup> *See also* P-0325 Statement, UGA-OTP-0264-0242-R01, at paras 21, 22 (stating that the rebels were shooting directly at civilians, something the government soldiers did not do. Zakeo Odora saw LRA rebels shoot two civilians).

<sup>3486</sup> P-0264: [T-64](#), p. 52, lines 23-25 (stating that the LRA forces acted on an LRA commander's order to shoot on any house with a closed door and began to shoot, some civilians were shot and some soldiers were shot); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (Zakeo Odora saw LRA fighters opening the doors of huts and shooting people inside).

<sup>3487</sup> *See* the Chamber's discussion on reporting of the attack in section IV.C.7.vii below.

IDP camp. The suggestion that civilians were killed in crossfire is speculation unsupported by the evidence heard in these proceedings.

1493. Rather, the Chamber heard credible evidence that civilians were killed by the LRA during the attack. The evidence shows that LRA fighters deliberately targeted civilians.

1494. LRA fighters testified that the LRA killed civilians in Odek IDP camp. As P-0330, a fighter in Dominic Ongwen's Sinia brigade who participated in the Odek IDP camp attack, stated, describing the scene during the attack: '[w]henver the Holys are carrying out an operation you can be sure of deaths, especially in civilian homes'.<sup>3488</sup> Although P-0054 did not witness any killings himself, the Chamber considers his testimony that he heard that people had been killed in the Odek attack from some of the fighters that went there as well as from Radio Mega after the attacks<sup>3489</sup> as corroborative evidence of other eye-witnesses' accounts that the LRA killed people in the Odek attack.

1495. P-0264, one of Dominic Ongwen's Sinia fighter who participated in the Odek IDP camp attack, testified that he was armed with a gun and he fired it within the camp.<sup>3490</sup> According to P-0264, the LRA forces that went into the civilian centre of the camp were given the order to be 'extremely cautious', which to them meant to start shooting at houses.<sup>3491</sup> P-0264 testified that the LRA fighters thus started shooting at every house, 'any house that we came across there was a barrage of bullets into that house and I personally also did that'.<sup>3492</sup> P-0264 testified that after he shot one house, he could hear people crying in the house, he testified that the voice he heard was an adult.<sup>3493</sup> When asked whether he shot his gun at a civilian, P-0264 stated that he shot 'in the houses, but that's – well, that's equal to shooting civilians because you're firing in a civilian camp'.<sup>3494</sup>

1496. As discussed above, P-0264 testified that he shot and killed a civilian because the man was among government soldiers.<sup>3495</sup> P-0264 also testified that he saw about 10 dead

<sup>3488</sup> P-0330: [T-52](#), p. 19, lines 20-23.

<sup>3489</sup> P-0054: [T-93](#), p. 20, lines 15-23.

<sup>3490</sup> P-0264: [T-64](#), p. 53, lines 2-5.

<sup>3491</sup> P-0264: [T-64](#), p. 53, line 13 – p. 54, line 1. According to P-0264, government soldiers entered civilian houses and thus the LRA fired into houses.

<sup>3492</sup> P-0264: [T-64](#), p. 54, lines 1-3.

<sup>3493</sup> P-0264: [T-64](#), p. 54, lines 3-4, p. 58, lines 4-14.

<sup>3494</sup> P-0264: [T-64](#), p. 54, lines 18-21.

<sup>3495</sup> P-0264: [T-64](#), p. 55, line 10 – p. 56, line 8.

civilians in the Odek IDP camp, a mixture of men, women and children.<sup>3496</sup> P-0264 indicated that these civilians were killed by LRA fighters, stating that some had bullets in their chests and heads.<sup>3497</sup> P-0264 testified that:

[T]he way LRA soldiers are trained, we are told that in order to shoot somebody sufficiently you have to shoot the person in [the head or the chest] so that the person does not survive. So I know that anybody who shoots at somebody either shoots on the head or on the chest for maximum effect. And that's why those people were shot in the head and the chest.<sup>3498</sup>

1497. The Chamber finds P-0264's account of the behaviour of LRA soldiers within the civilian area of the camp detailed, comprehensive and consistent. The Chamber finds the witness credible and finds that the civilian shot by P-0264 was at least a victim of an attempted killing. The Chamber also considers that P-0264 offers credible evidence of the manner in which LRA fighters generally shot at civilians. The Chamber also notes the testimony of Sinia attacker P-0352 who testified that she saw civilians being shot by the LRA in the course of the attack.<sup>3499</sup> This, in addition to the ample evidence discussed in detail below of the many persons killed by LRA fighters in the camp, corroborates P-0264's account of the LRA's shooting of civilians in the camp.

1498. P-0406, a fighter in Dominic Ongwen's Sinia brigade, testified that during the attack, he saw the dead bodies of three civilians who had been clubbed in the head.<sup>3500</sup> P-0406 testified that the club was left by the dead bodies.<sup>3501</sup> Similarly, P-0330 testified that he saw civilians killed by 'seasoned' LRA fighters in Odek IDP camp.<sup>3502</sup> P-0330 testified that the civilians were killed by being beaten on the back of their heads while having their arms tied behind their back.<sup>3503</sup> Additionally, P-0330 testified that he saw a civilian stabbed by an LRA fighter he called Lapwony Oyo.<sup>3504</sup> The Chamber considers that these witnesses' accounts are consistent and mutually corroborative of the fact that LRA fighters targeted civilians and beat or stabbed them to death in Odek IDP camp.

<sup>3496</sup> P-0264: [T-64](#), p. 60, lines 3-6.

<sup>3497</sup> P-0264: [T-64](#), p. 60, lines 7-14.

<sup>3498</sup> P-0264: [T-64](#), p. 60, lines 17-21.

<sup>3499</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 123.

<sup>3500</sup> P-0406: [T-154](#), p. 47, lines 18-23.

<sup>3501</sup> P-0406: [T-154](#), p. 47, lines 24-25.

<sup>3502</sup> P-0330: [T-52](#), p. 25, lines 14-25.

<sup>3503</sup> P-0330: [T-52](#), p. 26, lines 19-21.

<sup>3504</sup> P-0330: [T-52](#), p. 20, lines 5-8.

1499. The Chamber also notes that there is no evidence, or even suggestion, that government soldiers, who were the only other armed forces active in Odek IDP camp during the attack, beat any civilian during the attack. Indeed, although the government soldiers fired shots for a short period of time during the attack as described above, they were described as fleeing from the LRA.

1500. Further, the evidence shows that at least some civilians were burnt in their homes. The Chamber notes that the evidence does not indicate that there was a widespread burning of the civilian area of Odek IDP camp comparable to the burning that occurred in the Lukodi and Abok IDP camp attacks.<sup>3505</sup> However, the evidence indicates that at least some civilian homes were burned down.<sup>3506</sup> In that context, the Chamber recalls P-0352's testimony that she saw one house being burned with civilians inside.<sup>3507</sup> P-0330 corroborates this account, testifying that he saw dead people in Odek, including people burned in their huts by LRA fighters.<sup>3508</sup> P-0406's testimony corroborates the other witnesses' accounts that civilian's homes were set on fire.<sup>3509</sup>

1501. The Chamber is satisfied that the evidence shows that the LRA set at least one house on fire with civilians inside and the person(s) inside that home was (were) at least the victim(s) of an attempted killing by the LRA.

1502. The Chamber notes camp resident P'Oyoo Lakoch's and LDU Officer Julius Nyeko's testimony that the people whose dead bodies they observed in the camp after the attack mostly died of gunshot wounds.<sup>3510</sup> The Chamber notes that these witnesses testified to what they observed and the evidence indicates that these witnesses could not have observed all the persons killed in the camp.<sup>3511</sup> Given the credible evidence that the LRA did indeed kill people by other means than gunshot, the amount of people killed in the

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<sup>3505</sup> The Chamber notes that the huts that comprised the barracks were completely burned down by the LRA.

<sup>3506</sup> See P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 20 (the rebels burned the huts surrounding the barracks).

<sup>3507</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 123.

<sup>3508</sup> P-0330: [T-52](#), p. 20, line 9 – p. 21, line 1.

<sup>3509</sup> P-0406: [T-154](#), p. 46, lines 23-25; T-154-CONF, p. 47, lines 1-10 (P-0406 saw houses burning in the camp. LRA fighters would light a match and then set fire to houses. P-0406 personally set a house on fire, under orders of an LRA commander).

<sup>3510</sup> P-0218: [T-90](#), p. 12, lines 18-21; D-0066: [T-214](#), p. 25, lines 9-17, p. 26, lines 9-13.

<sup>3511</sup> Residents started removing the dead early in the morning. See P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 36, 74, 76 (according to Camp Leader Mario Ottober, camp residents started removing the bodies of their relatives for burial before the sunrise, as they were afraid the bodies would start decaying. Most people were buried at a place near the camp but some people took the bodies of their relatives to other places).

attack, the quick burial of the deceased, often in disparate places, the Chamber concludes that these witnesses' testimony is not inconsistent with the Chamber's finding that some persons were killed or the LRA attempted to kill people by other means than gunshots.

1503. Camp residents and LDU officer Julius Nyeko corroborate the LRA fighters' accounts that the LRA targeted civilian residents.

1504. P'Oyoo Lakoch testified that the LRA fighters were the ones shooting at the camp inhabitants.<sup>3512</sup> P'Oyoo Lakoch testified that there were children among the civilians killed in the attack, all of whom had been shot.<sup>3513</sup> Witnesses testified that the day after the attack, they saw corpses all over the camp, and people were collecting the bodies.<sup>3514</sup> LDU soldier Julius Nyeko stated that the day after the attack, government soldiers went around with the civilian leaders to see 'what happened to whom'.<sup>3515</sup> Julius Nyeko explained:

[W]e returned and came and found so many dead bodies and then some injured people. Well, you know some people never fled, they closed themselves – locked themselves in their houses [...] some of them were killed in their houses and you just find them, the dead bodies in there.<sup>3516</sup>

1505. The evidence shows that the LRA targeted civilians for killing or attempted killing. Below, the Chamber discusses the evidence of specific individuals killed or attempted to be killed by the LRA in the camp during the attack.

1506. **Adoni Okullu:** P'Oyoo Lakoch stated that just after dawn the day after the attack, he saw the body of his 80 years old uncle, 'Adonia Okullu', laying outside Adoni Okullu's home.<sup>3517</sup> P'Oyoo Lakoch described the wounds he observed, '[h]e was shot in the chest from the back, and the bullet came out from the front, from his chest, and he fell on his

<sup>3512</sup> P-0218: [T-90](#), p. 13, lines 12-14.

<sup>3513</sup> P-0218: [T-90](#), p. 12, line 23 – p. 13, line 11.

<sup>3514</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 37 (the morning after the attack, Helen Opoka Acan saw many corpses, of children and adults, stating, 'you could see corpses everywhere and people were collecting them'); P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 25 (P'Oyoo Lakoch heard people wailing and crying and as he entered the camp the morning after the attack, there were dead bodies everywhere. Men, women and children of all ages were all killed); P-0269: [T-85](#), p. 50, lines 12-18 (when P-0269 returned to the camp after her release from the LRA, she found so many dead bodies littering the camp, as well as the other bodies along the way); P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29 (when P-0275 was being abducted by LRA fighters, he saw many dead people around).

<sup>3515</sup> D-0066: [T-214](#), p. 23, lines 20-21.

<sup>3516</sup> D-0066: [T-214](#), p. 24, lines 22-25, p. 25, lines 7-8.

<sup>3517</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 26.

belly'.<sup>3518</sup> P'Oyoo Lakoch testified that he personally buried his uncle next to the river.<sup>3519</sup> The Chamber finds P'Oyoo Lakoch's testimony credible. It is also consistent with other credible evidence. Former Odek IDP Camp Leader, Mario Ottober, confirms this evidence. He testified that 'Okullu Adonibejege',<sup>3520</sup> an old person, was shot at his house in the trading centre.<sup>3521</sup> Mario Ottober stated that he heard about the killing from Adoni Okullu's relatives.<sup>3522</sup> Further, Helen Opoka Acan, a former Odek IDP camp resident, testified that the morning after the attack, she saw several corpses of people who had died during the attack,<sup>3523</sup> including the body of 'Okullu Adoni'.<sup>3524</sup> Similarly, ISO Officer P-0301's, post-attack incident report lists 'Adonyi Bajedo Okullu' as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3525</sup> In light of

<sup>3518</sup> P-0218: [T-90](#), p. 78, line 25 – p. 79, line 3; P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 26, 42.

<sup>3519</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42; P-0218: [T-90](#), p. 16, lines 12-18, p. 78, lines 21-24.

<sup>3520</sup> The Chamber notes that the witnesses refer to Adoni Okullu by different first names – Adonyi Bajedo, Adonibejege, Adoni, and Adonia. Given the overwhelming similarities in this first name and the fact that they all refer to the last name of Okullu, the Chamber is of the view that the evidence all refer to the same person, Okullu Adoni. The Chamber is of the view that the evidence provided by these witnesses in relation to Adoni Okullu's death is consistent and credible and mutually corroborative.

<sup>3521</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 61.

<sup>3522</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 61. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393, at number 8. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 61 (Mario Ottober provided a 2004 Diary in which 'Okullu Adonibejege' is listed among the persons killed in the 29 April 2004 Odek attack and testified that he wrote the names of camp residents who were injured and killed during the attack in this personal diary in the aftermath of the attack). The Chamber recalls that the Defence contends that Mario Ottober's 2004 Diary pages are not official but rather personal records not created in the normal course of business. [Defence Response to Prosecution Application under Rule 68\(2\)\(b\)](#), para. 179. *See also* [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), at paras 76-77. The Chamber does not consider it necessary to determine whether Mario Ottober's diary pages are or are not business records. The diary pages have evidentiary value as contemporaneous records the witness made of what he witnessed and was told about the persons injured and deceased as a result of the 29 April 2004 Odek IDP camp attack. The witness provided the pages to the Prosecution, authenticated his writings and explained the contents, adding details that contextualised the entries. *See* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46-75. The Chamber is convinced by his evidence and is of the view that the 2004 Diary entries are an authentic, contemporaneous account of the deceased persons Mario Ottober saw or and was informed about in the aftermath of the 29 April 2004 IDP camp attack. Thus, Mario Ottober's diary pages provide a contemporaneous record of the death of Adoni Okullu in the attack on Odek IDP camp.

<sup>3523</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3524</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3525</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Adoni Okullu is number 7 on the list of the deceased. The Chamber notes that P-0301 lists Adonyi Bajedo Okullu on his list of deceased. The Chamber notes that this report was introduced into evidence in its [First Decision on Prosecution Applications under Rule 68\(2\)\(b\)](#), at p. 110. P-0301 discussed this incident report in his statement, testifying that the report was based on his interviews with the survivors of the attack, including the camp leaders and the relatives of the deceased or abducted (UGA-OTP-0249-0423-R01, para. 60). The Chamber considers the document to be the authentic incident report created by P-0301 in May 2004 reporting on the 29 April 2004 attack on Odek IDP camp.

the totality of the evidence,<sup>3526</sup> the Chamber considers that Adoni Okullu was shot and killed by the LRA during the Odek IDP camp attack.

**1507. Agudu's wife and her grandson:** Former Odek IDP camp block leader Zakeo Odora testified that after the attack, he and other camp residents, as well as people from another nearby IDP camp, dug graves to bury some of the persons killed during the LRA's attack on the camp.<sup>3527</sup> These persons were buried on land Zakeo Odora and his family donated to serve as a grave site.<sup>3528</sup> Among the persons buried on that land are a woman Zakeo Odora referred to as the 'wife of Agudu' and her grandson, buried in separate graves beside each other.<sup>3529</sup> Zakeo Odora testified that they were both killed in the course of the LRA's attack on the camp.<sup>3530</sup> Zakeo Odora testified that Agudu's wife was found with her grandson wrapped around her back.<sup>3531</sup> She had been shot in the breast and the bullet had passed through her and also killed her grandson.<sup>3532</sup> Zakeo Odora testified the boy was around four years old.<sup>3533</sup> The Chamber finds Zakeo Odora's testimony as to these deaths detailed, compelling and credible. In light of the totality of the evidence,<sup>3534</sup> the Chamber finds that LRA fighters shot and killed Agudu's wife and her grandson during the Odek IDP camp attack.

**1508. Betty Adong and her daughter Ajok:** Mario Ottober testified that after the attack, he was informed by the relatives of Betty Adong and her daughter Ajok that they were killed during the 29 April 2004 Odek attack.<sup>3535</sup> Helen Opoka Acan also testified that Betty Adong died the day after the attack.<sup>3536</sup> Helen Opoka Acan testified that she saw Betty Adong that day when she was still alive.<sup>3537</sup> Helen Opoka Acan stated that when she saw

<sup>3526</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3527</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at paras 30-31.

<sup>3528</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 30.

<sup>3529</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3530</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3531</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3532</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3533</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3534</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3535</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 63. Mario Ottober provided his 2004 Diary in which Betty Adong and Ajok are listed among the persons killed in the 29 April 2004 Odek attack thus providing a contemporaneous record of their death. Betty Adong is listed at number 12 and Ajok at number 13. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 63. In his diary recording her death, P-0274 writes 'Ajok D/O Adong Betty'. *See* P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Given his testimony, the Chamber understands the notation 'D/O' to mean 'daughter of'.

<sup>3536</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 47.

<sup>3537</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 47.

Betty Adong ‘she was alive but she could not go anywhere and was in her house [...] she was lying in the house alone’.<sup>3538</sup> She was later told that Betty Adong had died that day.<sup>3539</sup> Further corroborating the witnesses’ accounts, P-0301’s Incident Report lists ‘Ajok D/O Adong Betty’ as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3540</sup> In light of the totality of the evidence,<sup>3541</sup> the Chamber finds that Betty Adong and her daughter Ajok were killed by the LRA as a result of the Odek IDP camp attack.

1509. **Catherine Amono:** Hellen Adong testified that while she was abducted and walking with LRA fighters in the course of the attack, she saw the dead body of a woman with a baby on her back.<sup>3542</sup> She testified that the baby was still alive.<sup>3543</sup> Hellen Adong did not recall the name of the woman.<sup>3544</sup> Hellen Adong’s testimony is completed and further explained by the statements of Mario Ottober, Hellen Adong’s husband, to whom Hellen Adong provided further details immediately after the attack. Mario Ottober stated that he was told by his wife that as she was passing by with the rebels who had abducted her, she saw the body of Catherine Amono and was told by the rebels that she would end up like Catherine Amono if she is stubborn.<sup>3545</sup> Mario Ottober stated that Catherine Amono was shot whilst she had a child tied to her back and ‘fell with the child at the back’, however the child survived.<sup>3546</sup> In light of the overlapping accounts of Hellen Adong and Mario Ottober, it is clear that the two witnesses spoke of the same victim, Catherine Amono. Also corroborating the witnesses’ accounts, P-0301’s Incident Report lists ‘Ariono Catherine’ as one of the persons killed during the 29 April 2004 LRA attack on Odek

<sup>3538</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 47.

<sup>3539</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 47.

<sup>3540</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Betty Adong is number 4 on the list of the deceased. The Chamber is of the view that in line with Mario Ottober notations, P-0301’s notation of ‘D/O’ refers to ‘daughter of’ and is an indication that Ajok was the daughter of Adong Betty.

<sup>3541</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3542</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 34.

<sup>3543</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 34.

<sup>3544</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 34.

<sup>3545</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 58.

<sup>3546</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 58. Further, in his 2004 diary entry listing the persons killed in the 29 April 2004 Odek attack, Mario Ottober included ‘Amono Catherine’, thus providing a contemporaneous record of the death. P-0274’s 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Catherine Amono is listed as number 6. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 58.

IDP camp.<sup>3547</sup> In light of the totality of the evidence,<sup>3548</sup> the Chamber is convinced that Catherine Amono was killed by LRA fighters in the course of the attack.

**1510. Okeny, the government soldier's son:** Several witnesses testified about the death of the government soldier's son in the course of the LRA's attack on Abok IDP camp. Zakeo Odora testified that a government soldier, Paleo Lapii, and his son Okeny died during the attack.<sup>3549</sup> Zakeo Odora testified that their bodies were taken away from Odek IDP camp to be buried at Acet IDP camp.<sup>3550</sup> Mario Ottober corroborates Zakeo Odora's account, testifying that an LDU soldier called Lapii was killed at the barracks along with his child who was with him.<sup>3551</sup> Similarly, P'Oyoo Lakoch stated that after the attack the body of an LDU soldier was found lying by the barracks alongside that of his four year old son, who had also been shot dead.<sup>3552</sup> LDU soldier Julius Nyeko provided further detail. According to Julius Nyeko, during the LRA's attack on the government barracks, one of the soldiers in the barracks tried to fight back because he had a child in the barracks and the LRA came and eventually killed the soldier together with his child.<sup>3553</sup> In light of the credible and consistent testimony of the witnesses, the Chamber considers that Okeny, the government soldier's son, was shot and killed by the LRA during the Odek IDP camp attack.

**1511. Aldo Okello and shooting of Santa Akello:** P'Oyoo Lakoch testified that in the aftermath of the attack, he spoke to Santa Akello and her husband, Aldo Okello.<sup>3554</sup> P'Oyoo Lakoch testified that he was told by Santa Akello that during the attack when the gunfire intensified, she and her husband, Aldo Okello, locked themselves in their hut.<sup>3555</sup> LRA fighters attempted to open the door and, when they failed, they fired their guns

<sup>3547</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Catherine Amono is number 18 on the list of the deceased. The Chamber notes the slight difference in the last name and considers it a minor misspelling.

<sup>3548</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3549</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 38. Given the similarity in the details of the killing, the Chamber is of the view that this is the same deaths referenced by D-0066 in para. 1443.

<sup>3550</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 38.

<sup>3551</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 39, 74.

<sup>3552</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 28. The Chamber notes that P'Oyoo Lakoch calls the soldier 'Albriko Lapir' while Mario Ottober references 'Lapii' and Zakeo Odora, 'Paleo Lapii'. Given the overwhelming similarities in their descriptions of the manner and scenario in which the soldier was killed, the Chamber is of the view that they are speaking of the same soldier whose young child was killed in the attack.

<sup>3553</sup> D-0066: [T-214](#), p. 22, lines 9-19.

<sup>3554</sup> P-0218: [T-90](#), p. 11, line 14 – p. 12, line 5

<sup>3555</sup> P-0218: [T-90](#), p. 11, lines 14-19.

inside the house and both Santa Akello and Aldo Okello were shot.<sup>3556</sup> One of the LRA's bullets hit Aldo Okello in the mouth and another hit Santa Akello in the neck.<sup>3557</sup> P'Oyoo Lakoch testified that Aldo Okello died in Lacor hospital on 3 May 2004, a few days after the attack, as a result of the injury from the bullet.<sup>3558</sup> P'Oyoo Lakoch appears to have spoken to Aldo Okello before he died and testified that when he spoke to him Aldo Okello was seriously injured; he had injuries in his mouth from being hit by a bullet.<sup>3559</sup> P'Oyoo Lakoch testified that he personally buried Aldo Okello.<sup>3560</sup> Santa Akello was treated for her injury and survived.<sup>3561</sup> P'Oyoo Lakoch testified that she still has scars from the injury.<sup>3562</sup>

1512. Other evidence corroborates P'Oyoo Lakoch's account, Mario Ottober testified that Santa Akello told him that Aldo Okello was shot in the mouth and his tongue was cut off by the bullet.<sup>3563</sup> Mario Ottober also testified that Santa Akello was shot on the back of her neck and the injury healed.<sup>3564</sup> Similarly, Hellen Adong, a former camp resident who is married to Camp Leader Mario Ottober, corroborates the accounts that Santa Akello was shot. However, unlike Mario Ottober and P'Oyoo Lakoch, who testified that Santa Akello was shot in the neck, Hellen Adong testified that Santa Akello was hit by a bullet in her abdomen during the attack.<sup>3565</sup> She testified that the bullet remained in her stomach until it was removed at the hospital and Santa Akello survived.<sup>3566</sup> The Chamber does not find the discrepancy between Mario Ottober and Hellen Adong's account dispositive. Both witnesses testified independently, along with P'Oyoo Lakoch, that Santa Akello was shot during the attack and recovered. The Chamber puts more weight on the testimony of P'Oyoo Lakoch and Mario Ottober who both testified of speaking to Santa Akello. Further corroborating the witnesses' accounts, P-0301's Incident Report lists 'Okello Aldo' as one of the persons killed during the 29 April 2004 LRA attack on Odek

<sup>3556</sup> P-0218: [T-90](#), p. 11, line 14 – p. 12, line 5.

<sup>3557</sup> P-0218: [T-90](#), p. 12, lines 3-4; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 30.

<sup>3558</sup> P-0218: [T-90](#), p. 12, lines 3-5; P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 30, 42.

<sup>3559</sup> P-0218: [T-90](#), p. 12, lines 1-5; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 30.

<sup>3560</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42.

<sup>3561</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 30.

<sup>3562</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 30.

<sup>3563</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 64.

<sup>3564</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 50. Mario Ottober's 2004 diary also lists Aldo Okello among the persons killed in the 29 April 2004 Odek attack providing a contemporaneous record of Aldo Okello's death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 64. Aldo Okello is number 14 on Mario Ottober's list.

<sup>3565</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 60.

<sup>3566</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 60.

IDP camp.<sup>3567</sup> The Incident Report lists ‘Akello Santa’ as one of the persons injured during the 29 April 2004 LRA attack on Odek IDP camp and still hospitalised in Lacor hospital as of May 2004.<sup>3568</sup> In light of the consistent and credible evidence, the Chamber finds that LRA fighters killed Aldo Okello and attempted to kill Santa Akello in the course of the Odek IDP camp attack by shooting her.

**1513. Ayita Labanya:** P’Oyoo Lakoch testified that after the attack he saw the dead body of Ayita Labanya.<sup>3569</sup> P’Oyoo Lakoch testified that Ayita Labanya was shot in the back.<sup>3570</sup> According to P’Oyoo Lakoch, Ayita Labanya was an elderly man in his 70s.<sup>3571</sup> The Chamber finds P’Oyoo Lakoch’s account credible. In light of the totality of the evidence,<sup>3572</sup> the Chamber finds that Ayita Labanya was shot and killed by LRA fighters in the course of the attack on Odek IDP camp.

**1514. Charles Obur:** Mario Ottober testified that the day after the attack, he saw the body of Charles Obur, a trainee Catechist, who was killed in the course of the attack on Odek IDP camp.<sup>3573</sup> Charles Obur was shot in the chest, one of his arms was broken and he had fallen on one side.<sup>3574</sup> Additionally, P-0301’s Incident Report lists ‘Obur Charles’ as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3575</sup> This evidence provides corroboration of Mario Ottober’s accounts of Charles Obur’s death. In light of the totality of the evidence,<sup>3576</sup> the Chamber finds that Charles Obur was killed by LRA fighters during the attack on Odek IDP camp.

**1515. Doris Apiyo:** Zakeo Odora testified that as he was returning to the camp the morning after the attack, he was told by his neighbour that Doris Apiyo, his nephew Ojok’s wife,

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<sup>3567</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Aldo Okello is number 21 on the list of the deceased.

<sup>3568</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0440.

<sup>3569</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3570</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3571</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3572</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3573</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 26, 37, 68.

<sup>3574</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 37. Mario Ottober’s 2004 diary lists ‘Obur’ among the persons killed in the 29 April 2004 Odek attack thus providing a contemporaneous record of Charles Obur’s death. P-0274’s 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Charles Obur is number 18 on the list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 71.

<sup>3575</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Charles Obur is number 9 on the list of the deceased.

<sup>3576</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

had been shot dead.<sup>3577</sup> Zakeo Odora testified that he went and saw Doris Apiyo's body, she was lying face down on the ground, shot in the back of the head.<sup>3578</sup> Zakeo Odora testified that as she lay there dead, her baby boy, Opira, was still tied to her back, 'crying so loud'.<sup>3579</sup> Zakeo Odora testified that he removed Opira from his mother's back and wrapped him in a blanket.<sup>3580</sup> Zakeo Odora testified that Doris Apiyo was 22 years old at the time of her death,<sup>3581</sup> the mother of two young children.<sup>3582</sup> Doris Apiyo was buried on Zakeo Odora's land.<sup>3583</sup> In his annotated sketch of the Odek IDP camp, Zakeo Odora indicated the spot where he discovered Doris Apiyo's body.<sup>3584</sup> Zakeo Odora found Doris Apiyo's body in Block C of the camp, in the thick of the civilian camp, far away from the government barracks and in some distance from the trading centre. Mario Ottober corroborates Zakeo Odora's account, testifying that Doris Apiyo's relatives informed him that she was shot and killed in the attack.<sup>3585</sup> Further corroborating the witnesses' accounts, P-0301's Incident Report lists 'Dorris Apiyo' as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3586</sup> In light of the totality of the evidence,<sup>3587</sup> the Chamber concludes that Doris Apiyo was shot and killed by LRA fighters during the 29 April 2004 Odek attack.

**1516. Jenaro Ongwen:** Several witnesses testified that Jenaro Ongwen was shot and killed in the course of the attack on Odek IDP camp. Helen Opoka Acan testified that Jenaro Ongwen's corpse was found behind her house.<sup>3588</sup> Helen Opoka Acan testified of the behaviour of rebel fighters near her house, stating that they 'filled up the place' with

<sup>3577</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28.

<sup>3578</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28.

<sup>3579</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28 (Opira was no more than one year old at the time of the attack).

<sup>3580</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28.

<sup>3581</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28.

<sup>3582</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28.

<sup>3583</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3584</sup> P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 28.

<sup>3585</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 65. Mario Ottober's diary also list 'Apio Dorish' among the persons killed in the 29 April 2004 Odek attack thus providing a contemporaneous record of Doris Apiyo's death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Doris Apiyo is number 15 on this list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 65. Given the overwhelming similarities in the name and Mario Ottober's testimony, the Chamber is of the view that Mario Ottober's list refers to Doris Apiyo.

<sup>3586</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Doris Apiyo is number 16 on the list of the deceased.

<sup>3587</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3588</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at paras 37-38.

‘gunshots everywhere’.<sup>3589</sup> She testified of LRA fighters entering her home, carrying guns, shouting “‘Cut! Shoot”!’<sup>3590</sup> She testified that ‘[t]hey came to kill’.<sup>3591</sup> The Chamber notes that Helen Opoka Acan did not testify that any group other than LRA fighters fired guns near her home.<sup>3592</sup> Hellen Adong testified that she saw the body of a man called Ongwen just outside of his house.<sup>3593</sup> In testimony consistent with others, P-0269 stated that on her way returning from captivity the day after the attack, she saw the body of an elderly man, Mzee (Mr) Ongwen, as it was being taken to be buried.<sup>3594</sup> Similarly, Mario Ottober testified that although he did not personally see the body, he was told by Jenaro Ongwen’s relatives that he was shot.<sup>3595</sup> The Chamber considers that the witnesses’ accounts are consistent and mutually corroborative. Further corroborating the witnesses’ accounts, P-0301’s Incident Report lists ‘Ongwen Jenaro’ as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3596</sup> In light of the totality of the evidence,<sup>3597</sup> the Chamber finds that Jenaro Ongwen was shot and killed by LRA fighters.

**1517. Jimmy Ojok:** Mario Ottober testified that the relatives of Jimmy Ojok informed him that Jimmy Ojok was killed during the 29 April 2004 Odek attack.<sup>3598</sup> Corroborating Mario Ottober’s evidence, P-0301’s Incident Report lists ‘Ojok Jimmy’ as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3599</sup> In light of the totality

<sup>3589</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 20.

<sup>3590</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 22.

<sup>3591</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 22.

<sup>3592</sup> *See* P-0270 Statement, UGA-OTP-0241-0168-R01. While Helen Opoka Acan testified that government soldiers ran after the rebels after the attack, she testified that she could identify them as government soldiers because she could hear their gumboots and they spoke a different language. P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 34.

<sup>3593</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 34.

<sup>3594</sup> P-0269: [T-85](#), p. 50, line 23 – p. 51, line 8.

<sup>3595</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 57. Mario Ottober provided a 2004 Diary which lists Jenaro Ongwen among the persons killed in the 29 April 2004 Odek attack thus providing a contemporaneous record of Jenaro Ongwen’s death. P-0274’s 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Jenaro Ongwen is number 4 on the list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 57.

<sup>3596</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Jenaro Ongwen is number 4 on the list of the deceased.

<sup>3597</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3598</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 63. In his 2004 diary entry listing of the persons killed in the 29 April 2004 Odek IDP camp attack, Mario Ottober lists Jimmy Ojok as one of the victims thus providing a contemporaneous record of Jimmy Ojok’s death. P-0274’s 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Jimmy Ojok is number 11 on the list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 63.

<sup>3599</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Jimmy Ojok is number 15 on the list of the deceased.

of the evidence,<sup>3600</sup> the Chamber finds that Jimmy Ojok was killed by LRA fighters in the course of the attack on Odek IDP camp.

1518. **Catherine Laker:** Helen Opoka Acan testified that she saw the corpse of ‘Katherine Laker’ the morning after the attack.<sup>3601</sup> Helen Opoka Acan testified that Catherine Laker was shot with a child tied behind her back but the child survived.<sup>3602</sup> In light of the totality of the evidence,<sup>3603</sup> the Chamber is convinced that Catherine Laker was killed by LRA fighters.

1519. **Kevin Apiyo:** Mario Ottober testified that he was informed by Apiyo Kevin’s relatives that the victim was shot during the Odek IDP camp attack.<sup>3604</sup> The Chamber notes that P-0301’s Incident Report lists ‘Apiyo’ as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3605</sup> The Chamber considers that this evidence is consistent with Mario Ottober’s account of Kevin Apiyo’s death. The Chamber considers that the evidence of Kevin Apiyo’s death in the course of the attack is credible. In light of the totality of the evidence,<sup>3606</sup> the Chamber is convinced that LRA fighters shot and killed Apiyo Kevin during the attack on Odek IDP camp.

1520. **Kerobina Acayo:** Mario Ottober testified that Kerobina Acayo’s husband told him that she was killed inside her house.<sup>3607</sup> Mario Ottober testified that Kerobina Acayo stayed near the food store for school children in the camp.<sup>3608</sup> Zakeo Odora corroborates Mario Ottober’s account of Kerobina Acayo’s death, stating that Kerobina Acayo was one of the persons buried on his land.<sup>3609</sup> Corroborating the witnesses’ accounts, P-0301’s Incident Report lists ‘Acayo Kerobina’ as one of the persons killed during the 29 April

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<sup>3600</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3601</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3602</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 39.

<sup>3603</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3604</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 66.

<sup>3605</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Apiyo is number 20 on the list of the deceased. The Chamber notes that there is no further name listed.

<sup>3606</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3607</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 62.

<sup>3608</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 62. Mario Ottober’s diary from 2004 corroborates his account; he listed ‘Acayo Kerobina’ among the persons killed in the 29 April 2004 Odek attack, thus providing a contemporaneous record of Kerobina Acayo’s death. P-0274’s 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Kerobina Acayo is listed as number 9 on the list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 62.

<sup>3609</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

2004 LRA attack on Odek IDP camp.<sup>3610</sup> In light of the totality of the evidence,<sup>3611</sup> the Chamber finds that LRA fighters shot and killed Kerobina Acayo in her home during the 29 April 2004 attack on Odek IDP camp.

1521. **Kejikiya Okec and Veronica Auma.**<sup>3612</sup> Mario Ottober testified that ‘Okec Kejikiya’ was a retired prison officer who was killed in his house along with his wife Veronica Auma.<sup>3613</sup> Mario Ottober testified that while he did not see their bodies, he was told by the couple’s son, Victor Okumu that ‘they were killed in a terrible way’ and that Kejikiya Okec’s male organs had been cut off.<sup>3614</sup> Other witnesses provided testimonies that were consistent with and corroborative of Mario Ottober’s account. Zakeo Odora testified that the day after the attack, he went to Odek trading centre and saw the bodies of a retired prison warden, ‘Okech Kicikia’, and his wife.<sup>3615</sup> Zakeo Odora testified that both of the deceased were in their 70’s.<sup>3616</sup> Zakeo Odora testified that both had gunshot wounds on their bodies.<sup>3617</sup> He further testified that he saw their two bodies lying in front of their small shop.<sup>3618</sup> In his annotated sketch of the Odek IDP camp, Zakeo Odora indicated the spot, in Block C of the camp, where he saw the two bodies.<sup>3619</sup> Similarly, camp resident Hellen Adong testified that the day after the attack, she saw the bodies of an old man, ‘Kijikiya Okec’ and his wife Veronica inside their house near the door.<sup>3620</sup> Hellen Adong testified that she did not know how they died but they looked dead and there was blood beside them.<sup>3621</sup> Helen Opoka Acan also testified that ‘Kirikiya Oketch’ and Veronica

<sup>3610</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Kerobina Acayo is number 8 on the list of the deceased.

<sup>3611</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3612</sup> The Chamber notes the variance in the names by which the witnesses refer to the deceased. Given the overwhelming similarities in the names, as well as their descriptions of their deaths, the Chamber is convinced that the witnesses’ testimony relate to the same two persons, whom the Chamber refers to as Kejikiya Okec and Veronica Auma.

<sup>3613</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 56.

<sup>3614</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 56. Mario Ottober’s 2004 diary entry lists ‘Okec Kejekia’ and ‘Auma Vironika’ among the persons killed in the 29 April 2004 Odek attack thus providing a contemporaneous record of the deaths. P-0274’s 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. They are listed as number 2 and 3 on this list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 56.

<sup>3615</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 37. Zakeo Odora did not recall the name of the woman.

<sup>3616</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 37.

<sup>3617</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 37.

<sup>3618</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 37.

<sup>3619</sup> P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 37.

<sup>3620</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 32.

<sup>3621</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 32.

were husband and wife and that she saw their bodies the day after the attack.<sup>3622</sup> P'Oyoo Lakoch testified that an elderly couple was shot dead inside their home,<sup>3623</sup> 'Kichikiya Okech' was shot in the chest, along with his wife, Saluma.<sup>3624</sup>

1522. The Chamber considers that the witnesses' accounts are generally consistent with and corroborative of one another. While there are some discrepancies, such as whether the bodies lay inside or outside the deceased's house the morning after the attack, the Chamber considers these discrepancies to be minor, particularly given the passage of time since the attack and the fact that the witnesses observed the bodies the morning after the attack at a period when the local population were preparing the dead bodies found for burial. The Chamber considers the witnesses' account of the death of the two deceased credible. Further corroborating the witnesses' accounts, P-0301's Incident Report lists 'Okech Kelekia' and 'Auma Veronica' as two of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3625</sup> The Chamber is convinced by Mario Ottober's testimony as to the victims' manner of death. The Chamber notes that there is no evidence, or suggestion that government soldiers, the only other armed group inside the camp, killed civilians in their homes. There is further no evidence that government soldiers tortured civilians or desecrated their bodies. The evidence is clear that it was LRA fighters who targeted these civilians. In light of the evidence, the Chamber is convinced that LRA fighters shot and killed Kejikiya Okech and Veronica Auma in the 29 April 2004 attack on Odek IDP camp.

1523. **Mary Acayo:** ISO officer P-0301's post attack Incident Report lists 'Mary Acayo Obonyo' as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3626</sup> P'Oyoo Lakoch testified that after the attack, the body of 68 years old Mary Obonyo was found dead beside her hut in the camp.<sup>3627</sup> P'Oyoo Lakoch testified that Mary Obonyo was shot in the back.<sup>3628</sup> Similarly, Mario Ottober testified that he saw the dead body of Mary Acayo, a traditional birth attendant, who was shot in the chest and

<sup>3622</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3623</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 26.

<sup>3624</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 26.

<sup>3625</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0438. Kejikiya Okech is number 1 on the list of the deceased and Veronica Auma is number 2 on the list of the deceased.

<sup>3626</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Mary Acayo Obonyo is number 10 on the list of the deceased.

<sup>3627</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3628</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

killed in the course of the attack on Odek IDP camp.<sup>3629</sup> The Chamber notes that P'Oyoo Lakoch refers to Mary Obonyo while Mario Ottober refers to Mary Acayo. Given the reference to 'Mary Acayo Obonyo' in P-0301's Incident Report, the Chamber is of the view that both witnesses refer to the same person, whom the Chamber refers to as Mary Acayo. The Chamber also notes the divergence in the witnesses' description on the location of her wound. Both witnesses appear to have seen the dead body of Mary Acayo. In light of this divergence in their testimony, the Chamber is only satisfied that Mary Acayo was shot and killed in the course of the attack on Odek IDP camp and makes no finding as to whether she was shot in the back or the chest. In this context, the Chamber also notes that Helen Opoka Acan testified that she saw the corpse of Mary Acayo the morning after the attack.<sup>3630</sup> Helen Opoka Acan testified that Mary Acayo was shot with a child tied behind her back but the child survived.<sup>3631</sup> The Chamber considers that this testimony is consistent with the other witnesses' account that Mary Acayo died in the attack. In light of the totality of the evidence,<sup>3632</sup> the Chamber finds that Mary Acayo was killed by LRA fighters in the course of the Odek IDP camp attack.

1524. **Monica Aciro:** While running away towards the Odek River, trying to hide from the LRA, Zakeo Odora saw LRA fighters shoot a heavily pregnant civilian named Monica Aciro.<sup>3633</sup> Monica Aciro was around 26 years old.<sup>3634</sup> Zakeo Odora testified that he saw the LRA shoot Monica Aciro in the legs as she fled the camp.<sup>3635</sup> Zakeo Odora heard Monica Aciro shouting for help, but he and his family could 'only keep running for our lives'.<sup>3636</sup> Zakeo Odora testified that the next day, Monica Aciro's husband took her to the Odek Health Centre, but she died from her injuries.<sup>3637</sup> Zakeo Odora testified that the baby she was pregnant with died as well.<sup>3638</sup> In his annotated sketch of the Odek IDP camp, Zakeo Odora indicated the spot, in Block C of the camp, where the LRA shot

<sup>3629</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 37. Mario Ottober's 2004 diary corroborates his testimony; he listed 'Acayo Mary' as one of the persons killed in the 29 April 2004 attack, thus providing a contemporaneous record of her death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Mary Acayo is number 17 on the list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 67.

<sup>3630</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3631</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 39.

<sup>3632</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3633</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

<sup>3634</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

<sup>3635</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

<sup>3636</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

<sup>3637</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

<sup>3638</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

Monica Aciro.<sup>3639</sup> The Chamber notes that this spot was in the middle of the civilian homes in the camp. The Chamber finds Zakeo Odora's description of Monica Aciro's death detailed and credible. It is consistent with other accounts of the LRA's behaviour in the camp. In light of the evidence, the Chamber is convinced that LRA fighters killed a heavily pregnant woman named Monica Aciro by shooting her during their attack on Odek IDP camp.

1525. **Wilson Okoya:** Mario Ottober testified that the day after the attack, he saw the body of Wilson Okoya, a young man about 19 years old.<sup>3640</sup> Mario Ottober testified that Wilson Okoya was shot inside his house and fell on the grinding stone.<sup>3641</sup> P-0252's testimony corroborates Mario Ottober's. P-0252 testified that after being abducted by the LRA, he was walking around the market of the camp with the LRA and other abductees when they came across someone he knew bleeding 'humped over a grinding stone'.<sup>3642</sup> P-0252 testified that the person had been shot in the stomach and all his intestines had come out.<sup>3643</sup> He identified this person as [REDACTED] named Okoya.<sup>3644</sup> P-0252 testified that when they saw Okoya's body, LRA fighter Onen Kamdulu told him that if P-0252 tried to flee what was done to Okoya would be done to him.<sup>3645</sup> The Chamber finds the witnesses' evidence consistent and credible. P-0252's testimony suggests that the LRA indicated that Okoya was killed by the LRA. In light of the totality of the evidence,<sup>3646</sup> the Chamber is convinced that LRA fighters shot and killed Wilson Okoya in his home during their attack on Odek IDP camp.

1526. **Okoya:** While running away towards the Odek River, trying to hide from the LRA, Zakeo Odora saw LRA fighters shoot a civilian named Okoya.<sup>3647</sup> Okoya was 20 years old and

<sup>3639</sup> P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 24.

<sup>3640</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 69.

<sup>3641</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 69. Mario Ottober's 2004 diary corroborates his account; 'Okoya Wilson' is listed among the persons killed in the 29 April 2004 Odek attack, thus providing a contemporaneous record of the death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Wilson Okoya is listed as number 19. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 69.

<sup>3642</sup> P-0252: [T-87](#), p. 15, lines 11-12.

<sup>3643</sup> P-0252: [T-87](#), p. 15, lines 9-11.

<sup>3644</sup> P-0252: T-87-CONF, p. 17, lines 8-15.

<sup>3645</sup> P-0252: [T-87](#), p. 17, lines 18-21.

<sup>3646</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3647</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 23.

newly married.<sup>3648</sup> Zakeo Odora testified that he saw the LRA shoot Okoya in the back while Okoya was running away.<sup>3649</sup> Zakeo Odora testified that he saw Okoya fall down ahead of him and blood was flowing out of him.<sup>3650</sup> In his annotated sketch of the Odek IDP camp, Zakeo Odora indicated the spot, between Blocks A and B of the camp, where the LRA shot Okoya.<sup>3651</sup> Zakeo Odora testified that Okoya is buried on his property in Odek.<sup>3652</sup> The Chamber notes that Zakeo Odora only named ‘Okoya’ and did not specify a further name. The Chamber also recalls its above discussion of the death of Wilson Okoya. Given the details and the specificity of the witnesses’ accounts, the Chamber is of the view that Zakeo Odora did not witness the killing of Wilson Okoya but rather saw the killing of a different man. The Chamber notes that it finds Zakeo Odora, Mario Ottober and P-0252’s accounts of their observations of killings of Wilson Okoya and Okoya credible. The Chamber also notes that the Memorial Plaque erected in the camp to commemorate the persons killed in the Odek IDP camp attack on 29 April 2004 lists both Wilson Okoya and another Okoya, who has the further name Richard, amongst the deceased.<sup>3653</sup> For the Chamber, this supports its view that Zakeo Odora spoke of the death of a person other than Wilson Okoya. In light of the evidence, the Chamber is convinced that the LRA shot and killed Okoya in the course of their attack on Odek IDP camp.

1527. **Obangomoko:** Zakeo Odora testified about the death of his brother-in-law, Obangomoko, a 37 year old catechist, who was survived by his wife and three young children.<sup>3654</sup> Zakeo Odora saw Obangomoko’s body the day after the attack; he had died from gunshot wounds.<sup>3655</sup> Zakeo Odora testified that he found Obangomoko’s body covered in blood, close to the latrine in Block B of the camp.<sup>3656</sup> In his annotated sketch of the Odek IDP camp, Zakeo Odora indicated the spot, at the intersection of Blocks A, B and C of the

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<sup>3648</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 23.

<sup>3649</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 23.

<sup>3650</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 23.

<sup>3651</sup> P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 23.

<sup>3652</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3653</sup> See Memorial plaque, UGA-OTP-0250-0265, at numbers 36 and 37. See The Odek Memorial Plaque, shown in a photograph UGA-OTP-0250-0265, is discussed by several witnesses in this proceeding, specifically Mario Ottober, Zakeo Odora and P’Oyoo Lakoch, who explain its purveyance and the process in which the names were chosen for inscription. See para. 1549 below. The Memorial Plaque provides illuminating information on several points, including in relation to the names of the deceased and the number of the persons killed.

<sup>3654</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 29.

<sup>3655</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 29.

<sup>3656</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 29.

camp, where he found Obangomoko's body.<sup>3657</sup> Zakeo Odora testified that Obangomoko is buried on his land.<sup>3658</sup> The Chamber notes the location in which Zakeo Odora discovered Obangomoko's body, close to the intersection of the three blocks in the camp. The Chamber notes that this is not far from the location where Zakeo Odora saw the LRA shoot and kill another civilian, Okoya.<sup>3659</sup> The proximity of the two locations and the LRA's control of the camp after the few government soldiers fled, further convince the Chamber that the LRA shot and killed Obangomoko in the course of the attack.

1528. **Pedwang Opio:** P-0275 testified that while he was being abducted by an LRA fighter he saw the dead body of Pedwang Opio, lying near Pedwang Opio's hut.<sup>3660</sup> P-0275 testified that he knew Pedwang Opio because [REDACTED].<sup>3661</sup> P-0275 testified that Pedwang Opio was lying belly down in a pool of blood;<sup>3662</sup> his head was turned to the side.<sup>3663</sup> P-0275 testified that Pedwang Opio had a wound on his back like a hole and there was blood on his shirt around that hole.<sup>3664</sup> The Chamber finds P-0275's account of Pedwang Opio's death credible. P-0275 does not mention the presence of government soldiers in the area where he was abducted and where he saw Pedwang Opio's body. Rather, he indicated that LRA fighters were shooting guns, looting and abducting people in the area.<sup>3665</sup> In light of the totality of the evidence,<sup>3666</sup> the Chamber is convinced that Pedwang Opio was killed by LRA fighters in the course of the attack.

1529. **Thomas Opiyo:** Mario Ottober testified that 'Opiyo Thomas', a 19 year old man was killed during the course of the attack on Odek IDP camp.<sup>3667</sup> Mario Ottober testified that his brother, Maurencio Ocana, owned the home in front of which Thomas Opiyo was shot.<sup>3668</sup> Although Mario Ottober did not see Thomas Opiyo's body, as it had already

<sup>3657</sup> P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 29.

<sup>3658</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3659</sup> See P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 23.

<sup>3660</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29.

<sup>3661</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29.

<sup>3662</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29.

<sup>3663</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29.

<sup>3664</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 29.

<sup>3665</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 19-30. See P-0275: [T-124](#), p. 41, line 16 – p. 44, line 4.

<sup>3666</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3667</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 55.

<sup>3668</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 55.

been taken away by the time camp leaders came around checking the camp the morning after the attack, Mario Ottober saw the blood in front of Maurencio Ocana's house.<sup>3669</sup> Camp residents told Mario Ottober that during the attack, Thomas Opiyo was drunk and was shouting at the LRA attackers, calling them 'chicken thieves'.<sup>3670</sup> The LRA fighters shot him and he died.<sup>3671</sup> P'Oyoo Lakoch's account is consistent with and corroborative of Mario Ottober's testimony. P'Oyoo Lakoch testified that after the attack, he saw 'Opio's' body lying nearby P'Oyoo Lakoch's hut in the camp.<sup>3672</sup> P'Oyoo Lakoch testified that Opio had been shot in the head.<sup>3673</sup> P'Oyoo Lakoch testified that he was told by a man named Ocana<sup>3674</sup> that Opio had been drunk and was shouting 'catch the thieves' before being shot.<sup>3675</sup>

1530. Other witnesses provided evidence consistent with the above witnesses' accounts. Hellen Adong testified that while she was walking through the camp with the LRA fighters who abducted her, she saw Opio's body lying by his house.<sup>3676</sup> She testified that he had fallen on his stomach, his head was turned on its side, his leg was by the door of his house and his body and head were covered in blood.<sup>3677</sup> Hellen Adong indicated that his house was by the road and LRA rebels in the group she was with entered the house to take things out.<sup>3678</sup> Similarly, P-0252 testified that while he was close to the road, walking through the camp with LRA fighters who abducted him, he saw the body of a camp resident Opio lying sideways and with blood flowing underneath.<sup>3679</sup> P-0252 testified that although he could not see the wound that he sustained, he recognised Opio and saw him lying down with blood flowing from beneath him.<sup>3680</sup> P-0252 testified that he knew Opio because he

<sup>3669</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 55.

<sup>3670</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 55.

<sup>3671</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 55. Mario Ottober's 2004 diary corroborates his testimony as 'Opio Thomas' is listed among the persons killed in the 29 April 2004 Odek attack; the diary provides a contemporaneous record of Thomas Opiyo's death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Thomas Opiyo is number 1 on the Mario Ottober's list. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54-55. The Chamber notes that the Diary and other witnesses refer to 'Opio'. The Chamber considers this a minor and irrelevant difference in spelling of the name.

<sup>3672</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3673</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3674</sup> Likely Mario Ottober's brother Maurencio Ocana.

<sup>3675</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3676</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 33.

<sup>3677</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 33.

<sup>3678</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 33.

<sup>3679</sup> P-0252: [T-87](#), p. 20, lines 6-13.

<sup>3680</sup> P-0252: [T-89](#), p. 13, lines 9-15. In questioning P-0252, the Defence raised the witness's statement, in which he said he had seen Opio lying on his side and partially on his back, and that he later heard that the witness died.

used to go and buy sugarcane from Opio's plantation.<sup>3681</sup> While Hellen Adong and P-0252 did not mention the first name of the man whose body they saw, and do not mention the details described by Misters Ottober and Lakoch, the Chamber considers that their descriptions of Opio's body is consistent with the other witnesses' testimony. The Chamber believes that all four witnesses likely describe the same person, Thomas Opiyo. Further corroborating the witnesses' accounts, P-0301's Incident Report lists 'Opiyo Thomas' as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3682</sup> The Chamber is convinced by the consistent and mutually corroborative testimonies of Mario Ottober and P'Oyoo Lakoch, and other witnesses, that Thomas Opiyo was shot and killed by LRA fighters in the course of the attack on Odek IDP camp.

1531. **Thomas Ojok:** Mario Ottober testified that he was told by the relatives of Thomas Ojok that he was killed in the course of the attack on 29 April 2004.<sup>3683</sup> In light of the totality of the evidence,<sup>3684</sup> the Chamber is convinced that Thomas Ojok was killed by LRA fighters in the course of the attack.

1532. **Valentino Okot:** Zakeo Odora testified that when he walked around the camp the day after the attack, he heard the cries of Kerobina Alaka, his uncle Valentino Okot's wife.<sup>3685</sup> Zakeo Odora testified that Kerobina Alaka was crying: 'Okot, you have left me now!'<sup>3686</sup> Zakeo Odora testified that he then saw that Valentino Okot had been shot in the chest.<sup>3687</sup> Valentino Okot was lying face down, and was covered in blood.<sup>3688</sup> Zakeo Odora began looking for a blanket to cover Valentino Okot's body.<sup>3689</sup> In his annotated sketch of the Odek IDP camp, Zakeo Odora indicated the spot where he discovered Valentino Okot's

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The Chamber considers that the witness's statement to the Prosecution noted by the Defence is consistent with his statement to the Chamber.

<sup>3681</sup> P-0252: T-87, p. 20, lines 11-13.

<sup>3682</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Thomas Opiyo is number 3 on the list of the deceased.

<sup>3683</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 70. Mario Ottober provided a 2004 Diary in which 'Ojok Thomas' is listed among the persons killed in the 29 April 2004 Odek attack, thus providing a contemporaneous record of the death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Thomas Ojok is listed number 20. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 70.

<sup>3684</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3685</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 27.

<sup>3686</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 27.

<sup>3687</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 27.

<sup>3688</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 27.

<sup>3689</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 27.

body, in Block B of the camp.<sup>3690</sup> Zakeo Odora testified that Valentino Okot was buried on his land.<sup>3691</sup> He further testified that the death certificate for Valentino Okot is with his wife, Kerobina Alaka.<sup>3692</sup> Mario Ottober testified that Valentino Okot was an elderly man.<sup>3693</sup> Valentino Okot's relatives told Mario Ottober that Valentino Okot was shot when he was trying to get into a big store with a steel door at the camp, where some of the residents were hiding.<sup>3694</sup> Other witnesses corroborate the witness's account that Valentino Okot died in the course of the attack. P'Oyoo Lakoch testified that the day after the attack, the body of Valentino Okot, a man in his 80's, was found by P'Oyoo Lakoch's hut in the camp.<sup>3695</sup> Helen Opoka Acan testified that she saw the body of Valentino Okot after the attack.<sup>3696</sup> Further corroborating the witnesses' accounts, P-0301's Incident Report lists 'Okot Valentino' as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3697</sup> In light of the totality of the evidence,<sup>3698</sup> the Chamber is convinced that Valentino Okot was killed by LRA fighters in the course of the attack on Odek IDP camp.

**1533. Walter Ojok:** Mario Ottober testified that the relatives of Walter Ojok informed him that he was killed during the 29 April 2004 Odek attack.<sup>3699</sup> P-0301's Incident Report lists 'Ojok Walter' as one of the persons killed during the 29 April 2004 LRA attack on Odek IDP camp.<sup>3700</sup> In light of the totality of the evidence,<sup>3701</sup> the Chamber is convinced that Walter Ojok was killed by LRA fighters in the course of the attack.

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<sup>3690</sup> P-0325 Sketch of Odek IDP camp, UGA-OTP-0264-0252-R01; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 27.

<sup>3691</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 32.

<sup>3692</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 35.

<sup>3693</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, para. 60.

<sup>3694</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, para. 60. Mario Ottober's 2004 diary corroborates his account of Valentino Okot's death in the attack, listing Okot Valentino among the persons killed in the 29 April 2004 Odek attack, thus providing a contemporaneous record of the death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Valentino Okot is listed number 7. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 60.

<sup>3695</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 27.

<sup>3696</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3697</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Valentino Okot is number 6 on the list of the deceased.

<sup>3698</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3699</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 63. Mario Ottober's 2004 Diary listed Ojok Walter among the persons killed in the 29 April 2004 Odek attack, thus providing a contemporaneous record of the death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. Walter Ojok is listed number 10. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 63.

<sup>3700</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Walter Ojok is number 13 on the list of the deceased.

<sup>3701</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

**1534. Shooting of Betty Atenyo:** Hellen Adong testified that while hiding from the initial gunshots in their home, her son told her that he could see that a camp resident, Atenyo, had been shot and had fallen down.<sup>3702</sup> Hellen Adong testified that Betty Atenyo was a mother of one child and was walking behind the bamboo tree when she was shot.<sup>3703</sup> Hellen Adong testified that Betty Atenyo was shot in the shoulder and needed to have the bullet removed.<sup>3704</sup> Mario Ottober testified that Betty Atenyo was shot in the back during the course of the 29 April 2004 Odek attack.<sup>3705</sup> Mario Ottober testified that she recovered from her injury.<sup>3706</sup> The Chamber notes that Hellen Adong and Mario Ottober testify to a different injury suffered by Betty Atenyo. However, the Chamber is of the view that the difference in the described injury is minimal (shoulder and back) and finds their accounts are consistent that Betty Atenyo was shot in the course of the attack. In light of the totality of the evidence,<sup>3707</sup> the Chamber is convinced that LRA fighters attempted to kill Betty Atenyo by shooting her in the course of their attack on Odek IDP camp.

**1535. Shooting of Christopher Moro and David Bua:** [REDACTED]

[REDACTED] Moro and Bua, shot by LRA fighters, during the LRA attack on the camp.<sup>3708</sup>

[REDACTED] testified that Moro and Bua were [REDACTED]

[REDACTED].<sup>3709</sup> [REDACTED]

[REDACTED]<sup>3710</sup> Mario Ottober testified that Christopher Moro and his brother David Bua were shot in the course of the attack.<sup>3711</sup> Christopher Moro was shot in the waist and also injured in the thigh, the bullet in his waist was not removed and the

<sup>3702</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 24.

<sup>3703</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 24.

<sup>3704</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 60.

<sup>3705</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 49.

<sup>3706</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 49. Mario Ottober provided a 2004 Diary in which Betty Atenyo is listed among the persons injured in the 29 April 2004 Odek attack. He testified that he wrote the names of camp residents who were injured and killed in this personal diary in the aftermath of the attack, thus providing a contemporaneous record of the attack on Betty Atenyo. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3392. Betty Atenyo is listed number 3. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46-47, 49.

<sup>3707</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA. The Chamber is of the view that this finding similarly applies to the attempted killings in Odek IDP camp.

<sup>3708</sup> [REDACTED]

<sup>3709</sup> [REDACTED]

<sup>3710</sup> [REDACTED]

<sup>3711</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 48.

leg was later amputated.<sup>3712</sup> According to Mario Ottober, David Bua was shot in the course of the attack and two of his toes were cut off by a bullet.<sup>3713</sup> Mario Ottober testified that David Bua and Christopher Moro were treated for their injuries at Gulu Referral Hospital.<sup>3714</sup> The Chamber considers that the evidence offered by ██████ and Mario Ottober were credible, consistent and mutually corroborative. In light of the foregoing, the Chamber finds that LRA fighters shot at Christopher Moro and David Bua, attempting to kill them, in the course of their attack on Odek IDP camp.

**1536. Shooting at P-0252:** P-0252 testified that while he was running through the centre of the camp, trying to escape from the LRA, an LRA fighter, Onen Kamdulu,<sup>3715</sup> saw him and told him to stop.<sup>3716</sup> P-0252 testified that he kept running and Onen Kamdulu shot at him.<sup>3717</sup> P-0252 testified that Onen Kamdulu kept shooting at him but did not manage to hit him because P-0252 was able to dodge the bullets by hiding between the houses.<sup>3718</sup> P-0252 testified that Onen Kamdulu fired his gun at a house and some of the dirt from the house hit P-0252's eyes and P-0252 fell down.<sup>3719</sup> P-0252 testified that the LRA fighter then captured P-0252 and tied him with a rope.<sup>3720</sup> The Defence implies that it is implausible that the bullets would hit the houses that were there and yet miss P-0252 given how dense the houses were in the relevant area.<sup>3721</sup> The Chamber is satisfied with P-0252's explanation that he was running around and trying to dodge the bullets.<sup>3722</sup> As P-0252 stated, '[s]ometimes you can become lucky and survive just like that.'<sup>3723</sup> The Chamber notes that other witnesses, discussed further below in the Chamber's discussion of the abduction of civilians by LRA fighters, corroborate P-0252's testimony that he was abducted by the LRA. However, the Chamber notes that only P-0252 witnessed the

<sup>3712</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 48.

<sup>3713</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 48.

<sup>3714</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 52. Mario Ottober provided a 2004 Diary in which Christopher Moro and David Bua are listed among the persons injured in the 29 April 2004 Odek attack, this provides a contemporaneous record of the attack on them. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3392. David Bua is listed number 1 and Christopher Moro is listed number 2. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46-48.

<sup>3715</sup> P-0252: [T-87](#), p. 12, lines 24-25.

<sup>3716</sup> P-0252: [T-87](#), p. 12, lines 8-14.

<sup>3717</sup> P-0252: [T-87](#), p. 12, lines 16-18.

<sup>3718</sup> P-0252: [T-87](#), p. 12, lines 19-21.

<sup>3719</sup> P-0252: [T-87](#), p. 12, lines 21-23.

<sup>3720</sup> P-0252: [T-87](#), p. 12, lines 21-23.

<sup>3721</sup> P-0252: [T-89](#), p. 11, lines 10-17.

<sup>3722</sup> *See* P-0252: [T-89](#), p. 11, lines 18-20.

<sup>3723</sup> P-0252: [T-89](#), p. 11, lines 21-22.

exact circumstances of his abduction. The Chamber is convinced that P-0252 credibly described the circumstances of his abduction. The behaviour of the LRA fighters is consistent with the testimony of how LRA fighters behaved to civilians in Odek IDP camp and across the other locations relevant to the charges. Further, P-0252 provided details and a comprehensive narrative that convinced the Chamber that he spoke of an event he personally experienced. The Chamber is convinced that an LRA fighter shot at P-0252 in an attempt to kill him in the course of abducting him during the 29 April 2004 attack on Odek IDP camp.

**1537. Shooting of Kigali and his wife:** P-0252 testified that in a house close to where he was abducted from, LRA fighters attacked a couple, shooting a woman and her husband.<sup>3724</sup> P-0252 identified the man as ‘Kigali’, and said he was also called ‘Gali’.<sup>3725</sup> P-0252 noted that the couple’s son was known as Pen.<sup>3726</sup> The witness’s testimony does not identify whether Kengali and his wife died. In any case, the Chamber is satisfied that the evidence shows that the LRA at least attempted to kill Kengali and his wife.

**1538. Atikcon:** P-0252 testified of seeing the corpses of several persons that he knew while walking through the camp after being captured by the LRA, these persons were killed either in or close to their homes. P-0252 testified that he saw the corpse of one of his friends, a man called Atikcon, who had been killed.<sup>3727</sup> P-0252 testified that his friend’s body was lying in front of his house and he was bleeding.<sup>3728</sup> P-0252 testified that he knew Atikcon was dead from when he saw him shot and lying on the ground.<sup>3729</sup> In light of the totality of the evidence,<sup>3730</sup> the Chamber is convinced that the LRA killed Atikcon.

**1539. Injury to man by borassus palm tree:** While walking in the camp with the LRA, P-0252 saw a fallen person near a borassus palm tree.<sup>3731</sup> P-0252 testified that this location was close to the person’s house.<sup>3732</sup> P-0252 testified that he saw that the person was bleeding but he could not tell the exact location of the injury on the body.<sup>3733</sup> The witness’s

<sup>3724</sup> P-0252: [T-87](#), p. 21, lines 5-13.

<sup>3725</sup> P-0252: [T-87](#), p. 21, lines 5-13.

<sup>3726</sup> P-0252: [T-87](#), p. 31, lines 13-16.

<sup>3727</sup> P-0252: [T-87](#), p. 14, lines 24-25, p. 17, lines 2-7.

<sup>3728</sup> P-0252: [T-87](#), p. 14, line 25 – p. 15, line 2.

<sup>3729</sup> P-0252: [T-87](#), p. 31, lines 1-8.

<sup>3730</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3731</sup> P-0252: [T-87](#), p. 15, lines 17-19.

<sup>3732</sup> P-0252: [T-87](#), p. 15, lines 18-19.

<sup>3733</sup> P-0252: [T-87](#), p. 15, lines 20-21.

testimony does not identify whether the man was dead. In any case, in light of the totality of the evidence,<sup>3734</sup> the Chamber is satisfied that the evidence shows that, at least, the LRA attempted to kill the man by the borassus palm tree.

**1540. Shooting of Okot LC's mother:** P-0252 testified that, in order to threaten and intimidate the people he had abducted, an LRA fighter, Onen Kamdulu, opened the door of civilian homes and shot at the people inside.<sup>3735</sup> P-0252 testified that the LRA fighter opened the door of the house of Okot LC's mother,<sup>3736</sup> who was over 50 years old,<sup>3737</sup> and shot her.<sup>3738</sup> The Defence contends that it would have been difficult for P-0252 to see the woman being shot given P-0252's previous statement that the person shot was about 25 metres away from him and this occurred in a dense area with houses built less than a metre apart.<sup>3739</sup> The Chamber is convinced by P-0252's explanation that there were pathways between the houses and he had an unobstructed view of the shooting.<sup>3740</sup> The witness's testimony does not identify whether Okot LC's mother died. In any case, the Chamber is satisfied that the evidence shows that, at least, the LRA attempted to kill Okot LC's mother by shooting her.

**1541. Unnamed camp resident:** Julius Nyeko testified that the day after the attack residents told him of a woman killed by the LRA because they found her 'stubborn'.<sup>3741</sup> Julius Nyeko testified residents said that a camp resident who was being abducted by the LRA tried to run back to pick up her child, and the LRA called her 'stubborn'.<sup>3742</sup> The LRA then instructed her to pick up a bag of maize, when some of the maize spilled, she was told to bend down to pick it up and as she was bending down to do so, the LRA shot her on the head.<sup>3743</sup> Julius Nyeko testified that he was told that the child was not killed, but 'the child sat next to the mother the whole night until the next day when people came and

<sup>3734</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3735</sup> P-0252: [T-87](#), p. 13, line 12 – p. 14, line 23.

<sup>3736</sup> P-0252: [T-87](#), p. 13, line 19 – p. 14, line 4, p. 16, lines 19-20. *See also* P-0252's sketch of Odek, UGA-OTP-0243-0455.

<sup>3737</sup> P-0252: [T-87](#), p. 16, lines 12-13.

<sup>3738</sup> P-0252: [T-87](#), p. 14, lines 2-4.

<sup>3739</sup> P-0252: [T-89](#), p. 12, lines 1-7.

<sup>3740</sup> P-0252: [T-89](#), p. 12, lines 8-16.

<sup>3741</sup> D-0066: [T-214](#), p. 25, line 17 – p. 26, line 1.

<sup>3742</sup> D-0066: [T-214](#), p. 25, line 19 – p. 26, line 1.

<sup>3743</sup> D-0066: [T-214](#), p. 25, line 17 – p. 26, line 5.

picked the child away'.<sup>3744</sup> In light of the foregoing, the Chamber is satisfied that the evidence shows that the unnamed camp resident was killed by the LRA.

**1542. Mary Agudu, Doreen Ojok, DP, Acayo, Aboni:** In this context, the Chamber also recalls Hellen Adong's testimony that Mary Agudu and Doreen Ojok died in the course of the attack.<sup>3745</sup> Similarly, Helen Opoka Acan also testified that she saw the dead bodies of 'DP', Acayo, and Aboni the morning after the attack.<sup>3746</sup> In light of the totality of the evidence,<sup>3747</sup> the Chamber is satisfied that the evidence shows that Mary Agudu, Doreen Ojok, DP, Acayo and Aboni were killed by the LRA in the course of the attack.

**1543. P-0269's mother-in-law and her grandson:** P-0269 testified that she found that her mother-in-law had been shot and killed in the house, together with her mother-in-law's grandson.<sup>3748</sup> P-0269 testified that the bodies were in the compound and people were preparing to go and bury them.<sup>3749</sup> P-0269 testified that she was told that her mother-in-law was shot in the house and fell down supine.<sup>3750</sup> P-0269 testified that her mother-in-law's grandson was around 10 years old, and 'jumped out of the house, trying to flee, but got caught in the crossfire'.<sup>3751</sup> P-0269 used the word 'crossfire' but made no mention of a confrontation between LRA fighters and government soldiers, merely indicating she learned about this incident from her husband.<sup>3752</sup> The Chamber understands her account to indicate that the boy was shot in the surrounding gunshots. In this context, the Chamber recalls LRA fighter P-0264's above discussed testimony that LRA fighters fired indiscriminately at civilian homes.

**1544.** In light of the totality of the evidence,<sup>3753</sup> the Chamber is convinced that LRA fighters killed P-0269's mother-in-law and the mother-in-law's grandson.

**1545. Shooting of a woman in the mouth:** Mario Ottober testified that right after the attack, while going around checking the state of the camp, he came across a woman, whose name

<sup>3744</sup> D-0066: [T-214](#), p. 26, lines 6-8.

<sup>3745</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 54.

<sup>3746</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 38.

<sup>3747</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3748</sup> P-0269: [T-85](#), p. 50, lines 12-16.

<sup>3749</sup> P-0269: [T-85](#), p. 50, lines 12-17.

<sup>3750</sup> P-0269: [T-85](#), p. 51, lines 6-13.

<sup>3751</sup> P-0269: [T-85](#), p. 51, lines 21-24.

<sup>3752</sup> P-0269: [T-85](#), p. 51, line 25 – p. 52, line 1.

<sup>3753</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

he did not recall, who was shot in the lower part of the cheek and the bullet came out on the back of her neck.<sup>3754</sup> Mario Ottober testified that she had a baby on her back, but the baby was not injured.<sup>3755</sup> He described that there was blood on her body and she had vomited.<sup>3756</sup> Mario Ottober testified that he and his neighbour cleaned her and her wound, helped her to feed her baby and covered her with blankets.<sup>3757</sup> The woman survived.<sup>3758</sup> Similarly, Hellen Adong testified of a woman, whose name she also did not recall, who survived having been shot in the ear and jaw.<sup>3759</sup> Hellen Adong testified that she had seen the woman when she was abducted and thought she had died. However, after Hellen Adong returned from the bush, she discovered that the woman was in the hospital and eventually recovered.<sup>3760</sup> Zakeo Odora also testified that a woman, whose name he did not recall, was shot in the mouth and survived.<sup>3761</sup> Given the overwhelming similarities in their description of the woman's injury, the Chamber is convinced that the witnesses are describing the same woman.<sup>3762</sup> The Chamber finds each witness credible in their accounts of the woman shot. In light of the totality of the evidence,<sup>3763</sup> the Chamber is convinced that LRA fighters attempted to kill the above described woman by shooting her in the course of their attack on Odek IDP camp.

**1546. Girl found by the river:** P'Oyoo Lakoch testified that he personally buried a 13 year-old girl who was a babysitter for his brother.<sup>3764</sup> P'Oyoo Lakoch did not recall the girl's name.<sup>3765</sup> P'Oyoo Lakoch testified that he and her relatives went looking for her after the attack and found her body in the Odek River some days after the attack.<sup>3766</sup> P'Oyoo Lakoch testified that she was face down in the water and was shot in the back.<sup>3767</sup> P'Oyoo Lakoch testified that because it took so long to find her, she was the last person to be

<sup>3754</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 34.

<sup>3755</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 34.

<sup>3756</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 34.

<sup>3757</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 34.

<sup>3758</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 34.

<sup>3759</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 60.

<sup>3760</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 60.

<sup>3761</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 39.

<sup>3762</sup> The Chamber notes that P-0274 testifies that the woman now lives in Omyeligali village while P-0325 states that the woman now lives in Odek. P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 34; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 39.

<sup>3763</sup> The Chamber recalls its above finding that the killings in Odek IDP camp are attributable to the LRA.

<sup>3764</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42.

<sup>3765</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42.

<sup>3766</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42.

<sup>3767</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42.

buried in Odek.<sup>3768</sup> Mario Ottober offers testimony consistent with and corroborative of P'Oyoo Lakoch, stating that in the immediate aftermath of the attack, he and his neighbour heard cries and shouting coming from the Odek River.<sup>3769</sup> Mario Ottober testified that they went closer but when they got to the river, it was quiet.<sup>3770</sup> Mario Ottober testified that he later learnt that there was a girl who was shot in the leg and fell in the water.<sup>3771</sup> Mario Ottober testified that he believes this was the girl they heard and that when he and his neighbour approached the river, she must have thought the LRA came back and decided to stay quiet.<sup>3772</sup> Mario Ottober testified that her body was recovered a few days later from the river.<sup>3773</sup> Mario Ottober testified that it had started to decompose.<sup>3774</sup> Similarly to the other witnesses, Zakeo Odora testified that a twelve year old girl died in the Odek River.<sup>3775</sup>

1547. The Chamber considers that given the overwhelming similarities in the witnesses' accounts, for example the location of the victim, the witnesses all spoke of the same girl found dead in the Odek River. The Chamber notes that there are some discrepancies in the witnesses' description of the victim and her manner of death.<sup>3776</sup> The Chamber considers these discrepancies minor. Mario Ottober did not testify that he saw the victim himself and only stated that he heard that she was shot in the leg. The Chamber puts more weight on the testimony of P'Oyoo Lakoch, who saw the victim and personally buried her. However, the Chamber considers that both witnesses credibly testified that the young girl was shot and died in the Odek River. Further, that one witness said the victim was thirteen and another twelve is an even more minor inconsistency, they both testify that she was a young girl. The Chamber notes the location of her discovery as well as Mario Ottober's testimony about what he heard in the aftermath of the attack. It is clear from the context of Mario Ottober's testimony that he believed she was shot by the LRA. In

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<sup>3768</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 42.

<sup>3769</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 35.

<sup>3770</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 35.

<sup>3771</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 35.

<sup>3772</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 35.

<sup>3773</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 35.

<sup>3774</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 35.

<sup>3775</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 36.

<sup>3776</sup> Zakeo Odora testified that she was twelve years old while P'Oyoo Lakoch testified that she was thirteen. Mario Ottober testified that she was shot in the leg while Zakeo Odora testified that she was shot in the back.

light of the evidence, the Chamber is convinced that LRA fighters shot and killed the young girl found in the Odek River in the course of the attack on Odek IDP camp.

1548. As regards the number of persons killed by the LRA in the course of the attack, it is alleged in the charges that at least 61 civilians, men, women and children, were killed by gunshot as a result of the attack on Odek IDP camp. In this context, the Chamber notes the testimony of P'Oyoo Lakoch who stated that in total 64 persons were shot dead inside the camp and counted 61 dead bodies himself.<sup>3777</sup> P'Oyoo Lakoch testified that including the nine men killed in the bush,<sup>3778</sup> a total 73 people died as a result of the attack.<sup>3779</sup> P'Oyoo Lakoch stated that there were lists made of the dead, including a list he made but subsequently lost and another list made by another camp resident.<sup>3780</sup> P'Oyoo Lakoch testified that the list making process was 'a haphazard event, they were writing down the name of the dead person and the next of kin.'<sup>3781</sup> P'Oyoo Lakoch stated that there was not any clear record of the names of the dead.<sup>3782</sup>

1549. The Chamber notes the several lists of the deceased in evidence in these proceedings: P-0301's Incident Report, Mario Ottober's 2004 Diary and the Memorial Plaque that commemorates the list of the dead. The evidence indicates that none of the lists are exhaustive lists of the persons killed in the course of the attack. P-0301's Incident Report, which listed 25 persons killed in Odek IDP camp, named two people not listed in the memorial plaque: Jacob Okoya<sup>3783</sup> and Lucy Aber.<sup>3784</sup> Mario Ottober's diary listed a total of 32 persons killed in the attack,<sup>3785</sup> and did not include Okeny, the child killed in the barracks alongside his father, a government soldier.<sup>3786</sup> Mario Ottober notes that his list is not comprehensive and other people, including P'Oyoo Lakoch, might have more information about the injured and the killed.<sup>3787</sup> Mario Ottober testified that he provided

<sup>3777</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 32.

<sup>3778</sup> See paras 1601-1608 below, referring to the nine men killed in the bush while held in captivity by Dominic Ongwen's LRA fighters.

<sup>3779</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 43.

<sup>3780</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 32; P-0218: [T-90](#), p. 68, line 15 – p. 70, line 9.

<sup>3781</sup> P-0218: [T-90](#), p. 70, lines 7-9.

<sup>3782</sup> P-0218: [T-90](#), p. 87, lines 3-6.

<sup>3783</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0439. Jacob Okoya is number 12 on the list of the deceased.

<sup>3784</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0440. Lucy Aber is number 25 on the list of the deceased.

<sup>3785</sup> See P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393.

<sup>3786</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 54.

<sup>3787</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 75.

his list to the Justice and Reconciliation Project (JRP) who built the Memorial Plaque.<sup>3788</sup> The Chamber notes that the Memorial Plaque lists 44 persons killed. Zakeo Odora, one of the camp's block leaders, noted that only 44 names are listed on the Odek memorial plaque,<sup>3789</sup> however, according to his observations, around 48 civilians were shot dead within the camp.<sup>3790</sup> These 48 civilians did not include the persons killed in the bush.<sup>3791</sup> P'Oyoo Lakoch testified that 'there is no living person's name on that stone' and described the process through which the JRP collected the names of the persons commemorated on the memorial plaque.<sup>3792</sup> P'Oyoo Lakoch noted the JRP was trying to find the names of the people who had died since there was not any clear record.<sup>3793</sup>

1550. As it is clear that the relevant lists in evidence are not exhaustive, the Chamber notes that it discusses the evidence of 52 persons killed in the course of the Odek IDP camp attack in depth.<sup>3794</sup> The Chamber is satisfied that the evidence shows that at least 52 persons were killed in the course of the attack on Odek IDP camp by the LRA, both in the camp and during the retreat. The Chamber is also satisfied that the evidence shows that the LRA attempted to kill at least ten people.

**About an hour after the LRA began their attack on Odek IDP camp, the LRA attackers retreated from the camp in the face of the arrival of government reinforcements.**<sup>3795</sup>

1551. The Chamber is satisfied that the evidence shows that around the time the government soldiers arrived, the LRA fighters in the camp retreated from the camp.<sup>3796</sup>

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<sup>3788</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 81. Indeed the Chamber notes that the memorial plaque correlates closely with Mario Ottober's lists, containing many of the same unique spellings of the names of the deceased.

<sup>3789</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 36.

<sup>3790</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 36.

<sup>3791</sup> See P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 36.

<sup>3792</sup> P-0218: [T-90](#), p. 86, line 15 – p. 88, line 8.

<sup>3793</sup> P-0218: [T-90](#), p. 87, lines 3-6.

<sup>3794</sup> The Chamber here refers to its discussion above of the persons killed in the camp and its discussions below of the persons killed in the course of the LRA's retreat.

<sup>3795</sup> Para. 170 above.

<sup>3796</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 33 (before the end of the attack, Mario Ottober heard an exchange of gunfire when the mobile government soldiers were fighting the rebels. Soon after that exchange of gunfire, the government soldiers came around and the residents were assured that the rebels had left); P-0264: [T-64](#), p. 62, lines 8-12 (P-0264 testified that the LRA forces left the camp because after defeating the government soldiers, and while LRA forces were looting items in the centre, some government soldiers came from the direction of the school and started shooting at the LRA fighters and so the LRA forces left the camp); P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 29 (P'Oyoo Lakoch could see the soldiers returning from laying the ambush begin firing towards the camp); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 25 (while hiding from the rebels in the Odek River, Zakeo Odora could hear government soldiers approaching from the direction of Awere. Zakeo Odora heard the government soldiers exchange fire with the rebels); P-0406: [T-](#)

1552. Camp resident Helen Opoka Acan testified that the government soldiers were running after the rebels.<sup>3797</sup> Sinia fighter P-0264 corroborates her account, testifying that the LRA forces left the camp after some government soldiers came from the direction of the school and started shooting at the LRA fighters.<sup>3798</sup> In testimony consistent with the other witnesses' accounts, P-0314 testified that he ran back to the bush after government soldiers returned to the barracks.<sup>3799</sup> Many witnesses reported that in the course of the attack, it began to rain heavily.<sup>3800</sup>

1553. The Chamber is also satisfied that the evidence shows that the LRA's attack on Odek IDP camp lasted approximately one hour.<sup>3801</sup>

**When they left the camp, the LRA took with them abducted civilians and looted goods. In the course of the attack, LRA fighters abducted at least 40 civilian residents from the camp: men, women and children. Amongst many others Atir, Hilary Kilama, Lalam, Rose Aweko, David Ojok, James Titus Latigo, James Ayella, Kidega, Lagii, Patrick Opap Odong, P'Mala Okot, Ojok, Fabio Otto, Onek, Witness P-0275, Witness P-0269, Witness P-0252, Brian Odokonyero, Hellen Adong, Alice Kidega, Acan, Adaa/Ada, Agnes Adoch, Ajok, Akanyo, Apio, Atenyo, Carolina Lagulu, Dennis Otema, Doreen Aluku, Kadoge,**

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[155](#), p. 46, line 25 – p. 47, line 10, p. 48, lines 6-11, p. 48, line 21 – p. 49, line 1, p. 53, line 1-18 (P-0406 stated that UPDF soldiers at the school shot at LRA fighters who were at the barracks, dislodging the soldiers at the barracks who then went into the camp centre. The UPDF soldiers were firing at the LRA fighters). *See also* P-0406's annotated sketch of Odek IDP camp and the course of the attack, UGA-OTP-0263-2806; P-0359: [T-110](#), p. 46, lines 7-19 (According to P-0359, a UPDF officer, the UPDF generally do not direct heavy weapons inside a camp, out of fear of causing injury or death).

<sup>3797</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 34. Helen Opoka Acan testified that she knew that the soldiers were government soldiers because the government soldiers spoke Swahili while the rebels spoke Acholi.

<sup>3798</sup> P-0264: [T-64](#), p. 62, lines 8-12.

<sup>3799</sup> P-0314: [T-75](#), p. 11, lines 19-20.

<sup>3800</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 25 (it began to rain heavily as the attack ended); P-0252: [T-87](#), p. 33, lines 8-12; [T-89](#), p. 3, line 21 – p. 4, line 7, p. 14, line 22 – p. 15, line 4 (it was raining when the LRA attacked Odek, the rain started around the time the LRA attacked the barracks and continued during the attack. It was still raining when the LRA were leaving the camp); P-0054: [T-93](#), p. 15, line 21, p. 21, line 7-9 (it started to rain during the LRA's attack on the barracks and there was heavy rain as they were leaving the camp); P-0309: [T-63](#), p. 22, lines 22-25 (it was raining when they were leaving for Odek and it rained on the way back). The Chamber notes that many witnesses did not mention the rain and P-0340 testified that there was no rain that day. *See* P-0340: [T-103](#), p. 48, line 18 – p. 49, line 3. The Chamber considers that P-0340's testimony about the rain does not undermine its overall view of his credibility.

<sup>3801</sup> P-0410: [T-151](#), p. 31, lines 2-10, p. 32, lines 7-11 (According to P-0410, the attack began around 17:00 and the LRA forces started leaving the camp around 18:00); P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 24 (the attack lasted about one hour in total); P-0309: [T-61](#), p. 9, lines 19-20 (the LRA was at the trading centre of Odek IDP camp for approximately 50 minutes to one hour). *See* P-0270 Statement, UGA-OTP-0241-0168-R01, at paras 19 and 34 (the attack began between 17:00 and 18:00 and the government soldiers came between 19:00 and 19:30); P-0269: [T-85](#), p. 35, lines 12-19, p. 36, lines 7-20, p. 48, lines 14-16; [T-86](#), p. 77, lines 14-19 (P-0269 was abducted by the last group of LRA fighters that was fighting in the camp about an hour after the LRA arrived at the camp). The Chamber notes that P-0274 estimated the attack lasted about 30-45 minutes. P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 28. The Chamber is of the view that this testimony is not inconsistent with its finding, particularly given that the witness estimated the time the LRA spent in the camp and the Chamber's own finding is an approximation.

**Kala Adong, Joyce Aneno, Ocaka, Paul Ojara, Richard Okello, Santa Oling, Ventorina Akello, and the wife of Olet Okello were abducted and forced to work for the LRA.<sup>3802</sup>**

**Abductees, including children as young as 11 or 12 years old, were forced to carry looted items away from the camp. Abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. Civilians were forced to carry heavy loads for long distances under constant threat of harm; some abductees walked these long distances barefoot. Abductees were forced to carry an injured fighter.<sup>3803</sup>**

**Civilians suffered instances of grave physical abuse at the hands of the LRA fighters, such as beatings with sticks and guns. Abductees were beaten for walking too slowly. One abductee was forced to kill another abductee with a club and forced to inspect corpses. Another abductee was forced to watch someone being killed. Some mothers were forced to abandon their children on the side of the road; one child was left on a rubbish pit.<sup>3804</sup>**

1554. The Chamber finds that the evidence demonstrates that LRA fighters abducted civilians from Odek IDP camp and under armed guard forced them to work for the LRA, under threat of beatings and/or death. In this context, the Chamber notes the evidence, discussed further below, of the civilians the LRA abducted and killed.

1555. Both LRA fighters and civilian residents of Odek IDP camp testified that LRA abducted civilians and severely mistreated civilians in the course of the abductions and the retreat from the camp.

1556. LRA fighters themselves testified that the LRA abducted people from Odek IDP camp, providing testimony which corroborates and is consistent with the testimony of the camp residents. P-0340 testified that civilians were abducted in Odek IDP camp and made to ‘carry the loads’.<sup>3805</sup> Similarly, P-0309 testified that the LRA fighters abducted civilians from the centre and from homes in the camp to help carry looted items.<sup>3806</sup> P-0309 testified that the abducted civilians were given items to carry, including beans and other foodstuff.<sup>3807</sup> According to P-0309, during the retreat, abducted civilians were walking in the midst of the LRA fighters.<sup>3808</sup> P-0410 testified that he personally abducted two people from Odek IDP camp.<sup>3809</sup>

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<sup>3802</sup> Para. 171 above.

<sup>3803</sup> Para. 172 above.

<sup>3804</sup> Para. 173 above.

<sup>3805</sup> P-0340: [T-102](#), p. 36, lines 3-10.

<sup>3806</sup> P-0309: [T-60](#), p. 83, lines 4-7, lines 16-20; [T-61](#), p. 8, lines 20-24.

<sup>3807</sup> P-0309: [T-61](#), p. 9, lines 14-18.

<sup>3808</sup> P-0309: [T-61](#), p. 10, lines 12-21.

<sup>3809</sup> P-0410: [T-151](#), p. 39, lines 1-3.

1557. P-0352 testified that some of the abductees she saw were old and some were young.<sup>3810</sup>

P-0406 testified that after the operation, the LRA fighters gathered at the RV point and along with the attackers of Odek IDP camp, there were abducted civilians present, including children.<sup>3811</sup> P-0406 estimated that the youngest abducted children were between 11 and 12 years old, girls as well as boys.<sup>3812</sup>

1558. The Chamber also notes that in the intercepted radio communication discussed below, P-0016 identified Dominic Ongwen as stating ‘I have abducted a number of people’.<sup>3813</sup> The consistent and mutually corroborative evidence shows that the LRA fighters abducted civilians from Odek IDP camp.

1559. The civilians were abducted to carry goods that the LRA looted from the camp. P-0410 testified that he went and took food from the camp and abducted two civilians to help him carry the items.<sup>3814</sup> He recounted that in the camp he cocked his gun while entering a house and finding people inside, he brought them outside at gunpoint.<sup>3815</sup> P-0410 testified that one of the civilians was an adult and the other was a child.<sup>3816</sup>

1560. Other LRA fighters corroborate P-0410’s account that civilians were abducted from the camp to carry looted goods.<sup>3817</sup> Similarly, P-0406 testified that during the attack, he and other LRA fighters went into a house to collect food.<sup>3818</sup> P-0406 stated that LRA fighters told the civilians in the house to get up and carry the food.<sup>3819</sup> When the civilians refused this order, P-0406 testified that his commander ordered him to beat the civilians with a gun.<sup>3820</sup> P-0406 stated that he hit the civilians on the head and the chest with the butt of

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<sup>3810</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 126.

<sup>3811</sup> P-0406: [T-154](#), p. 50, lines 2-8.

<sup>3812</sup> P-0406: [T-154](#), p. 50, lines 5-13.

<sup>3813</sup> P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0075; P-0016: [T-32](#), p. 63, lines 18-22.

<sup>3814</sup> P-0410: [T-151](#), p. 45, line 22 – p. 46, line 2.

<sup>3815</sup> P-0410: [T-151](#), p. 46, lines 3-7.

<sup>3816</sup> P-0410: [T-151](#), p. 46, lines 10-13.

<sup>3817</sup> P-0330: T-52-CONF, p. 22, lines 5-6, p. 24, lines 21-24 (civilians were abducted from Odek IDP camp to help with carrying looted items. The abducted civilians carried items looted by LRA fighters to the meeting point.); P-0309: [T-60](#), p. 83, lines 4-7 (LRA fighters abducted civilians to help carry looted goods). *See also* P-0252: [T-87](#), p. 34, line 9 – p. 35, line 3 (food had been distributed to the camp three days before the attack, so when the LRA arrived the food was still there. The LRA gave the abductees the things that had been distributed to the camp to carry away, including flour, beans and cooking oil).

<sup>3818</sup> P-0406: T-154-CONF, p. 46, lines 4-6.

<sup>3819</sup> P-0406: T-154-CONF, p. 46, lines 4-7.

<sup>3820</sup> P-0406: T-154-CONF, p. 46, lines 4-13.

the gun.<sup>3821</sup> He also hit another civilian with the nozzle of the gun.<sup>3822</sup> After this the civilians got up and carried the food.<sup>3823</sup> P-0406 testified that some of the civilians stayed in the house and the LRA fighters shut the door.<sup>3824</sup> P-0264 testified that abductees carried food items on their heads and backs.<sup>3825</sup>

1561. The evidence shows that abductees were forced to carry an injured LRA commander during the retreat.<sup>3826</sup> The Chamber also found P-0252's account of civilians being forced to carry weapons from Odek credible. P-0252 stated that abductees were forced to carry a gun called a 'B-10', testifying that the older people from the camp carried the gun in turns.

1562. The Chamber also notes the evidence discussed throughout this section shows that the LRA used force throughout the abduction, for example, P-0275, P-0242, P-0269, and Hellen Adong testified that they were abducted by armed LRA soldiers. In this context, the Chamber recalls P-0264's testimony that the people abducted from Odek IDP camp were tied at the waist with a rope so they do not escape and had to carry items on their head.<sup>3827</sup> In line with this testimony, P-0142 testified that it would not have been possible for civilians abducted to escape as they would have been under tight security by armed LRA fighters.<sup>3828</sup>

1563. Helen Opoka Acan described her experience when armed LRA fighters entered her home and dragged her children out:

I couldn't stop them. If you try to stop the rebels or talk to them they will kill you or take out your eye with the butt of the gun. You cannot stop them. If you try to stop them they will cut off your mouth or your ears. After they dragged the children out I was just sitting there in the hut. I had no strength or authority to do anything. I remained in the hut with my husband. They took all my children out of the house and only left [one of my son's] children with us as they were very young. After they left my house I did not look outside my door. I could not have seen anything,

<sup>3821</sup> P-0406: T-154-CONF, p. 46, lines 4-8.

<sup>3822</sup> P-0406: T-154-CONF, p. 46, lines 4-9.

<sup>3823</sup> P-0406: T-154-CONF, p. 46, lines 4-9.

<sup>3824</sup> P-0406: T-154-CONF, p. 46, lines 4-10.

<sup>3825</sup> P-0264: [T-64](#), p. 64, lines 8-11.

<sup>3826</sup> See paras 1601-1608 below. The experience and killing of these abductees is discussed further below.

<sup>3827</sup> P-0264: [T-64](#), p. 64, lines 12-18.

<sup>3828</sup> P-0142: [T-70](#), p. 36, line 21 – p. 37, line 18.

it was dark and confusing. I just bent my head down and waited for what was coming next.<sup>3829</sup>

1564. The Chamber also recalls the testimony of Hellen Adong that LRA fighters beat people who were moving slowly even when they were carrying very heavy items.<sup>3830</sup> Hellen Adong testified that people avoided looking at the LRA because they were threatened when they did.<sup>3831</sup> Hellen Adong testified that the LRA frequently threatened the abductees with death.<sup>3832</sup>

1565. The Chamber also heard consistent, detailed and credible evidence that the LRA forced women to abandon their children during the retreat from the camp, under threats of beatings or death.

1566. Hellen Adong testified that the rebels repeatedly told her to throw her baby away, but she refused.<sup>3833</sup> She testified that during the course of the retreat, as the abductees and their LRA captors crossed a road, they found a baby boy, about two years old, who had been left on the path.<sup>3834</sup> Hellen Adong testified that the child's mother was called Alice,<sup>3835</sup> she later saw Alice among the abductees.<sup>3836</sup> After both of them were released, Alice told her that she had been forced to leave her baby behind by the LRA.<sup>3837</sup> Hellen Adong testified that people in the camp heard the child crying and brought him back to his father.<sup>3838</sup> Hellen Adong's husband, Mario Ottober, corroborated her account, testifying that she told him that the LRA forced a woman named Alice to leave her child during the retreat.<sup>3839</sup> Mario Ottober stated that according to Hellen Adong, the LRA said the child was making noise and disturbing people.<sup>3840</sup> Mario Ottober also confirmed that the child was later rescued by the residents of the camp.<sup>3841</sup>

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<sup>3829</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at paras 24-25.

<sup>3830</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 41.

<sup>3831</sup> See P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 41.

<sup>3832</sup> See P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 41, 43-45, 47; P-0269: [T-85](#), p. 44, lines 15-24 (LRA fighters threatened civilians that they would be killed if an injured commander died. P-0269 stated 'soldiers really wanted to kill us that evening, as if we were not human beings').

<sup>3833</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 38.

<sup>3834</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 38.

<sup>3835</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 38.

<sup>3836</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 38.

<sup>3837</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 55.

<sup>3838</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 55.

<sup>3839</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 43.

<sup>3840</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 43.

<sup>3841</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 43.

1567. Similarly, P-0269 testified that while she was being abducted, her two children came following her, crying.<sup>3842</sup> P-0269 explained that one soldier told her that she had to leave her children otherwise she would be killed.<sup>3843</sup> She also saw the LRA ask one of the abducted civilians to untie her baby and leave the child.<sup>3844</sup> P-0269 also testified that LRA fighters were telling women to remove the babies that they had on their back so that they could carry luggage and not hold on to their children.<sup>3845</sup>

1568. In the retreat from the camp with her LRA abductors, P-0269 saw a very young baby, about two months old, who was thrown on a rubbish pit.<sup>3846</sup> P-0269 testified that she saw children abandoned in the bush around the ages of 6-8 months.<sup>3847</sup> Similarly, abductee P-0275 testified to seeing a naked baby abandoned at the side of the path; the baby was on its back and crying.<sup>3848</sup>

1569. The Chamber also heard evidence of the LRA's abduction and mistreatment of specific civilians taken from Odek IDP camp in the course of the attack.

1570. **P-0275:** The Chamber recalls the finding that P-0275 was nine years old at the time of the attack on Odek IDP camp.<sup>3849</sup> P-0275 testified that the day of the attack, he was at home with [REDACTED] when he heard gunshots and voices outside the hut saying 'let us finish the people here and burn the house'.<sup>3850</sup> P-0275 testified that as the intensity of the firing increased, he and the others lay down on the floor of the hut.<sup>3851</sup> P-0275 testified that the bullets were hitting the thatched roof of the house.<sup>3852</sup> An LRA fighter came in while they were hiding, took them out of the house and ordered them to remove their shirts.<sup>3853</sup> P-0275 testified that they were told to lie on the ground as bullets were still flying around.<sup>3854</sup> P-0275 testified that

<sup>3842</sup> P-0269: [T-85](#), p. 38, lines 17-24.

<sup>3843</sup> P-0269: [T-85](#), p. 38, lines 17-24.

<sup>3844</sup> P-0269: [T-85](#), p. 39, lines 11-14.

<sup>3845</sup> P-0269: [T-85](#), p. 38, lines 5-8. *See* P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 48 (some of the abducted women were made to abandon their children on the side of the road).

<sup>3846</sup> P-0269: [T-85](#), p. 38, lines 2-14.

<sup>3847</sup> P-0269: [T-85](#), p. 38, lines 11-16.

<sup>3848</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 31.

<sup>3849</sup> *See* Chamber's discussion of P-0275's credibility in section IV.B.2.iv.c.v above.

<sup>3850</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 16, 20.

<sup>3851</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 20.

<sup>3852</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 22.

<sup>3853</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 23-24.

<sup>3854</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 24.

the fighter lined the boys up by height order with [REDACTED].<sup>3855</sup> He stated that the LRA fighter took a rope and tied it around their waist to join them together.<sup>3856</sup> P-0275 testified that the soldier led the abductees away while holding one end of the rope.<sup>3857</sup> The LRA fighter entered several civilian homes and removed items, giving them to the boys to carry.<sup>3858</sup> P-0275 testified that the soldier ordered them to walk towards the direction of the stream, and that they walked about four kilometres towards the direction of Lakim.<sup>3859</sup> Along the way, it began to rain.<sup>3860</sup> In the course of the retreat with the LRA, P-0275 walked through the bush barefoot and suffered injury. The witness testified that although he had slippers on at the time of his abduction, they were soon damaged and he had to walk barefoot.<sup>3861</sup> P-0275 testified that from this he had lots of wounds on his feet and legs.<sup>3862</sup> After being caught trying to escape while the LRA fighters and abductees were marching from Odek IDP camp, P-0275 was beaten with sticks and also with an RPG; he testified that it was ‘like they were hitting [him] with a big log’.<sup>3863</sup>

1571. P-0275 testified that while traveling in the bush with the LRA, an LRA fighter beat a woman, who had been previously abducted before the attack on Odek IDP camp,<sup>3864</sup> with the back of a hoe because her feet were swollen, pus was coming out of her wounds and she could no longer walk.<sup>3865</sup> P-0275 described that the soldier approached her while she was on her knees and told her to say her prayers because she was about to die.<sup>3866</sup> P-0275 stated that as she said her prayers, the soldier struck her on the head, ‘on the third occasion her head split with the rear of the skull falling forward. I saw some white material mixed with blood coming from the wound. She died in front of me’.<sup>3867</sup> P-0275 further testified

<sup>3855</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 26.

<sup>3856</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 26.

<sup>3857</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 27.

<sup>3858</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 27-28.

<sup>3859</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 30.

<sup>3860</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 30.

<sup>3861</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 32.

<sup>3862</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 56.

<sup>3863</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 43.

<sup>3864</sup> P-0275: [T-124](#), p. 65, lines 15-25.

<sup>3865</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 57.

<sup>3866</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 57.

<sup>3867</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 57.

that he was forced to move and throw away the body of a person killed by the LRA.<sup>3868</sup>

P-0275 described what he felt witnessing the LRA's actions:

[T]he fact that I could see somebody who had just been killed, somebody who was covered in blood was extremely painful for me. ... this person was already an adult and she was very heavy, so it was difficult for me to pull her as well.<sup>3869</sup>

1572. The Chamber is convinced of the credibility of P-0275's account, noting his comprehensive testimony which offered the kind of details that spoke of a keenly observed personal experience. Further, other evidence corroborates P-0275's testimony.

[REDACTED]

[REDACTED]<sup>3870</sup> [REDACTED]<sup>3871</sup> [REDACTED]

[REDACTED]

[REDACTED]<sup>3872</sup> [REDACTED]

[REDACTED]<sup>3873</sup> [REDACTED]

[REDACTED]<sup>3874</sup> In light of the foregoing, the Chamber is satisfied that the evidence shows that armed LRA fighters abducted P-0275 and forced him to work for the LRA in the course of their attack on Odek IDP camp.

1573. **Ajok:** P-0275 testified that one of the persons abducted at Odek was a young woman by the name of Ajok, who was older than him and had already left school.<sup>3875</sup> P-0275 testified that within a few days of the group setting off, Ajok was taken by an LRA fighter to be his 'wife'.<sup>3876</sup> Noting that for him, time was difficult to assess while in the bush, P-0275 testified that Ajok was taken as a 'wife' a very short time after the attack – he believed six days after she was abducted.<sup>3877</sup> P-0275 testified that the soldier that took Ajok was among the group that he was walking with in the aftermath of the Odek IDP

<sup>3868</sup> P-0275: [T-124](#), p. 16, lines 10-15.

<sup>3869</sup> P-0275: [T-124](#), p. 16, lines 12-15.

<sup>3870</sup> [REDACTED]

<sup>3871</sup> [REDACTED]

<sup>3872</sup> [REDACTED]

<sup>3873</sup> [REDACTED]

<sup>3874</sup> [REDACTED]

<sup>3875</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 34, 36, 38. P-0275 testified that he could not estimate her age.

<sup>3876</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 38.

<sup>3877</sup> P-0275: [T-124](#), p. 50, lines 14-22.

camp attack.<sup>3878</sup> P-0275 testified that he knew that Ajok had been made a so-called ‘wife’ because one night he realised that she was sleeping with an LRA ‘lapwony’.<sup>3879</sup> She continued sleeping with this lapwony which made P-0275 believe that she had become the lapwony’s ‘wife’.<sup>3880</sup> P-0275’s account of the experience of Ajok in captivity was detailed, filled with context that explained the source of P-0275’s information and showed that he was narrating events he observed. The Chamber considers this account credible and finds that Ajok, a young woman was abducted by the LRA and made into a so-called ‘wife’ of an LRA fighter.

1574. **Onek:** P-0252 testified that a young man, about 21 or 22 years old, named Onek, was abducted by an LRA fighter named Tito, one of Dominic Ongwen’s escorts.<sup>3881</sup> P-0252 testified that Onek stayed with Tito and became his escort, doing tasks such as preparing Tito’s bed.<sup>3882</sup> P-0252 testified that when Onek escaped in the middle of the night, Tito threatened to kill the abductees from Odek.<sup>3883</sup> In the end, P-0252 was severely beaten because of Onek’s escape.<sup>3884</sup> The Chamber considers P-0252’s account of Onek’s experience in and escape from the LRA credible.

1575. Several other witnesses also offered testimony consistent and corroborative of P-0252’s account that Onek was abducted during the course of the 29 April 2004 attack and later returned from the bush.<sup>3885</sup> P’Oyoo Lakoch testifies that a ‘Charles’ Onek was abducted by the LRA during the 29 April 2004 attack on Odek IDP camp and returned after some days.<sup>3886</sup> P’Oyoo Lakoch testified that Onek was still in the bush at the time male abductees were killed.<sup>3887</sup> In contrast, P-0275 testified that ‘Denish’ Onekalit was

<sup>3878</sup> P-0275: [T-124](#), p. 51, lines 1-11.

<sup>3879</sup> P-0275: [T-124](#), p. 80, line 18 – p. 81, line 1.

<sup>3880</sup> P-0275: [T-124](#), p. 80, line 18 – p. 81, line 1.

<sup>3881</sup> P-0252: [T-87](#), p. 26, lines 5-7, p. 38, lines 19-25. *See* P-0252: T-87-CONF, p. 66, lines 21-23 (Onek was also called Onekalit).

<sup>3882</sup> P-0252: [T-87](#), p. 38, line 19 – p. 39, line 2.

<sup>3883</sup> P-0252: [T-87](#), p. 38, line 19 – p. 39, line 13.

<sup>3884</sup> P-0252: [T-87](#), p. 39, lines 14-22.

<sup>3885</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 59 (a boy named Onek was abducted from Odek IDP camp during the 29 April 2004 attack and later returned from the bush); P-0269: [T-85](#), p. 46, line 22 – p. 47, line 23 (P-0269 saw Onek among the persons abducted from Odek; he later returned to the camp); P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 44 (According to Helen Opoka Acan, Onek, her neighbour’s son, was abducted during the attack). The Chamber notes that several of the witnesses offer different ages when describing Onek, the Chamber does not consider that fact dispositive. The witnesses are consistent in describing that Onek was abducted and returned from the bush. The Chamber is of the view that the witnesses are discussing the same person.

<sup>3886</sup> P-0218: [T-90](#), p. 13, line 21 – p. 14, line 8; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 38.

<sup>3887</sup> P-0218: [T-90](#), p. 13, line 21 – p. 14, line 1.

abducted from Odek IDP camp.<sup>3888</sup> P-0301's Incident Report lists 'Onekalit Denis' as one of the persons abducted during the 29 April 2004 LRA attack on Odek IDP camp and still in captivity as May 2004.<sup>3889</sup> The Chamber recalls P-0252's testimony that Onek was also called Onekalit. Given the similarities in the names of the victim, and the circumstances of abduction, the Chamber is of the view that this evidence points to the abduction of the same person, Onek. The above is also evidence that Onek was abducted by LRA fighters in the course of the attack on Odek IDP camp. In light of the foregoing, the Chamber finds that Onek was abducted by the LRA and forced him to work for the LRA.

1576. **Hellen Adong:** Hellen Adong testified that in response to hearing gunshots in the camp, she and her children hid in her home and locked the door.<sup>3890</sup> A rebel soldier carrying a gun kicked down the door.<sup>3891</sup> According to Hellen Adong she picked up one of her young children, Ocen, and ran outside and said to the LRA fighter, 'don't shoot me I am a civilian'.<sup>3892</sup> The fighter told her in Acholi to get moving.<sup>3893</sup> At the time Hellen Adong was not wearing any shoes.<sup>3894</sup> Hellen Adong looked for an item of clothing with which to carry her child but the LRA fighter hit her with the butt of his gun in the lower thigh on her right leg.<sup>3895</sup> Hellen Adong stated that eventually she took off the blouse she was wearing and used it to tie her baby on her back and walked bare-chested herself.<sup>3896</sup> She stated that she was in severe pain where the LRA fighter had hit her.<sup>3897</sup> She, her child and the soldier started walking from her home at one edge of the camp in the direction of the barracks.<sup>3898</sup>

1577. Hellen Adong testified that after the LRA looted homes near the barracks, armed fighters told her and other abductees to carry the looted items.<sup>3899</sup> The LRA rebel who abducted her found a sack of maize in a civilian, Ocii's, house, in the middle of the camp and began

<sup>3888</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 34.

<sup>3889</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441.

<sup>3890</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 23-25.

<sup>3891</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 26.

<sup>3892</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 27.

<sup>3893</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 27.

<sup>3894</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 27.

<sup>3895</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 27.

<sup>3896</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 30.

<sup>3897</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 27.

<sup>3898</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 27. The Chamber notes that the barracks was at the other edge of the camp. See P-0274 Sketch of Odek IDP camp, UGA-OTP-0244-3388-R01.

<sup>3899</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 28.

to beat her, telling her to abandon her baby and carry the sack.<sup>3900</sup> According to Hellen Adong, although the soldier continued to beat her, she refused to abandon her baby.<sup>3901</sup> She carried the sack of maize on her head and her baby on her back,<sup>3902</sup> and continued to carry it through the bush.<sup>3903</sup> Hellen Adong testified that eventually another LRA fighter halted the beating;<sup>3904</sup> she was able to keep carrying her child.<sup>3905</sup>

1578. During the day she spent in captivity by the LRA, while she was forced to walk a long distance with a sack of maize on her head while carrying her baby on her back, Hellen Adong walked barefoot.<sup>3906</sup> After she returned from the bush, she could not walk well for a couple of weeks because her feet had blisters and thorns on them from walking barefoot in the bush.<sup>3907</sup>

1579. Hellen Adong testified that during the retreat from Odek IDP camp, her child was crying because he was naked and it was cold.<sup>3908</sup> She stated that the LRA beat her on her back with the butt of their guns when she could not get him to stop crying.<sup>3909</sup> According to the witness the LRA fighters also beat other women whose babies were crying.<sup>3910</sup> Hellen Adong testified that it was wet and cold and the baby kept crying until she was finally able to soothe him by breastfeeding.<sup>3911</sup>

1580. Hellen Adong stated that after walking about six miles the day after the attack, LRA fighters told the women who had to carry looted materials from Odek to bring the items all to one place.<sup>3912</sup> The women were then released but were threatened that if a commander who had been injured during the attack died, they would be found and killed.<sup>3913</sup> Hellen Adong testified that the women were released around 15:00 the day

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<sup>3900</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 30.

<sup>3901</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 30. P-0268 testified that another LRA soldier eventually stopped the LRA fighter from hitting her.

<sup>3902</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 30.

<sup>3903</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 47.

<sup>3904</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 31.

<sup>3905</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 38, 52.

<sup>3906</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 27, 57.

<sup>3907</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 57.

<sup>3908</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 46.

<sup>3909</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 46.

<sup>3910</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 46.

<sup>3911</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 46.

<sup>3912</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 51.

<sup>3913</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 52-53.

after the attack and ran most of the way home.<sup>3914</sup> Although Hellen Adong took one of her children with her while she was abducted, she was forced to leave her other children behind, including a breastfeeding baby, Sharon Apio.<sup>3915</sup> Hellen Adong testified that after she returned home from her captivity a day later, she discovered that her child was crying and weak and no longer wanted to be breastfed.<sup>3916</sup> Hellen Adong testified that the doctor could not diagnose any problems; however the child died a week later.<sup>3917</sup>

1581. The Chamber notes that Mario Ottober, Hellen Adong's husband, corroborates her account of her abduction. The small inconsistencies in their accounts<sup>3918</sup> do not undermine their credibility and reliability. Rather, they are the normal variances expected from independent recollections and go to show that their testimonies were not rehearsed or coordinated. The Chamber finds that Mario Ottober's account of what he witnessed of her abduction and what she told him of her experience in captivity corroborate Hellen Adong's testimony and bolsters the Chamber's view of her credibility and reliability.<sup>3919</sup> P'Oyoo Lakoch and Helen Opoka Acan corroborate the other witnesses, testifying that Hellen Adong was abducted by LRA fighters and forced to carry looted food away from the camp.<sup>3920</sup> P'Oyoo Lakoch testified that Helen Ottober told him that she and others brought the pillaged food to a bigger group of LRA fighters in Lakim.<sup>3921</sup> In light of the evidence, the Chamber is convinced that LRA fighters abducted Hellen Adong and forced her to work for the LRA.

<sup>3914</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 54.

<sup>3915</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 56.

<sup>3916</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 56.

<sup>3917</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 56.

<sup>3918</sup> For example, Mario Ottober indicates that she carried the maize from outside their house at the edge of camp while Hellen Adong explicitly describes picking up the maize in the middle of the camp.

<sup>3919</sup> See P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 29-30, 40 (Hellen Adong was in a house with their children with the door locked when the LRA kicked the door of the house open and his wife came out of the house. Hellen Adong told the LRA not to shoot as she is a civilian. The LRA told her to carry a large sack of maize from outside and follow them. She followed the LRA while carrying their son, Ocen, who was less than one year old on her back. She was released the day after the attack).

<sup>3920</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at paras 34-35 (Helen Ottober told him that the rebels made her and others carry food away from the camp. She told him that after they had walked some distance, they were released and were told by rebels to take a different route back to the camp in case the government soldiers followed them). The witness specifically refers to Helen Ottober. The Chamber notes that Hellen Adong is married to Mario Ottober and understands that references to Helen or Helen Ottober are to Hellen Adong. See P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 13; P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 48 (Hellen Adong lived near Helen Opoka Acan and was one of the women who returned from the bush. Hellen Adong was abducted to carry loads for the LRA).

<sup>3921</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 35.

1582. **P-0269:** P-0269 testified at the time of the 29 April 2004 Odek IDP camp attack, she was six-months pregnant.<sup>3922</sup> She stated that when the gunshots began, she hid in a trench inside her home.<sup>3923</sup> She came out of her hiding spot to see if the LRA fighters had left the camp.<sup>3924</sup> P-0269 stated that she returned to her hiding spot, only to be followed by an armed LRA fighter who told her to come out of her hiding spot.<sup>3925</sup> The LRA fighter pulled a heavy bag of food, gave it to her to try to carry and told her to run after him.<sup>3926</sup> P-0269 testified that she was not able to carry the heavy bag, so the fighter gave her a bag of flour to carry.<sup>3927</sup> P-0269 testified that they encountered some gunfire from government soldiers and at some point, the LRA fighter was hit in the chest but they continued moving.<sup>3928</sup> P-0269 continued with the fighter out of Odek IDP camp, carrying the bag she was given to carry.<sup>3929</sup> The LRA fighter told her that she would only get hit if she did something wrong.<sup>3930</sup> She carried food, bags of salt and flour, during the course of the retreat.<sup>3931</sup> P-0269 testified that she was threatened that if the salt was spoilt by the rain she would be killed.<sup>3932</sup> According to P-0269, she was told never to try to escape, and that she would be killed if she tried.<sup>3933</sup> P-0269 testified that the luggage the LRA forced her to carry was ‘so heavy’ and she carried it on her side for a long time.<sup>3934</sup> She also had to carry a saucepan with the salt bag.<sup>3935</sup> P-0269 testified that as a result of what she carried through the bush, her ribs were injured.<sup>3936</sup>

1583. P-0269 testified that the group that abducted her was the last group that was fighting at the camp.<sup>3937</sup> P-0269 stated that eventually she was instructed to put down what she was carrying and then join a line of women.<sup>3938</sup> The witness told that the LRA threatened the

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<sup>3922</sup> P-0269: [T-85](#), p. 41, lines 4-9.

<sup>3923</sup> P-0269: [T-85](#), p. 34, line 19 – p. 35, line 3.

<sup>3924</sup> P-0269: [T-85](#), p. 35, lines 12-19.

<sup>3925</sup> P-0269: [T-85](#), p. 36, lines 7-12.

<sup>3926</sup> P-0269: [T-85](#), p. 36, lines 7-17.

<sup>3927</sup> P-0269: [T-85](#), p. 37, lines 1-5.

<sup>3928</sup> P-0269: [T-85](#), p. 36, lines 7-25.

<sup>3929</sup> P-0269: [T-85](#), p. 37, line 25 – p. 38, line 5.

<sup>3930</sup> P-0269: [T-85](#), p. 38, lines 1-4.

<sup>3931</sup> P-0269: [T-85](#), p. 39, lines 15-22.

<sup>3932</sup> P-0269: [T-85](#), p. 39, lines 15-22.

<sup>3933</sup> P-0269: [T-85](#), p. 44, lines 8-14.

<sup>3934</sup> P-0269: [T-85](#), p. 53, lines 17-22.

<sup>3935</sup> P-0269: [T-85](#), p. 53, lines 17-23.

<sup>3936</sup> P-0269: [T-85](#), p. 53, lines 17-24.

<sup>3937</sup> P-0269: [T-85](#), p. 48, lines 14-16.

<sup>3938</sup> P-0269: [T-85](#), p. 48, lines 14-19.

people in the line, telling them that they were going to be killed.<sup>3939</sup> Then, according to P-0269, the LRA discussed amongst themselves and told the women that ‘[y]ou won’t be killed this time around because if we kill you, there won’t be any other woman left in Odek camp. For that reason, we are going to release you to go back home’.<sup>3940</sup> P-0269 testified that the women were made to walk in a zigzag fashion and then released.<sup>3941</sup> The Chamber considers that P-0269’s account of her abduction was internally consistent and credible. The witness offered comprehensive details that convinced the Chamber that she spoke from her personal experience. The Chamber is satisfied that the evidence demonstrates that P-0269 was abducted by LRA fighters and forced to work for the LRA.

**1584. Brian Odokonyero (Odoki)** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>3942</sup> The Chamber notes that P’Oyoo Lakoch testified that ‘Odoki’ was abducted together with Hilary Kilama.<sup>3943</sup> P’Oyoo Lakoch testified that Odoki later told him that he and Kilama were tied together and led away from the camp.<sup>3944</sup> Given the overwhelming similarities between the witnesses’ accounts of the manner of the victims’ abduction, it is clear to the Chamber that Brian Odokonyero is the same person called ‘Odoki’. Corroborating the other accounts, P-0252 testified that Odoki was a child abducted from Odek.<sup>3945</sup> Additionally, P-0301’s Incident Report lists ‘Odoki s/o Onen Mugabe,’ as one of the persons abducted during the 29 April 2004 LRA attack on Odek IDP camp and still in captivity as of May 2004.<sup>3946</sup> In light of the evidence, the Chamber is convinced that armed LRA fighters abducted Odoki and forced him to work for the LRA in the course of the 29 April 2004 attack on Odek IDP camp.

<sup>3939</sup> P-0269: [T-85](#), p. 48, lines 14-20.

<sup>3940</sup> P-0269: [T-85](#), p. 48, lines 14-24, p. 50, lines 5-11.

<sup>3941</sup> P-0269: [T-85](#), p. 48, line 24 – p. 49, line 22.

<sup>3942</sup> [REDACTED]

<sup>3943</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 37.

<sup>3944</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 37.

<sup>3945</sup> P-0252: [T-87](#), p. 24, lines 14-24.

<sup>3946</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0440.



abductee Onek and Atir knew each other from home.<sup>3959</sup> P-0252 also knew Atir and his family from Odek.<sup>3960</sup> P-0252 testified that when Atir saw Onek, Atir said to him ‘I am going to be killed today’.<sup>3961</sup> P-0252 testified that the LRA fighters had already set up a place where Atir was to be killed and Atir was pushed and fell facedown, his hands were still bound behind his back.<sup>3962</sup> The LRA fighters were laughing.<sup>3963</sup> P-0252 testified that the LRA fighters [REDACTED].<sup>3964</sup> [REDACTED]  
[REDACTED].<sup>3965</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>3966</sup> P-0252 testified that [REDACTED]  
[REDACTED].<sup>3967</sup> [REDACTED]  
[REDACTED]<sup>3968</sup> P-0252 testified that [REDACTED]  
[REDACTED].<sup>3969</sup> [REDACTED]  
[REDACTED]<sup>3970</sup> The LRA fighters were still laughing.<sup>3971</sup> After the death of Atir, the LRA fighters asked P-0252 if he was going to escape and P-0252 swore that he would not escape in the name of God.<sup>3972</sup> The Chamber finds P-0252’s account of the killing of Atir detailed, comprehensive, and internally consistent. P-0252 provided details that made it clear to the Chamber that P-0252 was describing an event that he actually experienced. The Chamber also notes that [REDACTED]  
[REDACTED]. The Chamber finds P-0252’s testimony as to how and why Atir was killed completely credible.

1587. Other witnesses provided testimony which corroborates P-0252’s account of Atir’s death, further convincing the Chamber of the credibility of P-0252’s testimony in this regard. Zakeo Odora testified that someone named ‘Atii’ was abducted from Odek and killed in

<sup>3959</sup> P-0252: T-87-CONF, p. 67, lines 9-10.

<sup>3960</sup> P-0252: T-88-CONF, p. 37, lines 6-10.

<sup>3961</sup> P-0252: T-87-CONF, p. 67, lines 10-11.

<sup>3962</sup> P-0252: T-87-CONF, p. 67, lines 15-17.

<sup>3963</sup> P-0252: T-87-CONF, p. 67, lines 15-17.

<sup>3964</sup> P-0252: T-87-CONF, p. 67, lines 17-18.

<sup>3965</sup> P-0252: T-87-CONF, p. 67, lines 17-18.

<sup>3966</sup> P-0252: T-87-CONF, p. 67, lines 19-21.

<sup>3967</sup> P-0252: T-87-CONF, p. 67, lines 19-21.

<sup>3968</sup> P-0252: T-87-CONF, p. 67, line 22.

<sup>3969</sup> P-0252: T-87-CONF, p. 67, lines 22-23.

<sup>3970</sup> P-0252: T-87-CONF, p. 67, lines 23-24.

<sup>3971</sup> P-0252: T-87-CONF, p. 67, line 24.

<sup>3972</sup> P-0252: T-87-CONF, p. 67, line 25 – p. 68, line 1.

the bush by the LRA.<sup>3973</sup> [REDACTED]  
 [REDACTED]<sup>3974</sup> P-0269, who was abducted by the LRA during the attack and later released, testified that the LRA began to torture Atir immediately from the point where the retreating group had stopped to prepare meals.<sup>3975</sup> P-0269 testified that the LRA removed Atir's shirt and bound him.<sup>3976</sup> She testified that she saw him being undressed and beaten.<sup>3977</sup> P-0269 continued that Atir never returned from the bush.<sup>3978</sup> P-0269 testified that one of the children who had been abducted and escaped reported that all the men who were abducted were eventually killed.<sup>3979</sup> In light of the evidence, the Chamber finds that the LRA fighters [REDACTED] to kill Atir by beating him to death.

1588. [REDACTED]  
 [REDACTED]  
 [REDACTED]<sup>3980</sup> [REDACTED]  
 [REDACTED]<sup>3981</sup> [REDACTED]  
 [REDACTED]<sup>3982</sup>

1589. The evidence shows that armed LRA fighters abducted many other persons apart from the individuals discussed in detail above. Abductees were forced to work for the LRA. P-0269 testified that she moved together with other persons abducted by the LRA, men, women and children.<sup>3983</sup> P-0269 testified that the youngest person she saw among the abductees was a child of about eight years old.<sup>3984</sup> P-0269 testified that the child was later released together with the women who were released.<sup>3985</sup> In line with P-0269, Hellen Adong testified of other abductees, stating that the abductees were made to carry items

<sup>3973</sup> [REDACTED]  
 [REDACTED]

<sup>3974</sup> [REDACTED]

<sup>3975</sup> [REDACTED]

<sup>3976</sup> P-0269: [T-85](#), p. 43, lines 11-22.

<sup>3977</sup> P-0269: [T-85](#), p. 43, lines 11-22.

<sup>3978</sup> P-0269: [T-85](#), p. 43, lines 18-19.

<sup>3979</sup> P-0269: [T-85](#), p. 43, lines 19-22.

<sup>3980</sup> [REDACTED]

<sup>3981</sup> [REDACTED]

<sup>3982</sup> [REDACTED]

<sup>3983</sup> P-0269: [T-85](#), p. 46, line 22 – p. 47, line 7.

<sup>3984</sup> P-0269: [T-85](#), p. 47, lines 5-10.

<sup>3985</sup> P-0269: [T-85](#), p. 47, lines 8-10.

from the camp and after a rest period, the abductees were told to carry what they had carried from the camp and were threatened that anyone who did not would be killed.<sup>3986</sup>

1590. Witnesses reported that in addition to the civilians discussed in detail above, other civilians who were abducted by the LRA in Odek IDP camp included: Alice Kidega,<sup>3987</sup> Santa Oling,<sup>3988</sup> Acan,<sup>3989</sup> Adaa/Ada,<sup>3990</sup> Agnes Adoch,<sup>3991</sup> Akanyo,<sup>3992</sup> Apio,<sup>3993</sup> Atenyo,<sup>3994</sup> Carolina Lagulu,<sup>3995</sup> Dennis Otema,<sup>3996</sup> Doreen Aluku,<sup>3997</sup> Kadoge,<sup>3998</sup> Kala

<sup>3986</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 47.

<sup>3987</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at para. 48 (Alice Kidega was abducted and later came back from the bush; she had been abducted to carry loads for the LRA). The Chamber here recalls its discussion of ‘Alice’ who was forced to abandon her 2 year old child in the bush (*see* para. 1566 above). In the context of Helen Opoka Acan’s testimony as well as Hellen Adong’s, the Chamber is of the view that the witnesses are speaking of the same person.

<sup>3988</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 35 (Santa, the wife of Aleo, was one of the women Hellen Adong walked with in a line leaving the camp. Santa had new born twin girls, whom she left at home. According to Hellen Adong, both of the twin girls later died because when Santa came back, the girls were weak and could not breastfeed. She and Santa were neighbours and Santa told her that the twins were refusing to breastfeed. One twin died three days after Hellen Adong and Santa Oling returned from the bush and the other died three days later); P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 40-42 (Santa Oling was abducted from the camp. She had just given birth to twins. When she returned the next day, she found that her twins had died). The Chamber notes the discrepancy between the two witnesses’ accounts of when the twin girls died. The Chamber considers that the witnesses’ testimonies are consistent that Santa was abducted by the LRA.

<sup>3989</sup> P-0406: [T-156](#), p. 4, line 22 – p. 5, line 1, p. 6, lines 3-10 (a girl named Acan was abducted from Odek. P-0406 would see her sleeping in the same tent as an LRA commander).

<sup>3990</sup> P-0252: [T-87](#), p. 24, lines 15-23 (Ada was a child abducted from Odek); P-0269: [T-85](#), p. 46, line 22 – p. 48, line 7 (Adaa was among the abducted P-0269 saw during the retreat from Odek. Adaa later returned to Odek. P-0269 estimated that Adaa was between 13 and 14 years old at the time of the abduction).

<sup>3991</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 41 (Agnes Adoch was abducted during the 29 April 2004 Odek IDP camp attack. She remained in the bush for between eight months and a year); P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 36, 59 (Hellen Adong saw Agnes Adoch among the abductees. She was about 14-16 years old. She later returned from the bush); P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 34 (one of the persons abducted at Odek was a girl by the name of Adoch).

<sup>3992</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 34 (one of the persons abducted at Odek was a girl by the name of Akanyo, who was female and in primary six at his school).

<sup>3993</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 34 (one of the persons abducted at Odek was a young woman by the name of Apio).

<sup>3994</sup> P-0252: [T-87](#), p. 17, line 25 – p. 19, line 3, p. 26, lines 12-16 (Atenyo was a wounded woman tied to P-0252 and dragged into the bush).

<sup>3995</sup> P-0252: [T-87](#), p. 17, line 25 – p. 19, line 3, p. 26, lines 12-16 (Carolina Lagule was tied to P-0252 and dragged into the bush).

<sup>3996</sup> P-0252: [T-87](#), p. 24, lines 14-24, p. 41, lines 1-12 (Dennis Otema was abducted at the same time as P-0252 and by the Sinia brigade led by Odomi). The Chamber notes that it found this aspect of P-0252’s testimony credible.

<sup>3997</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 40 (Doreen Aluku was abducted from Odek during the attack. She was around 38 years old. She was released after about two days. She told Zakeo Odora that she was made to carry bags of beans and posho weighing 50 kilograms each. She told him that she was led away by the rebels in the direction of Lakim).

<sup>3998</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 34 (one of the persons abducted from Odek was Kadoge).

Adong,<sup>3999</sup> Joyce Aneno,<sup>4000</sup> Ocaka,<sup>4001</sup> Paul Ojara,<sup>4002</sup> Richard Okello<sup>4003</sup> Ventrina Akello,<sup>4004</sup> and the wife of Olet Okello.<sup>4005</sup>

1591. As to the number of persons abducted by the LRA from Odek IDP camp, the Chamber notes that the evidence indicates that at least 40 were abducted from Odek IDP camp. The Chamber notes its discussion below of the persons abducted by the LRA and killed in the bush as well as its discussion above of the persons abducted in the camp.<sup>4006</sup> In these various discussions, the Chamber discussed the evidence of a total of 40 named persons.

1592. Further, witnesses testify that many people were abducted from Odek IDP camp.<sup>4007</sup> P-0330 placed the number as less than 50 persons.<sup>4008</sup> Other witnesses testified to a smaller number, between 20-30 persons.<sup>4009</sup> Noting that each witness testified from their vantage points, the Chamber does not consider these testimonies incompatible with its finding.

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<sup>3999</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 41 (Kala Adong was abducted from Odek during the attack); P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 35 (testified Karla Adong was one of the women Hellen Adong walked with in a line leaving the camp).

<sup>4000</sup> P-0269: [T-85](#), p. 46, line 25 – p. 47, line 21 (Joyce Aneno was one of the children P-0269 saw among the abducted. Joyce Aneno came back with the women who were released).

<sup>4001</sup> P-0252: [T-87](#), p. 17, line 25 – p. 19, line 3, p. 26, lines 12-17 (Ocaka was one of several children P-0252 saw abducted and was a young child, around eight or nine).

<sup>4002</sup> P-0269: T-85-CONF, p. 23, lines 10-19 (Ojara was one of the abductees. P-0269 saw him on the first day of his abduction); P-0275 Statement, UGA-OTP-0244-3398-R01, para. 34 (one of the persons abducted from Odek was Paul Ojara, who was in primary four at his school); P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0440 (P-0301's Incident Report lists 'Ojara Paul' as one of the persons abducted during the 29 April 2004 LRA attack on Odek IDP camp and still in captivity as of May 2004. The Incident Report also listed Ojara as being in primary four).

<sup>4003</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at paras 44-45 (Helen Opoka Acan testified that her son Richard Okello was abducted by the LRA during the attack. Richard Okello later returned from the bush).

<sup>4004</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 40 (Ventrina Akello was abducted from Odek during the attack. She was around 58 years old. She told Zakeo Odora that she was made to carry bags of beans and posho weighing 50 kilograms each. She told him that she was led away by the rebels in the direction of Lakim. She was released after two days).

<sup>4005</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 43 (Hellen Adong saw the wife of Olet Okello among the abductees).

<sup>4006</sup> See paras 1594-1608 below, discussing the abduction and killings of Aroja, Hilary Kilama, Lalam, Rose Aweko, David Ojok, James Ayella, James Titus Latigo, Kidega, Lagii, Patrick Opap Odong, P'Mala Okot, Ojok and Fabio Otto in detail.

<sup>4007</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 126 (many people were abducted from Odek IDP camp). P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 33 (many civilians, men, women and children, were abducted from Odek IDP camp).

<sup>4008</sup> P-0330: T-52-CONF, p. 22, lines 8-13.

<sup>4009</sup> P-0314: [T-75](#), p. 12, line 13 – p. 13, line 1 (during the retreat from Odek, P-0314 saw an estimated 20-30 people who had been abducted from the camp, including girls); P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 33 (P-0275 saw perhaps 30 abductees); P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 36, 40 (more than twenty people were abducted by the rebels, most were women and some of these women were carrying

1593. In the light of the foregoing, the Chamber finds that the LRA abducted civilians from Odek IDP camp and placed them under military guard to prevent their escape; civilians were forced to work for the LRA and compelled to carry looted goods, an injured fighter or a weapon away from the camp under threat of death or beatings.

**Some civilians from the camp were killed when they struggled or tried to escape. One deceased was beaten so badly that his brain was exposed. LRA fighters killed a young abductee because his feet were too swollen and he was unable to walk any further. Nine adult men were abducted from the camp and forced to carry an LRA fighter who had been wounded during the attack; LRA fighters later killed all nine men when the LRA commander died from his injury.**<sup>4010</sup>

**The LRA killed the following persons in the course of the retreat from Odek IDP camp: Aroja, Atir, Hilary Kilama, Lalam, Rose Aweko, David Ojok, James Ayella, James Titus Latigo, Kidega, Lagii, Patrick Opap Odong, P'Mala Okot, Ojok and Fabio Otto.**<sup>4011</sup>

1594. The evidence shows that the LRA continued to kill civilians after taking them into the bush. P-0330 testified that abducted civilians were killed because there was a suspicion that they would inform government soldiers about the location of the LRA and that would jeopardise the LRA's position in Gulu.<sup>4012</sup> P-0330 testified that while he did not know who ordered the killing of the civilians, he suspected that no other person could issue orders other than the 'overall commander'.<sup>4013</sup>

1595. The following evidence addresses the victims who were killed in the bush in the course of the LRA's retreat from the camp. The evidence shows that LRA fighters [REDACTED] [REDACTED] Atir in the course of the retreat; [REDACTED] [REDACTED].<sup>4014</sup>

1596. **Aroja:** P-0252 also testified that he heard that a girl named Aroja, who he identified as Banya Wilson's daughter,<sup>4015</sup> was abducted by the LRA in the course of the attack in the

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their babies. During the retreat, the abductees and the LRA fighters she was with moved in a line, every second person was a rebel and then an abductee).

<sup>4010</sup> Para. 174 above.

<sup>4011</sup> Para. 175 above.

<sup>4012</sup> P-0330: [T-52](#), p. 25, lines 9-12.

<sup>4013</sup> P-0330: [T-52](#), p. 25, lines 13-17.

<sup>4014</sup> See paras 1586-1587 above.

<sup>4015</sup> P-0252: [T-87](#), p. 37, lines 14-15 (testifying that Banya Wilson was an LC).

same group that he was in and was killed because she was unable to continue to move during the retreat from Odek.<sup>4016</sup>

1597. **Hilary Kilama:** P'Oyoo Lakoch testified that Hilary Kilama, the child of Romano Opoka and Helen Acan,<sup>4017</sup> and also his cousin,<sup>4018</sup> was abducted and killed in the bush.<sup>4019</sup> P'Oyoo Lakoch testified that he was told by another child, Odoki,<sup>4020</sup> who had been abducted along with Hilary Kilama, that the two were tied together and led away from the camp.<sup>4021</sup> According to Odoki, Hilary Kilama's feet had swollen to the point where he could no longer walk because of the pain, so the LRA rebels killed him the day after the attack.<sup>4022</sup> P-0275 testified that [REDACTED]  
[REDACTED].<sup>4023</sup> P-0275 testified that [REDACTED]  
[REDACTED].<sup>4024</sup> P-0275 testified that while sorting abductees at the rest stop, LRA fighters asked questions [REDACTED]  
[REDACTED].<sup>4025</sup> P-0275 testified that after he came back home from the bush, Brian Odokonyero told him that Hilary Kilama had been killed by the LRA.<sup>4026</sup> P-0275 testified that he was informed that Hilary Kilama's feet had been swollen and so the LRA killed him.<sup>4027</sup> P'Oyoo Lakoch and P-0275's narrative are consistent and mutually corroborative.

1598. Other witnesses also testify of Hilary Kilama's killing. Mario Ottober's testimony is corroborative of the above witnesses; he stated that Kilama was one of two children from

<sup>4016</sup> P-0252: [T-87](#), p. 37, lines 13-18.

<sup>4017</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 37. Helen Acan is Helen Opoka Acan, a witness in these proceedings.

<sup>4018</sup> In P'Oyoo Lakoch's victim application, Hillary Kilama is listed as his uncle. *See* Application for participation as victim, UGA-D26-0012-0184. In his testimony, P'Oyoo Lakoch described his family relationship with Hillary Kilama, explaining that Hillary Kilama is the child of his father's brother. *See* P-0218: [T-90](#), p. 29, lines 18-19, p. 78, lines 3-20. The Chamber is satisfied with P'Oyoo Lakoch's explanation of his family relationship with Hilary Kilama, and concludes that Hilary Kilama was his cousin, the child of his father's brother.

<sup>4019</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 37.

<sup>4020</sup> *See* para. 1584 above (finding the Brian Odokonyero is also called Odoki).

<sup>4021</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 37.

<sup>4022</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 37.

<sup>4023</sup> P-0275: T-124-CONF, p. 27, lines 2-9.

<sup>4024</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 17-35.

<sup>4025</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 35.

<sup>4026</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 104.

<sup>4027</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 104.

Odek who were believed to have been killed in the bush after they were abducted.<sup>4028</sup> Helen Opoka Acan, Hilary Kilama's mother, testified that Hilary Kilama was abducted and was shot and killed in the bush because he was walking too slowly.<sup>4029</sup> Helen Opoka Acan testified that another son, who had also been abducted by the LRA, returned from the bush and told her about Hilary Kilama's death.<sup>4030</sup> P-0269 testified that among the abductees she saw during the retreat was a boy called Kilama.<sup>4031</sup> She stated, 'he went for good, never returned'.<sup>4032</sup> P-0269 testified that she estimated that Kilama was between 13 and 14 years old at the time of the abduction.<sup>4033</sup> The Chamber considers that the above witnesses provide consistent and mutually corroborative evidence which shows that Hilary Kilama was killed by the LRA. Further corroborating the witnesses' accounts, P-0301's Incident Report lists 'Kilama Hillary' as one of the persons abducted during the 29 April 2004 LRA attack on Odek IDP camp and still not returned to the camp as of May 2004.<sup>4034</sup> The Chamber is convinced that the evidence shows that LRA fighters killed Hilary Kilama during the retreat from Odek IDP camp.

1599. **Lalam:** P-0406 testified that a girl, Lalam, was abducted from Odek<sup>4035</sup> and killed in the bush,<sup>4036</sup> approximately a week after being abducted.<sup>4037</sup> According to P-0406 Lalam had already been distributed when she was killed and the LRA was still in the Gulu area.<sup>4038</sup> She had been placed on LRA commander 'Okwee's' house. A boy was swept away by a river and this commander decided that Lalam was the cause of this incident because Lalam dreamt a lot at night and thus must be a witch.<sup>4039</sup> P-0406 testified that the commander determined that Lalam should be killed by an LRA fighter, Odoki, and she

<sup>4028</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 73. Mario Ottober's listing of 'Kilama' among the persons killed in the 29 April 2004 Odek attack also provides a contemporaneous record of the death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 73. The Chamber notes that the first name of Kilama is somewhat illegible and appears to be 'Mario'. The Chamber is also of the view that Mario Ottober's reference to 'Mario' in his 2004 Diary is also why 'Kilama Mario' is listed on the Memorial Plaque erected in Odek IDP camp to commemorate the persons killed by the LRA on 29 April 2004. *See* Memorial plaque, UGA-OTP-0250-0265, at number 14.

<sup>4029</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at paras 44-45.

<sup>4030</sup> P-0270 Statement, UGA-OTP-0241-0168-R01, at paras 44-45.

<sup>4031</sup> P-0269: [T-85](#), p. 46, line 25 – p. 47, line 22.

<sup>4032</sup> P-0269: [T-85](#), p. 47, line 22.

<sup>4033</sup> P-0269: [T-85](#), p. 47, line 25 – p. 48, line 7.

<sup>4034</sup> P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0440.

<sup>4035</sup> P-0406: [T-154](#), p. 50, line 25 – p. 51, line 3.

<sup>4036</sup> P-0406: [T-154](#), p. 50, lines 14-24.

<sup>4037</sup> P-0406: [T-156](#), p. 5, lines 5-7.

<sup>4038</sup> P-0406: [T-156](#), p. 5, lines 5-16.

<sup>4039</sup> P-0406: [T-154](#), p. 35, lines 3-22, p. 36, lines 3-7, p. 50, lines 19-24; [T-156](#), p. 5, lines 5-13.

was.<sup>4040</sup> The Chamber finds P-0406's testimony detailed, comprehensive and credible. Similarly, P-0252 testified that a Luo girl was killed in the bush after she was accused of being a witch.<sup>4041</sup> P-0252 testified that someone was crossing the Agogo River and all of a sudden he was killed and the LRA alleged that there was a witch and that the girl was a witch and so she was killed.<sup>4042</sup> Given the great similarities in the details they provide, the Chamber is of the view that P-0406 and P-0252 are likely speaking of the same person, Lalam. The Chamber is convinced that the evidence shows that Lalam was killed by the LRA after being abducted during the attack on the camp.

**1600. Rose Aweko:** Mario Ottober testified that Rose Aweko was one of two children from Odek who were killed in the bush after they were abducted.<sup>4043</sup> The Chamber notes that the evidence shows that Rose Aweko was an LRA abductee and thus in the sole control of the LRA. The Chamber is convinced that the evidence shows that Rose Aweko, an abductee in the control of the LRA, was killed by the LRA after being abducted from Odek IDP camp.

**1601. Nine men killed in the bush:** Many witnesses credibly testified that nine men, abducted by LRA fighters during the Odek IDP camp attack, were killed by the LRA in the bush in the course of the retreat from the camp: David Ojok,<sup>4044</sup> James Ayella,<sup>4045</sup> James Titus

<sup>4040</sup> P-0406: [T-156](#), p. 5, lines 5-16.

<sup>4041</sup> P-0252: [T-87](#), p. 37, line 23 – p. 38, line 8.

<sup>4042</sup> P-0252: [T-87](#), p. 37, line 23 – p. 38, line 8.

<sup>4043</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 73. Mario Ottober provided a 2004 Diary in which Rose Aweko is listed among the persons killed in the 29 April 2004 Odek attack, thus providing a contemporaneous record of the death. P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. *See also* P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 73.

<sup>4044</sup> P-0218: [T-90](#), p. 13, lines 15-20; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39. [REDACTED]

[REDACTED] P-0274 First Statement, UGA-OTP-0244-3375-R01, at para. 72; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 53, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (stating that David Ojok was 35 years old).

<sup>4045</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 41; P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (according to P-0301, he was 33 years old). The Chamber is of the view that the witnesses' reference to Ayella is merely a different spelling of the last name of James Ayela.

Latigo,<sup>4046</sup> Kidega,<sup>4047</sup> Lagii,<sup>4048</sup> Patrick Opap Odong,<sup>4049</sup> P'Mala Okot,<sup>4050</sup> Ojok<sup>4051</sup> and Fabio Otto.<sup>4052</sup>

1602. The evidence shows that LRA fighters forced at least some of these nine men to carry an LRA fighter who had been injured during the attack on Odek IDP camp.<sup>4053</sup> When the injured fighter died, all nine men were killed.<sup>4054</sup> LRA fighters hacked the men to death

<sup>4046</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 49, 58; P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (according to P-0301, he was 35 years old).

<sup>4047</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (according to P-0301, he was 33 years old).

<sup>4048</sup> P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0252: [T-87](#), p. 24, lines 14-21.

<sup>4049</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 49, 58; P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (according to P-0301, he was 35 years old). The Chamber notes that the evidence refers to different names, 'Odong', 'Odong Patrick,' 'Odap' and 'Opab'. Given the inscription in the memorial plaque for 'Odong Patrick Opap' and the similarities in the manner of the death, it is clear to the Chamber that the witnesses are referring to the same person. *See* Memorial plaque, UGA-OTP-0250-0265, at number 24.

<sup>4050</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0252: [T-87](#), p. 24, lines 14-21.

<sup>4051</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393. *See* P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (according to P-0301, he was 30 years old); P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 49, 58.

<sup>4052</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72; P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 34, 79; P-0252: [T-87](#), p. 24, lines 14-21; P-0301 Incident Report, UGA-OTP-0249-0438-R01, at 0441 (according to P-0301, he was 47 years old); P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 49, 58. The Chamber notes that Hellen Adong states 'Otoo' rather than Otto, and considers it a mere difference in spelling of the same name. *See* P-0275: [T-124](#), p. 11, lines 6-10.

<sup>4053</sup> P-0269: [T-85](#), p. 40, lines 12-24 (during the retreat, the LRA forced abductees to carry an injured LRA fighter); D-0066: [T-214](#), p. 23, line 20 – p. 24, line 3 (some of the people who escaped and came back said that the LRA abducted nine men from the camp and made them carry an injured LRA commander). *See* P-0252: [T-87](#), p. 35, lines 3-20 (the LRA also made abductees carry injured LRA fighters. Abductees carried an LRA fighter who had been shot in the eye as well as a fighter who had been shot in the head or the chest and was wrapped up in white cloth and carried on a stretcher); P-0264: [T-64](#), p. 59, lines 1-20 (a commander called Okello was shot in the head and was carried and taken from Odek in a stretcher); P-0340: [T-102](#), p. 31, line 13 – p. 32, line 12 (the morning after the attack, P-0340 saw an injured fighter being carried by some people on a stretcher. P-0340 testified that the fighter was carried in a kind of sack called a kita in which holes had been created with two logs pushed through the hole); P-0410: [T-151](#), p. 45, lines 9-12 (P-0410 saw an injured LRA fighter being carried while the LRA forces were retreating).

<sup>4054</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39; P-0218: [T-90](#), p. 13, line 21 – p. 14, line 3 (nine men were abducted on the day of the attack and later killed by the LRA. P'Oyoo Lakoch learned that they had been made to carry an LRA commander who was injured during the attack on Odek IDP camp. The commander later died and the men were killed. P'Oyoo Lakoch was told about the deaths by a returned abductee); P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 41 (Zakeo Odora was told by the abductees that the abducted men were killed out of revenge, because an LRA commander who was injured during the 29 April 2004 attack on Odek IDP camp, later died in the bush); P-0269: [T-85](#), p. 44, lines 15-21 (after returning from the bush, P-0269 was told by one of the children who escaped later from the LRA that the injured commander died and because of that the

with machetes.<sup>4055</sup> The evidence demonstrates that the men were killed several days after the attack on Odek IDP camp.<sup>4056</sup>

1603. The Chamber notes the testimony of Hellen Adong in describing what happened to the nine abducted men. Hellen Adong testified that one of the rebels' leaders was injured in the attack and the Odek abductees carried him.<sup>4057</sup> She testified that four of the men would carry him and then another four would take a turn.<sup>4058</sup> Hellen Adong testified that the men carrying the rebel leader were right in front of her.<sup>4059</sup> Hellen Adong testified that LRA fighters released her and other women who were abducted to carry looted goods and told them that if the injured commander dies, the LRA was going to come and catch them because the 'Lapwony' was worth ten of them.<sup>4060</sup> According to Hellen Adong the women were frightened because the 'Lapwony' did not look well and they were concerned that if he died, the LRA would kill them.<sup>4061</sup> Hellen Adong spoke with an abductee after he returned from the bush who informed her that after the rebel commander died, the other men who had been abducted were killed in revenge.<sup>4062</sup> P'Oyoo Lakoch testified that the bodies of the men were never found so the residents of Odek have been unable to bury them.<sup>4063</sup>

1604. Regarding the witness's testimony that an injured commander carried by nine men who were later killed was injured in a Pabbo attack, rather than the Odek attack as other

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rest of the men were killed. The escaped abductee told her that if the commander had died immediately while the women were still in the bush, they would have been killed); P-0252: [T-87](#), p. 65, lines 19-23 (an LRA officer was injured in Odek and when he was being carried, he stated that if he dies the people of Odek should be killed. The elders abducted from Odek were all killed after the officer died); P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 44, 72 (the LRA abducted nine men to carry an LRA commander injured during the course of the 29 April 2004 Odek IDP camp attack. After the commander they carried died, the men were all killed); D-0066: [T-214](#), p. 24, lines 1-4 (the people who were later released informed them that these nine people were eventually all killed. D-0066's brother was among the persons killed).

<sup>4055</sup> P-0218: [T-90](#), p. 84, line 15 – p. 85, line 17; P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39 (an escaped abductee, Charles Onek, returned from the bush approximately two weeks after the attack and told P'Oyoo Lakoch that he witnessed the killing of the nine men. According to Charles Onek, the men were hacked with a machete).

<sup>4056</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39 (the men's throats were cut on 1 May 2004). *See* P-0274's 2004 Diary pages, UGA-OTP-0244-3391, UGA-OTP-0244-3393; P-0274 First Statement, UGA-OTP-0244-3375-R01, at paras 46, 54, 72 (Mario October 2004 diary entry listed the nine men among the persons killed in the bush).

<sup>4057</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 49.

<sup>4058</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 49.

<sup>4059</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 49.

<sup>4060</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at paras 52-53.

<sup>4061</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 53.

<sup>4062</sup> P-0268 Statement, UGA-OTP-0248-0013-R01, at para. 58.

<sup>4063</sup> P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 39.



1607. **Fabio Otto:** [REDACTED]<sup>4074</sup>

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>4075</sup>

1608. Zakeo Odora testified that Fabio Otto was one of the nine abducted men killed in the bush by the LRA.<sup>4076</sup> [REDACTED]

[REDACTED]<sup>4077</sup> [REDACTED]

[REDACTED]

[REDACTED]<sup>4078</sup> [REDACTED]

[REDACTED]<sup>4079</sup> The Chamber finds Zakeo Odora's testimony credible. Zakeo Odora's narrative was specific and had the kind of details that convinced the Chamber of the veracity of his account. [REDACTED]

[REDACTED]

**Apart from the abductees killed during the retreat, some abductees were released after a few days in the bush, others were integrated into the LRA, including into Dominic Ongwen's household.**<sup>4080</sup>

1609. The Chamber previously established that many abductees were killed.<sup>4081</sup> The evidence shows that some abductees, particularly women who were already mothers, were released. Above, the Chamber discussed the evidence that older female abductees such as Hellen Adong and P-0269 were released by the LRA a day or two after the attack on Odek IDP camp.<sup>4082</sup> In this context, the Chamber also notes P-0359's testimony that the Ugandan

<sup>4074</sup> [REDACTED]

<sup>4075</sup> [REDACTED]

<sup>4076</sup> P-0325 Statement, UGA-OTP-0264-0242-R01, at para. 41.

<sup>4077</sup> [REDACTED]

<sup>4078</sup> [REDACTED]

<sup>4079</sup> [REDACTED]

<sup>4080</sup> Para. 176 above.

<sup>4081</sup> See paras 1594-1608 above.

<sup>4082</sup> See the Chamber's discussion of the persons abducted in Odek IDP camp, in paras 1580, 1583 above.

military rescued some abductees, including some young children between the ages of ten and 15.<sup>4083</sup>

1610. However, other abductees were kept and became part of the LRA. P-0314 testified that abductees that were retained were made part of the LRA and given duties.<sup>4084</sup> P-0264 testified of what happened to the persons who were abducted:

Among those abducted there were those – those who could be recruited as – to proceed with the work were put aside, and those who were considered old were put in a different side. And then the energetic people who could help in carrying luggage were put in another group. Later on, when the group split, those who were considered able to be – to work and to be recruited into the ranks of the LRA, others were put in Oka battalion with Ben, others went to the headquarters and one – others went to other battalions.<sup>4085</sup>

1611. Similarly, P-0252 testified that after leaving Odek and encamping several miles ahead of Lakim, the people abducted from Odek were lined up with the older people in one line, younger boys in a different line and the even younger children in another line.<sup>4086</sup> P-0252 testified that women were placed in a separate line as well.<sup>4087</sup> He explained that the mothers, older females and very young children were sent home but some girls, approximately 14 and upwards, were kept behind.<sup>4088</sup> P-0252 testified that children from 10-14 years were taken to the bush and recruited as fighters in the LRA.<sup>4089</sup>

1612. P-0372 testified that children ‘who had some energy’ were retained by the LRA.<sup>4090</sup> P-0372 testified that the boys abducted from Odek were distributed within the Sinia brigade<sup>4091</sup> and the girls were distributed among the LRA, and some joined Dominic Ongwen’s household.<sup>4092</sup> P-0252 testified that he was abducted by Dominic Ongwen’s

<sup>4083</sup> P-0359: [T-109](#), p. 60, line 17 – p. 61, line 4, p. 62, lines 18-19.

<sup>4084</sup> P-0314: [T-75](#), p. 18, lines 10-20.

<sup>4085</sup> P-0264: [T-64](#), p. 63, lines 13-20. *See* P-0314: [T-75](#), p. 14, lines 11-20 (P-0340 was told by other LRA fighters that the abductees had been released however he did not ‘know whether they were let go home or something else had happened to them’. Something else meant ‘they could have been killed’).

<sup>4086</sup> P-0252: [T-87](#), p. 31, lines 17-24.

<sup>4087</sup> P-0252: [T-87](#), p. 33, lines 22-24.

<sup>4088</sup> P-0252: [T-87](#), p. 36, line 17 – p. 37, line 2.

<sup>4089</sup> P-0252: [T-87](#), p. 38, lines 9-16.

<sup>4090</sup> P-0372: [T-148](#), p. 43, lines 22-25.

<sup>4091</sup> P-0372: [T-148](#), p. 54, lines 1-19.

<sup>4092</sup> P-0372: [T-148](#), p. 58, lines 16-24. *See* P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 127 and 128 (P-0352 testified that there were some young abductees who remained after the others left and the LRA moved with them. The new abductees were taken to the headquarters); P-0218 Statement, UGA-OTP-0238-0720-R01, at para. 33 (most of the women returned in the following days. As far as P’Oyoo Lakoch knew all of the abducted

group and stayed in that group during his time in the bush.<sup>4093</sup> P-0252 testified that during his time in the bush, he would be given ‘loads’ to carry and had to obey the LRA’s orders.<sup>4094</sup> P-0252 testified that he would carry his commander’s guns, his bag and also a jerry-can of oil to oil the gun.<sup>4095</sup>

1613.P-0330 testified that the abducted children joined the different households of the LRA leaders, including Dominic Ongwen’s and his subordinate’s, Okello Kalalang.<sup>4096</sup> P-0309 testified that he saw two abducted civilians from Odek IDP camp in the home of one of Dominic Ongwen’s subordinate commanders.<sup>4097</sup> P-0309 testified that these two persons were shot and killed after being accused of trying to escape.<sup>4098</sup>

1614.P-0352 testified that later on the day they returned from attacking Odek, LRA fighters ██████ and Odoki brought two girls to ██████’s home.<sup>4099</sup> P-0352 testified that the two girls were about 16 years old and ██████ said that the girls were supposed to fetch water and wash the saucepans.<sup>4100</sup> P-0352 testified that the two girls stayed in the camp for around two weeks before they were killed by an aircraft.<sup>4101</sup> P-0264 testified that three girls and boys younger than himself were distributed to Ben Acellam.<sup>4102</sup>

*vii. Dominic Ongwen’s reporting of the attack*

**After the attack, the attackers joined the rest of the group commanded by Dominic Ongwen. The subordinate commanders briefed Dominic Ongwen. Dominic Ongwen thanked the fighters.**<sup>4103</sup>

**Dominic Ongwen communicated the results of the attack on military radio to other LRA commanders and to Joseph Kony, reporting that his fighters successfully carried out an**

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men were killed and that most of the abducted children remained in the bush, he did not know if they were dead or alive).

<sup>4093</sup> P-0252: [T-87](#), p. 41, lines 12-21.

<sup>4094</sup> P-0252: [T-87](#), p. 44, line 20 – p. 45, line 1. *See* P-0142: [T-70](#), p. 33, line 20 – p. 34, line 20 (P-0142 saw the fighters who went to Odek return from the attack with a few civilians, fewer than five. It was clear from the clothing and demeanour that they were civilians. These abductees were younger than 17. P-0142 thought the reason they were brought was to increase the number of fighters).

<sup>4095</sup> P-0252: [T-87](#), p. 45, lines 2-5.

<sup>4096</sup> P-0330: [T-52](#), p. 26, lines 4-11.

<sup>4097</sup> P-0309: [T-61](#), p. 11, lines 18-23.

<sup>4098</sup> P-0309: [T-61](#), p. 11, line 18 – p. 12, line 3.

<sup>4099</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 129.

<sup>4100</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 129.

<sup>4101</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 129.

<sup>4102</sup> P-0264: [T-64](#), p. 65, lines 13-22. P-0264 did not know what happened to the rest of the abductees. P-0264: [T-64](#), p. 65, lines 23-24.

<sup>4103</sup> Para. 177 above.

**attack on Odek IDP camp, shooting people, abducting civilians and looting in the camp.**<sup>4104</sup>

1615.P-0314 testified that the soldiers returning from the attack joined the rest of the group commanded by Dominic Ongwen near a stream.<sup>4105</sup> They got to the location the same evening at about 22:00 or 23:00 hours.<sup>4106</sup> According to P-0314, Dominic Ongwen ‘saw what his junior commanders had done and he was happy’.<sup>4107</sup> Dominic Ongwen thanked the soldiers, and received a briefing by the junior commanders who conducted the attack.<sup>4108</sup> The Chamber considers P-0314’s account credible, particularly given the radio communication in which Dominic Ongwen reported on the attack to Joseph Kony and other commanders. The Chamber also notes that P-0142 corroborates the account that Dominic Ongwen’s junior commanders returned and reported to him about the attack on Odek IDP camp.<sup>4109</sup>

1616.A record of an intercepted radio communication involved Dominic Ongwen, Ocen, Joseph Kony, Labongo, Vincent Otti, Labalpiny and others speaking over the radio on 30 April 2004,<sup>4110</sup> just one day after the 29 April 2004 attack on Odek IDP camp. In the recording, Dominic Ongwen stated that he had ‘just come back from beating someplace’; he goes on to state that he ‘beat’ Odek, the centre, the barracks and ‘whatever else’.<sup>4111</sup> Joseph Kony asked Dominic Ongwen ‘[y]ou also cleaned the backside of my mother right’?<sup>4112</sup> P-0003 explained that this is an LRA euphemism meaning ‘[d]id you kill all

<sup>4104</sup> Para. 177 above.

<sup>4105</sup> P-0314: [T-75](#), p. 13, lines 13-20.

<sup>4106</sup> P-0314: [T-75](#), p. 14, lines 6-7.

<sup>4107</sup> P-0314: [T-75](#), p. 17, lines 2-6.

<sup>4108</sup> P-0314: [T-75](#), p. 17, lines 7-13.

<sup>4109</sup> P-0142: [T-70](#), p. 30, lines 2-6, lines 13-18, p. 38, line 24 – p. 39, line 7.

<sup>4110</sup> See Enhanced audio recording, UGA-OTP-0235-0038. See the Chamber’s discussion of enhanced audio recording, UGA-OTP-0235-0038 in section IV.B.3.ii.k above.

<sup>4111</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0300-02; P-0003: [T-43](#), p. 18, line 1 – p. 23, line 11 (P-0003 explains that this language is an LRA euphemism for attacking, hence Dominic Ongwen is stating that he attacked Odek); P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0066-68; P-0016: [T-32](#), p. 42, line 4 – p. 49, line 11 (P-0016 explains that Dominic Ongwen states that he carried out attacks); P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0499-501; P-0059: [T-37](#), p. 2, line 23 – p. 3, line 18; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0336-38; P-0440: [T-40](#), p. 21, line 17 – p. 24, line 16.

<sup>4112</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0301; P-0003: [T-43](#), p. 20, line 19 – p. 21, line 3; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0067; P-0016: [T-32](#), p. 49, line 23 – p. 50, line 9; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0500; P-0059: [T-37](#), p. 2, line 23 – p. 5, line 19; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0337; P-0440: [T-40](#), p. 23, line 11 – p. 24, line 1.

the people'.<sup>4113</sup> Dominic Ongwen responded, '[c]ompletely, Over'.<sup>4114</sup> Dominic Ongwen stated that '[e]verything including the barracks was burnt down'.<sup>4115</sup> After Dominic Ongwen left the radio call, Joseph Kony stated, '[e]xcellent. This guy has pleased me very much. I wish he threw them to the ground for me'.<sup>4116</sup>

1617. Later in the same recording, Vincent Otti, Dominic Ongwen and others discussed Dominic Ongwen's operation.<sup>4117</sup> At one point in the communication, Dominic Ongwen stated, 'Just been shooting our colleagues [...] I have just come over from shooting people'.<sup>4118</sup> P-0003, P-0016, P-0059 and P-0440 each heard Dominic Ongwen refer to 'many' or 'all' civilian killed.<sup>4119</sup> In the communication, Dominic Ongwen explained, '[w]e went to attack Odek and found they had deployed there a lot of soldiers. [...] Those soldiers were deployed to intercept me. [...] They brought there a lot of soldiers'.<sup>4120</sup> P-0003, P-0016 and P-0059 each heard Dominic Ongwen report the abduction of male and

<sup>4113</sup> P-0003: [T-43](#), p. 20, line 19 – p. 21, line 3. See P-0059: [T-37](#), p. 5, lines 9-15; P-0440: [T-40](#), p. 23, line 18 – p. 24, line 1. See also P-0016: [T-32](#), p. 49, line 23 – p. 50, line 9.

<sup>4114</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0301; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0067; P-0016: [T-32](#), p. 50, lines 10-13; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0500; P-0059: [T-37](#), p. 5, lines 16-19; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0337.

<sup>4115</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0301; P-0003: [T-43](#), p. 18, lines 7-22; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0067; P-0016: [T-32](#), p. 52, lines 3-12; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0500; P-0059: [T-37](#), p. 5, line 25 – p. 6, line 1; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0337.

<sup>4116</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0302; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0068; P-0016: [T-32](#), p. 54, lines 18 – p. 55, line 2; [T-34](#), p. 62, line 16 – p. 63, line 7 (P-0016 stated that Joseph Kony, speaking to Labongo, said 'Good. Very Good, This has really made me happy. He should have really – he should have really killed a lot more of these people, Labongo'. P-0016 emphasised that Joseph Kony did not say that Labongo should kill more people, rather Joseph Kony was talking to Labongo that the person they were talking about is the one who should have killed more); P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0501 (P-0059 annotated the transcript to change 'threw' to 'finished'); P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0338.

<sup>4117</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0315-24; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0070-75; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0513-22; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0352-61.

<sup>4118</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, 0318-19; P-0003: [T-43](#), p. 23, line 18 – p. 25, line 11, p. 27, line 21 – p. 28, line 16 (P-0003 explains that the reference to 'colleagues' is to the UPDF); P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0516-17; P-0059: [T-37](#), p. 6, line 22 – p. 13, line 5; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0356.

<sup>4119</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003: [T-43](#), p. 26, lines 8-10; P-0016: [T-32](#), p. 60, lines 15-23; P-0059: [T-37](#), p. 8, lines 11-13; P-0440: [T-40](#), p. 26, lines 19-21; The Chamber notes this portion of the radio recording discussed by the witnesses appears as unintelligible in the transcriptions. However later in the radio recording, Vincent Otti, still discussing the Odek attack, states, 'civilian casualties are plenty. He does not know the numbers [...] So many civilians died that he does not know the numbers'. P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0323.

<sup>4120</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, 0319; P-0003: [T-43](#), p. 25, line 7 – p. 26, line 21; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0517; P-0059: [T-37](#), p. 6, line 22 – p. 13, line 5; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0356-57; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0070.

female civilians.<sup>4121</sup> Dominic Ongwen then goes on to describe the military equipment the LRA looted from Odek.<sup>4122</sup>

1618. Regarding the suggestion that it was another LRA commander, Ocan Labongo, rather than Dominic Ongwen who took credit for the attack on Odek IDP camp during the radio communications,<sup>4123</sup> the Chamber recalls its finding that Labongo does indeed speak on the relevant communication on Tape 808.<sup>4124</sup>

1619. There are four different registers on the intercepted communication related to this communication which shed some light on the issue: ISO, UPDF and Police logbooks as well as an UPDF intelligence report.

1620. The Chamber first notes, as explained further below, two other intercepting agencies (ISO and Police) unequivocally attribute the radio reports to Dominic Ongwen and not to Labongo and the same reports are also attributed to Dominic Ongwen by witnesses testifying in these proceedings and by the rest of the testimonial evidence available to the Chamber which connect Dominic Ongwen to the attack on the Odek IDP camp and not Labongo.

1621. As to the attribution to Labongo, the 9:00 situation report of 30 April 2004 UPDF logbook (Gulu),<sup>4125</sup> written by P-0003,<sup>4126</sup> recorded:

Labongo came on air briefly and informed Kony that he attacked Odek and he burnt UPDF defence and IDP camp [...].<sup>4127</sup>

<sup>4121</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0324; P-0003: [T-43](#), p. 30, lines 9-17; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065, at 0075; P-0016: [T-32](#), p. 63, lines 18-24; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0521-22; P-0059: [T-37](#), p. 8, lines 23-25, p. 12, line 16 – p. 13, line 1. The Chamber notes that this portion of the radio recording discussed by the witnesses is largely recorded as unintelligible in the transcriptions.

<sup>4122</sup> See Enhanced audio recording, UGA-OTP-0235-0038; P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, 0318-21; P-0003: [T-43](#), p. 25, line 7 – p. 26, line 11; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0517-19; P-0059: [T-37](#), p. 7, line 22 – p. 8, line 13; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0357-360; P-0440: [T-40](#), p. 26, line 9 – p. 27, line 24.

<sup>4123</sup> See [Defence Closing Brief](#), paras 259, 290, 374 and 377.

<sup>4124</sup> See the Chamber's discussion of enhanced audio recording, UGA-OTP-0235-0038 in section IV.B.3.ii.k above.

<sup>4125</sup> See UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3002-05 (note that UGA-OTP-0197-1670, at 1688-1691 shown to P-0003 during his testimony is the same document, with UGA-OTP-0254-2982 being a re-scan).

<sup>4126</sup> See P-0003: [T-45](#), p. 34, line 13 – p. 36, line 18.

<sup>4127</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3004.

1622. The 18:30 situation report from the same day in the same logbook, also written by P-0003,<sup>4128</sup> recorded:

Labongo responded to Otti that today morning he fought UPDF in Odek [...] and the following have been changed [...].<sup>4129</sup>

1623. However, in this 18:30 situation report, the name ‘Labongo’ is underlined and ‘Dominic’ is written in red next to it.<sup>4130</sup>

1624. The 18:30 entry in an UPDF intelligence report of 30 April 2004 contains a summary of the same intercepted communications documented in the 18:30 entry in 30 April 2004 UPDF logbook (Gulu) and recorded: ‘Labong’/ ‘Lab’ reporting, ‘I attacked a detach in Odek and got the following [...]’.<sup>4131</sup>

1625. The Chamber recalls the above discussion of the content of the intelligence reports and the Chamber’s observation that they were generally based on the entries in the logbooks created by the intercepting agencies; the logbooks are in turn based on the shorthand notes of the interceptor listening to the intercepted radio communications.<sup>4132</sup> The Chamber is persuaded that both the UPDF logbook (Gulu) and the UPDF intelligence report summarise the intercepted radio communications contained in enhanced audio recording UGA-OTP-0235-0038.

1626. The 30 April 2004 UPDF logbook (Gulu) entries were based on the corresponding shorthand rough notes of the intercepted radio communications.<sup>4133</sup> Significantly, these rough notes, likely created by P-0003 – who wrote the logbook entries – refer to ‘Dominic’ and not to ‘Labongo’.<sup>4134</sup>

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<sup>4128</sup> See P-0003: [T-45](#), p. 34, line 13 – p. 36, line 18.

<sup>4129</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3004.

<sup>4130</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3004. See P-0003: [T-45](#), p. 37, line 5 – p. 41, line 16, p. 44, lines 9-23, p. 45, line 18 – p. 49, line 24.

<sup>4131</sup> 30 April 2004 Intelligence Report, UGA-OTP-0017-0150, at 0154.

<sup>4132</sup> See the Chamber’s discussion of the use of intercept evidence in intelligence reports in section IV.B.3.i.b.vii above.

<sup>4133</sup> See the Chamber’s discussion of the interceptor logbooks and shorthand notes in sections IV.B.3.i.b.iv and IV.B.3.i.b.v above.

<sup>4134</sup> UPDF Shorthand Notes, UGA-OTP-0254-2619, at 2742-43. See P-0003: T-42, p. 23, line 11 – p. 26, line 5; T-45, p. 36, line 15 – p. 37, line 6, p. 41, lines 1-16.

1627. The same 30 April 2004 radio communications were intercepted by the ISO and recorded in the ISO logbook<sup>4135</sup> by P-0059.<sup>4136</sup> This logbook also refers to ‘Dominic’ and not to Labongo, stating ‘Dominic said he attacked Odek camp and changed the following [...]’.<sup>4137</sup>

1628. The Ugandan police also intercepted the same 30 April 2004 communications and recorded it in the Police Logbook.<sup>4138</sup> This logbook attributes the report of the attack to ‘Tem Wek Ibong’.<sup>4139</sup> Indeed, the Chamber notes that on the transcriptions of the audio recording, the person reporting the attack uses the call sign ‘Tem Wek Ibong’. The Chamber recalls the finding that ‘Tem Wek Ibong’ is one of Dominic Ongwen’s call signs.<sup>4140</sup>

1629. Thus, regarding the reference to Labongo in the UPDF logbook (Gulu) and in the UPDF intelligence report, the Chamber notes, as the UPDF short-hand rough notes refer to “Dominic”, the reference to Ocan Labongo in subsequent UPDF documents – which are in fact based on those notes – appear to be the result of an initial transposition error.

1630. The Chamber also notes that the UPDF logbooks, detailing the same 30 April 2004 communications intercepted in Achol Pii and in Sudan, attributed the attack to *Abudema*.<sup>4141</sup>

1631. Considering this identification of Abudema as well as the transposition error attributing the attack to Labongo, it is of great importance that the particular radio communications at issue, on 30 April 2004, were actually recorded by the ISO and submitted into evidence.<sup>4142</sup>

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<sup>4135</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0267-70. The reference to ‘Dominic’ is in the 18:30 situation report, the earlier report on the same day refers to ‘unknown c/sign who was so brief on air reported that he attacked Odek IDP camp plus barracks and trading centre burning it completely’. UGA-OTP-0061-0206, at 0269.

<sup>4136</sup> P-0059: [T-39](#), p. 25, line 23 – p. 27, line 23.

<sup>4137</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0270.

<sup>4138</sup> Police Logbook, UGA-OTP-0037-0002, at 0144-46. The Chamber notes that the description of the contents of the radio communications matches that of the transcripts of the enhanced audio recording UGA-OTP-0235-0038.

<sup>4139</sup> Police Logbook, UGA-OTP-0037-0002, at 0144.

<sup>4140</sup> See Chamber’s discussion at para. 26 above.

<sup>4141</sup> UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7480-81 (‘Abudema reported to Kony that he attacked Odek T/Centre, UPDF barracks and camp [...]’); UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7244-46 (‘Abudema reported to Kony that today he attacked Odek Barrack cmmm centre [...]’). The UPDF Logbook (Sudan) later corrects that ‘Cmm Dominic’ attacked Odek, not Abudema.

<sup>4142</sup> Tape 808. See Enhanced audio recording, UGA-OTP-0235-0038.

1632. The recording of the communications was played to P-0003 and P-0059, respectively the UPDF and ISO radio interceptors who made the logbook entries discussed above, as well as former LRA signallers P-0016 and P-0440 during their testimony before the Court. Importantly, they each identified the person reporting the attack on Odek IDP camp as Dominic Ongwen.<sup>4143</sup>

1633. Indeed, as the Chamber discussed in further detail in its analysis of intercepted radio communications above,<sup>4144</sup> P-0003 and P-0016 also recognised the voice of Labongo speaking in this recording.<sup>4145</sup> Thus, while Labongo was on the air, he was not the person taking responsibility for the attack in the radio communications.

1634. In this context, the Chamber recalls the testimony of P-0142 that after receiving a post attack report from his subordinates, Dominic Ongwen was communicating on the radio and P-0142 was certain that Dominic Ongwen reported about what took place at the Odek IDP camp attack.<sup>4146</sup> P-0016 also testified that at the time of the Odek IDP attack, he was in the Gilva brigade and he heard the radio communication about an attack on Odek.<sup>4147</sup> Similarly, P-0269 testified that she saw Dominic Ongwen speaking to his soldiers, telling them that he called Joseph Kony and told him that he had attacked ‘Kony’s place’ and that Joseph Kony was very happy and said ‘if the civilians of Odek were still continuing to stay in the camp, they should continue to be killed’.<sup>4148</sup>

1635. Finally, it is worth emphasising that all witnesses questioned about the attack resisted the suggestion that Labongo was responsible for the attack on Odek IDP camp. No testimonial evidence connects Labongo to this attack, nor does the evidence credibly

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<sup>4143</sup> P-0003 Tape 808 Transcript, UGA-OTP-0248-0263-R01, at 0315-24; P-0003: [T-43](#), p. 23, line 18 – p. 31, line 2; P-0016 Tape 808 Transcript, UGA-OTP-0259-0065; P-0016: [T-32](#), p. 42, line 4 – p. 53, line 15, p. 54, line 2 – p. 64, line 9; T-32-CONF, p. 53, line 16 – p. 54, line 1; P-0059 Tape 808 Transcript, UGA-OTP-0248-0462-R01, at 0499-501, 0513-22; P-0059: [T-37](#), p. 2, line 23 – p. 13, line 5; [T-39](#), p. 25, line 23 – p. 27, line 23; P-0440 Tape 808 Transcript, UGA-OTP-0262-0298-R01, at 0336-42, 0352-62. P-0440: [T-40](#), p. 21, line 17 – p. 27, line 24; [T-41](#), p. 28, lines 12-25.

<sup>4144</sup> See the Chamber’s discussion of enhanced audio recording, UGA-OTP-0235-0038 in section IV.B.3.ii.k above.

<sup>4145</sup> P-0003: [T-43](#), p. 18, line 7 – p. 19, line 18 (appearing to distinguish an ‘Ocen’, also called ‘Madilu’, with ‘Ocen Labongo’); P-0016: [T-32](#), p. 42, line 21 – p. 43, line 3.

<sup>4146</sup> P-0142: [T-70](#), p. 41, lines 11-20. The Chamber notes that P-0142 did not hear what Dominic Ongwen reported to Joseph Kony on the radio. P-0142: [T-70](#), p. 43, lines 5-7.

<sup>4147</sup> P-0016: T-34-CONF, p. 16, line 12 – p. 17, line 1.

<sup>4148</sup> P-0269: [T-85](#), p. 45, lines 5-14; [T-86](#), p. 51, lines 5-11.

connect Abudema to the attack.<sup>4149</sup> The evidence, as discussed above, clearly shows that Dominic Ongwen was the person who reported the attack on Odek IDP camp.

1636. The Chamber notes that another record of an intercepted radio communication shows Dominic Ongwen, Joseph Kony and others speaking over the radio on 1 May 2004,<sup>4150</sup> two days after the attack on Odek IDP camp. In the recording, Dominic Ongwen adds to his report from the day before on the Odek IDP camp attack.<sup>4151</sup> Dominic Ongwen reports that heavy weapons were taken from the UPDF and a diamond was also taken by one of his subordinate commanders.<sup>4152</sup>

1637. Logbooks, created by ISO and UPDF officers, contain contemporaneous written records of this radio communication and include details which correspond with the radio communication.<sup>4153</sup> The Chamber notes that the ISO logbook as well as the UPDF logbooks created in Gulu and Sudan, all identify Dominic Ongwen as the person reporting on the looted item, although the UPDF logbook created in Achol Pii identified ‘Labongo’.<sup>4154</sup>

1638. Significantly, the Chamber notes P-0059, P-0440 and D-0100 listened to the radio communication during their in court testimonies and each clearly recognised Dominic Ongwen’s voice reporting on the Odek attack and the taking of the diamond.<sup>4155</sup> The

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<sup>4149</sup> The Chamber recalls its position on the credibility of P-0410’s testimony that Buk Abudema participated in the attack. *See* the Chamber’s discussion of P-0410’s testimony in section IV.B.2.ii.b.xxiii above.

<sup>4150</sup> *See* Enhanced audio recording UGA-OTP-0235-0015 and the Chamber’s discussion of the same, in section IV.B.3.ii.l above.

<sup>4151</sup> *See* Enhanced audio recording UGA-OTP-0235-0015; P-0059 Tape UGA-OTP-0039-0006 Transcript, UGA-OTP-0258-0809-R01; P-0059: [T-37](#), p. 47, line 16 – p. 49, line 6; P-0440 Tape UGA-OTP-0039-0006 Transcript, UGA-OTP-0262-0205-R01; P-0440: [T-40](#), p. 27, line 25 – p. 28, line 19; D-0100: [T-234](#), p. 50, line 13 – p. 52, line 20, p. 54, lines 16-20.

<sup>4152</sup> *See* Enhanced audio recording UGA-OTP-0235-0015; P-0059 Tape UGA-OTP-0039-0006 Transcript, UGA-OTP-0258-0809-R01; P-0059: [T-37](#), p. 47, line 16 – p. 49, line 6; P-0440 Tape UGA-OTP-0039-0006 Transcript, UGA-OTP-0262-0205-R01; P-0440: [T-40](#), p. 27, line 25 – p. 28, line 19; D-0100: [T-234](#), p. 50, line 13 – p. 52, line 20, p. 54, lines 16-20.

<sup>4153</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0272-74; UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3006-07; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7481-82; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7247-7248. *See* 1 May 2004 Intelligence Report, UGA-OTP-0017-0157, at 0160. The 1 June 2004 ISO intelligence report created in order to brief senior government officials and based on entries in the ISO logbook reports a communication which generally corresponds with the logbook entries and the radio communication and shows Dominic Ongwen reporting on items looted during the Odek attack to Joseph Kony.

<sup>4154</sup> *See* ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0272-73; UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3006-07; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7247-7248; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7481-82.

<sup>4155</sup> P-0059: [T-37](#), p. 47, line 16 – p. 50, line 21; P-0440: [T-40](#), p. 27, line 25 – p. 30, line 2; D-0100: [T-234](#), p. 50, line 13 – p. 52, line 20, p. 54, lines 16-20. *See* the Chamber’s discussion of the intercepted radio communication, UGA-OTP-0235-0015 in section IV.B.3.ii.l above.

Chamber is of the view that this further confirms that the voice heard in the 30 April 2004 intercepted radio communication reporting on the attack on Odek IDP camp was Dominic Ongwen.

1639. Further there is other, independent, evidence of Dominic Ongwen claiming responsibility for this attack. The Chamber notes P-0085's testimony regarding his meeting with Dominic Ongwen after the attack. P-0085 testified that he met up with Dominic Ongwen, about a week after hearing reports on FM radio that Dominic Ongwen had attacked Odek.<sup>4156</sup> P-0085 sat down with Dominic Ongwen, and asked Dominic Ongwen whether he attacked Odek barracks.<sup>4157</sup> P-0085 reported as follows the response that Dominic Ongwen gave to him:

And he responded, he said "Yeah, I sent my people. They went, they attacked the barracks. They scattered the barracks. They burned houses, they burned down the barracks. They took six guns, four SMGs, one G2, and a recoiler, a B-10, one. And I told him, I said, "Okay. No worries. I heard that over the radio. I had already heard that over the radio, that you had sent your people on mission to that place." And he told me, yeah, he said, "Yes, I did send my people to Odek. And they went, they attacked the barracks."<sup>4158</sup>

1640. Asked whether Dominic Ongwen said anything about civilian deaths, P-0085 stated '[w]ell, with respect to civilians, he told me that civilians were shot'.<sup>4159</sup>

1641. In the view of the Chamber, this evidence, which is contextualised, logical and detailed, provides further entirely independent corroboration of the conclusion that Dominic Ongwen directed and controlled the Odek attack. The similarities between what Dominic Ongwen told P-0085 and what he reported to Joseph Kony in the radio communication also further convinces the Chamber that Dominic Ongwen was the person reporting on the attack on Odek IDP camp to Joseph Kony.

1642. In light of the evidence, the Chamber is convinced that the 30 April 2004 and the 1 May 2004 intercepted radio communications show Dominic Ongwen reporting the Odek IDP camp attack to Joseph Kony and other LRA commanders.<sup>4160</sup> Dominic Ongwen's own

<sup>4156</sup> P-0085: [T-158](#), p. 42, lines 11-19.

<sup>4157</sup> P-0085: [T-158](#), p. 42, line 25 – p. 43, line 2.

<sup>4158</sup> P-0085: [T-158](#), p. 43, lines 3-9.

<sup>4159</sup> P-0085: [T-158](#), p. 43, line 11. *See also* para. 1484 above.

<sup>4160</sup> Accordingly, the Chamber does not accept the contrary submission of the Defence. *See* [Defence Closing Brief](#), paras 259, 290, 295, 386-390.

words show him taking responsibility for the Odek IDP camp attack, reporting on the killings and abduction of civilians as well as the looting that occurred in the camp.

## 8. *Attack on Lukodi IDP camp*

### *i. Lukodi IDP camp*

**Lukodi IDP camp was situated in Bungatira Sub-County, Aswa County, Gulu District and a large contingent of civilians resided in the camp at the time of the attack.**<sup>4161</sup>

1643. Lukodi village is located in Bungatira Sub-County, Aswa County, Gulu District, Uganda.<sup>4162</sup> In May 2004, the Lukodi IDP camp was located near the village, having been created around 2002 to protect civilians from the LRA's frequent attacks in the region.<sup>4163</sup> There are some discrepancies in the witnesses' understanding of whether Lukodi camp was officially designated an IDP camp by the Ugandan government.<sup>4164</sup> In any case, the evidence indicates that at the time of the May 2004 attack at issue in these proceedings, the Ugandan government had directed local residents to move from their villages into the camp.<sup>4165</sup> The Chamber also notes that the evidence shows that Ugandan government forces were present for protection;<sup>4166</sup> and that the residents received food aid from international organisations/NGOs.<sup>4167</sup>

1644. P-0017, a police investigator who examined Lukodi in the aftermath of the attack, testified that the Lukodi camp leader told him that the camp had an estimated 7,000

<sup>4161</sup> Para. 178 above.

<sup>4162</sup> [Agreed Facts](#), A2.

<sup>4163</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 21 (stating that around 2002, government soldiers directed civilians to move to Lukodi IDP camp).

<sup>4164</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 12 (testifying that Lukodi IDP camp was not an official camp and did not have a camp leader); P-0017 Statement, UGA-OTP-0036-0007-R01, at paras 201-02 (testifying that the camp was not officially recognised as an IDP camp, but stating that he obtained information from the camp leader); P-0187: [T-164](#), p. 7, line 10-18 (testifying that when she moved to the camp in Lukodi in 2002 it was not yet a designated camp); P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 21-23, 28-31, 42, 79 (testifying that the camp was officially recognised in 2002, and that before official registration there was just one camp leader for Lukodi and Coopee).

<sup>4165</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 10, 21; P-0024: [T-77](#), p. 19, lines 13-16; [T-78](#), p. 16, line 11-24; P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 13.

<sup>4166</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at paras 12-25; P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 17-18.

<sup>4167</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 48; P-0187: [T-164](#), p. 8, lines 10-17; [T-165](#), p. 15, lines 6-14. The Chamber notes that the camp residents also practiced some level of sustenance farming although this was made difficult by LRA activity in the area. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 45; P-0187: [T-164](#), p. 8, lines 10-14; P-0024: [T-78](#), p. 26, line 23 – p. 27, line 15; P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 16.

residents at the time of the attack.<sup>4168</sup> V-0004, the LC1 of Lukodi, testified that although it was not easy to know the exact number at the time of the attack, there were about 4,000 residents of Lukodi IDP camp.<sup>4169</sup> The Chamber also notes the testimony of P-0035, the [REDACTED], that although he was not certain and was not in charge of dealing with the numbers, he roughly estimated that 400-500 people lived in the camp.<sup>4170</sup> Noting that P-0035 was uncertain as to the number of residents living in the camp and P-0017, P-0035 and V-0001's testimony differ significantly, the Chamber is unable to make a definitive conclusion as to the number of civilians that lived with Lukodi IDP camp. However, in light of the evidence, including the evidence of camp residents testifying about their experiences within the camp,<sup>4171</sup> the Chamber is satisfied that a large number of civilians lived within Lukodi IDP camp at the time of the attack.

1645. The Chamber refers to its discussion above of the LRA's policy to specifically target IDP camps to, amongst other things, obtain provisions.<sup>4172</sup> The evidence indicates that this also occurred at Lukodi IDP camp already before the attack on the camp in May 2004. Witnesses testified that in the months prior to the May 2004 attack, the LRA had made incursions into the camp, to obtain food and other provisions.<sup>4173</sup> Witnesses also testified that in the days before the attack, camp residents had received food and household provisions from the Caritas NGO.<sup>4174</sup>

1646. There was a government military barracks located in the northern area of the camp, on the grounds of a disused school, and comprised of small huts.<sup>4175</sup> The Chamber notes also

<sup>4168</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 201.

<sup>4169</sup> V-0004: [T-173](#), p. 8, lines 9-13.

<sup>4170</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 19.

<sup>4171</sup> See testimonies of P-0024, P-0060 and P-0187.

<sup>4172</sup> See section IV.C.4 above, the Chamber's discussion of the LRA's policy.

<sup>4173</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 51 (stating that before the May 2004 attack, LRA fighters sporadically came to the camp to loot food and other things, but did not injure or kill anyone); P-0035 Statement, UGA-OTP-0036-0082-R01, at paras 27-33 (Lukodi was often approached by the LRA, who came to get food, including twice in early April 2004).

<sup>4174</sup> P-0024: [T-78](#), p. 24, lines 15-23; P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 29. See also P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 17.

<sup>4175</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at paras 13-15; P-0035 Sketch of Lukodi IDP camp, UGA-OTP-0036-0094 (stating that the barracks was in the north side of the camp and comprised of small huts, and that the military detachment was surrounded by a trench, where soldiers were supposed to fight from in the event of an attack); P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 17-18; P-0060's sketch of Lukodi IDP camp, UGA-OTP-0069-0048 (stating that the houses in the military barracks were smaller than the civilian houses and the area was secured by a trench); P-0024: [T-78](#), p. 21, line 2 – p. 24, line 14 (according to P-0024, the military barracks was within the large school compound, the school was no longer in use for students at the time of the attack). See also P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 202.

that there were two main civilian areas in Lukodi, one close to the barracks and another closer to the trading centre.<sup>4176</sup>

*ii. Dominic Ongwen's order to attack Lukodi IDP camp*

**Dominic Ongwen decided to attack Lukodi IDP camp. For the purpose of the attack, he gathered soldiers from Sinia as well as from the nearby Gilva brigade sickbay. At a gathering the morning of the day before the attack, Dominic Ongwen instructed LRA fighters to attack Lukodi IDP camp and everyone present at that location, including civilians, and to take food from the camp. Dominic Ongwen selected his subordinate Ocaka to be commander on the ground. Other commanders on the ground included Ojok Kampala, Oyenga, Kobbi, Ojara and Abonga Won Dano.**<sup>4177</sup>

1647. There is evidence that the preparations for the Lukodi attack began a few days in advance, when, as laid out in detail in the following paragraphs, Dominic Ongwen instructed that Sinia brigade's Terwanga battalion and the Gilva sickbay select and send soldiers to him.

1648. P-0205 testified that this instruction came to the Terwanga battalion by way of a meeting ('RV'), where Dominic Ongwen's instruction was passed to the Terwanga battalion to 'form a standby', i.e. a group of soldiers for an attack, and to meet with Dominic Ongwen.<sup>4178</sup> As discussed below, this instruction was followed.<sup>4179</sup>

1649. The evidence demonstrates that for the purpose of the attack on Lukodi IDP camp, Dominic Ongwen also took control of a number of soldiers from the Gilva sickbay which was operating nearby.

1650. P-0145 testified that before the attack on Lukodi IDP camp, Dominic Ongwen, who was Sinia brigade commander at the time, came to the Gilva brigade sickbay, which was under the command of Major Olak Otulu (more commonly referred to as Tulu) and at the time stationed close to the bank of the Aswa River.<sup>4180</sup> P-0145 specified that Dominic Ongwen came to the Gilva sickbay 'in the evening, perhaps around 4 p.m.' on the day

<sup>4176</sup> See P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 20; P-0060's sketch of Lukodi IDP camp, UGA-OTP-0069-0048; P-0035 Statement, UGA-OTP-0036-0082-R01, at paras 17-18; P-0035 Sketch of Lukodi IDP camp, UGA-OTP-0036-0094.

<sup>4177</sup> Para. 179 above.

<sup>4178</sup> P-0205: T-47-CONF, p. 51, lines 3-9, p. 52, line 2 – p. 53, line 5. Dominic Ongwen and the various groups under his command often moved in separate groups and would meet together at various locations. See P-0205: [T-47](#), p. 36, line 24 – p. 40, line 11.

<sup>4179</sup> See paras 1662-1664 below.

<sup>4180</sup> P-0145: [T-143](#), p. 11, line 21 – p. 12, line 2, p. 21, lines 13-20, p. 35, lines 12-20.

before the attackers set out for Lukodi.<sup>4181</sup> Dominic Ongwen came with five or six people, whose names P-0145 was not able to recall.<sup>4182</sup>

1651. According to P-0145, Dominic Ongwen convened the Gilva sickbay officers together and told them that he had planned an operation, a ‘very good operation’, and that he wanted to help the people get food and supplies.<sup>4183</sup> Six or seven commanders were present for the meeting with Dominic Ongwen, including Tulu, who was in charge, Major Abucingo, Oyet Matata (more commonly referred to as Matata), Abonga Won Dano, Ojoko, Ojok, Ojara Gali (more commonly referred to as Ojara) and Kilama.<sup>4184</sup> P-0145 also clarified that the order for Gilva brigade to select people for the attack was issued by Tulu, but that Tulu, a major, was subordinate to Dominic Ongwen, as major general or brigadier general and that Dominic Ongwen had already planned the operation.<sup>4185</sup> P-0145, who went from Gilva brigade to participate in the attack, indicated that although he was in a different brigade, he recognised Dominic Ongwen as his superior and commander.<sup>4186</sup>

1652. P-0145 stated that on the day after, people from the sickbay went to join Dominic Ongwen’s group at the riverbank, from where they headed to Lukodi.<sup>4187</sup> P-0145 named Ojoko and Kilama as officers who went for the attack from Tulu’s sickbay.<sup>4188</sup>

1653. P-0018 stated that she was in Tulu’s sickbay group in ‘Tegot-Atto’ when soldiers came and told the leader that Dominic Ongwen had sent them.<sup>4189</sup> It is noted that P-0018’s testimony implies that Dominic Ongwen did not himself come to Tulu’s sickbay, thereby contradicting the testimony of P-0145. However, considering that P-0145 had a better opportunity to observe the meeting and provided more detailed testimony, the Chamber follows his evidence on this point. The Chamber also notes that, as discussed below, P-0172 also testified that Dominic Ongwen came to Tulu’s sickbay in person.

<sup>4181</sup> P-0145: [T-143](#), p. 15, lines 7-13.

<sup>4182</sup> P-0145: [T-143](#), p. 15, lines 14-18.

<sup>4183</sup> P-0145: [T-143](#), p. 13, line 15 – p. 14, line 5.

<sup>4184</sup> P-0145: [T-143](#), p. 14, lines 2-5, p. 15, line 19 – p. 16, line 11.

<sup>4185</sup> P-0145: [T-143](#), p. 20, lines 8-18.

<sup>4186</sup> See P-0145: [T-143](#), p. 14, line 20 – p. 15, line 2.

<sup>4187</sup> P-0145: [T-143](#), p. 14, lines 8-15.

<sup>4188</sup> P-0145: [T-143](#), p. 24, lines 4-25, p. 25, lines 11-14.

<sup>4189</sup> P-0018: [T-68](#), p. 53, line 12 – p. 54, line 3.

1654. P-0018 continued that Abonga Won Dano and Bicingu, both fighters under Tulu, selected people to ‘go to collect food’, including herself.<sup>4190</sup> Some of the selected people were armed, but others, including P-0018, were not.<sup>4191</sup>

1655. The evidence demonstrates that Tulu did not go to Lukodi and did not participate in the attack beyond responding to Dominic Ongwen’s request to select and send soldiers to him for the attack. Both P-0145 and P-0018 testified that Tulu did not personally go with the selected soldiers for the operation, but remained behind.<sup>4192</sup> P-0142 also stated that Tulu did not go to Lukodi.<sup>4193</sup> Correspondingly, as is apparent from the analysis of the course of the attack below,<sup>4194</sup> witnesses who were present at the attack discussed the participation of several commanders but none stated that Tulu was himself on the ground.<sup>4195</sup>

1656. The evidence of P-0145 and P-0018 is also corroborated by the – less direct – testimony of P-0172. This witness testified that while he was in Tulu’s sickbay in May 2004 he heard ‘from younger soldiers’ that Joseph Kony had told Tulu that ‘the world was saying he was no longer there, he had died’, that he should prepare a standby and that he (i.e. Joseph Kony) would send Dominic Ongwen to Tulu ‘so that they would go and fight’.<sup>4196</sup> P-0172 explained that the younger soldiers were privy to this information because they were able to hear what was said on the radio.<sup>4197</sup> P-0172 stated that the sickbay was west of Loyo Ajonga at the time.<sup>4198</sup> The Chamber has received no other reliable evidence of this radio communication between Joseph Kony and Tulu,<sup>4199</sup> in particular not in any

<sup>4190</sup> P-0018: [T-68](#), p. 54, lines 4-17.

<sup>4191</sup> P-0018: [T-68](#), p. 54, lines 21-24.

<sup>4192</sup> P-0145: [T-143](#), p. 20, lines 21-25 (explaining that Tulu was injured at the time and could not walk long distances); P-0018: [T-69](#), p. 47, line 15 – p. 51, line 7.

<sup>4193</sup> P-0142: [T-70](#), p. 48, lines 13-15.

<sup>4194</sup> See section IV.C.8.iv below.

<sup>4195</sup> The Chamber has taken note of the police notes of intercepted radio communications, dated 23 May 2004, stating: ‘The details of the attack on Lukodi are not ready since “Tem Wek Ibong” didn’t appear on air. The commanders who were responsible for the attack were Major Olak Tulu and Captain Ocaka Alex.’ Police Logbook, UGA-OTP-0037-0002, at 0121-22. See also P-0125: [T-136](#), p. 31, line 16 – p. 32, line 25. Noting that the text of the entry itself indicates that the interceptors did not have detailed knowledge of the attack on Lukodi at the time, that it is not specifically asserted that Tulu participated in the attack on the ground, and in light of the witness testimonies before the Chamber, the Chamber does not rely on the police notes for this issue.

<sup>4196</sup> P-0172: [T-113](#), p. 19, lines 11-17; [T-114](#), p. 6, lines 15-19.

<sup>4197</sup> P-0172: [T-113](#), p. 19, lines 18-22.

<sup>4198</sup> P-0172: [T-113](#), p. 20, lines 15-18.

<sup>4199</sup> The Chamber notes that D-0032 testified about an order from Joseph Kony to Tulu, but in a different context and with different content. In any case, as explained below, the Chamber does not rely on this specific testimony. See para. 1661 below.

records of intercepted communications, and does not make a finding in this regard. It may be noted, however, that any such discussion between Joseph Kony and Tulu would have no impact on the Chamber's findings in relation to Dominic Ongwen being the person who decided that the attack on Lukodi IDP camp would take place, and gave the orders for the attack.

1657. P-0172 testified that Dominic Ongwen indeed arrived with his troops at the sickbay.<sup>4200</sup>

It is noted that P-0172 testified that Dominic Ongwen was in Gilva brigade at the time,<sup>4201</sup> which is an obvious error but, in the view of the Chamber, immaterial in the context. According to P-0172, by the time Dominic Ongwen arrived, Tulu had already prepared a standby, so they left soon afterwards.<sup>4202</sup> P-0172 estimated the number of departing troops at 50 to 60.<sup>4203</sup> He also stated that he learnt from the younger soldiers who were listening to radio communications that the attackers had gone to Lukodi.<sup>4204</sup>

1658. Evidence of some relevance for the above conclusions also came out during the testimony of D-0032, who stated that he obtained knowledge of the Lukodi attack from Tulu, with whom he spoke three to five days after the attack, and from certain other individuals.<sup>4205</sup>

In the presence of direct evidence of several witnesses, however, the Chamber does not deem it necessary to engage in detail with the evidence of D-0032, with the exception of one particular issue addressed just below, and limits itself to noting that this evidence does not undermine the above conclusions.

1659. The evidence of the witnesses referred to above is unequivocal that these arrangements were undertaken at the initiative of Dominic Ongwen and by his authority as Sinia brigade commander. Based on the unfolding of the events, and on the specific testimony on the issue, the Chamber finds that Dominic Ongwen's authority was unquestioned even with respect to Tulu, who was a lower-ranking officer in another brigade. As discussed below, the soldiers selected for the attack on Lukodi IDP camp, including those obtained

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<sup>4200</sup> P-0172: [T-113](#), p. 20, line 19 – p. 21, line 3.

<sup>4201</sup> P-0172: [T-113](#), p. 21, line 25 – p. 26, line 2.

<sup>4202</sup> P-0172: [T-113](#), p. 22, lines 3-5.

<sup>4203</sup> P-0172: [T-113](#), p. 22, lines 10-12 (referring to the number of combined troops, including Tulu's and those Dominic Ongwen had come with).

<sup>4204</sup> P-0172: [T-113](#), p. 22, line 22 – p. 23, line 3.

<sup>4205</sup> D-0032: T-201-CONF, p. 30, line 21 – p. 31, line 10.

from the Gilva sickbay, were placed under the single command of Ocaka, by order of Dominic Ongwen.

1660. There is also radio communication evidence, which in context corroborates the conclusion that it was Dominic Ongwen who conceived the idea of the attack on Lukodi. A UPDF logbook records a conversation on 17 May 2004 at 9:00 hours, which is two days before the attack and the morning of the day that Dominic Ongwen went to organise soldiers from the Gilva sickbay, during which Dominic Ongwen sought and obtained from Joseph Kony permission to attack any camp for food.<sup>4206</sup> It is noted that no specifics appear to have been discussed.

1661. The Chamber notes that D-0032 testified that Joseph Kony issued separate orders on radio to both Tulu and Dominic Ongwen in relation to the Lukodi attack.<sup>4207</sup> However, as the basis of the witness' knowledge is entirely unclear and in the absence of any other evidence referring to this fact, including records of intercepted radio communications, the Chamber does not consider the testimony provided by D-0032 on this point to be of sufficient strength to sustain a positive finding of fact.

1662. Following these initial preparatory steps aimed at organising an attacking force, a gathering of the LRA soldiers selected for the attack on Lukodi IDP camp took place; this fact is well attested by the evidence. Witnesses who came from Sinia brigade's Terwanga battalion or the Gilva sickbay speak of this meeting, as do others, who had been personally moving with Dominic Ongwen for some time.

1663. P-0142, a member of Sinia brigade,<sup>4208</sup> stated that a combination of fighters from Gilva and Sinia brigades was set up.<sup>4209</sup> This took place 'in an area around Omel Kuru and Kanu, around Awach area'.<sup>4210</sup> More specifically about the set-up of the attacking force, P-0142 stated that the soldiers came from Tulu's Gilva sickbay as well as from all three of Sinia's battalions – Oka, Terwanga and Siba.<sup>4211</sup> P-0142 specified, in line with the

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<sup>4206</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3037. The ISO intercepted the same conversation, but the corresponding notebook notes it was in 'codes not yet broken', before noting that Joseph Kony gave Dominic Ongwen a go-ahead. ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0314.

<sup>4207</sup> D-0032: [T-201](#), p. 32, line 2 – p. 33, line 1.

<sup>4208</sup> P-0142: [T-70](#), p. 16, lines 6-8.

<sup>4209</sup> P-0142: [T-70](#), p. 43, lines 16-18.

<sup>4210</sup> P-0142: [T-70](#), p. 43, lines 19-21.

<sup>4211</sup> P-0142: [T-70](#), p. 44, lines 8-15.

evidence analysed above, that Dominic Ongwen selected ‘his people’ and Tulu identified ‘his people’, after which they were brought together.<sup>4212</sup> He testified that about 100-150 soldiers went for the attack.<sup>4213</sup> Upwards of 50 of those were from the Gilva sickbay.<sup>4214</sup> P-0142 also specified that in addition to armed fighters, there were unarmed persons among the attackers, and their task was to carry looted goods.<sup>4215</sup>

1664.P-0205 stated that, at this gathering, the Terwanga battalion soldiers who had been previously summoned met with Dominic Ongwen and other Sinia brigade soldiers.<sup>4216</sup> As to the presence of Gilva soldiers, P-0205 testified very specifically that two persons from Gilva brigade were present, namely one Ojara and one woman who later escaped on the way back from the attack.<sup>4217</sup> The Chamber observes that P-0205’s evidence is reliable as to the presence of the two Gilva brigade members, but that the witness did not purport to give an overview of the entire group of attackers – he was merely describing who he recognised. P-0205 gave the location of this gathering as Omel Boke.<sup>4218</sup>

1665.As to the movement of the Gilva brigade contingent, P-0145 stated that the people who were selected from Tulu’s sickbay joined Dominic Ongwen’s group at the riverbank, from where the attackers headed to Lukodi.<sup>4219</sup> P-0018 stated that then the group from sickbay started moving and there was an RV with many people.<sup>4220</sup>

1666.The evidence, discussed above, shows that the soldiers who had been summoned for the attack from the Gilva sickbay and the Terwanga battalion converged at the gathering with soldiers already present with Dominic Ongwen. The Chamber notes at this juncture that, in line with its conclusions above, it does not rely on the evidence of P-0410 to the extent

<sup>4212</sup> P-0142: [T-70](#), p. 44, lines 16-18.

<sup>4213</sup> P-0142: [T-70](#), p. 48, lines 16-22.

<sup>4214</sup> P-0142: [T-72](#), p. 74, lines 13-15. This estimate corresponds to the testimony of P-0145, who stated that ‘maybe up to 60’ people were selected from the Gilva sickbay for the operation; *see* P-0145: [T-143](#), p. 17, lines 20-24.

<sup>4215</sup> P-0142: [T-70](#), p. 59, lines 16-24.

<sup>4216</sup> P-0205: T-47-CONF, p. 53, lines 6 – p. 54, line 9.

<sup>4217</sup> P-0205: T-47-CONF, p. 53, lines 8-11, p. 56, lines 16-22, p. 59, line 22 – p. 60, line 1; T-50-CONF, p. 47, lines 11-16. It is clear that the woman in question is P-0018, who testified that she was one of the people who came from the Gilva sickbay, and that she escaped on the way back from the attack; *see* P-0018: [T-68](#), p. 53, line 12-18; [T-69](#), p. 17, line 24 – p. 19, line 2.

<sup>4218</sup> P-0205: T-47-CONF, p. 58, lines 13-18. *See also* P-0205 sketch, UGA-OTP-0233-1388.

<sup>4219</sup> P-0145: [T-143](#), p. 14, lines 8-15.

<sup>4220</sup> P-0018: [T-68](#), p. 54, line 25 – p. 55, line 8.

that he implicates Vincent Otti and Buk Abudema in the attacks on Odek and Lukodi IDP camps.<sup>4221</sup>

1667. The Defence submits that the witness evidence in relation to the location of this gathering is inconsistent and therefore unreliable.<sup>4222</sup> While reiterating that witnesses who were present at LRA gatherings in the bush may not be able to name the location due to their unfamiliarity with the area, the meandering movements of LRA units or any other reason, the Chamber notes that in fact the witnesses' testimonies, in this particular instance, point to a relatively precise area. In addition to P-0142's and P-0205's testimony on the point as referred to above, the Chamber notes that P-0410, while not providing a precise indication of the location where the gathering took place, and explaining that it was not easy to situate oneself with directions in the bush, indicated that moving towards Lukodi they reached the Awach road and turned west in the direction of Gulu.<sup>4223</sup> This indicates that the attackers came from the south-east, and is compatible with the evidence of P-0142 and P-0205, as is, due to the presence of the Aswa River, P-0145's reference to a 'riverbank'.

1668. P-0101, who also referred to the gathering,<sup>4224</sup> testified that the selection took place in Lalogi, while also stating that she was not conversant with the area.<sup>4225</sup> In any case, her indication as to the location of the event is compatible with the rest of the evidence.

1669. The Defence emphasised P-0406's evidence as that most irreconcilable with the rest of the evidence.<sup>4226</sup> The Chamber notes P-0406's testimony that he was not familiar with the area, and that generally in the bush 'you keep meandering about and it becomes very difficult for you to know where exactly you are going'.<sup>4227</sup> P-0406 does testify that his unit was in Koch Goma before going to Lukodi.<sup>4228</sup> However, contrary to the Defence's submission, this was not an indication of the location of the gathering prior to the attack on the Lukodi IDP camp. In fact, the witness testified that they walked from Koch Goma,

<sup>4221</sup> See section IV.B.2.ii.b.xxiii above, the Chamber's discussion of P-0410's testimony.

<sup>4222</sup> [Defence Closing Brief](#), paras 399-411.

<sup>4223</sup> P-0410: [T-152](#), p. 43, line 11 – p. 45, line 3.

<sup>4224</sup> See para. 1692 below.

<sup>4225</sup> P-0101: [T-13](#), p. 53, lines 17-24.

<sup>4226</sup> [Defence Closing Brief](#), para. 409 (arguing that the witness placed the RV in the area of Koch Goma).

<sup>4227</sup> P-0406: [T-155](#), p. 55, line 19 – p. 56, line 2.

<sup>4228</sup> P-0406: [T-155](#), p. 55, lines 15-17.

where they reached a place and settled, and where the next day people were selected for the attack and Dominic Ongwen gave his instructions.<sup>4229</sup>

1670. The Chamber notes that the Defence in its submissions on the location of the gathering also refers to the evidence of P-0018 and P-0145 relating not to the gathering at issue but to the location of the Gilva sickbay.<sup>4230</sup>

1671. Finally on the topic of location, in light of specific submissions by the Defence in relation to the attack on Lukodi IDP camp,<sup>4231</sup> the Chamber reiterates that it does not rely for its conclusions on the direction-finding evidence.<sup>4232</sup>

1672. As to the time of this gathering, detailed and entirely overlapping testimony of several witnesses as to how long it took to arrive to Lukodi thereafter allows for the conclusion that the gathering took place in the morning of the day preceding the day of the attack.<sup>4233</sup>

1673. The Chamber turns now to the instructions given by Dominic Ongwen at this gathering to the LRA soldiers selected to depart on an attack to Lukodi IDP camp.

1674. P-0205 reported the order given by Dominic Ongwen as follows:

You standby, you are going to attack Lukodi. When you arrive at Lukodi, there are few soldiers. Shoot the soldiers. Do not leave the camp. Anybody you find in the camp, no matter – no matter how the person is, don't leave them. Nobody should be left behind. Everybody should be killed.<sup>4234</sup>

1675. The Defence argues that P-0205's testimony about the order given by Dominic Ongwen should be disregarded as it 'drastically changed' from his interview with the Prosecution in 2015, where he stated that Dominic Ongwen's order was to attack only the military at Lukodi, that the order was to attack at 18:00 hours at the latest so as to still be able to distinguish between soldiers and others, and that 'the mission was not to kill civilians'.<sup>4235</sup> The Chamber notes that P-0205 explained some of the discrepancy by

<sup>4229</sup> P-0406: [T-155](#), p. 56, lines 6-16.

<sup>4230</sup> See [Defence Closing Brief](#), para. 399, referring to P-0018: [T-68](#), p. 53, lines 12-20; P-0145: [T-143](#), p. 21, line 25.

<sup>4231</sup> See [Defence Closing Brief](#), paras 396-98.

<sup>4232</sup> See section IV.B.3.iii above.

<sup>4233</sup> See paras 1694-1696 below.

<sup>4234</sup> P-0205: T-47-CONF, p. 54, lines 10-16.

<sup>4235</sup> [Defence Closing Brief](#), para. 416; P-0205: T-51-CONF, p. 7, line 1 – p. 10, line 24.

stating that he had not remembered the information during the interview in 2015.<sup>4236</sup> But this explanation is not entirely satisfactory because, as pointed out by Defence counsel in court, the investigator asked specifically about orders in relation to civilians during the interview, and the witness at that time clearly stated that the attack on Lukodi IDP camp was designed so as not to harm civilians.<sup>4237</sup> Nevertheless, P-0205 insisted on his in-court testimony. The Chamber deems significant in this respect that he did so even though the statement he gave to the Prosecution in 2015 was decidedly more favourable to him than his in-court statement, considering his own involvement in the attack on Lukodi IDP camp. His statement of 2015 is at odds with the rest of the evidence on the order given, the events on the ground, and on the way the attack was reported, whereas his account in the courtroom is in accord with other reliable evidence. Finally in this context, the Chamber also pays due attention to the fact that P-0205 testified before it under oath, and did so after having been given assurances against self-incrimination under Rule 74 of the Rules. In these circumstances, the Chamber accepts P-0205's testimony in court as truthful.

1676. According to P-0018, at the RV Dominic Ongwen made a speech, stating that 'whoever [they] found on the road should be killed because the Acholi had become stubborn'.<sup>4238</sup> She specifically also confirmed her prior statement that Dominic Ongwen ordered 'to go and kill everybody, even if we find a woman who is giving birth, we should kill her because the government had sent helicopters to kill our leaders, and even our children were killed'.<sup>4239</sup> Further, P-0018 confirmed her prior testimony that Dominic Ongwen told those present that the Acholi people were stubborn because they did not want to leave the camps and go back to their villages.<sup>4240</sup> According to P-0018, after this meeting, about 80 people went for the attack.<sup>4241</sup>

1677. P-0142 also testified that brigade commander Dominic Ongwen was the one who issued the instruction to attack Lukodi.<sup>4242</sup> According to P-0142, Dominic Ongwen gave the order to 'go to Lukodi, go and disperse the soldiers in Lukodi, burn their houses, loot

<sup>4236</sup> P-0205: T-50-CONF, p. 54, lines 19-25, p. 55, lines 15-18.

<sup>4237</sup> See P-0205: T-50-CONF, p. 56, lines 3-7; [T-51](#), p. 10, lines 18-23.

<sup>4238</sup> P-0018: [T-68](#), p. 55, lines 13-23.

<sup>4239</sup> P-0018: [T-68](#), p. 59, line 23 – p. 60, line 6.

<sup>4240</sup> P-0018: [T-68](#), p. 60, lines 13-18.

<sup>4241</sup> P-0018: [T-68](#), p. 62, lines 6-8.

<sup>4242</sup> P-0142: [T-70](#), p. 43, lines 13-15.

food, and come back'.<sup>4243</sup> While initially stating that '[t]here was no order about civilians',<sup>4244</sup> P-0142 confirmed in court, after having his memory refreshed from his previous written statement, that, in fact, the order was also to kill the civilians they find during the attack.<sup>4245</sup>

1678.P-0145 also testified that when Dominic Ongwen's group and the Gilva sickbay group converged in the morning of the day before the attack, Dominic Ongwen addressed those present, stating that he had planned an operation, and specifically telling those from the sickbay that they were going to get food.<sup>4246</sup>

1679.P-0410 also stated that Dominic Ongwen spoke at the RV.<sup>4247</sup> He testified that the commanders speaking there told them that they should 'go and work' and 'not leave anything alive', that 'the Lukodi attack should be worse than that of Odek', and that 'whoever was going should come back with bloodstains on his clothes to show that you have worked well'.<sup>4248</sup>

1680. Similarly, P-0406 testified that Dominic Ongwen issued instructions before the attack on Lukodi IDP camp.<sup>4249</sup> The witness recounted the order as stating that 'some soldiers should go to the barracks, others should go to the camp and that they should take food items and abduct some children'.<sup>4250</sup> P-0406 further stated that Dominic Ongwen ordered that the civilians who run away should 'not be disturbed they should just be let go', and that civilians should not be shot using guns, but only soldiers.<sup>4251</sup> Asked about what was to be done in respect of civilians instead, P-0406 explained that '[m]ost times if it's a stubborn civilian who is believed has the interest of escaping', the person would be tied up and hit on the back of their head until they died.<sup>4252</sup>

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<sup>4243</sup> P-0142: [T-70](#), p. 46, lines 16-19.

<sup>4244</sup> P-0142: [T-70](#), p. 46, lines 20-21.

<sup>4245</sup> P-0142: [T-70](#), p. 47, lines 9-20.

<sup>4246</sup> P-0145: [T-144](#), p. 37, lines 2-8.

<sup>4247</sup> P-0410: [T-151](#), p. 61, lines 16-17.

<sup>4248</sup> P-0410: [T-151](#), p. 61, lines 19-24; [T-152](#), p. 41, lines 11-23. *See also* [T-151](#), p. 60, lines 1-4.

<sup>4249</sup> P-0406: [T-154](#), p. 53, lines 5-16.

<sup>4250</sup> P-0406: [T-154](#), p. 53, lines 17-20.

<sup>4251</sup> P-0406: [T-154](#), p. 53, lines 20-23.

<sup>4252</sup> P-0406: [T-154](#), p. 53, line 24 – p. 54, line 5.

1681. The Chamber, noting but rejecting on the basis of its analysis the related argument of the Defence,<sup>4253</sup> considers that the evidence, coming from several credible sources, allows it to reconstruct in detail the order issued by Dominic Ongwen. Thus, the Chamber finds that Dominic Ongwen ordered the fighters to attack Lukodi IDP camp and everyone present at that location, and to take food from the camp. Based on the terms of this order as established on the basis of the evidence, the Chamber considers that it logically included targeting civilians.

1682. The Chamber notes that P-0018 testified that the original plan was to attack Awach, but because there were many government soldiers at Awach this was changed and it was decided to attack Lukodi instead.<sup>4254</sup> Immediately thereafter, P-0018 accepted as truthful her prior statement during the interview with the Prosecution to the effect that at the meeting, Dominic Ongwen ordered LRA fighters to attack Gwendia and to kill everyone.<sup>4255</sup> According to P-0018, the decision to attack Lukodi was made by those who were leading the attackers, ‘because we could not go back without food’.<sup>4256</sup>

1683. On this specific point, in light of the detailed evidence of the witnesses who testified about the orders given by Dominic Ongwen to the attackers before they departed, the Chamber does not accept the evidence of P-0018.<sup>4257</sup> It is unreasonable to conclude that a person in the relatively low position in the organisation as she held at that time would know of this fact, as opposed to those witnesses who were in better position to know, in particular due to their relatively higher position or due to their role in the attack. In any case, the Chamber notes that P-0142 specifically denied the proposition that the Lukodi attack was originally planned to take place at Gwendia.<sup>4258</sup>

1684. The evidence is unequivocal that, on the same occasion as when he gave his instruction for the attack, Dominic Ongwen also appointed Ocaka to lead the attack on the ground. This was stated by P-0205,<sup>4259</sup> who explained that at that point Ocaka was support

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<sup>4253</sup> See [Defence Closing Brief](#), para. 420 (arguing that ‘[t]he evidence about the alleged instructions at the RV is so unclear that it fails to demonstrate beyond a reasonable doubt that Mr Ongwen was part of a common plan or engaged in a conduct which would result in a crime’). See also [Defence Closing Brief](#), paras 414-19.

<sup>4254</sup> P-0018: [T-68](#), p. 55, line 24 – p. 56, line 2.

<sup>4255</sup> P-0018: [T-68](#), p. 56, line 3 – p. 57, line 6.

<sup>4256</sup> P-0018: [T-69](#), p. 8, lines 4-7.

<sup>4257</sup> See, in this regard, [Defence Closing Brief](#), para. 413.

<sup>4258</sup> P-0142: [T-72](#), p. 71, lines 12-16.

<sup>4259</sup> P-0205: T-47-CONF, p. 54, lines 17-19.

commander in Sinia brigade.<sup>4260</sup> P-0142 also testified that Captain Ocaka was selected as the overall commander of the attack.<sup>4261</sup> He testified that he did not know how he had been identified, but that it was Dominic Ongwen who announced the appointment.<sup>4262</sup> Like P-0205, P-0142 testified that Ocaka was in Sinia at the time,<sup>4263</sup> and that he was ‘member of the support’.<sup>4264</sup>

1685. There is also evidence that deputies were appointed for Ocaka. According to P-0205, Dominic Ongwen appointed two deputies for Ocaka, Ojok Kampala and Oyenga, [REDACTED].<sup>4265</sup> P-0205 also testified that a Sinia brigade officer, Kobbi, and a soldier from Gilva known as Ojara, commanded attackers on the ground.<sup>4266</sup>

1686. P-0142 testified that Ocaka’s second-in-command for the attack was to be Abonga Won Dano, Ojara<sup>4267</sup> and also confirmed that Oyenga went for the attack.<sup>4268</sup> [REDACTED]

1687. [REDACTED]  
[REDACTED]<sup>4269</sup> [REDACTED]  
[REDACTED]<sup>4270</sup> P-0145 testified that he did not know that Ocaka was commander of the attack on the ground.<sup>4271</sup> In this context, the Chamber recalls its finding in relation to the general credibility of P-0145, to the effect that it would not rely on this witness for any fact concerning the unfolding of the attack on Lukodi IDP camp on the ground.

1688. [REDACTED]  
[REDACTED]  
[REDACTED] Without more specific

<sup>4260</sup> P-0205: T-47-CONF, p. 54, lines 3-4.

<sup>4261</sup> P-0142: [T-70](#), p. 44, lines 19-21.

<sup>4262</sup> P-0142: [T-70](#), p. 46, lines 2-12, p. 47, lines 21-23.

<sup>4263</sup> P-0142: [T-70](#), p. 44, lines 22-25.

<sup>4264</sup> P-0142: [T-70](#), p. 45, line 23 – p. 46, line 1.

<sup>4265</sup> P-0205: T-47-CONF, p. 54, lines 20-22.

<sup>4266</sup> P-0205: T-47-CONF, p. 55, lines 7-12. P-0205 testified that Kobbi was from the Terwanga battalion; P-0205: T-47-CONF, p. 59, lines 11-21.

<sup>4267</sup> P-0142: [T-70](#), p. 45, lines 1-4.

<sup>4268</sup> P-0142: [T-70](#), p. 45, lines 13-16.

<sup>4269</sup> [REDACTED]

<sup>4270</sup> [REDACTED]

<sup>4271</sup> P-0145: [T-144](#), p. 27, line 19 – p. 28, line 3.

findings being necessary, the Chamber concludes that, in addition to Ocaka as commander on the ground, Ojok Kampala, Oyenga, Kobbi, Ojara and Abonga Won Dano participated in the attack in leadership roles.

1689.P-0410 also testified about further specific events which took place before the attack commenced. In particular, he stated that after the RV there was a reconnaissance mission which came back with a report.<sup>4272</sup> P-0410 also stated that after the RV before the Lukodi attack those who were going were smeared with oil in the presence of Dominic Ongwen and all the commanders.<sup>4273</sup> He explained that the commanders stayed close to those who were going for battle, because they wanted to encourage the attackers.<sup>4274</sup>

1690.Finally, the Chamber notes the testimonies of two further witnesses who, albeit not providing much detail, corroborate the above evidence in relation to the preparation of the attack on Lukodi IDP camp.

1691.P-0054 stated that prior to the attack on Lukodi IDP camp, he was ‘under Atoo Hills’ with ‘those of Dominic’.<sup>4275</sup> According to his testimony, Dominic Ongwen selected people and they went to Lukodi, under the command of Ocaka and Ocan Nono as 2IC.<sup>4276</sup> Asked how he knew that Dominic Ongwen was the one to give instructions, P-0054 stated that ‘he [was] responsible for selecting the people’.<sup>4277</sup> The Chamber is attentive to the fact that P-0054 testified firmly that Gilva brigade under Tulu was not involved.<sup>4278</sup> In light of the specific evidence to the contrary, including from persons who participated in the attack after being selected from the Gilva sickbay, the Chamber does not accept the evidence of P-0054 on this specific point, considering it entirely plausible that P-0054 simply did not get to know of the fact.

1692.P-0101, who was Dominic Ongwen’s so-called ‘wife’ at the time, testified that the Gilva group of Tulu and Sinia soldiers selected by Dominic Ongwen went for an attack in

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<sup>4272</sup> P-0410: [T-151](#), p. 61, line 25 – p. 62, line 5.

<sup>4273</sup> P-0410: [T-151](#), p. 62, lines 6-15.

<sup>4274</sup> P-0410: [T-151](#), p. 62, lines 10-12.

<sup>4275</sup> P-0054: [T-93](#), p. 30, lines 4-8. It is noted that ‘under Atoo Hills’ is a geographical indication compatible with the rest of the evidence in relation to where the preparations for the attack on Lukodi IDP camp took place.

<sup>4276</sup> P-0054: [T-93](#), p. 30, line 8 – p. 31, line 11. It is clear from this evidence that P-0054 himself did not go to attack Lukodi.

<sup>4277</sup> P-0054: [T-93](#), p. 31, lines 21-25.

<sup>4278</sup> P-0054: [T-94](#), p. 19, lines 2-12.

Lukodi.<sup>4279</sup> She stated that she was not as such present for the selection of soldiers, but that she was nearby ‘in the kitchen’ and ‘overheard them selecting’ soldiers.<sup>4280</sup> She testified that Ocaka was the leader ‘from Dominic’s side’, and confirmed that Ojok Kampala also went for the attack.<sup>4281</sup>

1693. The Chamber also notes that P-0214 testified that she heard of the attack on Lukodi, but that she did not hear Dominic Ongwen issue any orders for it and that ‘none of us’ left the location where they were.<sup>4282</sup> Considering that the witness had limited insight into military operations, the Chamber does not attribute any consequence to her testimony on this point.

*iii. Departure of attackers for Lukodi*

**After receiving the orders given by Dominic Ongwen, the attackers left for Lukodi IDP camp. They arrived at Lukodi in the evening of the following day after setting out. Dominic Ongwen stayed behind at the location of the pre-attack gathering.**<sup>4283</sup>

1694. Several witnesses consistently described the movement of the attackers from the gathering point to Lukodi.

1695. P-0205 testified that after Dominic Ongwen gave his instructions, the attackers set out for Lukodi.<sup>4284</sup> The journey took one and a half to two days – they arrived at Lukodi in the evening of the second day.<sup>4285</sup> P-0142 identically testified that the attackers walked the entire day and arrived at Lukodi the next day in the evening.<sup>4286</sup> The witness estimated the distance from the meeting point at 15-20 kilometres.<sup>4287</sup> He also stated that on the way the attackers obtained some information from the civilians and reorganised the fighters according to Ocaka’s instructions.<sup>4288</sup>

<sup>4279</sup> P-0101: [T-13](#), p. 28, lines 14-19. The date given was corrected immediately thereafter; *see* P-0101: [T-13](#), p. 29, line 17 – p. 30, line 4.

<sup>4280</sup> P-0101: [T-13](#), p. 29, lines 2-8.

<sup>4281</sup> P-0101: T-13-CONF, p. 30, lines 10-17, p. 52, line 22 – p. 53, line 1.

<sup>4282</sup> P-0214: [T-15](#), p. 40, lines 7-16.

<sup>4283</sup> Para. 179 above.

<sup>4284</sup> P-0205: T-47-CONF, p. 54, lines 23-25.

<sup>4285</sup> P-0205: T-47-CONF, p. 54, line 25 – p. 55, line 2; P-0145: [T-144](#), p. 35, line 19 – p. 36, line 1.

<sup>4286</sup> P-0142: [T-70](#), p. 58, line 24 – p. 59, line 2.

<sup>4287</sup> P-0142: [T-70](#), p. 58, lines 18-23.

<sup>4288</sup> P-0142: [T-70](#), p. 59, lines 3-11.

1696.P-0018 testified that on the way to Lukodi, the attackers passed the foothills of the Atoo Hills, then crossed the Paicho road before stopping for the night.<sup>4289</sup> The next morning they crossed the Awach road and went to ‘the place where we were supposed to work’.<sup>4290</sup>

1697.The presence of Dominic Ongwen on the ground for the attack on Lukodi IDP camp is not alleged by the Prosecutor, and indeed the evidence confirms that after having delegated command for the attack, he did not leave the gathering point with the attackers.

1698.P-0142 stated that Dominic Ongwen remained in the position from which he had sent the attackers.<sup>4291</sup> P-0406 stated that he saw Dominic Ongwen at the position where people were selected for the attack, but not thereafter.<sup>4292</sup> P-0101 also stated that Dominic Ongwen himself did not go to Lukodi.<sup>4293</sup>

1699.At the same time, the Chamber notes that P-0145 stated that to his knowledge, Dominic Ongwen went to Lukodi, because ‘he could not leave his people behind’.<sup>4294</sup> He did not directly answer the question whether he saw Dominic Ongwen at Lukodi.<sup>4295</sup> Noting its above findings as to the reliability of P-0145’s account of the events on the ground during the attack, it is clear to the Chamber that the evidence of P-0145 is speculative on this specific point, and as such the Chamber does not rely on the witness in this regard.

*iv. The LRA’s attack against the civilian population of Lukodi IDP camp*

**On or about 19 May 2004, LRA fighters, sent by Dominic Ongwen, attacked Lukodi IDP camp.**<sup>4296</sup>

**In the evening on the day of the attack, at least 80 LRA fighters, including fighters under the age of 15, executed Dominic Ongwen’s orders and armed with an assortment of**

<sup>4289</sup> P-0018: [T-69](#), p. 3, lines 20-25.

<sup>4290</sup> P-0018: [T-69](#), p. 3, lines 20-25.

<sup>4291</sup> P-0142: [T-70](#), p. 58, lines 13-17.

<sup>4292</sup> P-0406: [T-154](#), p. 55, lines 3-9. *See also* [T-155](#), p. 58, lines 9-12 (stating that they started walking together with Dominic Ongwen, but that eventually he could not establish whether Dominic Ongwen was still in the line or had dropped out).

<sup>4293</sup> P-0101: [T-13](#), p. 28, lines 19-21.

<sup>4294</sup> P-0145: [T-143](#), p. 16, line 25 – p. 17, line 5.

<sup>4295</sup> P-0145: [T-143](#), p. 17, lines 6-9.

<sup>4296</sup> Para. 178 above.

**weapons, including an RPG, an SMG, a PK, AK-47s, and a ‘12’, as well as machetes/pangas, attacked Lukodi camp from the east.<sup>4297</sup>**

1700. Regarding the number of LRA fighters that attacked Lukodi IDP camp, LRA fighter P-0142, who participated in the attack on Lukodi, estimated that between 100 and 150 LRA soldiers went to attack Lukodi.<sup>4298</sup> LRA attacker P-0018 testified that there were about 80 attackers that went to Lukodi IDP camp.<sup>4299</sup> The Chamber notes P-0406’s testimony that 40-50 LRA fighters attacked Lukodi IDP camp.<sup>4300</sup> However, the witness also stated that he was just estimating because ‘you are not allowed to count while you are there’.<sup>4301</sup> P-0172 estimated the number of troops departing from Gilva at 50 to 60.<sup>4302</sup> P-0035 and camp resident David Komakech testified that about 100 rebels attacked Lukodi camp.<sup>4303</sup> The Chamber is satisfied that at least 80 LRA fighters attacked Lukodi IDP camp during the attack at issue.

1701. The evidence also shows that children younger than 15 years old participated in the attack on Lukodi IDP camp. The Chamber recalls P-0142’s testimony that there were children among the unarmed group of attackers that participated in the Lukodi attack, including persons in the ‘age category 14’ from 11 to 20 years old and that the armed fighters ranged from 11 to 35 years old.<sup>4304</sup> Concerning the attackers aged 11-14 years old, P-0142 stated that some of them were already initiated as soldiers and were assigned as fighters, had guns, and were able to fight and others were not yet initiated and were primarily tasked with carrying food items.<sup>4305</sup>

1702. P-0142’s testimony is corroborated by P-0406’s testimony that LRA attackers from the ages of 12 to 14 were banging jerry cans to make noise to provide morale for the attacking force.<sup>4306</sup> Similarly, P-0410 corroborates P-0142’s testimony, stating that armed LRA

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<sup>4297</sup> Para. 180 above.

<sup>4298</sup> P-0142: [T-70](#), p. 48, lines 20-22.

<sup>4299</sup> P-0018: [T-68](#), p. 62, line 6-8.

<sup>4300</sup> P-0406: [T-154](#), p. 54, lines 10-14; [T-155](#), p. 58, lines 15-18.

<sup>4301</sup> P-0406: [T-154](#), p. 54, lines 10-14; [T-155](#), p. 58, lines 15-18.

<sup>4302</sup> P-0172: [T-113](#), p. 22, lines 10-12 (referring to the number of combined troops, including Tulu’s and those Dominic Ongwen had come with).

<sup>4303</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 37; P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 15.

<sup>4304</sup> P-0142: [T-71](#), p. 6, lines 9-21.

<sup>4305</sup> P-0142: [T-71](#), p. 6, line 22 – p. 7, line 2.

<sup>4306</sup> P-0406: [T-154](#), p. 54, lines 10-14, p. 59, lines 9-13.

fighters, about 14 years old were among the forces that went to the barracks to attack the government soldiers.<sup>4307</sup>

1703. As to the weapons LRA fighters used in the camp, credible and consistent evidence shows that the LRA forces attacked Lukodi IDP camp with various weapons, including an RPG, an SMG, a PK, AK-47, and a '12', as well as machetes/pangas.<sup>4308</sup>

1704. While the Chamber notes that witnesses differ in their testimony as whether the attack on Lukodi IDP camp happened on 19 or 20 May 2004,<sup>4309</sup> the Chamber is satisfied that on or about 19 May 2004, Lukodi camp was attacked. The Chamber is also satisfied that the evidence indicates that the attack began in the late afternoon or early evening; witnesses testify to a range of time between 16:00 and 18:45.<sup>4310</sup>

<sup>4307</sup> P-0410: [T-151](#), p. 63, line 22 – p. 64, line 12.

<sup>4308</sup> P-0142: [T-70](#), p. 59, line 25 – p. 60, line 3; P-0406: [T-154](#), p. 55, lines 10-12; P-0410: [T-151](#), p. 64, lines 13-17. This is corroborated by the results of a government investigation after the attack. *See* P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 207 (stating that a UPDF commander informed P-0017 that the LRA used heavy and small arms to attack, and that 207 cartridges, nine bullets, one burnt magazine and a part of an RBG shell were recovered from the camp site); P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 130 (stating that there were lots of shells from big bullets lying on the ground in the civilian parts of the camp). *See also* P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 39; P-0024: [T-77](#), p. 34, line 23 – p. 35, line 14.

<sup>4309</sup> Several witnesses testify that the camp was attacked on 19 May 2004. P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 18 (stating that she knows the date because 'everybody in Lukodi remembers this day and every year there is a memorial in Lukodi for the people who died on this day'); P-0024: [T-77](#), p. 21, lines 17-18; P-0187: [T-164](#), p. 8, lines 7-9; P-0185 Statement, UGA-OTP-0233-1020-R01, at paras 14, 31 (stating that he was not certain as he found the exact date difficult to remember and that he thought that the police noted 20 May 2004 as the day of the attack in a statement he gave to them because they took his statement on 20 May 2004, but that was the day after the attack). Still, others stated that the camp was attacked on 20 May 2004. P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 17; P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 52; P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 205. *See also* Uganda police report on Lukodi attack, UGA-OTP-0023-0022, at 0022. The Chamber also notes that P-0035 did not give a specific date, but stated that the attack took place 'between the 20 and the 22 May 2004'; P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 34.

<sup>4310</sup> P-0187: [T-164](#), p. 8, lines 7-9 (the attack took place between 16:00 and 17:00); P-0406: [T-154](#), p. 62, lines 1-7 (the LRA attack on Lukodi IDP camp began around 17:00-18:00); P-0410: [T-151](#), p. 59, lines 12-13 (the LRA reached Lukodi between 17:00 and 18:00); P-0018: [T-69](#), p. 9, lines 10-14 (the LRA entered the camp around 18:00); P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 17-19 (stating that at around 18:00 hours while preparing a meal, she heard the rebels blowing whistles and making an alarm); P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 14 (approximately 18:00); P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 34 (between 18:30 and 18:45); P-0142: [T-70](#), p. 60, lines 19-22 (around 18:45).

1705. Credible and consistent evidence demonstrates that LRA forces entered Lukodi IDP camp from the east,<sup>4311</sup> in two groups, one group going to engage the soldiers at the barracks and the second heading to the civilian areas.<sup>4312</sup>

**The LRA fighters went into the civilian areas of the camp and some fighters went to barracks to fight the government soldiers. Government soldiers engaged the LRA fighters and then quickly fled. The remaining civilian population in the camp were left defenceless. LRA fighters targeted civilians within the camp with acts of violence.**<sup>4313</sup>

1706. The Chamber is satisfied that the evidence shows that around 30 government forces were present in the camp the day of the Lukodi IDP camp attack. P-0035, [REDACTED], indicated that there were 30 LDU soldiers in Lukodi IDP camp.<sup>4314</sup> The Chamber is of the view that [REDACTED], P-0035 is best placed to have credible information as to how many government troops were in Lukodi at the time of the attack.

1707. While there is indication that there were rumours of LRA activity in the area in the days before the attack on Lukodi IDP camp,<sup>4315</sup> the evidence demonstrates that the camp residents and government soldiers present in the camp were caught unaware when the attack actually began.<sup>4316</sup>

1708. Santo Ojera, one of the camp leaders, testified that the LRA entered the Lukodi IDP camp whistling, then shouting and finally shooting.<sup>4317</sup> Similarly, P-0187 testified that when the attack began the LRA were shouting on the top of the voices, banging jerry cans, and

<sup>4311</sup> P-0187: [T-164](#), p. 8, lines 2-6, p. 15, lines 4-7, p. 19, line 25 – p. 20, line 6; P-0142: [T-71](#), p. 9, lines 8-16; P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 35; P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 19-20.

<sup>4312</sup> P-0205: T-47-CONF, p. 55, lines 3-4; P-0410: [T-151](#), p. 59, lines 16-19; [T-152](#), p. 47, line 20 – p. 48, line 2; P-0018: [T-69](#), p. 9, lines 6-9; P-0187: [T-164](#), p. 10, lines 1-3; P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 54; P-0060's sketch of Lukodi IDP camp, UGA-OTP-0069-0048. See P-0142: [T-70](#), p. 58, lines 7-12.

<sup>4313</sup> Para. 181 above.

<sup>4314</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 12. See also P-0024: [T-77](#), p. 19, lines 17-24; [T-78](#), p. 19, line 17 – p. 20, line 1; P-0187: T-164, p. 18, lines 7-12.

<sup>4315</sup> P-0024: [T-78](#), p. 33, line 18-21; P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 19.

<sup>4316</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 34 (explaining that unlike the other times the LRA attacked, the day of the May 2004 attack, no one advised the soldiers that the rebels were around, and that he was alerted to the attack when he noticed that civilians were running coming from the north eastern part of Lukodi towards the military's position); P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 17-19 (stating that she was cooking in her home when she heard the rebels blowing whistles and making an alarm, followed by civilians shouting 'lakwena, lakwena' and gunshots); P-0187: [T-164](#), p. 9, lines 16-25 (testifying that she was returning home on her bicycle after shopping for vegetables when she encountered people running); P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 16 (stating that he was spending time with a friend in a shop at the trading centre of Lukodi camp when he heard the gunshots).

<sup>4317</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 55.

blowing whistles, that was how the people in the camp realised that the camp would be under attack.<sup>4318</sup> P-0187 heard gunshots at the start of the attack and saw some houses being torched.<sup>4319</sup> P-0187 testified that the shooting began on the eastern side of the camp.<sup>4320</sup>

1709. Camp resident P-0024 described the scene as the attack began. P-0024 was at home around evening time, in a civilian area close to the barracks,<sup>4321</sup> when she saw a group of people coming.<sup>4322</sup> P-0024 assumed that they were government soldiers coming to reinforce and assist the soldiers already stationed in the camp to protect the camp residents from LRA activity.<sup>4323</sup> P-0024 explained ‘all of a sudden we saw so many soldiers and there were bullets and their machetes and they were cutting people’.<sup>4324</sup> P-0024 took shelter inside a house, and explained:

A. We entered the house because you couldn’t run at that time.

Q. Why couldn’t you run?

A. Because there were too many. It was very abrupt and there was nowhere to flee. Those who fled were being shot. Many of them died. The ones who were fast enough were able to escape, but for me who had a child it was difficult to run. We were too close, they were already too close to us and we could not run.<sup>4325</sup>

1710. LRA fighter P-0410 corroborates the camp residents’ account of an ordinary day interrupted. P-0410, who testified to being part of the force attacking the barracks,<sup>4326</sup> stated that when his group of LRA fighters headed to the barracks, some government soldiers were playing football with civilians near the camp, and had placed their guns down, not noticing the presence of the LRA forces.<sup>4327</sup> The LRA fighters fired on these soldiers and pushed them towards the barracks, also collecting the guns of the fleeing

<sup>4318</sup> P-0187: [T-164](#), p. 14, line 23 – p. 15, line 17.

<sup>4319</sup> P-0187: [T-164](#), p. 10, lines 3-5.

<sup>4320</sup> P-0187: [T-164](#), p. 19, line 25 – p. 20, line 6.

<sup>4321</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 3; [T-78](#), p. 21, lines 2-5, p. 22, lines 1-4.

<sup>4322</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 3; [T-78](#), p. 36, line 21 – p. 37, line 3, p. 37, line 24 – p. 38, line 5.

<sup>4323</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 6.

<sup>4324</sup> P-0024: [T-77](#), p. 20, lines 8-10.

<sup>4325</sup> P-0024: [T-77](#), p. 23, line 22 – p. 24, line 2.

<sup>4326</sup> P-0410: [T-151](#), p. 59, lines 18-19.

<sup>4327</sup> P-0410: [T-151](#), p. 59, lines 12-19; [T-152](#), p. 47, line 20 – p. 48, line 1.

soldiers.<sup>4328</sup> The Chamber finds this aspect of P-0410's testimony detailed, graphic and credible.

1711. In line with P-0410's testimony, other witnesses indicate that as they entered the camp from the eastern side, the LRA fighters started shooting, attacking the barracks and civilians alike. Camp resident David Komakech testified that the shooting started at the very edge of the camp, where there were only civilians.<sup>4329</sup> According to David Komakech, there were government soldiers amongst the Lukodi population but the LRA fighters were shooting at everybody, including civilians.<sup>4330</sup>

1712. Camp resident Pyerina Aya could hear gunshots and it seemed to her that the soldiers in the barracks and the attackers, based in the east, were shooting at each other.<sup>4331</sup> She testified that eventually the gunshots coming from the direction of the barracks stopped and she could only hear gunshots from the east.<sup>4332</sup>

1713. Other LRA fighters further described the course of the attack. P-0142 testified that the LRA fighters went to the primary school, which had been converted into the government soldiers' barracks and faced the soldiers.<sup>4333</sup> P-0142 could not clearly recall which party started shooting, but described a short exchange of fire between the government soldiers and the LRA fighters.<sup>4334</sup> Similarly, P-0406 testified that as the LRA fighters went towards the barracks, there was an exchange of fire with the government soldiers.<sup>4335</sup> According to P-0410, the LRA forces had heavier weaponry than the government soldiers.<sup>4336</sup>

1714. P-0205 testified that he was in the group that went to attack the barracks along with LRA commanders Ocaka and Ojok Kampala.<sup>4337</sup> According to his testimony, the LRA fighters

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<sup>4328</sup> P-0410: [T-151](#), p. 59, lines 16-20; [T-152](#), p. 48, lines 2-4, p. 49, lines 12-14.

<sup>4329</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 14.

<sup>4330</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at paras 14-15.

<sup>4331</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 20.

<sup>4332</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 21.

<sup>4333</sup> P-0142: [T-70](#), p. 61, lines 15-19; [T-71](#), p. 9, line 15 – p. 10, line 1; T-71-CONF, p. 63, lines 13-16. *See* P-0142's annotated map of Lukodi, UGA-OTP-0251-0642.

<sup>4334</sup> P-0142: [T-70](#), p. 60, lines 19-22, p. 61, line 9 – p. 62, line 4.

<sup>4335</sup> P-0406: T-154-CONF, p. 55, lines 19-24.

<sup>4336</sup> P-0410: [T-152](#), p. 51, lines 12-16.

<sup>4337</sup> P-0205: T-47-CONF, p. 54, lines 20-22, p. 55, lines 5-7.

shot at the government soldiers.<sup>4338</sup> P-0205 testified that some government soldiers stayed behind and were hiding behind the school so the LRA shot at those soldiers.<sup>4339</sup>

1715. The evidence shows that the exchange of fire between the LRA fighters and the government soldiers was brief and that the government fighters quickly fled. P-0142 testified that the exchange of fire ‘didn’t take very many minutes’, because the government soldiers fled into the civilian camp.<sup>4340</sup>

1716. P-0142 testified that after the government soldiers fled, the LRA fighters went to the barracks, searched it, and set it on fire, burning all the homes within the barracks.<sup>4341</sup> In line with this testimony, P-0205 testified that when the LRA fighters attacked the government soldiers hiding behind the school, the fighting ‘did not take long before [the LRA fighters] saw the whole place burning’.<sup>4342</sup> P-0205 also testified that the LRA fighters burnt the soldiers’ homes and took everything that they found there.<sup>4343</sup>

1717. P-0410 corroborates the other LRA fighters’ accounts testifying that there were only a few government soldiers in the camp and although they tried to resist the attack, it was easy to overrun the barracks.<sup>4344</sup> P-0410 testified that the government soldiers ran away after being overrun by the LRA and the civilians remained in the camp.<sup>4345</sup> Camp resident P-0024 corroborates this account; she testified that as the LRA attackers approached the camp, the government soldiers fled.<sup>4346</sup>

1718. The Chamber is convinced by the overwhelming evidence that government soldiers quickly fled the camp after a short engagement with LRA fighters in the barracks and in the camp.

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<sup>4338</sup> P-0205: T-47-CONF, p. 55, lines 10-12.

<sup>4339</sup> P-0205: T-47-CONF, p. 55, lines 14-16.

<sup>4340</sup> P-0142: [T-70](#), p. 62, lines 1-7; [T-71](#), p. 11, lines 20-24.

<sup>4341</sup> P-0142: [T-70](#), p. 62, lines 14-18.

<sup>4342</sup> P-0205: T-47-CONF, p. 55, lines 15-16.

<sup>4343</sup> P-0205: T-47-CONF, p. 55, lines 13-16.

<sup>4344</sup> P-0410: [T-151](#), p. 59, lines 20-23.

<sup>4345</sup> P-0410: [T-151](#), p. 59, lines 22-24.

<sup>4346</sup> P-0024: [T-77](#), p. 22, lines 18-23; [T-78](#), p. 39, lines 1-23. *See also* P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 21, 37 (testifying that while hiding in the bush in the night, she heard the arrival of the government soldiers reinforcing the camp, and heard them say that the Lukodi government soldiers had all run away).

1719.P-0142 testified that some of the LRA fighters followed the retreating government soldiers into the civilian camp and continued firing as they moved into the camp.<sup>4347</sup>

1720.Meanwhile, as one group of the LRA fighters were at the barracks, another group of attackers, some armed and some unarmed, went into the civilian areas of the camp and targeted the civilians within. P-0142 testified that the unarmed LRA soldiers, accompanied by some armed LRA soldiers, scattered into the camps, to loot items and come back.<sup>4348</sup> Similarly, P-0205 testified that as some fighters went to the barracks, the ‘people who were sent to look for food also went to look for food’ under the command of a Sinia brigade officer, Kobbi, and a soldier from Gilva known as Ojara.<sup>4349</sup>

1721.While some civilians tried to hide inside homes in the civilian area,<sup>4350</sup> others moved to flee from the camp.<sup>4351</sup>

1722.The evidence is clear that in its attack on Lukodi IDP camp, the LRA fighters sent by Dominic Ongwen followed his orders and targeted civilians on his orders, committing numerous acts of violence against them.

1723.P-0406 testified that he saw people being beaten by an LRA fighter.<sup>4352</sup> Similarly, P-0410 testified:

[The LRA] started by burning the houses and then shooting civilians and the soldiers. And then later, some people were abducted. They looted food and looted a few items from the barracks.<sup>4353</sup>

1724.The Chamber also notes that the credible, consistent and mutually corroborative evidence of the civilians about what they observed within the camp corroborates P-0410’s account.

<sup>4347</sup> P-0142: [T-70](#), p. 63, lines 3-8.

<sup>4348</sup> P-0142: [T-70](#), p. 63, line 17 – p. 65, line 11.

<sup>4349</sup> P-0205: T-47-CONF, p. 55, lines 7-12. P-0205 testified that Kobbi was from the Terwanga battalion; P-0205: T-47-CONF, p. 59, lines 11-21.

<sup>4350</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 18, 22-29 (testifying that, together with two of her children, she remained in her home with the door closed until the attackers entered. *See also* para. 1757 below.); P-0024: [T-77](#), p. 23, line 20 – p. 24, line 14; [T-78](#), p. 36, line 21 – p. 37, line 3 (explaining that she hid in her house together with five of her own and three of her neighbour’s children); P-0187: [T-164](#), p. 10, line 1-9 (stating that she hid in a house with two other civilian women); P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 21 (stating that when she and her sister-in-law heard the noises, they hid behind the door, and that they could hear gunshots outside).

<sup>4351</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 54, 57-59 (stating that he ran west, crossing and then following the Ororo stream, and that he met other people who were running just like him).

<sup>4352</sup> P-0406: [T-155](#), p. 61, lines 22-25. *See also* P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 44 (Pyerina Ayaa testified that after the attack she saw one injured woman Atim had been beaten all over her body).

<sup>4353</sup> P-0410: [T-151](#), p. 60, lines 6-8.

The Chamber also recalls its finding above that Dominic Ongwen's order for the attack on Lukodi IDP camp included the instruction to target everyone present in Lukodi.<sup>4354</sup> Altogether, the evidence clearly demonstrates that the LRA fighters attacking Lukodi IDP camp targeted civilians. At this juncture, the Chamber provides a more specific assessment of the available evidence concerning the numerous acts of violence, looting and destruction of property perpetrated by LRA fighters against civilians in the course of the attack on Lukodi IDP camp, as well as in its immediate aftermath. As also emerges from the evidence analysed below, the victims targeted by the LRA attackers were civilian residents of the camp.

**LRA fighters killed civilians in Lukodi IDP camp: men, women and children. At least 48 civilians died as a result of injuries sustained in the attack. Civilians were shot, burnt and beaten to death.**<sup>4355</sup>

**The following persons were among those killed by the LRA within the camp: Keneri Okot, Jeneth Lakot, Kilama Aloyo, Kilama Kidega, Jackline Anee, Milly Anek, Akello Acii, Innocent Okello, Ojoko, unnamed man shouting at the LRA, Christine Ajok, Odong Apiyo, David Otim and an unnamed stabbing victim, Agwesa Odoch, Beatrice's son, Charles Odong, Jasinta Aol, Jojina Angom, Lalobo's son, Tezira Oroma, Ojara, Okwera, Olwedo, Ocaika's wife and one unnamed teenage girl, Onencan, Witness P-0024's mother and [REDACTED], Min Ojoko, Ocii, Atim, Charles Anywar, Danger Joseph Oryem, James Opiro, Jeneth Lalur Akello, Joseph Ojara, Obedi, Rose Kiter, Tabicha Alum, Vincent Ocaya and Santa Oroma.**<sup>4356</sup>

**LRA fighters attempted to kill at least 11 other civilians who managed to survive. The fighters shot at civilians and in some cases wounded them. Civilians were beaten and left for dead. Civilians, including children, were thrown into burning houses. The following persons were among those who survived these LRA acts of violence: Pyerina Ayaa, Florence Adong, Adong Paska, Piloya, Joel Opiyo, Ojoko, an unnamed elderly woman, Nyeko, two unnamed girls who had been shot and an unnamed girl with a burnt leg.**<sup>4357</sup>

1725. The Prosecution argues that the LRA intentionally targeted the civilians in Lukodi IDP camp in both deliberate and attempted killings and the deaths were not caused by 'crossfire'.<sup>4358</sup> The Defence submits that the Prosecution has failed to demonstrate that civilians were deliberately targeted by the LRA.<sup>4359</sup> The evidence is clear that LRA fighters purposely killed or attempted to kill persons during the May 2004 attack on

<sup>4354</sup> See section IV.C.8.ii above.

<sup>4355</sup> Para. 182 above.

<sup>4356</sup> Para. 183 above.

<sup>4357</sup> Para. 184 above.

<sup>4358</sup> [Prosecution Closing Brief](#), paras 315, 336.

<sup>4359</sup> [Defence Closing Brief](#), paras 423, 429.

Lukodi IDP camp. Both LRA fighters and camp residents testify that the LRA burnt, shot and beat people within the camp.

1726. As camp resident P-0187 testified in response to a question as to whether the LRA's purpose in the camp was to collect food:

But talking about them coming to collect food, well, I was just guessing, they could have heard that Caritas had distributed flour and cooking oil. [...] But if they had come for food only, they would not have killed people, they would not have torched houses. They came prepared and ready to kill. They needed--they wanted to kill people. If they only wanted food, they would have collected only food.<sup>4360</sup>

1727. Camp resident P-0024 testified that while she was abducted by the LRA fighters, she heard the LRA fighters laughing and joking about the attack in Lukodi:

I heard them laughing. I heard them saying that they should not have wasted their guns in Lukodi, they should have just hit people on their skulls, they should have beaten the soldiers, they should have killed the soldiers, they should have killed the civilians as well. That's what they were doing. They said they wasted their bullets. That's what they were doing, they were joking, they were laughing about the attack, saying that they should have killed us, they should have used other means to kill us. We were tied up. At the time we felt that we were dead anyway, we felt that we were walking dead. There was nothing that we could do.<sup>4361</sup>

1728. Similarly, camp resident Lilly Apiyo testified that during her abduction, a commander told the abductees:

[W]e were supposed to kill all of you. In Atiak everyone was killed but I am going to spare you but we have killed all your children and the husbands that you left in the camp. We are also going to kill all the men we abducted. I am going to release you to go back to the camp and bury your children and husbands.<sup>4362</sup>

1729. In testimony consistent with the above accounts, camp resident David Komakech testified that while he was hiding from the LRA during the attack, he could hear the LRA saying 'kill all of them anyone you find you should kill'.<sup>4363</sup> In this context, the Chamber recalls P-0142's response when asked whether shooting a civilian during the course of an attack would constitute an offence, P-0142, one of Dominic Ongwen's Sinia fighter,

<sup>4360</sup> P-0187: [T-165](#), p. 31, lines 3-21.

<sup>4361</sup> P-0024: [T-78](#), p. 51, lines 12-20.

<sup>4362</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 42.

<sup>4363</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at paras 16, 17.

said that ‘nobody would see it as a crime if a civilian is injured or if a civilian is shot at’.<sup>4364</sup>

1730. The evidence shows that the LRA shot, beat or cut people, killing them, in Lukodi IDP camp. P-0406, one of Dominic Ongwen’s Sinia fighters, testified that when abducted people tried to run away, they were shot and killed by the LRA.<sup>4365</sup> P-0406 testified that [REDACTED].<sup>4366</sup>

1731. P-0410, another of Dominic Ongwen’s Sinia fighters, testified that the LRA shot civilians at the camp.<sup>4367</sup> P-0410 testified that he saw civilians that were already dead and he saw other civilians being shot.<sup>4368</sup> Asked if he knew how the dead civilians had been killed, P-0410 testified that they had been shot or burnt in houses.<sup>4369</sup> P-0410 testified that while moving around ‘[s]ometimes when you are walking along the road, you jump over people’s corpses and you keep on moving. You find another corpse; you jump over it and keep on moving. People died from bullet shots, people died from bombs’.<sup>4370</sup>

1732. Camp resident P-0024 explained that in the course of the attack, the LRA fighters started shooting into the houses,<sup>4371</sup> ‘outside there were so many bullets that we could hear, there was a lot of smoke everywhere’.<sup>4372</sup> P-0024 testified that there were bullets and the LRA were cutting people.<sup>4373</sup> P-0024 described what she observed as she was hiding away from the LRA during the attack:

[W]e lay down [in the house] hoping that they wouldn’t come to us because we were not seeing what was taking place in the compound. All we could hear were bullets. And you could hear them cutting people into pieces. And there were a lot of noise being made. They were laughing while they were cutting people into pieces. And they were saying that they shouldn’t have wasted their bullets in Lukodi, they should just hit people with the clubs and cut them with machetes until

<sup>4364</sup> P-0142: [T-71](#), p. 25, lines 18-21.

<sup>4365</sup> P-0406: [T-154](#), p. 56, lines 12-16. *See* P-0406’s sketch of Lukodi IDP camp and the course of the attack, UGA-OTP-0263-2807 (in his annotated sketch of the map of Lukodi and the course of the attack, P-0406 indicates several spots where the bodies of dead civilians were found).

<sup>4366</sup> P-0406: T-154-CONF, p. 57, lines 3-6.

<sup>4367</sup> P-0410: [T-151](#), p. 60, lines 6-7.

<sup>4368</sup> P-0410: [T-151](#), p. 64, lines 20-24.

<sup>4369</sup> P-0410: [T-151](#), p. 65, lines 1-4, lines 18-20.

<sup>4370</sup> P-0410: [T-151](#), p. 67, lines 13-15.

<sup>4371</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 11.

<sup>4372</sup> P-0024: [T-77](#), p. 24, lines 23-25.

<sup>4373</sup> P-0024: [T-77](#), p. 22, lines 6-8.

they die. That is what happened. We were helpless and we were hoping that we could be saved.<sup>4374</sup>

1733. Contrary to what is alleged as a possibility by the Defence,<sup>4375</sup> there is no evidence of persons killed in crossfire. As the Chamber discussed above, the evidence shows that there was at most a short exchange of fire between the LRA fighters and the government soldiers stationed in the camp, after which the government soldiers quickly fled. Indeed, it is theoretically possible that civilians could die caught in that exchange, but based on the evidence before the Chamber this is no more than theoretical speculation.

1734. P-0142 did not go into the camp and claimed to not have personally witnessed anything that occurred in the camp or any civilian killed, however when asked how the civilians died in the camp, he testified that it would be ‘really difficult’ for him to say exactly how the civilians died but thought they could have died in the crossfire between the LRA soldiers and government soldiers who fled and went into the civilian area.<sup>4376</sup>

1735. Similarly, LRA fighter P-0172, who also did not go to the attack, testified that the LRA fighters who returned from the camp told him that it was a ‘fierce battle, because they found the soldiers who were guarding the civilians, you needed to first attack the soldiers before reaching the civilians, and the soldiers also had civilians in the crossfire. That is why there were many injuries’.<sup>4377</sup> P-0172 testified that he was told that government soldiers ran away from the battlefield, went behind civilians and started shooting their guns from behind civilians and the civilians were caught in the middle.<sup>4378</sup>

1736. P-0205, one of Dominic Ongwen’s Sinia fighters, testified that it was possible that during the crossfire, some civilians died, but he did not see any deaths personally.<sup>4379</sup> LDU soldier Okello Michael Tookwaro also raised the possibility of civilian deaths by crossfire or from government soldiers.<sup>4380</sup> The Chamber notes that both P-0205 and Okello Michael Tookwaro testified about the presence of a mamba, which fired on the

<sup>4374</sup> P-0024: [T-77](#), p. 24, line 23 – p. 25, line 8. See P-0024: [T-78](#), p. 37, lines 4-15.

<sup>4375</sup> [Defence Closing Brief](#), para. 425.

<sup>4376</sup> P-0142: [T-70](#), p. 65, line 23 – p. 66, line 4, p. 66, lines 12-15.

<sup>4377</sup> P-0172: [T-113](#), p. 25, lines 14-20.

<sup>4378</sup> P-0172: [T-114](#), p. 6, lines 5-14.

<sup>4379</sup> P-0205: T-51-CONF, p. 17, lines 10-15.

<sup>4380</sup> D-0072: [T-212](#), p. 38, line 23 – p. 39, line 23.

LRA fighters.<sup>4381</sup> P-0205 however states that the mamba arrived when the LRA fighters had crossed the Unyama River, some distance from the camp.<sup>4382</sup> Thus, his evidence does not support the contention that the mamba fired in the camp and could have been responsible for the deaths of civilians within the camp. Indeed P-0205 also testified, as discussed below,<sup>4383</sup> that he did not see any civilians killed in the course of the attack. Regarding Okello Michael Tookwaro, the Chamber recalls its finding that his testimony regarding what happened during the Lukodi attack is unreliable.<sup>4384</sup> As such, the Chamber is unable to rely on his testimony in this regard.

1737. As for P-0205, P-0172 and P-0142, the Chamber notes that their evidence in this regard is purely speculative. None of these witnesses testified to seeing any civilian die in the attack. Instead, many other witnesses offered credible, eyewitness accounts of what happened in Lukodi IDP camp and none of them testified to seeing a government soldier kill a camp resident, or described circumstances that would establish death in crossfire as a reasonable possibility.

1738. Evidence also demonstrates that although government reinforcements came to Lukodi IDP camp the night of the attack, they did not engage with the LRA fighters as the fighters had already left the camp.<sup>4385</sup>

1739. The Chamber also notes that contrary to the Defence's contention, Martin Kalyemenya's testimony does not suggest that the government soldiers used 'heavy machine guns' in the course of the Lukodi IDP camp attack.<sup>4386</sup> The Defence's argument stretches the witness's testimony to make an unsupported speculation. Further, the witness testified that the shells were collected and that he did not remember what happened to them

<sup>4381</sup> P-0205: T-47-CONF, p. 55, lines 17-22; D-0072: [T-212](#), p. 38, line 21 – p. 39, line 23.

<sup>4382</sup> P-0205: T-47-CONF, p. 55, lines 17-22.

<sup>4383</sup> See the Chamber's discussion of the reporting of the attack to Dominic Ongwen in paras 1838-1845 below.

<sup>4384</sup> See the Chamber's discussion of D-0072's testimony in section IV.B.2.v.b.iii above.

<sup>4385</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at paras 42, 48-49 (stating that he sent a communication to the battalion HQ asking for reinforcement, which arrived around 45 minutes later by which time the rebels had already left the camp towards the north-eastern direction). See also P-0142: [T-72](#), p. 73, lines 19-23 (stating that he did not hear any ground reinforcements with vehicles come during the course of the attack on Lukodi); P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 35-36 (stating that a vehicle with government soldiers arrived at the camp about 30 minutes after she heard the sound of a mamba firing); V-0004: [T-173](#), p. 45, line 13 – p. 46, line 8 (stating that when the ground military forces arrived at the camp, the LRA had already left and that when the mambas came to the camp, they did not fire. 'They only parked there and guarded the place until the next morning').

<sup>4386</sup> See [Defence Closing Brief](#), paras 426-27. The Defence pointed to P-0036's (Martin Kalyemenya) statement that there were lots of shells from big bullets lying on the ground in the civilians' part of the camp.

afterwards,<sup>4387</sup> but at no point stated that the shells went missing as the Defence writes in its closing brief.<sup>4388</sup> In this context, the Chamber notes bullet cartridges were collected from the Lukodi campsite.<sup>4389</sup>

1740. The Chamber also notes the Defence submissions about the location of the Lukodi barracks and the suggestion that the proximity of the barracks and the civilian camp blurred the distinction between the military and civilians for the LRA fighters.<sup>4390</sup> As noted in the Chamber's discussion above, LRA fighters entered the camp, attacking on foot, they separated into two groups and clearly attacked both the barracks and the civilian area as ordered by Dominic Ongwen. No LRA fighter testified to being unable to distinguish between the barracks and the civilian areas. On the contrary, the evidence demonstrates that LRA fighters who participated in the attack clearly distinguished the military barracks from the civilian areas of the camp.<sup>4391</sup> Camp residents also testified that the barracks, albeit quite close to some parts of the civilian camp, was distinguishable from the civilian camp.<sup>4392</sup>

<sup>4387</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 130.

<sup>4388</sup> [Defence Closing Brief](#), para. 426.

<sup>4389</sup> See P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 207 (stating that during the post attack government investigation a UPDF commander informed P-0017 that the LRA used heavy and small arms to attack, 207 cartridges, nine bullets, one burnt magazine and a part of an RBG shell were recovered from the camp site). See also Photographs of collected items, UGA-OTP-0171-0178, UGA-OTP-0171-0179, UGA-OTP-0171-0180, UGA-OTP-0171-0181, UGA-OTP-0171-0182, UGA-OTP-0171-0183, UGA-OTP-0171-0184, UGA-OTP-0171-0185, UGA-OTP-0171-0186, UGA-OTP-0171-0187, UGA-OTP-0171-0191, UGA-OTP-0171-0192, UGA-OTP-0171-0193, UGA-OTP-0171-0194, UGA-OTP-0171-0195, UGA-OTP-0171-0196, UGA-OTP-0171-0197, UGA-OTP-0171-0200, UGA-OTP-0171-0201, UGA-OTP-0171-0203, UGA-OTP-0171-0204. Some of these photographs appear to show the bullet cartridges collected from the Lukodi IDP camp sites.

<sup>4390</sup> [Defence Closing Brief](#), paras 423-24.

<sup>4391</sup> P-0142: [T-70](#), p. 62, lines 8-13 (testifying that the civilian camp was between 100 to 500 metres from the barracks, adding that 'the distance was really small and 500 metres would even be on really the higher side, but it was really not far'). See also P-0142: [T-71](#), p. 60, line 21 – p. 61, line 23 (distinguishing between the barracks and the burning houses); P-0018: [T-69](#), p. 53, lines 5-10 (there was a distance, although not far, between the barracks and the camp); P-0410: [T-152](#), p. 47, line 20 – p. 48, line 4 (clearly distinguishing between the military barracks and the civilians dwellings when describing his movements during the attack).

<sup>4392</sup> P-0035 Statement, UGA-OTP-0036-0082-R01, at para. 14 (stating that there was a distance of about 300 meters between the military barracks and the nearest civilian houses); P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 17-18; P-0060's sketch of Lukodi IDP camp, UGA-OTP-0069-0048 (stating that he lived only around 25 meters away from the military barracks as were the home of several other civilians, and that there was a trench surrounding the military barracks); P-0024: [T-78](#), p. 21, line 2 – p. 24, line 14 (stating that civilians moved to the edge of the school compound in an attempt to be more secure by proximity to the barracks; but that there was a distance between the school and the civilian homes); P-0187: [T-164](#), p. 7, line 19 – p. 8, line 6; [T-165](#), p. 3, lines 22-25, p. 4, line 15-25 (stating that civilians established their dwellings behind the barracks, which was based at the school, and that she lived less than a mile away from the barracks). See also P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 122 (stating that there was a military detachment on the extreme left side of the camp, very close to the civilian parts of the camp); P-0036's sketch of Lukodi IDP camp, UGA-OTP-0036-0063.

1741. The evidence also shows that civilians were burned to death in their homes by the LRA.

The Defence alleges a possibility that tracer (stretcher) bullets or the battle light burnt the camp,<sup>4393</sup> presumably also accounting for the persons burnt in the camp. However, this is a speculative scenario that is not based on any evidence. Rather, the evidence is overwhelming that LRA fighters purposely burnt homes in the camp, burning civilians to death within their homes. LRA fighters themselves testified accordingly.

1742. Camp resident P-0018 stated that LRA fighters sent people into their houses, locked the doors and set the houses on fire with the people inside the houses.<sup>4394</sup> According to P-0018, after the LRA attackers took food out of the houses, they would light a match and set the houses ablaze.<sup>4395</sup> However, in some houses, the LRA attackers would take fire from the cooker and tell people and children to go into the houses, lock the doors and then set the houses on fire.<sup>4396</sup> P-0018 escaped from the LRA and returned to Lukodi camp the day after the attack, when she saw that many people were killed and some were burnt inside their houses.<sup>4397</sup> A female civilian abductee who had escaped from the LRA with P-0018 came back the next day and found that her child had been burnt inside the house.<sup>4398</sup>

1743. Similarly, Sinia fighter P-0406 testified that during the Lukodi attack, he saw people who were pushed inside a house and locked inside and the house set on fire.<sup>4399</sup> P-0410 also testified that he also saw civilians who were burning inside a hut.<sup>4400</sup> Sinia fighter P-0410 stated that the civilians who did not flee were burnt in their houses.<sup>4401</sup> In line with P-0018's testimony, P-0410 testified that the LRA forces used the fire used for cooking to set the huts on fire.<sup>4402</sup>

1744. P-0410 testified that during the attack, he came to a house and saw many civilians crowded inside.<sup>4403</sup> P-0410 testified that because he pitied the people inside, he closed

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<sup>4393</sup> [Defence Closing Brief](#), para. 428.

<sup>4394</sup> P-0018: [T-69](#), p. 12, lines 2-8.

<sup>4395</sup> P-0018: [T-69](#), p. 12, lines 2-17, p. 17, lines 16-23.

<sup>4396</sup> P-0018: [T-69](#), p. 12, lines 14-20.

<sup>4397</sup> P-0018: [T-69](#), p. 18, line 20 – p. 19, line 5. *See* P-0018: [T-68](#), p. 51, line 24 – p. 52, line 16.

<sup>4398</sup> P-0018: [T-69](#), p. 19, lines 3-7.

<sup>4399</sup> P-0406: [T-154](#), p. 55, line 25 – p. 56, lines 3.

<sup>4400</sup> P-0410: [T-151](#), p. 64, lines 20-25.

<sup>4401</sup> P-0410: [T-151](#), p. 65, lines 1-4.

<sup>4402</sup> P-0410: [T-151](#), p. 65, lines 10-15.

<sup>4403</sup> P-0410: [T-151](#), p. 66, lines 8-16.

the door and locked it as if there was no one inside.<sup>4404</sup> P-0410 testified that the LRA fighter who came after him opened the door and found people were inside, so that fighter bolted the door, locked it with a padlock and set the house on fire.<sup>4405</sup> P-0410 testified that the LRA fighter waited there until the people had burnt down and then he left to report P-0410 to their superiors for having attempted to spare the lives of the civilians.<sup>4406</sup> P-0410 testified that he saw the civilians all burnt to death.<sup>4407</sup> P-0410 testified that ‘so many people were burnt to death’ in Lukodi.<sup>4408</sup> The Chamber finds P-0410’s testimony here credible; it is specific, compelling, rich with detail and consistent with other reliable evidence.

1745. Camp resident P-0024 corroborates these accounts, testifying that the LRA killed people in the camp, and in particular that she saw the LRA loot houses and then set the houses ablaze, killing people.<sup>4409</sup>

1746. Having considered the totality of the evidence, the Chamber is convinced that the evidence proves that LRA fighters killed the victims during the attack. The evidence does not suggest that the civilians killed in Lukodi IDP camp were killed during crossfire between the government forces and the LRA fighters. The Chamber notes the below discussion of the persons killed in the course of the Lukodi IDP camp attack and the manner in which they were killed. There is also no evidence that government soldiers beat, burnt or cut any civilian in the course of the attack. There is ample evidence that the LRA committed these acts.

1747. The Chamber heard credible evidence that LRA fighters killed civilians during the attack and in its their retreat from the camp. On some occasions, the killing was not fully carried out because of independent circumstances.

1748. Camp resident Lilly Apiyo described what she witnessed in returning to the camp the day after the attack:

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<sup>4404</sup> P-0410: [T-151](#), p. 66, lines 8-16.

<sup>4405</sup> P-0410: [T-151](#), p. 66, lines 8-16.

<sup>4406</sup> P-0410: [T-151](#), p. 66, lines 15-23.

<sup>4407</sup> P-0410: [T-151](#), p. 66, lines 24-25.

<sup>4408</sup> P-0410: [T-151](#), p. 66, line 25.

<sup>4409</sup> P-0024: [T-77](#), p. 20, lines 16-21, p. 33, line 25 – p. 34, line 5.

I saw dead bodies covered with blankets. I saw people who had been burnt in the house being removed from the burnt houses. People were using sticks to get them out because some of the houses were still burning.<sup>4410</sup>

1749. Lilly Apiyo testified that she was lucky that her house was set on fire once she had gotten out of it because some people were killed and burnt in their houses.<sup>4411</sup> She testified to seeing the bodies of children who had been killed when she returned to the camp.<sup>4412</sup> She stated that she also saw the body of a woman who was killed with her daughter-in-law and grandchild.<sup>4413</sup>

1750. The Chamber recalls camp resident P-0187's general testimony about the LRA's killing of children in the camp. P-0187 testified:

Some were hit. Some children were put in a polythene bag and beaten to death. Some were locked inside and burnt inside. Others were put in a bag and they were thrown in the bush. So many of them--some of them disappeared and they were never found. Others were found in the morning.<sup>4414</sup>

1751. ISO officer P-0301 testified that the morning after the attack, he arrived at the camp with an army convoy.<sup>4415</sup> P-0301 testified that he saw 'bodies hacked in a barbaric way'.<sup>4416</sup> P-0301 testified that the people killed were civilians, men, women and children.<sup>4417</sup> P-0301 stated that he saw the bodies of 'old persons that could not run away'.<sup>4418</sup> P-0301 testified that the day after the attack, he saw the body of a girl as young as three.<sup>4419</sup> P-0017 testified that he observed that the deceased were all civilians, some adults and some children.<sup>4420</sup> P-0017 saw a grave with the bodies of young children.<sup>4421</sup>

1752. P-0187 testified that some bodies were not recovered soon after the attack, some bodies were found in the bush, many months after the attack.<sup>4422</sup> She stated, 'the bodies were

<sup>4410</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 51.

<sup>4411</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 23.

<sup>4412</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 27.

<sup>4413</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4414</sup> P-0187: [T-164](#), p. 20, lines 24 – p. 21, line 5.

<sup>4415</sup> P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 52.

<sup>4416</sup> P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 54.

<sup>4417</sup> P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 54.

<sup>4418</sup> P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 54.

<sup>4419</sup> P-0301 Statement, UGA-OTP-0249-0423-R01, at para. 54.

<sup>4420</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 211.

<sup>4421</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 211. *See* Photograph of grave of young children, UGA-OTP-0023-0312. In his statement, P-0017 stated that he recognised on this photograph one of the graves in Lukodi IDP camp, covered with bricks.

<sup>4422</sup> P-0187: [T-164](#), p. 24, line 24 – p. 25, line 1.

discovered like luggage which had been abandoned'.<sup>4423</sup> Similarly, camp resident P-0024 testified that some of the dead bodies were never recovered, others were burned in the houses, and some remained in the bush.<sup>4424</sup> She stated that for some deceased their bodies were been eaten by dogs.<sup>4425</sup>

1753. According to P-0024, a child who was taken by the LRA and thrown away in the bush during the course of the retreat died and the dead body was never recovered.<sup>4426</sup> P-0024 also testified that the morning after the attack, she was told by other returned abductees that the other seven people who had been abducted with her were killed.<sup>4427</sup>

1754. Below, the Chamber discusses the evidence of specific individuals killed or attempted to be killed by the LRA within the camp.

**1755. Keneri Okot, Jeneth Lakot, Kilama Aloyo, Kilama Kidega and Jackline Anee:** P-0187 testified that in the course of the attack on Lukodi IDP camp, LRA fighters shot Keneri Okot, his daughter-in-law and three other children and then burnt them in the house.<sup>4428</sup> Santo Ojera also testified of the five persons burnt in a house, gave their names and provided additional detail about their deaths. He testified credibly that the day after the attack he saw that five civilians had been burnt inside a house: Keneri Okot, Jeneth Lakot, her children Kilama Aloyo and Kilama Kidega, and another child by the name of Jackline Anee.<sup>4429</sup> According to Santo Ojera, no one knew exactly what happened and how the persons were burnt as everyone else had run away by the time they were burned.<sup>4430</sup> However, he noted that all the bodies were lying in the same spot inside the house and thus the residents believed that the victims were shot before they were burnt inside the house.<sup>4431</sup> This, to the camp residents, explained why the bodies were found in one spot rather than in different places inside the house.<sup>4432</sup> Santo Ojera lists Keneri Okot, Kilama Aloyo, Jeneth Lakot, Kilema Kidega and Jackline Angee in his list of

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<sup>4423</sup> P-0187: [T-164](#), p. 24, lines 14-23.

<sup>4424</sup> P-0024: [T-77](#), p. 50, lines 8-14.

<sup>4425</sup> P-0024: [T-77](#), p. 49, line 22 – p. 50, line 3.

<sup>4426</sup> P-0024: [T-77](#), p. 40, lines 4-12.

<sup>4427</sup> P-0024: [T-77](#), p. 28, lines 2-9.

<sup>4428</sup> P-0187: [T-164](#), p. 18, lines 1-4, p. 19, lines 4-8, p. 22, lines 7-11.

<sup>4429</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 64.

<sup>4430</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 64.

<sup>4431</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 64.

<sup>4432</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 64.

persons killed during the May 2004 Lukodi attack.<sup>4433</sup> The Chamber finds both P-0187 and Santo Ojera's accounts of these deaths credible and consistent and mutually corroborative. Additionally, P-0024, who testified that there was a house where five people were burnt to death,<sup>4434</sup> provided further albeit more general corroboration.

1756. The corpses of many of the persons killed in the course of the Lukodi IDP camp attack were exhumed from their graves days after the attack and autopsied by Martin Kalyemenya, a pathologist.<sup>4435</sup> The post-mortem reports, created in the course of Martin Kalyemenya's examination, possess all indicia of authenticity, bearing the stamp of the Makerere University Pathology Department's District Medical Officer and the signature of Martin Kalyemenya, the consultant pathologist. The Chamber is satisfied that the individual post mortem reports, discussed further below, are the authentic post mortem reports of persons deceased in the course of the attack on Lukodi IDP camp relevant to the charges, and that the process of the post-mortem examinations was adequately explained by Martin Kalyemenya.<sup>4436</sup> The Chamber notes particularly that it considers that the post-mortem reports provide evidence as to the marks and wounds that could be observed on the bodies of the deceased. Post-mortem reports exist for four of the five persons named by Santo Ojera: Keneri Okot, Jeneth Lakot, Kidega Kilama and Aloyo Kilama.<sup>4437</sup> These four persons were also identified in Martin Kalyemenya's forensic

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<sup>4433</sup> P-0060's List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0050. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79 (Santo Ojera testified that he drafted a list of the persons killed and injured during the attack with the former Lukodi Camp Leader after the attack. This Camp Leader was abducted by the LRA a few months after the Lukodi attack and never returned; Santo Ojera testified that the list also disappeared. However, Santo Ojera reconstructed the lists of persons killed, injured and abducted in the Lukodi IDP camp attack during the course of his statement). Given his position as one of the camp's leaders, his role as a representative of former Lukodi camp residents and the detail with which he recollects names and ages and locations in his testimony, the Chamber is satisfied that Santo Ojera's lists contain credible information which may serve to corroborate other evidence. The Chamber also notes that another list of persons killed in Lukodi IDP camp was submitted into evidence. *See* List of Lukodi deceased, UGA-OTP-0146-0145, [Decision on Prosecution's Request to Submit 1006 items of evidence](#), 28 March 2017, ICC-02/04-01/15-795, p. 23. The Chamber concurs with the Defence that the lack of information about the provenance of the document undermines the Chamber's ability to rely on the information contained therein. *See* Confidential Annex A to [Defence Response to "Prosecution's request to submit 1006 items of documentary evidence"](#), ICC-02/04-01/15-701-Conf-AnxA, at 138.

<sup>4434</sup> P-0024: [T-77](#), p. 50, lines 8-14.

<sup>4435</sup> *See* P-0036 Statement, UGA-OTP-0036-0042-R01.

<sup>4436</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 131-42. *See* [Defence Closing Brief](#), para. 426, n. 691.

<sup>4437</sup> Post-mortem report of 'Keneth' Okot, UGA-OTP-0146-0154, at 0154-55; Post-mortem report of 'Jength' Lakot, UGA-OTP-0146-0172, at 0172-73; Post-mortem report of Kidega, UGA-OTP-0146-0191, at 0191-92; Post-mortem report of Aloyo, UGA-OTP-0146-0227, at 0227-28 (according to the reports, the bodies of 'Keneth Okot', 'Jength' Lakot, Kidega and Aloyo of Lukodi camp were identified by relatives. The reports list 'charred body' as the external mark of violence on each body). The Chamber also notes that the post-mortem report, as well as the forensic medical report refers to 'Kenneth' Okot, instead of the witnesses' reference to Keneri Okot.

medical report.<sup>4438</sup> According to Martin Kalyemenya's report, Keneri Okot was 65 years old; Jeneth Lakot was 32 years old; Kilama Kidega was one and a half years old and Kilama Aloyo was four years old.<sup>4439</sup> Further, the post-attack video<sup>4440</sup> recorded by the police investigators after the attack also identified Keneri Okot and Jeneth Lakot.<sup>4441</sup> The Chamber is convinced that the evidence shows that LRA fighters shot and burnt Keneri Okot, Jeneth Lakot, Kilama Kidega, Kilama Aloyo and Jackline Anee, killing them, in the course of the attack on Lukodi IDP camp.

**1757. Milly Anek and the shooting of Pyerina Ayaa and Florence Adong:** Pyerina Ayaa testified that during the attack, she hid in her house with her two daughters, Florence Adong, around 14 years old and Milly Anek, 8 years old.<sup>4442</sup> She described how she saw five armed LRA fighters coming in the direction of her house, shouting that everyone should come outside their houses.<sup>4443</sup> As she moved to open the door of the house, the LRA fighters ripped out the frame of the door along with the door itself and threw it

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However, given the overwhelming similarities in the manner of death, and the last name of the deceased, the Chamber is of the view that the evidence refers to the same person, Keneri Okot. The Chamber notes that the post-mortem report names 'Jength' Lakot, while Santo Ojera referred to 'Jeneth'. The Chamber is of the view that this is a mere difference in spelling and the reference is to the same person Jeneth Lakot. *See also* Requests for post-mortem examination, UGA-OTP-0146-0153; UGA-OTP-0146-0171; UGA-OTP-0146-0190; UGA-OTP-0146-0226.

<sup>4438</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193-94. The Chamber notes that Martin Kalyemenya testified that he compiled the list contained in the forensic reports, the persons killed, injuries and cause of death, based on the results of his exhumation, as well as data he collected on the victims from their relatives. P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 131. The Chamber is satisfied that this document is the authentic medical report prepared by Martin Kalyemenya and that it contains the results of his work during the government investigation into the deaths at Lukodi IDP camp.

<sup>4439</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193-94. The Chamber notes that the report refers to 'Lokot Janat'. Given the similarities in the name and sound of 'Janat Lokot' to 'Jeneth Lakot', it is clear to the Chamber that the reference is to the same person.

<sup>4440</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008. The government investigators that went to Lukodi IDP camp in the days after the attack recorded a video of what they observed in the camp, including the exhumations of persons killed and buried within the camp as well as the people severely injured in the attack and convalescing at the hospital in Gulu. P-0017 and Martin Kalyemenya discuss the content of the video in their testimonies, describing the scenes in the video and demonstrating that the video was taken during the course of the post-attack investigation which they participated in. The Chamber is satisfied that the video discussed by P-0017 and Martin Kalyemenya is the authentic video taken in the days after the attack and shows the impact of the attack on the camp and the civilians that lived within it. The video has probative value as corroborative evidence of the results of the attack on Lukodi IDP camp. *See* P-0017 Statement, UGA-OTP-0036-0007-R01, at paras 202, 207, 214; P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 119-22, 124.

<sup>4441</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:39:57 (the post attack video shows parts of the exhumation of a body, identified as Keneri Okot, 65 years, the body was completely charred); Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:39:42 (the post attack video shows parts of the exhumation of a body, identified as Janath Lakoth, 32 years). The Chamber notes the different spelling of the victim's name and given the similarities considers that the evidence references the same person.

<sup>4442</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 8, 22.

<sup>4443</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 23-24.

away.<sup>4444</sup> Then from outside the house, the five LRA fighters began to shoot inside the house.<sup>4445</sup> They shot in the direction of Pyerina Ayaa and her two daughters and at everything else in the house.<sup>4446</sup> Pyerina Ayaa testified that everything in the house was destroyed by the bullets, including blankets and other property.<sup>4447</sup> Pyerina Ayaa stated that she tried to move her leg and could not move it and fell down.<sup>4448</sup> That is when she realised that she had been shot.<sup>4449</sup> Her daughter Milly fell on top of her and she saw that a bullet had hit Milly in the stomach and had come out on the other side.<sup>4450</sup> She realized that Milly was dead.<sup>4451</sup> Pyerina Ayaa testified that her daughter Florence was also shot in the two big toes of her left foot.<sup>4452</sup> Pyerina Ayaa testified that the five rebels then entered the house.<sup>4453</sup> Pyerina Ayaa stated that she said to them ‘You are all Acholi children. Why do you do this to us? You have shot and killed my child’.<sup>4454</sup> The LRA fighters responded that they wanted cooking oil.<sup>4455</sup> Pyerina Ayaa testified that she gave them the cooking oil and the fighters left.<sup>4456</sup> Pyerina Ayaa stated that she went outside of her house and saw the barracks burning, concerned that the LRA fighters would return to burn her house, she told Florence to run away to the west.<sup>4457</sup> She crawled away from the house, pulling Milly along with her; she managed to reach the latrine and hid there until the attack was over.<sup>4458</sup> The morning after the attack, the government soldiers came to collect injured people and take them to the hospital.<sup>4459</sup> Pyerina Ayaa saw her daughter Florence among the injured people with the soldiers.<sup>4460</sup> Milly Anek was eventually buried outside of the camp.<sup>4461</sup> The Chamber finds Pyerina Ayaa’s account of her and her daughter’s shootings detailed, comprehensive, graphic and entirely credible. Pyerina Ayaa’s account is also corroborated by the testimony of other witnesses. P-0187 testified

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<sup>4444</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 25-26.

<sup>4445</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 27.

<sup>4446</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 27.

<sup>4447</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 27.

<sup>4448</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 28.

<sup>4449</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 28.

<sup>4450</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 28.

<sup>4451</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 28.

<sup>4452</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 28.

<sup>4453</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 29.

<sup>4454</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 29.

<sup>4455</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 29.

<sup>4456</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 29.

<sup>4457</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 30.

<sup>4458</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 30, 33.

<sup>4459</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 42.

<sup>4460</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 42.

<sup>4461</sup> See P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 39, 46.



old.<sup>4475</sup> [REDACTED]

P-0187 also [REDACTED] stating that the child of Lalobo Wilfred and Eveline Ataro, called Akello was thrown in the flames and got burnt.<sup>4476</sup> The post mortem report of Akello Acii stated that her body had extensive burns.<sup>4477</sup> Martin Kalyemenya also testified that he concluded that Akello died of neurogenic shock because he observed extensive deep burns on her body.<sup>4478</sup> A post-mortem report identified Innocent Okello and states that the body was charred.<sup>4479</sup> Martin Kalyemenya's forensic medical report identified Akello and Innocent Okello as two of the persons deceased in Lukodi and states that both were three years old.<sup>4480</sup> The post attack video shows parts of the exhumations of several small children, including one identified as 'Akello D/O Ataro, 3 years' with extensive burns on almost half of her body<sup>4481</sup> as well as another identified as Innocent Okello, three years, this body was entirely charred and the bones of the skeleton were apparent in the video.<sup>4482</sup> Given the overwhelming similarities in the manner of death and the name of the witness, the Chamber is of the view that the Innocent Okello identified in the documentary and video evidence is the same Innocent whose death is described by [REDACTED]. In light of the foregoing, the Chamber finds that in the course of the Lukodi attack, LRA fighters killed Akello Acii, Ojoko and Innocent Okello by burning them to death. The evidence also demonstrates that in the course of the attack, LRA fighters attempted to kill Adong Paska and Piloya by beating them and leaving them for dead.

1759. **Unnamed man shouting:** P-0187 testified that in the course of her abduction, right after the LRA fighters had torched a house, a man started shouting from the western side of

<sup>4475</sup> [REDACTED]

<sup>4476</sup> P-0187: [T-164](#), p. 22, lines 7-18.

<sup>4477</sup> Post-mortem report of Akello, UGA-OTP-0146-0182, at 0182-83 (the body of 'Akello D/O Ataro' of Lukodi camp was identified by relatives. The report lists 'extensive burns' as the external mark of violence. The cause of death is listed as neurogenic shock from the burns). *See also* Request for post-mortem examination, UGA-OTP-0146-0181.

<sup>4478</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 136. *See also* Photograph of Akello's body, UGA-OTP-0023-0321. P-0036 recognised Akello's body in the photograph. The Chamber notes that the image also corresponds with the child identified in the video as Akello D/O Ataro in the post-attack video.

<sup>4479</sup> Post-mortem report of Innocent Okello, UGA-OTP-0146-0188, at 0188-89 (according to the post-mortem report, the body was identified by relatives. The report listed 'charred body' as the external mark of violence). *See also* Request for post-mortem examination, UGA-OTP-0146-0187.

<sup>4480</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0194.

<sup>4481</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:36:55.

<sup>4482</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:37:16.

the camp.<sup>4483</sup> An armed LRA fighter went over to the man and shot him dead.<sup>4484</sup> P-0187 indicated that this man was named Charles and that he fell down right in front of P-0187 and two other female abductees.<sup>4485</sup> The Chamber is convinced by P-0187's account of this murder. The Chamber also notes that Lilly Apiyo tells a similar story, stating that she was told after the attack by people in the camp that a man had been hiding in the bathroom next to the banana plant.<sup>4486</sup> He had been drunk and was insulting the LRA fighters, so they shot him.<sup>4487</sup> The Chamber is convinced that the LRA shot the man who was shouting at the LRA dead in the course of their attack on Lukodi IDP camp.

**1760. Christine Ajok and Odong Apiyo:** Several witnesses testified as to the death of Christine Ajok. Santo Ojera testified that after returning to the camp the morning after the attack, he saw people digging graves from the road; he later learned that one of the graves was for a mother called Christine Odong Ajok and her child Odong Apiyo.<sup>4488</sup> Santo Ojera also named Christine Odong Ajok and Odong Apiyo on his list of persons killed during the May 2004 Lukodi attack.<sup>4489</sup> Martin Kalyemenya corroborates the account of Christine Ajok's death. Martin Kalyemenya testified that Christine Ajok was one of the victims of the attack that he observed was burnt and not shot.<sup>4490</sup> She is also listed on Martin Kalyemenya's forensic medical report as one of the deceased.<sup>4491</sup> According to the report, Christine Ajok was 25 years old.<sup>4492</sup> Martin Kalyemenya listed 'neurogenic shock' as her cause of death because he concluded that she must have died of pain from the injuries she suffered.<sup>4493</sup> Further, the post-mortem report identified the body of Christine Ajok of Lukodi camp after its exhumation.<sup>4494</sup> The post attack video shows parts of the exhumation of a body, identified as Christine Ajok, 25 years; the burns

<sup>4483</sup> P-0187: [T-164](#), p. 11, lines 9-10, p. 17, lines 5-8, p. 17, lines 15-22.

<sup>4484</sup> P-0187: [T-164](#), p. 11, lines 9-10.

<sup>4485</sup> P-0187: [T-164](#), p. 17, lines 5-8, 15-22.

<sup>4486</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 52.

<sup>4487</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 52.

<sup>4488</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 61.

<sup>4489</sup> P-0060's List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0051. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4490</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 136.

<sup>4491</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. Christine Ajok is adult victim number 14.

<sup>4492</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193.

<sup>4493</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 136.

<sup>4494</sup> Post-mortem report of Christine Ajok, UGA-OTP-0146-0197, at 0197-98 (according to the post-mortem report, the body was identified by relatives. The post-mortem report listed 'charred body' as the external mark of violence). *See also* Request for post-mortem examination, UGA-OTP-0146-0196.

on the body were apparent from the video.<sup>4495</sup> In light of the totality of the evidence,<sup>4496</sup> the Chamber considers that the evidence shows that Christine Ajok and Odong Apiyo were killed by the LRA in the course of the attack.

1761. **David Otim and an unnamed stabbing victim:** The evidence demonstrates that David Otim was killed by LRA fighters in the course of the attack on Lukodi IDP camp. David Komakech testified that after the attack he saw the bodies of two men who had been stabbed, one of them was a man named Otim.<sup>4497</sup> Martin Kalyemenya provided evidence about David Otim's death.<sup>4498</sup> Martin Kalyemenya testified he was told by David Otim's relatives that he was stabbed to death by a child not older than eight years old.<sup>4499</sup> According to Martin Kalyemenya's forensic medical report, David Otim was 28 years old.<sup>4500</sup> A post-mortem report identified the body of David Otim of Lukodi camp after its exhumation.<sup>4501</sup> The post-mortem report listed 'multiple stab wounds' as external marks of violence on the body; it was noted that an autopsy was performed, discovering 'multiple stab wounds left scapula and sub-scapular region'.<sup>4502</sup> The post attack video shows parts of the exhumation of a body, identified as David Otim, 28 years; wounds on the body's back as well as burns were visible.<sup>4503</sup> The Chamber also recalls Gipson Okulu's testimony that his son 'Ottim David' was found dead in the aftermath of the attack, he had been 'stabbed with the bayonet on the back and it came through the body, through the chest'.<sup>4504</sup> Given the similarities in the description of the death and the last name of the victim, the Chamber is convinced that the Otim mentioned by David

<sup>4495</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:46:22. A photograph taken in the course of the investigation corresponds with the image shown in the video. See Photograph of Christine Ajok, UGA-OTP-0023-0338.

<sup>4496</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4497</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

<sup>4498</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. David Otim is adult victim number 15.

<sup>4499</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 136.

<sup>4500</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193.

<sup>4501</sup> Post-mortem report of David Otim, UGA-OTP-0146-0160, at 0160-61 (according to the post-mortem report, his body was identified by relatives. The cause of death was shock as a result of blood loss from the injury). See also Request for post-mortem examination, UGA-OTP-0146-0159.

<sup>4502</sup> Post-mortem report of David Otim, UGA-OTP-0146-0160, at 0160.

<sup>4503</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:48:07.

<sup>4504</sup> V-0004: [T-173](#), p. 16, lines 10-18. The Chamber notes that Gibson Okulu stated that his son was 19 years old. While this age differs from that listed in the post-attack video and Martin Kalyemenya's testimony, given the description of the body, the Chamber is satisfied that the evidence is related to the same person.

Komakech is David Otim.<sup>4505</sup> In light of the totality of the evidence,<sup>4506</sup> the Chamber finds that an LRA attacker killed David Otim and a second unnamed man by stabbing them during the May 2004 Lukodi IDP camp attack.

1762. **The throwing of Joel Opiyo into a burning hut:** Joel Opiyo, seven years old at the time of the attack, testified that he had just returned home after herding cattle with his brother Morris Nyeko when he heard people blowing whistles.<sup>4507</sup> Joel Opiyo stated that he first thought it was traditional dancers but his mother told him and his siblings to run.<sup>4508</sup> He ran and eventually hid, along with his brother and sister Jennifer Atenyo, in the house of a woman who lived close to him.<sup>4509</sup> There were other people hiding in the hut.<sup>4510</sup> Joel Opiyo testified that an armed fighter came into the house and fired a shot into the house and then left.<sup>4511</sup> The people in the house were shortly thereafter commanded out by a female attacker.<sup>4512</sup> Morris Nyeko and Jennifer Atenyo, were tied together and the abductees were made to carry items like beans, sim-sim and sorghum, that was taken from homes along the way as the attackers and their captives moved.<sup>4513</sup> Joel Opiyo stated that as they were moving, still within the camp, one of the attackers said that he was interfering with the movement of the abductees and grabbed him under his armpits and threw him into a burning hut.<sup>4514</sup> Joel Opiyo bumped his back into the central pillar that supported the roof of the hut and fell on the floor.<sup>4515</sup> Joel Opiyo stated that he started crying and crawling around trying to find an exit; he was bumping into things, the roof of the hut was about to collapse and parts of it were falling around him.<sup>4516</sup> Joel Opiyo testified that he managed to crawl out of the hut,<sup>4517</sup> but when one of the attackers saw him, the attacker shouted that he should be shot.<sup>4518</sup> Joel Opiyo testified that another

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<sup>4505</sup> The Chamber also notes that Lilly Apiyo testified that the morning after the attack she saw the dead body of Agaja Otim. P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46. Noting that the witness does not provide evidence as to the wounds she observed on the victim, the Chamber makes no finding that this is the same person discussed by the other evidence.

<sup>4506</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4507</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 15.

<sup>4508</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 15.

<sup>4509</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 15.

<sup>4510</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 16.

<sup>4511</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 16.

<sup>4512</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 17.

<sup>4513</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 17.

<sup>4514</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

<sup>4515</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

<sup>4516</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

<sup>4517</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

<sup>4518</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

attacker told the other not to waste his bullet.<sup>4519</sup> Joel Opiyo survived.<sup>4520</sup> Joel Opiyo stated that he was later taken to a hospital in Gulu where he spent three months recovering from burn wounds on his left leg and stomach.<sup>4521</sup> Joel Opiyo still experiences pain on his back and knees.<sup>4522</sup> The Chamber finds Joel Opiyo's testimony comprehensive, rich in detail, consistent and credible. The Chamber finds that an LRA fighter attempted to kill Joel Opiyo by throwing him into a burning house in the course of the May 2004 attack on Lukodi IDP camp.

1763. **Agwesa Odoch:** Santo Ojera named 'Agweca Odoch' on his list of persons killed during the May 2004 Lukodi attack.<sup>4523</sup> P-0187 testified that the LRA shot 'Agwica'.<sup>4524</sup> A post-mortem report identified the body of 'Agwesa Odoch' of Lukodi camp after its exhumation and lists 'gun shot head' as the external mark of violence and notes that an autopsy was performed with the pathologist discovering 'brain damage'.<sup>4525</sup> According to Martin Kalyemenya's forensic medical report, Agwesa Odoch was 85 years old.<sup>4526</sup> Lastly, the post attack video shows parts of the exhumation of a body, identified as 'Agoja' Odoch, 85 years.<sup>4527</sup> In light of the totality of the evidence,<sup>4528</sup> the Chamber finds that Agwesa Odoch was shot and killed by the LRA during the Lukodi attack.

1764. **Beatrice's son:** Lilly Apiyo testified that Beatrice, one of the released abductees came back to the camp and was looking for her son because he had been following her and other abductees.<sup>4529</sup> Lilly Apiyo stated that Beatrice was told that her son had been

<sup>4519</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

<sup>4520</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 19.

<sup>4521</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 21.

<sup>4522</sup> P-0196 Statement, UGA-OTP-0233-1061-R01, at para. 23.

<sup>4523</sup> P-0060's List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0050. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4524</sup> P-0187: [T-164](#), p. 18, lines 1-6, p. 19, lines 4-8.

<sup>4525</sup> Post-mortem report of Agwesa Odoch, UGA-OTP-0146-0169, 0169-70 (according to the post-mortem report, the body was identified by relatives. The post-mortem report lists brain damage as the cause of death). *See also* Request for post-mortem examination, UGA-OTP-0146-0168.

<sup>4526</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. The Chamber is of the view that the report's reference to 'Agweja' instead of 'Agwesa' was a mere difference in spelling.

<sup>4527</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:35:35. A photograph taken in the investigation also corresponds to the image of Agwesa Odoch's body seen in the video. *See* Photograph of Odoch, UGA-OTP-0023-0333. The Chamber notes the discrepancy in the first name. The evidence above refers to: *Agwica, Agweca, Agwesa, and Agoja*. The Chamber notes that apart from P-0187, who does not mention the deceased's last name, the other testimony refers to a person with the last name of Odoch. Further, given the similarities in the names, the Chamber is satisfied that the evidence all refer to the same person, whom the Chamber identifies as Agwesa Odoch.

<sup>4528</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4529</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 47.

killed.<sup>4530</sup> Lilly Apiyo testified that as she searched for her own missing daughter and Beatrice searched for her son, the two women discovered the body of Beatrice's son in a sack.<sup>4531</sup> According to Lily Apiyo, the boy's neck had been broken and he had bruises all over because the LRA and the abductees had been stepping on his body in the sack as they moved.<sup>4532</sup> The Chamber finds Lilly Apiyo's account of the death of Beatrice's son credible. P-0187's testimony that children were put into sacks and beaten to death is consistent with Lilly Apiyo's account of the state in which Beatrice's son was discovered.<sup>4533</sup> In light of the totality of the evidence,<sup>4534</sup> the Chamber finds that LRA fighters killed Beatrice's son during their attack on Lukodi IDP camp.

**1765. Charles Odong:** P-0187 testified that the LRA shot Charles Odong.<sup>4535</sup> A post-mortem report identified the body of Charles Odong of Lukodi camp after its exhumation.<sup>4536</sup> The post-mortem report lists 'gunshot wounds left supraclavicular region' as the external mark of violence and notes that an autopsy was performed with the pathologist discovering 'laceration left lung and heart'.<sup>4537</sup> The listed cause of death was 'exsanguination',<sup>4538</sup> meaning severe loss of blood. According to Martin Kalyemenya's forensic medical report, Charles Odong was 40 years old.<sup>4539</sup> The post attack video shows parts of the exhumation of a body, identified as Charles Odong, 40 years.<sup>4540</sup> Santo Ojera also corroborated the other evidence about the death of Charles Odong, naming him on the list of persons killed during the May 2004 Lukodi attack.<sup>4541</sup> The evidence is consistent and mutually corroborative. In light of the totality of the evidence,<sup>4542</sup> the

<sup>4530</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 47.

<sup>4531</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 47.

<sup>4532</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 47.

<sup>4533</sup> P-0187: [T-164](#), p. 24, lines 14-19.

<sup>4534</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4535</sup> P-0187: [T-164](#), p. 18, lines 5-6, p. 19, lines 4-8.

<sup>4536</sup> Post-mortem report of Charles Odong, UGA-OTP-0146-0157, at 0157-58 (according to the post-mortem report, his body was identified by relatives). *See also* Request for post-mortem examination, UGA-OTP-0146-0156.

<sup>4537</sup> Post-mortem report of Charles Odong, UGA-OTP-0146-0157, at 0157.

<sup>4538</sup> Post-mortem report of Charles Odong, UGA-OTP-0146-0157, at 0158.

<sup>4539</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. The Chamber is of the view that the report's reference to 'Ondong' instead of 'Odong' is a mere difference in spelling.

<sup>4540</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:32:05.

<sup>4541</sup> P-0060's List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0051. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4542</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

Chamber finds that Charles Odong was killed by the LRA in the course of their attack on Lukodi IDP camp.

1766. **Jasinta Aol:** After being rescued by government soldiers after the attack, Pyerina Ayaa was put on a vehicle with other injured people.<sup>4543</sup> She identified one of the injured women she saw as Aol.<sup>4544</sup> According to Pyerina Ayaa, Aol was cut in the back of her head and shot in the back, the bullet came out at the front of her waist.<sup>4545</sup> Pyerina Ayaa testified that Aol later died in the hospital.<sup>4546</sup> Similarly, Santo Ojera named *Jesina* Aol on his list of persons killed during the May 2004 Lukodi attack.<sup>4547</sup> A post-mortem report identified the body of *Jasinta* Aol of Lukodi camp after its exhumation.<sup>4548</sup> The post-mortem report listed ‘cut wound occipital region gun shot wound chest’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘cut wound occipital region’ and ‘gun shot wounds chest’.<sup>4549</sup> According to Martin Kalyemenya’s forensic medical report, Jasinta Aol was 50 years old.<sup>4550</sup> Further, the post attack video shows the body of a woman, identified as Jasinta Aol; it was apparent in the video that the deceased had a wound on the back of her head as well a wound on her chest and back.<sup>4551</sup> A photograph taken in the course of the investigation corresponds to the image shown in the video.<sup>4552</sup> Given her description of the wounds Aol suffered and the last name she provided, the Chamber is of the view that Pyerina Ayaa testified about the death of Jasinta Aol.<sup>4553</sup> The evidence in its totality is consistent, specific, and mutually corroborative. In light of the totality of the evidence,<sup>4554</sup> the Chamber finds that LRA fighters killed Jasinta Aol by cutting her and shooting her.

<sup>4543</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 42.

<sup>4544</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 44.

<sup>4545</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 44.

<sup>4546</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 44.

<sup>4547</sup> P-0060’s List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0051. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4548</sup> Post-mortem report of Jasinta Aol, UGA-OTP-0146-0218. *See also* Request for post-mortem examination, UGA-OTP-0146-0217.

<sup>4549</sup> Post-mortem report of Jasinta Aol, UGA-OTP-0146-0218, at 0218.

<sup>4550</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193.

<sup>4551</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:24:35.

<sup>4552</sup> *See* Photograph of Jasinta Aol, UGA-OTP-0023-0320.

<sup>4553</sup> The Chamber notes that the evidence lists different first names for Aol: *Jacinta*, *Jesina*, *Jasinta*. The Chamber also notes a reference to ‘*Aoul Jacinta*’ in the forensic medical report. The Chamber is of the view that the differences are the result of a mere difference in spelling and the evidence all refer to the same person, Jasinta Aol.

<sup>4554</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

1767. **Jojina Angom:** P-0187 testified that the LRA burnt ‘Georgina’ Angom.<sup>4555</sup> P-0187 testified that Georgina Angom was an elderly sickly woman who could not run.<sup>4556</sup> The post-mortem report identified the body of Jojina Angom of Lukodi camp after its exhumation and listed ‘charred body’ as the external mark of violence.<sup>4557</sup> According to the report, the autopsy did not establish the cause of death.<sup>4558</sup> The Chamber recalls Martin Kalyemenya’s testimony that some bodies were so charred, he could not establish the cause of death and the bodies were not opened.<sup>4559</sup> The post attack video shows parts of the exhumation of a body, identified as *Jojina Angom*, 80 years.<sup>4560</sup> The Chamber finds that LRA fighters killed Jojina Angom in the course of the Lukodi IDP camp attack.

1768. **Lalobo’s son:** Lilly Apiyo testified that after the attack, she found out that the son of her brother-in-law Lalobo was also shot.<sup>4561</sup> He had been crying for his mother and the rebels shot him in the mouth.<sup>4562</sup> His body was left next to a banana plant.<sup>4563</sup> Although this knowledge was, according to Lilly Apiyo’s own testimony not based on direct observation, the Chamber notes that she did see the body after she returned to the camp.<sup>4564</sup> Lilly Apiyo did not know the exact age of the child, but stated that he could walk and talk.<sup>4565</sup> The Chamber is of the view that Lilly Apiyo’s testimony is credible. It is also consistent with other evidence of how the LRA behaved in the course of attack on Lukodi IDP camp. The Chamber finds that the evidence demonstrates that the LRA killed Lalobo’s son in the course of the attack.

1769. **Tezira Oroma:** P-0187 testified that LRA fighters shot Tejera Oroma.<sup>4566</sup> Santo Ojera corroborates the evidence that Tejera Oroma died in the attack, naming *Tejira Oroma* in

<sup>4555</sup> P-0187: [T-164](#), p. 18, lines 1-5, p. 19, lines 4-8, p. 22, lines 5-16.

<sup>4556</sup> P-0187: [T-164](#), p. 22, lines 5-16.

<sup>4557</sup> Post-mortem report of Jojina Angom, UGA-OTP-0146-0175, at 0175-76 (according to the post-mortem report, the body was identified by relatives). *See also* Request for post-mortem examination, UGA-OTP-0146-0174.

<sup>4558</sup> Post-mortem report of Jojina Angom, UGA-OTP-0146-0175, at 0175-76.

<sup>4559</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 137.

<sup>4560</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:32:55. *See also* Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. The Chamber is of the view that the difference in the name of the deceased reflects a mere difference in spelling and/or pronunciation and the evidence refers to the same person Jojina Angom.

<sup>4561</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 48.

<sup>4562</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 48.

<sup>4563</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 52.

<sup>4564</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 49.

<sup>4565</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 52.

<sup>4566</sup> P-0187: [T-164](#), p. 18, lines 1-2, p. 19, lines 4-8.

his list of persons killed during the May 2004 Lukodi attack.<sup>4567</sup> A post-mortem report identified the body of Tezira Oroma of Lukodi camp after its exhumation and listed ‘gun shot wounds’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering a ‘shattered skull’.<sup>4568</sup> The post attack video shows parts of the exhumation of a body, identified as ‘Tezira Oroma, 50 years’.<sup>4569</sup> According to Martin Kalyemenya’s forensic medical report, Tezira Oroma was 50 years old.<sup>4570</sup> In light of the totality of the evidence,<sup>4571</sup> the Chamber finds that the LRA killed Tezira Oroma in the course of the attack on Lukodi IDP camp.

**1770. Ojara, Okwera, Olwedo, Ocaka’s wife and one teenage girl:** Lilly Apiyo testified that when she returned to the camp, she saw the bodies of Okwera, Olwedo and Ojara; they had been shot to death.<sup>4572</sup> Lilly Apiyo stated that she was told that the rebels thought Okwera was UPDF because he was ‘fair skinned’.<sup>4573</sup> Okwera pled with them that he was not UPDF, the rebels shot him.<sup>4574</sup> Lilly Apiyo testified that the bodies she saw were close to the place where she reunited with her family on returning to Lukodi camp.<sup>4575</sup> The Chamber finds Lilly Apiyo’s testimony specific, detailed and credible. Similarly, David Komakech testified that the morning after the attack, he saw three people who had been shot dead and had blood oozing out of a mark on their bodies.<sup>4576</sup> One of these men was called Ojara.<sup>4577</sup> The Chamber is of the view that Lilly Apiyo likely refers to the same persons seen by David Komakech. David Komakech also saw two female bodies that had been burnt in a house.<sup>4578</sup> He testified that, of these two, one woman, whom he

<sup>4567</sup> P-0060’s List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0051. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4568</sup> Post-mortem report of Tezira Oroma, UGA-OTP-0146-0166, at 0166-67 (according to the post-mortem report, her body was identified by relatives). *See also* Request for post-mortem examination, UGA-OTP-0146-0165.

<sup>4569</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:32:14. The Chamber notes several slight differences in the name of the deceased, and considers them mere differences in spelling. The Chamber finds that the evidence refers to the same person, Tezira Oroma.

<sup>4570</sup> *See* Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. The Chamber considers the report’s reference to ‘Orama’ instead of ‘Oroma’ to be a mere difference in spelling.

<sup>4571</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4572</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4573</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4574</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4575</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4576</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

<sup>4577</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

<sup>4578</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

identified as Ocaka's wife, was burnt in the top half of her body and her head.<sup>4579</sup> The other person, a young girl in her teens, was completely burnt.<sup>4580</sup> David Komakech saw the girl's mother there crying.<sup>4581</sup> The Chamber finds David Komakech's accounts of the deceased he saw credible. In light of the totality of the evidence,<sup>4582</sup> the Chamber is convinced that Ojara and Olwedo and Okwera, Ocaka's wife and one teenage girl were killed by LRA fighters in the course of the attack.

1771. **Onencan:** Lilly Apiyo testified that her nephew, Onencan, a three year old child, was found in the camp with his neck broken.<sup>4583</sup> The Chamber finds Lilly Apiyo's accounts credible. In light of the totality of the evidence,<sup>4584</sup> the Chamber finds that Onencan was killed by LRA fighters in the course of the attack.

1772. **P-0024's mother and [REDACTED]:** P-0024 testified that her mother and [REDACTED] were killed in the course of the attack.<sup>4585</sup> The Chamber finds P-0024's account credible. In light of the totality of the evidence,<sup>4586</sup> the Chamber finds that P-0024's mother and [REDACTED] were killed by the LRA in the course of the attack on Lukodi IDP camp.

1773. **The throwing of Ojoko and of an unnamed elderly woman into a burning hut:** P-0024 testified credibly that during the attack, she saw a child, Ojoko, who was shot by the LRA and thrown into a fire along with an elderly lady.<sup>4587</sup> The Chamber finds P-0024's account credible. The Chamber notes that while the evidence strongly indicates that Ojoko and the elderly woman were killed by the LRA, it is not conclusive. Thus, the Chamber finds that the LRA at least attempted to kill Ojoko and the elderly woman by shooting them and throwing them into a burning hut in the course of the attack on Lukodi IDP camp.

1774. **Min Ojoko, Ocii:** One of the injured women Pyerina Ayaa saw in the aftermath of the attack was Min Ojoko, who had been shot in the thigh and the bullet had gone from one

<sup>4579</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

<sup>4580</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

<sup>4581</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 24.

<sup>4582</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4583</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 52.

<sup>4584</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4585</sup> P-0024: T-77-CONF, p. 33, line 14-23, p. 38, line 18 – p. 39, line 4.

<sup>4586</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4587</sup> P-0024: T-78-CONF, p. 41, lines 10-14.

side to the other; she died in the hospital.<sup>4588</sup> There was another injured man by the name of Ocii, who had been shot in the lower part of his back; the bullet came out higher on his back, close to his shoulder.<sup>4589</sup> P-0024 testified that after rescuing her, the government soldiers brought eight people to the hospital along with her; five died and three of them survived.<sup>4590</sup> One of the persons who died was Okello Ocii.<sup>4591</sup> The Chamber finds the witnesses account credible and considers that they testify about the same victim, in light of the similarities of their accounts. In light of the totality of the evidence,<sup>4592</sup> the Chamber finds that Min Ojoko and Ocii were killed by LRA fighters in the course of the attack.

**1775. The shooting of Nyeko, two unnamed girls and the burning of a third unnamed girl:**

Pyerina Ayaa, who was injured and eventually taken to the hospital along with other injured people, testified that among the injured people going to the hospital with her was Nyeko, who had been shot in his shoulder.<sup>4593</sup> One of the girls had been shot in the chest, another had been hit in the thigh and the third girl's leg had been burnt.<sup>4594</sup> In light of the totality of the evidence,<sup>4595</sup> the Chamber finds that the LRA shot attempting to kill Nyeko and two unnamed girls and burnt another girl's leg.

1776. Atim, Charles Anywar, Danger Joseph Oryem, James Opiro, Jeneth Lalur Akello, Joseph Ojara, Obedi, Rose Kiter, Tabicha Alum, Vincent Ocaya and Santa Oroma: While witnesses did not offer testimony naming certain people among the persons killed in the course of the attack, the Chamber notes that the Uganda government investigators that went to Lukodi IDP camp after the attack, also identified and performed exhumations of

<sup>4588</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 44.

<sup>4589</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 43.

<sup>4590</sup> P-0024: [T-77](#), p. 49, lines 12-18. *See also* p. 41, lines 9-10.

<sup>4591</sup> P-0024: [T-77](#), p. 49, lines 12-21.

<sup>4592</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4593</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at paras 42-43.

<sup>4594</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 45.

<sup>4595</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

the bodies of the following persons: Atim,<sup>4596</sup> Charles Anywar,<sup>4597</sup> Danger Joseph Oryem,<sup>4598</sup> James Opiro,<sup>4599</sup> Jeneth Lalur Akello,<sup>4600</sup> Joseph Ojara,<sup>4601</sup> Obedi,<sup>4602</sup> Rose

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<sup>4596</sup> Post-mortem report of Atim, UGA-OTP-0146-0178, at 0179-80 (the post-mortem report identified the body of Atim of Lukodi camp after its exhumation. According to the report, his body was identified by relatives. The report lists ‘gunshot wounds left lower 1/3 leg’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering the same wounds as the external mark of violence). *See also* Request for post-mortem examination, UGA-OTP-0146-0177; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0194.

<sup>4597</sup> Post-mortem report of Charles Anywar, UGA-OTP-0146-0203, at 0203-04 (the post-mortem report identified the body of Charles Anywar of Lukodi camp after its exhumation. According to the report, his body was identified by relatives. The report lists ‘gunshot wounds of the chest’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘gunshot wound chest with lacerated left lung and heart’. The listed cause of death was ‘exsanguination’). *See also* Request for post-mortem examination, UGA-OTP-0146-0202; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193.

<sup>4598</sup> Post-mortem report of Danger Joseph Oryem, UGA-OTP-0146-0185, at 0185-86 (the post-mortem report identified the body of Danger Joseph Oryem of Lukodi camp after its exhumation. According to the post-mortem report, his body was identified by relatives. The post-mortem report listed ‘charred body’ as the external mark of violence). *See also* Request for post-mortem examination, UGA-OTP-0146-0184; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0194 (according to Martin Kalyemenya’s forensic medical report, Danger Joseph Oryem was six years old).

<sup>4599</sup> Post-mortem report of James Opiro, UGA-OTP-0146-0163, at 0163-64 (the post-mortem report identified the body of James Opiro of Lukodi camp after its exhumation. According to the post-mortem report, his body was identified by relatives. The post-mortem report lists ‘gunshot wounds chest and abdomen’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘laceration right lung’ and ‘ruptured stomach.’ According to the post-mortem report, the cause of death was shock from the injuries). *See also* Request for post-mortem examination, UGA-OTP-0146-0162; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0194.

<sup>4600</sup> Post-mortem report of Jeneth Lalur Akello, UGA-OTP-0146-0206, at 0206-07 (the post-mortem report identified the body of Jeneth Lalur Akello of Lukodi camp after its exhumation. According to the post-mortem report, the body was identified by relatives. The post-mortem report lists ‘gunshot wound abdomen’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘several laceration to the gut’. The listed cause of death was ‘exsanguination’). *See also* Request for post-mortem examination, UGA-OTP-0146-0205; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. The Chamber is of the view that the reference to ‘Janet’ instead of ‘Jeneth’ is a mere mis-spelling.

<sup>4601</sup> Post-mortem report of Joseph Ojara, UGA-OTP-0146-0200, at 0200-01 (the report identified the body of Joseph Ojara of Lukodi camp after its exhumation. According to the post-mortem report, his body was identified by relatives. The post-mortem report lists ‘gunshot wounds [...] shattered skull’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering a ‘shattered skull’). *See also* Request for post-mortem examination, UGA-OTP-0146-0199; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0194.

<sup>4602</sup> Post-mortem report of Obedi, UGA-OTP-0146-0194, at 0194-95 (the report identified the body of Obedi of Lukodi camp after its exhumation. According to the post-mortem report, his body was identified by relatives. The post-mortem report lists ‘multiple gun shot wounds in [...] abdomen’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘laceration right lung’ and ‘ruptured viscera’). *See also* Request for post-mortem examination, UGA-OTP-0146-0193; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0194. The Chamber considers the report’s reference to ‘Obed’ instead of ‘Obedi’ to have been a mere difference in spelling.

Kiter,<sup>4603</sup> Tabicha Alum,<sup>4604</sup> Vincent Ocaya<sup>4605</sup> and Santa Oroma.<sup>4606</sup> The post attack video shows parts of the exhumation of: a small child, identified as Atim D/O Ajok, two years;<sup>4607</sup> a body, identified as Charles Anywar, 33 years;<sup>4608</sup> a small child, identified as James Opiro, seven years old, with a gapping stomach wound;<sup>4609</sup> a body, identified at ‘Jenegt’ Lalur Akello,<sup>4610</sup> a small body, identified as Joseph Ojara, four years;<sup>4611</sup> a small child, identified as Obedi S/O Otto Nels, 6 years; the exposed abdomen of the victim was apparent in the video;<sup>4612</sup> a body, identified as Rose Kiter, 55 years;<sup>4613</sup> a body, identified

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<sup>4603</sup> Post-mortem report of Rose Kiter, UGA-OTP-0146-0224, at 0224-25 (the report identified the body of Rose Kiter of Lukodi camp after its exhumation. According to the post-mortem report, the body was identified by a relative. The post-mortem report lists ‘gunshot wounds burns head and cheeks’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘fractured skull [...]’). *See also* Request for post-mortem examination, UGA-OTP-0146-0223; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193.

<sup>4604</sup> Post-mortem report of Tabicha Alum, UGA-OTP-0146-0215, at 0215-16 (the post-mortem report identified the body of Tabicha Alum of Lukodi camp after its exhumation. According to the post-mortem report, his body was identified by relatives. The post-mortem report listed ‘charred body’ as the external mark of violence). *See also* Request for post-mortem examination, UGA-OTP-0146-0214; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. In the Chamber’s view, the reference to ‘Tabisha’ instead of ‘Tabicha’ is a mere difference in spelling.

<sup>4605</sup> Post-mortem report of Vincent Ocaya, UGA-OTP-0146-0212, at 0212-13 (the report identified the body of Vincent Ocaya of Lukodi camp after its exhumation. According to the post-mortem report, his body was identified by relatives. The post-mortem report lists ‘gunshot wound right side of the chest’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘lacerated right lung’. The listed cause of death was ‘exsanguination’, meaning severe loss of blood). *See also* Request for post-mortem examination, UGA-OTP-0146-0211; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. The Chamber is of the view that the report’s reference to ‘Ochaya Vicent’ instead of ‘Ocaya Vincent’ is a mere difference in spelling.

<sup>4606</sup> Post-mortem report of Santa Oroma, UGA-OTP-0146-0209, at 0209-10 (the report identified the body of Santa Oroma of Lukodi camp after its exhumation. According to the post-mortem report, the body was identified by relatives. The post-mortem report lists ‘gun shot wound of the head with shattered vault’ as the external mark of violence and notes that an autopsy was performed with the pathologist discovering ‘shattered skull vault’). *See also* Request for post-mortem examination, UGA-OTP-0146-0208; Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0193. According to Martin Kalyemenya’s forensic medical report, Santa Oroma was 35 years old. The Chamber is of the view that the report’s reference to ‘Santos’ instead of ‘Santa’ is a mere difference in spelling. *See* P-0187: [T-164](#), p. 22, lines 5-16. Noting that P-0187 appears to indicate that Santa Oroma was an elderly woman, while the documentary evidence indicates otherwise, the Chamber does not rely on her testimony in relation to the death of this victim.

<sup>4607</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:46:00. A photograph taken in the course of the investigation shows the same body identified as Atim in the video. *See* Photograph of Atim, UGA-OTP-0023-0341.

<sup>4608</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:29:03.

<sup>4609</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:31:14. A photograph taken in the course of the investigation corresponds with the image seen in the video.

<sup>4610</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:29:45. The Chamber is of the view that the reference to ‘Janegt’ instead of ‘Jeneth’ is a mere difference in spelling.

<sup>4611</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:34:40.

<sup>4612</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:41:45. *See* Photograph of Obedi, UGA-OTP-0023-0340.

<sup>4613</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:45:15.

as Tabicha Alum 80 years;<sup>4614</sup> a body, identified as Vincent Ocaya, 64 years;<sup>4615</sup> and a body, identified as Santa Oroma.<sup>4616</sup> Santo Ojera also named ‘Anywa Charles’, Lalur Akello, ‘Abongyo Obedi’, Rociliya Aryemo Kiter’, ‘Tabica Alum’, Vincent Ocaya, and ‘Sanja Oroma’ in his list of persons killed during the May 2004 Lukodi attack,<sup>4617</sup> thus corroborating the other evidence that these persons were killed in the course of the attack. In light of the totality of the evidence,<sup>4618</sup> the Chamber is of the view that the above named persons were killed by LRA fighters in the course of the attack on Lukodi IDP camp.

1777. The Chamber also notes that a number of civilians were hospitalised because of injuries suffered in the course of the attack. P-0017 was informed by the then-Lukodi Camp Leader that 16 civilians were admitted into Gulu hospital.<sup>4619</sup> P-0017 went to the Gulu hospital along with the pathologist (Martin Kalyemenya) and met the victims of the attack.<sup>4620</sup> The post-attack video showed the severe injuries of several persons at Lacor hospital.<sup>4621</sup> Photographs also record images similar to the ones recorded in the video.<sup>4622</sup>

<sup>4614</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:36:15.

<sup>4615</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:35:13.

<sup>4616</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at approximately 00:31:54.

<sup>4617</sup> P-0060’s List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0050-51. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4618</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4619</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 210.

<sup>4620</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 213; P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 120-43.

<sup>4621</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, from approximately 00:50:15.

<sup>4622</sup> *See* Photographs of the Lukodi investigation, UGA-OTP-0023-0310 to UGA-OTP-0023-0360, UGA-OTP-0023-0387 to UGA-OTP-0023-0407; P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 213; P-0036 Statement, UGA-OTP-0036-0042-R01, at paras 119-43. P-0017 and P-0039 discuss the content of some of these photographs, giving context to the images. The Chamber also notes that when viewing the images in line with the videos, it is clear the photographs were taken over the course of the investigators’ visits to Lukodi IDP camp and the hospital in Gulu. Both P-0017 and Martin Kalyemenya discussed the photographs taken at the hospital of the persons injured in the Lukodi attack. Both witnesses testified that the photographs are of the Lukodi victims they saw at the hospital during their visit in the course of the investigation. The Chamber is of the view that the photographs have probative value as corroborative evidence of the types of injuries suffered by civilians in the course of the attack. *See* Photographs of the injured victims of the Lukodi attack, UGA-OTP-0023-0389 to UGA-OTP-0023-0407. UGA-OTP-0023-0389 is a photograph of a man lying on a hospital bed; he has large bandages/medical dressing across his entire chest, indicating a large injury on his chest. UGA-OTP-0023-0391 is a photograph of a man sitting on a hospital bed; he has a large bandage/medical dressing on his neck and upper back, indicating an injury. UGA-OTP-0023-0392 and UGA-OTP-0023-0406 are photographs of an elderly man sitting on a hospital bed; he has medical dressing over the shoulder facing the camera, indicating a shoulder injury. UGA-OTP-0023-0393 is a photograph of an elderly man sitting up in a hospital bed; there is a bandage/medical dress on his lower side, indicating an injury. UGA-OTP-0023-0394 is a photograph of a woman sitting on a hospital bed; the location of her injury is not apparent from the photograph. UGA-OTP-0023-0395 is a photograph of a woman sitting on a hospital bed; the location of her injury is not clear from the photograph. UGA-OTP-0023-0396 is a photograph of a woman sitting on a hospital bed; the location of her injury is not clear from the photograph. UGA-OTP-0023-0397 is a photograph of a baby lying on a hospital bed; the location of its injury is not apparent from the photograph. UGA-OTP-0023-0398 is a photograph of two women sitting on hospital beds;

The Chamber finds that this evidence of injuries suffered by survivors supports its findings that the LRA committed numerous acts of violence against the lives of civilians.

1778. It is charged that at least 45 civilians, including at least 12 children were killed by the LRA in the course of the Lukodi IDP camp attack.<sup>4623</sup> In his forensic medical report, Martin Kalyemenya listed 25 persons as deceased in Lukodi IDP camp, 15 adults and 10 children.<sup>4624</sup> These 25 persons were the persons recovered within the Lukodi IDP camp.<sup>4625</sup> Martin Kalyemenya testified that he was confident that the investigators identified all the dead bodies within the camp.<sup>4626</sup> The Chamber notes that P-0017, the police investigator accompanying Martin Kalyemenya, testified that some civilians were buried outside of the camp and the investigators did not exhume those bodies.<sup>4627</sup> P-0017 testified that the Lukodi Camp Leader informed him that 42 civilians were killed in the camp.<sup>4628</sup> Santo Ojera, one of the camp's leaders, testified that he learned that 42 people were killed during the account, 39 of these persons were physically counted after the attack, but the bodies of three people were never found.<sup>4629</sup> Gipson Okulu remembered that 47 people were buried in total in the aftermath of the attack.<sup>4630</sup> The Chamber notes that the Lukodi memorial plaque commemorating the dead in Lukodi lists 45 persons as killed in the course of the attack.<sup>4631</sup> The Chamber also notes that there is scarce

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one of the women has a bandage/medical dressing on her clavicle, indicating an injury, the other woman has a bandage/medical dressing around one of her calves, indicating an injury. UGA-OTP-0023-0399 is a photograph of three persons; the central person is lying on a hospital bed, with bandages/medical dress on the toes of both feet, indicating an injury. UGA-OTP-0023-0400 is a photograph of a woman lying on a bed; the woman has a bandage/medical dressing on one of her ankles. UGA-OTP-0023-0401 is a photograph of two boys sitting on a hospital bed; the younger has wounds on his face and leg. UGA-OTP-0023-0402 is a photograph of a woman sitting on a hospital bed, holding a young child; the location of their injuries is not apparent from the photograph. UGA-OTP-0023-0403 is a photograph of a young woman holding a baby; the location of their injuries is not apparent from the photograph. UGA-OTP-0023-0404 is a photograph of a woman holding a young child, the location of their injuries is not apparent from the photograph. UGA-OTP-0023-0405 is a photograph of a person lying on a bed; the location of the person's injury is not apparent from the photograph. UGA-OTP-0023-0407 is a photograph of a man lying on a bed, with a wound on his head.

<sup>4623</sup> Para. 46 of the charges ([Confirmation Decision](#), p. 82).

<sup>4624</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0191.

<sup>4625</sup> Forensic medical report of the massacres of Lukodi & Pajak of Gulu district, UGA-OTP-0023-0188, at 0191.

<sup>4626</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 128. In the context of the witness's testimony, it is clear that the witness references all the dead bodies buried within the camp.

<sup>4627</sup> See P-0017 Statement, UGA-OTP-0036-0007-R01, at paras 210-11.

<sup>4628</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 210.

<sup>4629</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 67.

<sup>4630</sup> V-0004: [T-173](#), p. 17, lines 19-20. He stated that these people were all buried within the camp. V-0004: [T-173](#), p. 18, lines 9-14.

<sup>4631</sup> Memorial plaque, UGA-OTP-0250-1476.

information as to how the names were collected for the plaque. However, it notes that many of the persons it discussed in detail are named on the plaque.

1779. The Chamber notes that above, it discusses the evidence of 48 persons killed in the course of the attack on Lukodi IDP camp in depth.<sup>4632</sup> The Chamber is satisfied that the evidence shows that at least 48 persons were killed by the LRA in the course of the attack on Lukodi IDP camp. The Chamber is also satisfied that the evidence shows that the LRA attempted to kill at least 11 other persons.

**LRA fighters entered civilian homes and shops in Lukodi IDP camp and looted food and other property from them. Among the items stolen by the attackers were beans, maize, cooking oil, soap, cooking utensils, chickens, money and clothes.**<sup>4633</sup>

1780. The Chamber finds that the evidence demonstrates that LRA fighters looted Lukodi IDP camp during the May 2004 attack. The Chamber notes that some of the evidence of the looting of the camp has been set out above.

1781. Both the LRA fighters who participated in the attack and camp residents gave credible evidence that LRA fighters looted Lukodi camp during the May 2004 attack. LRA fighters provided evidence consistent with the camp residents' accounts. Sinia fighter P-0142 testified that unarmed LRA soldiers, accompanied by armed fighters, went into the camp to loot food items.<sup>4634</sup> P-0142 testified that items looted from the civilian area of the camp included household items such as beans, groundnuts, biscuits, sodas and lotion.<sup>4635</sup> Similarly, LRA attacker P-0018 was among the group that went to the camp to collect food.<sup>4636</sup> P-0018 testified that she went into people's empty houses and took food and a 10 litre jerry can.<sup>4637</sup>

1782. Sinia fighter P-0410 testified that the LRA looted food and other items belonging to civilians from the civilian camp and also looted in the barracks.<sup>4638</sup> P-0410 testified that

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<sup>4632</sup> See the Chamber's above discussion of the persons killed in the camp and its below discussion of the person killed in the course of the LRA retreat from the camp.

<sup>4633</sup> Para. 185 above.

<sup>4634</sup> P-0142: [T-70](#), p. 64, line 17 – p. 65, line 3.

<sup>4635</sup> P-0142: [T-70](#), p. 68, lines 18-24; [T-71](#), p. 5, lines 16-19.

<sup>4636</sup> P-0018: [T-69](#), p. 9, lines 19-25.

<sup>4637</sup> P-0018: [T-69](#), p. 11, lines 20-25.

<sup>4638</sup> P-0410: [T-151](#), p. 60, line 8, p. 67, lines 3-4, p. 68, lines 8-11.

he carried food from Lukodi.<sup>4639</sup> P-0410 testified that the LRA looted food items such as beans, flour, chickens as well as clothes and other small items such as saucepans.<sup>4640</sup>

1783. Camp residents provided credible and mutually corroborative evidence that household goods, including food, as well as other items were looted from the camp. P-0187 testified that an LRA fighter took money away from her.<sup>4641</sup> P-0024 testified that the LRA fighters that abducted her demanded beans and cooking oil from her.<sup>4642</sup> The items had been distributed two days earlier from the Caritas NGO.<sup>4643</sup> P-0024 testified that the LRA took everything from her house, including maize.<sup>4644</sup> David Komakech saw LRA rebels loot sugar, salt, sweets and soap from the shop he was hiding in.<sup>4645</sup> Pyerina Ayaa testified that while hiding away from LRA fighters, she heard some LRA fighters inside her house, looting.<sup>4646</sup> Pyerina Ayaa testified that she later realised that they had taken beans and clothes.<sup>4647</sup> Corroborating other evidence of looting, Santo Ojera, one of the camp's leaders, testified that when he returned the day after the attack, he saw that a lot of food had been taken away from the trading centre.<sup>4648</sup>

1784. Sinia fighter P-0205 testified that as the LRA retreated backwards, he saw civilians as well as LRA soldiers carrying food.<sup>4649</sup> P-0205 testified that after the LRA fighters returned to the scheduled meeting place, they started itemising the items seized from the barracks.<sup>4650</sup> LRA fighter P-0172 testified that when the LRA fighters returned from Lukodi, they came back with clothes and food.<sup>4651</sup> The items were taken to Tulu's place, in the sickbay, and they were later distributed among the people.<sup>4652</sup>

**During their attack on the camp, LRA fighters set huts on fire. Approximately 210 civilian huts in the camp were burnt. Civilians' household goods, including food stocks,**

<sup>4639</sup> P-0410: [T-151](#), p. 67, lines 3-4.

<sup>4640</sup> P-0410: [T-151](#), p. 67, line 25 – p. 68, line 4.

<sup>4641</sup> P-0187: [T-164](#), p. 31, lines 8-24.

<sup>4642</sup> P-0024: [T-77](#), p. 26, lines 15-18.

<sup>4643</sup> P-0024: [T-77](#), p. 26, lines 15-25, p. 30, lines 2-6.

<sup>4644</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 12, p. 25, lines 11-13, p. 26, line 21 – p. 27, line 1.

<sup>4645</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 17.

<sup>4646</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 31.

<sup>4647</sup> P-0026 Statement, UGA-OTP-0069-0018-R01, at para. 31.

<sup>4648</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 60.

<sup>4649</sup> P-0205: T-47-CONF, p. 55, lines 17-19.

<sup>4650</sup> P-0205: T-47-CONF, p. 56, lines 4-9.

<sup>4651</sup> P-0172: [T-113](#), p. 24, lines 21-24.

<sup>4652</sup> P-0172: [T-113](#), p. 25, lines 1-5.

were destroyed in these fires. Domestic animals such as goats were also burnt by the LRA.<sup>4653</sup>

1785. The Chamber is convinced by the evidence showing that LRA fighters destroyed property in Lukodi IDP camp, set houses on fire and destroyed civilians' household goods, including their food stocks.

1786. The Chamber recalls the evidence discussed above which shows that during the attack on the camp, LRA fighters set huts on fire and destroyed civilian household goods, including their food stocks.

1787. As discussed above,<sup>4654</sup> the evidence does not support the proposition that tracer bullets or battle light caused the destruction to Lukodi IDP camp. The credible and consistent evidence of witnesses demonstrates that LRA fighters systematically and purposefully set fire to civilian homes and property.

1788. LRA fighters themselves admitted to setting houses within Lukodi's civilian areas on fire. P-0406 testified that he saw houses set on fire and some houses were burning with smoke billowing.<sup>4655</sup> P-0406 testified that he personally torched houses in Lukodi IDP camp.<sup>4656</sup> Similarly, P-0410 testified that the LRA burned houses at the camp.<sup>4657</sup>

1789. The testimony of camp residents is consistent with the LRA fighters' account. P-0187 testified that after she was abducted, as the LRA fighters were leaving with the abductees, they set the house she had been hiding in on fire.<sup>4658</sup> P-0187 stated that she also saw the LRA torch other civilian houses;<sup>4659</sup> they burned houses as they were moving along.<sup>4660</sup> P-0187 and abducted women removed items from various houses in the camp under orders from the LRA.<sup>4661</sup> P-0187 saw that after the items were removed from a house, the LRA would set fire to the house.<sup>4662</sup> P-0187 testified that when she returned to the

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<sup>4653</sup> Para. 186 above.

<sup>4654</sup> See paras 1741-1745 above.

<sup>4655</sup> P-0406: T-154-CONF, p. 55, line 25 – p. 56, line 4.

<sup>4656</sup> P-0406: T-154-CONF, p. 57, lines 3-11.

<sup>4657</sup> P-0410: [T-151](#), p. 60, lines 6-7.

<sup>4658</sup> P-0187: [T-164](#), p. 11, lines 7-8.

<sup>4659</sup> P-0187: [T-164](#), p. 10, lines 3-5.

<sup>4660</sup> P-0187: [T-164](#), p. 19, lines 4-8.

<sup>4661</sup> P-0187: [T-164](#), p. 11, lines 1-18.

<sup>4662</sup> P-0187: [T-164](#), p. 11, lines 18-20.

camp, her two houses and all the items inside were burnt as was her daughter-in-law's house.<sup>4663</sup>

1790. Consistent with P-0187's account, Lilly Apiyo also saw LRA fighters setting the houses in the camp on fire.<sup>4664</sup> Lilly Apiyo testified that after abducting her, an LRA fighter set her house on fire.<sup>4665</sup> Corroborating Lilly Apiyo's account, David Komakech, her husband, testified that the morning after the attack, he returned to his house to see that the house was burnt down along with other property in the house, including clothes and food items.<sup>4666</sup>

1791. In line with the above accounts, P-0024 testified that after abducting her and looting her home, the LRA set the house on fire.<sup>4667</sup> P-0024 explained:

Even my goats that were in the veranda were all burned. Everything got wasted. I was told all this when I was now in the hospital because I had lost it all.<sup>4668</sup>

1792. P-0017 and Martin Kalyemenya saw the remnants of two burnt bicycles inside a destroyed hut a few days after the attack.<sup>4669</sup>

1793. Santo Ojera testified that when he returned to the camp the day after the attack he saw that many houses in zones E and F of the camp were burned.<sup>4670</sup> Santo Ojera stated that there were houses where the walls were still standing but the roofs were gone.<sup>4671</sup> Santo Ojera testified that houses in the trading centre were not destroyed or burnt.<sup>4672</sup> In line with this account, P-0187 testified that some houses did not burn because they had corrugated roofs, particularly in the trading centre.<sup>4673</sup>

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<sup>4663</sup> P-0187: [T-164](#), p. 41, lines 20-25.

<sup>4664</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 23.

<sup>4665</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 21.

<sup>4666</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 22.

<sup>4667</sup> P-0024: [T-77](#), p. 26, line 21 – p. 27, line 3.

<sup>4668</sup> P-0024: [T-77](#), p. 26, line 21 – p. 27, line 3.

<sup>4669</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 214; P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 123. *See* Photograph of two burnt bicycles inside a destroyed hut, UGA-OTP-0023-0350. *See also* Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:35:08.

<sup>4670</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 61; P-0060's sketch of Lukodi IDP camp, UGA-OTP-0069-0048.

<sup>4671</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 61.

<sup>4672</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 60.

<sup>4673</sup> P-0187: [T-165](#), p. 43, lines 5-16.

1794. Santo Ojera stated that after returning to the camp the day after the attack to his burnt out houses and finding his wife and all of his children alive, he decided that he would immediately leave the camp with his family.<sup>4674</sup> All the things inside his two houses had been burnt.<sup>4675</sup> Other people were already leaving.<sup>4676</sup> That same day, Santo Ojera walked with his family to another IDP camp.<sup>4677</sup> They left with nothing, except the blanket his wife had taken with her when she was fleeing the LRA attackers the night before.<sup>4678</sup> Santo Ojera testified that after the attack, most of the residents left Lukodi and moved to an IDP camp closer to Gulu town.<sup>4679</sup>

1795. According to P-0017, the Camp Leader and the police agreed that 210 huts were destroyed in the civilian part of the camp.<sup>4680</sup> The post attack video of Lukodi-IDP camp shows numerous burnt huts within the camp.<sup>4681</sup> In the video, some of the huts were still smouldering.<sup>4682</sup> Martin Kalyemenya observed that only specific parts of the camp had been burned, not the entire camp.<sup>4683</sup> The Chamber is satisfied that the evidence shows that approximately 210 huts were burnt down in the civilian area of the camp.

**LRA fighters abducted at least 29 civilians, men, women and children, to carry looted goods from the camp. Among the abductees were Witness P-0024, Olanya, Aleka, Onek, four unnamed male abductees, Witness P-0187, two unnamed female abductees, Joel Opiyo, Lilly Apiyo, Christine Alanyo, Milly Ayaa, Beatrice, Mary Aol, Min Lagum, Min Ojak, Min Ochora, Alora, Okumu, Nancy Akello, an unnamed man stabbed with a bayonet, an unnamed abductee, Justin Omony, Lakwec, Aleka, and Charles Obwoya. Some of the abductees were tied together. Civilians were forced to carry heavy loads, some for long distances, while tied together and under constant threat of harm. The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. Abductees were also injured by the LRA, Witness P-0187 was wounded by an LRA fighter. She was also raped by an LRA fighter. Witness P-0024 was beaten throughout her abduction. LRA fighters kept slapping her and threatening her. Some abductees were carrying their babies when the LRA took them. Mothers were forced to abandon their children in the bush. LRA fighters threw small children,**

<sup>4674</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 66.

<sup>4675</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 63.

<sup>4676</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 66.

<sup>4677</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 66.

<sup>4678</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at para. 66.

<sup>4679</sup> P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 12, 25.

<sup>4680</sup> P-0017 Statement, UGA-OTP-0036-0007-R01, at para. 214.

<sup>4681</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:12:00-00:13:00.

<sup>4682</sup> Post-attack video of Lukodi IDP camp, UGA-OTP-0023-0008, at 00:12:56, 00:33:53.

<sup>4683</sup> P-0036 Statement, UGA-OTP-0036-0042-R01, at para. 123. *See* P-0036's sketch of Lukodi IDP camp, UGA-OTP-0036-0063.

**including babies, into the bush because the children were crying and making it difficult for their mothers to carry looted goods.**<sup>4684</sup>

**Many of the women abductees were subsequently released. Some abductees, particularly men, were killed in the bush. Some of the abducted children remained with the LRA.**<sup>4685</sup>

1796. The evidence shows that the LRA fighters left the camp with abductees from the camp carrying looted goods. Regarding the time the LRA spent in the camp, P-0142 testified that the LRA stayed in Lukodi for 30-50 minutes, less than one hour.<sup>4686</sup> P-0018 and a camp resident indicated that the attack may have lasted for perhaps another hour.<sup>4687</sup> The Chamber is satisfied that the evidence shows that the LRA spent around one to two hours in the camp.

1797. The Chamber finds that the evidence demonstrates that LRA fighters abducted civilians from Lukodi IDP camp and under armed guard forced them to work for the LRA, under threat of beatings and/or death.

1798. LRA fighters testified about their abduction of civilians from Lukodi camp. P-0406 testified that he saw civilians abducted from Lukodi.<sup>4688</sup> P-0142 testified that the people who went to collect food brought back the civilians to help them carry the load.<sup>4689</sup> P-0142 testified that the unarmed soldiers, the armed soldiers and abductees carried looted goods away from Lukodi IDP camp.<sup>4690</sup>

1799. Similarly, P-0406 testified that the people abducted from Lukodi were tied up and moved along with LRA fighters.<sup>4691</sup> P-0406 testified that at the rendezvous point the day after the attack, he saw a number of abducted people, the youngest of whom were approximately 12-14 years old.<sup>4692</sup> P-0406 testified that abductees carried items such as

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<sup>4684</sup> Para. 187 above.

<sup>4685</sup> Para. 187 above.

<sup>4686</sup> P-0142: [T-72](#), p. 74, lines 3-5.

<sup>4687</sup> P-0018: [T-69](#), p. 15, lines 15-17 (estimating that the LRA were in the camp for one or two hours); P-0187: [T-165](#), p. 22, line 18 – p. 23, line 5 (testifying that the LRA attack lasted for about an hour and a half before the helicopter gunship arrived).

<sup>4688</sup> P-0406: [T-154](#), p. 56, lines 5-6.

<sup>4689</sup> P-0142: [T-71](#), p. 12, lines 19-21.

<sup>4690</sup> P-0142: [T-70](#), p. 67, line 21 – p. 68, line 17.

<sup>4691</sup> P-0406: [T-154](#), p. 56, lines 7-11.

<sup>4692</sup> P-0406: [T-154](#), p. 63, lines 5-10.

flour, beans, and cooking oil.<sup>4693</sup> P-0406 testified that some items were ‘quite big’, large bags of flour or beans, with 50 kilos written on the sack.<sup>4694</sup>

1800.P-0410 corroborates the above accounts, testifying that he saw LRA forces abducting civilians at the camp – men, women and children.<sup>4695</sup> P-0410 testified that older abductees were abducted to carry food and the abductees carried looted goods on their heads.<sup>4696</sup> P-0410 testified that if people could not walk or carry their load, they were beaten at the back of their heads or clubbed to death.<sup>4697</sup>

1801.P-0018 testified that she saw abductees forced to carry loads from the camp under threat of death.<sup>4698</sup> The loads the abductees carried were 25 kilos and up.<sup>4699</sup> P-0205 testified that during the retreat, he saw civilians under the control of LRA fighter Kobbi, carrying food back from the middle of the camp.<sup>4700</sup>

1802.The LRA fighters’ accounts were consistent and mutually corroborative. Consistent with these accounts camp residents also provide evidence of their and other abductees experiences in the course of the Lukodi IDP camp attack and its aftermath.

1803.The evidence also shows that a government helicopter gunship arrived at Lukodi IDP camp as the LRA fighters were already moving away with abductees and looted goods.<sup>4701</sup> Moreover, the Chamber notes P-0205’s testimony that shortly after LRA fighters crossed the Unyama River with their abductees and looted goods, in addition to the helicopter gunship, a mamba came and started firing at the LRA, and that government soldiers came back with reinforcements.<sup>4702</sup> P-0410 also described an ambush in the course of the retreat.<sup>4703</sup>

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<sup>4693</sup> P-0406: [T-154](#), p. 63, lines 13-16.

<sup>4694</sup> P-0406: [T-154](#), p. 63, line 17 – p. 64, line 5.

<sup>4695</sup> P-0410: [T-151](#), p. 60, line 7, p. 67, lines 6-11, lines 16-20.

<sup>4696</sup> P-0410: [T-151](#), p. 67, lines 16-20.

<sup>4697</sup> P-0410: [T-151](#), p. 68, lines 5-7.

<sup>4698</sup> P-0018: [T-69](#), p. 21, lines 5-14.

<sup>4699</sup> P-0018: [T-69](#), p. 21, lines 18-21.

<sup>4700</sup> P-0205: T-47-CONF, p. 55, line 24 – p. 56, line 3.

<sup>4701</sup> P-0018: [T-69](#), p. 15, lines 18-24; P-0187: [T-164](#), p. 11, lines 23-25; P-0024: [T-77](#), p. 21, lines 10-11; [T-78](#), p. 48, line 1 – p. 49, line 19; P-0205: T-47-CONF, p. 55, lines 17-20.

<sup>4702</sup> P-0205: T-47-CONF, p. 55, lines 17-22.

<sup>4703</sup> P-0410: [T-151](#), p. 60, lines 14-23, p. 68, lines 12-22, p. 70, lines 17-18; [T-152](#), p. 52, lines 21-25.

1804. Below the Chamber discussed evidence of specific individuals abducted and mistreated in the course of the LRA's attack on Lukodi IDP camp. The Chamber notes its above discussion of the experiences of Joel Opiyo and Beatrice above<sup>4704</sup> and its below discussion of the persons killed in course of the retreat.<sup>4705</sup>

1805. **P-0024, Olanya, Aleka and Onek and four unnamed abductees:** P-0024 had given birth just two weeks before the attack.<sup>4706</sup> P-0024 testified that in the course of the attack, LRA fighters shot at the door of the house she was hiding in and removed her from the house.<sup>4707</sup> She stated that a fighter took her and bound her with a rope, tying her together with seven men that had been abducted as well.<sup>4708</sup> Each abductee had one hand bound with a rope and tied close to the next person.<sup>4709</sup> P-0024 testified that only one of her hands was bound while the other was used to hold the load she carried on her head.<sup>4710</sup> P-0024 had her young child on her back and the LRA attackers were beating her and other abductees, hitting their chests to force them to walk.<sup>4711</sup> P-0024 stated that the people who were hitting her were the younger fighters, 'they [were] the ones who were caning us badly. They didn't allow you to even rest, to hold luggage to your head and to, to stop and rest'.<sup>4712</sup> P-0024 testified that as the LRA fighters were tying her up and slapping her, they yelled at her for having shouted in alarm.<sup>4713</sup>

1806. P-0024 testified that the fighters who abducted her had many guns, they put the abducted people in a line and abductees started moving, some abductees carrying basins of beans and some pulling goats.<sup>4714</sup> According to P-0024, as the abductees started walking:

[...] you were supposed to move in one line and you should not retire. If somebody moves aside from the line, they make sure they beat all of you and for that reason my ears are still injured up to now. You shouldn't let your luggage fall because you will be beaten. And for them I think they wanted us to carry the luggage until some point where they could kill us. I think they really wanted us to move with all this so that they could kill us later on because all the other seven people with whom

<sup>4704</sup> See paras 1762, 1764 above.

<sup>4705</sup> See paras 1831-1837 below.

<sup>4706</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 4, p. 39, lines 16-17, p. 59, line 24 – p. 60, line 3.

<sup>4707</sup> P-0024: [T-77](#), p. 25, lines 9-12.

<sup>4708</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 13, p. 26, lines 11-14, p. 27, lines 13-15.

<sup>4709</sup> P-0024: [T-77](#), p. 29, line 17-21.

<sup>4710</sup> P-0024: [T-77](#), p. 29, lines 10-16.

<sup>4711</sup> P-0024: [T-77](#), p. 20, lines 23-24.

<sup>4712</sup> P-0024: [T-77](#), p. 23, lines 13-18.

<sup>4713</sup> P-0024: T-78-CONF, p. 41, lines 2-7.

<sup>4714</sup> P-0024: [T-77](#), p. 27, lines 7-20, p. 29, lines 17-22.

they went were killed and I think they gave us the luggage so we could carry and then they take us and kill us, but I think God protected me and that's the reason I am here, though I am weak.<sup>4715</sup>

1807.P-0024 testified to her state of mind during her abduction:

You were just wondering whether you would be the next victim or you would be shot and you couldn't ask. You were only hearing gunshots everywhere. And you would feel hungry. You wouldn't be able to say anything. You wouldn't even—you'll only be waiting for death.<sup>4716</sup>

1808.P-0024 testified that she was beaten throughout her abduction, including when she asked the LRA a question.<sup>4717</sup> She stated that after the attack, she had injuries on her head, knees, right-hand side and chest, her teeth were also hurt when the LRA hit her.<sup>4718</sup> P-0024 testified that some of her teeth had to be removed in the hospital.<sup>4719</sup> P-0024 stated 'I am still weak up to now'.<sup>4720</sup> P-0024 also stated that the LRA beat other persons abducted from the camp.<sup>4721</sup>

1809.P-0024 was the last person in the line of abductees.<sup>4722</sup> She managed to escape when the government helicopter gunship came to pursue the LRA attackers.<sup>4723</sup> P-0024 testified that as she was hiding from the LRA fighters, she heard them wondering where she was and saying they would shoot her if they found her.<sup>4724</sup> When she returned home, she found that the houses and her children were gone.<sup>4725</sup>

1810.P-0024 testified that the group she was abducted with included a man named Onek,<sup>4726</sup> as well as an over 50 year old man named Olanya who was made to carry beans and pull a goat during the retreat from Lukodi IDP camp,<sup>4727</sup> and another man Aleka,<sup>4728</sup> P-0024 testified that the morning after the attack, she was told by other returned abductees that

<sup>4715</sup> P-0024: [T-77](#), p. 27, line 16 – p. 28, line 1.

<sup>4716</sup> P-0024: [T-77](#), p. 33, line 25 – p. 34, line 9.

<sup>4717</sup> P-0024: [T-77](#), p. 39, lines 5-17.

<sup>4718</sup> P-0024: [T-77](#), p. 21, lines 15-16, p. 49, lines 2-6.

<sup>4719</sup> P-0024: [T-77](#), p. 49, line 2-6.

<sup>4720</sup> P-0024: [T-77](#), p. 22, line 12.

<sup>4721</sup> P-0024: [T-77](#), p. 39, lines 5-17; [T-78](#), p. 46, lines 6-22, p. 49, lines 9-19.

<sup>4722</sup> P-0024: [T-77](#), p. 29, lines 24-25.

<sup>4723</sup> P-0024: [T-77](#), p. 21, lines 10-11; [T-78](#), p. 47, lines 5-17, p. 50, lines 14-24.

<sup>4724</sup> P-0024: [T-77](#), p. 46, lines 4-15.

<sup>4725</sup> P-0024: [T-77](#), p. 21, lines 12-14.

<sup>4726</sup> P-0024: [T-77](#), p. 28, lines 16-21.

<sup>4727</sup> P-0024: [T-77](#), p. 28, lines 16-21, p. 29, lines 17-25.

<sup>4728</sup> P-0024: [T-77](#), p. 28, lines 2-9, p. 28, line 25 – p. 29, line 7. See the Chamber's discussion of the killing of Aleka in para. 1836 below.

the other seven people she had been abducted with had been killed.<sup>4729</sup> She stated that there were many other people abducted besides the group that she was tied with.<sup>4730</sup>

1811.P-0024 testified that she is the person shown in UGA-OTP-0023-0396,<sup>4731</sup> one of the photographs taken at the hospital by government investigators the day after the attack.

1812.The Chamber finds P-0024's testimony in this regard detailed, specific, comprehensive and entirely credible. The Chamber is convinced that she testified truthfully about a personal experience that is still deeply disturbing to her. The Chamber finds LRA fighters forcefully abducted P-0024, Olanya, Onek and Aleka and four unnamed men and forced them to carry looted goods during the retreat from Lukodi IDP camp. The LRA severely mistreated the abductees.

1813.**P-0187 and two other unnamed women:** P-0187 was returning home on her bicycle after shopping for vegetables when she encountered people running.<sup>4732</sup> She attempted to flee to her home but there were gunshots and so she decided to enter a house to hide.<sup>4733</sup> Two other civilian women joined her in the house.<sup>4734</sup> Three LRA fighters eventually came to the house and commanded the women to get out; one of the fighters had a gun.<sup>4735</sup> The women were forced to carry items from a house, including cooking oil, beans and flour.<sup>4736</sup> P-0187 testified that the LRA fighters told them that if anyone tried to run, they would be shot.<sup>4737</sup> P-0187 stated that she was afraid and shaking.<sup>4738</sup> P-0187 testified that the LRA tied one of her hands with a rope with a goat attached.<sup>4739</sup> P-0187 was also forced to carry two basins of beans on her head as well as a roughly 10 litre jug of cooking oil.<sup>4740</sup> P-0187 testified that when the helicopter gunship came, she was close to an LRA fighter; he threatened to beat her when she asked him for help to remove the items she

<sup>4729</sup> P-0024: [T-77](#), p. 28, lines 2-9. *See* the Chamber's discussion of the killings in Lukodi IDP camp.

<sup>4730</sup> P-0024: [T-78](#), p. 45, line 22 – p. 46, line 5.

<sup>4731</sup> P-0024: [T-77](#), p. 55, line 20 – p. 56, line 9. *See* Photograph, UGA-OTP-0023-0396.

<sup>4732</sup> P-0187: [T-164](#), p. 9, line 16 – p. 10, line 3.

<sup>4733</sup> P-0187: [T-164](#), p. 10, lines 1-7.

<sup>4734</sup> P-0187: [T-164](#), p. 10, lines 7-9.

<sup>4735</sup> P-0187: [T-164](#), p. 10, lines 14-19, p. 16, lines 3-7, p. 17, lines 1-4.

<sup>4736</sup> P-0187: [T-164](#), p. 10, line 25 – p. 11, line 3.

<sup>4737</sup> P-0187: [T-164](#), p. 11, lines 1-2.

<sup>4738</sup> P-0187: [T-164](#), p. 11, line 2.

<sup>4739</sup> P-0187: [T-164](#), p. 11, lines 21-22, p. 12, lines 13-16.

<sup>4740</sup> P-0187: [T-164](#), p. 11, lines 22-23.

was carrying and hide them as he had instructed her to do.<sup>4741</sup> The LRA fighter pushed P-0187 and wounded her in the stomach.<sup>4742</sup>

1814. P-0187 testified that in the course of the retreat, the group would step on the dead bodies that they found along the way.<sup>4743</sup> Eventually, the LRA and their abductees reached a place where they stopped.<sup>4744</sup> P-0187 was guarded by about six to eight LRA fighters.<sup>4745</sup>

1815. The evidence supports P-0187's account that LRA fighters together with abducted civilians met at a rest stop before continuing on to eventually meet Dominic Ongwen and the other fighters they left behind. P-0205 testified that Sinia commander Kobbi, Ocaka, Ojok Kampala, other fighters met at this scheduled rest-stop, along with abductees, to itemise the items that had been seized from the camp.<sup>4746</sup> P-0205 stated that at this rest-stop, some civilians were released, in particular 'older people, mothers and men'.<sup>4747</sup> The Chamber notes that P-0142 and Lilly Apiyo also corroborate these accounts.<sup>4748</sup>

1816. While at the resting place with the LRA and other abductees, an LRA fighter isolated P-0187, and raped her.<sup>4749</sup> P-0187 described what happened:

So as I came towards him he grabbed me by hand and threw me down, he threw me down, picked his penis and put it in my private part. He slept with me, had sex with me. And he never gave me back [the waist beads he had previously taken]. He just told me to go back. 'You just go back, don't say anything. I will kill you if you don't.' So I crawled back to my colleagues slowly. I was in pain. I did not explain anything to my colleagues.<sup>4750</sup>

1817. P-0187 testified that after she re-joined the other abductees, the fighter kept coming back as though to check whether she would say anything to anyone.<sup>4751</sup> P-0187 testified that she believed that at one point in time, he came back with the intention to kill her.<sup>4752</sup> P-

<sup>4741</sup> P-0187: [T-164](#), p. 12, lines 4-9.

<sup>4742</sup> P-0187: [T-164](#), p. 12, lines 9-16; [T-165](#), p. 52, line 22 – p. 53, line 6.

<sup>4743</sup> P-0187: [T-164](#), p. 13, lines 1-4.

<sup>4744</sup> P-0187: [T-164](#), p. 13, lines 10-14.

<sup>4745</sup> P-0187: [T-164](#), p. 23, lines 1-7.

<sup>4746</sup> P-0205: T-47-CONF, p. 55, line 24 – p. 56, line 11.

<sup>4747</sup> P-0205: T-47-CONF, p. 56, lines 4-15.

<sup>4748</sup> P-0142: T-71-CONF, p. 13, line 25 – p. 14, line 5; P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 31-42 (mentioning notably that at the rest-stop one of the commanders was taking notes in a notebook); P-0187: [T-164](#), p. 13, line 18 – p. 14, line 2, p. 36, line 18 – p. 38, line 21 (also similarly referring to the presence of a commander with a book and a pen).

<sup>4749</sup> P-0187: T-164-CONF, p. 32, line 15 – p. 33, line 5.

<sup>4750</sup> P-0187: T-164-CONF, p. 32, line 15 – p. 33, line 5. *See* P-0187: T-165-CONF, p. 37, line 20 – p. 38, line 9.

<sup>4751</sup> P-0187: T-164-CONF, p. 33, line 6 – p. 34, line 13.

<sup>4752</sup> P-0187: T-164-CONF, p. 34, lines 1-13.

0187 identified herself as being the woman pictured in UGA-OTP-0023-0395,<sup>4753</sup> a picture taken by police investigators of victims at Gulu hospital. The Chamber finds P-0187's testimony credible, detailed, and comprehensive. The Chamber is convinced that this event happened to her and that she spoke truthfully of it to the Chamber. The Chamber finds that the evidence shows that P-0187 was raped by an LRA fighter in the course of the LRA's retreat from Lukodi IDP camp. Further, Lilly Apiyo, a camp resident who was also abducted and taken to the rest-stop by the LRA fighters testified that while at the rest-stop, an LRA commander took away one of the abducted women.<sup>4754</sup> The woman remained with the commander and Lilly Apiyo did not know what happened to her at that time.<sup>4755</sup> In the context of Lilly Apiyo's testimony, it appears to the Chamber that this woman was one of the women abducted from Lukodi by the LRA.<sup>4756</sup> While the Chamber is not certain whether the woman Lilly Apiyo spoke of is P-0187, it notes Lilly Apiyo's testimony of an LRA fighter isolating a woman away from the other abductees during the rest-stop.

1818. P-0187 eventually managed to hide and escaped from her LRA abductors and was taken to the hospital by government soldiers.<sup>4757</sup> The Chamber also finds that armed LRA fighters abducted P-0187 and two other unnamed civilians and forced them to carry looted goods.

1819. **Lilly Apiyo, Christine Alanyo, Milly Ayaa, Beatrice, Mary Aol, Min Lagum, Min Ojak, Min Ochora, Alora, Okumu and other abductees:** Lilly Apiyo testified that an armed LRA fighter entered her house in the course of the attack holding a lit grass torch, and abducted her and her sister-in-law, Christine Alanyo, and forced them to carry bags of maize and beans.<sup>4758</sup> At the time, Lilly Apiyo was carrying her child Sidonia Akello on her back and Christine Alanyo was carrying her son Junior Ociti.<sup>4759</sup> After coming out of the house, Lilly Apiyo saw houses on fire and civilians carrying loot.<sup>4760</sup> The LRA fighters escorted the abductees out of the camp in the eastern direction.<sup>4761</sup> Lilly Apiyo

<sup>4753</sup> P-0187: T-164-CONF, p. 35, line 23 – p. 36, line 4.

<sup>4754</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 40.

<sup>4755</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 40.

<sup>4756</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 40, 43.

<sup>4757</sup> P-0187: [T-164](#), p. 38, line 19 – p. 40, line 21.

<sup>4758</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 21.

<sup>4759</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 19.

<sup>4760</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 23.

<sup>4761</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 23.

and her sister-in-law were asked to carry a bag of beans that their abductor found inside the camp.<sup>4762</sup> Lilly Apiyo saw Milly Ayaa, Beatrice wife of Oryem and Mary Aol among the abductees being led out of the camp by the LRA.<sup>4763</sup> As the rebels and the abductees were on the edge of the camp, the government helicopter gunship arrived and the rebels and abductees hid.<sup>4764</sup> At that time, Christine Alanyo managed to escape with her child.<sup>4765</sup> As discussed below,<sup>4766</sup> in the course of the retreat from the camp, an LRA fighter threw Lilly Apiyo's daughter Sidonia Akello into the bush. By the time they reached the LRA's resting area, Lilly Apiyo was the only abductee remaining with the group that had abducted her; she was made to join other civilian abductees, a group of women and two men tied to each other at the waist.<sup>4767</sup> Among the women were Min Ajak, Min Ochora, Min Lagum and Beatrice.<sup>4768</sup> The two men among the abductees were Alora and Okumu.<sup>4769</sup> Alora returned to Lukodi camp.<sup>4770</sup> Okumu was never found.<sup>4771</sup> Lilly Apiyo testified that she could not remember the names of some of the abductees that she saw.<sup>4772</sup> Lilly Apiyo was released by the LRA.<sup>4773</sup> The Chamber notes that David Komakech, Lilly Apiyo's husband, corroborates her account.<sup>4774</sup> The Chamber is convinced by Lilly Apiyo's consistent, detailed and credible account of her experience. The Chamber finds that the evidence shows that armed LRA fighters abducted Lilly Apiyo and other abductees and forced them to carry looted good.

1820. In addition to the experiences of the specific individuals discussed above, the evidence shows that LRA fighters mistreated abductees by forcing mothers to leave their children in the bush, under threat of harm. As the LRA retreated from Lukodi, LRA attacker P-0018 saw other LRA fighters tell abducted mothers to untie their children from their backs and leave them.<sup>4775</sup> P-0018 recalled hearing the children crying.<sup>4776</sup> In the course

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<sup>4762</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 23.

<sup>4763</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 25.

<sup>4764</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 26.

<sup>4765</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 33.

<sup>4766</sup> See para. 1825 below.

<sup>4767</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 34, 36.

<sup>4768</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 39-40, 47.

<sup>4769</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 44.

<sup>4770</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 44.

<sup>4771</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 44.

<sup>4772</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 25, 39-40, 44.

<sup>4773</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 43.

<sup>4774</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at paras 26, 28.

<sup>4775</sup> P-0018: [T-69](#), p. 16, lines 4-8, 16-22.

<sup>4776</sup> P-0018: [T-69](#), p. 16, line 23 – p. 17, line 7.

of her escape from the LRA immediately after the attack, P-0018 and a woman who had escaped from the LRA after being abducted from the camp took some of the children back to the camp in the morning.<sup>4777</sup> Similarly, P-0024 testified that some abductees had their children strapped to their backs when they were abducted.<sup>4778</sup> The LRA took those children and threw them away.<sup>4779</sup>

1821. P-0024 knew of four children whom the LRA threw away in such a fashion, one was her two week old son ██████,<sup>4780</sup> whom she testified the LRA took and threw away in the course of the retreat, when it was getting dark.<sup>4781</sup> P-0024 testified that her son was naked when he was thrown into the bush and stayed that way overnight.<sup>4782</sup> The other children were all less than a year old, all babies that were still breast-feeding.<sup>4783</sup> P-0024 testified that she pled with the LRA fighters to not throw her baby away, but they told her “if you continue talking, then you are going to see, you are going to see what will happen to you later”.<sup>4784</sup> The LRA fighters did not listen to anyone’s pleading.<sup>4785</sup> P-0024 identified her child who was ‘thrown away’ by the LRA as the child pictured in UGA-OTP-0023-0397.<sup>4786</sup>

1822. According to P-0024, the children stayed in the bush until the morning when the government soldiers rescued them.<sup>4787</sup> The morning after the attack while being taken to the hospital by government soldiers, P-0024 was reunited with her son; he was so sick that she could not breast feed.<sup>4788</sup>

1823. Consistent with the other accounts, P-0187 testified that she saw the LRA throw the child of one of the women she was abducted with into the bush.<sup>4789</sup> The child, about two or three months old, was thrown into the bush because it was crying.<sup>4790</sup> The child was later

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<sup>4777</sup> P-0018: [T-69](#), p. 16, line 23 – p. 17, line 7, p. 18, lines 17-19.

<sup>4778</sup> P-0024: [T-77](#), p. 39, lines 7-10.

<sup>4779</sup> P-0024: [T-77](#), p. 39, lines 7-12.

<sup>4780</sup> P-0024: T-77-CONF, p. 20, line 25, p. 40, lines 4-15.

<sup>4781</sup> P-0024: [T-77](#), p. 39, lines 5-17; [T-78](#), p. 46, lines 6-22, p. 49, lines 9-19.

<sup>4782</sup> P-0024: [T-77](#), p. 64, lines 12-16.

<sup>4783</sup> P-0024: [T-77](#), p. 40, lines 4-9.

<sup>4784</sup> P-0024: [T-78](#), p. 50, line 25 – p. 51, line 21.

<sup>4785</sup> P-0024: [T-78](#), p. 51, lines 8-11.

<sup>4786</sup> See P-0024: [T-77](#), p. 56, line 10-21. See Photograph, UGA-OTP-0023-0397.

<sup>4787</sup> P-0024: [T-77](#), p. 39, lines 18-23.

<sup>4788</sup> P-0024: [T-77](#), p. 41, lines 2-9.

<sup>4789</sup> P-0187: [T-164](#), p. 21, lines 13-18, p. 25, line 19 – p. 26, line 11.

<sup>4790</sup> P-0187: [T-164](#), p. 13, lines 4-5, p. 25, line 19 – p. 26, line 11.

found alive.<sup>4791</sup> P-0187 testified that there were other children who were thrown in the bush and were crying.<sup>4792</sup> P-0187 stated that ‘[s]o, so many children were thrown away in the bush’.<sup>4793</sup>

1824. Lilly Apiyo also testified that as the abductees and the LRA fighters were moving from Lukodi, she could hear the crying of children who had been thrown in the bush by the LRA fighters.<sup>4794</sup> Lilly Apiyo saw a baby, about three months old, lying on the bridge crying.<sup>4795</sup> The child was not killed and was later found alive.<sup>4796</sup> Lilly Apiyo testified that all the children who had been left along the way were later collected,<sup>4797</sup> some of the children who had been crying on the way to the LRA’s base were killed, and Lilly Apiyo saw their bodies when she returned to the camp.<sup>4798</sup>

1825. During her abduction, Lilly Apiyo had her daughter Sidonia Akello tied to her back; as the group walked on, a young LRA fighter whom Lilly Apiyo referred to as a ‘kadogo’ came to her and said ‘do you see any other person with a child’ and made her remove her daughter and put her down.<sup>4799</sup> The LRA fighter then picked up Sidonia Akello and threw her into the bush.<sup>4800</sup> Lilly Apiyo testified that at the time, ‘all [she] could think of was death’.<sup>4801</sup> Lilly Apiyo was forced to continue walking after the fighter threw her child away.<sup>4802</sup> Lilly Apiyo testified that another young LRA fighter later came up to her and asked her what had happened to her child, when she told him that she had been thrown away, he replied ‘some people are really bad’.<sup>4803</sup> Sidonia Akello was later found, mostly unhurt but with some bruises on her face.<sup>4804</sup> David Komakech, Lilly Apiyo’s husband, corroborates her account. He testified that his wife, Lilly Apiyo, and young daughter, Sidonia Akello, were abducted.<sup>4805</sup> Sidonia Akello was found and carried back to the

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<sup>4791</sup> P-0187: [T-164](#), p. 21, lines 19-25.

<sup>4792</sup> P-0187: [T-164](#), p. 13, lines 4-5.

<sup>4793</sup> P-0187: [T-164](#), p. 13, lines 7-8.

<sup>4794</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 27.

<sup>4795</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 28.

<sup>4796</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 28.

<sup>4797</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 28.

<sup>4798</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 50.

<sup>4799</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 29.

<sup>4800</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 29.

<sup>4801</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 29.

<sup>4802</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 30.

<sup>4803</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 35.

<sup>4804</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 53-54.

<sup>4805</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at paras 26, 28.

camp by other persons.<sup>4806</sup> David Komakech testified that when she was found, she was crying but there was no sound coming out.<sup>4807</sup> She had been alone without her mother and in the cold for the whole night.<sup>4808</sup>

1826.P-0187 testified that the day after the attack, after children were collected from the bush, some mothers could not recognise their own children because the children were so bruised and swollen; they had also cried so much that they lost their voices.<sup>4809</sup>

1827.A number of witnesses speculated about the reasons the LRA made women throw their babies away. P-0018 stated that it was because children could cry and government soldiers would find the LRA.<sup>4810</sup> Similarly, P-0024 speculated that this was because the LRA thought the crying children would alert the government soldiers to the LRA's location and that the abductees' attention would be diverted to their children and not on the loads they were supposed to carry.<sup>4811</sup> P-0187 also testified that the LRA fighters would just pick up the babies and throw them away because the babies were crying and the LRA were concerned that the babies would be heard and they would be followed.<sup>4812</sup> The Chamber notes that the reasons for the LRA forcing mothers to abandon their children are interpretation of the witnesses. The Chamber however finds these testimonies relevant to explain the circumstances of the incidents.

1828.As the Chamber discussed above some abductees managed to escape when the helicopter gunship arrived. Some continued with the LRA to a rest stop and were later released, particularly the elderly.<sup>4813</sup> The evidence discussed above indicates that some civilians, especially men, were killed.

1829.As a result of the LRA fighters trying to evade the hovering helicopter gunship, some abductees managed to escape, however others remained in the custody of the LRA.<sup>4814</sup>

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<sup>4806</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 26.

<sup>4807</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 26.

<sup>4808</sup> P-0185 Statement, UGA-OTP-0233-1020-R01, at para. 26.

<sup>4809</sup> P-0187: [T-164](#), p. 25, lines 2-9.

<sup>4810</sup> P-0018: [T-69](#), p. 16, lines 4-8, 16-22.

<sup>4811</sup> P-0024: [T-77](#), p. 41, lines 19-23.

<sup>4812</sup> P-0187: [T-164](#), p. 13, lines 5-9.

<sup>4813</sup> P-0205: T-47-CONF, p. 56, lines 4-13, p. 57, lines 13-17.

<sup>4814</sup> P-0024: [T-78](#), p. 49, lines 9-19 (stating that she managed to escape when the gunships came and disrupted the LRA's retreat from the camp); P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 33 (stating that her sister-in-law managed to escape the custody of the LRA when the helicopters came, whereas the witness herself

The evidence indicates that at least a few abductees continued on with the LRA. P-0142 testified that there were two young boys, possible 16-18 years old in his estimation, amongst the abductees who were ‘recruited as soldiers’ in the LRA.<sup>4815</sup>

1830. Regarding the number of persons abducted, P-0187 testified that many people were abducted and forced to carry looted goods by the LRA.<sup>4816</sup> P-0205 testified that he saw about 10 civilians, a mixed group of men and women, who were made to carry food.<sup>4817</sup> P-0024 testified that she was in a group of eight persons during her abduction.<sup>4818</sup> Similarly, Lilly Apiyo recalled the names of eight persons she saw during her abduction and indicated that there were many other abductees.<sup>4819</sup> The Chamber notes that it is not clear whether all the camp residents that were abducted were in the same group. The evidence also suggests that LRA fighters moved in separate groups with their abductees for at least a portion of the time. The Chamber discussed the abduction of 29 civilians in depth.<sup>4820</sup> The Chamber finds that the LRA abducted at least these 29 civilians from Lukodi IDP camp and placed them under military guard to prevent their escape; civilians were forced to carry looted goods away from the camp under threat of death or beatings.

**The killing of civilians was not confined to the area of Lukodi IDP camp. After they left Lukodi, LRA fighters killed persons they had abducted from the camp. Among the civilians killed in the retreat were Nancy Akello, an unnamed man stabbed with a bayonet, an unnamed abductee, Justin Omony, Aleka, and Charles Obwoya.<sup>4821</sup>**

1831. Below, the Chamber discusses the evidence of specific individuals killed during the course of the LRA’s retreat from the camp.

1832. **Nancy Akello:** P-0187 testified that in the course of the retreat, after the helicopter gunship had arrived,<sup>4822</sup> the group she was moving in as an abductee ‘would step on the bodies that [they found] along the way’.<sup>4823</sup> P-0187 testified that one of the bodies

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remained abducted); P-0187: [T-164](#), p. 11, line 23 – p. 12, line 16 (stating that she remained with the LRA after the helicopter gunship came).

<sup>4815</sup> P-0142: [T-71](#), p. 16, line 9 – p. 18, line 14.

<sup>4816</sup> P-0187: [T-164](#), p. 23, lines 13-18.

<sup>4817</sup> P-0205: T-47-CONF, p. 60, lines 5-9.

<sup>4818</sup> P-0024: [T-77](#), p. 19, line 25 – p. 20, line 13, p. 26, lines 11-14, p. 27, lines 13-15.

<sup>4819</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at paras 19, 23, 25, 40.

<sup>4820</sup> See the Chambers discussion of persons abducted above as well as its discussion of abductees killed below.

<sup>4821</sup> Para. 188 above.

<sup>4822</sup> The Chamber notes that P-0187 did not indicate that the helicopter gunship shot at the retreating fighters.

<sup>4823</sup> P-0187: [T-164](#), p. 13, lines 1-4.

stepped upon was the body of Nancy Akello, the child of Lucy Akot.<sup>4824</sup> P-0187 testified that she personally stepped on the body of Nancy Akello and indicated that she could see the victim because the LRA had a torch they were using to illuminate their way.<sup>4825</sup> P-0187 testified that Nancy Akello had a mental disability.<sup>4826</sup> P-0187 testified that Nancy Akello's body was never recovered after the attack.<sup>4827</sup> P-0024 testified that a 'very young' girl, around 10 years old, called 'Akello Nancy', was abducted and given luggage to carry by the LRA; she has never been found since the attack.<sup>4828</sup> In light of the totality of the evidence,<sup>4829</sup> the Chamber finds that the LRA killed Nancy Akello in the course of their retreat from Lukodi IDP camp.

**1833. Unnamed man stabbed with bayonet:** In the course of the retreat from the camp, LRA fighter P-0018 saw the LRA stab a man in the chest with a bayonet because he did not want to walk or carry luggage for the LRA.<sup>4830</sup> The Chamber finds P-0018's testimony credible. The Chamber finds that the LRA killed the abductee in the course of their retreat from Lukodi IDP camp.

**1834. Unnamed abductee:** Sinia fighter P-0406 testified that he witnessed the killing of a Lukodi abductee who was not moving fast enough during the retreat from the camp.<sup>4831</sup> P-0406 testified that LRA commander Okwee ordered the killing.<sup>4832</sup> P-0406 testified that the abductee was killed by another newly abducted person.<sup>4833</sup> P-0406 estimated that the new abductee who killed this person was between 12 and 13 years old.<sup>4834</sup> In this context, P-0406 stated 'once you have been picked, you cannot refuse. You have to go and do the order and execute the orders. If you refuse, then they will also kill you'.<sup>4835</sup> The Chamber finds that the LRA killed the unnamed abductee in the course of their retreat from Lukodi IDP camp.

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<sup>4824</sup> P-0187: [T-164](#), p. 26, line 17 – p. 27, line 1.

<sup>4825</sup> P-0187: [T-164](#), p. 26, line 17 – p. 27, line 1.

<sup>4826</sup> P-0187: [T-164](#), p. 26, lines 17-25.

<sup>4827</sup> P-0187: [T-164](#), p. 41, lines 13-15.

<sup>4828</sup> P-0024: [T-77](#), p. 28, lines 2-11, 16-20; [T-78](#), p. 53, line 12-21.

<sup>4829</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

<sup>4830</sup> P-0018: [T-69](#), p. 16, lines 8-12.

<sup>4831</sup> P-0406: [T-154](#), p. 58, lines 19-24.

<sup>4832</sup> P-0406: [T-154](#), p. 58, lines 19-24.

<sup>4833</sup> P-0406: [T-154](#), p. 58, line 19 – p. 59, line 1.

<sup>4834</sup> P-0406: [T-154](#), p. 59, lines 19-21.

<sup>4835</sup> P-0406: [T-154](#), p. 59, lines 2-8.

1835. **Justin Omony:** [REDACTED]

[REDACTED], Justin Omony, was abducted by the LRA as he was returning from the farm.<sup>4836</sup> [REDACTED] Lakwec, who had also been abducted by the LRA in the attack and managed to escape and return to the camp, saw the LRA shoot Justin Omony because he was not able to carry luggage.<sup>4837</sup> His body was never found.<sup>4838</sup> Justin Omony was 13 years old when he died.<sup>4839</sup> [REDACTED]

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[REDACTED]<sup>4841</sup> The Chamber is satisfied that Justin Omony [REDACTED] [REDACTED] and that he was killed by the LRA after being abducted. The Chamber is satisfied that Lakwec was abducted by the LRA in the attack on Lukodi IDP camp.

1836. **Aleka:** Lilly Apiyo testified that as she was returning to the camp from her abduction, she saw the body of Aleka, a camp resident, near the Unyama stream.<sup>4842</sup> Aleka was lying on his back, bare chested with a bullet wound on his chest.<sup>4843</sup> P-0024, who was abducted by the LRA in the course of the attack, testified that the morning after the attack, she was told by other returned abductees that the other seven people she had been abducted with had been killed.<sup>4844</sup> P-0024 testified that only one of these seven bodies was ever recovered, the body of a man called Aleka, who was over 50 years old.<sup>4845</sup> P-0024 indicated that she was told that the LRA shot and killed Aleka because he was weak and

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<sup>4842</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4843</sup> P-0195 Statement, UGA-OTP-0233-1046-R01, at para. 46.

<sup>4844</sup> P-0024: [T-77](#), p. 28, lines 2-9. *See also* the Chamber's discussion of P-0024's abduction in paras 1805-1812 above.

<sup>4845</sup> P-0024: [T-77](#), p. 28, lines 2-9, line 25 – p. 29, line 7.

could not carry the load any further.<sup>4846</sup> The Chamber finds both P-0024 and Lilly Apiyo to be credible and reliable witnesses. Their testimony in relation to Aleka is specific, consistent and credible. The Chamber finds that during the retreat from Lukodi IDP camp, the LRA killed Aleka, a person they had abducted, by shooting him.

1837. **Charles Obwoya:** P-0187 testified that after she was freed from her abduction by the LRA in the morning after the attack, she reached the area where the LRA had spent the night after the attack, where she came across the body of a man, ‘Obwoya’, who had been killed and was lying on his belly.<sup>4847</sup> P-0187 testified that Obwoya was naked, lying on his belly with his head turned to the side; his body was swollen and ‘so big’, even the head was swollen.<sup>4848</sup> A dead sheep’s head was placed between his legs.<sup>4849</sup> Because the head was turned to the side, P-0187 could see his face clearly.<sup>4850</sup> P-0187 reacted when she found the body there, ‘I was just pleading and talking to myself, “Look, there is nothing now I can do for you. I am also like a dead person”’.<sup>4851</sup> P-0187 testified that she left Obwoya there and moved on.<sup>4852</sup> She stated that government soldiers later went to look for his body, but it was never found and never brought home.<sup>4853</sup> The Chamber finds P-0187’s testimony as to Obwoya’s death specific, rich with detail, internally consistent and entirely credible. Santo Ojera corroborated P-0187’s account insofar as he included Charles Obwoya in his list of persons killed during the May 2004 Lukodi attack.<sup>4854</sup> In light of the totality of the evidence,<sup>4855</sup> and noting especially the details of his death, the Chamber finds that he was killed by LRA fighters in the course of their retreat from Lukodi IDP camp.

<sup>4846</sup> P-0024: [T-77](#), p. 29, lines 5-9.

<sup>4847</sup> P-0187: [T-164](#), p. 39, line 17 – p. 40, line 4, p. 40, line 22 – p. 41, line 10.

<sup>4848</sup> P-0187: [T-164](#), p. 41, lines 5-10.

<sup>4849</sup> P-0187: [T-164](#), p. 39, line 24 – p. 40, line 1.

<sup>4850</sup> P-0187: [T-164](#), p. 41, lines 5-10.

<sup>4851</sup> P-0187: [T-164](#), p. 39, line 17 – p. 40, line 4.

<sup>4852</sup> P-0187: [T-164](#), p. 39, line 17 – p. 40, line 4.

<sup>4853</sup> P-0187: [T-164](#), p. 40, line 22 – p. 41, line 4.

<sup>4854</sup> P-0060’s List of persons killed in Lukodi IDP camp attack, UGA-OTP-0069-0049, at 0052. *See* P-0060 Statement, UGA-OTP-0069-0034-R01, at paras 32, 42, 71-76, 79.

<sup>4855</sup> The Chamber recalls its above finding that the killings in Lukodi IDP camp are attributable to the LRA.

**LRA fighters returned from the attack and reported to Dominic Ongwen about the success of their mission.**<sup>4856</sup>

1838. According to the evidence, the LRA fighters continued walking the following day and re-joined Dominic Ongwen in the evening of that day.<sup>4857</sup> P-0142 and P-0410 explained that on the way back, the attackers moved in separate groups.<sup>4858</sup>

1839. P-0054, a Sinia fighter who did not participate in the attack on Lukodi IDP camp, testified that before the attackers returned, there was an announcement on Mega FM public radio that the LRA had attacked Lukodi IDP camp and had killed a number of people and burnt houses.<sup>4859</sup> Similarly, P-0142 testified that the day after the attack, when the attackers were ‘about to reach Dominic’, the radio reported that LRA fighters went and attacked the government soldiers and civilians in Lukodi and civilians died and houses were burnt down.<sup>4860</sup>

1840. P-0205 gave a corroborative account, testifying that before his group of fighters had re-joined Dominic Ongwen, a message by the RDC was broadcast on FM radio, saying ‘Dominic, we found out that you have sent people to attack Lukodi. You killed many people. You burnt all the houses.’<sup>4861</sup>

1841. P-0205 also testified that after the standby came back to re-join the rest of the group, they reported on the operation to Dominic Ongwen, informing him that the attack was smooth, the barracks was overrun, the radio mentioned that many people died and the camp was burnt down.<sup>4862</sup> P-0205 testified that Ocaka, the commander of the attack, gave a written report as well as a verbal one to Dominic Ongwen.<sup>4863</sup> P-0142 corroborates this account,

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<sup>4856</sup> Para. 189 above.

<sup>4857</sup> P-0142: T-71-CONF, p. 13, line 25 – p. 14, line 16 (testifying that the LRA continued the following morning and returned in the evening to the position where they had left Dominic Ongwen and met with him); P-0406: T-154, p. 62, lines 14-17 (stating that the morning after the attack, the participating LRA fighters were ‘in the convoy’ and ‘then’ met with Dominic Ongwen); P-0410: T-151, p. 68, line 23 – p. 69, line 2 (stating that he saw Dominic Ongwen at the gathering place when the fighters returned from the attack).

<sup>4858</sup> P-0142: T-71, p. 13, line 25 – p. 14, line 3; P-0410: T-151, p. 68, line 23 – p. 69, line 2.

<sup>4859</sup> P-0054: T-93, p. 30, lines 4-17, p. 32, lines 17-22.

<sup>4860</sup> P-0142: T-70, p. 63, lines 14-16, p. 66, lines 18-22; T-71, p. 20, lines 3-8.

<sup>4861</sup> P-0205: T-47-CONF, p. 56, line 16 – p. 57, line 2. The Chamber understands RDC to mean resident district commissioner.

<sup>4862</sup> P-0205: T-47, p. 61, lines 11-19.

<sup>4863</sup> P-0205: T-47, p. 61, line 20 – p. 63, line 2; T-51-CONF, p. 11, lines 8-17.

testifying that he saw Ocaka in conversation with Dominic Ongwen discussing the outcome of the events in Lukodi.<sup>4864</sup>

1842.P-0205 testified that Dominic Ongwen appreciated ‘the work well done’.<sup>4865</sup>

1843.The Defence raised P-0205’s previous statement to the Prosecution, in which he stated that he heard of civilian deaths on Mega FM public radio and that he raised this radio broadcast with Dominic Ongwen.<sup>4866</sup> The Defence noted that in P-0205’s statement, he had reported that Dominic Ongwen stated, ‘If the civilians had died then they have died, but what he knows is that he did not kill them’.<sup>4867</sup> The Defence also noted that P-0205 had stated that the LRA fighters had not written in their report that they killed any civilians.<sup>4868</sup> In response, P-0205 had stated that he did have this discussion with Dominic Ongwen.<sup>4869</sup> The Chamber notes that P-0205 testified that he did not personally see any civilian deaths and did not report seeing any civilian deaths<sup>4870</sup> and that if there were civilian deaths in Lukodi then perhaps the group that went to collect food carried out the killing but did not tell the others.<sup>4871</sup>

1844.In this context, the Chamber recalls the testimony of P-0101, one of Dominic Ongwen’s so-called ‘wives’ who testified that she overheard Dominic Ongwen reproaching Ocaka saying that he had asked Ocaka to go and attack soldiers and take food and get civilians to carry the loot and that he had told them not to kill children, not to kill civilians but Ocaka had killed children and civilians and now ‘they would say he is the one who did it’.<sup>4872</sup> According to P-0101, Dominic Ongwen reproached Ocaka saying that Ocaka was spoiling his name on the radio.<sup>4873</sup> The Chamber does not consider it exceptional that one of Dominic Ongwen’s so-called ‘wives’ overheard him discussing the attack with Ocaka.<sup>4874</sup> However, the Chamber notes that evidence shows that Dominic Ongwen ordered his fighters to attack Lukodi IDP camp and everyone within it and also, as discussed below, later reported his fighters’ success to his superiors. Nothing in Dominic

<sup>4864</sup> P-0142: [T-71](#), p. 20, lines 12-23.

<sup>4865</sup> P-0205: [T-47](#), p. 61, lines 11-19.

<sup>4866</sup> P-0205: T-51-CONF, p. 15, line 17 – p. 16, line 6.

<sup>4867</sup> P-0205: T-51-CONF, p. 16, lines 7-9.

<sup>4868</sup> P-0205: T-51-CONF, p. 15, line 17 – p. 16, line 21.

<sup>4869</sup> P-0205: T-51-CONF, p. 16, lines 18-21.

<sup>4870</sup> P-0205: T-51-CONF, p. 12, lines 5 – p. 14, line 2.

<sup>4871</sup> P-0205: T-51-CONF, p. 14, lines 9-15.

<sup>4872</sup> P-0101: [T-13](#), p. 32, line 5 – p. 33, line 13.

<sup>4873</sup> P-0101: [T-13](#), p. 32, line 5 – p. 33, line 13.

<sup>4874</sup> See [Defence Closing Brief](#), para. 435.

Ongwen's reports to his superiors about the attack indicates that he disavowed the killings of civilians in the camp; indeed, he appears to laud the killings. In light of the overwhelming evidence to contrary, P-0101's testimony does not undermine the Chamber's findings as to the orders Dominic Ongwen gave for the attack on Lukodi IDP camp.

1845. The Chamber notes that P-0142 somewhat contradicts the accounts that Dominic Ongwen knew about the reports of civilian deaths in Lukodi. P-0142 testified that after the fighters returned from Lukodi, Dominic Ongwen was unhappy that people were not killed there.<sup>4875</sup> The Chamber also notes that P-0142 testified that 'we'<sup>4876</sup> heard over the radio a report stating that people were killed in Lukodi by the LRA.<sup>4877</sup> Given the ample evidence that Dominic Ongwen heard about the civilians' deaths in Lukodi and reported it to his superiors, the Chamber finds his testimony unreliable in this regard.

*v. Dominic Ongwen's reporting of the attack*

**Dominic Ongwen also reported his soldiers' attack on Lukodi IDP camp to other LRA commanders, including Joseph Kony and Vincent Otti. Dominic Ongwen took responsibility for the attack on Lukodi IDP camp.**<sup>4878</sup>

1846. A record of an intercepted radio communication shows Dominic Ongwen, Vincent Otti and others speaking over the radio on 21 May 2004,<sup>4879</sup> after the attack on Lukodi IDP camp attack but before the standby had returned to his position to give a formal report on the attack.<sup>4880</sup> In the communication, Dominic Ongwen, using the call sign Tem Wek Ibong, reported that he carried out the attack on Lukodi.<sup>4881</sup> Vincent Otti asked Dominic Ongwen, '[w]ho was responsible for the Lukodi attack/who hit Lukodi' and Dominic

<sup>4875</sup> P-0142: [T-71](#), p. 18, line 17 – p. 19, line 16.

<sup>4876</sup> It is not clear to the Chamber whether the witness includes Dominic Ongwen in this reference to 'we'.

<sup>4877</sup> See P-0142: [T-71](#), p. 20, lines 3-8.

<sup>4878</sup> Para. 189 above.

<sup>4879</sup> See Chamber's discussion of the Enhanced audio recording UGA-OTP-0239-0123 at section IV.B.3.ii.n above.

<sup>4880</sup> See P-0016 Tape 824 Transcript, UGA-OTP-0129-0419, at 0428-29; P-0016: [T-32](#), p. 75, line 14 – p. 76, line 4; [T-35](#), p. 30, line 16 – p. 33, line 13 (P-0016 testified that Dominic Ongwen (Tem Wek Ibong) stated 'It's my people who attacked [Lukodi], but I've not yet met up with them').

<sup>4881</sup> See Enhanced audio recording, UGA-OTP-0239-0123; P-0003 Tape 824 Transcript, UGA-OTP-0132-0093-R01, at 0102-03; P-0003: [T-42](#), p. 78, line 11 – p. 79, line 23; P-0016 Tape 824 Transcript, UGA-OTP-0129-0419, at 0428-29; P-0016: [T-32](#), p. 75, line 14 – p. 77, line 17; P-0059 Tape 824 Transcript, UGA-OTP-0266-0084, at 0137-39; P-0059: [T-36](#), p. 75, line 23 – p. 76, line 23; [T-38](#), p. 66, lines 15-25; [T-39](#), p. 5, lines 6-14, p. 8, line 23 – p. 9, line 13, p. 16, line 8 – p. 19, line 8; P-0440 Tape 824 Transcript, UGA-OTP-0262-0235-R01, at 0288-90; P-0440: [T-40](#), p. 30, line 3 – p. 36, line 13.

Ongwen responded ‘[t]hat was me.’<sup>4882</sup> The LRA fighters involved in the communication continued to discuss the attack, saying, ‘I heard that they burned more than 100 houses’ and ‘[t]hey killed more than fifty – Twenty five people’.<sup>4883</sup> As discussed above, several witnesses testified that at that point, Mega FM radio had reported the attack on Lukodi IDP camp, including killings and burnings of homes.<sup>4884</sup> It is notable that the transcript of the communication does not indicate that the participants questioned the accuracy of the information about killings and burning of houses. Instead, reference was made in this context to ‘the people’ being ‘full of morale’.<sup>4885</sup>

1847. Additionally, logbooks, prepared by UPDF and ISO officers, contain contemporaneous written record of the radio communication; the logbooks are also in line with the testimonies of P-0003, P-0016, P-0059 and P-0440.<sup>4886</sup> Each logbook denotes Dominic Ongwen taking responsibility for the attack on Lukodi IDP camp.

<sup>4882</sup> See Enhanced audio recording, UGA-OTP-0239-0123; P-0003 Tape 824 Transcript, UGA-OTP-0132-0093-R01, at 0102-03; P-0003: [T-42](#), p. 78, line 11 – p. 79, line 23; P-0016 Tape 824 Transcript, UGA-OTP-0129-0419, at 0428-29; P-0016: [T-32](#), p. 75, line 23 – p. 77, line 17; [T-35](#), p. 30, line 16 – p. 33, line 13; P-0059 Tape 824 Transcript, UGA-OTP-0266-0084, at 0137-39; P-0059: [T-36](#), p. 73, line 14 – p. 74, line 3; [T-38](#), p. 66, lines 15-25; [T-39](#), p. 8, line 23 – p. 9, line 13, p. 16, line 8 – p. 19, line 8; P-0440 Tape 824 Transcript, UGA-OTP-0262-0235-R01, at 0288-90; P-0440: [T-40](#), p. 30, line 3 – p. 36, line 13.

<sup>4883</sup> See Enhanced audio recording, UGA-OTP-0239-0123; P-0003 Tape 824 Transcript, UGA-OTP-0132-0093-R01, at 0102-03; P-0003: [T-42](#), p. 80, line 2 – p. 81, line 2; P-0016 Tape 824 Transcript, UGA-OTP-0129-0419, at 0428-29; T-35-CONF, p. 29, line 18 – p. 33, line 13; P-0059 Tape 824 Transcript, UGA-OTP-0266-0084, at 0113-15, 0137-39; P-0059: [T-36](#), p. 73, line 14 – p. 77, line 3; P-0440 Tape 824 Transcript, UGA-OTP-0262-0235-R01, at 0288-90.

<sup>4884</sup> See paras 1839-1840, 1843 above.

<sup>4885</sup> See Enhanced audio recording, UGA-OTP-0239-0123; P-0003 Tape 824 Transcript, UGA-OTP-0132-0093-R01, at 0102-03; P-0016 Tape 824 Transcript, UGA-OTP-0129-0419, at 0428-29; P-0059 Tape 824 Transcript, UGA-OTP-0266-0084, at 0137-38; P-0440 Tape 824 Transcript, UGA-OTP-0262-0235-R01, at 0288-89.

<sup>4886</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0320-22 (the logbook, dated 21 May 2004, notes ‘Otti asked Dominic who attacked Lukodi. Dominic replied that he is the one who attacked’); UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3045-46 (the logbook, dated 21 May 2004, notes ‘Otti reported to Kony that radio news reported a certain LRA group under unknown commanders attacked and killed 25 civs including young people and burnt about 100 houses in Lukodi centre in Bungatira [...] Dominic told Otti that he is the who made that deployment’); UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0263-64 (the logbook, dated 21 May 2004, notes ‘Dominic has appeared on air about late and reported to V. Otti that his splinters grps attacked Lukodi centre near Bungatira, but the forces haven’t join[ed] him yet and otherwise he is expecting the forces will be reported back to him tomorrow. V. Otti however has advised Dominic they shd continue with attacking civs in the internal displaced camps til the civilians [...] camps remain empty’); UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7291-92 (the logbook, dated 21 May 2004, notes ‘Otti informed Kony that he have heard that a group of LRA whose his commander not known went and attacked Lukodi camp [...] and killed 25 civis and burnt over 100 huts. [...] Otti asked Dominic if he is the one who attacked Lukodi in Bungatira. Dominic said it seems to be his group as he was sent them out, otherwise details to follow. Otti congratulates him and said the forces continue killing pple. So far Dominic said the moral of soldiers is very high’). The Chamber notes that the logbooks indicate that Kony was also on the radio communication at least at an earlier point. See also 21 May 2004 Intelligence Report, UGA-OTP-0017-0268, at 0271-73.

1848. On 24 May 2004, several days after the attack, UPDF and ISO logbooks again recorded an intercepted radio communication of Dominic Ongwen making a report to other LRA commanders, including Joseph Kony, claiming responsibility for the attack on Lukodi IDP camp attack. The ISO logbook entry at 18:30 reported:

Dominic stopped Abudema and started sending his achievements in the Logole (Lukome) attack. That he clashed with UPDF in Lukome and charged [items]. He said the UPDF were alert/aware of their coming but still they managed to overrun them. He claimed nothing wrong happened to their side at all. That the UPDF ran away, and later they called g/ship [...] Kony instructed Dominic that he should now use all the bullets he had, and also distribute some to all soldiers to carry on any mission. Dominic said if civilians die he feels happy. [...] Abudema asked Dominic to reserve for him 03 pairs of uniform and 03 pairs of shoes'.<sup>4887</sup>

1849. Noting the reference to Lukome, the Chamber recalls that several witnesses indicated that Lukome is the same place as Lukodi.<sup>4888</sup>

1850. The UPDF logbook recorded in Gulu intercepted the same radio conversation at 18:30:

Dominic reported to Kony that he caused havoc in Lokodi camp and that he decided to kill all living things in that camp where by even he is very sure that Museveni will note him as Odiambo according to the incident which Odiambo had done in Barlonyo. [...] Dominic claimed to have charged the following [from] UPDF after disorganising the camp. [...] He said that in that very day gunship came for reinforcement in that camp but they did not hit him. Kony said that let Dominic fight seriously. [...] Abudema told Dominic to reserve for him 03 pairs of uniforms and 03g/ boots [...].<sup>4889</sup>

1851. The UPDF logbook recorded in Lira recorded the same 18:30 radio reports and also corresponds with the other logbooks:

Dominic has reported to Kony and Abudema that attack on Lukodi internal displaced camps and the UPDF barracks. They have charged the following items [...]. Dominic further told Kony that [...] numbers of civilians were killed in the camps while Dominic said at that very night UPDF gunship came to reinforce to rescue the civilians in the camps and they tried to fire at the gunship and the gunship returned back [...]. Kony ordered Dominic to continued killing civilians in the internal displaced camps as he wants [...] Abudema has instructed Dominic to keep 03 pairs of uniforms and 03 pairs of footwears for him.<sup>4890</sup>

<sup>4887</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0329.

<sup>4888</sup> P-0406: [T-154](#), p. 52, lines 12-18; P-0410: [T-151](#), p. 51, lines 22-25; P-0018: [T-69](#), p. 8, lines 12-18.

<sup>4889</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3050.

<sup>4890</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0277-79.

1852. The 18:30 entry in the UPDF logbook recorded in Sudan reported on the same conversation in less detail and noted ‘Dominic reported to Abudema that some time back he went and attacked the det of UPDF in Lukoli near Lukome and charged the following [...]. Abudema told him to keep 04 pairs of uniforms and 04 pair of g/boots for him one will be issue to Kony’.<sup>4891</sup>

1853. While these four, independently recorded, logbooks, contain some discrepancies in detail, the logbooks indicate that Dominic Ongwen reported the attack, the report was received with approval and that the killing of civilians was discussed among the LRA participants on the intercepted radio communication.

1854. This is further confirmed by P-0016, an LRA signaller, who testified that at the time of the Lukodi attack, he was in Pader with Ocan Bunia and he heard Dominic Ongwen send a radio communication to Vincent Otti about the Lukodi attack.<sup>4892</sup>

1855. The Chamber also notes that Dominic Ongwen was promoted by Joseph Kony after the Lukodi attack.<sup>4893</sup> This is demonstrated by a record of an intercepted radio communication between Joseph Kony, Vincent Otti and others speaking over the radio on 30 May 2004. In the communication, Joseph Kony promotes Dominic Ongwen, among others.<sup>4894</sup> Logbooks, prepared by UPDF, ISO and police officers, contain contemporaneous written record of the radio communication and serve as corroboration of its content.<sup>4895</sup>

1856. Further, an ISO logbook, dated 31 May 2004, denotes an intercepted radio communication between Joseph Kony, Vincent Otti, Dominic Ongwen and other LRA fighters in which Vincent Otti notes that a UDF Lt. Col Walter Ochora was on Mega Radio and was ‘annoyed of what Tulu and Dominic did in Lukodi [...] killing several

<sup>4891</sup> UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7299.

<sup>4892</sup> P-0016: T-34-CONF, p. 11, lines 11-22. *See also* [T-32](#), p. 75, line 24 – p. 76, line 12.

<sup>4893</sup> *See also* paras 1078-1083 above, the Chamber’s discussion of Dominic Ongwen’s promotion to Colonel.

<sup>4894</sup> *See* Enhanced audio recording, UGA-OTP-0239-0112; P-0003 Tape 830 Transcript, UGA-OTP-0248-0143-R01, at 0179-82; P-0003: [T-43](#), p. 40, line 18 – p. 43, line 15; P-0016 Tape 830 Transcript, UGA-OTP-0259-0116, at 0119-21; P-0016: [T-33](#), p. 3, line 2 – p. 6, line 15; P-0059 Tape 830 Transcript, UGA-OTP-0248-0381-R01, at 0417-19; P-0059: T-37-CONF, p. 23, line 21 – p. 26, line 13; P-0440 Tape 830 Transcript, UGA-OTP-0262-0425-R01, at 0438-45; P-0440: T-40-CONF, p. 42, line 11 – p. 44, line 13.

<sup>4895</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0004; UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3061-62; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0304-06 and Police Logbook, UGA-OTP-0037-0002, at 0107.

civ'.<sup>4896</sup> Vincent Otti is then recorded as addressing Tulu, telling him that he should carry forward because civilians were their 'first enemy'.<sup>4897</sup> Buk Abudema also encouraged Tulu to 'increase on killing civilians'. Tulu replied that that was 'what their god has promised them to do'.<sup>4898</sup> The Chamber notes that, as explained above, some of the force which attacked Lukodi on the order of Dominic Ongwen originated from a Gilva sickbay commanded by Tulu.<sup>4899</sup> Dominic Ongwen is recorded in the ISO logbook as on air during this communication.<sup>4900</sup> The content of the communication is corroborated by the separately created police logbook.<sup>4901</sup> In the assessment of the Chamber, the communication shows that the LRA commanders were aware of the fact that civilians were killed in Lukodi IDP camp, and approved of this fact referring to the general LRA policy in relation to civilians.<sup>4902</sup> The communication also shows that the LRA commanders attributed responsibility for the attack to Dominic Ongwen. It is true that on the face of the communication, Tulu is referred to prominently, but the Chamber notes that in fact, the communication does not state any facts incompatible with the findings above in relation to the planning of the attack on Lukodi IDP camp.

1857. In conclusion on this issue, the evidence shows that in intercepted radio communications, Dominic Ongwen, in his own words, took responsibility for the May 2004 attack on Lukodi IDP camp, including specifically for harm done to civilians. Other high-ranking members of the LRA leadership noted his work and commended him for it. This evidence is in line with the witness testimony discussed above as to Dominic Ongwen's ordering of the attack and the course of the attack.

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<sup>4896</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007.

<sup>4897</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007.

<sup>4898</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007.

<sup>4899</sup> See paras 1649-1658 above.

<sup>4900</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0007.

<sup>4901</sup> Police Logbook, UGA-OTP-0037-0002, at 0104-05.

<sup>4902</sup> See section IV.C.5 above.

9. *Attack on Abok IDP camp*

i. *Abok IDP camp*

**Abok IDP camp was situated in Ngai sub-county, Apac district and contained thousands of civilians displaced by frequent LRA attacks in the region.**<sup>4903</sup>

1858. In June 2004, Abok was located in Ngai sub-county, in the Apac district of Uganda.<sup>4904</sup>

The nearby IDP camp was created in 2003 by the local population and Ugandan governmental authorities as a reaction to the influx of civilians fleeing from frequent LRA attacks in the region.<sup>4905</sup> While the evidence is not uniform on this point, estimates range from there being at least 7,000 to just over 13,000 residents in the camp at the time of the June 2004 attack.<sup>4906</sup>

1859. The Abok IDP camp received food in humanitarian assistance from NGOs, in addition to some farming undertaken by the residents.<sup>4907</sup> The Chamber refers to its earlier discussion of the LRA's policy to specifically target IDP camps to, amongst other things, obtain provisions.<sup>4908</sup> In this context, the Chamber notes Cyprian Ogola's testimony that a girl, who had been abducted by and escaped from the LRA prior to the 8 June 2004 attack, told camp officials that the LRA rebels said that the Abok IDP camp was like a bee-hive they were waiting to go to and harvest honey from at the right time.<sup>4909</sup> Cyprian Ogola testified that, to the camp's leaders, this was in reference to the eventual attack on and burning of the camp.<sup>4910</sup>

1860. There were two military barracks in Abok IDP camp, the 'old barracks', which was in the south of the camp and no longer in use at the time of the attack and the 'new barracks'

<sup>4903</sup> Para. 190 above.

<sup>4904</sup> See [Agreed Facts](#), A4.

<sup>4905</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 19-21; P-0293: [T-138](#), p. 5, lines 7-24; P-0306 Statement, UGA-OTP-0261-0277-R01, at paras 13-14. Ugandan authorities formally established the camp in 2004. P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 25.

<sup>4906</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 25; P-0293: [T-138](#), p. 11, line 12 – p. 12, line 12; P-0293: [T-139](#), p. 8, line 18 – p. 11, line 4; P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 15; P-0306: [T-130](#), p. 51, line 21 – p. 53, line 19. See P-0293, Population of Abok Internally Displaced Persons camp, UGA-OTP-0244-1197; P-0306, Population of Abok Internally Displaced Persons camp, UGA-OTP-0247-1269.

<sup>4907</sup> P-0293: [T-138](#), p. 26, lines 8-16; P-0304: [T-133](#), p. 48, line 20 – p. 49, line 3; P-0306: [T-130](#), p. 37, line 4-25.

<sup>4908</sup> See section IV.C.4 above, the Chamber's discussion of the LRA's policy.

<sup>4909</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 50.

<sup>4910</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 50.

which was in the north-eastern area of the camp.<sup>4911</sup> The Chamber noted the location of the two barracks during their site visit to the former Abok IDP camp.

*ii. Senior LRA commanders, including Joseph Kony and Vincent Otti, encouraged attacks on IDP camps*

**In the days and weeks preceding the attack, Joseph Kony and Vincent Otti instructed Dominic Ongwen to continue to attack civilians in IDP camps.**<sup>4912</sup>

1861. In the 21 May 2004 UPDF and ISO logbook records contemporaneously memorialising the 21-22 May 2004 radio communications,<sup>4913</sup> after Dominic Ongwen reported his attack on Lukodi IDP camp, Vincent Otti advised Dominic Ongwen to ‘continue with attacking [civilians] in the internal displaced camps til the civilians [...] camps remain empty’.<sup>4914</sup>

1862. A UPDF logbook provides a credible written contemporaneous record of a 24 May 2004 intercepted LRA communication in which Joseph Kony orders Dominic Ongwen to continue ‘killing the civilians in the internally displaced camps as he want’ and if ‘one LRA soldier are in the contact at least over 50 civilians must [lose] their lives’.<sup>4915</sup>

1863. Further, on 1 June 2004, just a week before the 8 June 2004 attack on Abok IDP camp, a UPDF logbook, prepared in Lira, recorded Joseph Kony directing LRA commanders,

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<sup>4911</sup> See P-0306’s Map of Abok camp UGA-OTP-0261-0285. Note that P-0306, along with several other witnesses, testified that there were two barracks at Abok, the old barracks and the new barracks. P-0306: [T-130](#), p. 47, line 18 – p. 48, line 1 (the Chamber notes that while the questioning counsel mistakenly references ‘Odek’ it is clear from the line of questioning that the counsel and the witness were discussing Abok). At the time of the Abok attack, the old barracks were no longer in use and the government soldiers were stationed at the new barracks.

<sup>4912</sup> Para. 191 above.

<sup>4913</sup> This intercept and the corresponding logbooks are discussed in further detail in the Chamber’s above discussion of the Lukodi attack. See Chamber’s discussion of the reporting of the Lukodi attack in section IV.C.8.v above.

<sup>4914</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0263-64. See UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3045-47. The Chamber notes also the above discussion of the reliability of the interceptor logbooks. See the Chamber’s discussion of interceptor logbooks in section IV.B.3.i.b.iv above. Further, the Chamber notes that P-0003, P-0016, P-0059 and P-0440’s summaries of the intercepted radio communication on record contain part of the same conversations recorded in the logbooks and that the witnesses consistently recognised Dominic Ongwen and Vincent Otti’s voices, that the logbooks are a contemporaneous written record of the LRA’s intercepted communications and the two cited logbooks are consistent with each other despite coming from different intercept operations.

<sup>4915</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0278. See the Chamber’s discussion of interceptor logbooks in section IV.B.3.i.b.iv above. The Chamber notes that while the UPDF Logbook (Gulu) and ISO Logbook (Gulu) recording the same intercepted radio communication do not contain this exact detail, all three logbooks are generally consistent, describing the same series of conversations while emphasising different details and language. This can be expected of material made by interceptors working in different locations and taking contemporaneous record of a live radio communication. See UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3050-51; ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0328-29.

including Dominic Ongwen, to ‘uplift the standard of massacre against the [IDP camps] like someone who was sweeping white ants during the night’.<sup>4916</sup> In the same 1 June 2004 UPDF logbook entry, Buk Abudema, a senior LRA commander, instructed Dominic Ongwen to ‘wake up and begin serious operations against the [IDP camps] and maximum death rate be maintained ... [and] to deploy his forces in various directions targeting [IDP camps]’.<sup>4917</sup> A UPDF logbook memorialising the same conversation, but prepared in Gulu, recorded that Dominic Ongwen told LRA commander Abudema that ‘[Dominic Ongwen] was going to kill many [civilians] and he will send the result to Kony where by Kony will be happy about it’.<sup>4918</sup>

*iii. Dominic Ongwen’s order to attack Abok IDP camp*

**Dominic Ongwen chose to attack Abok IDP camp. Prior to the attack, Dominic Ongwen ordered LRA fighters subordinate to him to attack this camp, including civilians. At a gathering in the foothills of Atoo, Dominic Ongwen addressed the troops before the attack and gave instructions to go and collect food, abduct people, attack the barracks and burn down the camp and the barracks. Dominic Ongwen did not go to Abok as part of the fighting force. He appointed Okello Kalalang to command the attackers on the ground according to his instructions. Kalalang led the LRA fighters in the attack on Abok IDP camp on behalf of Dominic Ongwen.**<sup>4919</sup>

1864. The testimony of witnesses in these proceedings demonstrates that the LRA fighters who attacked Abok were subordinate to Dominic Ongwen. As discussed below, P-0406,<sup>4920</sup>

<sup>4916</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0313. *See* the Chamber’s discussion of interceptor logbooks in section IV.B.3.i.b.iv above. The Chamber notes that while the UPDF Logbook (Gulu) and ISO Logbook (Gulu) recording the same intercepted radio communication do not contain the same exact detail, all three are generally consistent, describing the same series of conversations while emphasising different details and language. The Chamber also notes that the need for the LRA to kill civilians was a main topic across each logbook entry. *See* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3065-66; ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0008-10.

<sup>4917</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0314. *See* the Chamber’s discussion of interceptor logbooks in section IV.B.3.i.b.iv above. Although this exact instruction to Dominic Ongwen is not noted in the other logbooks memorialising the same radio communication, this does not undermine the credibility and reliability of the UPDF Logbook (Lira) entry as such differences in details and language can be expected of material made by interceptors working in different locations and taking contemporaneous record of a live radio communications. Indeed, such differences actually increase the credibility of the logbooks as they show that the various interceptors were not merely copying from one another but were actually taking a contemporaneous record of the live communication. *See* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3065-66; ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0008-10.

<sup>4918</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3066. *See* the Chamber’s discussion of Interceptor logbooks in section IV.B.3.i.b.iv above. The Chamber also notes that the other UPDF and ISO logbooks do not contain this exact detail. However, in line with its reasoning set out in this section, the Chamber finds the logbook entry credible. *See* UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0311-14; ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0008-10.

<sup>4919</sup> Para. 192 above.

<sup>4920</sup> The Chamber recalls the finding that P-0406 is a credible witness. *See* the Chamber’s discussion of the P-0406’s testimony at section IV.B.2.ii.b.xxiii above.

P-0054, P-0252 and P-0205, all fighters who were under Dominic Ongwen's command in Sinia brigade,<sup>4921</sup> testified that the group sent to Abok was part of the Sinia brigade and under Dominic Ongwen's command.<sup>4922</sup> Credible and consistent evidence, discussed below, demonstrates that before the attack, at a gathering in the foothills of Atoo, Dominic Ongwen addressed the troops and gave orders for the attack.<sup>4923</sup> In this context, the Chamber recalls that it rejects as unreliable all direction-finding evidence.<sup>4924</sup>

1865. P-0406, a Sinia fighter, testified that he was present when Dominic Ongwen issued the orders for the Abok IDP camp attack.<sup>4925</sup> He stated that all the people selected to go to Abok were lined up and before they headed out, Dominic Ongwen addressed them and instructed them as to what they were supposed to do.<sup>4926</sup> P-0406 testified that Dominic Ongwen told the attackers to go and collect food, abduct people, attack the barracks and burn down the camp and the barracks.<sup>4927</sup> P-0406 also testified that after Dominic Ongwen addressed the soldiers, the fighters left him and moved ahead.<sup>4928</sup> The Chamber is satisfied that P-0406's account of this gathering and the orders given by Dominic Ongwen is credible and reliable.

1866. Other LRA fighters corroborate P-0406's statement that Dominic Ongwen gave the orders regarding the Abok attack. P-0205 testified that Dominic Ongwen told him that he had sent people to Abok and that they went and attacked.<sup>4929</sup> In the Chamber's view, this evidence is reliable; it is detailed and P-0205 refers with precision to the occasion on which Dominic Ongwen told him about the Abok attack.<sup>4930</sup>

<sup>4921</sup> P-0406: [T-154](#), p. 16, lines 15-17, p. 34, lines 12-15; P-0054: [T-93](#), p. 10, lines 19-24; P-0252: [T-87](#), p. 41, lines 10-21; P-0205: [T-47](#), p. 9, lines 18-22, p. 36, line 14 – p. 37, line 6.

<sup>4922</sup> The Chamber notes that D-0105 testified that LRA commander Odhiambo chose the soldiers for the Abok attack (D-0105: [T-190](#), p. 26, lines 17-23). In this context, the Chamber recalls its finding that the witness's testimony is not credible and cannot be relied upon.

<sup>4923</sup> In light of the evidence, the Chamber, does not accept the submissions of the Defence in this regard. *See* [Defence Closing Brief](#), paras 444-457. The Chamber notes that in light of the credible and consistent evidence discussed in this section, the Chamber is unconvinced by D-0085's testimony that there were two gatherings before the attack on Abok IDP camp. In this context, the Chamber also notes that the witness could not recall what happened during the first gathering. *See* D-0085: [T-239](#), p. 21, lines 19-25.

<sup>4924</sup> *See* section IV.B.3.iii above.

<sup>4925</sup> P-0406: [T-154](#), p. 66, lines 5-14.

<sup>4926</sup> P-0406: [T-154](#), p. 66, lines 12-14.

<sup>4927</sup> P-0406: [T-154](#), p. 66, lines 16-20.

<sup>4928</sup> P-0406: [T-155](#), p. 67, lines 17-21 (P-0406 did not know whether Dominic Ongwen remained at the base).

<sup>4929</sup> P-0205: [T-47](#), p. 67, lines 13-21. *See* P-0205: T-47-CONF, p. 68, line 15 – p. 69, line 8.

<sup>4930</sup> P-0205: T-47-CONF, p. 69, lines 4-8.

1867. While P-0054 did not actually see Dominic Ongwen select the fighters going to Abok, he participated in the attack and testified that while Sinia was based under Atoo hills,<sup>4931</sup> Dominic Ongwen selected people and instructed them to go to Abok.<sup>4932</sup> He testified that he knows this because his commander was present when the selection took place.<sup>4933</sup> The Chamber finds that the witness's explanation of how he obtained the hearsay evidence is plausible and convincing. The Chamber notes the Defence submission that P-0054 did not testify to hearing an overt command to attack civilians.<sup>4934</sup> Indeed, P-0054 testified that the instruction passed down to the soldiers was to 'go and work at Abok', however he also clarifies that what he understood by the term 'work' was fighting and collecting food.<sup>4935</sup>

1868. P-0252 stated that the soldiers selected to go to Abok were selected from amongst the soldiers who were under Atoo hills,<sup>4936</sup> and that Dominic Ongwen would be the person to issue the orders to attack Abok.<sup>4937</sup> P-0252 explained that Dominic Ongwen would issue orders to his subordinates and those orders would be communicated to the attackers.<sup>4938</sup> P-0252 indicated that this was how the orders were communicated for the attack on Abok IDP camp.<sup>4939</sup>

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<sup>4931</sup> P-0054: [T-93](#), p. 33, lines 1-8. *See also* P-0286: [T-131](#), p. 33, line 6 – p. 34, line 7 (P-0286 was taken to Atoo hills after being abducted by LRA fighters in the 8 June 2004 Abok attack and was told that Atoo hills was the group's base). The Chamber considers the witnesses' lack of specificity as to the exact location of the gathering within the foothills of Atoo hills natural and expected given that the gathering took place in the bush and that the witnesses mentioned the geographical references available to them. Contrary to the Defence submission in [Defence Closing Brief](#), paras 447-48, the Chamber is satisfied by the evidence that a gathering occurred in which Dominic Ongwen gave orders to his forces to attack Abok and that the gathering occurred within the area around the Atoo hills.

<sup>4932</sup> P-0054: [T-93](#), p. 33, lines 1-8.

<sup>4933</sup> P-0054: [T-93](#), p. 34, lines 4-8.

<sup>4934</sup> [Defence Closing Brief](#), para. 453.

<sup>4935</sup> P-0054: [T-93](#), p. 34, lines 9-14. *See also* P-0340: [T-102](#), p. 38, line 23 – p. 39, line 1 (stating that '[t]here were no exact instructions [from his immediate instructor about the attack] other than the fact that we are going to collect food'). In this context, the Chamber recalls its assessment of P-0340's credibility in section IV.B.2.ii.b.xix above. The Chamber also recalls its discussion of P-0340's elaboration of what it means to 'collect food'. *See* para. 1407 above.

<sup>4936</sup> P-0252: [T-87](#), p. 74, lines 23-25. *See also* P-0306: [T-130](#), p. 30, lines 13-14 ('In our area, in Lango and Acholi, the person who was responsible, who had leadership for those areas was Dominic Ongwen, who was based under Atoo hills'); P-0293: [T-138](#), p. 21, line 11 ('the rebels [who carried out the 8 June 2004 attack] came from a location known as Atoo hills').

<sup>4937</sup> P-0252: [T-87](#), p. 75, lines 6-8. *See* P-0252: [T-88](#), p. 6, line 14 – p. 7, line 16 (Dominic Ongwen was present during a headcount of the soldiers who returned from Abok).

<sup>4938</sup> P-0252: [T-87](#), p. 75, line 6 – p. 76, line 7.

<sup>4939</sup> P-0252: [T-87](#), p. 75, line 6 – p. 76, line 7.

1869. Finally, some corroboration is provided by P-0330, who did not hear the orders but testified that there was no overall commander other than ‘Odomi’ and ‘Odomi’ had all the authority<sup>4940</sup> and ‘Odomi’ was the overall commander who ordered the attack on Abok.<sup>4941</sup>

1870. In light of the above, and contrary to the Defence’s argument,<sup>4942</sup> the Chamber does not find that the witnesses’ evidence is inconsistent. The witnesses expressed their recollection in their own terms, describing or emphasising their particular perspective in line with their particular role or location. The Chamber considers that the evidence before it justifies and necessitates its finding that Dominic Ongwen ordered the attack on Abok IDP camp, giving instructions that his fighters attack the camp, collect food, abduct people, attack the barracks and burn down the camp and barracks. Based on the terms of this order as established on the basis of the evidence, the Chamber considers that it logically included targeting civilians.

1871. In addition to the evidence of these insider witnesses, and as discussed in detail below, the intercepted radio communications also demonstrate that Dominic Ongwen initiated and oversaw the Abok attack.<sup>4943</sup> Noting that radio communications record Dominic Ongwen describing the fighting that occurred in the camp, the burning of huts in the camp and barracks and the capturing of civilians, the Chamber considers that the radio communications are consistent with and confirm the orders Dominic Ongwen gave to his fighters to carry out the attack.<sup>4944</sup>

1872. Further, Cyprian Ayoo, one of the camp’s leaders, testified that the abductees rescued from Abok told him that the rebels were sent by Dominic Ongwen.<sup>4945</sup> Cyprian Ayoo

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<sup>4940</sup> P-0330: [T-52](#), p. 28, lines 14-25.

<sup>4941</sup> P-0330: [T-52](#), p. 28, lines 18-22. The Defence mischaracterises P-0330’s testimony in their submission that P-0330’s testimony indicates that it was Okello who issued the instructions for Abok and selected the standby, not Dominic Ongwen. [Defence Closing Brief](#), para. 450. It is clear from the witness’s testimony that while he personally heard about the instructions about the attack from his superior Okello, P-0330 specified that Dominic Ongwen was the higher authority who ordered the attack and that Okello selected a standby upon Dominic Ongwen’s instructions.

<sup>4942</sup> [Defence Closing Brief](#), paras 446-448.

<sup>4943</sup> See section IV.C.9.v, the Chamber’s discussion of the reporting on the attack.

<sup>4944</sup> See paras 2001-2008 below.

<sup>4945</sup> P-0293: [T-138](#), p. 35, lines 11-15. See also P-0304: [T-133](#), p. 27, line 21 – p. 28, line 3 (P-0304 was told by James Oringa, another returned abductee, that ‘Dominic’s group’ attacked Abok IDP camp); P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 33 (P-0306 testified that P-0280 and P-0304 told him that the LRA group involved in the attack was led by Dominic Ongwen).

stated that when he asked the abductees what their abductors said, the returned abductees relayed that the LRA fighters were talking amongst themselves and saying that Dominic Ongwen would be extremely happy because the attack was successful.<sup>4946</sup>

1873. While the Chamber is convinced that LRA fighters subordinate to Dominic Ongwen carried out the attack on Abok IDP camp, the Chamber notes that the evidence shows that Dominic Ongwen himself did not physically participate in the attack. This was confirmed by multiple witnesses, particularly LRA fighters.<sup>4947</sup> Rather, this same evidence shows that Dominic Ongwen designated Okello Kalalang,<sup>4948</sup> one of his subordinate commanders,<sup>4949</sup> to command the attack on the ground, and that the latter in fact led the attack on Abok IDP camp under Dominic Ongwen's instructions.<sup>4950</sup>

1874. The Chamber notes P-0054's credible testimony that Dominic Ongwen delegated the leadership of the physical attack on the camp to 'Kalalang'. The Chamber also considers this delegation to be a necessary inference from the fact that the attack took place

<sup>4946</sup> P-0293: [T-138](#), p. 36, line 21 – p. 37, line 4.

<sup>4947</sup> P-0054: [T-94](#), p. 26, lines 9-13 (Dominic Ongwen sent Kalalang to 'go and carry out the operation' and did not go there himself. Dominic Ongwen stayed back on the other side of Orapwoyo, near Loyo-Ajonga); P-0340: [T-103](#), p. 55, lines 20-21 (P-0340 did not see Dominic Ongwen at the Abok attack); P-0330: [T-55](#), p. 34, line 25 – p. 35, line 1 (Dominic Ongwen did not go to the Abok attack). *See also* P-0359, a UPDF colonel, testified that Dominic Ongwen had sent Okello Kalalang, one of his field commanders, to attack Abok but had not participated in the attack physically. P-0359: [T-109](#), p. 67, lines 7-11; [T-110](#), p. 38, line 25 – p. 39, line 2, p. 77, lines 16-23.

<sup>4948</sup> P-0054: [T-94](#), p. 26, lines 9-11 (Dominic Ongwen 'sent Kalalang to go and carry out the operation'). *See* P-0330: [T-52](#), p. 28, line 18 – p. 29, line 7 (Dominic Ongwen issued instructions to Okello to select a standby and Kalalang did so). *See also* P-0359: [T-109](#), p. 65, line 19 – p. 66, line 7, p. 67, lines 7-11; [T-110](#), p. 38, line 22 – p. 39, line 3, p. 77, lines 16-23.

<sup>4949</sup> P-0280: [T-83](#), p. 67, lines 4-7 (P-0280 was told while in the bush that 'Kalalang was under Dominic'); ██████████

██████████ P-0359: [T-109](#), p. 65, line 19 – p. 66, line 5 (Okello Kalalang was a self-styled major of the LRA and was part of Dominic Ongwen's group. 'Kalalang was a notorious commander of Dominic Ongwen that in most cases Dominic himself would assign him these nasty operations'); P-0286: [T-131](#), p. 47, 10-16 ('Odomi' was Kalalang's overall commander); P-0054: [T-93](#), p. 34, lines 15-18 (Kalalang was in Terwanga battalion and Dominic was the brigade commander at the time of the Abok IDP camp attack).

<sup>4950</sup> P-0054: [T-93](#), p. 33, lines 1-7 (Kalalang served as the overall commander of the Abok mission); P-0286: [T-131](#), p. 19, line 23 – p. 20, line 2 (LRA fighters Otim and Opio told P-0286 that the commander who was giving the orders to go to the barracks was called Kalalang, that he was the one leading the group of attackers); P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 45 (after P-0286 returned from captivity, he informed camp officials that Okello Kalalang had commanded the group that had attacked Abok IDP camp); P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 33 (after P-0280 and P-0304 had returned from captivity, they informed P-0306 that Okello Kalalang led the attack while the LRA group itself was led by Dominic Ongwen); P-0293: [T-138](#), p. 35, lines 11-15, p. 36, line 21 – p. 37, line 11 (returned Abok abductees told P-0293 that Kalalang was the attackers' commander but they had been sent by Dominic Ongwen); P-0359: [T-109](#), p. 65, lines 19-24 (abductees rescued after the Abok attack stated that Okello Kalalang led the attack into Abok); D-0085: [T-239](#), p. 21, lines 7-16, p. 25, lines 3-9 (Kalalang was in charge of the group that went to Abok); P-0205: [T-47](#), p. 67, lines 13-21 (Dominic Ongwen told P-0205 that he had sent Okello Kalalang to led the group Dominic Ongwen sent to Abok).

pursuant to Dominic Ongwen's orders, that it was carried out by his subordinates and that Okello Kalalang was the commander on the ground.

1875. In this context, the Chamber notes Cyprian Ayoo's testimony that while hiding from the LRA, he heard LRA fighters speaking amongst themselves and praising 'Afande Okello Kalalang' for changing the orders/instructions of 'Afande Dominic Ongwen' on a particular point.<sup>4951</sup> Cyprian Ayoo stated that the fighters said that Dominic Ongwen had instructed the rebels to shoot anyone they found, and Kalalang changed the order, telling the fighters to spare their bullets so they could protect themselves against the government soldiers.<sup>4952</sup> Instead, according to the fighters, Kalalang instructed the soldiers to do whatever they could: burn a person in a house, push a person into a fire or smash their head with a club.<sup>4953</sup>

1876. In light of the foregoing, the Chamber finds that LRA fighters subordinate to Dominic Ongwen carried out the attack on Abok IDP camp pursuant to his orders.

*iv. The LRA's attack against the civilian population of Abok IDP camp*

**On 8 June 2004, LRA fighters subordinate to Dominic Ongwen attacked Abok IDP camp.**<sup>4954</sup>

**The day of the attack, Abok IDP camp residents observed LRA troops moving in the western side of the camp. A contingent of Ugandan government soldiers were sent to track the LRA activity. However, the LRA eluded the government soldiers.**<sup>4955</sup>

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<sup>4951</sup> P-0293: [T-138](#), p. 27, line 16 – p. 28, line 8. P-0293 testified that 'Afande' was a title for someone superior to you. P-0293: [T-139](#), p. 18, lines 20-25. The Defence challenged the witness that he did not mention 'Ongwen' in his previous statement to the Prosecution, however P-0293 clarified that the soldiers clearly had said the name 'Dominic Ongwen' and that his written statement's reference to 'Afande Kalalang' and 'Afande Dominic' was mistaken. P-0293: [T-138](#), p. 32, line 7 – p. 33, line 1. The Chamber attributes little significance to this discrepancy between the written statement and the in-court testimony; the witness is clear in identifying the two subjects of the conversation and the original identification of 'Dominic' and 'Kalalang' is specific in itself. The mention of names of persons unknown to the witness (the witness conceded that he had not seen Dominic Ongwen and Kalalang at the time) and the specificity of the change in the order demonstrate P-0293's sincerity and truthfulness. Further, the Chamber is satisfied with the explanation the witness provided in his live testimony when he testified under oath before the Chamber.

<sup>4952</sup> P-0293: [T-138](#), p. 27, line 16 – p. 28, line 6.

<sup>4953</sup> P-0293: [T-138](#), p. 27, line 23 – p. 28, line 1.

<sup>4954</sup> Para. 190 above.

<sup>4955</sup> Para. 193 above.

**In the evening of that day, at least 20 LRA fighters, including fighters under the age of 15, executed Dominic Ongwen's orders and, with an assortment of arms, including guns, attacked Abok IDP camp from the southwest.**<sup>4956</sup>

1877. Witnesses who were Abok IDP camp residents at the time of the attack provided credible, consistent and overlapping testimony that on 8 June 2004, residents saw LRA fighters in the northwest of the camp, later in the day, the LRA were seen in the southwest side of the camp.<sup>4957</sup>

1878. Government soldiers present at the camp<sup>4958</sup> were notified of the presence of gunmen,<sup>4959</sup> and some soldiers were deployed to pursue the rebels.<sup>4960</sup> The deployed soldiers were

<sup>4956</sup> Para. 193 above.

<sup>4957</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 21 (around 15:00 on 8 June 2004, Abok IDP camp residents who had been outside of the camp started reporting the presence of unknown gunmen in the north-western side of the camp and that around 17:00, a resident of the camp reported that the gunmen had crossed the road going to Ngai); P-0280: [T-83](#), p. 45, lines 10-19, p. 56, lines 5-8; [T-84](#), p. 37, lines 11-15 (on 8 June 2004, LRA fighters passed very close to the camp, the LRA fighters came from the direction of Ngai and branched off towards Abok school. The LRA fighters were visible from the camp as they were on the hill going towards Abok school); P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 29 (P-0284 saw the rebels; they moved like they were going to cross the road to Ngai but instead took the road that leads to the Abok Primary School in the direction of Ariba); P-0286: [T-131](#), p. 8, line 15 – p. 9, line 8 (on 8 June 2004, the rebels came and passed very near the camp, between 17:00 and 18:00, there was a report that many people, possibly rebels, were passing by the camp); P-0293: [T-138](#), p. 15, line 10 – p. 16, line 12 (while walking around surveying the camp, P-0293 noticed people crossing the Ngai road, one group crossing on one side and another group crossing on the other side). See P-0304: [T-133](#), p. 7, lines 13-18 (late in the evening on a Tuesday in 2004, there were rumours of strange soldiers sighted opposite the signpost of Abok primary school).

<sup>4958</sup> In light of the consistent testimony of P-0306 and P-0293, the Chamber is satisfied that there were at least 45 government soldiers at the Abok IDP camp around the time of the 8 June 2004 attack. P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 21; P-0306: [T-130](#), p. 33, lines 7-11, p. 46, lines 14-24, p. 47, lines 1-9, p. 82, line 17 – p. 83, line 3 (there were about 45 government soldiers at Abok IDP camp on 8 June 2004 comprised of local defence forces ('LDUs') as well as UPDF forces); P-0293: [T-138](#), p. 8, lines 6-11 (there were initially 45 soldiers and then nine more were added, bringing the number to 54). The Chamber notes the testimony of D-0065 in relation to the military forces present in the camp is consistent with its finding here. See D-0065: [T-211](#), p. 14, line 20 – p. 16, line 1 (there were approximately 20 government forces in the camp itself with others deployed to protect the barracks and to set up an ambush. The forces in the camp were LDUs). The Chamber notes that the witness also testified that the commanding officer was a member of the UPDF, indicating that there was at least one UPDF soldier present.

<sup>4959</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 21 (after being informed around 17:00 that the gunmen had been seen crossing the road going to Ngai, P-0306 instructed the camp defence secretary to inform the overall commander of the government forces at the army barracks); P-0293: [T-138](#), p. 16, line 13 – p. 17, line 4 (when P-0293 went to inform the commander of the soldiers stationed at the camp that he had seen suspected rebels crossing the road, the commander told him that he had already been informed of the movement); P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 29 (word was sent to the barracks and the community was alerted about the presence of the rebels in the area).

<sup>4960</sup> P-0280: [T-84](#), p. 38, line 16 – p. 39, line 2 (there were soldiers deployed to where the LRA fighters were seen); P-0306 and P-0293 corroborate P-0280's testimony, both testifying that soldiers were deployed. P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 21; P-0306: [T-130](#), p. 83, lines 4-11; P-0293: [T-138](#), p. 72, line 20 – p. 73, line 3. While the Chamber is mindful that the camp officials offered somewhat different testimony on where exactly the troops were sent, the Chamber is satisfied that some government soldiers were deployed to pursue the gunmen while some others remained in the camp. To this end, the Chamber notes the testimony of D-0065, an LDU officer, who testified that the civilians had come to give a report of LRA rebels sighted in the

unable to intercept the LRA fighters.<sup>4961</sup> Around 15 government soldiers remained to guard the camp,<sup>4962</sup> some of these soldiers were stationed at the new barracks and some were within the camp centre.<sup>4963</sup>

1879. Contrary to the Defence's contention,<sup>4964</sup> the Chamber is unconvinced that other LRA brigades played any significant role in attacking Abok IDP camp. The testimony of D-0085 and P-0340, cited in support of the Defence's contention, does not undercut the Chamber's finding that fighters subordinate to Dominic Ongwen attacked Abok IDP camp under his orders.<sup>4965</sup>

1880. The Chamber first recalls the above discussion that Dominic Ongwen ordered LRA forces subordinate to him, namely fighters in the Sinia brigade, to attack Abok IDP camp.<sup>4966</sup> Of the nine LRA forces who testified about the 8 June 2004 attack on Abok IDP camp and whom the Chamber found generally credible, only one, D-0085, attested that LRA groups merged together and went to attack Abok IDP camp.<sup>4967</sup> The Chamber puts more weight on the accounts of these other witnesses, who corroborate each other and does not rely on D-0085's testimony in this regard. In line with the other witnesses, D-0085 also testified that she heard that Kalalang was the commander who led the attack

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vicinity of the camp and the commanding officer had set up an ambush. D-0065: [T-211](#), p. 21, lines 1-8, p. 21, line 23 – p. 22, line 3.

<sup>4961</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 29-30 (some of the government soldiers left the camp to follow the rebels but unfortunately the soldiers took the wrong direction and continued until Ariba but the LRA fighters had branched to a swamp and hidden there. P-0284 knew that the rebels had branched into the swamp because he later saw the tracks that they had left behind).

<sup>4962</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 21; P-0306: [T-130](#), p. 83, lines 4-11 (15 government soldiers were deployed on the eastern road, another 15 were deployed towards Abok primary school and 15 remained to guard the camp); P-0293: [T-138](#), p. 72, line 20 – p. 73, line 3 (one group went towards Iceme road to ambush the people sighted, another group was guarding the camp and went to the old barracks, and a third group remained in the new barracks).

<sup>4963</sup> See section IV.C.9.iv, the Chamber's discussion of the course of the attack.

<sup>4964</sup> [Defence Closing Brief](#), paras 442, 459-464 (arguing that the evidence shows that Okot Odhiambo and Ocan Bunia, senior LRA commanders from other brigades, controlled and commanded a combined force of fighters along with Dominic Ongwen).

<sup>4965</sup> D-0085: T-239-CONF, p. 8, line 10-11 and p. 13, lines 12-14, p. 20, lines 7-9. Regarding P-0340, the Chamber notes the Defence's contention that a 8 February 2004 ISO logbook entry identifies P-0340's commander and two other commanders and in extension P-0340 as a member of the Gilva battalion. [Defence Closing Brief](#), paras 454, 459-460, citing ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0056. In his testimony, P-0340 refuted the contention that he was a part of the Gilva brigade. See P-0340: [T-102](#), p. 16, line 7 – p. 17, line 10, p. 39, lines 3-8; T-103-CONF, p. 19, lines 5-7, p. 59, line 19 – p. 60, line 14. See sections IV.B.2.ii.b.xxxiii and IV.B.2.ii.b.xix above, the Chamber's discussion of D-0085 and P-0340's testimony.

<sup>4966</sup> See Chamber's discussion of Dominic Ongwen's order to attack Abok IDP camp in section IV.C.9.iii above.

<sup>4967</sup> D-0085: [T-239](#), p. 20, lines 4-11.

on Abok IDP camp.<sup>4968</sup> Further, camp residents who offered testimony on this issue attributed the attack to Okello Kalalang and Dominic Ongwen's group and made no mention of hearing that any other LRA group was involved in the attack. Importantly, Dominic Ongwen himself, when reporting the attack to Joseph Kony, as discussed further below, took sole responsibility for the attack on Abok IDP camp and made no mention of the involvement of any other commanders.<sup>4969</sup> There is no evidence that any other LRA commander took credit for the attack. Thus, the Chamber is satisfied that Dominic Ongwen, controlled or commanded the fighters that went to attack Abok IDP camp on 8 June 2004 and that no other LRA commander was involved.

1881. As to the number of LRA fighters that attacked Abok IDP camp, the Chamber is convinced by the testimony offered by LRA fighters who actively participated in the attack and are in a position to know how many LRA fighters were sent to attack Abok.<sup>4970</sup> P-0406 testified that having received orders from Dominic Ongwen, maybe 30-40 fighters went to Abok.<sup>4971</sup> P-0406 stated later in his testimony that there were not many people selected to go to Abok, perhaps 25-30.<sup>4972</sup> P-0330 testified that 'maybe 20 or 28

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<sup>4968</sup> D-0085: [T-239](#), p. 21, lines 7-16, p. 25, lines 3-9. The Defence argues that the witness's testimony indicates that forces in Trinkle brigade joined in the 8 June 2004 attack on Abok IDP camp. See [Defence Closing Brief](#), paras 462 and 464.

<sup>4969</sup> See the Chamber's discussion of the reporting of the attack in section IV.C.9.v below. In this same section, the Chamber discusses the evidence that the Government of Uganda also attributed the attack to Dominic Ongwen's forces.

<sup>4970</sup> The Chamber does not accept the submissions in [Defence Closing Brief](#), paras 461-463. The Chamber recalls, as discussed above, that it does not consider D-0105's testimony to be reliable. The Chamber notes that D-0085, part of Dominic Ongwen's Sinia brigade, testified that 'more than a hundred' LRA forces went to Abok IDP camp and that the people who went to Abok were 'much more' than the people who went to Pajule. D-0085: [T-239](#), p. 20, lines 12-15, p. 24, lines 23 – p. 25, line 2. The Chamber notes that D-0085 played a minor role in the LRA's attack on Abok IDP camp, tasked with running into the camp and collecting food. Further, given the evidence of the Pajule attack, as discussed above, in particular, the credible, consistent and ample evidence that a multitude of LRA forces convened for that attack, as well as the testimony of the LRA fighters who actually fought within the Abok IDP camp and testified to the presence of less LRA fighters, the Chamber is unconvinced by D-0085's evidence in this aspect. The Chamber also notes that some camp residents indicated that around 100 LRA fighters attacked Abok. P-0304: [T-133](#), p. 27, lines 14-24 (P-0304 was told by an escaped LRA fighter that there were 104 soldiers who attacked Abok); P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 35 (in 2008, P-0306 spoke to a returned LRA fighter, around 17 years old, who claimed to have participated in the Abok attack, the fighter informed him that there had been 104 soldiers participating in the attack). See also P-0306: [T-130](#), p. 71, lines 2-10. The Chamber notes that both of these witnesses testify to hearing this number from an escaped abductee. The specificity of the number implies that the same abductee spoke to both witnesses.

<sup>4971</sup> P-0406: [T-154](#), p. 67, lines 1-3.

<sup>4972</sup> P-0406: [T-155](#), p. 66, lines 11-12.

people' were selected for the Abok attack.<sup>4973</sup> In light of these witnesses' testimony, the Chamber considers that at least 20 LRA fighters went to attack Abok.<sup>4974</sup>

1882. Witnesses credibly and consistently testified that there were children younger than 15 years old among the LRA forces that attacked Abok IDP camp. P-0054 testified that among the group of LRA fighters sent to Abok were people approximately 13 years old.<sup>4975</sup> Consistent with this account of the presence of children younger than 15 years old among the LRA forces, Cyprian Ayoo testified that he could hear children's voices among the LRA, from the voices he concluded that the children were between the ages of 10 and 15 years old.<sup>4976</sup> He described what he saw when the children came into his view:

The children were really [...] they were really young. [...] They were actually young. If you would compare [...] in terms of fighting, one person would actually fight with three of those children. But as they were moving, they were moving with their heads straight up and very, very active.<sup>4977</sup>

1883. In light of the evidence, the Chamber is satisfied that children under the age of 15 participated in the attack on Abok IDP camp.

1884. The Chamber is also satisfied that credible and consistent evidence shows that the LRA forces attacked Abok IDP camp with weapons including guns, clubs and machetes.<sup>4978</sup>

1885. The witnesses, both LRA insiders and residents of the camp, agree that the gunshots began in the evening of 8 June 2004, testifying to a range of times between 19:00 and

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<sup>4973</sup> P-0330: [T-52](#), p. 29, lines 8-11.

<sup>4974</sup> See also P-0280: [T-84](#), p. 38, lines 8-15 (while P-0280 could not give the exact number, he estimated that over 40 LRA fighters came to attack Abok). The Chamber notes that P-0280 is a camp resident who was abducted during the Abok attack and so observed the contingent returning from the attack.

<sup>4975</sup> P-0054: [T-93](#), p. 35, lines 9-18, p. 36, lines 5-17 (P-0054 saw a group of 'young children' about 13 years old whom he identified as LRA fighters beating a child). See also P-0406: [T-154](#), p. 67, lines 11-20 (some of the fighters sent to Abok IDP camp were '13, 14, 15, 16 as well' who had tasks like blowing whistles, hitting jerry-cans and making noise).

<sup>4976</sup> P-0293: [T-138](#), p. 23, lines 2-15.

<sup>4977</sup> P-0293: [T-138](#), p. 23, lines 18-25.

<sup>4978</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at paras 20, 23 (Jacob Opio saw LRA fighters outside of his house with guns and pangas); P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 34-35 (P-0284 saw that some of the attacking rebels had guns and others had clubs); P-0293: [T-138](#), p. 24, lines 5-16 (among the LRA fighters, P-0293 saw children carrying sticks and machetes and adults with guns); P-0286: [T-131](#), p. 16, lines 13-16, p. 23, lines 2-7 (P-0286 saw that one of the LRA fighters carried an RPG); P-0280: [T-83](#), p. 53, lines 11-14 (P-0280 saw rifles, AK47s, LMGs, J2s and PKs with the LRA fighters).

20:45.<sup>4979</sup> The Chamber is further satisfied by the consistent and credible testimony of several witnesses, all residents of the camp, who testified to first hearing gunshots coming from the direction where the armed men had been sighted earlier that day.<sup>4980</sup>

The Chamber is convinced by the testimony of these witnesses as to the date and time of the attack on Abok IDP camp.

**The LRA fighters went past the old barracks in the south of the camp and entered the camp, firing their guns. LRA fighters went to the civilian area in the camp and a contingent of the fighters eventually ended up near the new barracks in the north east of the camp. While government soldiers were able to defend the new barracks, the soldiers within the camp itself were not able to stop the LRA's attack on the camp. These soldiers in the camp fled. The LRA attacked the civilians in the camp.**<sup>4981</sup>

1886. The Chamber observes that the testimony of the Abok IDP camp residents about the start of the fighting and the movement of the LRA fighters is consistent with that of the LRA fighters who participated in the attack as well as with that of a government soldier who was present during the attack. The witnesses describe a scene in which LRA fighters outside the camp exchanged fire with government soldiers who were at the boundaries of the camp or within the camp.

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<sup>4979</sup> P-0280: T-83-CONF, p. 43, lines 14-20; [T-83](#), p. 45, lines 10-21 (Abok was attacked by LRA soldiers on 8 June 2004 and P-0280 heard gunshots from around 20:00); P-0054: [T-93](#), p. 34, lines 20-22 (the 8 June 2004 attack on Abok began between 19:00-20:00); P-0286: [T-131](#), p. 9, lines 22-24, p. 14, lines 19-22 (between 19:00-20:00, P-0286 heard gunshots from the direction that the rebels had passed around, from the direction of the old barracks); P-0293: [T-138](#), p. 17, line 25 – p. 19, line 3 (around 20:00, P-0293 heard a gunshot from the direction of the old barracks); P-0304: [T-133](#), p. 15, lines 11-16, p. 55, lines 11-13 (the initial gunshots came from the direction of the Abok school, at around 20:00); P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 29 (the 8 June 2004 attack on Abok began at 20:45).

<sup>4980</sup> P-0306: [T-130](#), p. 54, lines 19-24 (in the beginning, the gunfire came from the side where the rebels were approaching). *See also* P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 22 (people started hearing gunshots from the south-western side of the camp). The Chamber notes that some witnesses testified that the gunshots came from the direction of the old barracks, while others said that the gunshots came from the direction of the school. P-0286: [T-131](#), p. 9, lines 22-24, p. 14, lines 19-22 (between 19:00-20:00, P-0286 heard gunshots from the direction that the rebels had passed around, from the direction of the old barracks); P-0293: [T-138](#), p. 17, line 25 – p. 19, line 3 (around 20:00, P-0293 heard a gunshot from the direction of the old barracks). *See* P-0286's sketch of Abok IDP Camp, UGA-OTP-0248-0091-R01; P-0293's sketch of Abok IDP Camp, UGA-OTP-0248-0058-R01. P-0304: [T-133](#), p. 15, lines 11-16 (the initial gunshots came from the direction of the Abok school); P-0280: [T-84](#), p. 36, line 24 – p. 37, line 4 (the gunfire started from the area of the school where the LRA soldiers had gone). During its site visit to the former Abok IDP camp, the Chamber observed that both the old barracks and the school are on the south side of Abok, although not in the same location. [Annex to the Registration into the Record of the Case of the Site Visit Report pursuant to Trial Chamber Decision ICC-02/04-01/15-1211 of 27 March 2018](#), 27 June 2018, ICC-02/04-01/15-1292-Anx, at 9-11. Thus, both accounts of the direction of the first gunfire, whether referencing the old barracks or school, are consistent with the Chamber's observations that the school and the old barracks were roughly in the same direction when viewed from the vicinity of the camp centre.

<sup>4981</sup> Para. 194 above.

1887.P-0340 and P-0330, both LRA fighters in Sinia brigade, testified that the fighting began while the LRA fighters were still setting up their formations and government soldiers at the boundaries of the camp recognised the presence of the LRA and started firing at them.<sup>4982</sup> P-0330 indicates that the entire LRA contingent in Abok were not together when the fighting began. He testified that he was in a group of just five LRA fighters when they set the formation for the battle.<sup>4983</sup> P-0054, also a fighter in Sinia brigade, commanded by Dominic Ongwen, gave evidence which corroborates this account, testifying that as they approached Abok, the LRA fighters split up.<sup>4984</sup> P-0054 further testified that his group heard gunfire while still in the bush and ran and found that the people, i.e. LRA fighters, had scattered.<sup>4985</sup> The Chamber finds these witnesses' accounts consistent and credible.

1888.P-0330 and P-0340 testified that the LRA fighters fired back at the government soldiers and headed towards the camp.<sup>4986</sup> Similarly, Cyprian Ayoo, one of the camp's leaders, testified that he could hear the fighting coming towards the camp.<sup>4987</sup>

1889.Camp residents, who were within the camp at the time of the attack, testified to hearing escalating gunfire.<sup>4988</sup> Cyprian Ayoo described gunshots firing and subsiding with increasing intensity.<sup>4989</sup> Charles Amodo testified that the shooting would subside at some point and then begin again.<sup>4990</sup> Both Charles Amodo and Robson Oper testified that the

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<sup>4982</sup> P-0340: [T-102](#), p. 39, lines 16-22 (the attack started while the LRA fighters were still getting into their formations. The government soldiers overheard the LRA making noise and started shooting and the LRA started firing back); P-0330: [T-52](#), p. 31, lines 6-11; T-55-CONF, p. 37, lines 4-8 (before the formation was final, the government soldiers who were at the border of the camp recognised the LRA fighters and started firing). See P-0252, also an LRA fighter, gave a corroborating account of events, testifying that there was gunfire between the LRA and the government soldiers. P-0252: [T-87](#), p. 74, lines 4-8.

<sup>4983</sup> P-0330: [T-52](#), p. 30, line 23 – p. 31, line 1.

<sup>4984</sup> P-0054: [T-93](#), p. 33, lines 8-9.

<sup>4985</sup> P-0054: [T-93](#), p. 33, lines 9-10.

<sup>4986</sup> P-0340: [T-102](#), p. 40, lines 1-4 (during the attack P-0340 instinctively started firing back at the government soldiers and ran towards the battlefield); P-0330: [T-52](#), p. 31, lines 12-14; T-55-CONF, p. 37, lines 4-10 (the LRA fighters shot back at the soldiers while advancing towards them).

<sup>4987</sup> P-0293: [T-138](#), p. 22, lines 4-5.

<sup>4988</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 20 (the gunshots were few at first but then intensified); P-0306: [T-130](#), p. 60, lines 5-15 (P-0306 and the Political Commissioner were moving around in the camp when the gunshots began and they tried to move ahead but realised that the gunshots were increasing); P-0286: [T-131](#), p. 9, line 24 (the gunshots carried on and intensified). The Chamber notes that the testimony of defence witness D-0065, an LDU soldier, is consistent with the camp residents' accounts of the intensifying gunfire. D-0065: [T-211](#), p. 21, lines 1-12.

<sup>4989</sup> P-0293: [T-138](#), p. 21, line 18 – p. 22, line 8 (after the initial gunshot, several shots came and then the gunfire subsided, the initial exchange lasted from five to ten minutes. The gunfire then began again suddenly. Then the gunshots began again a third time and that was the heaviest fighting).

<sup>4990</sup> P-0304: [T-133](#), p. 55, lines 14-19.

shooting continued for some time.<sup>4991</sup> The Chamber finds these witnesses' accounts credible and reliable. The Chamber is convinced by the above witnesses' consistent and overlapping evidence that there was gunfire as LRA forces moved on the camp.

1890. The evidence does not preclude that there was an exchange of gunfire between government soldiers and LRA fighters within the camp itself.<sup>4992</sup> The Chamber notes the evidence provided by Dorcas Ayo, a young camp resident, who testified that while she and her family were hiding in their home, a UPDF soldier squatted by their door and was shooting at the rebels.<sup>4993</sup> Dorcas Ayo indicated that her home was near the new barracks.<sup>4994</sup> Given the location of the new barracks on the northeast side of the camp, this allows that LRA fighters may have already been within in the camp when this exchange of fire took place. Dorcas Ayo testified that when the fighting got heavier, the soldier ran away and there were many rebels in the camp.<sup>4995</sup>

1891. The Chamber also recalls Douglas Obwor's testimony that when the battle intensified, the gunshots were coming from all over the place including from where the government soldiers were based.<sup>4996</sup> Charles Amodo corroborates Douglas Obwor's testimony.<sup>4997</sup>

1892. However, regardless of whether there was an exchange of gunfire between LRA fighters and government soldiers within the camp itself, the Chamber is convinced by the credible and reliable evidence of witnesses that the government soldiers in the camp centre were quickly overwhelmed and fled.<sup>4998</sup> Further, as discussed below, the Chamber is utterly unconvinced by the claim that government soldiers fired indiscriminately into Abok IDP camp and/or committed the crimes that the Prosecution attributes to the LRA.<sup>4999</sup> The credible and reliable evidence shows that on 8 June 2004, government soldiers fled from

<sup>4991</sup> P-0304: [T-133](#), p. 55, lines 14-19; P-0286: [T-131](#), p. 10, line 4.

<sup>4992</sup> This is outside of an exchange of gunfire that occurred at the barracks and is discussed further below.

<sup>4993</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 16.

<sup>4994</sup> See P-0281 Statement, UGA-OTP-0261-0257-R01, at paras 14, 17 (P-0281 testified that she lived in a hut near the barracks, making no distinction between the old and new barracks. In the context of her testimony, particularly that she described the barracks as populated by soldiers and the evidence shows that the old barracks was no longer in use, the Chamber concludes that P-0281 makes reference to the 'new barracks').

<sup>4995</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 16.

<sup>4996</sup> P-0306: [T-130](#), p. 54, line 19 – p. 55, line 1.

<sup>4997</sup> P-0304: [T-133](#), p. 16, lines 8-20 (there was gunfire 'coming from all over the place'. P-0304 was not sure who was responsible for firing the guns). See P-0304: [T-133](#), p. 7, lines 19-20.

<sup>4998</sup> The Chamber notes that these witnesses' evidence is consistent with and corroborates each other.

<sup>4999</sup> The Chamber recalls D-0105 and D-0121's testimony and recalls its discussions above concerning the unreliability of these witnesses' testimony. See D-0105: [T-190](#), p. 32, line 14 – p. 33, line 11; D-0121: [T-213](#), p. 41, line 16 – p. 42, line 3.

the centre of Abok IDP camp while LRA fighters entered the camp and committed crimes within it. This evidence also forecloses the possibility that the crimes could have been committed by the government soldiers after the LRA retreated.

1893. In this context, the Chamber notes camp resident Cyprian Ayoo testified that after several exchanges of gunfire, he heard government soldiers within the camp saying that ‘these people have defeated us so we should all run away’.<sup>5000</sup> Similarly, camp resident Robson Oper stated that the government soldiers within the camp exchanged fire with the rebels but the rebels were stronger and they were able to chase away the soldiers who were providing protection to the camp residents.<sup>5001</sup> Camp resident Charles Amodo corroborates these accounts, testifying that there was an exchange of gunfire between the rebels and the government soldiers and the soldiers in the camp itself were outnumbered and they fled.<sup>5002</sup> P-0280 also provides evidence which corroborates these accounts, testifying that the government soldiers who were guarding the camp fled after running out of ammunition and realising that they could no longer defend themselves.<sup>5003</sup>

1894. The testimony of D-0065, a government soldier, corroborates these witnesses’ accounts and is evidence of the behaviour of the government soldiers. D-0065 testified that the government soldiers ran out of bullets and withdrew from the fight.<sup>5004</sup> D-0065 testified further that he personally had only three bullets to defend himself.<sup>5005</sup> He stated that the other soldiers also had only a few bullets, perhaps five or six, so having run out of bullets, they withdrew out of the camp.<sup>5006</sup> Witnesses also testify that the UPDF officer in charge of the camp fled the camp.<sup>5007</sup>

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<sup>5000</sup> P-0293: [T-138](#), p. 22, lines 16-20.

<sup>5001</sup> P-0286: [T-131](#), p. 10, lines 5-8.

<sup>5002</sup> P-0304: [T-133](#), p. 17, lines 9-10.

<sup>5003</sup> P-0280: [T-84](#), p. 43, lines 9-13, p. 44, lines 10-19.

<sup>5004</sup> D-0065: [T-211](#), p. 21, lines 13-14.

<sup>5005</sup> D-0065: [T-211](#), p. 21, lines 13-14. *See also* p. 22, line 21 – p. 23, line 4.

<sup>5006</sup> D-0065: [T-211](#), p. 22, line 21 – p. 23, line 10.

<sup>5007</sup> D-0065: [T-211](#), p. 23, line 13-19 (UPDF Commander Mugabe, fled Abok IDP camp during the attack holding a chicken); P-0306: [T-130](#), p. 9, line 17 – p. 10, line 2 (the UPDF Commander in charge of the camp at the time had fled upon rumours of the LRA’s impending attack); D-0084: [T-235](#), p. 32, lines 5-13 (UPDF Commander Mugabe fled the camp as did the junior soldiers).

1895. P-0330's testimony that as the government soldiers in the camp centre fled, the LRA fighters also started running to enter the camp<sup>5008</sup> is corroborated by the evidence on the LRA's movement within the camp.

1896. This evidence shows that even after the government soldiers had fled, the LRA fighters continued to fire their weapons as they moved through the camp. In particular, the Chamber recalls the evidence provided by P-0280, one of the camp residents who was abducted during the attack and later escaped from the LRA. P-0280 testified that the LRA fighters shot their guns as they moved ahead in the camp.<sup>5009</sup> He stated that there was 'a lot [of fire] within the camp. The fighters did not care whether there were civilians there or not'.<sup>5010</sup> P-0280 also indicated that there were no soldiers ahead of the LRA when this shooting was going on.<sup>5011</sup>

1897. In addition to hearing shooting after the government soldiers had fled, camp residents reported hearing noises and seeing fires burning throughout the camp.<sup>5012</sup>

1898. As to where the LRA fighters went in the camp, the Chamber recalls Charles Amodo's testimony that the rebels came in from the direction of the camp that was most populated, the Iceme side, as opposed to the Lalogi side which was less populated.<sup>5013</sup> The Chamber notes that the Iceme side referenced by the witness is the southern part of the camp, thus this testimony is consistent with the Chamber's earlier finding about the direction from which the LRA fighters moved on the camp. The Chamber notes the evidence, discussed further below, that while LRA fighters were moving on the camp, there were government soldiers in the barracks who were able to repel the LRA's attack on the barracks.<sup>5014</sup>

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<sup>5008</sup> P-0330: [T-52](#), p. 31, lines 12-15; T-55-CONF, p. 37, lines 10-11.

<sup>5009</sup> P-0280: [T-84](#), p. 42, line 25 – p. 43, line 8.

<sup>5010</sup> P-0280: [T-83](#), p. 46, lines 2-4.

<sup>5011</sup> P-0280: [T-84](#), p. 42, line 25 – p. 43, line 8.

<sup>5012</sup> P-0304: [T-133](#), p. 8, lines 1-8, p. 57, lines 17-21, p. 67, lines 5-11 (when the LRA came to P-0304's home and forced him outside, he found the whole camp was very bright, there were gunshots going on all around the camp, fire was burning all around and there was a lot of noise. He heard the sounds of the cocking and shooting of guns not only next to him but all over the camp); P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 20 (while Jacob Opio could not see what was going on outside his house, he could hear the shouting, clanging sounds, gunshots and the crackling sound of houses being burnt); P-0286: [T-131](#), p. 10, line 4-5 (P-0286 heard people whistling while others were burning the camp). *See also* P-0286: [T-132](#), p. 10, line 21 – p. 11, line 7. The Chamber notes that in the context of these witnesses' full testimony, the government soldiers had fled at this point in time.

<sup>5013</sup> P-0304: [T-133](#), p. 68, lines 13-21.

<sup>5014</sup> *See* paras 1963-1967 below.

1899. At this juncture, the Chamber provides a more specific assessment of the available evidence concerning the numerous acts of violence, looting and destruction of property perpetrated by LRA fighters against civilians in the course of the attack on Abok IDP camp, as well as its immediate aftermath. As also emerges from the evidence analysed below, the victims targeted by the LRA attackers were civilian residents of the camp.

**The LRA fighters looted civilian houses and shops at the trading centre, taking away food items such as sugar, flour, beans, maize, goats, cooking oil, biscuits and salt, as well as a radio, money, clothing, cooking utensils and medicine. At times, while demanding the goods, LRA fighters would use violence.**<sup>5015</sup>

1900. The Chamber finds that the evidence shows that LRA fighters looted Abok IDP camp during the 8 June 2004 attack. Both the camp residents and LRA fighters who participated in the attack gave credible evidence in this regard.

1901. Camp residents provided credible and mutually corroborative evidence that household goods, including food, were looted from the camp. Cyprian Ayoo testified that when the people returned in the morning after the attack, there were no food items left, the rebels took the food items as well as cooking utensils that were newly distributed.<sup>5016</sup> Several camp residents reported that LRA fighters had taken items such as money, clothes, medicines, various food items like sugar and beans, cooking utensils, a radio, bed-sheets and other household goods.<sup>5017</sup> Cyprian Ayoo testified that the looted items were collected and put at one location.<sup>5018</sup> Consistent with the other witnesses' testimony, Robson Oper testified that he knew the items he saw with the LRA were looted from

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<sup>5015</sup> Para. 195 above.

<sup>5016</sup> P-0293: [T-138](#), p. 26, lines 3-7. *See also* P-0306: [T-130](#), p. 60, lines 2-4 (after he returned from the bush, he was told that when the gunfire subsided, the rebels started breaking in and looting the things that were in the camp).

<sup>5017</sup> P-0304: [T-133](#), p. 18, lines 7-13 (LRA soldiers took clothes from his home); P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 32 (the LRA looted food items such as sodas, biscuits and sugar); P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 18 (the rebel fighters entered her home and looked through her family's belongings, eventually removing money and clothes before moving on to the next house); P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 25 (the rebels who came into his house looting things in the house including a radio, clothes, beans, maize, pigeon peas, cooking utensils, a suitcase, a luggage bag and other smaller items); P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 41 (the rebels looted foodstuffs like beans, sim-sim, goats and other relief supplies like cooking pots from the camp); P-0293: [T-138](#), p. 24, lines 5-11 (he saw the LRA break into a house that contained medicines that were supposed to aid residents in the camp and that the LRA carried away the stock or medicine and went on to other houses).

<sup>5018</sup> P-0293: [T-138](#), p. 24, lines 21-24.

people's houses because the LRA did not have gardens where they cultivated crops, nor did they have goats, so they untied goats from people's households and took them.<sup>5019</sup>

1902. The evidence provided by LRA fighters is consistent with the camp residents' account. P-0340 testified that the LRA fighters had been instructed to go and collect food from the camp,<sup>5020</sup> and that they followed instructions and collected materials from the camp:

I know that most of the people who headed towards the camp had the same intention, to carry stuff and run. So the person would run, pick up something and then run. You go into a house, you find something, you take it.<sup>5021</sup>

1903. P-0340 testified that the LRA took beans and flour from the camp.<sup>5022</sup> P-0330 offers a similar account as P-0340, testifying that during the attack, LRA fighters looted the shops, eating biscuits, drinking soft drinks and taking money<sup>5023</sup> and also looted houses, taking bed-sheets, saucepans, and foodstuffs like beans and flour.<sup>5024</sup> Corroborating these accounts, P-0252 testified that the LRA looted maize grains, and that he was given maize and cooking oil to carry from Abok.<sup>5025</sup> Similarly, D-0085 corroborates the above accounts, testifying that she saw LRA forces ransacking shops and also saw LRA forces taking food from civilians homes and personally took foodstuff from Abok IDP camp<sup>5026</sup>

1904. The UPDF report, dated August 2004, supports the witnesses' account, noting that the LRA took animals, foodstuff and other household items from Abok.<sup>5027</sup>

1905. Some LRA fighters also reported firing their weapons as they looted in Abok IDP camp. P-0340 testified that the LRA members fired their guns and headed to the locations where they were supposed to pick up food.<sup>5028</sup> Consistent with this account, P-0406 testified that some LRA fighters fired guns while others looted, stating:

<sup>5019</sup> P-0286: [T-131](#), p. 33, lines 13-18.

<sup>5020</sup> P-0340: [T-102](#), p. 38, line 23 – p. 39, line 1. *See also* D-0085: [T-239](#), p. 23, lines 11-14.

<sup>5021</sup> P-0340: [T-102](#), p. 41, lines 1-3. *See also* [T-103](#), p. 49, lines 22-23.

<sup>5022</sup> P-0340: [T-102](#), p. 40, lines 18-20.

<sup>5023</sup> P-0330: T-52-CONF, p. 33, lines 8-14.

<sup>5024</sup> P-0330: T-52-CONF, p. 34, lines 3-6, p. 35, lines 13-16.

<sup>5025</sup> P-0252: [T-87](#), p. 78, lines 19-22, p. 79, line 24 – p. 80, line 16, p. 81, lines 7-9; [T-89](#), p. 40, lines 1-15.

<sup>5026</sup> D-0085: [T-239](#), p. 28, lines 2-5, p. 29, lines 12-15, p. 34, lines 7-14.

<sup>5027</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5028</sup> P-0340: [T-102](#), p. 40, lines 7-10.

You know, when you line up and then you start firing, some people would be running to go and collect food items, others would just be firing their guns so that people would be able to loot some food items to go back with to the bush.<sup>5029</sup>

1906. In line with the testimony that LRA fighters fired weapons as they looted, the Chamber recalls witness testimony that often times the LRA were violent when demanding items from civilians. The Chamber notes its discussion of the LRA's behaviour when demanding goods from civilians.<sup>5030</sup> In this context, the Chamber notes Dorcas Ayo's testimony that the rebels that entered her house during the attack all carried guns; they asked her father for money and one of them began to beat him with the butt of a gun.<sup>5031</sup> Dorcas Ayo testified that the rebel fighter was beating her father so much she thought he would be killed.<sup>5032</sup>

1907. Robson Oper testified that the rebels made him show them the shops in the camp.<sup>5033</sup> He took them to the first shop and there was merchandise inside.<sup>5034</sup> The rebels gave him an axe to break down the door and when it opened the rebels sent him in to get the items they wanted.<sup>5035</sup> The rebels identified what was useful to them and items deemed useless were abandoned.<sup>5036</sup> Robson Oper testified that the rebels moved on to the next shop and after finding nothing in the shops, they beat him severely.<sup>5037</sup> They continued to beat him despite his pleading.<sup>5038</sup> When they reached the next shop after that, the rebels told him that if there were no items in that shop, they would kill him.<sup>5039</sup> Robson Oper testified that when they reached the shop, there were items in that shop and the LRA fighters again gave him an axe to break down the door and retrieve items.<sup>5040</sup> Robson Oper testified that the LRA fighters looted cooking oil, biscuits, salt, sweets and other edible items from the shops.<sup>5041</sup>

<sup>5029</sup> P-0406: [T-155](#), p. 69, lines 4-7.

<sup>5030</sup> *See for example* the discussion of the murder of Albino Okal and Justina Akullu.

<sup>5031</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 18.

<sup>5032</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 18.

<sup>5033</sup> P-0286: [T-131](#), p. 10, lines 22-24.

<sup>5034</sup> P-0286: [T-131](#), p. 10, lines 23-24.

<sup>5035</sup> P-0286: [T-131](#), p. 10, line 24 – p. 11, line 2.

<sup>5036</sup> P-0286: [T-131](#), p. 11, lines 2-4.

<sup>5037</sup> P-0286: [T-131](#), p. 11, lines 5-6.

<sup>5038</sup> P-0286: [T-131](#), p. 11, lines 5-10.

<sup>5039</sup> P-0286: [T-131](#), p. 11, lines 10-13.

<sup>5040</sup> P-0286: [T-131](#), p. 11, lines 13-15.

<sup>5041</sup> P-0286: [T-131](#), p. 17, lines 7-12.

1908. The Chamber notes that LRA fighter P-0054 testified that not much was looted from Abok IDP camp. P-0054 testified that nobody actually carried food from Abok because the situation was extremely chaotic.<sup>5042</sup> Given the volume of evidence to the contrary, the Chamber does not find the witness reliable in this regard. The Chamber finds it significant that he testified that he did not enter Abok IDP camp during the attack and stayed outside the camp.<sup>5043</sup> The Chamber does not imply that the witness was untruthful in this aspect of his testimony. Rather, given the circumstances, it is possible that the witness was sincere but not reliable as to what actually occurred in relation to what was taken from the camp by LRA fighters.

1909. In the light of the foregoing, the Chamber finds that the LRA looted houses and shops in the trading centre during the 8 June 2004 Abok IDP camp attack.

**LRA fighters set huts on fire in the camp, taking grass from burning thatched roofs to set other huts on fire. Several hundred civilian homes were burnt during the attack. Civilians' food stocks were also destroyed.**<sup>5044</sup>

1910. The Chamber is convinced by the evidence showing that LRA fighters destroyed property in Abok IDP camp, set houses on fire and destroyed civilians' household goods, including their food stocks. The Chamber finds that the evidence is clear that LRA fighters deliberately set fire to civilian dwellings.

1911. In the intercepted radio communication, Dominic Ongwen himself says, talking of the 8 June 2004 Abok IDP camp attack: 'we burnt everything that was there including all the huts even the camp and the barracks'.<sup>5045</sup> Further, the Chamber recalls the testimony of P-0406, an LRA fighter who participated in the Abok attack, and stated that the LRA deliberately burnt Abok IDP camp.<sup>5046</sup> The Chamber found his account credible and reliable. The Chamber particularly notes that P-0406 testified to personally setting two to three houses on fire in Abok.<sup>5047</sup> [REDACTED]

<sup>5042</sup> P-0054: [T-93](#), p. 35, lines 19-21.

<sup>5043</sup> See P-0054: [T-93](#), p. 33, lines 13-19, p. 35, lines 2-5.

<sup>5044</sup> Para. 196 above.

<sup>5045</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0125-0127; P-0003: [T-43](#), p. 33, line 19 – p. 38, line 19; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0089-0090; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0543-0545; P-0059: [T-37](#), p. 15, line 25 – p. 20, line 15, p. 21, lines 12-21 and p. 22, line 20 – p. 23, line 18; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0383-0384; P-0440: [T-40](#), p. 36, line 15 – p. 39, line 9.

<sup>5046</sup> See P-0406: [T-154](#), p. 68, line 8.

<sup>5047</sup> P-0406: T-154-CONF, p. 70, lines 7-12.

████████████████████ P-0330 corroborates P-0406's testimony, testifying also that LRA fighters set houses on fire.<sup>5048</sup>

1912. Camp residents also witnessed LRA fighters set houses on fire during the attack. Cyprian Ayoo testified that the rebels would remove grass from one of the huts and put it on fire and then torch other houses until the fire spread in the camp.<sup>5049</sup> Jacob Opio corroborates this account, testifying that he saw rebels setting houses on fire using lit grass from one house to the next.<sup>5050</sup> Similarly, Robson Oper testified that he saw the rebels set the civilian houses on fire,<sup>5051</sup> saying that the LRA fighters would torch one house and then go some distance to torch another.<sup>5052</sup> Robson Oper stated, 'I saw the houses that were being burnt. Nobody told me these things, I witnessed it personally'.<sup>5053</sup> Robson Oper testified that the flames from the houses had 'lightened up the place and it was clear'.<sup>5054</sup> The Chamber notes that Robson Oper was able to identify an LRA fighter named Opio as being among the fighters who torched the houses.<sup>5055</sup> Recalling its finding about Robson Oper's credibility, the Chamber considers that the other witnesses' accounts of the burning of Abok adequately corroborate his testimony and thus finds his account credible and reliable on this point.

1913. The Chamber also recalls Dorcas Ayo's testimony that she saw the rebels setting houses on fire after they had looted things.<sup>5056</sup> The Chamber notes that Dorcas Ayo testified that the rebels used matches to light the fires and were setting houses on fire on both sides of the road;<sup>5057</sup> the Chamber does not find this account inconsistent with the other witnesses' accounts.

<sup>5048</sup> P-0330: T-52-CONF, p. 32, lines 6-7 and 15-21.

<sup>5049</sup> P-0293: [T-138](#), p. 23, line 18 – p. 24, line 3.

<sup>5050</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 26.

<sup>5051</sup> P-0286: [T-131](#), p. 10, lines 8-10. *See also* P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28 (she too saw rebels setting houses on fire).

<sup>5052</sup> P-0286: [T-131](#), p. 18, lines 11-18. *See also* P-0406: T-154-CONF, p. 70, lines 7-12 (the houses in the camp were very close together so he did not know if other houses also caught fire).

<sup>5053</sup> P-0286: [T-132](#), p. 10, line 21 – p. 11, line 2.

<sup>5054</sup> P-0286: [T-131](#), p. 18, lines 11-15. *See also* [T-132](#), p. 11, lines 8-13.

<sup>5055</sup> P-0286: [T-131](#), p. 18, line 21 – p. 19, line 15.

<sup>5056</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 20.

<sup>5057</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 20.

1914. Witnesses testified that the houses in the camp were close together.<sup>5058</sup> This proximity caused other homes within the camp to catch fire.<sup>5059</sup>

1915. It is clear from the evidence that the scale of the damage to homes in Abok was enormous. LRA fighter P-0340 testified that many of the huts got burnt.<sup>5060</sup> He noted that as the LRA fighters started retreating from the camp, they turned back and saw that there was fire and that houses had been set on fire.<sup>5061</sup> Even after they had gone far, the fire was still raging.<sup>5062</sup>

1916. As to the number of homes that burnt in Abok, the Chamber is unable to determine the exact number of homes that were destroyed; however, the evidence shows that the destroyed homes numbered in the hundreds.

1917. Camp official Cyprian Ayoo testified that it was difficult to estimate the exact number of destroyed homes because things were very chaotic.<sup>5063</sup> He stated that about 200 houses in the camp were not burnt but all the others were burnt.<sup>5064</sup> Another camp official, Douglas Obwor, testified that all the houses on the southern side of the camp were burnt.<sup>5065</sup> Similarly, camp resident Gwentorina Akite testified that when she returned to the camp the day after the attack, the huts that had been there before had all been destroyed, only houses with ‘iron sheets’ survived.<sup>5066</sup> Gwentorina Akite stated that she could not estimate the number of huts; there were so many and on the side of the camp where she was living, there were no huts left.<sup>5067</sup>

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<sup>5058</sup> P-0406: T-154-CONF, p. 70, lines 7-12 (the houses in the camp were very close together so he did not know if other houses also caught fire); P-0293: [T-139](#), p. 14, line 11 – p. 15, line 1 (houses in the camp were built very close together)

<sup>5059</sup> P-0286: [T-131](#), p. 18, lines 11-18 (because the houses were so close, when one started burning it would automatically burn the others); P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 40 (the rebels burnt many huts because the huts were built close together).

<sup>5060</sup> P-0340: [T-102](#), p. 53, lines 17-24.

<sup>5061</sup> P-0340: [T-102](#), p. 40, line 23 – p. 41, line 5.

<sup>5062</sup> P-0340: [T-102](#), p. 53, lines 17-24; [T-103](#), p. 56, line 20-24.

<sup>5063</sup> P-0293: [T-138](#), p. 41, line 24 – p. 42, line 4.

<sup>5064</sup> P-0293: [T-138](#), p. 41, line 24 – p. 42, line 3.

<sup>5065</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 31.

<sup>5066</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 32.

<sup>5067</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 32.

1918. The Chamber notes that in the radio communication between Dominic Ongwen and other LRA members intercepted by Ugandan government forces, Dominic Ongwen stated that only 30 out of 600 houses were left unburnt in the attack.<sup>5068</sup>

1919. Reports from the Ugandan police force, signed by P-0126, then a police officer with the Ugandan police, also report on the number of homes burnt.<sup>5069</sup> An information report from the Ugandan police, dated 10 June 2004, reported on ‘rebel activities. Yesterday 09/06/2004 around 0300 HRS in Abok IDP camp... Rebels overran Amuka militia detach and set ablaze over 380 huts...’.<sup>5070</sup> A subsequent report dated the next day, 11 June 2004, reported on ‘656 huts set ablaze’.<sup>5071</sup>

1920. An intelligence report by the UPDF, dated 20 June 2004, with a field report on the Abok attack gave an update on the attack and listed ‘285 huts burnt’.<sup>5072</sup> The Chamber also notes that a UPDF report, dated August 2004, stated that 385 huts were burnt by the LRA during the Abok attack.<sup>5073</sup>

1921. The Chamber is satisfied that these are authentic reports from the Ugandan government created in the days and months after the Abok IDP camp attack. However, given the limited information about their creation, the Chamber declines to rely on them as primary evidence of the number of huts burnt in the camp. The Chamber does consider that these reports corroborate the witnesses’ testimonies and the intercepted radio communication, that the LRA burnt several hundred huts in the course of the attack on Abok IDP camp.

<sup>5068</sup> See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0124; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0542; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0381. See 9 June 2004 UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0324.

<sup>5069</sup> P-0126 Second Statement, UGA-OTP-0264-0002-R01, at paras 47-48.

<sup>5070</sup> Police Intelligence Report, UGA-OTP-0256-0308. This report is authenticated in P-0126’s prior recorded testimony as a 10 June 2004 information report concerning LRA activities on 9 June 2004. P-0126 was a retired police officer of the Ugandan police force and he signed the report. See P-0126 Second Statement, UGA-OTP-0264-0002-R01, at para. 48. The Chamber is satisfied that the report is the authentic information signed by P-0126 and reports on what the Ugandan police knew of the attack on 10 June 2004.

<sup>5071</sup> Police Intelligence Report, UGA-OTP-0256-0307. This report is authenticated in P-0126’s prior recorded testimony as an 11 June 2004 human intelligence report concerning the events of the Abok IDP camp attack. P-0126 was a Retired Police Officer of the Ugandan Police Force and he signed the report. See P-0126 Second Statement, UGA-OTP-0264-0002-R01, at para. 47. The Chamber is satisfied that the report is the authentic intelligence report signed by P-0126 and reports on what the Ugandan police knew of the attack on 11 June 2004.

<sup>5072</sup> 10 June 2004 Intelligence Report, UGA-OTP-0016-0434, at page 0439.

<sup>5073</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

1922. In light of the foregoing, the Chamber is utterly unconvinced by the speculation that ‘laser bullets’ during the exchange of gunfire between the parties caused the huts to be torched.

1923. In addition to the burnt huts, the LRA attack also resulted in large destruction of civilian goods and foodstuff. The Chamber particularly notes the testimony of one of the camp’s leaders, Cyprian Ayoo, who testified that when he came out of his hiding place, he saw a lot of destruction.<sup>5074</sup> Cyprian Ayoo saw houses burnt and things such as foodstuffs and clothes scattered all over the place,<sup>5075</sup> as well as chickens and goats that had been killed.<sup>5076</sup> Other witnesses, including Douglas Obwor, Charles Amodo and Dorcas Ayo, corroborate Cyprian Ayoo’s account. Douglas Obwor testified that many goats that were tied to houses were burnt as were some bicycles – only a few things remained in the houses with iron roofs and some cows were shot.<sup>5077</sup> Charles Amodo testified that the items in his house, including his and his family’s clothes, were scattered and destroyed by LRA fighters.<sup>5078</sup> Similarly, Dorcas Ayo testified that after the attack, the camp was all burnt up; she saw that the goats which had been tied to the verandas had all been burnt and cows were lying on the ground shot.<sup>5079</sup>

1924. Charles Amodo’s testimony corroborates the evidence on the scale of the destruction. Charles Amodo testified when he returned to the camp, around three months after the attack,<sup>5080</sup> there were a lot of changes: people did not have clothes, people had lost goats and chickens and many other things.<sup>5081</sup>

1925. In the light of the above, the Chamber finds that the LRA burnt several hundred huts, thus destroying the home of civilians in Abok IDP camp. The LRA also destroyed civilian household goods, including food stocks.

**In the course of the attack, LRA fighters killed civilians by shooting, burning and/or beating them. The attackers killed at least 28 civilian residents of the camp. In other**

<sup>5074</sup> P-0293: [T-138](#), p. 41, lines 12-16.

<sup>5075</sup> P-0293: [T-138](#), p. 41, lines 12-19.

<sup>5076</sup> P-0293: [T-138](#), p. 41, lines 21-23.

<sup>5077</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 31.

<sup>5078</sup> P-0304: [T-133](#), p. 8, lines 10-11, p. 18, lines 3-13.

<sup>5079</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 30.

<sup>5080</sup> P-0304: [T-133](#), p. 24, line 24 – p. 25, line 5.

<sup>5081</sup> P-0304: [T-133](#), p. 37, lines 13.

**instances, killings were not fully carried out by the LRA fighters because of independent circumstances.**<sup>5082</sup>

**Survivors returning the next morning found bodies strewn throughout the camp, including children. Some bodies were burnt or had the backs of their heads smashed, others had been shot. Dead bodies were found inside houses, at doorsteps and among the remains of burnt huts. These civilians were killed by LRA fighters. One of Dominic Ongwen's subordinate commanders intruded into a house with over 10 inhabitants, forced several to carry looted goods and then closed the door and set fire to the house with the remaining inhabitants inside.**<sup>5083</sup>

**The following persons were amongst those killed by the LRA in the course of the attack: Albino Okal, Justina Akullu, Hatari Anyima, D.P. Okello, Simon Okello, Alex Ogweng, Barikia Adonya, Fabio Ogweng and two of Hatari Anyima's children (Daniel Okite and Monica Ayugi) and Evelyn Akello.**<sup>5084</sup>

**LRA fighters also attempted to kill civilians in the camp. The following persons were amongst those the LRA attempted to kill within the camp: Jacob Opio, Cyprian Ogola and Robson Oper.**<sup>5085</sup>

1926. The Chamber finds that the evidence shows that during the 8 June 2004 attack on Abok, LRA fighters specifically targeted civilians and killed them. On some occasions, murders were not fully carried out because of independent circumstances. LRA fighters and camp residents provided credible and consistent evidence in this regard.

1927. P-0406, one of Dominic Ongwen's Sinia fighters, testified that the LRA burnt down occupied houses during the 8 June 2004 Abok IDP camp attack.<sup>5086</sup> P-0406 testified that during the attack, LRA fighters went to collect food at a civilian's house.<sup>5087</sup> P-0406 and other LRA fighters came to this house and found approximately 10 or more people in the house.<sup>5088</sup> When the people refused to carry food for the LRA as requested, the LRA beat them with the butts of their guns at the order of the commander.<sup>5089</sup>

1928. P-0406 testified that some of the people then came out and carried items for the LRA.<sup>5090</sup> As to the rest of the people, the commander bolted the door of the house from the outside

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<sup>5082</sup> Para. 197 above.

<sup>5083</sup> Para. 197 above.

<sup>5084</sup> Para. 198 above.

<sup>5085</sup> Para. 199 above.

<sup>5086</sup> P-0406: T-154-CONF, p. 68, lines 18 – p. 72, line 19.

<sup>5087</sup> P-0406: T-154-CONF, p. 68, lines 19-24.

<sup>5088</sup> P-0406: [T-154](#), p. 70, lines 19-25.

<sup>5089</sup> P-0406: T-154-CONF, p. 68, line 19 – p. 69, line 10 and p. 70, lines 19-25.

<sup>5090</sup> P-0406: T-154-CONF, p. 71, lines 9-10.

and set the house on fire with the people still inside.<sup>5091</sup> P-0406 testified that he did not know whether the people who were in the house died or whether they were able to come out and flee.<sup>5092</sup> The Chamber found P-0406's accounts of the actions of the LRA at this house graphically detailed, clear and consistent. The Chamber is of the view that the people in the houses were at least the victims of an attempted killing by LRA fighters.

1929. P-0406 testified that the LRA fighters then left and went to another hut.<sup>5093</sup> P-0406 testified that there were a number of people within that house, a mixture of children and adults.<sup>5094</sup> Regarding the events at this house, P-0406 also testified '[t]he goat was outside the house and people were in the house. And the house was set on fire. Everything burnt down, including the goat.'<sup>5095</sup> The Chamber also found P-0406's accounts of the actions of the LRA at this house graphically detailed, clear and consistent. The Chamber is of the view that the people in this house were killed by LRA fighters.

1930. P-0330, also a fighter in Dominic Ongwen's Sinia brigade, provides evidence consistent with and corroborative of P-0406's account that LRA fighters burnt people in their homes.<sup>5096</sup> P-0330 testified that some civilians died because they were burnt in their houses by the LRA fighters.<sup>5097</sup> P-0330 testified about why people stayed in their huts when the huts were set on fire:

Sometimes the houses are locked, usually locked from the outside. Because once we decide to go and attack a camp, then we have to, we have to do the worst, commit the worst atrocities. Sometimes the houses are burnt starting from the door. And the person is also standing at the door, the person who set the house on fire is standing at the door until the whole house burns down.<sup>5098</sup>

1931. P-0330 also offers evidence that the LRA targeted civilians in Abok IDP camp and killed them. P-0330 testified that [REDACTED] a seasoned LRA fighter gave an order to all soldiers to kill civilians and burn huts.<sup>5099</sup> According to P-0330, LRA fighters stabbed civilians with bayonets and also used axes they got from the village to

<sup>5091</sup> P-0406: T-154-CONF, p. 71, lines 9-19.

<sup>5092</sup> P-0406: T-154-CONF, p. 70, lines 1-4.

<sup>5093</sup> P-0406: T-154-CONF, p. 71, lines 20-22.

<sup>5094</sup> P-0406: [T-154](#), p. 72, lines 10-15.

<sup>5095</sup> P-0406: T-154-CONF, p. 72, lines 5-19.

<sup>5096</sup> P-0330: T-52-CONF, p. 32, lines 22-24.

<sup>5097</sup> P-0330: T-52-CONF, p. 32, lines 17-24.

<sup>5098</sup> P-0330: T-52-CONF, p. 33, lines 20-25.

<sup>5099</sup> P-0330: T-52-CONF, p. 35, line 21 – p. 36, line 9.

beat people.<sup>5100</sup> The Chamber notes that P-0330 [REDACTED]

[REDACTED].<sup>5101</sup> P-0330 testified that many civilians were killed in the Abok centre.<sup>5102</sup> The Chamber finds this account detailed, coherent and consistent with other evidence discussed here about the LRA's behaviour during their attack on Abok.<sup>5103</sup> As such, the Chamber finds that P-0330's testimony here is credible evidence that LRA fighters targeted civilians for killing.

1932. Other witnesses also testified that the LRA killed civilians in Abok by burning, and through other means. LDU officer D-0065 testified about the LRA's actions during the attack:

[The LRA] had already burnt houses in the camp. Some people were being pushed in the fire that was burning; they would be shot and pushed in the fire. Others were being shot from the houses, others were abducted when – [the LRA] took them alive, but they were killed on the way. Others were abducted and taken into the bush and have never returned up to now.<sup>5104</sup>

1933. Similarly, one of the camp's leaders, Cyprian Ayoo, testified about how LRA fighters killed people in the camp during the attack:

People were killed in various manners. Others were shot with a gun. Some of them were children who were abandoned in the house. They were burnt in the house. Some were battered on their heads with sticks. Some were cut with machetes ... [W]hen you find a gun hole or a bullet hole or a number of bullet holes on a person, a small bullet hole, then you confirm that the person has been shot, has died from gunshot wounds. If you find somebody who has been burned or – and the person has been burned to death, that means that they were burned by fire. If you find somebody who has been chopped, sometimes the places are swollen, that means that the person has been beaten. And that's how we determined the manner in which the person died. We decided that such and such a person died by being burnt because they were burnt, or being by gunshot wound because we found bullet holes, or by being beaten because their bodies were swollen... If the person had been chopped, then perhaps the person has been beaten on the skull and then the skull has been shattered, then it's not a machete. Because sometimes the person is

<sup>5100</sup> P-0330: T-52-CONF, p. 32, line 25 – p. 33, line 7, p. 36, lines 10-17.

<sup>5101</sup> P-0330: T-52-CONF, p. 36, lines 12-16.

<sup>5102</sup> P-0330: T-52-CONF, p. 36, lines 18-21.

<sup>5103</sup> Contrary to the Defence submission at para. 451 of the [Defence Closing Brief](#), the Chamber is of the view that the fact that P-0330 only mentions this seasoned soldier once in his testimony is insignificant and does not undermine the credibility of the testimony. It is understandable and reasonable that P-0330, a low ranking LRA fighter, received orders mid-fight from a higher ranking fighter other than Dominic Ongwen or Kalalang.

<sup>5104</sup> D-0065: [T-211](#), p. 21, lines 15-20 and p. 22, lines 11-12.

clubbed on the skull and the skull shatters. There are some people who were beaten and their arms were broken.<sup>5105</sup>

1934. The morning after the attack, camp residents found the bodies of the dead. These residents who were witnesses before this court spoke of the many persons killed in Abok. Cyprian Ogola testified that the morning after the attack, he and other camp officials walked through the camp and found many dead bodies; children, women and men.<sup>5106</sup> Some of the dead bodies were inside the houses, others were on the doorsteps as they tried to run and others were in the remains of burnt huts.<sup>5107</sup> Tommy Obote's testimony corroborates this account; he stated that when he came to the camp the day after the attack, he saw burnt huts and dead bodies.<sup>5108</sup> Similarly, Jacob Opio testified that when he came out of hiding after the attack, he saw people who had been burnt or shot to death; some people had been burnt to death in their houses.<sup>5109</sup> Robson Oper testified that when he returned from the bush, he heard of a woman who was fleeing with her child when the child entered a house and was burnt there.<sup>5110</sup> The child's body was found the morning after the attack.<sup>5111</sup> Dorcas Ayo testified to seeing the place where the government soldiers had gathered the dead bodies after the attack.<sup>5112</sup> Among the dead, Dorcas Ayo saw three people who had been hit on the head – she could see that the backs of their heads were smashed.<sup>5113</sup> P-0280 testified that a three year old child was killed during the Abok attack.<sup>5114</sup> Gwendorina Akite testified that among the persons injured in Abok she saw a man who had been shot, he later died.<sup>5115</sup>

1935. Douglas Obwor testified that three children were burnt in a grass thatched hut near his home; the children were around two, three and four years old.<sup>5116</sup> Douglas Obwor also testified that he and the others could see the entry and exit wounds of the bullet holes in

<sup>5105</sup> P-0293: [T-138](#), p. 26, line 23 – p. 27, line 1, p. 39, lines 11-19, p. 39, line 23 – p. 40, line 1.

<sup>5106</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 36-37.

<sup>5107</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 37.

<sup>5108</sup> D-0084: [T-235](#), p. 29, lines 20-21. D-0084 testified that he personally saw about 20 dead bodies, and all had died from gunshots ([T-235](#), p. 29, lines 21-23, p. 36, lines 20-22). He also testified that one of his relatives was burnt during the attack on the camp (D-0084: [T-235](#), p. 36, lines 20-25).

<sup>5109</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 29.

<sup>5110</sup> P-0286: [T-131](#), p. 70, lines 3-7.

<sup>5111</sup> P-0286: [T-131](#), p. 70, lines 3-7.

<sup>5112</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 29.

<sup>5113</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 26.

<sup>5114</sup> P-0280: [T-83](#), p. 78, line 25 – p. 79, line 10.

<sup>5115</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 33.

<sup>5116</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 28; P-0306: [T-130](#), p. 7, line 6 – p. 8, line 6.

the bodies of many of the dead.<sup>5117</sup> Douglas Obwor testified that among the people shot and killed, he saw ‘one old man who was shot in the chest and he died. There was also another lady who was shot in the head and the bullet came through the back of her head. People were shot in different parts of the bodies [...] [t]here was a boy who was shot in the stomach’.<sup>5118</sup>

1936. The Chamber also recalls P-0280’s testimony that after being abducted by the LRA, he heard two LRA fighters quarrelling amongst themselves because the LRA had killed civilians in Abok and the LRA actually needed civilians alive to carry the items taken from Abok.<sup>5119</sup>

1937. The Chamber found the accounts of the LRA fighters about the killings committed by the LRA credible, consistent and mutually corroborative. Other witnesses from the camp further corroborate these accounts and provide evidence that LRA fighters killed persons within the camp. The Chamber specifically notes the deaths of persons by burning or being beaten to death. The evidence is clear that the LRA were the only group beating people or burning them during the attack. The only other armed group in Abok, the government soldiers, quickly fled the centre of the camp. It would be mere speculation without any foundation in evidence to theorize that these fleeing soldiers stopped to beat or burn the very citizens they had been protecting in the days and months prior to the attack. In light of the aforementioned evidence, the Chamber concludes that these deaths were caused by LRA fighters.

1938. The Chamber also finds that the evidence shows that the LRA were not able to carry out certain murders because of independent circumstances. The evidence shows that LRA fighters indiscriminately fired on civilians after the government soldiers at the camp centre had been defeated and fled. The Chamber recalls Cyprian Ogola and Robson Oper’s accounts discussed below, other witnesses provide evidence which corroborates these accounts of the LRA shooting at civilians in the course of the attack. Gwentorina Akite testified that she witnessed LRA fighters shooting a young boy named Ebong in the arm while he was hiding under a bed during the attack.<sup>5120</sup> In what may be in reference

<sup>5117</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 28.

<sup>5118</sup> P-0306: [T-130](#), p. 66, line 23 – p. 67, line 4.

<sup>5119</sup> P-0280: [T-84](#), p. 45, line 21 – p. 46, line 4.

<sup>5120</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at paras 23, 35.

to the same young boy, Charles Amodo (Gwentorina Akite's close relative) testified that his nephew, Ronald Ekut, was shot in the arm during the attack.<sup>5121</sup>

1939.P-0281 also testified that she saw a man, who had been shot in the stomach, at the hospital – she was told that the man was shot just before the attack on the camp because he had seen the rebels hiding in the swamp.<sup>5122</sup> Similarly, D-0065 testified that at the start of the attack, LRA rebels shot a man in the stomach, 'his intestines were outside, but he ran away.'<sup>5123</sup>

1940.Government soldiers gathered the injured and took them to the Ngai health centre.<sup>5124</sup> The people who were in critical condition were taken to Atapara hospital.<sup>5125</sup> Jacob Opio testified that some of the injured had cuts on their heads and others had gunshot wounds in their stomach and arms.<sup>5126</sup> Similarly, Cyprian Ayoo testified that some people sustained injuries after being shot and that people with injuries were taken to the hospital.<sup>5127</sup> The Chamber considers these testimonies credible evidence of the severity of the injuries suffered by civilians as a result of the LRA's behaviour in the course of the Abok IDP camp attack.

1941.In the light of the foregoing, the Chamber is convinced by the evidence and finds that many unidentified persons were killed by the LRA in the course of the 8 June 2004 Abok IDP camp attack. The Chamber is also convinced that the LRA attempted to kill other civilians on some occasions during the attack and failed because of independent circumstances.

1942.The evidence before the Chamber does not support the suggestion that civilians were killed during crossfire between the government forces and the rebels or that government forces shot indiscriminately into the camp and killed civilians.<sup>5128</sup> The Chamber recalls

<sup>5121</sup> P-0304: [T-133](#), p. 45, lines 15-25.

<sup>5122</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 32.

<sup>5123</sup> D-0065: [T-211](#), p. 21, lines 1-10.

<sup>5124</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 30.

<sup>5125</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 31.

<sup>5126</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 30.

<sup>5127</sup> P-0293: [T-138](#), p. 42, lines 5-9.

<sup>5128</sup> The Chamber does not accept the Defence submission in D-0084: [T-235](#), p. 32, lines 15-22 (stating 'one of the boys told [D-0084] that it was difficult to explain but they understood that, when the commander fled, the foot soldiers were shooting indiscriminately in the camp and that is what caused a lot of injuries in the camp [...] 'because they had no leadership, the foot soldiers were shooting anyhowly'). The Chamber understands D-0084's reference to 'one of the boys' to be a reference to a UPDF soldier who also came to Abok after the attack. Thus,

the above discussion on the course of the LRA's attack on Abok IDP camp. Indeed, some witnesses testified to gunfire between the government soldiers and the LRA fighters when the attack began.<sup>5129</sup> However, witnesses reported that either by the time the LRA entered the camp or soon after, the government soldiers who were guarding the camp were already fleeing or had already fled.<sup>5130</sup> P-0280 testified that in the middle of the camp, there was no more exchange because:

[W]hen the [LRA fighters] entered the camp, the soldiers who were in the camp were already fleeing because they had no bullets [...] no one was shooting at [the rebels], but for the civilians [the rebels] would aim their guns at [them]'.<sup>5131</sup>

1943. The evidence provided by D-0065 also undercuts any notion that civilians were killed in crossfire between government soldiers and the LRA or by government soldiers shooting indiscriminately. D-0065 testified to the government soldiers' shortage of bullets, testifying that they generally had three to six bullets.<sup>5132</sup> This shortage of bullets implies that the government soldiers would not have been given to indiscriminate shooting at civilians. Further, D-0065 testified to the manner of death of the civilians of Abok, indicating that the LRA pushed people 'in the fire that was burning; [people] would be shot and pushed in the fire', shot others in their houses and killed abductees.<sup>5133</sup> The Chamber found the witness's account credible, reliable and supported by the other evidence discussed above.

1944. There is no evidence that witnesses to the attack were covered into avoiding the truth that government soldiers perpetuated the attack on Abok IDP camp. The Chamber first recalls its views on the lack of credibility of Sam Ojede, the witness testifying to an attack

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D-0084 testified about a statement he heard from someone who heard it from someone else. This testimony is tenuous and even the statement itself is attenuated by language such as 'difficult to explain but'. In this context, the Chamber recalls its view of the reliability of D-0084's account. There is no reliable evidence corroborating his attenuated account of the course of the Abok attack. Further, as discussed in this section, there is ample and credible evidence that the LRA killed and attempted to kill civilians at Abok IDP camp during the 8 June 2004 attack.

<sup>5129</sup> See section IV.C.9.iv, the Chamber's discussion of the course of the attack.

<sup>5130</sup> P-0280: [T-84](#), p. 44, lines 10-16. *Also see* for the Chamber's finding in this regard above.

<sup>5131</sup> P-0280: [T-84](#), p. 44, lines 10-19. *See also* P-0306: [T-130](#), p. 55, lines 8-20 (based on the information that he received as the camp leader, he did not believe that the exchange of gunfire or the crossfire caused the deaths; he was informed that people were being shot directly); P-0293: [T-139](#), p. 20, line 18 – p. 21, line 11 (the soldiers who were defeated fled the camp and instructed the rest of the people to flee and he did not know if they returned to come and fight again. P-0293 also said 'when you are defeated and you are being pursued, I don't know how you can turn back and come and keep on shooting at people').

<sup>5132</sup> D-0065: [T-211](#), p. 21, 13-14, p. 22, lines 21 – p. 23, line 4.

<sup>5133</sup> D-0065: [T-211](#), p. 21, lines 16-19.

on the camp by government soldiers and of Kenneth Opiyo, who testified to government soldiers shooting and causing the burning of the camp while fighting off the LRA. These witnesses were unreliable and not credible and their evidence cannot be relied upon by this Chamber.<sup>5134</sup> Further, the Chamber notes that these witnesses' contention is not borne out by the other evidence in these proceedings discussed in detail above. Additionally, the government soldiers had no discernible motive for suddenly attacking the civilians they were protecting in the days and months prior to 8 June 2004.

1945. The Chamber concludes that the ample credible and reliable testimony discussed above does not suggest that the civilians killed in Abok IDP camp were killed by crossfire, by indiscriminate fire of government forces, or because of a deliberate attack by the government forces. LRA fighters admit to killing civilians and witnesses saw LRA fighters killing civilians. Indeed, the above evidence shows that the LRA fighters were largely left to their own devices in Abok IDP camp. They personally beat, shot and burnt civilians in their homes.

1946. The evidence is clear that the deaths in Abok IDP camp were directly related to the LRA. The Chamber has found many witnesses with credible, first-hand accounts of what happened at Abok – none ever mentioned seeing a government soldier kill a camp resident, even by accident. Had such a thing happened during an attack witnessed by so many, it would have been mentioned. In the absence of any believable evidence indicating that these civilians died as a result of crossfire, the Chamber concludes this is unreasonable speculation.

1947. The Chamber discusses the evidence related to the LRA's killing and attempted killing of specific individuals within the camp.

1948. **Albino Okal and Justina Akullu:** Jacob Opio testified that the morning after the attack he saw the dead bodies of his uncle, Albino Okal, and his uncle's wife, Justina Akullu.<sup>5135</sup> Jacob Opio testified that the two were shot and killed in their house by the LRA.<sup>5136</sup> Jacob Opio testified that 'Okal's sister-in-law' was in the house with the deceased and survived

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<sup>5134</sup> See IV.B.2.ii.b.xxxv and IV.B.2.v.b.iv, the Chamber's discussion of the testimony of these witnesses.

<sup>5135</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 24.

<sup>5136</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 24.

the attack.<sup>5137</sup> Jacob Opio described what he was told about the attack: ‘[She] told us that when the rebels got into the house, they saw my uncle who was a bit fat and asked him for money. They assumed because he was fat that he was a rich man. He did not have any money so they shot him.’<sup>5138</sup> The Chamber finds Jacob Opio’s testimony about the death of Albino Okal and Justina Akullu credible; it was detailed and consistent with other testimony. In this context, the Chamber also notes Gwentorina Akite’s testimony that a man named Ewor Eriyazali Okal and his wife, Maria Amuge, were killed during the attack.<sup>5139</sup> While the Chamber notes the divergence in the names of the deceased, the Chamber notes the similarities in the witnesses’ account, the last name of ‘Okal’, as well as Gwentorina Akite’s testimony that Ewor Eriyazali Okal also had another name which she could not remember.<sup>5140</sup> The Chamber considers that Gwentorina Akite’s testimony is consistent with Jacob Opio’s evidence.

1949. Further, the Chamber recalls that both Cyprian Ayoo and Douglas Obwor name Albino Okal on their lists of persons killed during the 8 June 2004 attack, as does the UPDF report.<sup>5141</sup> Cyprian Ayoo authenticated his list of deceased persons as one he created immediately after the 8 June 2004 attack to record the persons found dead after the attack.<sup>5142</sup> Similarly, Douglas Obwor authenticated another list of persons found dead after the 8 June 2004 attack which he created immediately after the attack.<sup>5143</sup> In his list of persons found dead after the attack, Cyprian Ayoo specifies that Albino Okal was

<sup>5137</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 24.

<sup>5138</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 24.

<sup>5139</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 36.

<sup>5140</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 36.

<sup>5141</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201; P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271; UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5142</sup> P-0293: [T-138](#), p. 38, line 12 – p. 40, line 1 and p. 80, lines 13-20. *See* P-0293: [T-138](#), p. 26, line 21 – p. 27, line 4, p. 33, line 22 – p. 34, line 7, p. 38, line 15 – p. 39, line 7, p. 40, lines 2-4 and p. 80, lines 13-20; [T-139](#), p. 11, lines 7-18 (P-0293 explained that the morning of the attack, they started removing the bodies after Engola Okello arrived at the camp. P-0293 and a group of others identified the bodies, and he wrote a list of persons killed in Abok stating the manner in which they were killed. The list he compiled was based on the information that he received at the time. Because he did not know everyone who died and some people were burnt beyond recognition, P-0293 would ask people who lived in the area or with the deceased to identify the bodies). The Chamber is of the view that the list was created by P-0293 in the immediate aftermath of the attack.

<sup>5143</sup> P-0306: [T-130](#), p. 8, line 16 – p. 9, line 2. *See* P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 28; [T-130](#), p. 7, lines 16-21, p. 8, line 8 – p. 9, line 2 (P-0306 stated that after returning in the morning, people were found that had been shot dead. P-0306 was among the people who moved around to try and record the numbers of persons who were missing and the dead. He and the others ‘started collecting the dead bodies, put them together, and also to assess the damage that was caused. This included burning of houses, cattle were injured by bullets, and also items that were looted in the shops’. In the course of moving around together with the people to collect the dead bodies, they would ‘find, identify a person, a dead person and then we would get the name’). The Chamber is of the view that the list was created by P-0309 in the immediate aftermath of the attack.

killed by being ‘gunned’.<sup>5144</sup> Cyprian Ayoo lists Justina *Akullo* on the list of the dead and specifies that she was also killed by being ‘gunned’.<sup>5145</sup> Douglas Obwor names *Jasimta-Okal Akullu* on his list of persons killed.<sup>5146</sup> The UPDF report lists *Jasita Okal*.<sup>5147</sup> Given the overwhelming similarities in the names listed, the Chamber is of the view that the evidence references the same person, whom the Chamber identifies as Justina Akullu. Douglas Obwor’s testimony provides further corroboration of the accounts of the deaths of Albino Okal and Justina Akullu. Douglas Obwor testified that the two lived next to his father and that his father heard them being shot and also heard someone talking, asking them ‘why are you still in the house’.<sup>5148</sup> In light of the foregoing, the Chamber finds that Albino Okal and Justina Akullu were shot and killed in their home by LRA fighters during the 8 June 2004 attack on Abok IDP camp.

1950. **Hatari Anyima:** The Chamber notes that several witnesses testified in relation to the death of persons who had tried to hide in the latrine pit and were shot and killed by LRA soldiers,<sup>5149</sup> identifying D.P. Okello and Hatari Anyima.<sup>5150</sup> Regarding the identification of Hatari Anyima as one of the persons killed near the latrine pit, P-0280 testified that while fleeing from the LRA, he witnessed LRA fighters order Hatari Anyima out of the latrine pit where he was hiding.<sup>5151</sup> P-0280 testified that after coming out of the ditch, Hatari Anyima was immediately shot and killed by LRA fighters.<sup>5152</sup> Other witnesses corroborate P-0280’s account of the death of Hatari Anyima.<sup>5153</sup> The Chamber notes some discrepancies in the name the witnesses refer to. A *Raymond Anyima* is named in

<sup>5144</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5145</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5146</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271.

<sup>5147</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5148</sup> P-0306: [T-130](#), p. 55, lines 15-18. The Chamber notes that P-0306 refers to Alvino Okul and his wife Jacinta Okulu. Noting the use of phonetic spellings in transcripts of the proceedings as well as the Chamber’s determination above, the Chamber is convinced that P-0306 is referring to Albino Okal and Justina Akullu.

<sup>5149</sup> P-0279, P-0280, P-0282, P-0284, P-0293, P-0304 and P-0306.

<sup>5150</sup> The Chamber notes that P-0280 testified that *Simon Okello* and Hatari Anyima were killed by LRA soldiers in the latrine pit. See P-0280: T-83-CONF, p. 43, lines 14-25; [T-83](#), p. 51, lines 7-8, p. 54, lines 4, lines 10-19.

<sup>5151</sup> P-0280: T-83-CONF, p. 43, line 14 – p. 44, line 7; [T-83](#), p. 50, lines 2-23.

<sup>5152</sup> P-0280: T-83-CONF, p. 43, lines 14-25; [T-83](#), p. 51, lines 7-8, p. 54, lines 4-7, lines 10-13.

<sup>5153</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 37-38 (after the attack, he saw the dead bodies of two persons who had tried to hide in a latrine pit and were shot inside the latrine. According to the witness, David Peter Okello and Raymond Anyima were the two shot dead inside the latrine pit. P-0284 could tell they had been shot because he saw the bullet wounds. Raymond Anyima was shot in the back and it came through the stomach); P-0293: [T-139](#), p. 17, lines 7-12 (David Okello and Raymond Anyima were hiding in the pits when they were pulled out and shot); P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 36. See also P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 29 (Jacob Opio saw the bodies of ‘DP Okello’ and Hatari Anyima).

Cyprian Ayoo and Douglas Obwor's lists of the deceased and referenced in Cyprian Ogola and Cyprian Ayoo's testimony about the persons whose dead bodies were found in the latrine pit.<sup>5154</sup> Further, the UPDF Report lists *Raimond Anyima* among the deceased.<sup>5155</sup> Cyprian Ayoo's list of deceased persons specifies that Raymond Anyima was killed by being 'gunned'.<sup>5156</sup> Charles Amodo testified that a close family member 'Anyim Hatari' was killed during the attack.<sup>5157</sup> Similarly, Gwentorina Akite, a close relative of Charles Amodo, testified that people in the camp told her that 'Anyima Atari' was removed from the latrine pit and shot dead.<sup>5158</sup> Based on the overwhelming similarities in the description of the manner and scenario in which the deceased died and the fact that they all refer to a person with a last name akin to Anyima, the Chamber is of the view that the evidence refers to the same person, Hatari Anyima. In light of the credible and consistent testimonies of the witnesses and corroborating documentary evidence, the Chamber considers that Hatari Anyima was shot and killed by the LRA during the Abok attack.

**1951. D.P. Okello:** As to identifying persons killed alongside Hatari Anyima, several witnesses testified that D.P. Okello was also killed at the latrine.<sup>5159</sup> Cyprian Ayoo testified that in the aftermath of the attack he was told that David Okello was hiding in the pits and was pulled out and shot by the LRA.<sup>5160</sup> Similarly, Cyprian Ogola testified that after the attack, he saw the dead body of David Peter Okello; he had a bullet wound on his waist and side.<sup>5161</sup> Cyprian Ayoo's list of persons killed during the 8 June 2004 attack corroborates these accounts, stating that David Peter Okello was killed by being 'gunned'.<sup>5162</sup>

<sup>5154</sup> See P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 38; P-0293: [T-139](#), p. 17, lines 4-12; P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201; P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271.

<sup>5155</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5156</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5157</sup> P-0304: [T-133](#), p. 37, lines 17-21.

<sup>5158</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 36.

<sup>5159</sup> The Chamber notes that the evidence refers to 'D.P.'/'DP', 'David Peter', 'Peter' or 'David' Okello. See P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 37; P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201; P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271; UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177. The Chamber considers it self-evident that the references are to the same person, whom the Chamber refers to as D.P. Okello.

<sup>5160</sup> P-0293: [T-139](#), p. 17, lines 4-12.

<sup>5161</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at paras 37-38. See also P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 29 (Jacob Opio saw the bodies of DP Okello and Hatari Anyima).

<sup>5162</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201. The Chamber notes some slight discrepancies in the name the witnesses refer to. For example, the camp officials, Cyprian Ogola, Cyprian

Similarly, Douglas Obwor's list states that D.P. Okello was among the persons killed.<sup>5163</sup> The UPDF reports also lists David Okello among the persons killed during the account.<sup>5164</sup> The Chamber notes that P-0280 testified that D.P. Okello was killed during the Abok attack.<sup>5165</sup> Indeed, P-0280 testified that he saw D.P. Okello's grave after he returned to the camp.<sup>5166</sup> However, during his detailed description of witnessing the killings at the latrine, the witness does not name D.P. Okello. The Chamber is of the view that had P-0280 seen D.P. Okello killed by LRA soldiers in or near the latrine pit, he would have discussed it during his testimony. In the context of the evidence given, the Chamber considers that P-0280 references the deaths of two other separate persons.<sup>5167</sup> The Chamber notes that it found P-0280's testimony generally credible, rich in detail, specific, coherent and internally consistent. However, the Chamber is convinced by the consistent, mutually corroborative and credible evidence of the other witnesses who testified that D.P. Okello was another person killed in or near the latrine pit by the LRA. In light of the witnesses' overlapping testimony and the documentary evidence, the Chamber concludes that D.P. Okello was shot and killed by the LRA during the 8 June 2004 Abok attack.

1952. **Simon Okello:** The Chamber recalls that P-0280 testified to witnessing the killing of Simon Okello, who he stated was ordered from the latrine pit and shot and killed by the LRA.<sup>5168</sup> P-0280 testified that although Simon Okello was a UPDF soldier, he was on leave, wearing civilian clothes and identified himself as a civilian.<sup>5169</sup> The Chamber finds P-0280's account of Simon Okello's death detailed, comprehensive and internally consistent. The Chamber is convinced of the credibility of his account. Further, along with the UPDF Report,<sup>5170</sup> Douglas Obwor provides corroborative evidence that Simon

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Ayoo and Douglas Obwor identified David Peter Okello, D.P. Okello or Peter Okello respectively. P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 37; P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5163</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271.

<sup>5164</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177. Given the great similarities in the names, the Chamber considers it self-evident that the references are to the same person, whom the Chamber refers to as D.P. Okello.

<sup>5165</sup> P-0280: T-83-CONF, p. 78, line 24 – p. 79, line 10.

<sup>5166</sup> P-0280: T-83-CONF, p. 78, line 24 – p. 79, line 10.

<sup>5167</sup> *Simon Okello and Hatari Anyima.*

<sup>5168</sup> P-0280: T-83-CONF, p. 43, lines 14-25, p. 50, line 3 – p. 51, line 8, p. 54, lines 4-19; [T-84](#), p. 45, lines 15-21.

<sup>5169</sup> P-0280: [T-83](#), p. 50, lines 15-18; [T-84](#), p. 40, lines 11-21.

<sup>5170</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177. The report lists Simon Okello on the list of the deceased.

Okello was killed during the attack in his identification of Simon Okello on his list of persons killed in the 8 June 2004 Abok attack.<sup>5171</sup> The Chamber considers that Cyprian Ayoo's lack of reference to 'Simon' on his list of persons killed does not undermine the Chamber's conclusion.<sup>5172</sup> In the light of the foregoing, the Chamber finds that Simon Okello was killed by the LRA during the 8 June 2004 Abok IDP camp attack.

1953. **Alex Ogweng:** P-0280 testified that he witnessed the LRA killed Alex Ogweng on 8 June 2004.<sup>5173</sup> P-0280 testified that Alex Ogweng was among the persons hiding in the latrine pit.<sup>5174</sup> P-0280 testified that LRA fighters ordered Alex Ogweng out of the ditch.<sup>5175</sup> LRA fighters walked with Alex Ogweng for a short distance and then forced him to lie down and shot him while he was facedown.<sup>5176</sup> The Chamber also recalls Douglas Obwor's hearsay evidence about the death of a person called *Nelson Ogweng*. Douglas Obwor testified that he heard from a woman 'Filda Anyima' about bodies recovered in the latrine.<sup>5177</sup> Douglas Obwor testified that Filda Anyima said that Nelson Ogweng had hid with her in the latrine before he was taken by the rebels to lead them to the barracks.<sup>5178</sup> Douglas Obwor testified that according to Filda Anyima, Nelson Ogweng had returned to the latrine to seek help after being shot by the LRA near the barracks and died by the latrine.<sup>5179</sup> The Chamber recalls P-0280's testimony that Hatari Anyima's wife was among the people hiding in the latrine,<sup>5180</sup> and the presence of Filda Anyima in this same latrine is consistent with this evidence. Given the similarities in the names, the Chamber considers it possible that Nelson Ogweng and Alex Ogweng is the same person. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>5181</sup> The Chamber is of the view that had

<sup>5171</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271; UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5172</sup> See P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201. The Chamber notes that Cyprian Ayoo's list of persons killed refers to David Peter Okello, Ewoo Okello and Olem Okello, stating that all three were killed by being 'gunned'.

<sup>5173</sup> P-0280: T-83-CONF, p. 43, lines 14-25; P-0280: [T-83](#), p. 50, line 6 – p. 51, line 8. See [T-84](#), p. 45, lines 19-21.

<sup>5174</sup> P-0280: [T-83](#), p. 51, lines 6-9.

<sup>5175</sup> P-0280: [T-83](#), p. 51, lines 6-9.

<sup>5176</sup> P-0280: [T-83](#), p. 51, line 8, p. 54, lines 16-19; [T-84](#), p. 9, line 8-17, p. 10, lines 1-2.

<sup>5177</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 30.

<sup>5178</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 30.

<sup>5179</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 30.

<sup>5180</sup> P-0280: T-83-CONF, p. 43, lines 14-25.

<sup>5181</sup> [REDACTED]

P-0280 seen Alex Ogweng go with the LRA to the barracks, he would have said so. The Chamber also notes that Filda Anyima was not called as a witness in the trial. Further, Douglas Obwor provided his testimony about Nelson Ogweng in his statement introduced under Rule 68(3) and was not questioned about this death during his in-court testimony. In light of the paucity of the information about Nelson Ogweng, the Chamber puts more weight on P-0280's testimony and makes no finding about Nelson Ogweng. The Chamber also finds that the UPDF report is corroborative evidence that Alex Ogweng was killed during the 8 June 2004 attack.<sup>5182</sup> Douglas Obwor also provides corroborative evidence in his identification of Alex Ogweng on his list of persons killed during the 8 June 2004 Abok attack.<sup>5183</sup> The Chamber considers that Cyprian Ayoo's failure to mention Alex Ogweng on his list of deceased persons does not undermine its conclusion that Alex Ogweng was killed in the Abok attack.<sup>5184</sup> In light of the foregoing, the Chamber finds that the LRA shot and killed Alex Ogweng during the 8 June 2004 Abok IDP camp attack.

1954. **Barikia Adonya:** Charles Amodo testified that his close family member Barikia Adonya was killed during the 8 June 2004 Abok attack.<sup>5185</sup> Regarding Barikia Adonya, the Chamber notes that Douglas Obwor names a Barikia *Adonyo* on his lists of persons killed during the 8 June 2004 attack, as does the UPDF report,<sup>5186</sup> while on his list, Cyprian Ayoo names *Barakia Adonyo*.<sup>5187</sup> Similarly Jacob Opio testified about the death of 'Adonyo'.<sup>5188</sup> Given the great similarities in the names, the Chamber considers that all name the same person, whom the Chamber refers to as Barikia Adonya. Cyprian Ayoo states that Barikia Adonya was killed by being 'gunned'.<sup>5189</sup> In testimony consistent with this account, Jacob Opio testified that he was told by his wife that an elderly person called 'Adonyo' was shot and burnt in his own house.<sup>5190</sup> Jacob Opio testified that he saw the

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<sup>5182</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177. The UPDF report lists Alex *Ogwen*, age 18 years old, among the persons killed at Abok IDP camp. Noting the overwhelming similarities in the names, the Chamber concludes that this is a reference to Alex Ogweng.

<sup>5183</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271.

<sup>5184</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5185</sup> P-0304: [T-133](#), p. 37, lines 17-21.

<sup>5186</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271; UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5187</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5188</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 24. The Chamber notes that the UPDF report lists 'Barikia Adonyo' as 56 years old. UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177. This is consistent with Jacob Opio's characterisation.

<sup>5189</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5190</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 24.

dead body the day after the attack.<sup>5191</sup> The context of Jacob Opio's testimony makes it clear to the Chamber that the victim was killed by the LRA. In light of the consistent, corroborative and credible evidence before the Chamber, the Chamber finds that the LRA shot and killed Barikia Adonya during the 8 June 2004 Abok attack.

1955. **Fabio Ogweng:** Cyprian Ayoo testified that his father, Fabio Ogweng, was killed during the 8 June 2004 attack.<sup>5192</sup> Cyprian Ayoo testified that Fabio Ogweng was clubbed on the skull and his brain spilled out.<sup>5193</sup> Cyprian Ayoo's list of killed persons he prepared just after the 8 June 2004 Abok attack is consistent with his testimony. He lists Fabio Ogweng among the deceased and specifies that Fabio Ogweng was killed by being beaten.<sup>5194</sup> The Defence challenges Cyprian Ayoo's account, recalling Douglas Obwor's testimony that the father of the former Camp Leader was killed in 2003 going back to his village looking for maize.<sup>5195</sup> Cyprian Ayoo stood by his testimony and his account of Fabio Ogweng's death.<sup>5196</sup> Given the Defence's implication, the Chamber finds it significant that the list created by Douglas Obwor soon after the attack lists *Phobio* Ogweng among the dead.<sup>5197</sup> Given the overwhelming similarities between the names, the Chamber finds that they refer to the same person. As discussed above, the Chamber found Cyprian Ayoo to be a credible and reliable witness.<sup>5198</sup> The Chamber generally found Cyprian Ayoo's account of Fabio Ogweng's death credible. Further, the two camp's leaders' lists of the deceased further support Cyprian Ayoo's account of Fabio Ogweng's death on 8 June 2004. The Chamber is satisfied that the evidence shows that Fabio Ogweng was beaten and killed during the attack on Abok IDP camp on 8 June 2004. The Chamber is also convinced that Fabio Ogweng was killed by the LRA. The Chamber notes that he was killed by being beaten during the attack. There is no evidence that anyone other than the LRA killed persons by beating them during the 8 June 2004 attack on Abok IDP camp. There is no evidence, or even suggestion, that government soldiers, who were the only other armed forces present in Abok IDP camp at any time

<sup>5191</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 29.

<sup>5192</sup> P-0293: [T-138](#), p. 40, lines 5-13.

<sup>5193</sup> P-0293: [T-138](#), p. 40, lines 5-13. *See* P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 20.

<sup>5194</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201. *See* P-0293: [T-138](#), p. 40, lines 5-13.

<sup>5195</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 20.

<sup>5196</sup> P-0293: [T-139](#), p. 28, lines 14-18.

<sup>5197</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271. *See* P-0306: [T-130](#), p. 8, line 16 – p. 9, line 2.

<sup>5198</sup> *See* section IV.B.2.iv.a.v above.

during the attack, beat any civilian. Similarly, there is no evidence, or suggestion that government soldiers charged with protecting the camp would beat an elderly civilian to death during the attack. This is particularly true given the determination that during the attack, the government soldiers were themselves fleeing from the LRA. Rather, there is considerable evidence that the LRA beat civilians.<sup>5199</sup> This was the case for the attack on Abok IDP camp as well as for all other attacks relevant to the charges at issue in these proceedings.<sup>5200</sup> In light of the evidence, the Chamber finds that LRA fighters killed Fabio Ogweng by beating him to death during the 8 June 2004 attack on Abok IDP camp.

**1956. Hatari Anyima's children:** Gwentorina Akite testified that one of Hatari Anyima's children, who was one or two years, was removed from the latrine pit with Hatari Anyima and shot dead by the LRA.<sup>5201</sup> Gwentorina Akite did not witness this killing but was informed of the death after she returned to Abok a month after sustaining injuries in the attack.<sup>5202</sup> The Chamber notes that P-0280 indicated that Hatari Anyima's child that hid with him in the ditch remained in the ditch.<sup>5203</sup> P-0280 did not testify to witnessing the death of the child. The Chamber is of the view that had P-0280 witnessed the child's death he would have discussed it during his testimony. In light of the witnesses' incongruous testimony, the Chamber makes no finding that Hatari Anyima's child was killed in the latrine pit alongside him. However, other evidence corroborates Gwentorina Akite's testimony that a child of Hatari Anyima was killed during the attack. Douglas Obwor's list of the persons deceased during the Abok attack lists *Daniel Okite* and *Monica Ayugi* among the persons killed during the 8 June 2004 attack.<sup>5204</sup> Cyprian Ayoo references the death of *Emanwel Okite* and *Monica Ayugi*, detailing that they were killed by burning during the attack.<sup>5205</sup> Further, the UPDF report lists *Daniel Okite* (1 year old) and *Monica Ayugi* (2 years old) among the persons killed during the 8 June 2004 Abok attack.<sup>5206</sup> Both are listed as children of Hatari Anyima.<sup>5207</sup> The Chamber notes that

<sup>5199</sup> See paras 1926-1941, 1982, 1987-1993.

<sup>5200</sup> See sections IV.C.6.iii, IV.C.7.vi, IV.C.8.iv.

<sup>5201</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 36.

<sup>5202</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 36.

<sup>5203</sup> P-0280: T-83-CONF, p. 43, lines 14-25.

<sup>5204</sup> P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271.

<sup>5205</sup> P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201.

<sup>5206</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177.

<sup>5207</sup> UPDF Report, Atrocities Committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177. The Chamber recalls its finding that Raimond Anyima is Hatari Anyima.

Cyprian Ayoo listed the children as being killed by burning. There is no evidence that anyone other than the LRA killed persons by burning them. There is no evidence, or even suggestion, that government soldiers, who were the only other armed forces present in Abok IDP camp at any time during the attack, burnt any civilian. Rather, there is considerable evidence that the LRA burnt civilians.<sup>5208</sup> This was true in Abok IDP camp and in other attacks at issue in these proceedings.<sup>5209</sup> In light of the evidence, the Chamber finds that LRA fighters burnt Daniel Okite and Monica Ayugi to death. In light of the totality of the evidence, the Chamber is of the view that Daniel (possibly first name Emanwel) Okite and Monica Ayugi were both children of Hatari Anyima, and were burnt to death by LRA fighters during the 8 June 2004 Abok attack.

1957. **Evelyn Akello:** Several witnesses testified as to the death of Evelyn Akello, who was abducted in Abok and killed during the retreat from the camp. Charles Amodo testified that Evelyn Akello was his uncle's daughter.<sup>5210</sup> He had been with her when they were abducted during the attack and they became separated during the LRA's retreat from Abok IDP camp.<sup>5211</sup> When he returned from the bush, Charles Amodo was told by other returned abductees that they witnessed Evelyn Akello being killed by the LRA.<sup>5212</sup> Specifically, Oringa James, a returned abductee, also told him that Evelyn Akello was killed by the LRA.<sup>5213</sup> Gwentorina Akite corroborates the account that Evelyn Akello was killed by the LRA. Gwentorina Akite testified that Evelyn Akello was her step-daughter and had been raised by her since infancy.<sup>5214</sup> Gwentorina Akite testified that Evelyn Akello was also abducted the night of the 8 June 2004 attack on Abok IDP camp.<sup>5215</sup> Gwentorina Akite testified that at the time Evelyn Akello had a one year old child who had started to walk.<sup>5216</sup> Gwentorina Akite testified that the child was injured during the stampede in the camp on the day of the attack.<sup>5217</sup> Gwentorina Akite testified that Evelyn Akello never returned from the bush.<sup>5218</sup> Douglas Obwor corroborates the

<sup>5208</sup> See paras 1927-1935 above.

<sup>5209</sup> See paras 1500-1501, 1741-1745 above.

<sup>5210</sup> P-0304: [T-133](#), p. 43, lines 17-21.

<sup>5211</sup> P-0304: [T-133](#), p. 24, lines 9-15.

<sup>5212</sup> P-0304: [T-133](#), p. 24, lines 16-19.

<sup>5213</sup> P-0304: [T-133](#), p. 61, lines 2-6. See also p. 66, line 20 – p. 67, line 1.

<sup>5214</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 17.

<sup>5215</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 38.

<sup>5216</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 38.

<sup>5217</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 38.

<sup>5218</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 38.

above accounts, testifying that returned abductees reported to him that Evelyn Akello, one of the abductees, had been killed by the rebels.<sup>5219</sup> Douglas Obwor testified that he was told that when the rebels had travelled far away from Abok, Evelyn Akello could no longer move and so she was beaten to death with a big stick and then cut into pieces with a panga.<sup>5220</sup> The Chamber found the above witnesses' accounts consistent and mutually corroborative. In the light of the foregoing, the Chamber finds that Evelyn Akello was killed by the LRA during the retreat from Abok IDP camp.

**1958. Shooting of Jacob Opio:** Jacob Opio, a camp resident, testified that after the government soldiers were defeated by the rebels, civilians ran past his house shouting that people should flee because the government soldiers had told them to.<sup>5221</sup> Jacob Opio tried to run out of his house but the gunfire in the camp was too much, so he returned to his house and locked the door.<sup>5222</sup> The LRA fighters came to his door and started piercing it with a bayonet, he tried to hold the door, but they eventually unhinged it with the bayonet.<sup>5223</sup> Jacob Opio threw the door down on the outside and ran out past the rebels to escape.<sup>5224</sup> He did not get very far from the rebels, just about 18 meters, before he was shot in the leg.<sup>5225</sup> The rebels rushed into his house while he pulled himself into an unfinished house – he realised that he was bleeding from a gunshot wound to his right kneecap where the bullet went from the left to the right and came out.<sup>5226</sup> The Chamber recalls Cyprian Ogola's testimony which corroborates Jacob Opio's account. Cyprian Ogola testified that Jacob Opio was shot in the thigh during the attack and that the bullet came out through the knee.<sup>5227</sup> Similarly, Gwentorina Akite's testimony is consistent with and corroborative of the other witnesses. She testifies that she saw a man who had been shot in the thigh.<sup>5228</sup> While the witness testifies that this man was named 'David Opio', the Chamber notes the similarity with the last name and given the specificity of her description of the man's injury concludes that Gwentorina Akite also refers to Jacob Opio. The Chamber also notes that the UPDF report lists a 'Jobik Opio' among the persons

<sup>5219</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 32.

<sup>5220</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 32.

<sup>5221</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 21.

<sup>5222</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 22.

<sup>5223</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 23.

<sup>5224</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 23.

<sup>5225</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 23.

<sup>5226</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 23.

<sup>5227</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 42.

<sup>5228</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 33.

injured in the attack.<sup>5229</sup> Given the similarities in the name, the Chamber considers that this refers to Jacob Opio and corroborates his account. In light of the foregoing, the Chamber concludes that LRA fighters attempted to kill Jacob Opio by shooting him while he was trying to escape during the 8 June 2004 Abok attack.

**1959. Shooting at Cyprian Ogola and Robson Oper:** Cyprian Ogola testified that people who tried to run were shot at by the rebels.<sup>5230</sup> In his own case, when he realised that the LRA fighters were attacking the camp, he told his family to run.<sup>5231</sup> As Cyprian Ogola's family ran, the rebels fired in their direction, so he and his family changed course and ran in another direction; the rebels fired at them again.<sup>5232</sup> Cyprian Ogola testified that he knew it was the LRA fighters firing shots at them because the government soldiers would not fire at them and the few soldiers who were there were telling them to flee so that they would not be captured.<sup>5233</sup> Cyprian Ogola also testified that he knew the rebels were firing at them because the rebels were chasing a government soldier and when they failed to catch the soldier, they started firing at him and his family.<sup>5234</sup> The Chamber is convinced by Cyprian Ogola's account of his experience. Similarly, Robson Oper testified that during the exchange of gunfire, most of the camp residents who had gone into their houses came out and ran away during the attack.<sup>5235</sup> Robson Oper testified that because he had a problem with his leg and could not run, when he came out of the house, the rebels caught him at the doorpost and fired three bullets.<sup>5236</sup> Robson Oper stated that he fell down and rolled and managed to dodge the bullets,<sup>5237</sup> thus surviving. The Chamber recalls its finding concerning Robson Oper's credibility. The Chamber is of the view that while no other witness testified to witnessing LRA fighters shooting at Robson Oper, the other accounts of the LRA indiscriminately shooting at civilians corroborate Robson Oper's account of what he experienced. The Chamber also considered that Robson Oper's testimony about LRA fighters shooting at him was detailed, coherent, internally consistent and also consistent with other evidence of similar behaviour by the

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<sup>5229</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0178.

<sup>5230</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 31.

<sup>5231</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 31.

<sup>5232</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 31.

<sup>5233</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 34.

<sup>5234</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 34.

<sup>5235</sup> P-0286: [T-131](#), p. 10, lines 11-12.

<sup>5236</sup> P-0286: [T-131](#), p. 10, lines 13-16.

<sup>5237</sup> P-0286: [T-131](#), p. 10, lines 15-16.

LRA both in Abok IDP camp and the other locations relevant to the charges. The Chamber is convinced that LRA fighters attempted to kill Robson Oper by shooting at him and only failed to hit him because he managed to dodge the bullets. In light of the foregoing, the Chamber finds that the witnesses provide consistent, credible and reliable evidence that the LRA shot people purposefully during the attack and only failed to kill them because of independent circumstances. These people include Cyprian Ogola and Robson Oper. Robson Oper and Cyprian Ogola's accounts of their experience being shot at by the LRA is mutually corroborative of the fact that the LRA shot at civilians in Abok IDP camp.<sup>5238</sup>

1960. Regarding the number of persons killed by the LRA in Abok IDP camp, both Cyprian Ayoo and Douglas Obwor testified that 28 bodies were collected in total.<sup>5239</sup> Given these witnesses' roles in the aftermath of the attack, their credible and reliable testimony, which was generally corroborated by the lists they prepared in the aftermath of the attack and the other witnesses' accounts of killings in Abok IDP camp, the Chamber finds the witnesses' testimony as to the approximate number of persons killed in the attack within the camp credible. The Chamber notes that Cyprian Ayoo and Douglas Obwor counted the bodies of the dead collected within Abok IDP camp. This does not include persons, like Evelyn Akello, whom the Chamber determined was killed by the LRA during their retreat from Abok IDP camp. While it is noted that the number of victims alleged in the charges is specified as an approximate number,<sup>5240</sup> the Chamber is of the view that the number of persons killed by the LRA actually exceeds the 28 bodies collected and denoted in the camp's leaders' count.

1961. The Chamber recalls its findings above which named specific persons killed by the LRA in Abok and during their retreat from the camp. The Chamber found the accounts that

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<sup>5238</sup> The Chamber also notes that the accounts of other witnesses of the LRA shooting indiscriminately at civilians, discussed further below, also corroborate P-0284 and P-0286's accounts.

<sup>5239</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 28; P-0306: [T-130](#), p. 66, lines 1-6; P-0306 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0247-1270-R01, at 1271; P-0293: [T-138](#), p. 26, line 20 – p. 27, line 3, p. 38, lines 4-11, p. 39, lines 8-19; P-0293 List of persons killed in 8 June 2004 Abok attack, UGA-OTP-0244-1201. See the corroborating evidence of P-0280, who testified that he was told that about 28 people from Abok camp were killed during the attack. P-0280: [T-83](#), p. 79, lines 9-10; [T-84](#), p. 45, lines 16-18. While the Chamber notes that the UPDF report lists 24 persons killed in Abok, the Chamber places greater weight on the evidence given in court by the two camp officials who participated in the collection of the bodies and whose testimony was tested before the Chamber. The Chamber also notes that the lists prepared by P-0293 and P-0306 overlap significantly, particularly when noting the naming conventions in the region in which persons are known by multiple names.

<sup>5240</sup> Para. 59 of the charges ([Confirmation Decision](#), p. 87).

multiple other persons were killed in the attack credible, including: persons burnt in their homes and in the camp, people beaten and/or bayoneted to death, including three persons whose heads were smashed and people killed by gunshot, including a boy shot in his stomach. Further, the Chamber concludes that the killings were not perpetrated by the government forces – by crossfire or otherwise – as discussed above. In the light of the evidence, the Chamber is satisfied that at least 28 people were killed by LRA fighters in the course of the Abok IDP camp attack.

1962. The Chamber is also convinced that the LRA purposefully shot at civilians, burnt down homes resulting in civilians trapped in burning buildings and severely beat others leaving them for dead.

**Unable to dislodge the government soldiers who remained holed up in the new barracks, the LRA eventually retreated from the camp.**<sup>5241</sup>

1963. The Chamber recalls that during this time in which the LRA committed numerous acts of violence and looting within the camp, government soldiers in the camp had fled and the LRA moved within the camp, there were still some government soldiers holed up at the barracks.<sup>5242</sup>

1964. Witnesses reported that at some point during the attack, a group of LRA fighters went to the new barracks along with civilians they had abducted in Abok.<sup>5243</sup> The Chamber recalls that P-0280, one of the abducted civilians who accompanied LRA fighters to the barracks, testified that civilians fled away from the barracks as the LRA fighters approached.<sup>5244</sup>

1965. Upon reaching the new barracks, the LRA fighters engaged with the government soldiers who had remained holed up in the barracks.<sup>5245</sup> Some witnesses testified to ‘extreme’ or

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<sup>5241</sup> Para. 200 above.

<sup>5242</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 32 (there were only 15 soldiers left to guard the barracks as the others had left the barracks earlier to follow the rebels); P-0280: [T-84](#), p. 43, lines 9-19 (some soldiers stayed to protect the barracks).

<sup>5243</sup> P-0054: [T-93](#), p. 34, line 23 – p. 35, line 8 (his group headed towards the government soldiers’ barracks. Kalalang was in the group that went to the barracks as were some sergeants); P-0280: [T-84](#), p. 43, line 23 – p. 44, line 9 (the only people P-0280 saw who were going towards the barracks were LRA fighters and abducted civilians).

<sup>5244</sup> P-0280: [T-84](#), p. 43, line 24 – p. 44, line 9.

<sup>5245</sup> P-0280: [T-83](#), p. 51, lines 16-17, p. 55, lines 7-13; [T-84](#), p. 43, lines 9-19 (there was gunfire coming from the barracks towards the rebels); P-0286: [T-131](#), p. 21, lines 1-2 (P-0286 heard gunshots from behind; the rebels had begun to shoot towards the barracks). *See also* P-0330: T-52-CONF, p. 31, line 24 – p. 32, line 4 (when the LRA

‘heavy’ gunfire.<sup>5246</sup> The Chamber recalls camp resident Robson Oper’s graphic, detailed and credible description of the scene. Robson Oper, who was abducted by the LRA and accompanied them to the new barracks, testified that when he heard gunshots he fell and lay down.<sup>5247</sup> While laying down, he saw that the rebels were firing towards the barracks and the government soldiers were firing back, he described seeing ‘grasses falling down on me. I laid down [on the ground] and yet I was able to see those things. The bullets were cutting grasses and the grasses were falling on me’.<sup>5248</sup>

1966. Given its discussion of the LRA’s movement above, and its discussion of the crimes committed by the LRA within the camp below, and noting D-0065’s testimony,<sup>5249</sup> the Chamber is convinced that although the LRA also attacked the military barracks, their primary target was the camp itself.

1967. The evidence shows that the LRA fighters, unable to breach the barracks, retreated and left Abok. The Chamber recalls camp resident P-0280’s testimony that because of the heavy gunfire from the barracks, the LRA fighters did not go forward towards the barracks but rather ran back, retreating from Abok IDP camp.<sup>5250</sup> Sinia fighter P-0054 corroborates P-0280, testifying that after being overwhelmed at the barracks, the LRA fighters, the ones at the barracks and in the centre, started retreating.<sup>5251</sup> Similarly, Robson Oper’s account corroborates the other witnesses, he testified that the LRA soldiers he accompanied pulled back into a house and spoke amongst themselves.<sup>5252</sup> He overheard one of the soldiers say ‘Let us leave. If we continue lingering here, and considering the exchange of the bullets and the fires that have burnt the houses, they will come and remove the things that we have looted’.<sup>5253</sup>

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found out where the barracks were, they started shooting towards the barracks but they were unable to enter the barracks because there was a strong defence in the barracks and the government soldiers had big guns).

<sup>5246</sup> P-0054: [T-93](#), p. 33, lines 14-15 (P-0054’s group of LRA fighters approached the barracks, there was ‘extreme gunfire’); P-0280: [T-83](#), p. 55, lines 12-13, p. 57, lines 13-16 (there was heavy gunfire coming from the barracks).

<sup>5247</sup> P-0286: [T-131](#), p. 21, lines 3-4.

<sup>5248</sup> P-0286: [T-131](#), p. 23, line 22 – p. 24, line 4.

<sup>5249</sup> D-0065: [T-211](#), p. 25, lines 11-22 (while the LRA fighters did attack the barracks, their primary target was the camp and not the barracks).

<sup>5250</sup> P-0280: [T-83](#), p. 51, lines 17-18, p. 55, lines 7-24, p. 57, lines 13-16.

<sup>5251</sup> P-0054: [T-93](#), p. 33, lines 17-19.

<sup>5252</sup> P-0286: [T-131](#), p. 21, lines 9-16.

<sup>5253</sup> P-0286: [T-131](#), p. 21, lines 12-15.

1968. With regard to the LRA fighter's retreat from the camp, witnesses reported that the LRA fighters and abducted civilians left the camp from where they were fighting at the new barracks and headed towards the Lalogi/Gulu direction.<sup>5254</sup>

1969. The Chamber is satisfied that the evidence shows that a *mamba* did arrive in the camp at some point in the LRA's retreat from the camp.<sup>5255</sup> The evidence does not show that government soldiers in a *mamba* fired indiscriminately into the camp, including at civilians.<sup>5256</sup>

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<sup>5254</sup> P-0304: [T-133](#), p. 19, lines 17-21 (P-0304 and a group of LRA fighters and abducted civilians went to Abok centre and then came out from the barracks. They exited the camp and went towards Lalogi); P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28 (when the rebels left the camp, they walked a long distance in the Gulu direction); P-0280: [T-83](#), p. 54, line 20 – p. 55, line 1, p. 57, lines 17-20 (the LRA fighters P-0280 was with retreated towards Lalogi road); P-0286: [T-131](#), p. 24, line 25 – p. 25, line 1 (the LRA fighters P-0286 was with retreated from the barracks and entered the bush); P-0054: [T-93](#), p. 33, lines 20-22 (people entered the swamp and the LRA crossed the Opit road).

<sup>5255</sup> The Chamber reaches this conclusion despite P-0293's isolated insistence that no *mamba* arrived at the camp but rather an army truck that stayed in the camp during the night until the next morning. P-0293: [T-139](#), p. 22, line 11 – p. 23, line 15. The Chamber also recalls that P-0293 indicated that the army vehicle had heavy weaponry on top. P-0293: [T-138](#), p. 31, lines 1-8. The Chamber also notes that apart from P-0293, other witnesses, both LRA fighters and camp residents, testified as to the arrival of a *mamba*. See P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 32 (around 3:00, government soldiers arrived at Abok with a military vehicle called a *mamba*); P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 26 (the *mamba* arrived at the camp around 3:00); P-0304: [T-133](#), p. 55, lines 21-23 (the *mamba* arrived after the rebels had left the camp and his group could hear gunshots from behind); P-0054: [T-93](#), p. 33, lines 19-20 (as the LRA fighters were leaving the camp, *mambas* arrived and started shooting people). The Chamber notes that when P-0054 references 'people' here, he refers to fleeing LRA fighters. In light of the other witnesses' testimony, the Chamber concludes that P-0293 – who had fled the attack by the time the *mamba* came – misidentifies the military vehicle that came to Abok. Several witnesses testified that the *mamba* arrived as the LRA were fleeing the camp. P-0406: [T-155](#), p. 70, lines 13-16 (the LRA fighters heard the sound of a vehicle and heard some shelling. P-0406 saw a vehicle that approached the camp). Still other witnesses testified that the LRA had already left the camp when the *mamba* arrived. P-0306: [T-130](#), p. 60, lines 18-24 (when the *mamba* arrived, the rebels had already left because they had heard the sound of the *mamba* moving in); P-0280: [T-84](#), p. 39, lines 3-12 (P-0280 heard that an armoured vehicle came to the Abok camp but at the time the camp had already been burnt down and the LRA fighters and abducted civilians had already left the camp and entered a stream in a place called 'Loka Akello Alyek').

<sup>5256</sup> P-0304: [T-133](#), p. 57, lines 1-8 (when the *mamba* arrived, the rebels and their abductees had moved some distance away so the *mamba* was firing up in the air following the direction the rebels had taken); P-0306: [T-130](#), p. 60, lines 24-25 (the *mamba* fired after the rebels but was not firing directly on the people); P-0282 Statement, UGA-OTP-0261-0246-R01, at paras 27-28 (the *mamba* fired in the air and the rebels fled. When things got quiet the UPDF called people to come out from hiding); D-0065: [T-211](#), p. 22, lines 5-8 (the *mamba* fired twice in the air). The Chamber is convinced by the testimony of these witnesses, who corroborate each other in their testimony of limited fire not aimed at civilians. The Chamber notes P-0281 Statement, UGA-OTP-0261-0257-R01, at paras 24-25. The Chamber found this aspect of the P-0281's testimony to be inconsistent with other more reliable evidence and untenable. The Chamber also notes that although D-0065 made a statement about indiscriminate shooting, the Chamber understood his statement to refer to the typical behaviour of *mambas* and not to the specific behaviour of the *mamba* that arrived in Abok IDP camp after the LRA attack. Additionally, the phrase 'indiscriminate shooting' as used by the witness also referred to shooting without ascertaining the identity of the subject and did not indicate that the *mamba* shot into the camp. D-0065: [T-211](#), p. 22, lines 5-10. As to the actual behaviour of the *mamba* that came into the camp on the day of the attack, D-0065 testified that the *mamba* started shooting on some trees, shot twice and there was silence. [T-211](#), p. 22, lines 5-8. Further, as described by D-0065, by the time the *mamba* arrived at the camp, the LRA had already burnt the camp and committed various crimes within the camp. [T-211](#), p. 21, lines 1-16, p. 22, lines 5-10.

1970. As to the time the LRA spent in the camp, the Chamber recalls its earlier finding that the LRA attack began in the evening, sometime between 19:00 and 20:45. The Chamber notes that the witnesses' testimonies diverge as to exactly when the LRA fighters left the camp. Charles Amodo illustrated the witnesses' difficulty of pin-pointing the exact time of the rebels departure, stating, 'I am not able to say, because I didn't have a watch and at the time people were many, and also moving up and down, and then the gunshots and then with the fire burning all around. Even the most intelligent person would get confused, so at that time I was already confused'.<sup>5257</sup>

1971. Both Charles Amodo, an abducted camp resident, and Cyprian Ayoo, one of the camp's leaders, while noting their confusion in stating the exact time, estimated that the LRA fighters left the camp around 23:00 the night of the attack.<sup>5258</sup> Douglas Obwor, another one of the camp's leaders, testified that the rebels took some time in the camp because there was nobody that would come to disorganise them,<sup>5259</sup> he testified that the rebels left the camp between 1:00 and 2:00.<sup>5260</sup> From the evidence before it, the Chamber finds that the LRA fighters departed Abok IDP camp sometime in the late evening of 8 June 2004 or early morning hours of 9 June 2004.

**LRA fighters abducted many civilians and forced them to carry heavy looted goods, and an injured fighter, for long distances oftentimes under the threat of beatings or death. Some of the abductees were tied to each other. The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death. LRA fighters beat abductees as a means of punishment for not being able to continue walking and to intimidate other abductees to continue without stopping or resisting.**<sup>5261</sup>

**In the course of the retreat, LRA fighters forced an abductee to kill another abductee with a club, as a lesson to others who were thinking of escaping.**<sup>5262</sup>

**The LRA attempted to kill abductee Gwentorina Akite, an elderly woman. They had abducted her from the camp and forced her to carry heavy loads, including at one point two goats. When she could no longer bear the weight, an LRA fighter beat and strangled**

<sup>5257</sup> P-0304: [T-133](#), p. 56, lines 11-17.

<sup>5258</sup> P-0293: [T-138](#), p. 30, lines 19-25; [T-139](#), p. 27, line 18 – p. 28, line 5; P-0304: [T-133](#), p. 55, lines 19-21.

<sup>5259</sup> P-0306: [T-130](#), p. 82, lines 13-14.

<sup>5260</sup> P-0306: [T-130](#), p. 65, lines 9-14. P-0284 testifies to an even later time. P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 32 (around 3:00, government soldiers arrived at Abok with a military vehicle called a *mamba*, after hearing the sounds of the approaching *mamba*, the rebels had fled).

<sup>5261</sup> Para. 201 above.

<sup>5262</sup> Para. 201 above.

**her and cut her with a machete. LRA fighters passing her on the road hit her. She was left for dead but managed to crawl back home to the camp.**<sup>5263</sup>

**Among the civilians abducted and forced to work for the LRA were Charles Amodo, Gwentorina Akite, Evelyn Akello, Robson Oper, Witness P-0280, Thomas Okitte's daughter, Ogweng, Ameny, Lucy Akello, Molly Ayugi, Monica Adur, Nighty Atim, Dilis Awor and Witness V-0002.**<sup>5264</sup>

1972. The Chamber finds that the evidence shows that LRA fighters abducted civilians from Abok IDP camp and under armed guard prevented their escape and forced them to work for the LRA.

1973. Both LRA fighters and civilian residents offered consistent, detailed and credible evidence that LRA fighters abducted civilian residents from the camp and severely mistreated them. P-0406, an LRA fighter, testified that the LRA fighters abducted people during the attack.<sup>5265</sup> P-0406 testified that among the abductees taken at Abok were children as young as 11 and 12 years old.<sup>5266</sup> P-0406 testified that older people, including adults, were also abducted as were girls.<sup>5267</sup> P-0330 corroborates P-0406's account of civilian abductions, testifying that a civilian was made to carry the LRA fighter Bomek who was wounded in Abok.<sup>5268</sup> P-0330 also testified that a civilian was forced to carry another injured LRA fighter from Abok on a stretcher.<sup>5269</sup> The Chamber considers that the evidence shows that abductees were forced to carry at least one injured LRA fighter.

1974. Witnesses provided credible evidence that during the retreat from Abok, abducted people carried items that had been looted from people's houses and shops, including beans, goats, sesame, other edible items and merchandise.<sup>5270</sup>

1975. Robson Oper testified that civilians who were abducted by the LRA included: Denis Omara, Charles Amodo, Gwerina (Gwentorina Akite), Eveline ('Evelyn') Akello, and

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<sup>5263</sup> Para. 202 above.

<sup>5264</sup> Para. 203 above.

<sup>5265</sup> P-0406: [T-154](#), p. 68, line 8 and p. 74, lines 11-13.

<sup>5266</sup> P-0406: [T-154](#), p. 75, lines 12-13.

<sup>5267</sup> P-0406: [T-154](#), p. 75, lines 12-17.

<sup>5268</sup> P-0330: T-52-CONF, p. 35, lines 1-3.

<sup>5269</sup> P-0330: [T-52](#), p. 37, lines 10-17.

<sup>5270</sup> See P-0280: [T-83](#), p. 53, lines 15-20 (the civilian abductees were given things to carry. He was given a sack of beans to carry on his head and P-0286 was made to carry cooking oil); P-0330: T-52-CONF, p. 35, lines 10-15 (younger civilians abducted from Abok were made to carry foodstuffs when they left Abok); P-0286: [T-131](#), p. 33, line 6-12 (during the retreat from Abok, abducted people carried items that had been looted from people's houses and shops, including goats, sesame, other edible items and merchandise).

the daughter of Thomas Okitte.<sup>5271</sup> Charles Amodo corroborates Robson Oper's testimony, testifying that Charles Amodo, 'Evalyn' ('Evelyn') Akello, Robson Oper, and 'Gwerina' Akite ('Gwentorina Akite') were abducted.<sup>5272</sup> Similarly, Douglas Obwor testified Robson Oper, Nighty Atim and Dilis Awor were abducted.<sup>5273</sup>

1976. Jacob Opio's testimony is consistent with the other witnesses' accounts of the LRA abducting civilians and forcing them to work for the LRA. Jacob Opio testified that after the attack, he was told about abductees, including Ogweng, Ameny, Lucy Akello and others.<sup>5274</sup> Jacob Opio testified that Ogweng was 12 years old, Lucy Akello was 13 years old and Ameny was 15 years old.<sup>5275</sup> Jacob Opio testified that Ogweng and Ameny never returned from the bush but Lucy Akello returned in 2013.<sup>5276</sup> Jacob Opio testified that Lucy Akello stated that she had been made to carry heavy load and made a 'wife'.<sup>5277</sup> Jacob Opio also testified that an abductee, Molly Ayugi, told him that people were abducted and made to carry 'loot', she had been given luggage to carry but was released by the rebels because she was an older person.<sup>5278</sup>

1977. Similarly, Cyprian Ogola's testified about civilians abducted by the LRA. Cyprian Ogola testified that some persons escaped and came back.<sup>5279</sup> Cyprian Ogola testified that Jacob Opio,<sup>5280</sup> Robson Oper and Monica Adur managed to escape that day and returned to the camp.<sup>5281</sup> Cyprian Ogola testified that about eight children were abducted but about six came back.<sup>5282</sup> By children, the witness meant persons from age 13 to 20 years old.<sup>5283</sup>

1978. Abductees were forced to kill people or to watch others being killed. P-0280 testified that in the bush, if someone wants to escape or is tired, the LRA would ask if the person was

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<sup>5271</sup> P-0286: [T-132](#), p. 3, line 20 – p. 4, line 4.

<sup>5272</sup> P-0304: [T-133](#), p. 19, lines 2-6.

<sup>5273</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 23.

<sup>5274</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 34.

<sup>5275</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 34.

<sup>5276</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 34.

<sup>5277</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 34.

<sup>5278</sup> P-0282 Statement, UGA-OTP-0261-0246-R01, at para. 35.

<sup>5279</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 44.

<sup>5280</sup> The Chamber recalls its discussion of the attempted killing of Jacob Opio above. It is possible that P-0284 is discussing another Jacob Opio, but in the likelihood that the witness references the Jacob Opio whom the Chamber determined was the victim of an attempted killing by the LRA, the Chamber finds that the evidence shows that Jacob Opio (P-0282) escaped from the LRA during the attack and was not abducted by the LRA.

<sup>5281</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 44.

<sup>5282</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 44.

<sup>5283</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 44.

tired and they would say ‘since the person is tired he wants to rest’.<sup>5284</sup> P-0280 testified that this meant that the person should be killed, ‘making someone rest means death’.<sup>5285</sup> An Abok abductee was ordered to kill, to ‘make some two people rest’.<sup>5286</sup> LRA fighters ordered an abductee and two others to beat a girl and a man to death, they beat the victims on the head with a club until they died.<sup>5287</sup> Corroborating the other witnesses’ account, V-0002 testified that LRA fighters beat abducted civilians and threatened to kill them.<sup>5288</sup>

1979. The evidence demonstrates that an Abok abductee was forced to beat another abductee who tried to escape to death.<sup>5289</sup> They used a club like a stick to beat the abductee on the head until he died.<sup>5290</sup> An LRA rebel armed with a gun watched while the beating occurred to see if the abductee would carry out the task.<sup>5291</sup> The abductee was killed to discourage others from escaping, ‘as a lesson to the others if they tried to escape’.<sup>5292</sup>

1980. The Chamber heard a number of accounts about the experiences of specific civilians abducted by the LRA in the course of the 8 June 2004 attack on Abok IDP camp.

1981. **Robson Oper and P-0280:** Robson Oper testified that after the government soldiers had fled the camp, armed rebels belonging to Joseph Kony caught him and tied him.<sup>5293</sup> Robson Oper testified that after he was caught by the LRA, the rebels asked him, ‘Do I kill you?’.<sup>5294</sup> Robson Oper stated that he pleaded with the rebels and told them, ‘Please leave me, let me go and work with you. I am still young. I can work with you. Please don’t kill me’.<sup>5295</sup> Robson Oper testified that he pleaded to work with the LRA because they had already shot at him three times and he survived the bullets; he knew that they were going to kill him and thus he needed to plead with them.<sup>5296</sup> The rebels tied him around his waist and moved with him.<sup>5297</sup> Right after he was abducted, Robson Oper had

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<sup>5284</sup> P-0280: T-83-CONF, p. 75, lines 6-11.

<sup>5285</sup> P-0280: T-83-CONF, p. 75, lines 6-11.

<sup>5286</sup> P-0280: T-83-CONF, p. 75, lines 12-15.

<sup>5287</sup> P-0280: T-83-CONF, p. 75, line 22 – p. 76, line 8.

<sup>5288</sup> V-0002: [T-171](#), p. 8, lines 7-12.

<sup>5289</sup> P-0280: T-83-CONF, p. 77, line 1 – p. 78, line 15.

<sup>5290</sup> P-0280: T-83-CONF, p. 78, lines 5-14.

<sup>5291</sup> P-0280: T-83-CONF, p. 77, lines 9-12 and p. 78, lines 9-15.

<sup>5292</sup> P-0280: T-83-CONF, p. 77, line 9 – p. 78, line 15.

<sup>5293</sup> P-0286: [T-131](#), p. 10, lines 16-17, p. 16, lines 7-11.

<sup>5294</sup> P-0286: [T-131](#), p. 10, lines 16-17.

<sup>5295</sup> P-0286: [T-131](#), p. 10, lines 17-19.

<sup>5296</sup> P-0286: [T-131](#), p. 56, line 19 – p. 57, line 1.

<sup>5297</sup> P-0286: [T-131](#), p. 10, lines 21-22.

told one of the LRA fighters that his foot was not well, the LRA fighter kicked his wound until he lost ‘the feeling’.<sup>5298</sup> After that he walked as though he did not have a wound because he feared that if he walked with a limp the LRA would possibly kill him.<sup>5299</sup>

1982. Robson Oper testified that the rebels beat him in the course of the retreat, someone slapped him on the face and asked him why he was looking at him.<sup>5300</sup> Robson Oper also testified that he was beaten after he was asked where the rebels were; he stated that ‘[i]f you mention, they say you are too intelligent, you might escape, and they beat you’.<sup>5301</sup>

1983. Robson Oper testified that during the retreat from Abok, LRA fighters took him to an injured rebel who had been shot in the knee in Abok.<sup>5302</sup> Robson Oper testified that he was told, ‘[t]his is your luggage, carry it’.<sup>5303</sup> Robson Oper testified that he was initially forced to lift up the roughly 80 kilogram man by himself,<sup>5304</sup> stating:

They held this person, one held the – one arm and another held the other arm and they let him bend and they told me to push my head through his thighs so that he sits on my shoulders... I tried to heave myself up but he was heavier than I was. My waist was stuck and I couldn’t raise myself up. One of them beat me in my buttocks with a gun. I continued to raise myself up. I tried my level best to get up and I got up and I was told to move. I moved up to where the people had gathered and I put him down.<sup>5305</sup>

1984. Robson Oper testified that the commander of the group, Kalalang,<sup>5306</sup> stated that ‘whoever fails to carry his luggage would stop, would end there, meaning that whoever fails to carry his luggage would be killed there and then’.<sup>5307</sup> Robson Oper stated that eventually another man helped him to carry the fighter.<sup>5308</sup> They carried the man for the whole night and for the whole day until the fighter got worse and then they ‘left him there’.<sup>5309</sup> While questioning Robson Oper, the Defence noted that in his victim’s application form, Robson Oper wrote that he carried the injured fighter ‘with another

<sup>5298</sup> P-0286: [T-131](#), p. 17, line 24 – p. 18, line 7.

<sup>5299</sup> P-0286: [T-131](#), p. 56, lines 2-11.

<sup>5300</sup> P-0286: [T-131](#), p. 26, lines 16-21.

<sup>5301</sup> P-0286: [T-131](#), p. 26, lines 19-23.

<sup>5302</sup> P-0286: [T-131](#), p. 28, lines 15-17.

<sup>5303</sup> P-0286: [T-131](#), p. 28, line 17.

<sup>5304</sup> P-0286: [T-131](#), p. 28, line 17 – p. 29, line 1 and p. 29, line 23.

<sup>5305</sup> P-0286: [T-131](#), p. 28, lines 17-25.

<sup>5306</sup> P-0286: [T-131](#), p. 30, lines 21-24. The Chamber considers that the credibility of P-0286’s account here is bolstered in that he correctly identified Kalalang as the LRA commander in charge.

<sup>5307</sup> P-0286: [T-131](#), p. 29, lines 2-4.

<sup>5308</sup> P-0286: [T-131](#), p. 30, lines 13-18.

<sup>5309</sup> P-0286: [T-131](#), p. 30, line 25 – p. 31, line 4; [T-132](#), p. 13, lines 1-10.

man who was also abducted for three days before [the fighter] died on the fourth day'.<sup>5310</sup> In response, Robson Oper testified that they carried the injured man for two days and that the fourth day refers to the day he was told that the man had died.<sup>5311</sup> The Chamber is satisfied with Robson Oper's explanation and further finds the inconsistency insignificant. The Chamber recalls its earlier assessment of the credibility of the evidence provided by Robson Oper. The Chamber notes first that it found Robson Oper's account of his capture, forced labour and beatings credible. The witness was graphic and detailed in this testimony, providing information indicative of a person who witnessed the events. Further, discrete details of his testimony are corroborated. Charles Amodo testified that Robson Oper was given a '*stretcher-like thing*' with an injured person on it and participated in carrying this person.<sup>5312</sup> Charles Amodo testified that while moving with Robson Oper, Robson Oper told him that he was in a lot of pain as a result of a beating from the LRA.<sup>5313</sup> The Chamber also considers that the testimony provided by Robson Oper as to the LRA's behaviour towards civilians in Abok IDP camp is corroborated by the other witnesses' testimony.

1985.P-0280, a camp resident also abducted by the LRA, offered detailed evidence of his own interactions with the LRA and corroborates Robson Oper's accounts. P-0280 testified to seeing Robson Oper during the retreat from Abok IDP camp.<sup>5314</sup> After abducting P-0280 and killing people in front of him,<sup>5315</sup> armed LRA fighters made P-0280 walk towards the barracks with beans on his head.<sup>5316</sup> P-0280 testified that he did not have the strength to carry the load.<sup>5317</sup> Although the load on his head was very heavy, P-0280 was told that if he threw the load he would be killed.<sup>5318</sup> P-0280 stated: 'you have to bear the load regardless of how heavy it is and walk with it'.<sup>5319</sup>

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<sup>5310</sup> P-0286: [T-132](#), p. 13, lines 22-25; Application for participation as victim, UGA-D26-0012-0349, at 0349-0350.

<sup>5311</sup> P-0286: [T-132](#), p. 14, lines 1-9. *See also* p. 13, lines 1-17.

<sup>5312</sup> P-0304: [T-133](#), p. 23, line 18 – p. 24, line 6.

<sup>5313</sup> P-0304: [T-133](#), p. 23, lines 6-17 (P-0286 was beaten on his shoulders and back by the LRA). The Chamber notes that P-0286 testified that he was also beaten again by the LRA during the retreat from Abok IDP camp.

<sup>5314</sup> Their interaction is discussed further below.

<sup>5315</sup> *See* paras 1950-1953 above.

<sup>5316</sup> P-0280: [T-83](#), p. 51, lines 9-13.

<sup>5317</sup> P-0280: [T-83](#), p. 51, lines 10-11.

<sup>5318</sup> P-0280: [T-83](#), p. 52, line 25 – p. 53, line 4.

<sup>5319</sup> P-0280: [T-83](#), p. 53, lines 3-4.

1986. [REDACTED]

[REDACTED] 5320 [REDACTED]

[REDACTED] 5321 [REDACTED]

[REDACTED] 5322 [REDACTED]

[REDACTED] 5323 [REDACTED]

[REDACTED] The Chamber is convinced that Robson Oper and P-0280 were abducted by the LRA from Abok IDP camp in the course of the attack and forced to work for the LRA.

1987. **Charles Amodo and Gwentorina Akite:** Charles Amodo testified that on the night of the attack, two LRA fighters entered his house and he was captured.<sup>5324</sup> One of the soldiers had a gun.<sup>5325</sup> According to Charles Amodo, apart from his wife and his children, there were no other persons in the house.<sup>5326</sup> Charles Amodo testified that he saw a lot of civilians mixed together with armed LRA fighters.<sup>5327</sup> Charles Amodo testified that he was put amongst the group, the fighters and the other captured people.<sup>5328</sup> Charles Amodo testified that the rebels made the people abducted in Abok carry the things they looted from the camp.<sup>5329</sup> Charles Amodo testified that he was given sesame to carry, although the bag was weak and the items poured out in front of the house before he could carry it.<sup>5330</sup> The rebels then started moving with the civilians trying to look for an exit out of the camp.<sup>5331</sup> According to Charles Amodo, the movement of the group was difficult because ‘very many’ people had been abducted.<sup>5332</sup> Charles Amodo testified that

5320 [REDACTED]

5321 [REDACTED]

5322 [REDACTED]

5323 [REDACTED]

<sup>5324</sup> P-0304: [T-133](#), p. 7, lines 23-25, p. 15, lines 17-21, p. 18, lines 3-6.

<sup>5325</sup> P-0304: [T-133](#), p. 57, lines 9-16.

<sup>5326</sup> P-0304: [T-133](#), p. 43, lines 14-16.

<sup>5327</sup> P-0304: [T-133](#), p. 18, lines 14-19.

<sup>5328</sup> P-0304: [T-133](#), p. 19, lines 17-18.

<sup>5329</sup> P-0304: [T-133](#), p. 8, lines 3-8.

<sup>5330</sup> P-0304: [T-133](#), p. 8, lines 9-10, p. 19, lines 11-17.

<sup>5331</sup> P-0304: [T-133](#), p. 8, lines 11-12.

<sup>5332</sup> P-0304: [T-133](#), p. 8, lines 17-18.

he was bound at his waist by a rope stained with blood and tied to other abductees.<sup>5333</sup> Other abductees were tied at the waist as well.<sup>5334</sup> Charles Amodo testified that during the retreat, he walked barefoot and shirtless in the bush.<sup>5335</sup> He was cold, hungry and it was difficult to get water.<sup>5336</sup> Charles Amodo testified that the abducted people were scared and were being told to move quickly.<sup>5337</sup> Charles Amodo testified that people were forced to cross large bodies of water, a task difficult for short people like himself.<sup>5338</sup> Charles Amodo testified that it was difficult to walk because there were so many people abducted and ‘very many’ items to carry.<sup>5339</sup> Charles Amodo also testified that he was forced to carry things such as a goat on his back.<sup>5340</sup> Charles Amodo testified that there were a lot of beatings along the way.<sup>5341</sup> Charles Amodo testified that a rebel hit him on the side of the head with a bayonet for moving too slowly.<sup>5342</sup> Robson Oper corroborates Charles Amodo’s account, testifying that he saw Charles Amodo in captivity and that Charles Amodo was made to carry luggage.<sup>5343</sup>

1988. Similarly Gwentorina Akite testified that as gunshots were being fired in the camp, she had hid inside her house behind some metal things when Joseph Kony’s rebels came and broke down the door of the house.<sup>5344</sup> Gwentorina Akite testified that she did not know the number of rebels that she saw but there were ‘very many’ and some were flashing torches.<sup>5345</sup> Gwentorina Akite testified that they came into the house and spoke in Acholi in loud threatening voices, saying ‘Get up from where you are hiding! What are you still doing inside?’<sup>5346</sup> Gwentorina Akite, who is also Charles Amodo’s close relative,<sup>5347</sup>

<sup>5333</sup> P-0304: [T-133](#), p. 34, line 23 – p. 35, line 12.

<sup>5334</sup> P-0304: [T-133](#), p. 35, lines 10-12.

<sup>5335</sup> P-0304: [T-133](#), p. 35, lines 13-16.

<sup>5336</sup> P-0304: [T-133](#), p. 35, lines 13-24.

<sup>5337</sup> P-0304: [T-133](#), p. 20, lines 18-14.

<sup>5338</sup> P-0304: [T-133](#), p. 20, lines 18-15.

<sup>5339</sup> P-0304: [T-133](#), p. 8, lines 17-19.

<sup>5340</sup> P-0304: [T-133](#), p. 20, lines 15-18. *See also* P-0279, UGA-OTP-0283-1326, at para. 27 (P-0279 was forced to carry two goats, one on her head and the other in a piece of cloth tied around her neck and across her shoulder so that the goat was hanging in the piece of cloth on her side).

<sup>5341</sup> P-0304: [T-133](#), p. 20, lines 8-13.

<sup>5342</sup> P-0304: [T-133](#), p. 22, lines 19-23.

<sup>5343</sup> P-0286: [T-132](#), p. 4, lines 11-14 and p. 16, lines 3-6.

<sup>5344</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 24.

<sup>5345</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 24.

<sup>5346</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 25.

<sup>5347</sup> Note that P-0279 referred to P-0304 as like ‘a nephew to me’. P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 23. P-0304 described their relationship in more detail, saying she is married into his clan and was his stepmother. P-0304: [T-133](#), p. 43, lines 17-25. P-0304 also described ‘Evalyn’ Akello (P-0279’s step-daughter) as his cousin. The Chamber concludes that the two were close relatives.

testified that she and Charles Amodo were taken from the same home and given things to carry.<sup>5348</sup> Gwentorina Akite testified that although she did not count the abductees, there were very many.<sup>5349</sup>

1989. Gwentorina Akite testified that she was given heavy things to carry during the LRA fighters' retreat from Abok IDP camp, including beans and two goats.<sup>5350</sup> While she was walking, a rebel behind her was poking her back with the butt of his gun.<sup>5351</sup> Gwentorina Akite could not walk anymore and told him that she was too tired.<sup>5352</sup> As the group walked some distance from the camp, the goats were taken from her and given to some girls to carry.<sup>5353</sup> She was given another heavy bag to carry.<sup>5354</sup> The group continued on past swamps and forests,<sup>5355</sup> the bag felt too heavy to Gwentorina Akite and she could no longer carry it.<sup>5356</sup> According to Gwentorina Akite, the rebel soldier behind her took the bag from her and began to beat her with the butt of his gun.<sup>5357</sup> Gwentorina Akite described the beating:

[The LRA fighter] started hitting me with the butt of a gun on my body indiscriminately, on my head, my back ... everywhere. They cut me with the machete on the back of my head; on my left shoulder; above my right eye and on my back.<sup>5358</sup>

1990. Gwentorina Akite testified that as an LRA fighter was beating her, others were passing by and he continued to beat her.<sup>5359</sup> He held her neck and tried to strangle her with one hand while with the other continued to beat her.<sup>5360</sup> Gwentorina Akite testified that she did not hear anyone give him an express order to beat her or to kill her but she thought

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<sup>5348</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at paras 23-25. P-0279 testified that Charles Amodo and his heavily pregnant wife were sleeping in the same house at the time of their abduction. The Chamber recalls Charles Amodo's testimony that there was no one in the house apart from he and his wife and children. He indicated that she lived close to him. P-0304: [T-133](#), p. 43, line 24 – p. 44, line 4. The Chamber is of the view that the discrepancy in their accounts is minor and understandable in light of the events and the time that has elapsed. It does not adversely affect the Chamber's view of the credibility of their accounts.

<sup>5349</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 24.

<sup>5350</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 27.

<sup>5351</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28.

<sup>5352</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28.

<sup>5353</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28.

<sup>5354</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28.

<sup>5355</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 28.

<sup>5356</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 29.

<sup>5357</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 29.

<sup>5358</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 29.

<sup>5359</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 30.

<sup>5360</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 30.

he wanted to kill her.<sup>5361</sup> Gwentorina Akite testified that she became unconscious.<sup>5362</sup> By the time she became conscious again, it was dawn and there was no one around.<sup>5363</sup> Gwentorina Akite testified that she was bleeding from her nose, mouth and body.<sup>5364</sup> Gwentorina Akite testified that she crawled and walked away from the place the rebels and their abductees had gone.<sup>5365</sup> Gwentorina Akite testified that when she came across some clothes left by the rebels, she put on a dress she found to replace the torn dress she was wearing.<sup>5366</sup> Gwentorina Akite testified that when she arrived back in the village, the owner of the dress saw her and said that was the cloth she had worn at her wedding.<sup>5367</sup> The Chamber recalls Robson Oper's testimony that during the retreat, the group he was with came across an elderly local woman, 'Gwerina'.<sup>5368</sup> Robson Oper testified that Gwerina and Gwentorina are names for the same person.<sup>5369</sup> Robson Oper testified that this elderly woman was near the roadside and was being slapped.<sup>5370</sup> Robson Oper testified that he thought the luggage she was given to carry was too heavy for her age and she was scared.<sup>5371</sup> Robson Oper stated:

I would see [the ones] who were leading...slap [her]. When I passed the people who were behind me also continued to slap her...The rebels who were moving [slapped her]. It was dark, they put her by the roadside and when people were passing they would [...] push her and slap her...I saw the person who was in front of me slapping her and then I also heard the person who was behind me slapping her. And she was crying that they should leave her alone.<sup>5372</sup>

1991. Given the overwhelming similarities in the accounts, the Chamber considers that Robson Oper's account corroborates Gwentorina Akite's testimony. Further, Charles Amodo also corroborates the above accounts, testifying that he was told by other abductees that his relative 'Gwerina' was beaten.<sup>5373</sup> Charles Amodo also testified that when he returned

<sup>5361</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 30.

<sup>5362</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 30.

<sup>5363</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 30.

<sup>5364</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 30.

<sup>5365</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at paras 30-31.

<sup>5366</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 31.

<sup>5367</sup> P-0279 Statement, UGA-OTP-0258-0478-R01, at para. 31.

<sup>5368</sup> P-0286: [T-131](#), p. 25, lines 4-15.

<sup>5369</sup> P-0286: [T-132](#), p. 16, line 23 – p. 17, line 10.

<sup>5370</sup> P-0286: [T-131](#), p. 25, lines 8-15.

<sup>5371</sup> P-0286: [T-131](#), p. 25, lines 22-25.

<sup>5372</sup> P-0286: [T-131](#), p. 26, lines 3-15.

<sup>5373</sup> P-0304: [T-133](#), p. 21, line 13 – p. 22, line 2, p. 43, lines 22-25. The Chamber recalls P-0286's testimony that Gwerina and Gwentorina is the same person. The Chamber also notes that the witnesses vary in the location they pinpoint as the site of the beating, mentioning Akello Alyek swamp, Akwanyo-gen stream, and some distance past Akello Alyek swamp. The Chamber places no weight on this point, finding that the difference is easily

from the bush, he spoke with ‘Gwerina’ about what happened to her.<sup>5374</sup> Charles Amodo testified that ‘Gwerina’ was beaten until she was very weak and then she lost consciousness.<sup>5375</sup> Charles Amodo testified that she did not know what time she regained consciousness.<sup>5376</sup> Further, Dorcas Ayo reported seeing Gwentorina Akite in the hospital after the attack. Dorcas Ayo testified that Gwentorina Akite’s head had been pierced by a bayonet.<sup>5377</sup> The Chamber considers Charles Amodo and Dorcas Ayo’s testimony credible and corroborative of the other witnesses’ account of what happened to Gwentorina Akite. The Chamber also notes that UPDF report lists ‘Genenorina Okullu’, age 60, amongst the people injured during the Abok attack.<sup>5378</sup> The Chamber notes the difference in the name listed and the name the witness called herself. However, the similarities in the name are significant enough that the Chamber find this evidence provides further corroboration of Gwentorina Akite’s account that she was injured during the Abok IDP camp attack.

1992. The Chamber is convinced that Charles Amodo and Gwentorina Akite were abducted by the LRA from Abok IDP camp in the course of the attack and forced to work for the LRA. The Chamber also finds that LRA fighters attempted to kill Gwentorina Akite by severely beating her and leaving her for dead during the LRA fighters’ retreat after the 8 June 2004 Abok attack.

1993. **V-0002:** V-0002 testified that in the course of the 8 June 2004 attack on Abok IDP camp, an LRA fighter abducted him.<sup>5379</sup> V-0002 testified that after hearing gunshots the day of the attack, he came out of his house and tried to flee.<sup>5380</sup> He testified that he was captured by an LRA fighter and abducted.<sup>5381</sup> He and other abductees were guarded by four LRA fighters, and forced to flee the camp with the LRA.<sup>5382</sup> He was beaten by the LRA in the

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explained by the chaotic circumstances that the witnesses found themselves in, abductees of the LRA being forced to wander through the bush after their homes had been attacked.

<sup>5374</sup> P-0304: [T-133](#), p. 60, lines 3-24.

<sup>5375</sup> P-0304: [T-133](#), p. 60, lines 17-23.

<sup>5376</sup> P-0304: [T-133](#), p. 60, lines 17-24.

<sup>5377</sup> P-0281 Statement, UGA-OTP-0261-0257-R01, at para. 31.

<sup>5378</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0178.

<sup>5379</sup> V-0002: [T-171](#), p. 7, line 16 – p. 8, line 2.

<sup>5380</sup> V-0002: [T-171](#), p. 7, lines 22-25.

<sup>5381</sup> V-0002: [T-171](#), p. 7, line 23 – p. 8, line 9.

<sup>5382</sup> V-0002: [T-171](#), p. 8, lines 1-9.

course of this retreat.<sup>5383</sup> The Chamber is convinced that V-0002 abducted by the LRA from Abok IDP camp in the course of the attack.

**Some persons abducted by the LRA during the attack were rescued by a UPDF contingent that pursued the LRA fighters as they left Abok IDP camp. Some abductees were killed in captivity, at times for failing to keep up with their captors, others eventually escaped and returned home, some remained with the LRA, including in Dominic Ongwen's household.**<sup>5384</sup>

1994. While it is not clear whether it was the government soldiers with the *mamba* or another contingent of government troops, credible and reliable evidence convinces the Chamber that – in the vicinity of Lalogi or Opit – government soldiers intercepted some retreating LRA fighters and succeeded in rescuing some abducted civilians.<sup>5385</sup> LRA fighters managed to continue their retreat and returned to Atoo hills with abducted civilians.<sup>5386</sup> Some civilians remained with the LRA. The evidence shows that the abductees who were not rescued or managed to escape either became part of the LRA or were killed.<sup>5387</sup>

1995. In this context, the Chamber recalls its discussion of Evelyn Akello, Gwentorina Akite and the abductee who was forced to kill another abductee. Consistent with these accounts, Robson Oper testified that a girl, about 12-13 years old was taken away by the rebels because she was crying and he assumed that she was beaten and killed.<sup>5388</sup> Robson Oper stated:

The girl was crying. They would push her to move and she did not accept, she was not able to move. In the bush when you are told to do something and you fail to do it, they would kill you. They would take you and they would move backwards with you and they would beat you there. When I hear you crying and you stop crying, you don't come back to us. I assume you are no more. Someone would cry and go silent and you wouldn't see that person. And even when you come back home later

<sup>5383</sup> V-0002: [T-171](#), p. 8, lines 1-9.

<sup>5384</sup> Para. 203 above.

<sup>5385</sup> P-0280: [T-83](#), p. 58, lines 14-20 (when the LRA crossed Lalogi, government soldiers commanded by Okello Engola rescued civilians); P-0054: [T-93](#), p. 33, line 22 – p. 34, line 2 (after they crossed the Opit road, some of the LRA were left behind and came across government soldiers who fired upon them). *See also* P-0286: [T-131](#), p. 29, lines 5-8 (in P-0286's estimation around 2:00, after a long walk from Abok, there were gunshots being fired behind the LRA and he could hear a vehicle moving and heavy weaponry being shot from where the group he was with had come from); P-0286: [T-132](#), p. 11, line 14 – p. 12, line 25 (they heard the UPDF bombardments once the LRA got to the place where they had encamped. P-0286 could only hear the gunfire from the distance and did not see the government soldiers).

<sup>5386</sup> P-0286: [T-131](#), p. 33, line 19 – p. 34, line 19 (the LRA moved on and eventually reached Atoo); P-0054: [T-93](#), p. 33, line 25 – p. 34, line 2 (the LRA fighters scattered and went back to Atoo hills); P-0252: [T-87](#), p. 81, line 24 – p. 82, line 6 (the LRA soldiers that retreated fled back to Atoo hills).

<sup>5387</sup> *See also* paras 1978-1979, 1988-1992 above.

<sup>5388</sup> P-0286: [T-131](#), p. 27, lines 7-20.

you realise that when she left the bush she never reached home, so I assume she was killed in the bush.<sup>5389</sup>

1996. The Chamber also finds that Robson Oper's account of what he witnessed during the LRA's retreat from Abok is corroborated by P-0280's testimony of having witnessed the killing of abductees.

1997. Douglas Obwor, one of the camp officials, was in a position to have knowledge about what happened to the abductees after the attack. He testified that some of the abductees returned months later.<sup>5390</sup> According to Douglas Obwor, people realised later after the rescue operation that some people remained with the LRA.<sup>5391</sup> Douglas Obwor's testimony is corroborated by P-0280's account of his time in captivity with the LRA. The Chamber recalls its finding that P-0280 spent a brief period of time in captivity with the LRA. The Chamber found P-0280's account of this period in captivity credible and reliable. P-0280 testified that the abducted civilians who were not rescued by the government soldiers continued on with the LRA.<sup>5392</sup>

1998. The Chamber notes that P-0406 testified that girls who had been abducted in Abok, including girls as young as 12 years old, were taken to Dominic Ongwen's house by a fighter called Korea, then Dominic Ongwen's chief escort.<sup>5393</sup> P-0406 testified that some of the abductees taken from Abok joined his commander's household and some of the boys were taken to the 'dog adaki'.<sup>5394</sup> The Chamber finds this testimony credible and considers it evidence that some abductees from Abok remained with the LRA. Similarly, the Chamber finds credible V-0002's testimony that he spent over two years with the LRA after being abducted in the course of the attack on Abok IDP camp.<sup>5395</sup>

1999. As to the number of civilians abducted from Abok IDP camp, the Chamber notes that in the charges it is alleged that the LRA abducted approximately 26 men, women and children in the attack.<sup>5396</sup> Other evidence also supports the witnesses' account that many

<sup>5389</sup> P-0286: [T-131](#), p. 27, lines 12-20.

<sup>5390</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 27.

<sup>5391</sup> P-0306 Statement, UGA-OTP-0261-0277-R01, at para. 27.

<sup>5392</sup> P-0280: [T-83](#), p. 60, lines 3-5.

<sup>5393</sup> P-0406: [T-154](#), p. 76, line 8 – p. 77, line 8. *See* P-0231: [T-122](#), p. 56, lines 9-14 (Opio Korea was one of Dominic Ongwen's escorts); P-0309: [T-60](#), p. 26, lines 19-25 (Korea was one of Dominic Ongwen's escorts).

<sup>5394</sup> P-0406: [T-154](#), p. 77, lines 12-19.

<sup>5395</sup> V-0002: [T-171](#), p. 17, lines 18-19.

<sup>5396</sup> Para. 62 of the charges ([Confirmation Decision](#), p. 87).

people were abducted in Abok. The Chamber notes that the witnesses in the proceedings did not specify the approximate number of civilians abducted. However, an intelligence report from the Ugandan police, dated 11 June 2004, reported that 26 persons were abducted but four escaped.<sup>5397</sup> A UPDF report, dated August 2004, states that the LRA abducted 36 people from Abok, but four were rescued by the UPDF.<sup>5398</sup> The Chamber notes the discrepancy in the number of abductees. In light of this discrepancy, and the evidence discussed above, the Chamber does not make a finding as to the approximate number of persons abducted by the LRA but concludes that many civilians were abducted from Abok IDP camp by LRA fighters.

2000. In the light of the foregoing, the Chamber finds that the LRA abducted civilians from Abok IDP camp and placed them under military guard to prevent their escape; civilians were forced to work for the LRA and compelled to carry looted goods or injured fighters away from the camp under threat of death or beatings. These abducted civilians were severely mistreated by the LRA. Although the Chamber is unable to determine exactly how many persons were abducted, the Chamber is able to conclude that many civilians were abducted from Abok IDP camp.

*v. Dominic Ongwen's reporting on the attack*

**Dominic Ongwen communicated the results of the attack on the LRA military radio to other LRA commanders and to Joseph Kony, reporting that his fighters carried out an attack on Abok IDP camp, directing fire and burning everything that was there, including huts in the camp.**<sup>5399</sup>

2001. A record of an intercepted radio communication involved Dominic Ongwen, Vincent Otti, Raska Lukwiya, Labalpiny, Joseph Kony and others speaking over the radio at some point in the period of 8-10 June 2004.<sup>5400</sup> In the radio communication, Dominic Ongwen reports that he was just 'coming from warming the body of the boys', meaning that he had been attacking a place or fighting.<sup>5401</sup> While discussing the attack, Dominic Ongwen

<sup>5397</sup> Police Intelligence Report, UGA-OTP-0256-0307. See P-0126 Second Statement, UGA-OTP-0264-0002-R01, at para. 47.

<sup>5398</sup> UPDF Report, atrocities committed by LRA rebels in Northern and Eastern Uganda, UGA-OTP-0037-0153, at 0177; UPDF Report, some selected cases of atrocities committed by LRA rebels, UGA-OTP-0032-0038-R01, at 0057.

<sup>5399</sup> Para. 204 above.

<sup>5400</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See the Chamber's discussion of the intercepted radio communication, UGA-OTP-0235-0049 in section IV.B.3.ii.p above.

<sup>5401</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0124; P-0003: [T-43](#), p. 35, lines 15-22; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0087;

and other participants joked that Dominic Ongwen ‘made the commander over there run carrying a black chicken on his side’.<sup>5402</sup> Dominic Ongwen confirms to Joseph Kony and other LRA members that he carried out an attack ‘[y]esterday’.<sup>5403</sup> Dominic Ongwen described the attack: ‘[w]e started directing fire, we burnt everything that was there including all the huts even the camp and the barracks’.<sup>5404</sup> Dominic Ongwen stated that he captured some ‘waya’, an LRA code word for civilians.<sup>5405</sup> Dominic Ongwen said that he ‘started advancing [...] on the soldiers’ and ‘the soldiers all ran away’.<sup>5406</sup> Dominic Ongwen and Joseph Kony also discussed civilians raising alarm prior to the attack and Joseph Kony’s urging the use of reconnaissance operations prior to an attack.<sup>5407</sup> It was noted that only 30 out of 600 houses were left unburnt in the attack.<sup>5408</sup>

2002. As discussed in detail in the Chamber’s above discussion of the intercepted radio communications, former LRA signallers P-0016 and P-0440, as well as P-0003 and P-0059, respectively the UPDF and ISO radio interceptors who recorded the communications and made the logbook entries discussed below, listened to the recording

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P-0016: [T-32](#), p. 65, line 7-19; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0542; P-0059: [T-37](#), p. 17, lines 18-21; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0381; P-0440: [T-40](#), p. 37, line 17-25.

<sup>5402</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0124; P-0003: [T-43](#), p. 33, line 19 – p. 34, line 2; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0087; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0542; P-0059: [T-37](#), p. 15, line 25 – p. 16, line 10; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0381. The Chamber recalls that witnesses testified that the UPDF commander in charge of the security of Abok IDP camp fled the LRA in the course of the attack carrying a chicken. See para. 1894, n. 5007 above. The Chamber is thus further convinced that this intercepted radio communication is a discussion of the 8 June 2004 Abok IDP camp attack.

<sup>5403</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0125-27; P-0003: [T-43](#), p. 33, line 19 – p. 38, line 19; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0089-90; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0543-45; P-0059: [T-37](#), p. 15, line 25 – p. 20, line 15, p. 21, lines 7-21, p. 22, line 20 – p. 23, line 18; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0383-84; P-0440: [T-40](#), p. 36, line 15 – p. 39, line 9.

<sup>5404</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0125-27; P-0003: [T-43](#), p. 33, line 19 – p. 38, line 19; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0089-90; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0543-45; P-0059: [T-37](#), p. 15, line 25 – p. 20, line 15, p. 21, lines 7-21, p. 22, line 20 – p. 23, line 18; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0383-84; P-0440: [T-40](#), p. 36, line 15 – p. 39, line 9.

<sup>5405</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0544; P-0059: [T-37](#), p. 18, lines 7-18; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0089; P-0016: [T-32](#), p. 66, lines 14-18; P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0126.

<sup>5406</sup> See Enhanced audio recording, UGA-OTP-0235-0049. See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0126; P-0003: [T-43](#), p. 34, lines 15-21; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0089; P-0016: [T-32](#), p. 66, lines 23-25; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0543; P-0059: [T-37](#), p. 15, line 25 – p. 16, line 9; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0383; P-0440: [T-40](#), p. 38, lines 6-9.

<sup>5407</sup> See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0130-33; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0548-50; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0387-89.

<sup>5408</sup> See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0124; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0542; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0381.

before and during the proceedings and each confirmed that they recognised Dominic Ongwen's voice reporting the attack.<sup>5409</sup> P-0016 also testified that at the time of the Abok attack, he was in the Gilva brigade and he heard Dominic Ongwen send a radio communication that Abok had been attacked.<sup>5410</sup>

2003. The Chamber notes that Abok is not mentioned in the transcript of this radio communication.

2004. However, the Chamber notes first that Dominic Ongwen's description of the attack in the radio communication corresponds with its understanding of the attack on Abok IDP camp on 8 June 2004.<sup>5411</sup>

2005. Second, the intercepted radio communication took place at some point in the period of 9-10 June 2004, just after the 8 June 2004 Abok IDP camp attack, which is when the LRA would naturally be discussing the attack. Further, in the radio communication, Dominic Ongwen is referring to an attack he carried out '[y]esterday'.<sup>5412</sup> Other LRA members, including Vincent Otti, discuss the same attack in the radio communication, also state that it occurred '[y]esterday', and go so far as to say that the attack occurred at '8 pm at night'.<sup>5413</sup> The Chamber notes that there is no evidence or suggestion that another LRA attack took place that day. The intercepted radio communication correlates with the witnesses' testimony to the effect that Abok IDP camp was attacked by the LRA in the early evening on 8 June 2004.

2006. Third, logbooks, prepared by UPDF and ISO officers, contain contemporaneous written records of the radio communication connecting the attack discussed therein to the Abok attack. The content of the logbooks correlates to the intercepted radio communication and these logbooks identify Abok as the location of the attack. A UPDF logbook entry, dated 9 June 2004, contains the following:

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<sup>5409</sup> See the Chamber's discussion of the intercepted radio communication, UGA-OTP-0235-0049 in section IV.B.3.ii.p above.

<sup>5410</sup> P-0016: [T-34](#), p. 17, lines 2-21.

<sup>5411</sup> See section IV.C.9.iv above.

<sup>5412</sup> See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0125; P-0016 Tape 837 Transcript, UGA-OTP-0259-0086, at 0088; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0543; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0382.

<sup>5413</sup> See P-0003 Tape 837 Transcript, UGA-OTP-0248-0106-R01, at 0122-24; P-0059 Tape 837 Transcript, UGA-OTP-0248-0524-R01, at 0540-42; P-0440 Tape 837 Transcript, UGA-OTP-0262-0363-R01, at 0379-81.

Dominic came on air with OPN reports that he attacked Abok IDP camp [...] yesterday 2100hrs. He overpowered UPDF running in disarray and later on they were reinforced by Mambas but he managed to recover the following items: 6 full magazines, 4 pairs of gum boots, 2 dust coats and 2 empty magazines. He further revealed that about 30 civs were burnt to death in their houses and 570 houses were set ablaze. He disclosed that on his side there were no loss to the UPDF. Vincent Otti encouraged Dominic to continue with such plans.<sup>5414</sup>

2007. Another UPDF logbook, also with an entry dated 9 June 2004 and containing information in line with the radio communication, names ‘Aboke Centre’ as the location of the attack.<sup>5415</sup> Similarly, an ISO logbook, dated 9 June 2004, containing information correlating to the radio communication also names ‘Aboke centre’ as the location of the attack.<sup>5416</sup>

2008. Importantly, the UPDF and ISO logbooks from 9-10 June 2004 do not mention any other LRA attack occurring on 8 June 2004, apart from the attack on Abok IDP camp. Dominic Ongwen’s own words in the intercepted radio communications overwhelmingly match the corresponding logbooks. In light of the foregoing, the Chamber, contrary to the Defence submission,<sup>5417</sup> concludes that the intercepted radio communication shows Dominic Ongwen discussing the Abok IDP camp attack at issue in these proceedings. In his communication with other LRA members, including Joseph Kony, Dominic Ongwen himself reports that his troops attacked Abok IDP camp on or about 8 June 2004, causing great damage to the camp and its civilian population.

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<sup>5414</sup> UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0324.

<sup>5415</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3078. The Chamber notes that the UPDF Logbook (Gulu) contains less detail than the UPDF Logbook (Lira) discussed above. For example, this logbook does not mention the claim that the UPDF was reinforced by *mambas* as does the UPDF Logbook (Lira). Further this logbook reports that 600 civilian homes were burnt as opposed to the 570 detailed in the UPDF Logbook (Gulu). However, the Chamber considers that variations in detail are to be expected from logbooks which contain the records made by different individuals at different interception locations, taking contemporaneous notes during radio communications.

<sup>5416</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0023. *See also* Police Logbook, UGA-OTP-0037-0002, at 0100 (naming ‘Abok’ as the location of the LRA attack on 8 June 2004).

<sup>5417</sup> [Defence Closing Brief](#), para. 465.

*10. Sexual and gender based violence directly perpetrated by Dominic Ongwen*

2009. Dominic Ongwen faces 10 charges of directly perpetrating crimes of sexual and gender-based violence against seven women: ██████████ (P-0099); ██████████ (P-0101); ██████████ (P-0214); ██████████ (P-0226); ██████████ (P-0227); ██████████ (P-0235); and ██████████ (P-0236). These women all testified before the Pre-Trial Chamber and their testimony, collected and preserved pursuant to Article 56 of the Statute, was subsequently introduced at trial. As stated above, the Chamber finds the testimony of these witnesses to be fully reliable.<sup>5418</sup> The Chamber notes that these witnesses testified to remarkably similar experiences which they all, at different times, were subjected to. However, the facts and circumstances described in the charges (and corresponding legal characterisation) are not identical with respect to all of them. This is primarily due to the Court only having jurisdiction over crimes committed as of 1 July 2002 and the Prosecution electing to bring charges against Dominic Ongwen only for crimes committed until 31 December 2005.<sup>5419</sup> In accordance with Article 74(2) of the Statute, the Chamber is bound by the text of the charges as confirmed, and the judgment shall not exceed the facts and circumstances described in the charges. At the same time, reference to certain events concerning one or more of the seven witnesses – even if outside the parameters of the charges as such – may still be of relevance, as circumstantial evidence, to establish facts and circumstances described in the charges, or may otherwise be necessary to contextualise and fully articulate the facts of the charges, in particular as concerns the beginning and the end of the temporal scope of the charges. It is in these instances that the Chamber refers to evidence of conduct outside the parameters of the charges and makes the necessary corresponding findings as part of its determination on the facts described in the charges as underlying the crimes with which Dominic Ongwen is charged.

*i. Abduction and ‘distribution’ to Dominic Ongwen*

2010. The Chamber will now set out the evidence of how: (i) each of the seven women was abducted by the LRA and (ii) how each of these women ended up being sent to Dominic

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<sup>5418</sup> See section IV.B.2.iii.a above.

<sup>5419</sup> In this regard, the Chamber notes the similar remarks made by the Pre-Trial Chamber in the present case at paras 105-107 of the [Confirmation Decision](#).

Ongwen's household. Other parts of this judgment set out the overall practice of 'distributing' abducted women and girls within the LRA.<sup>5420</sup>

a. P-0099

**██████████ (Witness P-0099) had been abducted by LRA fighters from Purongo, Northern Uganda in February 1998 and from there taken by the LRA to Sudan. By 1 July 2002, while in Sudan, she had been forced to become Dominic Ongwen's so-called 'wife'.<sup>5421</sup>**

2011. In February 1998, ██████████ (P-0099) was living in Purongo, Northern Uganda.<sup>5422</sup>

She was around 15 years old and living at home because her mother was not able to pay for her to go to school.<sup>5423</sup> As she slept one night, LRA fighters suddenly entered her house and told her to get up and leave without shouting.<sup>5424</sup> As she left the house, she saw her uncle – an escort to Joseph Kony – as a member of the group of about 100 fighters who came to abduct her.<sup>5425</sup> Dominic Ongwen was also in this group.<sup>5426</sup>

2012. The LRA fighters took P-0099 and a group of around 30 fellow abductees.<sup>5427</sup> Older people were soon released, but she was kept in the remaining group which travelled to meet Joseph Kony in Sudan.<sup>5428</sup> P-0099 lived at Joseph Kony's house for seven months as a *ting ting*.<sup>5429</sup> Joseph Kony wanted P-0099 to be his so-called 'wife', but P-0099 did not want this and asked her uncle to speak with Joseph Kony.<sup>5430</sup> The uncle did so and Joseph Kony agreed to transfer P-0099 to be another's so-called 'wife'.<sup>5431</sup> Three commanders asked P-0099 to be their so-called 'wife', and she refused each one.<sup>5432</sup> Dominic Ongwen was the fourth to ask – P-0099 testified she felt obliged to go and accepted.<sup>5433</sup> After a few days, Dominic Ongwen sent his escorts to come collect her.<sup>5434</sup>

<sup>5420</sup> See section IV.C.11.iii below.

<sup>5421</sup> Para. 205 above.

<sup>5422</sup> P-0099: [T-14](#), p. 11, lines 11-14.

<sup>5423</sup> P-0099: [T-14](#), p. 10, line 21 – p. 11, line 25, p. 13, lines 2-12.

<sup>5424</sup> P-0099: [T-14](#), p. 13, line 25 – p. 14, line 13.

<sup>5425</sup> P-0099: [T-14](#), p. 14, line 14 – p. 15, line 4, p. 17, line 24 – p. 19, line 4.

<sup>5426</sup> P-0099: [T-14](#), p. 17, lines 16-20.

<sup>5427</sup> P-0099: [T-14](#), p. 15, lines 5-12.

<sup>5428</sup> P-0099: [T-14](#), p. 15, line 21 – p. 19, line 19.

<sup>5429</sup> P-0099: [T-14](#), p. 20, line 22 – p. 22, line 4.

<sup>5430</sup> P-0099: [T-14](#), p. 24, line 10 – p. 25, line 7.

<sup>5431</sup> P-0099: [T-14](#), p. 25, line 11 – p. 26, line 8.

<sup>5432</sup> P-0099: [T-14](#), p. 27, line 22 – p. 28, line 10.

<sup>5433</sup> P-0099: [T-14](#), p. 28, lines 11-21.

<sup>5434</sup> P-0099: [T-14](#), p. 30, line 15 – p. 31, line 10.

## b. P-0101

**Dominic Ongwen had personally abducted [REDACTED] (Witness P-0101) from Northern Uganda in August 1996. Dominic Ongwen immediately took her into his household, where she stayed until her release in 2004.**<sup>5435</sup>

2013. In August 1996, [REDACTED] (P-0101) was 15 years old.<sup>5436</sup> Her older brother asked her to deliver a bicycle to someone very early in the morning.<sup>5437</sup> P-0101 delivered it and was hurrying back to the fields.<sup>5438</sup> She was wearing her school uniform, which P-0101 remembered as a pink skirt and white blouse with red stripes on the arms.<sup>5439</sup> On her way back she encountered Dominic Ongwen leading a group of LRA soldiers who then abducted her.<sup>5440</sup> Abudema – the superior commander of Dominic Ongwen’s group – said that girls should be released, but Dominic Ongwen ‘did not accept, saying that he had already found his wife and would not release his abductee’.<sup>5441</sup> After the abduction Dominic Ongwen separated P-0101 from the other abductees and smeared her with water and shea nut oil in order to mark her as his.<sup>5442</sup> As discussed below, P-0101 was considered part of Dominic Ongwen’s household and his ‘wife’ until her release in July 2004.<sup>5443</sup>

## c. P-0214

**[REDACTED] (Witness P-0214) had been abducted from Laliya, Northern Uganda, by LRA fighters in June 2000 and from there taken to Sudan. In September 2002, she was ‘distributed’ to Dominic Ongwen.**<sup>5444</sup>

2014. On a day in June 2000 when [REDACTED] (P-0214) was around 17 years old, she went to sleep in an enclosed place because the security situation was not good near Laliya where her family lived.<sup>5445</sup> She awoke to gunfire at the Laliya centre, but managed to go back to sleep.<sup>5446</sup> She had a dream that soldiers were coming to abduct her.<sup>5447</sup> When she woke

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<sup>5435</sup> Para. 205 above.

<sup>5436</sup> P-0101: [T-13](#), p. 16, lines 6-20.

<sup>5437</sup> P-0101: [T-13](#), p. 49, line 21 – p. 50, line 14.

<sup>5438</sup> P-0101: [T-13](#), p. 49, line 21 – p. 50, line 14.

<sup>5439</sup> P-0101: [T-13](#), p. 18, line 21 – p. 19, line 1.

<sup>5440</sup> P-0101: [T-13](#), p. 16, lines 6-20, p. 48, line 5 – p. 49, line 6.

<sup>5441</sup> P-0101: [T-13](#), p. 50, lines 8-10.

<sup>5442</sup> P-0101: [T-13](#), p. 50, lines 4-13.

<sup>5443</sup> See sub-sections IV.C.10.ii and IV.C.10.iii below.

<sup>5444</sup> Para. 205 above.

<sup>5445</sup> P-0214: [T-15](#), p. 3, lines 10-16, p. 5, line 9 – p. 6, line 4.

<sup>5446</sup> P-0214: [T-15](#), p. 5, lines 14-21.

<sup>5447</sup> P-0214: [T-15](#), p. 5, lines 14-21.

up the gate enclosing her had been broken and LRA soldiers from the Sinia Brigade were flashing torches in her room.<sup>5448</sup> They told her to get up and get out.<sup>5449</sup> P-0214 told the soldiers she had a problem with her leg – a soldier then stepped on the injured leg and told her she was lying.<sup>5450</sup> She got up and started moving with the LRA along with around 50 other abductees.<sup>5451</sup> They eventually travelled to Sudan – at a point along the way all female abductees were released except P-0214 and one other.<sup>5452</sup> Upon reaching Sudan, P-0214 met Joseph Kony.<sup>5453</sup> When Dominic Ongwen later arrived in the area, Joseph Kony directed people to take P-0214 to the accused’s house.<sup>5454</sup>

2015. In the course of P-0214’s testimony, the Chamber notes there was significant confusion as to whether P-0214 was ‘distributed’ to Dominic Ongwen in 2002 or 2004. The witness initially vacillated between these years, though in the course of the Defence questioning she clearly stated she was ‘distributed’ to Dominic Ongwen in September 2002.<sup>5455</sup> The Chamber considers that P-0214’s final statement on her ‘distribution’ year is the correct one, given that: (i) P-0214 remembers seeing P-0226 and hearing from her about P-0099 and P-0101 as so-called ‘wives’ of Dominic Ongwen when she arrived at Dominic Ongwen’s household<sup>5456</sup> – all three women were there for at least part of September 2002, but neither P-0099 nor P-0226 were there in 2004, while P-0101 escaped in July 2004 at a time at which she stated P-0214 to have been one of Dominic Ongwen’s so-called ‘wives’,<sup>5457</sup> and (ii) P-0214 recalls P-0226 leaving the bush after having been injured,<sup>5458</sup> which happened in 2003.<sup>5459</sup> The Chamber also considers that mixing up 2002 and 2004 is the kind of ordinary mistake that can happen when testifying to events experienced over a decade ago.<sup>5460</sup>

<sup>5448</sup> P-0214: [T-15](#), p. 5, line 22 – p. 6, line 4, p. 6, line 24 – p. 7, line 2.

<sup>5449</sup> P-0214: [T-15](#), p. 6, lines 5-13.

<sup>5450</sup> P-0214: [T-15](#), p. 6, lines 5-13.

<sup>5451</sup> P-0214: [T-15](#), p. 7, lines 11-14.

<sup>5452</sup> P-0214: [T-15](#), p. 9, line 14 – p. 12, line 9.

<sup>5453</sup> P-0214: [T-15](#), p. 12, lines 8-9.

<sup>5454</sup> P-0214: [T-15](#), p. 15, line 13 – p. 16, line 6.

<sup>5455</sup> P-0214: [T-15](#), p. 16, line 7 – p. 18, line 10, p. 43, line 3 – p. 44, line 10.

<sup>5456</sup> P-0214: T-15-CONF, p. 18, line 11 – p. 19, line 5.

<sup>5457</sup> P-0101: T-13-CONF, p. 12, lines 1-5, p. 15, line 21 – p. 16, line 3.

<sup>5458</sup> P-0214: T-15-CONF, p. 20, lines 19-23.

<sup>5459</sup> See para. 2091 below.

<sup>5460</sup> See especially P-0214: [T-15](#), p. 16, lines 7-10 (conceding at the outset that P-0214 did ‘not recall the actual date because it’s been a while’).

d. P-0226

**██████████ (Witness P-0226) had been abducted from her home at Patiko Cetkana, Lukome, Northern Uganda, by LRA fighters under Dominic Ongwen’s command around 1998. By 1 July 2002, she was a *ting ting* in Dominic Ongwen’s household.<sup>5461</sup>**

2016. In 1991, ██████████ (P-0226) was born in Patiko Cetkana, Lukome.<sup>5462</sup> She lived there with her parents, two brothers and four sisters.<sup>5463</sup> One day around 1998, she woke up early in the morning and sat outside around a fireplace with one of her sisters and her uncle’s son.<sup>5464</sup> Her mother was outside peeling cassava.<sup>5465</sup>

2017. P-0226 then saw about 50 LRA soldiers coming to her house.<sup>5466</sup> The soldiers arrived and told her ‘[l]ittle girl, stand up’.<sup>5467</sup> P-0226 refused – the soldier took out a gun and told her to get up.<sup>5468</sup> She got up to start walking with the soldiers, who were also taking her sister and her uncle’s son.<sup>5469</sup> P-0226’s mother tried to stop the soldiers from taking her and her sister.<sup>5470</sup> The soldiers told her mother to keep quiet.<sup>5471</sup> P-0226 could hear her mother crying as they were moving away.<sup>5472</sup> At the time, P-0226 was seven years old.<sup>5473</sup>

2018. P-0226’s sister did not travel with the soldiers very long before she was put in a house and left there by the LRA.<sup>5474</sup> The explanation given to her sister on why she was not held by the soldiers was that she was ugly.<sup>5475</sup>

2019. P-0226 stayed with the soldiers and was forced to carry salt on their journey.<sup>5476</sup> The salt leaked out of the bag and, when coupled with rain, gave her sores on her head.<sup>5477</sup> Eventually their group stopped and P-0226 first met Dominic Ongwen, who at the time

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<sup>5461</sup> Para. 205 above.

<sup>5462</sup> P-0226: [T-8](#), p. 8, lines 10-11, p. 9, lines 2-5.

<sup>5463</sup> P-0226: [T-8](#), p. 9, line 20 – p. 10, line 3.

<sup>5464</sup> P-0226: [T-8](#), p. 9, lines 6-7, p. 10, lines 14-22.

<sup>5465</sup> P-0226: [T-8](#), p. 10, lines 23-24.

<sup>5466</sup> P-0226: [T-8](#), p. 10, lines 4-6, p. 14, lines 1-17.

<sup>5467</sup> P-0226: [T-8](#), p. 11, lines 15-18.

<sup>5468</sup> P-0226: [T-8](#), p. 11, lines 15-18.

<sup>5469</sup> P-0226: [T-8](#), p. 10, lines 14-16, p. 11, line 19 – p. 12, line 9.

<sup>5470</sup> P-0226: [T-8](#), p. 11, line 22 – p. 12, line 2.

<sup>5471</sup> P-0226: [T-8](#), p. 11, line 22 – p. 12, line 2.

<sup>5472</sup> P-0226: [T-8](#), p. 11, line 22 – p. 12, line 2.

<sup>5473</sup> P-0226: [T-8](#), p. 9, lines 6-7, p. 27, lines 17-18; [T-9](#), p. 8, lines 5-25.

<sup>5474</sup> P-0226: [T-8](#), p. 12, line 15 – p. 13, line 11.

<sup>5475</sup> P-0226: [T-8](#), p. 13, lines 9-11.

<sup>5476</sup> P-0226: [T-8](#), p. 14, lines 18-22. *See also* p. 14, line 18 – p. 18, line 20.

<sup>5477</sup> P-0226: [T-8](#), p. 15, lines 18-25.

commanded the group abducting her.<sup>5478</sup> They continued travelling for about a month until they reached Sudan, where P-0226 met Joseph Kony for purposes of being ‘distributed’ along with other girls.<sup>5479</sup> Joseph Kony was the first to choose girls from P-0226’s group.<sup>5480</sup> After he made his selection, Dominic Ongwen chose P-0226 and sent his escorts to take her to his home.<sup>5481</sup>

2020.P-0226 had not had a bath since her abduction and Dominic Ongwen arranged through one of his so-called ‘wives’ for her to put a shabby dress over her school uniform.<sup>5482</sup> She looked such that – despite being only seven years old – Joseph Kony asked Dominic Ongwen during the distribution ‘[w]hy did you bring an old person here?’<sup>5483</sup> P-0226 understood that Dominic Ongwen was disguising her beauty from Joseph Kony so she would not be selected.<sup>5484</sup> When Joseph Kony realised what P-0226 actually looked like, he sent his escort to collect her.<sup>5485</sup> Dominic Ongwen hid P-0226 by keeping her under his bed for approximately one month.<sup>5486</sup> Ultimately, P-0226 remained in Dominic Ongwen’s house – the witness did not see Dominic Ongwen beaten for this conduct.<sup>5487</sup> P-0226 was initially a *ting ting* in Dominic Ongwen’s household and eventually proclaimed by Dominic Ongwen as one of his so-called ‘wives’ at some point after September 2002.<sup>5488</sup>

<sup>5478</sup> P-0226: [T-8](#), p. 17, line 23 – p. 18, line 16, p. 23, lines 4-6.

<sup>5479</sup> P-0226: [T-8](#), p. 21, lines 12-19, p. 26, lines 6-12. *See also* p. 24, line 3 – p. 29, line 18.

<sup>5480</sup> P-0226: [T-8](#), p. 26, lines 6-12, p. 27, lines 12-14; [T-9](#), p. 20, lines 18-25.

<sup>5481</sup> P-0226: [T-8](#), p. 29, lines 10-18.

<sup>5482</sup> P-0226: [T-8](#), p. 26, line 25 – p. 27, line 11.

<sup>5483</sup> P-0226: [T-8](#), p. 27, lines 12-19.

<sup>5484</sup> P-0226: [T-9](#), p. 20, line 18 – p. 21, line 19.

<sup>5485</sup> P-0226: [T-9](#), p. 32, lines 12-15. *See also* p. 32, line 12 – p. 36, line 12.

<sup>5486</sup> P-0226: [T-9](#), p. 32, lines 16-22.

<sup>5487</sup> P-0226: [T-9](#), p. 35, line 8 – p. 36, line 12.

<sup>5488</sup> *See* paras 2036, 2051-2055 below.

e. P-0227

**██████████ (Witness P-0227) was abducted from Pageya, Northern Uganda by LRA fighters under Dominic Ongwen’s command in approximately April 2005. She joined Dominic Ongwen’s household.**<sup>5489</sup>

2021. In April 2005, ██████████ (P-0227) was around 19 years old and living in Pageya.<sup>5490</sup>

Very late at night, two uniformed armed LRA entered her house.<sup>5491</sup> P-0227 had been reading earlier, but by this time had fallen asleep.<sup>5492</sup> The sound of the door being pushed woke her up.<sup>5493</sup> The men shined a torch around, found some millet flour and ordered P-0227 to put it in a sack.<sup>5494</sup> She was then told by the men to ‘[c]arry that millet flour and get out’.<sup>5495</sup> P-0227 complied.<sup>5496</sup> Her mother tried to cry – P-0227 testified that the men said if her mother continued crying that meant ‘she wanted to see me die, so my mother has to keep quiet’.<sup>5497</sup> Two of P-0227’s brothers were abducted at the same time.<sup>5498</sup>

2022. When P-0227 left her house she saw other soldiers outside.<sup>5499</sup> She saw her father lying down on his stomach with some women next to him.<sup>5500</sup> P-0227 could not tell if her father was alive or not.<sup>5501</sup> P-0227 was told to start walking with the millet flour, which she did.<sup>5502</sup> Others from her town were also abducted – another Pageya girl was soon released but P-0227 was not.<sup>5503</sup>

2023. P-0227 was brought before the soldiers’ commander, Dominic Ongwen.<sup>5504</sup> The soldiers told Dominic Ongwen that they got some food and girls and, though they had to release

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<sup>5489</sup> Para. 205 above.

<sup>5490</sup> P-0227: [T-10](#), p. 2, lines 17-21, p. 5, line 25 – p. 10, line 10. P-0205 recalls P-0227 being present at Lukodi for the mid-2004 attack. P-0205: [T-49](#), p. 72, line 24 – p. 73, line 4. P-0227 never mentions Lukodi. Given the distant events being recalled and how P-0227 is best placed to remember her own abduction year, the Chamber considers P-0205 to simply be mistaken on this point.

<sup>5491</sup> P-0227: [T-10](#), p. 6, lines 10-16. *See also* p. 5, line 25 – p. 10, line 10.

<sup>5492</sup> P-0227: [T-10](#), p. 6, lines 10-19.

<sup>5493</sup> P-0227: [T-10](#), p. 6, lines 10-19.

<sup>5494</sup> P-0227: [T-10](#), p. 6, lines 20-24.

<sup>5495</sup> P-0227: [T-10](#), p. 6, line 25.

<sup>5496</sup> P-0227: [T-10](#), p. 6, line 25 – p. 7, line 1.

<sup>5497</sup> P-0227: [T-10](#), p. 7, lines 2-4.

<sup>5498</sup> P-0227: [T-10](#), p. 8, lines 3-8.

<sup>5499</sup> P-0227: [T-10](#), p. 8, lines 18-24.

<sup>5500</sup> P-0227: [T-10](#), p. 8, line 25 – p. 9, line 2.

<sup>5501</sup> P-0227: [T-10](#), p. 9, lines 4-8.

<sup>5502</sup> P-0227: [T-10](#), p. 8, line 25 – p. 9, line 2.

<sup>5503</sup> P-0227: T-10-CONF, p. 10, line 11 – p. 11, line 14, p. 14, lines 2-18. *See also* [T-10](#), p. 16, lines 17-22.

<sup>5504</sup> P-0227: [T-10](#), p. 15, line 23 – p. 16, line 1. *See also* p. 15, line 23 – p. 17, line 7.

one of them, they brought the rest.<sup>5505</sup> Dominic Ongwen laughed and said ‘Thank you. You should have brought even the other girl. Why did you let her go?’<sup>5506</sup> P-0227 was then forced to join Dominic Ongwen’s homestead.<sup>5507</sup>

2024. The Defence raises inconsistencies in P-0227’s date of abduction, alleging she testified to being abducted in September 2002 and April 2005.<sup>5508</sup> P-0227 never testified to a 2002 abduction date – the Defence simply misstates the evidence. But there are discrepancies between P-0227’s testimony and her GUSCO form,<sup>5509</sup> one of which is an abduction date (April 2004) exactly one year earlier than the date given in her testimony. P-0227 explained that she provided the information in a state of exhaustion and simply made a mistake in the completion of the form.<sup>5510</sup> The Chamber considers P-0227’s explanation to be compelling, and notes that other evidence also points to what she said in her testimony being true.<sup>5511</sup> The Chamber believes P-0227’s testimony on these points, and not her GUSCO form.

f. P-0235

**██████████ (Witness P-0235) was abducted by the LRA fighters in Kitgum town in September 2002. After her abduction she was placed in Dominic Ongwen’s household.**<sup>5512</sup>

2025. ██████████ (P-0235), born in 1987, lived in Kitgum with her mother.<sup>5513</sup> One night P-0235 was sleeping when the door to their house was broken open by LRA fighters from Sinia brigade.<sup>5514</sup> P-0235 was asked to leave the house.<sup>5515</sup> P-0235’s mother asked the fighters to leave P-0235 – the soldiers threatened to beat her mother and made her

<sup>5505</sup> P-0227: [T-10](#), p. 16, lines 17-22.

<sup>5506</sup> P-0227: [T-10](#), p. 16, line 25 – p. 17, line 2.

<sup>5507</sup> P-0227: [T-10](#), p. 17, line 19 – p. 18, line 11.

<sup>5508</sup> [Defence Closing Brief](#), para. 70, n. 64.

<sup>5509</sup> P-0227 GUSCO rehabilitation centre file, UGA-OTP-0233-0730.

<sup>5510</sup> *Compare* P-0227 GUSCO rehabilitation centre file, UGA-OTP-0233-0730, at 0732 *with* P-0227: [T-10](#), p. 61, lines 5-19; [T-11](#), p. 19, line 17 – p. 20, line 6.

<sup>5511</sup> P-0101 and P-0227 mention other women considered as Dominic Ongwen’s ‘wives’, but not each other. This is consistent with P-0227 being abducted in 2005 as claimed in her testimony, noting that P-0101 escaped the LRA in July 2004.

<sup>5512</sup> Para. 205 above.

<sup>5513</sup> P-0235: [T-17](#), p. 2, lines 6-10, p. 3, lines 17-21. While P-0245 explained how P-0235 was abducted from Lacani, not Kitgum (*see* P-0245: [T-98](#), p. 15, line 7 – p. 17, line 12, p. 20, line 4 – p. 22, line 5; [T-100](#), p. 34, lines 3-13), the Chamber recalls its conclusion that it does not rely on P-0245’s testimony (*see* paras 277-280 above). In any event, the Chamber considers P-0235 to be best placed to know where she was abducted from.

<sup>5514</sup> P-0235: [T-17](#), p. 3, line 25 – p. 4, line 9, p. 4, line 25 – p. 5, line 9. *See also* p. 3, line 25 – p. 6, line 16.

<sup>5515</sup> P-0235: [T-17](#), p. 3, line 25 – p. 4, line 9.

leave.<sup>5516</sup> P-0235 then left with her captors as her mother remained at the house.<sup>5517</sup> P-0235 travelled with the soldiers and other abductees until they reached Pader and met Dominic Ongwen.<sup>5518</sup> P-0235 was sent to live at Dominic Ongwen's home.<sup>5519</sup>

2026. P-0235 remembered being abducted in September, but was not positive about whether it was 2001 or 2002. She initially testified she was abducted in September 2001,<sup>5520</sup> but then vacillated between 2001 and 2002.<sup>5521</sup> P-0235's prior statement also mentions both years, saying that her mother remembered the abduction being in 2001.<sup>5522</sup> P-0235's explanation for not remembering is that 'I'd been in the bush for a really long time and I'd – I was not very sure about the year. It was when I came back that I was told that I was abducted in 2001'.<sup>5523</sup> Given the traumatic nature of her abduction and that P-0235 spent well over a decade in the bush, the Chamber can appreciate why she may not remember the year of her abduction. This said, other evidence confirms that P-0235 was abducted in September 2002 and not 2001. P-0235 suggests that there was an attack on a place called Lanyatilo soon after her abduction,<sup>5524</sup> and this attack occurred in September 2002.<sup>5525</sup> P-0235 and P-0236 were abducted contemporaneously,<sup>5526</sup> and P-0236 unequivocally testified to being abducted in September 2002.<sup>5527</sup> P-0235 also

<sup>5516</sup> P-0235: [T-17](#), p. 4, lines 7-8, p. 6, lines 10-13.

<sup>5517</sup> P-0235: [T-17](#), p. 6, lines 10-16.

<sup>5518</sup> P-0235: [T-17](#), p. 6, lines 10-16, p. 7, lines 7-15.

<sup>5519</sup> P-0235: [T-17](#), p. 7, line 25 – p. 8, line 4.

<sup>5520</sup> P-0235: [T-17](#), p. 3, lines 17-21.

<sup>5521</sup> P-0235: [T-17](#), p. 14, lines 13-20, p. 50, lines 1-4, p. 67, lines 6-18.

<sup>5522</sup> P-0235 Statement, UGA-OTP-0240-0003-R01, at para. 11.

<sup>5523</sup> P-0235: [T-17](#), p. 50, lines 1-4.

<sup>5524</sup> P-0235: [T-17](#), p. 14, lines 13-20, p. 67, lines 6-21 (*see especially this excerpt, with emphasis added: 'You mentioned an attack on Pot-Ogali. Was Dominic injured at the time of the attack on Pot-Ogali? A. No, not yet. It was at the time of Lanyatilo he was not yet injured. In 2002 I had just been newly abducted and that's my recollection and that's how I recall it.'*).

<sup>5525</sup> The Chamber notes that both P-0309 and P-0379 described an attack on UPDF barracks at Lanyatido (which is understood to be the same place as that mentioned by P-0235) led by Dominic Ongwen (P-0309: [T-61](#), p. 14, line 7 – p. 16, line 1; P-0379: [T-56](#), p. 37, line 16 – p. 43, line 12). While neither witness testifies to a specific date on which the attack occurred, an entry from the ISO logbook suggests that this attack took place in mid-September 2002 (*see ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0021*). In this regard, the Chamber also notes its discussion on the general reliability of the 2002 ISO logbooks at para. 666. As discussed below, P-0309 was himself abducted in September 2002 in the area of Lanyatido (*see para. 2345*), while P-0379 was abducted in August 2002 (*see para. 360*) and testified that the attack on Lanyatido barracks was the first attack he participated in (P-0379: [T-56](#), p. 37, lines 16-17). In addition, the Chamber takes note in this context that neither P-0309 nor P-0379 mentioned Dominic Ongwen having been impaired by any injury at the time (P-0309 only mentions that Dominic Ongwen suffered a small injury to the chest during the attack for which he did not have to go to sickbay; [T-62](#), p. 34, lines 6-13); as regards the timing of Dominic Ongwen's injury to his leg and his subsequent stay in sickbay, *see paras 1021-1049 above*.

<sup>5526</sup> P-0235: T-17-CONF, p. 17, lines 5-11 (P-0236 abducted the week after her).

<sup>5527</sup> P-0236: [T-16](#), p. 6, line 19 – p. 7, line 6.

testified that P-0214 was in Dominic Ongwen's household when she arrived, and P-0214 was 'distributed' to Dominic Ongwen in 2002.<sup>5528</sup> In light of this, the Chamber concludes that P-0235 was abducted no earlier than September 2002.

g. P-0236

**██████████ (Witness P-0236) was abducted from Wang'yaa in Ogule, Pajule, Northern Uganda, by LRA fighters in September 2002. She was 'distributed' to Dominic Ongwen.<sup>5529</sup>**

2027. In September 2002, ██████████ (P-0236) was 11 years old and staying in Wang'yaa in Ogule, Pajule.<sup>5530</sup> P-0236 was at her father's uncle's house when three uniformed armed LRA fighters entered.<sup>5531</sup> P-0236 was grinding food when a soldier told her '[c]ome here young girl'.<sup>5532</sup> Her uncle's wife made a sign to P-0236 not to go, but the soldiers insisted.<sup>5533</sup> P-0236 was brought back to a larger group of soldiers.<sup>5534</sup> P-0236 was with Buk Abudema initially, but he then gave her to Dominic Ongwen.<sup>5535</sup>

*ii. Coercive environment – Life as so-called 'wives'*

**The seven women 'distributed' to Dominic Ongwen were not allowed to leave. Dominic Ongwen placed them under heavy guard. They were told or came to understand that if they tried to escape they would be killed.<sup>5536</sup>**

2028. The Chamber will briefly discuss the overall coercive environment the seven so-called 'wives' found themselves in after being distributed to Dominic Ongwen. It concerns the coercive environment specific to them, though it is a microcosm of the coercive environment all women and girls faced in the LRA. Specific elements of this environment are discussed more in subsequent sub-sections, including sexual violence (and pregnancies),<sup>5537</sup> beatings,<sup>5538</sup> forced labour<sup>5539</sup> and orders to kill others.<sup>5540</sup> These

<sup>5528</sup> P-0235: T-17-CONF, p. 6, line 25 – p. 7, line 4, p. 7, line 25 – p. 8, line 6; para. 2015 above.

<sup>5529</sup> Para. 205 above.

<sup>5530</sup> P-0236: [T-16](#), p. 6, lines 13-24. *See also* p. 6, line 7 – p. 9, line 3.

<sup>5531</sup> P-0236: [T-16](#), p. 7, line 7 – p. 8, line 13.

<sup>5532</sup> P-0236: [T-16](#), p. 7, line 25 – p. 8, line 7.

<sup>5533</sup> P-0236: [T-16](#), p. 7, line 25 – p. 8, line 7.

<sup>5534</sup> P-0236: [T-16](#), p. 8, line 23 – p. 9, line 17, p. 10, line 15 – p. 11, line 18; P-0226: T-8-CONF, p. 65, line 9 – p. 66, line 12.

<sup>5535</sup> P-0236: [T-16](#), p. 11, lines 6-18.

<sup>5536</sup> Para. 206 above.

<sup>5537</sup> Sub-section IV.C.10.ii.a below.

<sup>5538</sup> Sub-section IV.C.10.ii.b below.

<sup>5539</sup> Sub-section IV.C.10.ii.c below.

<sup>5540</sup> Sub-section IV.C.10.ii.d below.

elements are all part of – and the result of – the same coercive environment. By arguing that Dominic Ongwen was also a victim of the LRA’s coercive environment concerning the relationships between men and women, the Defence itself acknowledges that such an environment existed.<sup>5541</sup>

2029. All seven women were required to be ‘distributed’ to a male commander.<sup>5542</sup> Once distributed to Dominic Ongwen, these women all joined his household and were not allowed to leave.<sup>5543</sup> Dominic Ongwen placed them under heavy guard.<sup>5544</sup> They were told or came to understand that if they tried to escape they would be killed.<sup>5545</sup> Some of the women saw attempted escapees killed by the LRA.<sup>5546</sup> P-0235 recalled being severely beaten after one of her escape attempts and testified that ‘[a]fter they had beaten me, I decided that I was not going to attempt any further escapes because I knew that if I did attempt another escape then I would definitely be killed’.<sup>5547</sup>

2030. The fear Dominic Ongwen instilled to prevent escape is particularly supported by P-0227’s first interaction with him. When brought before Dominic Ongwen, he asked P-0227 if she was a schoolgirl and whether living in Pageya was nice.<sup>5548</sup> He then asked her if she was homesick.<sup>5549</sup> In addition to the two brothers abducted with her, P-0227’s stepbrother had been abducted by the LRA and returned home before she was abducted.<sup>5550</sup> Upon his return, he told P-0227 that the LRA badly beat those who wanted to come home.<sup>5551</sup> With her stepbrother’s words in her mind, P-0227 said she was not homesick.<sup>5552</sup>

<sup>5541</sup> [Defence Closing Brief](#), paras 474-75.

<sup>5542</sup> P-0099: [T-14](#), p. 27, lines 9-12; P-0214: [T-15](#), p. 13, line 19 – p. 14, line 8; P-0226: [T-8](#), p. 33, lines 1-6. *See also* section IV.C.10.i above.

<sup>5543</sup> P-0099: [T-14](#), p. 23, line 5 – p. 24, line 9, p. 44, line 24 – p. 45, line 24; P-0101: [T-13](#), p. 12, lines 6-19 (describing radio broadcast encouraging Dominic Ongwen to release ‘wives’); P-0226: [T-8](#), p. 32, lines 12-19 (if selected women and girls refused to go where they were told, they would ‘either be beaten or killed’).

<sup>5544</sup> P-0099: [T-14](#), p. 41, line 21 – p. 42, line 7; P-0227: [T-10](#), p. 27, line 24 – p. 28, line 5, p. 43, lines 8-18; P-0235: [T-17](#), p. 11, line 9 – p. 12, line 12. *See also* P-0226: [T-8](#), p. 37, lines 8-15 (also describing male guard around women and children, but discussed in the context of protecting them from invading forces).

<sup>5545</sup> P-0099: [T-14](#), p. 24, lines 5-9, p. 45, line 19 – p. 46, line 17; P-0101: [T-13](#), p. 44, lines 8-17; P-0214: [T-15](#), p. 28, lines 12-18.

<sup>5546</sup> P-0226: [T-9](#), p. 3, line 19 – p. 5, line 7; P-0236: [T-16](#), p. 10, line 21 – p. 11, line 10, p. 34, lines 3-13.

<sup>5547</sup> P-0235: [T-17](#), p. 10, lines 15-21; para. 2079 below.

<sup>5548</sup> P-0227: [T-10](#), p. 17, line 19 – p. 18, line 2. *See also* p. 17, line 19 – p. 22, line 10.

<sup>5549</sup> P-0227: [T-10](#), p. 19, line 25 – p. 20, line 2.

<sup>5550</sup> P-0227: [T-10](#), p. 18, lines 15-21.

<sup>5551</sup> P-0227: [T-10](#), p. 18, line 22 – p. 19, line 11.

<sup>5552</sup> P-0227: [T-10](#), p. 19, line 17 – p. 20, line 2.

2031. Dominic Ongwen then had a further conversation with P-0227 and her two abducted brothers.<sup>5553</sup> Dominic Ongwen said ‘[n]ow you have been arrested from the same homestead. Should we release one of you?’<sup>5554</sup> P-0227 asked for the release of her brother who had recently had an operation and was not yet cured.<sup>5555</sup> Her two brothers told Dominic Ongwen that P-0227 should be the one released.<sup>5556</sup>

2032. Dominic Ongwen reacted by releasing none of them – the brothers were sent to where the guards were staying while P-0227 remained with the women.<sup>5557</sup> Dominic Ongwen then ordered his guards to beat P-0227’s brothers so that they may forget about their homes.<sup>5558</sup> The guards were to beat the brothers so badly so that they would stop speaking English, as one of P-0227’s brothers was shouting ‘Jesus, oh, God help me’.<sup>5559</sup>

2033. After a while of P-0227 sitting with the other women, who included P-0214 and P-0235, she was asked if she felt homesick.<sup>5560</sup> She said she was and was thinking about her mother.<sup>5561</sup> The women told her ‘Just stay calm. Don’t think about any other thing. There’s no going back. Just stay with us’.<sup>5562</sup>

**P-0099, P-0101, P-0214, P-0226 and P-0227 were considered Dominic Ongwen’s so-called ‘wives’ and had to maintain an exclusive conjugal relationship with him. Being Dominic Ongwen’s so-called ‘wife’ did not cease until they escaped or were released from the LRA.**<sup>5563</sup>

2034. Not all of the seven women became so-called ‘wives’ immediately, as some were so young they initially joined Dominic Ongwen’s household as *ting tings*.<sup>5564</sup>

2035. No traditional rituals of marriage were observed, and none of the women had any effective choice in being conjugally associated with the accused. These seven women identify different moments as to exactly when they became Dominic Ongwen’s ‘wife’:

<sup>5553</sup> P-0227: [T-10](#), p. 21, line 4 – p. 22, line 3.

<sup>5554</sup> P-0227: [T-10](#), p. 21, lines 4-9.

<sup>5555</sup> P-0227: [T-10](#), p. 21, lines 4-14.

<sup>5556</sup> P-0227: [T-10](#), p. 21, lines 4-14.

<sup>5557</sup> P-0227: [T-10](#), p. 21, lines 15-19.

<sup>5558</sup> P-0227: [T-10](#), p. 21, line 20 – p. 22, line 1.

<sup>5559</sup> P-0227: [T-10](#), p. 21, line 20 – p. 22, line 1.

<sup>5560</sup> P-0227: T-10-CONF, p. 17, lines 3-12, p. 20, line 6 – p. 21, line 3, p. 22, lines 4-10.

<sup>5561</sup> P-0227: [T-10](#), p. 22, lines 4-10.

<sup>5562</sup> P-0227: [T-10](#), p. 22, lines 4-10.

<sup>5563</sup> Para. 206 above.

<sup>5564</sup> E.g. P-0226, P-0235, P-0236.

(i) when Dominic Ongwen abducted them;<sup>5565</sup> (ii) when they felt obliged to accept Dominic Ongwen's request to stay in his household as a 'wife'<sup>5566</sup> or (iii) when they had their first forcible sexual encounter with the accused.<sup>5567</sup> The circumstances of all starting points identified were inherently coercive.

2036.P-0099 and P-0101 were Dominic Ongwen's so-called 'wives' at the beginning of the temporal frame of the charges on 1 July 2002, while P-0214, P-0226 and P-0227 became Dominic Ongwen's so-called 'wives' during the period of the charges.<sup>5568</sup> In addition, both P-0235 and P-0236 became Dominic Ongwen's so-called 'wives' after the time relevant to the charges.<sup>5569</sup> In the case of all seven women, being Dominic Ongwen's so-called 'wife' did not cease until they escaped or were released from the LRA.<sup>5570</sup>

2037.As so-called 'wives', these seven women had to maintain an exclusive conjugal and therefore also sexual relationship with Dominic Ongwen.<sup>5571</sup> Punishment for having sexual intercourse with anyone else was severe. P-0227 described what happened when one of Joseph Kony's so-called 'wives' was caught having sexual intercourse with one of his guards.<sup>5572</sup> Both the so-called 'wife' – who had a baby girl – and the guard were brought before Joseph Kony.<sup>5573</sup> P-0227 saw them both promptly shot dead.<sup>5574</sup>

2038.The exclusivity of Dominic Ongwen's forced marriages is further supported by the fate of an escort named Nyeko during 2007 in the Congo.<sup>5575</sup> Dominic Ongwen had a dream that P-0236 was 'sleeping with someone'.<sup>5576</sup> Dominic Ongwen told P-0214 the next day that Nyeko was in love with P-0236 and Nyeko had sex with P-0236 three times.<sup>5577</sup> The

<sup>5565</sup> P-0101: [T-13](#), p. 16, lines 9-16.

<sup>5566</sup> P-0099: [T-14](#), p. 28, lines 11-21; P-0226: [T-8](#), p. 44, lines 11-25 (had been living previously with Dominic Ongwen as a *ting ting*).

<sup>5567</sup> P-0214: [T-15](#), p. 21, lines 15-20 (continues to discuss first sexual encounter); P-0227: [T-10](#), p. 38, lines 8-16 (same). *See also* P-0235: [T-17](#), p. 31, line 20 – p. 32, line 20 (same); P-0236: [T-16](#), p. 20, line 19 – p. 21, line 10 (same).

<sup>5568</sup> *See* sub-section IV.C.10.ii.a below.

<sup>5569</sup> *See* P-0235: [T-17](#), p. 31, line 20 – p. 32, line 20; P-0236: [T-16](#), p. 20, line 19 – p. 21, line 10.

<sup>5570</sup> *See* sub-section IV.C.10.iii below.

<sup>5571</sup> P-0099: [T-14](#), p. 39, line 25 – p. 40, line 3; P-0226: [T-8](#), p. 53, lines 19-21; P-0227: T-10-CONF, p. 51, lines 5-10, p. 52, line 1 – p. 54, line 1.

<sup>5572</sup> P-0227: [T-10](#), p. 51, lines 5-25.

<sup>5573</sup> P-0227: [T-10](#), p. 51, lines 5-25.

<sup>5574</sup> P-0227: [T-10](#), p. 51, lines 5-25.

<sup>5575</sup> P-0236: [T-16](#), p. 13, lines 4-10, p. 14, line 20 – p. 16, line 19; P-0227: T-10-CONF, p. 52, line 1 – p. 54, line 1; P-0233: [T-111](#), p. 61, line 22 – p. 64, line 1.

<sup>5576</sup> P-0227: T-10-CONF, p. 52, lines 1-14.

<sup>5577</sup> P-0227: T-10-CONF, p. 52, lines 1-14, p. 53, lines 2-9.

evidence is a little unclear what exactly P-0236 said to Dominic Ongwen about this, but P-0236 herself described being taken before Joseph Kony and denying that any sexual relations with Nyeko occurred.<sup>5578</sup> When Joseph Kony said she would be killed if she did not tell the truth, P-0236 said she had sex with Nyeko two times.<sup>5579</sup> Nyeko was immediately arrested and shot dead.<sup>5580</sup> P-0236 was flogged so badly that she was unable walk, but she was not killed.<sup>5581</sup> Dominic Ongwen's security then took her and put her before the accused.<sup>5582</sup> He told P-0236 'if [you] had actually done that, then that should be the last time'.<sup>5583</sup>

2039. As developed in later sub-sections, other conditions of being Dominic Ongwen's so-called 'wife' were that they had to: (i) have sexual intercourse with him whenever he wanted;<sup>5584</sup> (ii) bear children<sup>5585</sup> and (iii) perform domestic chores.<sup>5586</sup>

2040. P-0101 – who ultimately spent eight years with Dominic Ongwen and knew most of Dominic Ongwen's other so-called 'wives'<sup>5587</sup> – discussed the horrors of being a young girl in the LRA, and being one distributed to Dominic Ongwen in particular:

To my understanding and from my observation on what happened to me, 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. This is – this is something extremely bad and culturally – in Acholi culture raping young girls is extremely bad.

[...] Dominic was the worst when it came to young – when it came to young girls. He referred to them as ting ting. But regardless of the fact that he refers to them as ting ting, he still has sex with them at a very young age.<sup>5588</sup>

<sup>5578</sup> P-0236: [T-16](#), p. 15, lines 4-17.

<sup>5579</sup> P-0236: [T-16](#), p. 15, lines 4-17.

<sup>5580</sup> P-0236: [T-16](#), p. 15, lines 4-20; P-0227: T-10-CONF, p. 52, lines 1-19; P-0233: [T-111](#), p. 63, line 10 – p. 64, line 1.

<sup>5581</sup> P-0236: [T-16](#), p. 15, lines 4-23; P-0227: T-10-CONF, p. 53, line 22 – p. 54, line 1; P-0233: [T-111](#), p. 61, line 22 – p. 62, line 13.

<sup>5582</sup> P-0236: [T-16](#), p. 15, line 18 – p. 16, line 19.

<sup>5583</sup> P-0236: [T-16](#), p. 16, lines 15-16.

<sup>5584</sup> Sub-section IV.C.10.ii.a below.

<sup>5585</sup> Sub-section IV.C.10.ii.a below.

<sup>5586</sup> Sub-section IV.C.10.ii.c below.

<sup>5587</sup> P-0101: T-13-CONF, p. 40, lines 1-11.

<sup>5588</sup> P-0101: [T-13](#), p. 62, line 15 – p. 63, line 10.

a. Sexual violence

**During the period relevant to the charges, Dominic Ongwen had sex by force with P-0101 (between 1 July 2002 and July 2004), P-0214 (between September 2002 and 31 December 2005), P-0226 (between 1 July 2002 and sometime in 2003) and P-0227 (between approximately April 2005 and 31 December 2005). This happened on a repeated basis whenever Dominic Ongwen wanted.<sup>5589</sup>**

**P-0101 became pregnant and gave birth to a girl fathered by Dominic Ongwen sometime between July 2002 and July 2004. In 2004, P-0101 became pregnant and gave birth to a boy fathered by Dominic Ongwen. In 2005, P-0214 became pregnant and, in December 2005, gave birth to a girl fathered by Dominic Ongwen.<sup>5590</sup>**

2041. The Chamber will now set out the first forcible sexual encounter that each of the seven so-called ‘wives’ had with Dominic Ongwen. Thereafter, the Chamber will turn to the evidence which shows that, over a long period of time, these women were subjected to sexual violence by Dominic Ongwen repeatedly and continuously. The Chamber will finally discuss the pregnancies these women had as a result of having sex with the accused. All pregnancies support the existence of a pattern of sexual violence, and three of them (two of P-0101 and one of P-0214) underlie the forced pregnancy charges in this case. In its analysis, as explained above, the Chamber will discuss evidence of facts which are not included in the charges as such. However, the Chamber emphasizes that it considers all the evidence discussed of great relevance for the findings of fact underlying the charges, due to the compelling picture created by the consistent and mutually corroborating accounts of the seven women.

*i First forcible sexual encounter*

*P-0099*

2042. In Sudan, before the time relevant to the charges, and a few days after P-0099 felt obliged to agree to become Dominic Ongwen’s so-called ‘wife’, his escorts came to collect her.<sup>5591</sup> When they arrived at Dominic Ongwen’s house she found another woman who told P-0099 where she was to sleep.<sup>5592</sup> Dominic Ongwen told her to close the door and sit on the bed.<sup>5593</sup> Then he told her to remove her clothes – P-0099 removed them but

<sup>5589</sup> Para. 207 above.

<sup>5590</sup> Para. 207 above.

<sup>5591</sup> P-0099: [T-14](#), p. 30, lines 22-24. *See also* p. 30, line 15 – p. 33, line 11.

<sup>5592</sup> P-0099: [T-14](#), p. 32, lines 10-16.

<sup>5593</sup> P-0099: [T-14](#), p. 32, lines 9-25.

kept on her petticoat.<sup>5594</sup> Dominic Ongwen ordered her to lie on the bed and turn towards him.<sup>5595</sup> Dominic Ongwen then put himself on top of P-0099 and penetrated her.<sup>5596</sup> During sex someone came by for Dominic Ongwen and he got out of her.<sup>5597</sup> P-0099 said ‘[y]ou have hurt me’.<sup>5598</sup> Dominic Ongwen did not respond.<sup>5599</sup>

2043. The Chamber notes that P-0099, when asked if she wanted to have sex with Dominic Ongwen, responded that she did because she was selected as his so-called ‘wife’ and had come of age.<sup>5600</sup> She also refused to confirm the accuracy of her prior statement indicating that she did not want to sleep in Dominic Ongwen’s house.<sup>5601</sup> The Chamber also recalls that, with the assistance of an uncle working directly for Joseph Kony, P-0099 had some limited agency as to who she was assigned to.<sup>5602</sup>

2044. However, when considered against her account and the totality of her testimony, P-0099 only agreed to become Dominic Ongwen’s so-called ‘wife’ within the framework of the coercive environment she found herself in. The Chamber does not consider P-0099’s responses to call the true nature of this encounter into doubt, but rather to be a product of not wanting to engage with sensitive Prosecution questioning. When the Single Judge of the Pre-Trial Chamber asked a final follow-up question in relation to the nature of her first sexual encounter with Dominic Ongwen, P-0099’s response makes its coercive nature clear:

I said 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 to be his [wife] because he may say that I’m promoting prostitution among his soldiers.<sup>5603</sup>

<sup>5594</sup> P-0099: [T-14](#), p. 32, lines 9-25.

<sup>5595</sup> P-0099: [T-14](#), p. 32, lines 9-25.

<sup>5596</sup> P-0099: [T-14](#), p. 32, lines 9-25, p. 33, lines 9-11.

<sup>5597</sup> P-0099: [T-14](#), p. 32, lines 9-25.

<sup>5598</sup> P-0099: [T-14](#), p. 32, lines 24-25.

<sup>5599</sup> P-0099: [T-14](#), p. 32, lines 24-25.

<sup>5600</sup> P-0099: [T-14](#), p. 33, lines 12-17. *See also* p. 33, line 12 – p. 36, line 9.

<sup>5601</sup> P-0099: [T-14](#), p. 33, line 18 – p. 35, line 24, *referring to* P-0099 Statement, UGA-OTP-0234-0049-R01, at para. 56.

<sup>5602</sup> *See* para. 2012 above.

<sup>5603</sup> P-0099: [T-14](#), p. 35, line 25 – p. 36, line 9.

*P-0101*

2045. On the day of her abduction in 1996, P-0101 was taken by one of Dominic Ongwen's escorts to his tent.<sup>5604</sup> P-0101 was scared and did not want to go inside.<sup>5605</sup> She told Dominic Ongwen 'I'm not going to enter your tent', as she left for another tent with tears streaming down her face.<sup>5606</sup> Dominic Ongwen's escorts roughly took her and told her to kneel next to Dominic Ongwen's bed.<sup>5607</sup>

2046. Dominic Ongwen then asked P-0101 '[h]ave you seen this gun? If you refuse to sleep here, then you're going to face the consequences'.<sup>5608</sup> P-0101 – 15 years old at the time – told him that she was young and had never had sexual relations with any man.<sup>5609</sup> Dominic Ongwen's escorts then held her hands as Dominic Ongwen held her by force and penetrated her.<sup>5610</sup> P-0101 cried and bled a lot.<sup>5611</sup> In her words: '[h]e violated my rights. I was young and there was absolutely nothing that I could say about it'.<sup>5612</sup>

2047. The Chamber is attentive to the fact that the witness, in a remark similar to the one of P-0099 discussed above, stated in court that 'during the eight years, he did not force me. I was with him as husband and wife'.<sup>5613</sup> But the coercion is clear from other parts of her testimony. In addition to all the coercive elements of her first sexual encounter described above, she also stated that a number of times Dominic Ongwen would beat her for refusing to have sexual intercourse with him.<sup>5614</sup> P-0101 also stated that even though her private parts were 'extremely sore' after the first night with Dominic Ongwen, he soon thereafter 'forced [her] to sleep with him again'.<sup>5615</sup> The above clearly shows that Dominic Ongwen slept with P-0101 under threat and against her will.

<sup>5604</sup> P-0101: [T-13](#), p. 17, lines 4-22. *See also* p. 16, line 9 – p. 18, line 9, p. 50, line 14 – p. 51, line 1.

<sup>5605</sup> P-0101: [T-13](#), p. 17, lines 4-22.

<sup>5606</sup> P-0101: [T-13](#), p. 17, lines 16-22.

<sup>5607</sup> P-0101: [T-13](#), p. 17, lines 16-22.

<sup>5608</sup> P-0101: [T-13](#), p. 17, lines 23-24.

<sup>5609</sup> P-0101: [T-13](#), p. 17, line 25 – p. 18, line 1, p. 50, line 23 – p. 51, line 1 ('[s]o he raped me. I bled a lot and it was so painful and for the first time in my life I experienced a very great suffering').

<sup>5610</sup> P-0101: [T-13](#), p. 18, lines 2-4.

<sup>5611</sup> P-0101: [T-13](#), p. 18, lines 4-9.

<sup>5612</sup> P-0101: [T-13](#), p. 18, lines 8-9.

<sup>5613</sup> P-0101: [T-13](#), p. 19, line 21 – p. 20, line 3.

<sup>5614</sup> P-0101: [T-13](#), p. 21, lines 4-10.

<sup>5615</sup> P-0101: [T-13](#), p. 19, lines 13-18.

*P-0214*

2048. About a month after joining Dominic Ongwen's household in Sudan during September 2002, Dominic Ongwen told P-0214 he wanted her to be his 'wife' and to come to his room.<sup>5616</sup> She refused to go.<sup>5617</sup> She then saw three escorts with sticks in front of Dominic Ongwen's house and decided to obey.<sup>5618</sup> She entered Dominic Ongwen's room, a grass shed with canvas on top.<sup>5619</sup> Dominic Ongwen was lying on his mattress and instructed P-0214 to take off her clothes – P-0214 complied, but was allowed to wear her blouse due to the cold.<sup>5620</sup> Dominic Ongwen then got on top of her and put his penis into her vagina.<sup>5621</sup> P-0214 felt pain and fear because she had never slept with a man before.<sup>5622</sup>

2049. When Dominic Ongwen finished, he moved away and they both lied still on the mattress.<sup>5623</sup> P-0214 started crying because she had slept with a man in the bush.<sup>5624</sup> She had been told before her abduction that if a woman slept with a man in the bush she would not have children or those children would die.<sup>5625</sup>

2050. The Chamber notes that most of P-0214's account of her first sexual encounter with Dominic Ongwen was brought out by her confirming the accuracy of parts of her prior statement. This affected the spontaneity of P-0214's account, as most of her testimony came via refreshing her memory. However, the Chamber does not consider this to be a question of P-0214 forgetting what happened to her – this procedure, unobjected to by the Defence, seemed rather to get P-0214 quickly through the most sensitive part of her testimony. The Chamber does not consider that the extensive reliance on P-0214's prior written statement for this specific point casts any doubt on the veracity of her account.

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<sup>5616</sup> P-0214: [T-15](#), p. 21, line 15 – p. 22, line 1. *See also* p. 21, line 15 – p. 26, line 16.

<sup>5617</sup> P-0214: [T-15](#), p. 22, line 4 – p. 23, line 4.

<sup>5618</sup> P-0214: [T-15](#), p. 23, line 24 – p. 24, line 9.

<sup>5619</sup> P-0214: [T-15](#), p. 23, line 15 – p. 24, line 9.

<sup>5620</sup> P-0214: [T-15](#), p. 23, line 24 – p. 24, line 9.

<sup>5621</sup> P-0214: [T-15](#), p. 24, lines 10-21.

<sup>5622</sup> P-0214: [T-15](#), p. 24, lines 10-21.

<sup>5623</sup> P-0214: [T-15](#), p. 24, line 22 – p. 25, line 6.

<sup>5624</sup> P-0214: [T-15](#), p. 24, line 22 – p. 25, line 6.

<sup>5625</sup> P-0214: [T-15](#), p. 24, line 22 – p. 25, line 6.

## P-0226

2051. While in Sudan during 2001,<sup>5626</sup> Dominic Ongwen asked P-0226 – his *ting ting* at that time – to bring him some water in his bedroom.<sup>5627</sup> When she brought it, Dominic Ongwen grabbed P-0226’s arm and said he did not want the water.<sup>5628</sup> He said he wanted to have sex with her.<sup>5629</sup> P-0226 dropped the water, which then fell onto the bed as she ran outside.<sup>5630</sup> P-0226 said she felt disgusted because ‘every time I saw the ladies or girls coming out of his house, they were always crying. So I was frightened and I was – I was scared’.<sup>5631</sup>

2052. Dominic Ongwen then called his escorts to get sticks and beat her.<sup>5632</sup> The escorts beat P-0226 with bamboo sticks as she was on the ground of Dominic Ongwen’s residence as Dominic Ongwen watched.<sup>5633</sup> He then ordered the escorts to stop, but in the week that followed P-0226 was beaten other times for continuing to refuse to have sex with Dominic Ongwen.<sup>5634</sup> Her hands and buttocks became swollen and she could not sit properly – the beatings still cause P-0226 chest problems as of her 2015 testimony.<sup>5635</sup>

2053. After this week, P-0226 could not take the beatings anymore and yielded to Dominic Ongwen.<sup>5636</sup> She came to his house and was asked to undress.<sup>5637</sup> P-0226 refused, at which point Dominic Ongwen ripped off her clothes.<sup>5638</sup> Dominic Ongwen then lifted P-0226 onto his bed, spread open her legs and put his penis into her vagina.<sup>5639</sup> Dominic Ongwen told her if she cried he would kill her.<sup>5640</sup> P-0226 stopped herself from crying by putting her hand over her mouth.<sup>5641</sup>

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<sup>5626</sup> P-0226: [T-8](#), p. 37, line 16 – p. 38, line 8.

<sup>5627</sup> P-0226: [T-8](#), p. 38, lines 6-14. *See also* p. 38, line 1 – p. 41, line 23.

<sup>5628</sup> P-0226: [T-8](#), p. 38, lines 17-22.

<sup>5629</sup> P-0226: [T-8](#), p. 38, lines 20-22.

<sup>5630</sup> P-0226: [T-8](#), p. 38, lines 20-22.

<sup>5631</sup> P-0226: [T-8](#), p. 39, lines 1-3.

<sup>5632</sup> P-0226: [T-8](#), p. 38, line 20 – p. 39, line 6.

<sup>5633</sup> P-0226: [T-8](#), p. 39, lines 4-14.

<sup>5634</sup> P-0226: [T-8](#), p. 39, line 15 – p. 40, line 5.

<sup>5635</sup> P-0226: [T-8](#), p. 40, lines 6-16.

<sup>5636</sup> P-0226: [T-8](#), p. 40, lines 17-20.

<sup>5637</sup> P-0226: [T-8](#), p. 40, line 24 – p. 41, line 9.

<sup>5638</sup> P-0226: [T-8](#), p. 40, line 24 – p. 41, line 9.

<sup>5639</sup> P-0226: [T-8](#), p. 40, line 24 – p. 41, line 9.

<sup>5640</sup> P-0226: [T-8](#), p. 41, lines 10-15.

<sup>5641</sup> P-0226: [T-8](#), p. 41, lines 10-15.

2054. Afterwards, Dominic Ongwen told P-0226 to go back to the house where she was sleeping.<sup>5642</sup> P-0226 could not get up.<sup>5643</sup> When she came back, one of the women asked her why she was crying and she did not respond.<sup>5644</sup> P-0226 bled a lot and had to rest for a week following this incident.<sup>5645</sup> She was around 10 years old.<sup>5646</sup>

2055. After this incident in Sudan, Dominic Ongwen did not have sex with the witness again until they returned to Uganda in 2002.<sup>5647</sup> Back in Uganda – and at some point after September 2002<sup>5648</sup> – Dominic Ongwen told his other so-called ‘wives’ that P-0226 was now his ‘wife’ and started forcing her to have sex with him again.<sup>5649</sup>

*P-0227*

2056. About a month after her abduction in April 2005, P-0227 was called over to Dominic Ongwen’s tent.<sup>5650</sup> P-0227 was scared that Dominic Ongwen was calling her so late at night.<sup>5651</sup> When she arrived he was standing in the doorway.<sup>5652</sup>

2057. Dominic Ongwen told her to take off her blouse.<sup>5653</sup> He then smeared something white onto her and started speaking of God.<sup>5654</sup> Once he finished he told P-0227 to go into his house.<sup>5655</sup> They lay down on the bed together and Dominic Ongwen told her to remove the rest of her clothes.<sup>5656</sup> He asked P-0227 to spread her legs, put his penis in her vagina and started forcibly having sex with her.<sup>5657</sup> Sex was very quick and very forceful – P-

<sup>5642</sup> P-0226: [T-8](#), p. 40, line 24 – p. 41, line 9.

<sup>5643</sup> P-0226: [T-8](#), p. 40, line 24 – p. 41, line 9.

<sup>5644</sup> P-0226: [T-8](#), p. 40, line 24 – p. 41, line 9.

<sup>5645</sup> P-0226: [T-8](#), p. 41, lines 8-23.

<sup>5646</sup> P-0226: [T-8](#), p. 38, lines 1-2. P-0101 believed P-0226 to be 12 years old at the time of this incident, but also remembered P-0226 being the youngest girl Dominic Ongwen had sex with. P-0101: T-14-CONF, p. 3, lines 8-15.

<sup>5647</sup> P-0226: [T-8](#), p. 43, line 10 – p. 44, line 18.

<sup>5648</sup> P-0099: T-14-CONF, p. 36, line 13 – p. 37, line 5 (P-0099 does not include P-0226 in the list of Dominic Ongwen’s ‘wives’, and she escaped the LRA in September 2002).

<sup>5649</sup> P-0226: [T-8](#), p. 43, line 10 – p. 44, line 18.

<sup>5650</sup> P-0227: [T-10](#), p. 38, lines 10-25. *See also* p. 38, line 10 – p. 42, line 4.

<sup>5651</sup> P-0227: [T-10](#), p. 38, lines 10-25.

<sup>5652</sup> P-0227: [T-10](#), p. 38, lines 10-25.

<sup>5653</sup> P-0227: [T-10](#), p. 38, lines 10-25.

<sup>5654</sup> P-0227: [T-10](#), p. 38, lines 10-25.

<sup>5655</sup> P-0227: [T-10](#), p. 38, lines 10-25.

<sup>5656</sup> P-0227: [T-10](#), p. 39, lines 1-14.

<sup>5657</sup> P-0227: [T-10](#), p. 39, lines 1-14.

0227 said Dominic Ongwen penetrated her anus as well.<sup>5658</sup> P-0227 said she could not refuse to have sex with him ‘because I felt my whole life was in his hand’.<sup>5659</sup>

2058. P-0227 started crying.<sup>5660</sup> Dominic Ongwen asked her why she was screaming like this and whether she wanted everyone to hear her voice.<sup>5661</sup> P-0227 explained that Dominic Ongwen then told her ‘that if I continued crying, he showed me his gun. The gun had something sharp on top of it like a bayonet. When he showed me the gun, I started crying more slowly, but I felt like my whole body was being torn apart’.<sup>5662</sup> After it was over, Dominic Ongwen told her to get up and go to sleep where P-0214 was.<sup>5663</sup>

2059. In the morning, P-0227 was told to collect Dominic Ongwen’s beddings.<sup>5664</sup> They were covered in her blood.<sup>5665</sup> P-0227 was then made to wash them and put them out to dry.<sup>5666</sup>

*P-0235*

2060. One day in 2006 in the DRC, P-0235 was called to see Dominic Ongwen.<sup>5667</sup> Dominic Ongwen said she should spend the night with him.<sup>5668</sup> P-0235 was hesitant to go, but Dominic Ongwen insisted:

Q. When you say you were hesitant, what did you say or do?

A. I told him that I did not want to go because I wasn’t – I did not want to get involved with any man in the bush. I told him I do not want to get involved with any man in the bush. He asked me what don’t you want? Do you know the rules that we apply in the bush?

Q. And what rules was he talking about?

A. Well, he said the rules there, once you’re grown up, once you’re mature enough, then you should – you should have a husband. I’d seen this, I’d seen some of the

<sup>5658</sup> P-0227: [T-10](#), p. 39, lines 1-14.

<sup>5659</sup> P-0227: [T-10](#), p. 42, lines 1-4.

<sup>5660</sup> P-0227: [T-10](#), p. 39, lines 1-14.

<sup>5661</sup> P-0227: [T-10](#), p. 39, lines 1-14.

<sup>5662</sup> P-0227: [T-10](#), p. 39, lines 7-12.

<sup>5663</sup> P-0227: [T-10-CONF](#), p. 39, lines 15-16.

<sup>5664</sup> P-0227: [T-10](#), p. 40, line 18 – p. 41, line 5.

<sup>5665</sup> P-0227: [T-10](#), p. 40, line 18 – p. 41, line 5.

<sup>5666</sup> P-0227: [T-10](#), p. 40, line 18 – p. 41, line 5.

<sup>5667</sup> P-0235: [T-17](#), p. 32, lines 6-10. *See also* p. 31, line 25 – p. 32, line 24, p. 33, line 20 – p. 36, line 3.

<sup>5668</sup> P-0235: [T-17](#), p. 32, lines 6-10.

girls being given to men and it was very painful and I did not want to have a husband or give birth to a child in the bush.<sup>5669</sup>

2061.P-0235 had never slept with anyone before, but she was afraid of being beaten if she refused.<sup>5670</sup> Dominic Ongwen had sexual intercourse with her three times that night and she cried.<sup>5671</sup>

*P-0236*

2062.In 2007 in the DRC – Dominic Ongwen called P-0236 over and told her to go lie down on his bed.<sup>5672</sup> As P-0236 described: ‘I did not have any right, so I went, I lay down on the bed. He told me to undress, I undressed and I lay down’.<sup>5673</sup> Dominic Ongwen’s escorts slept in trenches about 8-10 metres away from them.<sup>5674</sup>

2063.Dominic Ongwen then got on top of her and had sex with her.<sup>5675</sup> She had no choice.<sup>5676</sup> P-0236 remembered thinking ‘if I had not been abducted I would – I would – by now I would still be a virgin, I would still not have had sexual relations with a man’.<sup>5677</sup>

*ii Subsequent sexual encounters*

2064.None of these women were subjected to sexual violence merely on one single occasion. Rather this was the beginning of a pattern of sexual violence which the seven women repeatedly endured until their escape.<sup>5678</sup> When P-0236 was asked if these subsequent sexual experiences were significantly different than the first one she described, she replied ‘[n]o, there was no difference. It was all the same thing’.<sup>5679</sup>

<sup>5669</sup> P-0235: [T-17](#), p. 32, lines 11-20.

<sup>5670</sup> P-0235: [T-17](#), p. 32, lines 21-24, p. 33, line 20 – p. 34, line 3.

<sup>5671</sup> P-0235: [T-17](#), p. 34, lines 7-10.

<sup>5672</sup> P-0236: [T-16](#), p. 20, line 16 – p. 21, line 3.

<sup>5673</sup> P-0236: [T-16](#), p. 20, line 25 – p. 21, line 3.

<sup>5674</sup> P-0236: [T-16](#), p. 23, lines 14-25.

<sup>5675</sup> P-0236: [T-16](#), p. 21, lines 7-10.

<sup>5676</sup> P-0236: [T-16](#), p. 21, lines 13-21.

<sup>5677</sup> P-0236: [T-16](#), p. 21, lines 18-21.

<sup>5678</sup> P-0101: [T-13](#), p. 19, line 9 – p. 21, line 10; P-0214: [T-15](#), p. 25, lines 15-21, p. 27, line 19 – p. 28, line 3; P-0226: [T-8](#), p. 44, line 11 – p. 46, line 10; P-0227: [T-10](#), p. 42, lines 5-11; P-0235: [T-17](#), p. 36, lines 4-14; P-0236: [T-16](#), p. 24, lines 17-22.

<sup>5679</sup> P-0236: [T-16](#), p. 24, lines 17-22.

2065. When Dominic Ongwen was with his so-called ‘wives’, he had sex with them in a kind of rotation.<sup>5680</sup> P-0226 described this process in some detail.<sup>5681</sup> Dominic Ongwen would call one of his so-called ‘wives’ – or send his escorts to get them – and the selected ‘wife’ would then go to his house that night.<sup>5682</sup> P-0226 said that she had no right to refuse when Dominic Ongwen wanted to have sex.<sup>5683</sup> P-0226 estimated it would be her turn ‘[a]fter a week or after a month, because there were many wives.’<sup>5684</sup> P-0226 explained how Dominic Ongwen kept having sex with her up until her escape and even when her vagina was injured from prior incidents.<sup>5685</sup>

2066. During her testimony, P-0236 briefly indicated that she sometimes refused to have sex with Dominic Ongwen and nothing happened to her.<sup>5686</sup> The Chamber sees no reason to doubt this evidence. However, for purposes of establishing the patterns of sexual violence as charged – which are established throughout this sub-section – it is immaterial if Dominic Ongwen declined to commit even further acts of sexual violence.<sup>5687</sup>

2067. By considering the timing of each woman’s first sexual encounter and the date of their escape or release from the LRA,<sup>5688</sup> the Chamber can determine who was a victim of this pattern of sexual violence within the Court’s jurisdiction and the scope of the charges. Following this method, it is clear that four of these seven women – P-0101, P-0214, P-0226 and P-0227 – were victims of sexual violence in Northern Uganda during the time relevant to the charges.

2068. That such a pattern of sexual violence existed during the relevant period is further established by the fact that Dominic Ongwen fathered at least 13 children with the seven

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<sup>5680</sup> P-0226: T-8-CONF, p. 44, line 11 – p. 46, line 10, p. 54, line 9 – p. 55, line 10; P-0236: [T-16](#), p. 24, lines 17-22; P-0099: [T-14](#), p. 31, lines 11-18; P-0205: [T-51](#), p. 69, line 11 – p. 70, line 2; P-0379: [T-57](#), p. 46, line 24 – p. 47, line 5 (‘[s]o Dominic’s sleeping place is usually set aside and usually there is a tent which is set for the girls and some mothers. Because in one day Dominic would not sleep with all his wives, so these other ones would sleep in that one big tent.’). But *see* P-0227: [T-11](#), p. 28, lines 13-16 (not wanting to describe it as a rotation, but acknowledging that it was Dominic Ongwen ‘who called someone he wished to sleep with that day’).

<sup>5681</sup> P-0226: [T-8](#), p. 44, line 11 – p. 46, line 10.

<sup>5682</sup> P-0226: [T-8](#), p. 45, lines 11-23.

<sup>5683</sup> P-0226: [T-8](#), p. 45, lines 22-23.

<sup>5684</sup> P-0226: [T-9](#), p. 6, lines 14-16.

<sup>5685</sup> P-0226: [T-9](#), p. 6, line 10 – p. 7, line 16.

<sup>5686</sup> P-0236: [T-16](#), p. 42, lines 21-23.

<sup>5687</sup> In this regard, the question/answer immediately before P-0236 made the statement in question is revealing. P-0236: [T-16](#), p. 42, lines 9-11 (‘[a]fter you became Dominic’s wife, were you allowed to say no to sexual intercourse? A. No, I wasn’t allowed to say no.’).

<sup>5688</sup> Sub-section IV.C.10.iii below.

so-called ‘wives’. In addition to the seven women’s testimony, the Prosecution presented the testimony of forensic reporting expert Ate Kloosterman.<sup>5689</sup> Professor Kloosterman performed a DNA kinship analysis of children imputed to have been fathered by Dominic Ongwen. The Chamber is fully satisfied that Professor Kloosterman is qualified to perform these tests and did so accurately. As particular proof of the reliability of Professor Kloosterman’s work, the Chamber notes that Professor Kloosterman’s testing reveals that Dominic Ongwen fathered all children whom the parties agree he did.<sup>5690</sup>

2069. P-0101 became pregnant and gave birth to a girl fathered by Dominic Ongwen sometime between July 2002 and July 2004.<sup>5691</sup> In 2004, P-0101 became pregnant and gave birth to a boy fathered by Dominic Ongwen.<sup>5692</sup> Around December 2005, P-0214 gave birth to a girl fathered by Dominic Ongwen.<sup>5693</sup> The charge of forced pregnancy as presented by the Prosecution is limited to these three pregnancies.

2070. In addition, the Chamber notes that, while 10 of the 13 children fathered by Dominic Ongwen were born outside the period relevant to the charges, they further support the existence of a pattern of sexual violence with which Dominic Ongwen is charged, as well as, more generally, the Chamber’s conclusions in respect to the facts of the charges. The Chamber notes in this regard that: in June 2002, P-0099 gave birth to a boy fathered by Dominic Ongwen;<sup>5694</sup> around 1999, P-0101 gave birth to a girl fathered by Dominic Ongwen;<sup>5695</sup> at some point after the period of time relevant to the charges and before her escape in 2010, P-0227 gave birth to a boy fathered by Dominic Ongwen;<sup>5696</sup> in 2007 and 2009, respectively, P-0214 gave birth to two more children fathered by Dominic

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<sup>5689</sup> P-0414: [T-137](#); P-0414 First Report, UGA-OTP-0278-0529; P-0414 Second Report, UGA-OTP-0265-0106; P-0414 Third Report, UGA-OTP-0267-0160. P-0414’s reports contain various numbers, but the expert indicates that the most important data is the ‘posterior probability’. P-0414: [T-137](#), p. 10, line 12 – p. 11, line 11. For all children fathered by Dominic Ongwen this posterior probability of paternity is 99.99%.

<sup>5690</sup> [Agreed Facts](#), C2-C4; P-0414 First Report, UGA-OTP-0278-0529, at 0536; P-0414 Second Report, UGA-OTP-0265-0106, at 0115-16; P-0414 Third Report, UGA-OTP-0267-0160, at 0169.

<sup>5691</sup> [Agreed Facts](#), C2.

<sup>5692</sup> [Agreed Facts](#), C3.

<sup>5693</sup> [Agreed Facts](#), C4.

<sup>5694</sup> P-0099: T-14-CONF, p. 42, lines 11-25; P-0414 Second Report, UGA-OTP-0265-0106, at 0116.

<sup>5695</sup> P-0101 GUSCO rehabilitation centre file, UGA-OTP-0100-0383, at 0384; P-0101: T-13-CONF, p. 43, lines 1-22 (describing this daughter as P-0101’s older child); P-0414 Second Report, UGA-OTP-0265-0106, at 0115.

<sup>5696</sup> P-0227: T-10-CONF, p. 53, lines 18-21, p. 55, lines 16-19; [T-11](#), p. 20, line 21 – p. 21, line 2; P-0214 Statement, UGA-OTP-0234-0026-R01, at para. 105; P-0414 First Report, UGA-OTP-0278-0529, at 0534.

Ongwen;<sup>5697</sup> in late 2007, P-0235 gave birth to a girl fathered by Dominic Ongwen;<sup>5698</sup> in 2010, P-0235 gave birth to a boy fathered by Dominic Ongwen;<sup>5699</sup> in late 2010, P-0236 gave birth to a boy fathered by Dominic Ongwen;<sup>5700</sup> in 2014, P-0235 gave birth to a boy fathered by Dominic Ongwen;<sup>5701</sup> and in 2014, P-0236 gave birth to a boy fathered by Dominic Ongwen.<sup>5702</sup>

b. Beatings

**The seven women were subjected to beating at Dominic Ongwen's command at any time. They were hit with canes and sticks. Some beatings knocked them unconscious, left them unable to walk and left permanent scars.**<sup>5703</sup>

2071. The seven so-called 'wives' lived under threat of being beaten. In P-0236's words: '[i]f there is anything wrong, you're beaten. If you do anything wrong, you are beaten'.<sup>5704</sup> Many such beatings are described in this sub-section. They serve to further establish the coercive environment these women lived in. Beatings also underlie specific charges concerning P-0101, P-0214 and P-0226.

2072. P-0099 and another woman refused to cook for Dominic Ongwen or go to the garden.<sup>5705</sup> Dominic Ongwen called his escorts and instructed them to beat them, which they then did.<sup>5706</sup>

2073. When describing the conditions of her stay with Dominic Ongwen, P-0101 confirmed that she was beaten by Dominic Ongwen multiple times for refusing to have sex with him.<sup>5707</sup>

<sup>5697</sup> P-0214: [T-15](#), p. 29, line 10 – p. 30, line 5 (speaking also of a pregnancy in the timeframe relevant to the charges in the present case and of a fourth pregnancy which ended in a miscarriage).

<sup>5698</sup> P-0235: T-17-CONF, p. 37, lines 6-20; P-0414 Third Report, UGA-OTP-0267-0160, at 0169.

<sup>5699</sup> P-0235: T-17-CONF, p. 37, lines 21-24; P-0414 First Report, UGA-OTP-0278-0529, at 0537.

<sup>5700</sup> P-0236: T-16-CONF, p. 24, line 23 – p. 25, line 8; P-0414 Third Report, UGA-OTP-0267-0160, at 0169-70.

<sup>5701</sup> P-0235: T-17-CONF, p. 37, line 25 – p. 38, line 5; P-0235 Statement, UGA-OTP-0240-0003-R01, at para. 156; P-0414 First Report, UGA-OTP-0278-0529, at 0538. This child's name is not spelled consistently across the evidence, but it is nevertheless clear that P-0235 had two sons with Dominic Ongwen.

<sup>5702</sup> P-0236: T-16-CONF, p. 25, lines 9-19; P-0414 Third Report, UGA-OTP-0267-0160, at 0170.

<sup>5703</sup> Para. 208 above.

<sup>5704</sup> P-0236: [T-16](#), p. 13, lines 14-18. *See* similarly P-0226: [T-8](#), p. 47, lines 1-5 (failing to follow Dominic Ongwen's instructions would lead to being badly beaten or killed).

<sup>5705</sup> P-0099: [T-14](#), p. 40, line 4 – p. 41, line 2.

<sup>5706</sup> P-0099: [T-14](#), p. 40, line 4 – p. 41, line 2.

<sup>5707</sup> P-0101: [T-13](#), p. 21, lines 2-10.

2074.P-0214 never testified to being beaten by Dominic Ongwen, but she also was never squarely asked this question. P-0235 recalls an incident when P-0214 was beaten in Uganda when two months pregnant.<sup>5708</sup> Given that P-0214's evidence indicates that she was only in Uganda while pregnant for the first time, while all her other pregnancies occurred outside Uganda,<sup>5709</sup> the Chamber concludes that the incident described by P-0235 took place during P-0214's first pregnancy in 2005.

2075.P-0226 described many beatings at Dominic Ongwen's command, saying at one point 'he was always beating me'.<sup>5710</sup> P-0226 also said that Dominic Ongwen 'liked beating people and he liked punishing people'.<sup>5711</sup> In addition to beatings surrounding her first forcible sexual encounter,<sup>5712</sup> P-0226 describes an incident whereby Dominic Ongwen ordered his escort to beat her after hearing that she had 'eased [her]self' in nearby water.<sup>5713</sup> Dominic Ongwen watched as P-0226 was beaten with long sticks to unconsciousness.<sup>5714</sup>

2076.P-0226 described a further beating at Dominic Ongwen's command in some detail. Two of Dominic Ongwen's escorts – aged 13-16 years old – liked P-0226 and P-0235.<sup>5715</sup> These escorts would bring the women mementos back from battle.<sup>5716</sup> On one occasion, these escorts were playing with a bag P-0226 was tasked to take somewhere.<sup>5717</sup> Dominic Ongwen saw this happening and told P-0226 to '[w]ait for your canes. Wait for your beatings'.<sup>5718</sup> Dominic Ongwen then directed a third escort to beat P-0226.<sup>5719</sup> P-0226 grabbed this escort and threw him to the ground.<sup>5720</sup> Dominic Ongwen then beat up this person, who afterwards beat P-0226 'really badly'.<sup>5721</sup> P-0226 explained that if a

<sup>5708</sup> P-0235: T-17-CONF, p. 43, line 23 – p. 44, line 14; para. 2070, n. 5697 above.

<sup>5709</sup> P-0214: [T-15](#), p. 28, lines 4-8, p. 28, line 23 – p. 30, line 5, p. 34, line 12 – p. 35, line 4. *See also* P-0214 Statement, UGA-OTP-0234-0026-R01, at paras 83-87.

<sup>5710</sup> P-0226: [T-8](#), p. 44, line 25 – p. 45, line 2.

<sup>5711</sup> P-0226: [T-9](#), p. 25, lines 21-23.

<sup>5712</sup> Para. 2052 above.

<sup>5713</sup> P-0226: [T-9](#), p. 5, line 10 – p. 6, line 1; P-0379: T-57-CONF, p. 40, line 5 – p. 42, line 11, p. 43, line 20 – p. 44, line 4.

<sup>5714</sup> P-0226: [T-9](#), p. 5, line 10 – p. 6, line 1.

<sup>5715</sup> P-0226: T-8-CONF, p. 49, lines 10-17, p. 51, line 6 – p. 53, line 20.

<sup>5716</sup> P-0226: [T-8](#), p. 52, lines 13-21.

<sup>5717</sup> P-0226: [T-8](#), p. 52, lines 1-8.

<sup>5718</sup> P-0226: [T-8](#), p. 52, lines 1-8.

<sup>5719</sup> P-0226: [T-8](#), p. 52, lines 1-8.

<sup>5720</sup> P-0226: [T-8](#), p. 52, lines 1-8.

<sup>5721</sup> P-0226: [T-8](#), p. 52, lines 1-8.

commander's so-called 'wife' were believed to show interest in another man who is not her husband, '[t]hey would kill the both of us'.<sup>5722</sup>

2077.P-0226 also describes an incident when Dominic Ongwen beat her personally. This incident must have occurred after September 2002, as it concerns P-0226's cooking duties she only assumed upon becoming Dominic Ongwen's so-called 'wife'.<sup>5723</sup> As described by P-0226: '[t]he way I prepared some food, and the food which remained I gave to the women with whom he used to eat. When he realised that, he beat me so badly 'til I was unconscious.'<sup>5724</sup>

2078.P-0227 described a beating when, after having difficulty sleeping, she went to spend some time with the so-called 'wife' of another commander.<sup>5725</sup> Dominic Ongwen started asking where she was and sent P-0235 to look for her.<sup>5726</sup> P-0227 heard the commotion and hurried back home, but it was thought she was being cunning and intending to escape.<sup>5727</sup> Dominic Ongwen ordered two of his soldiers to get sticks to beat P-0227.<sup>5728</sup> He told them if one got tired during the beating the other one should take over.<sup>5729</sup> Initially, P-0227 was not being beaten very hard.<sup>5730</sup> Dominic Ongwen then asked his soldiers 'why aren't you using more force while hitting [P-0227]? Are you interested in her?'<sup>5731</sup> The soldiers then beat her harder as Dominic Ongwen went off to have his bath.<sup>5732</sup> The beating continued for a long time until another soldier stopped it.<sup>5733</sup> P-0227's body was swollen and it was difficult for her to walk.<sup>5734</sup>

2079.P-0235 and P-0236 were also beaten following this incident because it was perceived that they allowed P-0227 to try to escape.<sup>5735</sup> Two of Dominic Ongwen's escorts beat them

<sup>5722</sup> P-0226: [T-8](#), p. 53, lines 19-21.

<sup>5723</sup> P-0226: [T-9](#), p. 6, lines 2-9. *See also* [T-8](#), p. 36, lines 14-16 (description of duties as *ting ting* did not include cooking).

<sup>5724</sup> P-0226: [T-9](#), p. 6, lines 2-9.

<sup>5725</sup> P-0227: T-10-CONF, p. 54, line 2 – p. 55, line 15.

<sup>5726</sup> P-0227: T-10-CONF, p. 54, lines 18-19.

<sup>5727</sup> P-0227: T-10-CONF, p. 54, lines 21-24; P-0236: T-16-CONF, p. 44, lines 5-12.

<sup>5728</sup> P-0227: [T-10](#), p. 54, lines 24-25.

<sup>5729</sup> P-0227: [T-10](#), p. 55, lines 1-2.

<sup>5730</sup> P-0227: [T-10](#), p. 55, line 3.

<sup>5731</sup> P-0227: T-10-CONF, p. 55, lines 3-6.

<sup>5732</sup> P-0227: T-10-CONF, p. 55, lines 5-6.

<sup>5733</sup> P-0227: [T-10](#), p. 55, lines 7-15.

<sup>5734</sup> P-0227: [T-10](#), p. 55, lines 7-15.

<sup>5735</sup> P-0235: T-17-CONF, p. 41, line 13 – p. 42, line 13.

both with canes.<sup>5736</sup> P-0235 also says that P-0227 was not beaten following this incident,<sup>5737</sup> but the Chamber considers her to be mistaken on this point. The evidence does not suggest that P-0227 and P-0235 were beaten by the same people, so P-0235 would not necessarily know with certainty what happened to P-0227. It also follows that if Dominic Ongwen wanted to punish P-0235 and P-0236 for P-0227's perceived escape attempt, then P-0227 would be beaten also (even more so). From P-0227's account, this is exactly what happened to her. On this isolated discrepancy, the Chamber considers P-0227 and not P-0235 best placed to know what really happened.

2080. P-0235 describes other times she was beaten. She testified to a beating in Sudan when P-0227, another so-called 'wife' and P-0235 were personally caned by Dominic Ongwen for failing to properly make his bed.<sup>5738</sup> This resulted in P-0235 getting a scar on her breast.<sup>5739</sup> P-0235 was also beaten severely for an unsuccessful escape attempt, in Dominic Ongwen's presence.<sup>5740</sup>

2081. P-0236 speaks of other beatings as well, such as during her initiation into the LRA and another occasion when Dominic Ongwen instructed others to cane her five times for being dirty.<sup>5741</sup>

c. Forced labour

**The seven women had to perform different domestic duties, including cooking, working in the garden, doing laundry, fetching and chopping wood, carrying Dominic Ongwen's**

<sup>5736</sup> P-0235: T-17-CONF, p. 41, line 13 – p. 42, line 13.

<sup>5737</sup> P-0235: T-17-CONF, p. 41, lines 13-18.

<sup>5738</sup> P-0235: T-17-CONF, p. 42, line 14 – p. 43, line 22.

<sup>5739</sup> P-0235: T-17-CONF, p. 42, line 14 – p. 43, line 22.

<sup>5740</sup> P-0235: [T-17](#), p. 10, line 11 – p. 11, line 8. P-0352 remembers the unsuccessful escape attempt, but says that P-0235 was neither punished nor killed. P-0352: [T-67](#), p. 17, line 25 – p. 18, line 22, p. 61, lines 5-15. P-0235 is clearly better placed to know what she personally experienced after the unsuccessful escape attempt and P-0352 gives the impression that she and P-0235 were not particularly close. P-0352: [T-68](#), p. 9, lines 5-20. Given the voluminous evidence of the LRA's ruthlessness with attempted escapees, the Chamber considers P-0235's account to be believable and P-0352 to be unreliable on this discrete point.

<sup>5741</sup> P-0236: [T-16](#), p. 12, line 18 – p. 13, line 13.

**dishes, fetching water, washing, nursing Dominic Ongwen when he was injured and taking things to him. Failing to perform these tasks led to punishment by beating.**<sup>5742</sup>

2082. In the course of their time in Dominic Ongwen's household, the seven women had to perform domestic duties. These duties included cooking,<sup>5743</sup> working in the garden,<sup>5744</sup> doing laundry,<sup>5745</sup> fetching and chopping wood,<sup>5746</sup> carrying Dominic Ongwen's dishes,<sup>5747</sup> fetching water,<sup>5748</sup> washing,<sup>5749</sup> cutting grass,<sup>5750</sup> nursing Dominic Ongwen when he was injured<sup>5751</sup> and taking things to him.<sup>5752</sup> Failing to sufficiently perform these tasks led to punitive beatings, as developed in the previous sub-section.<sup>5753</sup>

d. Orders to beat others to death

*i P-0226*

**On 1 July 2002, Dominic Ongwen forced P-0226 to beat to death a captured UPDF soldier near Patongo, Northern Uganda. P-0226 hit him once, as did other girls. She had blood splattered on her clothes. P-0226 had never killed anyone before, and this was part of the reason given by Dominic Ongwen on why he selected her to do this. This experience caused her severe anguish.**<sup>5754</sup>

2083. P-0226 was present at an attack in Patongo.<sup>5755</sup> As discussed in a previous section, this attack occurred on 1 July 2002.<sup>5756</sup> Dominic Ongwen and Charles Tabuley led this attack, which started around five in the morning.<sup>5757</sup> The LRA surprised the sleeping government soldiers, who ultimately ran away.<sup>5758</sup> The LRA then found the government

<sup>5742</sup> Para. 208 above.

<sup>5743</sup> P-0099: [T-14](#), p. 40, line 4 – p. 41, line 2; P-0101: [T-13](#), p. 38, lines 1-17; P-0214: T-15-CONF, p. 18, lines 11-22 (describing P-0226), p. 20, lines 1-11, p. 27, lines 1-2; P-0226: [T-8](#), p. 44, lines 19-22, p. 46, line 11 – p. 47, line 5; P-0227: [T-11](#), p. 10, line 22 – p. 11, line 16 (describing cooking from 'wives' other than herself); P-0235: [T-17](#), p. 30, lines 10-16; P-0236: [T-16](#), p. 14, lines 1-19.

<sup>5744</sup> P-0099: [T-14](#), p. 40, line 4 – p. 41, line 2.

<sup>5745</sup> P-0099: [T-14](#), p. 40, line 4 – p. 41, line 2; P-0235: [T-17](#), p. 30, lines 10-16; P-0236: [T-16](#), p. 14, lines 9-19.

<sup>5746</sup> P-0101: [T-13](#), p. 38, lines 14-17; P-0227: [T-10](#), p. 34, lines 14-24; [T-11](#), p. 10, line 22 – p. 11, line 16; P-0235: [T-17](#), p. 11, lines 9-19.

<sup>5747</sup> P-0226: [T-8](#), p. 44, lines 19-22, p. 46, line 11 – p. 47, line 5.

<sup>5748</sup> P-0227: [T-10](#), p. 34, lines 14-24; [T-11](#), p. 10, line 22 – p. 11, line 16; P-0235: [T-17](#), p. 11, lines 9-19.

<sup>5749</sup> P-0214: [T-15](#), p. 20, lines 1-11, p. 27, lines 1-2; P-0236: [T-16](#), p. 14, lines 1-19.

<sup>5750</sup> P-0227: [T-10](#), p. 34, lines 14-24.

<sup>5751</sup> P-0214: [T-15](#), p. 20, lines 1-11, p. 27, lines 1-2.

<sup>5752</sup> P-0235: [T-17](#), p. 30, lines 10-16.

<sup>5753</sup> Sub-section IV.C.10.ii.b above.

<sup>5754</sup> Para. 209 above.

<sup>5755</sup> P-0226: [T-8](#), p. 56, lines 21-24. *See also* [T-8](#), p. 56, line 21 – p. 59, line 8; P-0205: [T-47](#), p. 19, line 21 – p. 21, line 6.

<sup>5756</sup> *See* para. 1159 above.

<sup>5757</sup> P-0226: [T-8](#), p. 57, lines 11-16; P-0205: [T-47](#), p. 19, line 21 – p. 21, line 6.

<sup>5758</sup> P-0226: [T-8](#), p. 56, line 21 – p. 57, line 23; P-0205: [T-47](#), p. 19, line 21 – p. 21, line 6.

commander sleeping in his room and captured him.<sup>5759</sup> The LRA started questioning the captured soldier and hitting him with the butt of their guns.<sup>5760</sup> The LRA then left the camp with him after tying his hands.<sup>5761</sup>

2084. Around two in the afternoon, the group had stopped and P-0226 went to collect firewood.<sup>5762</sup> Dominic Ongwen's escorts told her to come back quickly.<sup>5763</sup> P-0226 said she was sent back to kill the abducted soldier.<sup>5764</sup> As Dominic Ongwen and the other commander watched from chairs, a number of girls – P-0226 included – were selected and given a heavy stick with which to beat the soldier in turn.<sup>5765</sup> Dominic Ongwen said that if anyone refused to beat the soldier then they would be killed like the soldier.<sup>5766</sup> P-0226 hit him once, as did other girls.<sup>5767</sup> She had blood splattered on her clothes.<sup>5768</sup> The captured soldier was beaten to death.<sup>5769</sup> P-0226 had never killed anyone before, and this was part of the reason given by Dominic Ongwen on why he selected her to do this.<sup>5770</sup> At the time, P-0226 was 12 years old.<sup>5771</sup>

*ii P-0235*

**In late 2002 or early 2003 in Northern Uganda, soon after P-0235's abduction, Dominic Ongwen ordered her to, along with other abductees, beat people to death until their blood splashed on the abductees. Although she eventually did not have to carry out the killings, this experience caused her severe anguish.**<sup>5772</sup>

2085. Soon after P-0235's abduction, two men who escaped from the Sudan were captured.<sup>5773</sup>

Dominic Ongwen ordered P-0235 and another girl to kill them.<sup>5774</sup> Dominic Ongwen said P-0235 and the other girl should go and beat these people until they had their blood

<sup>5759</sup> P-0226: [T-8](#), p. 57, line 24 – p. 58, line 24.

<sup>5760</sup> P-0226: [T-8](#), p. 57, lines 15-24.

<sup>5761</sup> P-0226: [T-8](#), p. 57, lines 15-24.

<sup>5762</sup> P-0226: [T-8](#), p. 58, line 22 – p. 59, line 6.

<sup>5763</sup> P-0226: [T-8](#), p. 58, line 23 – p. 59, line 6.

<sup>5764</sup> P-0226: [T-8](#), p. 58, line 25 – p. 59, line 8; P-0205: [T-47](#), p. 19, line 21 – p. 21, line 5.

<sup>5765</sup> P-0226: [T-8](#), p. 62, lines 9-19. *See also* p. 62, line 9 – p. 63, line 22.

<sup>5766</sup> P-0226: [T-8](#), p. 63, lines 20-22; [T-9](#), p. 60, lines 19-25 ('[t]he reason why I did accept was because I was forced to kill. I had no choice. I had no interest in killing anyone.').

<sup>5767</sup> P-0226: [T-8](#), p. 63, lines 4-15.

<sup>5768</sup> P-0226: [T-8](#), p. 63, lines 4-15.

<sup>5769</sup> P-0226: [T-8](#), p. 63, lines 4-15; P-0205: [T-47](#), p. 19, line 21 – p. 21, line 6.

<sup>5770</sup> P-0226: [T-8](#), p. 64, lines 6-21.

<sup>5771</sup> P-0226: [T-8](#), p. 43, lines 10-14.

<sup>5772</sup> Para. 210 above.

<sup>5773</sup> P-0235: [T-17](#), p. 23, line 23 – p. 24, line 3. *See also* p. 23, line 19 – p. 25, line 20.

<sup>5774</sup> P-0235: [T-17](#), p. 23, line 23 – p. 24, line 25.

splashed on them.<sup>5775</sup> P-0235 and the other girl started to cry.<sup>5776</sup> P-0235 explained: ‘I was crying because it was so painful to kill and I was not able to do that, and also ever since I was at home I used not to see anyone being killed. I have never seen any dead person, so that’s why I was crying because it was too painful for me and it was horrifying’.<sup>5777</sup> P-0235 and the other girl were ultimately told they did not have to go through with the order.<sup>5778</sup> Other new abductees killed the two men instead.<sup>5779</sup>

*iii. End of captivity*

a. P-0099

**From 1 July 2002 until her escape in September 2002, P-0099 was in Uganda. She was placed by Dominic Ongwen in a sickbay where she continued her life under identical circumstances.**<sup>5780</sup>

2086. In September 2002, and after over four years in the bush, P-0099 had been sent by Dominic Ongwen to the LRA sickbay.<sup>5781</sup> P-0099 had been sent to collect food with her three month old child.<sup>5782</sup> The child was extremely weak at this time.<sup>5783</sup> P-0099 decided to try and escape doing the food collection, and as soon as she reached a civilian homestead she did so.<sup>5784</sup> She was then taken to the government barracks, and soon after to GUSCO.<sup>5785</sup> While at GUSCO her child started being fed formula, and P-0099 became able to breastfeed the child shortly thereafter.<sup>5786</sup>

2087. The evidence further suggests that, although P-0099 was in Uganda from 1 July 2002 until her September 2002 escape, Dominic Ongwen was not with her.<sup>5787</sup> However, she

<sup>5775</sup> P-0235: [T-17](#), p. 24, lines 13-25.

<sup>5776</sup> P-0235: [T-17](#), p. 23, line 23 – p. 24, line 3.

<sup>5777</sup> P-0235: [T-17](#), p. 25, lines 15-20.

<sup>5778</sup> P-0235: [T-17](#), p. 23, line 23 – p. 24, line 3.

<sup>5779</sup> P-0235: [T-17](#), p. 23, line 23 – p. 24, line 3, p. 25, lines 1-14.

<sup>5780</sup> Para. 211 above.

<sup>5781</sup> P-0099: [T-14](#), p. 44, lines 8-16, p. 47, line 11 – p. 48, line 10.

<sup>5782</sup> P-0099: [T-14](#), p. 47, line 11 – p. 48, line 10.

<sup>5783</sup> P-0099: [T-14](#), p. 47, line 11 – p. 48, line 10.

<sup>5784</sup> P-0099: [T-14](#), p. 47, line 11 – p. 48, line 10.

<sup>5785</sup> P-0099: [T-14](#), p. 47, line 11 – p. 48, line 10; P-0099 GUSCO rehabilitation centre file, UGA-OTP-0114-0211 (dated 23 September 2002).

<sup>5786</sup> P-0099: [T-14](#), p. 47, line 11 – p. 48, line 10.

<sup>5787</sup> P-0099: [T-14](#), p. 44, lines 2-23, p. 47, lines 11-21, p. 49, lines 10-16 (was initially with Dominic Ongwen when they left for Sudan in May 2002, but then he separated two days before their child was born and was in Kitgum when she escaped).

continued in the role of Dominic Ongwen's so-called 'wife' during this period and lived in the same coercive environment.<sup>5788</sup>

b. P-0101

**P-0101 was released from the LRA in July 2004.**<sup>5789</sup>

2088. In July 2004, P-0101's group came under fire from two government gunships.<sup>5790</sup> P-0101 was injured.<sup>5791</sup> Her one year old daughter was shot and taken by government soldiers.<sup>5792</sup> P-0101 was scared to escape, remembering others who were killed by the LRA for attempting to do so.<sup>5793</sup> But she decided that she could not stay in the bush without her young child and decided to come home.<sup>5794</sup> P-0101 left shortly thereafter, ending her eight years in the bush.<sup>5795</sup> It is unclear exactly how she left the LRA, but evidence suggests that Dominic Ongwen released her after the government soldiers took her child.<sup>5796</sup>

c. P-0214 and P-0227

**P-0214 and P-0227 escaped in 2010 while in the DRC.**<sup>5797</sup>

2089. One day in 2010 in the DRC, Dominic Ongwen's group came under heavy fire from pro-government forces.<sup>5798</sup> The LRA fled, and at one point Dominic Ongwen directed P-0214, P-0227 and their accompanying children to branch off from the rest of the group.<sup>5799</sup> Once all the soldiers had gone past them, P-0214 and P-0227 walked until they got to a

<sup>5788</sup> P-0099: [T-14](#), p. 44, line 24 – p. 45, line 24.

<sup>5789</sup> Para. 211 above.

<sup>5790</sup> P-0101: [T-13](#), p. 43, line 1 – p. 44, line 17; Radio Show Transcript, UGA-OTP-0248-0002-R01, at 0003-05. *See also* P-0101: T-13-CONF, p. 7, lines 17-22, p. 10, line 17 – p. 12, line 19.

<sup>5791</sup> P-0101: [T-13](#), p. 44, lines 1-7; Radio Show Transcript, UGA-OTP-0248-0002-R01, at 0003-05.

<sup>5792</sup> P-0101: [T-13](#), p. 43, lines 4-5, 16-22.

<sup>5793</sup> P-0101: [T-13](#), p. 44, lines 8-17; Radio Show Transcript, UGA-OTP-0248-0002-R01, at 0003-05.

<sup>5794</sup> P-0101: [T-13](#), p. 43, lines 1-10; Radio Show Transcript, UGA-OTP-0248-0002-R01, at 0003-05.

<sup>5795</sup> P-0101: [T-13](#), p. 8, lines 23-25, p. 43, line 1 – p. 44, line 17; Radio Show Transcript, UGA-OTP-0248-0002-R01, at 0003-05.

<sup>5796</sup> *See* Radio Show Transcript, UGA-OTP-0248-0002-R01, at 0007.

<sup>5797</sup> Para. 211 above.

<sup>5798</sup> P-0227: T-10-CONF, p. 57, lines 16-23. *See also* T-10-CONF, p. 57, line 16 – p. 59, line 12; P-0214 Statement, UGA-OTP-0234-0026-R01, at paras 104-06. *See also* P-0227 GUSCO rehabilitation centre file, UGA-OTP-0233-0730, at 0731 (dated 2010).

<sup>5799</sup> P-0227: T-10-CONF, p. 58, lines 13-21; P-0214 Statement, UGA-OTP-0234-0026-R01, at paras 104-06.

number of homesteads and stopped.<sup>5800</sup> They were eventually taken back to Uganda.<sup>5801</sup> P-0227 had spent around five years in the bush. For P-0214, it was around 10 years.

2090. When asked how she felt about what Dominic Ongwen did to her in the bush, P-0227 responded as follows:

When I think about it, it pains me because at the time I was a student, my education was interrupted. Right now I have sinus problems. At that time I did not have any problems. I got all of these problems from the bush. I did not have those problems at the time. And it really pains me. I feel – I feel bad for my life.<sup>5802</sup>

d. P-0226

**P-0226 was captured by government soldiers in 2003 in Koch.**<sup>5803</sup>

2091. At one point in 2003, P-0226 was in Koch.<sup>5804</sup> Her LRA group was being followed by soldiers and helicopters.<sup>5805</sup> P-0226 was hit by fire and, heavily injured, fell to the ground.<sup>5806</sup> She got up and started running towards the forest.<sup>5807</sup> She then fell in the forest and was unconscious for a while.<sup>5808</sup> P-0226 awoke next to an unexploded bomb and a big snake.<sup>5809</sup> She walked out of the forest and found a line of corpses.<sup>5810</sup> She continued walking until she could overhear government soldiers talking.<sup>5811</sup> She heard one of them say ‘[i]f I find anyone alive among them, I will rape them until they die’.<sup>5812</sup> P-0226 then regained enough strength to run and hide in a banana plantation.<sup>5813</sup> One of the government soldiers went to collect bananas.<sup>5814</sup> P-0226 was extremely scared and

<sup>5800</sup> P-0227: T-10-CONF, p. 58, line 22 – p. 59, line 5; P-0214 Statement, UGA-OTP-0234-0026-R01, at paras 107-14.

<sup>5801</sup> P-0227: T-10-CONF, p. 59, lines 6-12; P-0214 Statement, UGA-OTP-0234-0026-R01, at paras 114-15.

<sup>5802</sup> P-0227: [T-10](#), p. 61, line 23 – p. 62, line 2.

<sup>5803</sup> Para. 211 above.

<sup>5804</sup> P-0226: [T-8](#), p. 13, lines 6-8 (returned in 2003), p. 66, lines 16-25. *See also* p. 66, line 16 – p. 69, line 24.

<sup>5805</sup> P-0226: [T-8](#), p. 67, lines 1-9.

<sup>5806</sup> P-0226: [T-8](#), p. 67, lines 1-9; P-0214: T-15-CONF, p. 20, lines 19-23; P-0309: [T-61](#), p. 39, line 25 – p. 40, line 21. P-0205 recalls P-0226 suffering this same injury, but remembers P-0226 being present at Lukodi and thought that her injury was suffered after this mid-2004 attack. P-0205: T-49-CONF, p. 72, line 15 – p. 73, line 16. P-0226 never mentions Lukodi and, given the distant events being recalled and how P-0226 is best placed to remember the year of her own escape, the Chamber considers P-0205 to simply be mistaken on this point.

<sup>5807</sup> P-0226: [T-8](#), p. 67, lines 7-9.

<sup>5808</sup> P-0226: [T-8](#), p. 67, lines 7-9.

<sup>5809</sup> P-0226: [T-8](#), p. 67, lines 10-25.

<sup>5810</sup> P-0226: [T-8](#), p. 68, lines 8-17.

<sup>5811</sup> P-0226: [T-8](#), p. 68, line 18 – p. 69, line 1.

<sup>5812</sup> P-0226: [T-8](#), p. 68, lines 20-21.

<sup>5813</sup> P-0226: [T-8](#), p. 68, lines 22-23.

<sup>5814</sup> P-0226: [T-8](#), p. 68, line 22 – p. 69, line 1.

breathing heavily, but the soldier did not see her.<sup>5815</sup> P-0226 soon moved and, evading government soldiers along the way, walked in the direction she thought the LRA was.<sup>5816</sup> Eventually she started walking towards a nearby road and encountered the government soldiers.<sup>5817</sup> They started asking her questions, but she could not answer them due to her injuries.<sup>5818</sup> She was then given medical attention and brought to the Gulu government barracks.<sup>5819</sup> She had spent around 5 years with the LRA.

e. P-0235 and P-0236

**P-0235 and P-0236 were released from the LRA in April 2015.**<sup>5820</sup>

2092. In September 2014, Dominic Ongwen told P-0235 and P-0236 that he was going to see Joseph Kony and left them with another commander.<sup>5821</sup> They never saw him again, as Dominic Ongwen left the LRA in January of 2015.<sup>5822</sup> In April 2015, they were informed that Dominic Ongwen and Joseph Kony had sent instructions that they were to be released.<sup>5823</sup>

2093. Both had spent nearly 13 years in the bush. When asked to compare herself to her schoolmates now that she had returned home, P-0236 responded as follows:

There is no comparison because right now they are much better off than I am. I'm back home. I've got – I have injuries. I'm weak. Maybe if I had not been abducted I would have not been shot at, I would have not been injured, I would have not had any – I would not be suffering. Most of the people that – my peers are okay. They are not injured. They're working. Some of them have finished their education. So they're in a much better off position than I am.<sup>5824</sup>

<sup>5815</sup> P-0226: [T-8](#), p. 68, line 22 – p. 69, line 1.

<sup>5816</sup> P-0226: [T-8](#), p. 69, lines 5-11.

<sup>5817</sup> P-0226: [T-8](#), p. 69, lines 12-22.

<sup>5818</sup> P-0226: [T-8](#), p. 69, lines 13-18.

<sup>5819</sup> P-0226: [T-8](#), p. 69, lines 19-24.

<sup>5820</sup> Para. 211 above.

<sup>5821</sup> P-0236: [T-16](#), p. 36, lines 13-25; P-0235: T-17-CONF, p. 60, line 21 – p. 61, line 8.

<sup>5822</sup> P-0236: [T-16](#), p. 36, lines 13-25; P-0235: T-17-CONF, p. 61, line 9 – p. 62, line 4.

<sup>5823</sup> P-0236: [T-16](#), p. 36, lines 13-25; P-0235: T-17-CONF, p. 61, line 16 – p. 62, line 4.

<sup>5824</sup> P-0236: [T-16](#), p. 37, lines 1-8.

*11. Sexual and gender based violence not directly perpetrated by Dominic Ongwen*

2094. The charges of sexual and gender based crimes not directly perpetrated by Dominic Ongwen (Counts 61 to 68) are limited to facts occurring within the Sinia brigade.<sup>5825</sup> The Prosecution argues that the ‘evidence shows that [sexual and gender-based crimes] in Sinia Brigade were carried out in an institutionalised manner, essentially replicating the systematic pattern by which the LRA abducted, enslaved, forcibly married, raped, sexually enslaved, and tortured women and girls’.<sup>5826</sup>

2095. In this regard, the evidence indeed indicates that there is no clear dividing line between the systemic victimisation of women and girls in Sinia brigade and that occurring in the LRA generally. The Chamber therefore understands that the limitation of the scope of the charges to the Sinia brigade finds its reasons in the scope of Dominic Ongwen’s authority rather than in any difference between Sinia and the LRA in general concerning this phenomenon.

2096. In its analysis and findings, the Chamber is guided by the specific scope of the charges. At the same time, it is natural that some evidence received during the trial speaks more generally of the LRA rather than being limited to the Sinia brigade. This is in particular the case with some of the evidence provided by insider witnesses. Part of this evidence, to the extent that it is relevant for the Chamber’s findings, has been relied upon as explained below.

2097. In addition to other evidence, the Chamber heard five witnesses whose individual stories are of particular relevance to the charges at issue: P-0351, P-0352, P-0366, P-0374 and P-0396. The Prosecutor specified already before the commencement of the trial that these particular witnesses were to be considered as ‘simply *examples* of a much *larger* group of women who are the victims of these crimes’.<sup>5827</sup> For the purpose of its analysis below, the Chamber is mindful of the difference between the individual facts related to each of those witnesses and the facts at issue of the charge under consideration, which is systemic in nature. At the same time, the Chamber agrees that the five witnesses are indeed particularly important for the determination of the charges and the Chamber’s findings.

<sup>5825</sup> See paras 119-120 of the charges ([Confirmation Decision](#), pp. 99-100).

<sup>5826</sup> [Prosecution Closing Brief](#), para. 114.

<sup>5827</sup> [Prosecution Pre-Trial Brief](#), para. 615.

Thus, under each specific heading below, as appropriate, the Chamber makes reference to their testimonies and combines that with the evidence of other witnesses (in particular insiders and other women testifying about analogous personal experiences within the LRA, albeit outside one or more of the parameters of the charges as formulated) as well as with any other relevant evidence.

*i. Coordinated and methodical nature of the sexual and gender-based violence*

**Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct women and girls in Northern Uganda and force them to serve in Sinia brigade as so-called ‘wives’ of members of Sinia brigade, and as domestic servants.**<sup>5828</sup>

2098. As laid out in detail below, the evidence received by the Chamber overwhelmingly demonstrates that an elaborate system of abuse of women and girls existed in the LRA, including the Sinia brigade. This system was consciously maintained by the LRA leadership through coordinated action.

2099. This conclusion is sustained first and foremost by the systemic occurrence of abductions, forced marriage, sexual violence and other forms of abuse of civilian women and girls analysed in the subsequent sections. In addition, there is, as also discussed in the subsequent sections, evidence of regular orders by the LRA leadership, including Dominic Ongwen, in particular for the abduction of civilian women and girls. These factors indicate compellingly that the abduction and abuse of civilian women and girls were a consciously maintained and coordinated effort.

2100. The Chamber also observes that there exists evidence indicating that the LRA system of abduction and abuse of women and girls was articulated in general policy terms to the LRA membership and, to a certain extent even to the public at large. In particular, the Chamber notes the testimony of P-0205 to the effect that, at some point in 2002, Joseph Kony convened everybody together and ‘then told us that whoever did not have a wife was going to get a wife’ and that ‘[t]here were going to be abductions, beautiful girls should be abducted’.<sup>5829</sup> Of relevance in this respect is also a radio broadcast on Mega FM radio station in December 2002 involving, *inter alia*, Joseph Kony and Vincent Otti,

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<sup>5828</sup> Para. 212 above.

<sup>5829</sup> P-0205: [T-48](#), p. 20, line 22 – p. 21, line 2.

of which the audio recording and the written transcript/translation into English<sup>5830</sup> have been submitted by the Prosecutor and which, according to their e-Court metadata, were obtained from the UPDF. The Chamber considers that these items, the authenticity of which has also not been objected to by the Defence at the time of their submission,<sup>5831</sup> can be relied upon. According to the transcript, Vincent Otti stated at one point: ‘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 [...]’.<sup>5832</sup>

2101. That said, the Chamber has before it evidence indicating that this project was the result of coordination among the LRA leadership, including Dominic Ongwen. In this regard, the Chamber notes first the pattern in the radio intercept evidence.

2102. In an ISO logbook entry of 1 September 2003, Joseph Kony is recorded as telling Charles Tabuley that one of his ‘wives’ escaped from Okot Odhiambo and that Charles Tabuley should struggle and get for him ‘another beautiful one’.<sup>5833</sup> Charles Tabuley stated he would work on Joseph Kony’s demand.<sup>5834</sup>

2103. A radio communication intercepted by the ISO on 1 February 2004 provides further evidence of specific coordination. Vincent Otti is recorded as informing Joseph Kony that he was coming to him with three abducted girls to be given to him as his so-called ‘wives’, but that one remained in Uganda with Dominic Ongwen because her feet got swollen.<sup>5835</sup>

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<sup>5830</sup> Audio Recording, UGA-OTP-0023-0002; Transcript, UGA-OTP-0023-0011.

<sup>5831</sup> See Confidential Annex A to [Defence Response to “Prosecution’s request to submit 1006 items of documentary evidence”](#), ICC-02/04-01/15-701-Conf-AnxA, p. 2.

<sup>5832</sup> Transcript, UGA-OTP-0023-0011, at 0020.

<sup>5833</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0347. The Chamber notes that this particular detail is not included in the corresponding UPDF Gulu logbook entry. However, this entry clearly concerns the same radio communication (*compare* ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0346-47 (Tabuley reporting ambush of bus and pick-up on Soroti-Lira road, killing many civilians and one senior UPDF officer whose pistol was taken) *with* UPDF Logbook (Gulu), UGA-OTP-0254-0725, at 0944-45 (Tabuley reporting ambush of bus and pick-up on Lira Soroti road, killing more than 30 civilians and recovering one pistol from bus, indicating senior UPDF officer also killed)). The UPDF Achol Pii logbook does not contain an entry for 1 September 2003 (*see* UGA-OTP-0242-6018, at 6107-08 (entry for 31 August followed by entry for 2 September 2003)). Bearing this in mind, and noting at the same time that the entry in the UPDF Gulu logbook is overall less detailed than the entry in the ISO logbook and that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>5834</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0347.

<sup>5835</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0037-38. The Chamber notes that this particular detail is not included in the corresponding UPDF logbook entries. However, these entries clearly concern the same radio

2104. On 10 March 2004, a conversation is recorded in the ISO logbook in which Joseph Kony is recorded as complaining to Dominic Ongwen that he ‘had made almost all their senior women with him to escape’.<sup>5836</sup> Dominic Ongwen is recorded as stating in response that he ‘has many female recruits which can replace those ones who escaped’, to which Joseph Kony replied with the argument that ‘female recruits can’t be compared with most of their senior LRA women who knows how LRA behave’.<sup>5837</sup>
2105. On 11 July 2004, both the ISO and the UPDF intercepted a conversation involving Dominic Ongwen in relation to the escape of the so-called ‘wives’ of one Saidi.<sup>5838</sup> Joseph Kony is reported as laughing at Saidi and saying that it seemed Saidi did not know how to ‘take care of women’.<sup>5839</sup>
2106. On 26 June 2005, Dominic Ongwen is recorded in the ISO logbook as reporting that the so-called ‘wife’ of one Alit Santo and another woman, who were with Abudema, wanted to escape.<sup>5840</sup> In response, Omona instructed Dominic Ongwen to collect the two women and keep them in his unit.<sup>5841</sup>

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communication (*compare* ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0038 (Otti telling Kony about capture of old hunter, Kony telling Otti to move with him to his location) *with* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4221 (Otti telling Kony about capture of old hunter, Kony telling him to let that man be taken to him) *and* UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7361 (Otti telling Kony coming across old hunter, Kony telling Otti to keep him until further orders)). The UPDF Logbook (Soroti) does not include any entry for 1 February 2004 (*see* UGA-OTP-0254-2284, at 2491-97 (entry for 1 January followed by entry for 23 February 2004)). Bearing this in mind, and noting at the same time that interceptors at times would have focused on different details in summarising radio communications, the Chamber considers it appropriate to refer to this specific detail included in the record of the communication as prepared by ISO.

<sup>5836</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0137. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4277.

<sup>5837</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0137. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4277. The Chamber notes that the UPDF Logbook (Soroti), UGA-OTP-0254-2284, at 2569 instead records an exchange between an individual called ‘Odongo Anaka’ and Kony about the escape of troops. Given that both the ISO and UPDF (Gulu) logbooks include largely comparable entries, and considering that the UPDF (Soroti) logbook contains less detail regarding this radio communication, the Chamber is of the view that it is more appropriate to rely on the entries as reflected in the ISO and UPDF (Gulu) logbooks.

<sup>5838</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3135; ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0096. The Chamber notes that the two logbooks diverge as to whether Dominic Ongwen reported the escape, or Buk Abudema told Dominic Ongwen about it. In the specific context of the present analysis, the inconsistency is immaterial.

<sup>5839</sup> UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3135.

<sup>5840</sup> ISO Faxed Copy, UGA-OTP-0163-0007, at 0139. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1323.

<sup>5841</sup> ISO Faxed Copy, UGA-OTP-0163-0007, at 0139. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1323. It is noted that logbook evidence indicates that Omona Michael worked as signaller for Joseph Kony at the time, *see* ISO Faxed Copy, UGA-OTP-0163-0007, at 0019, 0032, 0037, 0040, 0106, 0120, 0151.

2107. According to a communication intercepted by the ISO and recorded in a logbook, on 10 July 2005, Dominic Ongwen was asked on radio ‘if he has abducted young girls (*ting ting*) baby sitters for Joseph Kony’.<sup>5842</sup> Dominic Ongwen responded ‘not yet’ and stated that he was going to ‘work on that himself’.<sup>5843</sup>

2108. In addition to the radio intercept evidence, P-0205 stated that he heard a report which was given by Dominic Ongwen to Joseph Kony at some point after the Lukodi attack,<sup>5844</sup> in which Dominic Ongwen provided information on the number of girls he had under his control.<sup>5845</sup> Among them were girls abducted in Omiya Pacwa, as well as girls abducted earlier.<sup>5846</sup> In the view of the Chamber, the reporting of abductions of women and girls and the number of them being ‘under control’ indicates that the abduction was considered to be part of ordinary LRA operations.

2109. Furthermore, the evidence indicates that on regular occasions, women and girls who had been assigned to one male member of the LRA, in particular to a commander, were for practical reasons temporarily placed under control of another commander of the LRA. In that situation, the status of women and girls as so-called ‘wives’ or otherwise belonging to a man did not change, and continued to be respected. This is another specific indicator to the Chamber that the abuse of women and girls in the LRA, including forced marriage and sexual violence, were truly systemic and institutional.

2110. Specifically, P-0205 testified that around the time of the attack on Lukodi IDP camp in May 2004, Dominic Ongwen was ‘taking charge’ of Buk Abudema’s so-called ‘wives’.<sup>5847</sup> He continued that after the attack on Lukodi IDP camp, ██████████ picked up Buk Abudema’s so-called ‘wives’ and took them to Buk Abudema, who was in Pader.<sup>5848</sup>

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<sup>5842</sup> ISO Faxed Copy, UGA-OTP-0163-0007, at 0169.

<sup>5843</sup> ISO Faxed Copy, UGA-OTP-0163-0007, at 0169. The Chamber notes that the UPDF recorded the details of the communication differently, but that the discrepancies are not such that would affect the reliability of the evidence as to the fact that the conversation took place, *see* UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1346.

<sup>5844</sup> P-0205: [T-48](#), p. 4, line 24 – p. 6, line 12.

<sup>5845</sup> P-0205: [T-48](#), p. 6, lines 18-23.

<sup>5846</sup> P-0205: [T-48](#), p. 6, line 24 – p. 7, line 5.

<sup>5847</sup> P-0205: [T-47](#), p. 68, lines 1-4.

<sup>5848</sup> P-0205: T-47-CONF, p. 68, lines 15-19.

2111.P-0351, who stayed in Dominic Ongwen's household, testified that there were 'other mothers' who sometimes stayed in Dominic Ongwen's group, but who were the 'wives' of Raska or Lapaicho, even if their husbands were not there.<sup>5849</sup>

2112. On 4 August 2004, the ISO logbook records an exchange between Dominic Ongwen and Labalpiny, where Dominic Ongwen confirms that Labalpiny's 'wife' is still with him, and Labalpiny asks Dominic Ongwen not to allow her to escape.<sup>5850</sup>

2113. Finally, the Chamber turns to the Prosecution's allegation that Dominic Ongwen 'led by example' as concerns the abuse of women and girls in Sinia.<sup>5851</sup> As established above, Dominic Ongwen indeed kept abducted women and girls in his household and under his personal control throughout the period of the charges, subjecting them to forced marriage, rape, physical and mental abuse, and forced labour.<sup>5852</sup> In the assessment of the Chamber, Dominic Ongwen's personal acts prove his knowledge and conscious participation in the LRA system of abduction and abuse of women and girls. Moreover, the Chamber considers that by virtue of his position during the period relevant to the charges as first Oka battalion commander and subsequently Sinia brigade commander, his personal acts of abuse of women and girls, which could be observed by the LRA members under his control, had the effect of demonstrating the expected behaviour to the LRA membership. In the view of the Chamber, this was indeed an important element in sustaining the systemic nature of the abuse.

## *ii. Abduction*

### **Dominic Ongwen, Joseph Kony and the Sinia brigade leadership ordered Sinia brigade soldiers to abduct civilian women and girls.**<sup>5853</sup>

2114. According to the evidence, orders to abduct civilian women and girls were given at various levels of the LRA hierarchy. Generally, more specific orders to abduct were issued on the basis of a standing order for abductions from Joseph Kony. The Chamber

<sup>5849</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 59.

<sup>5850</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0164. The Chamber notes that the UPDF Logbook (Gulu) also includes the exchange between Dominic Ongwen and Labalpiny, recording Labalpiny as asking Dominic Ongwen to 'take care' of his 'families' (*see* UGA-OTP-0254-3833, at 3843). In the assessment of the Chamber, this is compatible with the ISO logbook entry.

<sup>5851</sup> Para. 123 of the charges ([Confirmation Decision](#), pp. 100-101).

<sup>5852</sup> *See* section IV.C.10.ii. above.

<sup>5853</sup> Para. 213 above.

will analyse this standing order first, before turning to the evidence concerning more specific orders, in particular those issued by Dominic Ongwen.

2115. Several witnesses testified about a standing order for abductions of women and girls emanating from Joseph Kony. P-0142 stated that at one point in Sudan, Joseph Kony gave a general order to '[g]o and abduct girls', which the witness heard.<sup>5854</sup> P-0205 stated that in 2002, Joseph Kony issued an order to abduct 'beautiful girls'.<sup>5855</sup> He testified that per Joseph Kony's order, LRA soldiers were expected to abduct young girls, and that in execution of the order, girls from 12 years old up to 18 or 'even' 20 years old were abducted.<sup>5856</sup> The witness further stated that according to what he heard, young girls were preferred because they were expected to be healthy, and because there was a fear of sexually transmitted diseases.<sup>5857</sup> P-0070 similarly testified that for the mission in Teso, Joseph Kony gave the order, over radio, to abduct 'young beautiful girls'.<sup>5858</sup>

2116. By its nature, Joseph Kony's standing or general orders for abductions of women or girls did not include operational particulars. Logically, for this, the input of LRA commanders was crucial. This is in line with the point generally made by the Chamber as concerns the relationship between Joseph Kony and high level commanders of the LRA, including Dominic Ongwen.<sup>5859</sup> It is also illustrated by the radio intercept of 10 July 2005, referred to above.<sup>5860</sup>

2117. Hillary Daniel Lagen's statement provides further information on the issue of this standing order. According to his statement, the order to abduct girls was related to the balance between the two sexes in the LRA.<sup>5861</sup> Also according to the witness, brigade commanders, or even the division or the army commander, could not abduct girls unless specifically asked to do so by Joseph Kony.<sup>5862</sup>

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<sup>5854</sup> P-0142: [T-71](#), p. 28, line 24 – p. 29, line 4.

<sup>5855</sup> P-0205: [T-48](#), p. 20, line 22 – p. 21, line 4.

<sup>5856</sup> P-0205: [T-48](#), p. 27, lines 4-9.

<sup>5857</sup> P-0205: [T-48](#), p. 27, lines 10-15.

<sup>5858</sup> P-0070: [T-105](#), p. 86, lines 1-12.

<sup>5859</sup> See paras 872-873 above.

<sup>5860</sup> See para. 2107 above.

<sup>5861</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0798, lines 683-97 (referring, *inter alia*, to periods 'when there would be too many boys and too a few girls').

<sup>5862</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0799, lines 702-10.

2118. Indeed, there is evidence that the standing order was at some point withdrawn by Joseph Kony. P-0205 testified that the standing order for abductions was revoked and that this led to a reduction in abductions in 2003.<sup>5863</sup> His evidence finds corroboration in UPDF logbooks of intercepted radio communications, which recorded a corresponding message by Joseph Kony.<sup>5864</sup> Further according to P-0205, there was also no general order to abduct in 2004, but a particular commander could do it ‘within his own initiative’.<sup>5865</sup> In such a case, according to P-0205, a commander could abduct, ‘keep quiet about it and then send the report after a period has elapsed’.<sup>5866</sup>

2119. P-0233 testified that when there was an order for abduction, abductions took place.<sup>5867</sup> However, similarly to P-0205, P-0233 clarified that even when this was not the case, if soldiers saw ‘a very beautiful girl’ they would still abduct her ‘because even when the senior commanders now will not approve of it [...], we will have already taken’.<sup>5868</sup> According to the witness, the superior would report to the senior commander, and the latter ‘will say, okay, it’s okay, you can now keep them’.<sup>5869</sup> The witness concluded: ‘So it doesn’t mean that when orders are given not to do abductions it will be strictly followed; a few abductions will still take place’.<sup>5870</sup>

2120. P-0264 testified about a specific incident of abduction at a time when abductions were ‘prohibited’. As described in detail below,<sup>5871</sup> a young woman was abducted by Oka soldiers.<sup>5872</sup> During examination by the Defence, P-0264 explained that, while at the time ‘people had been prohibited from abducting people’ and that ‘this was something that was done illegally’, the abduction occurred pursuant to the decision of the commander of the specific operation and was later approved by Ben Acellam, who said he would report on it on radio.<sup>5873</sup>

<sup>5863</sup> P-0205: [T-48](#), p. 21, lines 5-10.

<sup>5864</sup> UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6212; UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3458 (entry for 10 February 2003).

<sup>5865</sup> P-0205: [T-48](#), p. 21, lines 19-24.

<sup>5866</sup> P-0205: [T-48](#), p. 21, line 24 – p. 22, line 4.

<sup>5867</sup> P-0233: [T-111](#), p. 56, lines 22-24. *See also* T-111-CONF, p. 11, lines 22-25, p. 25, line 20 – p. 26, line 5 (indicating that the orders came from Joseph Kony, but they could be very general, merely specifying that there should or should not be abductions).

<sup>5868</sup> P-0233: [T-111](#), p. 56, line 22 – p. 57, line 3.

<sup>5869</sup> P-0233: [T-111](#), p. 57, lines 3-7.

<sup>5870</sup> P-0233: [T-111](#), p. 57, lines 7-8.

<sup>5871</sup> *See* para. 2134 below.

<sup>5872</sup> *See* para. 2134 below.

<sup>5873</sup> P-0264: [T-66](#), p. 35, line 20 – p. 37, line 25.

2121. On the basis of the evidence of P-0205 and P-0233 – who were both in position to observe and interpret facts related to the hierarchical organisation of the LRA – as well as of the specific evidence given by P-0264, the Chamber concludes that while Joseph Kony at some point withdrew the standing order for abduction of civilian women and girls, the practical impact of any such withdrawal was limited, as abductions in fact did not stop.

2122. The Chamber notes that orders for abduction were also given at lower levels of the hierarchy within the Sinia brigade. At this juncture, and considering that further evidence of such orders is discussed in the following section, the Chamber finds it sufficient to refer to the testimonies of P-0054 and P-0205. P-0054 explained that instructions ‘to go and collect women, bring girls’ were given to Sinia soldiers when they were sent for an operation.<sup>5874</sup> According to the witness, such orders were ordinarily given by Dominic Ongwen as the brigade commander, but if a battalion commander separated from the main group, he could also issue such an order.<sup>5875</sup> The witness confirmed that he was present when such orders were given, including by Dominic Ongwen.<sup>5876</sup>

2123. P-0205 testified that a group of LRA soldiers was sent to Onekgwok, ‘with the authority issued by Dominic on abduction of people’, and came back with two young girls.<sup>5877</sup> A week later, P-0205 received another order from Dominic Ongwen to continue abducting people.<sup>5878</sup> P-0205 also testified that Dominic Ongwen gave an order to the battalion to ‘abduct girls and boys’.<sup>5879</sup>

**Sinia brigade soldiers, in execution of orders of Joseph Kony, Dominic Ongwen and the Sinia brigade leadership, abducted civilian women and girls in Northern Uganda between**

<sup>5874</sup> P-0054: [T-93](#), p. 37, lines 19-22.

<sup>5875</sup> P-0054: [T-93](#), p. 37, line 25 – p. 38, line 7.

<sup>5876</sup> P-0054: [T-93](#), p. 38, lines 8-11.

<sup>5877</sup> P-0205: T-47-CONF, p. 47, lines 2-5.

<sup>5878</sup> P-0205: T-47-CONF, p. 48, lines 13-20.

<sup>5879</sup> P-0205: T-48-CONF, p. 13, line 13 – p. 14, line 4. P-0205 did not provide a specific time when this order was given, but stated that it happened at an RV at Koyo, where Kalalang was promoted to commander of Terwanga battalion to replace Loum Icaya who had escaped with Ojok Kampala. [REDACTED]

[REDACTED] Logbook evidence suggests that Icaya Loum also escaped in mid-July 2004: ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0102, 0106. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3140, 3142-43. This allows for the conclusion that the order was given in or shortly after July 2004.

**1 July 2002 and 31 December 2005. At any time during this period, there were over one hundred abducted women and girls in Sinia brigade.**<sup>5880</sup>

2124. The Chamber allowed the introduction of the prior recorded testimony of and heard at trial several women who themselves testified about having been abducted by Sinia brigade soldiers.

2125. P-0352 testified that she was abducted at age 12 in March 2003 from [REDACTED] village.<sup>5881</sup> She stated that she was brought by her abductors to a gathering at [REDACTED], where she saw many people, including four other girls from her village who she could recognise.<sup>5882</sup> At that location, the people who abducted her, to whom the witness referred simply as ‘soldiers’, separated those who could walk and looked young from ‘old people and people who could not move’.<sup>5883</sup> She stated: ‘Because I was a little girl one soldier said “can she really move?” and another one replied “she will grow up there”’.<sup>5884</sup> The witness then walked in the group for the whole day and the whole night, until they met up with a ‘bigger group of the Holy’.<sup>5885</sup> She explained that the ‘overall leader of the battalion’ that abducted her was named Buk, and that ‘[h]is battalion was called Sinia’.<sup>5886</sup> Setting aside the error in referring to the Sinia brigade as a battalion, P-0352’s description of the unit that abducted her is consistent with other evidence, and the Chamber considers it established that she was abducted by Sinia soldiers.

2126. P-0374 stated that she was abducted in September 2003 at the age of almost 10 years by an LRA soldier called [REDACTED].<sup>5887</sup> She was abducted in a group of about 30 civilians, mostly women.<sup>5888</sup> The group moved away in line and walked overnight, before stopping to rest in the morning.<sup>5889</sup> She saw [REDACTED] stand in front of the assembled people and give orders, and understood that he was the leader of the group that abducted her.<sup>5890</sup> P-0374 testified that [REDACTED] was an officer in B-Coy of ‘Tarwanga’ battalion of Sinia,<sup>5891</sup> and that

<sup>5880</sup> Para. 213 above.

<sup>5881</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 11-12.

<sup>5882</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 18-19.

<sup>5883</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 21.

<sup>5884</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 21.

<sup>5885</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 23.

<sup>5886</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 25.

<sup>5887</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 13-31.

<sup>5888</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 26.

<sup>5889</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 32-34.

<sup>5890</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 35.

<sup>5891</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 44-45.

he was also known as [REDACTED].<sup>5892</sup> This information is corroborated in detail by [REDACTED]  
[REDACTED],<sup>5893</sup> leaving no doubt that P-0374 was abducted by LRA soldiers of Sinia brigade. P-0374 continued that they moved again, and in the evening they reached a place that was ‘like a camp’.<sup>5894</sup> P-0374 saw [REDACTED] approach and salute a group of people who were the leaders.<sup>5895</sup> It is noted that there is slight confusion in the evidence as to the question whether P-0374 also remembers seeing Dominic Ongwen at this gathering, and a firm conclusion cannot be drawn.<sup>5896</sup> After some time in the bush, P-0374 learnt the names of some people who she saw often, like Ojoko, Kobi and Kalalang.<sup>5897</sup>

2127. P-0396 stated that she was abducted at the age of 13 years in December 2004 from her home in [REDACTED] village.<sup>5898</sup> An LRA soldier entered P-0396’s home, told her to get up and held her by her hand.<sup>5899</sup> The next morning, P-0396 learnt that the name of this soldier was Lapan and that the name of the commander of the unit who abducted her was Kalalang.<sup>5900</sup> On the move away, the LRA unit including the new abductees was attacked by government soldiers.<sup>5901</sup> Thereafter, they walked to a place called Wii-Polo, where there were about 100 LRA members.<sup>5902</sup> This is where, three days after her abduction, P-0396 first saw Dominic Ongwen, although she did not yet know who he was.<sup>5903</sup>

2128. The Chamber notes that P-0351 testified that she was abducted by ‘Raska’s group’,<sup>5904</sup> and was later transferred to Sinia. This transfer demonstrates, as already stated, that the abduction and abuse of women and girls was not limited to Sinia, but was a coordinated characteristic of the LRA in general. In detail, P-0351 testified that she was abducted on

<sup>5892</sup> P-0374: T-150-CONF, p. 30, line 23 – p. 31, line 9.

<sup>5893</sup> [REDACTED]

<sup>5894</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 37.

<sup>5895</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 39.

<sup>5896</sup> Compare P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 40; with para. 122, and with P-0374: [T-150](#), p. 34, lines 8-9.

<sup>5897</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 39.

<sup>5898</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 13.

<sup>5899</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 16; P-0396: [T-127](#), p. 11, lines 2-11.

<sup>5900</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 20.

<sup>5901</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 30.

<sup>5902</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 42.

<sup>5903</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 43; P-0396: [T-127](#), p. 19, lines 4-7.

<sup>5904</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 13. The Chamber takes this to be a reference to Raska Lukwiya, which appears to be also the understanding of the Defence, see P-0351: [T-129](#), p. 19, lines 19-25.

12 December 2002 from home in [REDACTED].<sup>5905</sup> At the time, she was approximately 12 years old.<sup>5906</sup> More than ten civilians were abducted on that occasion, including one boy and another girl whom the witness both knew by name.<sup>5907</sup> They were taken away and, the next morning, were addressed by ‘Raska’, who stated that everybody, except the witness, would be released.<sup>5908</sup> A woman smeared P-0351 with shea butter on her forehead, back and chest, and told her that if she tried to escape she would not be able to see where she was going and would get lost because of the shea butter; she was told that they would catch her and kill her.<sup>5909</sup> The group then moved and during the move P-0351 slept next to four girls who had also been abducted.<sup>5910</sup> P-0351 stated that there were ‘many’ girls in the group.<sup>5911</sup> Next, she explained that the group she was travelling with met with other groups, where an escort of one of the leaders told her to sleep with a group of girls that were new to her.<sup>5912</sup> The next day she realised that she was in a new group, and later learned that this was ‘Odomi’s group’.<sup>5913</sup> In court, the witness stated that the group was called Sinia and that she spent about three years in it.<sup>5914</sup>

2129. In addition to these personal stories of abduction, other insider witnesses testified about specific abductions of civilian women and girls by members of the Sinia brigade.

2130. In this context, the Chamber refers to its findings in relation to the abductions of women and girls during the attacks on Pajule and Odek IDP camps.<sup>5915</sup>

2131. P-0205 described in detail the abduction of five girls by Sinia soldiers in Omiya Pacwa.<sup>5916</sup> He stated that Dominic Ongwen gave the order to abduct people, so soldiers

<sup>5905</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 12. In relation to the date of abduction, *see* section IV.B.2.iii.b above.

<sup>5906</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 12. *See also* section IV.B.2.iii.b above.

<sup>5907</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 19.

<sup>5908</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 24-25.

<sup>5909</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 26.

<sup>5910</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 29, 32.

<sup>5911</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 32.

<sup>5912</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 37. It is noted that the witness was not really able to estimate the period of time that passed between her abduction and her coming under ‘Ongwen’s group’, and that she gave, in what the Chamber deems to be very approximate terms, the estimation of three months; P-0351: [T-129](#), p. 20, line 12 – p. 21, line 3.

<sup>5913</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 38.

<sup>5914</sup> P-0351: [T-129](#), p. 21, line 24 – p. 23, line 24.

<sup>5915</sup> *See* paras 1367-1368, 1611-1612 above.

<sup>5916</sup> While P-0205 did not state when precisely this abduction took place, it is noted that it took place following an order by Dominic Ongwen also referred to by P-0205, which can be dated to or shortly after July 2004, *see* para. 2123 above.

were sent to Omiya Pacwa where they abducted five girls.<sup>5917</sup> P-0205 provided the name of the soldier who abducted the girls, as well as the names of the abductees.<sup>5918</sup> He gave individual estimates for the ages of the girls in the range of 13 to 15 years old.<sup>5919</sup> P-0205 stated that a report was given to Dominic Ongwen at an RV, and that Dominic Ongwen instructed that ‘two of the girls, the two beautiful girls should be taken good care of and they should be taken to him to the next RV’, whereas the other girls should be sent to Ben Acellam’s home and to Okeny.<sup>5920</sup> P-0205 stated that the two abducted girls were indeed given to Dominic Ongwen as instructed, and that he kept them for Joseph Kony, and additionally that two girls were given to Okeny and one to Ben Acellam.<sup>5921</sup>

2132. As already observed above, P-0205 testified about another occasion when, ‘with the authority issued by Dominic on abduction of people’, LRA soldiers abducted two girls of about 12 years old in Onekgwok.<sup>5922</sup> P-0205 explained that after the girls were brought, he reported to Dominic Ongwen, who said that the girls should be ‘kept well’ and should not be allowed to escape.<sup>5923</sup> The girls stayed in P-0205’s household until they were given to Dominic Ongwen at a later point.<sup>5924</sup> Dominic Ongwen took one of the girls to Buk Abudema, and the other to Joseph Kony.<sup>5925</sup>

2133. P-0205 also referred to yet another abduction of a girl, [REDACTED], in Paicho by Terwanga soldiers.<sup>5926</sup> He stated that also this abduction was reported to Dominic Ongwen, who instructed the abductors that ‘she should be kept well’.<sup>5927</sup>

2134. P-0264 described the abduction by the Oka battalion of a young woman in Pader, near Adilang or Patongo.<sup>5928</sup> P-0264 testified that the order had been given to abduct five people, which was executed, and stated that ‘out of the abductees she was okay, the rest were a bit very old’.<sup>5929</sup> The unit returned with the young woman to Ben Acellam, who

<sup>5917</sup> P-0205: T-48-CONF, p. 12, line 25 – p. 13, line 3.

<sup>5918</sup> P-0205: T-48-CONF, p. 14, line 19 – p. 16, line 6.

<sup>5919</sup> P-0205: T-48-CONF, p. 17, lines 7-10.

<sup>5920</sup> P-0205: T-48-CONF, p. 16, lines 7-18.

<sup>5921</sup> P-0205: T-48-CONF, p. 16, line 22 – p. 17, line 10.

<sup>5922</sup> P-0205: T-47-CONF, p. 47, lines 1-7.

<sup>5923</sup> P-0205: T-47-CONF, p. 47, lines 15-20.

<sup>5924</sup> P-0205: T-47-CONF, p. 47, lines 20-23.

<sup>5925</sup> P-0205: T-47-CONF, p. 47, lines 23-24.

<sup>5926</sup> P-0205: T-47-CONF, p. 48, line 21 – p. 49, line 3, lines 10-11.

<sup>5927</sup> P-0205: T-47-CONF, p. 49, lines 12-19.

<sup>5928</sup> P-0264: [T-65](#), p. 31, lines 13-20.

<sup>5929</sup> P-0264: [T-65](#), p. 32, lines 1-7.

decided that she be ‘given out’ to Olwiko.<sup>5930</sup> P-0264 also stated that the young woman was abducted with a child, and that the child was given to another civilian who was initially abducted to go back with.<sup>5931</sup> P-0264 stated specifically that this happened at a time when Dominic Ongwen was Sinia brigade commander.<sup>5932</sup> P-0264 did not know whether Ben Acellam, Oka brigade commander, reported the abduction to Dominic Ongwen, but stated that Ben Acellam gave a report to his officers saying he was going to forward the issue to his superiors.<sup>5933</sup>

2135. Evidence given by insider witnesses provides further corroboration for the proposition that Sinia brigade, and more broadly the LRA, abducted civilian women and girls at the relevant time period.

2136. P-0070 stated that the LRA, including in Uganda in 2003-2004, abducted girls from the ages of 12 years upwards.<sup>5934</sup> P-0233 stated that abductions of women and girls took place throughout his stay in the LRA<sup>5935</sup> from 2002 to 2013.<sup>5936</sup> P-0307 also confirmed that abductions of women and girls took place in Sinia during the time period of the charges.<sup>5937</sup>

2137. P-0045 stayed in the LRA for a long period, from 1990 to 2004.<sup>5938</sup> Her own personal experience of being assigned as so-called ‘wife’ is not as such within the charges brought against Dominic Ongwen; however, due to that experience and the length of her stay in the LRA, the witness was able to provide information which the Chamber finds relevant and reliable. In particular, P-0045 testified that at the time she left the bush, ‘the abduction of girls was still happening and they would be taken to the commanders and they would be distributed out’.<sup>5939</sup>

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<sup>5930</sup> P-0264: [T-65](#), p. 32, lines 7-11.

<sup>5931</sup> P-0264: [T-65](#), p. 32, lines 11-19.

<sup>5932</sup> P-0264: [T-65](#), p. 34, lines 3-4.

<sup>5933</sup> P-0264: [T-65](#), p. 34, lines 5-9.

<sup>5934</sup> P-0070: [T-106](#), p. 35, lines 6-10.

<sup>5935</sup> P-0233: [T-111](#), p. 57, lines 9-12.

<sup>5936</sup> P-0233: T-111-CONF, p. 8, lines 5-6, p. 72, lines 13-18.

<sup>5937</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 63.

<sup>5938</sup> See section IV.B.2.ii.a.iii above.

<sup>5939</sup> P-0045: [T-103](#), p. 77, lines 17-21.

2138. In this context, the Chamber also notes the testimony of P-0142, a Sinia officer during the relevant period, who stated: ‘There is no single woman who voluntarily joined. All were abducted.’<sup>5940</sup>

2139. In conclusion, the Chamber turns to the question of approximately how many abducted civilian women and girls were in the Sinia brigade during the relevant time period. The Prosecution’s submission is that ‘hundreds of women and girls were abducted, forcefully kept, and further victimised in Sinia Brigade throughout the charged period’.<sup>5941</sup>

2140. P-0205 testified that there were close to 50 women in the Oka battalion, more than 50 in the Terwanga battalion, and more than 30 in the Siba battalion.<sup>5942</sup> P-0374 estimated that there were 200-300 so-called ‘wives’ and *ting tings* in Sinia.<sup>5943</sup> P-0142 stated that in 2003-2004 there were around 100 so-called ‘wives’ in Sinia, and 30 to 70 ‘young girls who were not yet ready to marry’.<sup>5944</sup>

2141. On the basis of this evidence, the Chamber considers that a safe estimate can be drawn that there were at any time during the time period of the charges over one hundred abducted women and girls in Sinia.

2142. The Chamber notes at this point the submission of the Prosecution that the evidence from victims and former LRA fighters and commanders ‘gives rise to a powerful inference that almost all the abducted women and girls in Sinia Brigade (indeed in the LRA) had broadly similar experiences of victimisation’.<sup>5945</sup> The Chamber, having examined the evidence on record, shares this assessment. As explained in the following sections, abducted women and girls passed through what was an institutionalised system of ‘distribution’, assignment of roles and enforcement for the performance of these roles. The systemic nature of the treatment of women and girls in Sinia, and more broadly in the LRA, is evident from the way it was described by the witnesses, who overwhelmingly, as indicated below, spoke of it as a system.

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<sup>5940</sup> P-0142: [T-71](#), p. 40, line 24 – p. 41, line 1.

<sup>5941</sup> [Prosecution Closing Brief](#), para. 111.

<sup>5942</sup> P-0205: [T-48](#), p. 27, line 16 – p. 28, line 9.

<sup>5943</sup> P-0374: [T-150](#), p. 7, lines 12-25.

<sup>5944</sup> P-0142: [T-71](#), p. 40, lines 3-10.

<sup>5945</sup> [Prosecution Closing Brief](#), para. 115.

iii. *'Distribution'*

**Following their abduction, the abducted women and girls were 'distributed' to members of Sinia brigade. The 'distribution' of the abducted women and girls was the prerogative of Joseph Kony, or, in his absence, of the Sinia brigade commander or battalion commanders. In the exercise of his authority, Dominic Ongwen also personally decided on the 'distribution' of abducted women and girls.<sup>5946</sup>**

2143. As established by the evidence, 'distribution' – a word used by many witnesses and for this reason also by the Chamber – refers to the assignment of abducted women and girls to a member of Sinia. From the moment of 'distribution', the abducted women and girls were subject to the authority of the man they were assigned to. It is opportune to note at the outset that for some abducted women and girls the 'distribution' to a man after abduction also meant being assigned to that man as a so-called 'wife'. As explained below, young girls were assigned to men as so-called 'wives' based on a criterion of sexual maturity, but nevertheless girls as young as around 12 years old were assigned to men as 'wives'. For even younger girls, the assignment to a man as so-called 'wife' occurred at a later point, and for that purpose they could also be 're-distributed' to another man. These very young girls, until they became so-called 'wives', served in the households of the men they were 'distributed' to as *ting tings*.

2144. Many witnesses testified before the Chamber about the system of 'distribution' of abducted women and girls to senior soldiers in Sinia, or more broadly in the LRA. The Chamber will begin its analysis by referring to those testimonies which aid in understanding the features of the system of 'distribution', before assessing some first-hand personal testimony of witnesses who were themselves 'distributed' in this manner.

2145. Several witnesses which were able to observe the system of 'distribution' during their stay in the organisation provided strikingly similar descriptions. Typically occurring features of this system were a waiting period following abduction – motivated, according to the evidence, by the need to establish that the abductee was healthy – and the performance of rituals.

2146. P-0070 testified that abducted girls were 'distributed' to men as so-called 'wives' after about three months in the bush and after performance of certain rituals.<sup>5947</sup> He specified

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<sup>5946</sup> Para. 214 above.

<sup>5947</sup> P-0070: [T-106](#), p. 35, lines 15-20.

that the period of three months served to make sure that the girls did not have ‘some charms or some sort of witchcraft or [...] some kind of disease’.<sup>5948</sup> Asked whether the girls had any choice, P-0070 stated:

No, they did not have a choice. They had no right to choose. They would just send instructions and say, ‘Pick this one, take her to that commander. Pick this one and take that to the commander’.<sup>5949</sup>

2147.P-0085 testified that female abductees were not immediately ‘hand[ed]’ to a man, but that there was a period that they were supposed to stay, after which a ritual using shea butter and white ochre was performed.<sup>5950</sup> Afterwards, the girls were ‘distributed’ to men ‘that have been selected as now being able to have wives’.<sup>5951</sup>

2148.D-0006 similarly testified that anointment of abducted women and girls with shea oil was a long standing ritual in the LRA.<sup>5952</sup> D-0118 mentioned that she underwent a version of the same ritual shortly after her abduction in 1994.<sup>5953</sup> The Chamber notes the similar finding made above in relation to the initiation of abductees who were to become LRA fighters.<sup>5954</sup>

2149.P-0406 testified that upon abduction, girls were ‘distributed’.<sup>5955</sup> Some of the girls were given to Joseph Kony’s homestead, others were given to other LRA commanders.<sup>5956</sup> P-0054’s testimony also establishes that the prerogative of (higher) commanders to decide on the ‘distribution’ of female abductees was enforced, by beating, detention or even killing.<sup>5957</sup> P-0233 testified that upon abduction, the ‘fairly older ladies’ were ‘distributed’ to the men and the young ones were kept and sent to Joseph Kony.<sup>5958</sup>

2150. There is also evidence of specific instances of ‘distribution’ of abducted women and girls.

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<sup>5948</sup> P-0070: [T-106](#), p. 36, lines 10-16.

<sup>5949</sup> P-0070: [T-106](#), p. 36, lines 4-9.

<sup>5950</sup> P-0085: [T-158](#), p. 45, line 20 – p. 46, line 4.

<sup>5951</sup> P-0085: [T-158](#), p. 46, lines 5-9.

<sup>5952</sup> D-0006: [T-194](#), p. 17, lines 11-25.

<sup>5953</sup> D-0118: [T-216](#), p. 9, line 25 – p. 11, line 9.

<sup>5954</sup> See section IV.C.2.ii.b above.

<sup>5955</sup> P-0406: [T-154](#), p. 21, lines 19-21.

<sup>5956</sup> P-0406: [T-154](#), p. 21, lines 21-23.

<sup>5957</sup> P-0054: [T-93](#), p. 39, lines 14-23.

<sup>5958</sup> P-0233: [T-111](#), p. 50, lines 2-9.

2151.P-0352 testified that following her abduction by Sinia soldiers, she could see the ‘Holy soldiers’ speaking among themselves, after which they sent the abductees to different households.<sup>5959</sup> She observed: ‘I do not know who decided or how it was decided where we would go because as an abductee you do not know these things’.<sup>5960</sup> The Chamber finds this observation expectable and understandable, and in itself reflective of the situation in which abductees found themselves. In any case, P-0352 then described: ‘I was sitting there and a soldier, who I later learned was called ██████, came and grabbed my hand. I stood up and I walked with him to his household.’<sup>5961</sup> She referred to ██████ as the ‘second leader’ after Buk, which she based on the number of soldiers under ██████’s command.<sup>5962</sup> The Chamber notes that the evidence otherwise establishes that ██████ was a senior member of Sinia.<sup>5963</sup> P-0352 testified that after five or six months in Buk’s group, she moved with ██████’s group to Dominic Ongwen’s group.<sup>5964</sup> P-0352 stated that at that point, Dominic Ongwen instructed her to continue staying with ██████ and to work as a babysitter for another woman’s child.<sup>5965</sup> P-0352 also testified that on the same day Dominic Ongwen ‘gave’ another girl called Sunday to Odoki, one of ██████’s soldiers, to be his so-called ‘wife’.<sup>5966</sup>

2152.P-0352 also testified that on another occasion, a girl who was being ‘given’ as a ‘wife’ was crying and making a lot of noise.<sup>5967</sup> The witness stated that the girl was crying because she did not want to ‘marry’ this soldier.<sup>5968</sup> Dominic Ongwen asked the girl what she would choose between going to this man or death, after which the girl accepted to

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<sup>5959</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 28.

<sup>5960</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 28.

<sup>5961</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 29.

<sup>5962</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 32.

<sup>5963</sup> ██████  
██████  
██████  
██████

<sup>5964</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 54-55. It is noted that in court, the witness spontaneously estimated this period to have been ‘four or five months’, see P-0352: [T-67](#), p. 48, lines 4-7. Later, the witness stated that she met Dominic Ongwen for the first time in 2004, P-0352: [T-67](#), p. 59, lines 17-20. Overall, the Chamber is of the view that the witness provided mere estimates of the period between her abduction and being moved to Dominic Ongwen’s group. The discrepancy in these estimates does in the Chamber’s view not affect the general reliability of her account relating to her abduction and transfer between different LRA groups.

<sup>5965</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 59. See also [T-67](#), p. 19, lines 9-15, p. 21, lines 10-19.

<sup>5966</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 60-61. See also [T-67](#), p. 26, line 25 – p. 27, line 25.

<sup>5967</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 74.

<sup>5968</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 74.

live with the man she had been assigned to.<sup>5969</sup> The Chamber notes that the witness testified that she could observe these events unfolding only from some distance<sup>5970</sup> and that some of the information may come from what the witness could gather in that context from other people.<sup>5971</sup> Nevertheless, the Chamber does not consider that these factors put into question the reliability of the witness on this issue.

2153.P-0374 testified that on the day after her abduction, ██████ ‘distributed’ the abductees among the houses of the different leaders; he pointed at each person and then an escort came and took them to a house.<sup>5972</sup> P-0374 did not know what house she was being assigned to, and it was on the morning after that she realised she had been ‘distributed’ to ██████’s house.<sup>5973</sup>

2154.P-0205 described a specific instance of ‘distribution’ which was undertaken in Sudan at the Imatong Hills. Sinia brigade soldiers, under the leadership of Dominic Ongwen, had arrived to meet Joseph Kony and brought with them a number of abducted girls.<sup>5974</sup> He stated that some girls were taken by Joseph Kony and went to his home, others were ‘given’ to Dominic Ongwen and were ‘distributed’ to the officers of Sinia brigade.<sup>5975</sup>

2155.P-0406 also testified about a time when abducted girls were sent to Dominic Ongwen who ‘distributed’ them to the other commanders.<sup>5976</sup>

2156.The issue of who in the LRA hierarchy held authority to ‘distribute’ abducted women and girls arose as a major dispute between the parties. The question as framed by the parties is whether Joseph Kony alone held that power, as is argued by the Defence,<sup>5977</sup> or whether other high commanders of the LRA, in particular brigade and battalion commanders, and including Dominic Ongwen, had it too, as argued by the Prosecution.<sup>5978</sup>

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<sup>5969</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 74; P-0352: [T-67](#), p. 28, lines 5-23.

<sup>5970</sup> P-0352: [T-67](#), p. 71, line 5 – p. 72, line 13.

<sup>5971</sup> P-0352: [T-67](#), p. 70, lines 15-19.

<sup>5972</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 41. *See also* P-0374: [T-150](#), p. 37, line 13 – p. 38, line 6.

<sup>5973</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 42.

<sup>5974</sup> P-0205: [T-48](#), p. 9, lines 13-16.

<sup>5975</sup> P-0205: T-48-CONF, p. 10, lines 9-14.

<sup>5976</sup> P-0406: [T-154](#), p. 35, lines 2-8.

<sup>5977</sup> [Defence Closing Brief](#), para. 472.

<sup>5978</sup> [Prosecution Closing Brief](#), para. 127.

2157. This is a question of fact, but the relevance of this issue is also a question of law. In this regard, care must be taken to frame the issue correctly in light of the charges. In the view of the Chamber, whether LRA commanders on the ground, in particular Dominic Ongwen, autonomously decided on the ‘distribution’ of the abducted women and girls, or acted pursuant to general or specific orders from Joseph Kony, is not as such central to criminal responsibility as charged.<sup>5979</sup> The issue has therefore little relevance to the disposal of the charges brought against Dominic Ongwen. A similar point is also made correctly by the Prosecution, albeit in the context of competence to order abductions.<sup>5980</sup>

2158. Turning to the evidence, the following preliminary remark is warranted. It can generally be expected that lower level insider witnesses may observe the ‘distribution’ of abducted women and girls, but may not necessarily know whether the commanders acted on their own initiative, or on specific order from higher up in the hierarchy. This came out clearly during the testimonies of P-0307<sup>5981</sup> and D-0117.<sup>5982</sup>

2159. Some witnesses testified confidently that Joseph Kony was the sole competent authority for ‘distribution’ of abducted women and girls. Yet their testimonies indicate that this assessment was not based on personal observation, but rather on a general understanding of the LRA that they had developed based on their experience in the bush, and which may not be accurate, especially in case of persons who never held leadership positions.<sup>5983</sup> The Chamber does not attribute much significance to such testimony.

2160. Still further, the question is not whether Joseph Kony himself ‘distributed’ women. There is clear evidence that he did, including directly to Dominic Ongwen.<sup>5984</sup> Rather, as stated, the question is whether Joseph Kony’s power to decide on the ‘distribution’ of abducted women and girls was exclusive.

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<sup>5979</sup> See also section V.A.8.ii below.

<sup>5980</sup> [Prosecution Closing Brief](#), para. 121.

<sup>5981</sup> P-0307: [T-153](#), p. 25, line 12 – p. 26, line 7.

<sup>5982</sup> D-0117: [T-215](#), p. 19, line 16 – p. 20, line 19.

<sup>5983</sup> See D-0034 Statement, UGA-D26-0022-0385, at para. 41. See also D-0034 Statement, UGA-D26-0022-0385, at para. 44; D-0118: [T-216](#), p. 21, lines 1-2.

<sup>5984</sup> D-0032: [T-201](#), p. 46, line 24 – p. 47, line 6; D-0118: [T-216](#), p. 21, line 18 – p. 22, line 15; D-0119: T-196-CONF, p. 16, lines 8-14. See also section IV.C.10.i above.

2161. In the assessment of the Chamber, the evidence demonstrates that the ‘distribution’ of the abducted women and girls was the prerogative of Joseph Kony, or, in his absence, of the Sinia brigade commander or battalion commanders.

2162. The question of which commander was competent to decide on the ‘distribution’ of abducted girls was discussed with P-0205. He testified that on one occasion, Dominic Ongwen took abducted girls to Joseph Kony in Sudan, where they were ‘distributed’. P-0205, asked why it was necessary to wait until Sudan, stated:

In – in the LRA the boss has first to agree before ladies are distributed. Sometimes your brigade commander may come up with a decision, but often it is Kony who makes the decision.<sup>5985</sup>

2163. Hillary Daniel Lagen testified that it was generally up to Joseph Kony to decide what to do with the abducted girls.<sup>5986</sup> He stated that while the LRA was in Sudan, all girls would first be brought to him for ‘distribution’, but when the LRA was dispersed in mobile units, this was done by way of radio communications.<sup>5987</sup>

2164. P-0205 and Hillary Daniel Lagen’s evidence shows that the degree of Joseph Kony’s personal involvement in the ‘distribution’ of abducted women and girls varied and was dependent on his, and the concerned LRA units’ location at a given point in time. Indeed, as explained above in relation to the general functioning of the hierarchical structure of the LRA, Joseph Kony’ control over the organisation was tighter when LRA units were geographically close, and comparatively looser when there was a significant geographic distance between Joseph Kony and the units operating on the ground.<sup>5988</sup> This was regularly the case during the period of the charges, when Joseph Kony was in Sudan while various LRA operated in Northern Uganda.<sup>5989</sup> This variable level of control on the part of Joseph Kony dependent on his geographical proximity with the different LRA units was also a characteristic of the system of ‘distribution’ of abducted women and girls within the LRA.

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<sup>5985</sup> P-0205: T-48-CONF, p. 11, lines 5-8.

<sup>5986</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0799, lines 711-19.

<sup>5987</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0799, lines 727-31.

<sup>5988</sup> See paras 866-873 above.

<sup>5989</sup> See paras 866-873 above.

2165. The form of looser involvement of Joseph Kony in this regard is described in particular by P-0142 and D-0134. P-0142 testified that ‘the authority’ for ‘distribution’ came from Joseph Kony, and on that basis Dominic Ongwen as the brigade commander, together with his brigade intelligence officer, identified ‘who should be given a wife’, and ‘then they would give’.<sup>5990</sup> D-0134 testified that Joseph Kony had the authority to ‘distribute’ women, and that other commanders had to get authority from Joseph Kony to do so as well.<sup>5991</sup> He confirmed that once Joseph Kony’s green light had been given, commanders would ‘distribute’ women to fighters working under their command.<sup>5992</sup> He also confirmed that the commanders would choose which officer under their command should be given a woman.<sup>5993</sup> According to the evidence of P-0142 and D-0134 therefore, the final operational decision on the ‘distribution’ in an individual case came from the commander on the ground, and not from Joseph Kony.

2166. The Chamber notes that Hillary Daniel Lagen stated that at some point in 2002, Buk Abudema broke ‘Kony’s rule about [...] women’: he abducted ‘some girls’ as ordered, but instead of ‘keep[ing] them’ as told, he had sex with them and ‘distributed’ them, including to Dominic Ongwen.<sup>5994</sup> Hillary Daniel Lagen first purported that in punishment in particular for Buk Abudema, the girls were released, then stated that some girls were reassigned to other units whereas some were released, before concluding that he in fact did not know whether that happened or not.<sup>5995</sup> The witness also stated that at that time Joseph Kony was saying that all officers in Sinia were under arrest, and that as part of his punishment, Buk Abudema had to ferry ammunition from Sudan to Uganda as Vincent Otti went to Soroti.<sup>5996</sup> The Chamber places limited weight on this evidence, which at most indicates a disagreement in relation to the ‘distribution’ of abducted girls in a particular case. As to the punishment, Hillary Daniel Lagen’s evidence contains contradictions, but no satisfactory explanation as to his basis of knowledge.

<sup>5990</sup> P-0142: [T-71](#), p. 27, lines 17-25. *See also* p. 31, lines 7-11.

<sup>5991</sup> D-0134: [T-240](#), p. 27, lines 2-9.

<sup>5992</sup> D-0134: [T-241](#), p. 5, lines 10-23.

<sup>5993</sup> D-0134: [T-241](#), p. 5, line 24 – p. 6, line 2.

<sup>5994</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0794, lines 515-48.

<sup>5995</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0795, line 562 – 0796, line 595.

<sup>5996</sup> P-0040 Interview Transcript, UGA-OTP-0220-0779-R01, at 0796, lines 596-616.

2167.D-0006 testified that Joseph Kony ‘distributed’ girls to commanders.<sup>5997</sup> Asked if anyone else could order that a woman be ‘distributed’ as a so-called ‘wife’, she stated that if somebody did it without Joseph Kony’s permission, they would be punished.<sup>5998</sup> She stated that these were ‘minor infractions’, so Joseph Kony would ‘take away’ the woman, and also take away some soldiers and weapons for about a week, and then he would give them back.<sup>5999</sup> The Chamber accepts D-0006’s evidence as truthful. At the same time, the Chamber notes that [REDACTED], D-0006 was in Joseph Kony’s proximity, and as such does not have knowledge of the ‘distribution’ of women and girls in the units which were geographically removed from Joseph Kony. Her testimony in proper context therefore does not have decisive value on this point.

2168.D-0117 testified that when she was abducted in 1996, most of the orders for ‘distribution’ came from Joseph Kony, but after a while, she saw other commanders issue such orders too.<sup>6000</sup> She stated that at some point many commanders were involved in the ‘distribution’ of women and ‘Kony himself now also gave up on following up’.<sup>6001</sup> At that point, according to D-0117, ‘when a group abducts the girls, they would just ‘distribute’ the girls among themselves, they would only select a few that should be sent to Kony’.<sup>6002</sup>

2169.The most radical interpretation of Joseph Kony’s authority in relation to ‘distribution’ of abducted women and girls was provided by Daniel Opiyo, who stated that Joseph Kony alone had the power to ‘distribute’ abducted girls and that if anyone did it ‘without permission from above’ the person, i.e. ‘the receiver’ would be killed.<sup>6003</sup> However, in light of the abundant other evidence on the issue, which is also more nuanced and detailed, the Chamber does not accept Daniel Opiyo’s testimony on this point.

2170.The Chamber also clarifies at this juncture that it does not attribute much value to P-0070’s confirmation that Joseph Kony was the only one allowed to issue orders to ‘distribute’ so-called ‘wives’.<sup>6004</sup> Without further detail, in particular without specifying

<sup>5997</sup> D-0006: [T-194](#), p. 25, lines 4-18.

<sup>5998</sup> D-0006: [T-194](#), p. 25, line 23 – p. 26, line 5.

<sup>5999</sup> D-0006: [T-194](#), p. 26, lines 6-12.

<sup>6000</sup> D-0117: [T-215](#), p. 22, line 21 – p. 23, line 6. *See also* p. 6, lines 17-18.

<sup>6001</sup> D-0117: [T-215](#), p. 23, line 21 – p. 24, line 2.

<sup>6002</sup> D-0117: [T-215](#), p. 24, lines 4-6.

<sup>6003</sup> D-0056: [T-228](#), p. 27, lines 13-17.

<sup>6004</sup> P-0070: [T-107](#), p. 43, line 21 – p. 44, line 1.

whether these were individual orders or orders of a more general nature, this evidence does not assist in determining the matter at hand.

2171. There is also considerable evidence demonstrating that, regardless of the hierarchical structure of the LRA with Joseph Kony at its top, brigade or battalion commanders, including Dominic Ongwen, did in fact ‘distribute’ abducted women and girls.

2172. Several witnesses testified that they observed Dominic Ongwen ‘distributing’ abducted women and girls. P-0054 testified that the decision on the ‘distribution’ of a woman was in the hands of the brigade commander, and that Dominic Ongwen made such decisions when he was Sinia brigade commander.<sup>6005</sup> P-0054 stated that he saw Dominic Ongwen making such decisions several times, and described the process as follows:

When the girls are brought, when he sees that a particular officer is ready to have wives, then he would say, ‘You go with this girl, let her stay at your home. She is now your wife.’<sup>6006</sup>

2173. P-0340 testified that abducted women or girls were taken to Dominic Ongwen to be ‘distributed’.<sup>6007</sup> The witness stated that he did not personally see Dominic Ongwen doing the ‘distribution’, explaining that ‘in most instances the girls and the women were taken to him and then would only realise when these people are coming back with the girls’.<sup>6008</sup> In the view of the Chamber, this evidence is in line with what could be expected from someone in P-0340’s position, and as such considers the statement to be reliable.

2174. Other lower ranking insiders provided similar testimony. P-0252 testified that ‘[t]he girls were distributed by Odomi’, i.e. Dominic Ongwen, and that he saw this happen.<sup>6009</sup> P-0314 testified that if girls were abducted, they were handed over to Dominic Ongwen and after he has ‘taken some of the girls’, the girls would be given to any other boy.<sup>6010</sup> P-0379 testified that after abduction, all girls were handed over to the ‘overall commander’, i.e. Dominic Ongwen, who was the one with authority over the girls and who decided on the ‘distribution’.<sup>6011</sup> P-0372 also testified that while he was in Sinia,

<sup>6005</sup> P-0054: [T-93](#), p. 38, line 24 – p. 39, line 5.

<sup>6006</sup> P-0054: [T-93](#), p. 39, lines 6-13.

<sup>6007</sup> P-0340: [T-102](#), p. 42, line 10 – p. 43, line 10.

<sup>6008</sup> P-0340: [T-102](#), p. 43, lines 5-9.

<sup>6009</sup> P-0252: [T-88](#), p. 3, lines 5-9.

<sup>6010</sup> P-0314: [T-74](#), p. 57, lines 20-24.

<sup>6011</sup> P-0379: [T-57](#), p. 36, line 18 – p. 37, line 10. *See also* [T-56](#), p. 52, lines 5-8; T-57-CONF, p. 15, lines 6-11.

Dominic Ongwen had the authority to ‘distribute’ abducted girls.<sup>6012</sup> He stated slightly more generally that ‘the person who is overall in charge of the convoy is the one who has the authority to give those girls’.<sup>6013</sup> P-0330 also stated that it was Dominic Ongwen who ‘was the one giving women’, referring also to a specific instance of Dominic Ongwen ‘distributing’ an abducted girl to a soldier, which he saw.<sup>6014</sup>

2175.P-0410 stands out among the Sinia insider witnesses, as he testified that in his unit, Okwee was ‘responsible for distributing the girls [...] and he would bring the girls to the commanders’.<sup>6015</sup> He stated specifically that he was present and saw Okwee ‘give’ Awelo as ‘wife’ to his commander Komakech.<sup>6016</sup> The Chamber does not deem this to be an issue of significance, as the witness merely testified about the act of ‘distribution’ that he saw, without purporting that this meant that Okwee as a lower-level commander independently took the decision.

2176.P-0233 stated:

[M]ost LRA commanders who are in charge of a particular group usually have these orders given to them and they will look at this girl and say that these particular girls are now of age and are ready [...] to have husbands. So they would be given out. Even Dominic himself did that. Other commanders like Odhiambo did that. Several other commanders did that.<sup>6017</sup>

2177.P-0233 further testified that the orders came from Joseph Kony down the chain of command to commanders like Dominic Ongwen and further down to commanders with smaller groups.<sup>6018</sup> In answer to the question how he knew that Dominic Ongwen was the one ‘distributing’ women as so-called ‘wives’, P-0233 stated that the men who received them would mention that.<sup>6019</sup>

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<sup>6012</sup> P-0372: [T-148](#), p. 55, lines 6-7.

<sup>6013</sup> P-0372: [T-148](#), p. 55, lines 4-5.

<sup>6014</sup> P-0330: [T-52](#), p. 63, lines 6-19.

<sup>6015</sup> P-0410: [T-151](#), p. 56, lines 1-8.

<sup>6016</sup> P-0410: [T-151](#), p. 56, line 23 – p. 57, line 2.

<sup>6017</sup> P-0233: [T-111](#), p. 51, lines 9-14.

<sup>6018</sup> P-0233: [T-111](#), p. 52, lines 11-18.

<sup>6019</sup> P-0233: [T-111](#), p. 52, line 23 – p. 53, line 1.

2178.P-0097 testified that a soldier called Ogwal was ‘given’ a so-called ‘wife’, and that Ogwal told him that it was Dominic Ongwen who had ‘given’ Ogwal the girl to be his ‘wife’.<sup>6020</sup>

2179.Speaking in more general terms, P-0264 stated that the decision on the ‘distribution’ of abducted women or girls came from the brigade commander.<sup>6021</sup> Asked how he knew, he stated that he witnessed this.<sup>6022</sup> Later he stated that Ben Acellam as Oka battalion commander was responsible for the ‘distribution’.<sup>6023</sup> The Chamber does not deem this to be a contradiction in the testimony of the witness, but merely a description on the facts that he observed.

2180.P-0138 testified that a commander would make the decision for each LRA member, depending on how long he had been in the LRA, on ‘whether the person needs a wife’, and then ‘[t]hey take a girl and give it to that person’.<sup>6024</sup> P-0138 specifically stated that not only Joseph Kony, but also brigade commanders had the power to make that decision.<sup>6025</sup>

2181.Also P-0085 was asked who made the decision that a man was ‘able to have a wife’, and responded that this was ‘the senior commander, perhaps the brigade commander’.<sup>6026</sup> P-0085 testified that the senior commander would ask the CO who in the battalion was able to receive a so-called ‘wife’, that the CO would then speak to the brigade commander, and that then a decision was made to take the girls and ‘give’ them to the people in the brigade.<sup>6027</sup>

2182.In conclusion on the issue of authority to ‘distribute’ the abducted women and girls, the Chamber does not deem the two strains of the evidence, each emphasised by one party, to be in real conflict. It is established that Joseph Kony held the highest authority in the LRA, and as such also over Sinia. It is also established that he issued orders, mostly of a general nature as he was geographically removed, for the ‘distribution’ of abducted

<sup>6020</sup> P-0097: [T-108](#), p. 26, line 24 – p. 27, line 3.

<sup>6021</sup> P-0264: [T-65](#), p. 3, lines 17-23. The Chamber notes that the witness differentiated this from the determination of whether a girl was considered old enough to be ‘given’ as a ‘wife’, *see* para. 2251 below.

<sup>6022</sup> P-0264: [T-65](#), p. 4, lines 2-4.

<sup>6023</sup> P-0264: [T-66](#), p. 38, line 16 – p. 39, line 9.

<sup>6024</sup> P-0138: [T-120](#), p. 27, lines 10-21.

<sup>6025</sup> P-0138: [T-120](#), p. 27, line 22 – p. 28, line 1.

<sup>6026</sup> P-0085: [T-158](#), p. 46, lines 10-15, p. 47, lines 10-14.

<sup>6027</sup> P-0085: [T-158](#), p. 46, lines 15-19.

women and girls. This is, however, entirely compatible with other evidence which establishes clearly also that other high commanders of the LRA, namely the brigade and battalion commanders, and including Dominic Ongwen, decided on the ‘distribution’ of women and girls in Sinia. If anything, the Chamber considers the evidence of who decided on the ‘distribution’ of the abducted women and girls to further support the conclusion that the LRA system of abduction and abuse of women and girls was coordinated among the LRA leadership.

*iv. Coercive environment*

**The abducted women and girls were threatened with death if they attempted to escape. In some cases, women and girls were in fact killed for attempted escape. In other cases, they were severely beaten. In addition, they were placed under heavy guard.**<sup>6028</sup>

2183. Before addressing the evidence in relation to the coercive environment into which the abducted women and girls were placed, it must be noted that this coercive environment is simply a more specific expression of the general system of control that existed in the LRA to ensure obedience by its members.<sup>6029</sup> The evidence discussed hereunder must therefore be understood also in that context.

2184. P-0352 testified about the threats she received in relation to escaping. Her detailed account of the threat and its effect is of great value to the analysis of the Chamber:

The day I was smeared with shea butter, ██████ told me that if I tried to escape and the Holy caught me they would kill me. He said that if I was caught by government soldiers or any civilian they would also kill me. He said that if I did try to escape the shea butter he had smeared me with would confuse me until I was caught by the Holy and killed. ██████ also said that I should not think about home, and if I did my legs would swell and I would die. He also said that I should not talk to any person except for the ones I lived with.

During the first month I stayed with ██████ my legs were injured and I could not really walk. One leg was swollen and the other one had wounds from the dry grass that had become septic. ██████ told me that my legs were swollen because I was thinking about home and that if they kept swelling I would be killed. I was worried and I did not want to be killed, so I continued walking.<sup>6030</sup>

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<sup>6028</sup> Para. 215 above.

<sup>6029</sup> See section IV.C.2.ii.e above.

<sup>6030</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 44-45.

2185.P-0352 also testified that ██████ told her that if she broke the rules, she would be beaten, and that in ██████'s household, he would be the one to give the order for someone to be beaten.<sup>6031</sup> She continued:

In my case, I was beaten once, around a week after I arrived at ██████'s household. I was approached by a boy called ██████ who was from my village. ██████ was around 16 years old. ██████ asked me if I knew the hill that we could see from where we were staying. I told him I did not know it, and he said it was our home. Even though I had not seen anyone around when we were talking, a soldier called Labeya called us and told us to come to him.

██████ and I went there. Labeya was with Opige, Ojok and ██████. Opige asked what we were talking about, and we replied we were not talking about anything. He insisted and I explained that ██████ had asked me if I knew the hill that we could see from there and then told me it was our home. Opige sent someone to bring sticks. He told us to lie down and we lay on our stomachs. Opige told us they were going to cane us because we were thinking about escaping, and that with the beatings we would forget about home. After that, one soldier sat on my back and another sat on my legs so that I would not move. Then a third soldier started to beat me on the buttocks with a stick. The same thing happened to ██████. It was very painful. They gave each of us 50 strokes. While I was being beaten ██████ sat there watching.<sup>6032</sup>

2186.P-0352 testified that whenever *ting tings* went to fetch water, an escort would accompany them 'so that we did not escape'.<sup>6033</sup>

2187.P-0374 stated that at one point, she was beaten on accusation of planning to escape.<sup>6034</sup> That same evening, she was summoned by ██████ who told her that 'in the bush there was no escape', and that 'if someone tried to escape they would be killed'.<sup>6035</sup> She added that not long after, the group passed an abductee who had been killed, and the group was told that if they tried to escape, they would be killed too.<sup>6036</sup>

2188.P-0396 explained that after her abduction, at Wii-Polo, all abductees were brought to Dominic Ongwen, who asked the abductees to state their names, age and where they were coming from.<sup>6037</sup> P-0396 responded to Dominic Ongwen, and also heard another girl

<sup>6031</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 49.

<sup>6032</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 50-51. See also P-0352: [T-67](#), p. 53, line 20 – p. 55, line 16.

<sup>6033</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 41.

<sup>6034</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 76-77.

<sup>6035</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 77.

<sup>6036</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 78; P-0374: [T-150](#), p. 45, lines 5-14.

<sup>6037</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 51.

state she was 16, and another that she was 7 years old.<sup>6038</sup> After a few days, still at the same location, the abductees were beaten with sticks by LRA soldiers on the order of Dominic Ongwen, who stated that the ‘LRA have to remove the civilian from [them]’.<sup>6039</sup> At a later occasion, still at Wii-Polo, Kalalang, Ochang and Dominic Ongwen addressed the abductees.<sup>6040</sup> Dominic Ongwen introduced himself first, and said he was the commander of the group.<sup>6041</sup> Thereafter, Kalalang and Ochang introduced themselves.<sup>6042</sup> They said that ‘whoever tries to escape, they will chase him until they kill him or her’.<sup>6043</sup> They also said that ‘if you are given a husband and refuse to be his wife you will be killed’.<sup>6044</sup> Both Dominic Ongwen and Kalalang said this.<sup>6045</sup>

2189.P-0396 further testified that on one occasion, a girl was brought to the commanders after she was caught trying to escape.<sup>6046</sup> Everybody was called to see what was happening ‘so that we know what will happen to us if we try to escape’.<sup>6047</sup> The witness stated that an LRA soldier beat the girl with a stick until she died.<sup>6048</sup> P-0396 specified that Dominic Ongwen was present when the girl was killed.<sup>6049</sup>

2190.P-0351 also stated that some girls who tried to escape were killed, and that she thought that if she tried to escape, she would be killed too.<sup>6050</sup>

2191.The above evidence is corroborated by P-0379, who testified that he saw one instance when a woman called Eva, who had been assigned as a ‘wife’ to Ot Ngec, attempted to escape, and she was punished severely.<sup>6051</sup> He explained that Ot Ngec had died, so Eva was staying in Odong Cow’s household, and it was Odong Cow who ordered Eva to be beaten.<sup>6052</sup> She was beaten with sticks.<sup>6053</sup> P-0379 also specified that at the time, Dominic

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<sup>6038</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 51.

<sup>6039</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 53.

<sup>6040</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 57.

<sup>6041</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 57.

<sup>6042</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 57.

<sup>6043</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 57.

<sup>6044</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 57.

<sup>6045</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 57.

<sup>6046</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 97.

<sup>6047</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 97.

<sup>6048</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 97.

<sup>6049</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 97.

<sup>6050</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 77.

<sup>6051</sup> P-0379: [T-57](#), p. 40, lines 10-12.

<sup>6052</sup> P-0379: [T-57](#), p. 42, lines 14-20.

<sup>6053</sup> P-0379: [T-57](#), p. 43, lines 4-7.

Ongwen was Odong Cow's superior, although he was not physically present on this occasion.<sup>6054</sup>

**Abducted women and girls were also forced to beat or kill other abductees for attempting escape or breaking rules.**<sup>6055</sup>

2192. As generally with all LRA abductees,<sup>6056</sup> the evidence indicates specifically that also abducted women and girls were forced to beat or kill other abductees for attempting escape or breaking rules. In the Chamber's assessment, as argued by the Prosecutor,<sup>6057</sup> this was a tenet of the coercive environment to which the abducted women and girls were exposed.

2193. P-0352 described being forced, on Dominic Ongwen's orders, to take part in the killing of another girl who had been accused of witchcraft.<sup>6058</sup> P-0351 similarly stated that she was forced to step on a boy who had tried to escape but was caught, until he died.<sup>6059</sup> P-0351 stated that the 'boys with guns' who forced her to perform this act said that they wanted the new abductees who had not killed people to come and kill someone.<sup>6060</sup>

2194. P-0396 also testified about an instance when she was forced to kill.<sup>6061</sup>

2195. The Chamber also notes in this context its findings with respect to similar experiences suffered by P-0226 and P-0236.<sup>6062</sup> In addition, this is a phenomenon similar to that experienced by male recruits, and in the view of the Chamber, the discussion there is equally applicable to the situation of abducted women and girls.<sup>6063</sup>

**Occasionally, abducted women and girls were released.**<sup>6064</sup>

2196. The Chamber considers the fact that women and girls were occasionally released as also indicative of the status of the abducted women and girls in the LRA since it is a further

<sup>6054</sup> P-0379: [T-57](#), p. 43, lines 8-13.

<sup>6055</sup> Para. 215 above.

<sup>6056</sup> See paras 916-930 above.

<sup>6057</sup> [Prosecution Closing Brief](#), para. 118.

<sup>6058</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 100-04. See also P-0352: T-67-CONF, p. 33, line 6 – p. 34, line 4.

<sup>6059</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 35-36.

<sup>6060</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 35.

<sup>6061</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 99.

<sup>6062</sup> See section IV.C.10.ii.d above.

<sup>6063</sup> See paras 916-930 above.

<sup>6064</sup> Para. 215 above.

indication that they were constrained and could not leave of their own choice. In the view of the Chamber, the specific incidents recounted by the witnesses below prove that such releases were the exception and not the rule.

2197.P-0352 testified about a woman called ██████, whose so-called ‘husband’ had been killed, and who was released a short time after P-0352 was instructed to take care of her child.<sup>6065</sup> Specifically, P-0352 testified that ‘one night ██████ came with some soldiers and told them to take her to a camp that we were moving by’, in Gulu.<sup>6066</sup> The Chamber also notes that P-0352, who spent March 2003 until the end of 2004<sup>6067</sup> in the LRA, stated that ██████ was the only person she ever knew to be released.<sup>6068</sup>

2198.P-0374 stated that ██████ and ██████, the two women who were ██████’s so-called ‘wives’ before her, were released following a government attack in which ██████’s baby was killed and ██████ was injured herself.<sup>6069</sup> Moreover, she explained that after ██████ drowned while attempting to cross the Aswa River, she was sent to stay at ██████’s home, and ██████ released her shortly before Easter 2005.<sup>6070</sup>

2199.P-0372 testified that abducted women and girls could occasionally be released after giving birth, if they could not move with the group because of having to take care of the baby.<sup>6071</sup>

2200.An ISO logbook entry on 1 July 2004 records a conversation between Dominic Ongwen, Joseph Kony and Kapere in relation to the release of one woman. Dominic Ongwen requested permission from Joseph Kony to release her because she was a casualty and a liability, as she could not move fast.<sup>6072</sup> Kapere warned Dominic Ongwen to be very

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<sup>6065</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 59, 62.

<sup>6066</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 62.

<sup>6067</sup> P-0352 testified that after the attack on Odek, she escaped around October or November (P-0352: T-67, p. 70, lines 9-14), while a government survey form indicates that she escaped on 5 December 2004 (UGA-OTP-0270-0166, at 0169) and a form signed on 13 December 2004 includes a photograph regarding which the witness testified that it was taken shortly after her escape (*see* UGA-OTP-0249-0293; P-0352: T-67-CONF, p. 37, lines 1-11).

<sup>6068</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 62.

<sup>6069</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 98-99.

<sup>6070</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 140-157.

<sup>6071</sup> P-0372: T-148, p. 56, lines 14-21.

<sup>6072</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0077. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3118; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0348.

careful when releasing such a person as she could reveal his position to the UPDF.<sup>6073</sup> Joseph Kony advised Dominic Ongwen to select some soldiers to take the woman far from his position and release her there after one week.<sup>6074</sup>

2201. Finally in this section, the Chamber makes reference to the finding above in relation to the release of P-0101 in July 2004.<sup>6075</sup>

*v. Forced marriage and sexual violence*

**Joseph Kony, Dominic Ongwen and the Sinia brigade leadership designated abducted women and girls as so-called ‘wives’ of male members of Sinia brigade. Occasionally, ceremonies were performed to mark the so-called ‘marriage’. Frequently no such ceremony occurred, and abducted women and girls were considered so-called ‘wives’ from the time they were first forced to have sex with the man they had been assigned to. The abducted women and girls were not able to refuse. Dominic Ongwen personally assigned women and girls as so-called ‘wives’ and used his authority as LRA commander to enforce the so-called ‘marriage’ in Sinia brigade.**<sup>6076</sup>

2202. So-called ‘marriage’ between male members of the LRA and abducted women and girls was an important topic in many testimonies heard by the Chamber. The analysis of the Chamber begins by laying out the evidence provided by the five women who testified before the Chamber about their own experience as so-called ‘wives’ in Sinia. Thereafter, the Chamber will refer to other insider evidence and reconstruct the features of so-called ‘marriage’ in the LRA as a quasi-institution regulated by a specific set of rules.

2203. P-0351, who was abducted in December 2002 at the age of approximately 12 years old,<sup>6077</sup> testified that one day, one of Dominic Ongwen’s escorts told her that the commanders were calling her.<sup>6078</sup> She found Dominic Ongwen sitting ‘with the people that he liked to sit with, other commanders, including one called [REDACTED]’.<sup>6079</sup> Dominic Ongwen told her that she ‘would become [REDACTED]’s wife’.<sup>6080</sup> The Chamber notes that there is considerable evidence that [REDACTED] was a prominent member of Sinia

<sup>6073</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0077. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3118; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0348.

<sup>6074</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0078. *See also* UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0348.

<sup>6075</sup> *See* section IV.C.10.iii.b below.

<sup>6076</sup> Para. 216 above.

<sup>6077</sup> *See* section IV.B.2.iii.b above.

<sup>6078</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 71.

<sup>6079</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 71.

<sup>6080</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 71.

at the time.<sup>6081</sup> P-0351 then ‘went with ██████ to the place that he stayed’.<sup>6082</sup> She found that ██████ already had two so-called ‘wives’ when she arrived at his home: one called ██████ or ██████, who was more than 20 years old, and the other called Grace, who was around 18 years old.<sup>6083</sup> P-0351 stated that she lived in ██████’s household until she escaped and came back home in 2006.<sup>6084</sup>

2204.P-0351 specifically stated that she did not choose to become ██████’s so-called ‘wife’:

In the bush women and girls have no choice. You cannot choose who your husband is. It is only after you have been given to someone that you realise it has happened. Most of the girls in the bush were given to men as wives. I think they were distributed the same way as it happened to me, they were just given. I did not see other girls been given as wives but when you would meet with the girls you would see that they had become the wife of so and so.<sup>6085</sup>

2205.P-0352, who was abducted in March 2003 at the age of 12 years old and joined Dominic Ongwen’s group around five to six months after that,<sup>6086</sup> testified that after a period as *ting ting* in ██████’s household, about a month after they joined Dominic Ongwen’s group, ██████ called her to his tent.<sup>6087</sup> P-0352 stated:

When I arrived he asked if I really knew what had brought me here. I said I did not know and he told me to make his bed and that now I was his wife.

I started crying and thought how could I become his wife, he was an old man, he had grey hair, and I did not want to be his wife. When I started crying he asked me ‘between death and life, what do you choose?’ He asked me this twice and then I said I choose life.<sup>6088</sup>

2206.P-0352 also stated that she did not know of any girl who refused to become a ‘wife’, and that ‘[i]f you refused that would mean that you would die’.<sup>6089</sup>

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<sup>6081</sup> See para. 890 above.

<sup>6082</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 71.

<sup>6083</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 72-73.

<sup>6084</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 90, 94-96.

<sup>6085</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 78. See also P-0351: [T-129](#), p. 7, line 21 – p. 8, line 6.

<sup>6086</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 11-12, 54-55.

<sup>6087</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 66.

<sup>6088</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 66-67. It is noted that when testifying before the Chamber, the witness reiterated the same sequence, with discrepancy in insignificant details only, see P-0352: [T-67](#), p. 20, line 22 – p. 21, line 6. The ensuing rape of the witness by ██████ is discussed below at paras 2258-2259.

<sup>6089</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 71.

2207. P-0366 testified that after a period as *ting ting* in Dominic Ongwen's household, she was told to attend a gathering with Dominic Ongwen, several of his escorts and other girls.<sup>6090</sup>

She stated:

We were told to remove our clothes and Odomi told us to go into the water. According to the ritual we had to go in and out of the water four times. After we had done this we came out of the water and Nyang put shea butter on each of us, the sign of the cross on our chests, our backs and our palms. Odomi watched to see if the ritual was done correctly.

Odomi told us that we should stay with the person we were given to and obey him. He said that if we disobeyed that person, we would be beaten. I do not know how it was decided which boy we would go with, or who decided this.

[...] I was given to [REDACTED]. He told me to pick up his bag and after that we walked to the place where he lived.<sup>6091</sup>

2208. Asked in court about [REDACTED]'s function in the LRA, P-0366 stated that she did not pay attention to what he did exactly, but that he 'would sit close to where Odomi was', that '[w]herever Odomi was, he would be close there', and that he was 'like an escort'.<sup>6092</sup> While noting P-0366's understandably limited ability to know and describe hierarchical features of the LRA, the Chamber deems P-0366's evidence sufficient to establish that [REDACTED] was Dominic Ongwen's subordinate in Sinia. Further, whereas there is uncertainty about the point in time when P-0366 was assigned to [REDACTED],<sup>6093</sup> it is noted that the witness was [REDACTED]'s so-called 'wife' at the time of Dominic Ongwen's injury and stay in sickbay in late 2002 and into 2003,<sup>6094</sup> and up until her escape in mid-February 2003.<sup>6095</sup> It is therefore beyond doubt that the facts described by P-0366 at least partly fall within the period of the charges. The Chamber notes that while the statement of P-0366 contains a contradiction in respect of her age, she was at most 13-14 years old in late 2002 and early 2003.<sup>6096</sup>

<sup>6090</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at paras 69-70.

<sup>6091</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at paras 72-75.

<sup>6092</sup> P-0366: [T-147](#), p. 82, lines 14-18.

<sup>6093</sup> See section IV.B.2.iii.c above.

<sup>6094</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at paras 98-99, paras 121-127. See also section IV.B.2.iii.c above.

<sup>6095</sup> See section IV.B.2.iii.c above.

<sup>6096</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at 0289 (recording the birthdate as [REDACTED] 1992); at para. 13 (stating that she was 11 years old in December 2000).

2209.P-0366 stated that none of the girls could refuse to become a ‘wife’.<sup>6097</sup> She testified that she saw some girls who tried to refuse but would be beaten, and gave the example of a girl called ██████, who tried to refuse to become the ‘wife’ of Odong Kau, and another called ██████, who was beaten because she had tried to refuse to become the ‘wife’ of Otto George.<sup>6098</sup> P-0366 recalled that she had seen ██████ get badly beaten with sticks two days before she was assigned to ██████, and that, later on, before being beaten for refusing to have sex with ██████ following her ‘distribution’, she had been asked by Dominic Ongwen if she knew what they had done to ██████.<sup>6099</sup>

2210.P-0374’s story is very similar. She testified that one day ██████ called her and told her: ‘you are going to be my wife. Like the women I released you are going to be with me and have children. So you will stay with me here where I sleep.’<sup>6100</sup> P-0374’s statement continues as follows:

I became fearful and started shaking because I thought that he was going to start to sleep with me and I was just a child. ██████ was quite big, much older than me, maybe between 20 and 30 years old. I did not respond because I feared that if I replied he would beat me. I think he expected me to say that I accepted to be his wife. He told me that from that day I had to make his bed, wash his clothes and go to sleep with him. I did not want to be his wife because I was too young. I did not know what it was to be with a man and it was not my wish to be with him.<sup>6101</sup>

2211.P-0374 stated that for two days she did not go to sleep with him but she washed ██████’s clothes and prepared his bed as usual.<sup>6102</sup> Then one night ██████ called her to bring him his toothbrush, and finally forced her into sex.<sup>6103</sup> Whereas P-0374 understandably did not provide a date for when she became the so-called ‘wife’ of ██████, the Chamber notes that P-0374 was aged between 10 and 12 during the time of her stay with the LRA.<sup>6104</sup>

2212.As to P-0396, she stated that while she was still in Wii-Polo, a short time after her abduction at the age of 13 years old, one morning she and other girls were summoned by

<sup>6097</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 93.

<sup>6098</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 94.

<sup>6099</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 94; P-0366: [T-147-CONF](#), p. 12, line 3 – p. 15, line 19.

<sup>6100</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 101.

<sup>6101</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 101.

<sup>6102</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 102.

<sup>6103</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 103; this is analysed further below, *see* paras 2260-2263 below.

<sup>6104</sup> *See* P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 14, 157.

Dominic Ongwen.<sup>6105</sup> When she arrived she saw Dominic Ongwen seated with Kalalang, Ocii, Ochang and ██████.<sup>6106</sup> Dominic Ongwen said he was going to give them to their husbands.<sup>6107</sup> He said that if any of the girls refused she would be killed, and that if someone tried to escape they would chase and kill them.<sup>6108</sup> After that, Dominic Ongwen ‘distributed’ the girls by walking to collect a girl and bringing her to one of the commanders.<sup>6109</sup> Dominic Ongwen then said to the girls: ‘This is your husband and you are going to stay with him until we overthrow the government.’<sup>6110</sup> P-0396 testified that Dominic Ongwen ‘gave’ her to ██████.<sup>6111</sup> ██████ also told P-0396 that she ‘would be his wife until LRA overthrows the government’.<sup>6112</sup> ██████ also told P-0396 that she would be killed if she tried to escape or if she refused to sleep with him.<sup>6113</sup> In court, P-0396 stated that she could not refuse, that she was fearing for her life and was also young at the time.<sup>6114</sup>

2213. P-0396 testified that she also saw that on the same occasion a girl called ██████ was given to Ochang and a girl called ██████ was given to Ocii.<sup>6115</sup>

2214. P-0396 stated that after she became ██████’s so-called ‘wife’, ██████ was with her most of the time, and if he went to ‘work in the villages’ he would leave her with the so-called ‘wives’ of Dominic Ongwen and with ‘other boys who remained behind to guard us’.<sup>6116</sup> P-0396 finally managed to escape in April or May 2005.<sup>6117</sup>

2215. The notion of ‘marriage’ and the role of ‘wife’ are further elucidated by an abundance of evidence.

<sup>6105</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at paras 13, 65.

<sup>6106</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 67.

<sup>6107</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 68.

<sup>6108</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 68.

<sup>6109</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 69.

<sup>6110</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 69.

<sup>6111</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 70.

<sup>6112</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 70.

<sup>6113</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 70.

<sup>6114</sup> P-0396: [T-126](#), p. 63, line 19 – p. 64, line 4.

<sup>6115</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 71. P-0396 testified that she heard the girls tell Dominic Ongwen previously that they were, respectively, seven and 16 years old. P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 51.

<sup>6116</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 84.

<sup>6117</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 102.

2216. First, the Chamber turns to the testimonies of those women whose personal experience, while not falling within the charges, nevertheless provides corroboration to the above testimonies.

2217. P-0045 stated that there was a general practice for women and girls to become someone's 'wife'.<sup>6118</sup> She stated that under the 'rules of the movement', the woman or girl could not refuse.<sup>6119</sup> Due to the witness's personal experience, and the length of her stay in the LRA, the Chamber deems this statement to have considerable probative value.<sup>6120</sup>

2218. Evelyn Amony stated the following on the issue of consent to becoming Joseph Kony's so-called 'wife':

I had no choice because if you compare the distance from Sudan and you also look at somebody who has a gun, and I don't have a gun, somebody who has soldiers and I who has nothing, I had no right to accept that. You know, when you are there, you stay with somebody, not out of love, but you stay with somebody because you need to protect your own life.<sup>6121</sup>

2219. D-0119's testimony of her own 'distribution' as 'wife' corroborates the testimony of several other witnesses that when attempting to refuse the so-called 'marriage', the women and girls were asked whether they choose life or death.<sup>6122</sup>

2220. Several insider witnesses provided evidence concerning the institutionalised character of the so-called 'marriage' in the LRA.

2221. P-0138 testified that girls were kept for about six months, 'to get used to being in the LRA, maybe also to determine that they do not have any illness', and then they were 'given to a husband'.<sup>6123</sup> P-0138 categorically denied the possibility that the woman or girl had the power to refuse being 'given' to a man as a 'wife'.<sup>6124</sup> He stated:

If you refuse to go to a particular husband, that means that you do not want to live, that means that you will be killed and you will be killed immediately. So you make

<sup>6118</sup> P-0045: [T-103](#), p. 77, lines 11-16.

<sup>6119</sup> P-0045: [T-103](#), p. 77, lines 3-10; [T-104](#), p. 72, line 24 – p. 73, line 3.

<sup>6120</sup> See section IV.B.2.ii.a.iii above.

<sup>6121</sup> D-0049: [T-243](#), p. 49, lines 6-11. Evelyn Amony stated that Joseph Kony told her that she had to choose between life and death, and that if she wanted to live, she had to be his 'wife'. Joseph Kony also pointed a pistol to Evelyn Amony's head ([T-243](#), p. 49, lines 12-16).

<sup>6122</sup> D-0119: [T-196](#), p. 6, line 23 – p. 7, line 8.

<sup>6123</sup> P-0138: [T-120](#), p. 26, line 18 – p. 27, line 9.

<sup>6124</sup> P-0138: [T-120](#), p. 28, lines 9-20.

the decision: Do I want to live or do I want to die? So you make that decision. If they give you to a particular man, if you decide to live, then you go to that man. That's how it is.<sup>6125</sup>

2222.P-0138 stated that he himself saw the 'distribution' of girls as so-called 'wives'.<sup>6126</sup>

Moreover, he referred to a specific incident when, at Tegot Kilak, a girl refused her so-called 'husband' and in punishment a number of female recruits were made to kill the girl.<sup>6127</sup>

2223.P-0252 testified that a soldier could receive a 'wife' when he was aged about 14 years and above and deemed 'suitable' by Dominic Ongwen.<sup>6128</sup>

2224.P-0264 testified that in the LRA, there was a rule that 'a mature woman, one deemed to be mature enough to be able to have sex with a man should be assigned to a husband'.<sup>6129</sup>

P-0264 was asked whether the women had any choice in whether they became 'wives' or not, and responded as follows:

No, they did not have a choice. Whenever you are assigned to a husband you don't have a choice whether or not to have children or not to stay with the husband. You did not have a choice. You just have to follow.<sup>6130</sup>

2225.P-0264 also testified that Dominic Ongwen 'gave' women to soldiers 'as a reward'.<sup>6131</sup>

2226.P-0406 stated that among the girls who were abducted and 'distributed' to commanders, 'some of them [were] said to become their wives'.<sup>6132</sup> He recalled a specific instance in Labwor Omor, when a girl was 'given' to an old man named Obol to become his 'wife'.<sup>6133</sup> P-0406 stated that the girl refused, whereupon she was beaten on Dominic Ongwen's order until she accepted.<sup>6134</sup>

2227.P-0307 observed that based on what he saw during his time in Sinia, some 'really young [girls] were forced to have a husband'.<sup>6135</sup> He stated that they could not say no 'because

<sup>6125</sup> P-0138: [T-120](#), p. 28, line 21 – p. 29, line 3.

<sup>6126</sup> P-0138: [T-120](#), p. 29, lines 4-13.

<sup>6127</sup> P-0138: [T-120](#), p. 29, line 23 – p. 30, line 3.

<sup>6128</sup> P-0252: [T-87](#), p. 49, lines 11-19.

<sup>6129</sup> P-0264: [T-65](#), p. 10, line 21 – p. 11, line 2.

<sup>6130</sup> P-0264: [T-65](#), p. 10, lines 17-20.

<sup>6131</sup> P-0264: [T-64](#), p. 87, lines 9-20.

<sup>6132</sup> P-0406: [T-154](#), p. 35, lines 8-9.

<sup>6133</sup> P-0406: [T-154](#), p. 35, lines 9-11.

<sup>6134</sup> P-0406: [T-154](#), p. 35, lines 11-14, p. 36, lines 14-20.

<sup>6135</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 65.

they were afraid for their lives’.<sup>6136</sup> P-0307 did not see any girl refuse a husband but that he believed that refusing such an order could ‘cost a girl her life or result in serious beating’, because usually the punishment for disobeying orders could be beating or death.<sup>6137</sup>

2228. The Chamber notes that there is a great volume of consistent evidence elucidating the special status of so-called ‘widows’ in the LRA, i.e. of women who had been assigned to men as a so-called ‘wife’ and where the men subsequently died. Essentially, the evidence is that so-called ‘widows’ were given a degree of choice in the sense that in addition to having a say in who their next so-called ‘husband’ would be, they could also remain without one, at least for some time.<sup>6138</sup> However, specific evidence also indicates that at least on occasions, so-called ‘widows’ were forcibly assigned to another man.<sup>6139</sup> In any case, the Chamber does not deem this evidence to have any bearing on its finding that so-called ‘marriages’ in Sinia, and the LRA more generally, were forced. At the same time, the almost identical reporting by several witnesses of the existence of a specific rule related to the treatment of ‘widows’ in the LRA is yet another factor indicating that the practices related to so-called ‘marriage’ in the LRA were institutionalised and were governed by a specific set of rules of general applicability broadly known to LRA members.

2229. The Chamber also heard evidence on the issue whether men in the so-called ‘marriages’ in the LRA could refuse the arrangement.<sup>6140</sup> This issue is not directly relevant to the case, as it is without bearing on the relevant facts as concerns the coercion of abducted women and girls. In any case, the Chamber observes, on the basis of the witnesses’

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<sup>6136</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 65.

<sup>6137</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 65.

<sup>6138</sup> See P-0045: [T-104](#), p. 72, lines 8-23; P-0070: [T-107](#), p. 44, lines 9-16; P-0085: [T-159](#), p. 10, line 21 – p. 11, line 7; P-0205: T-49-CONF, p. 74, line 10 – p. 75, line 6; D-0034 Statement, UGA-D26-0022-0385, at para. 43; D-0049: [T-243](#), p. 54, line 20 – p. 55, line 9; D-0118: [T-216](#), p. 21, lines 3-17. See also P-0172: [T-113](#), p. 51, line 15 – p. 52, line 4 (notably stating that after a period of mourning a ‘widow’ could choose a man, but could not stay on her own).

<sup>6139</sup> D-0119: [T-196](#), p. 17, line 4 – p. 21, line 4 (testifying that she was assigned as so-called ‘wife’ against her will three times, after two of the men to whom she had previously been assigned, died). See also [T-196](#), p. 22, lines 15-17; D-0049: [T-243](#), p. 55, line 13 – p. 57, line 24.

<sup>6140</sup> The Defence submits that ‘[e]ven in sexual relations, neither men nor women had a choice but to follow the rules’; see [Defence Closing Brief](#), para. 475. See also [Defence Closing Brief](#), para. 683.

diverging and sometimes confused reactions to the question,<sup>6141</sup> that imposing so-called ‘marriage’ on men in the LRA was not an issue in the LRA.

2230. Finally in this section, the Chamber provides an overview of the evidence demonstrating that forced marriage was a common fact in Sinia at the time relevant for the charges, and that commanders and other relatively senior fighters generally had so-called ‘wives’.

2231. P-0142 estimated that there were more than 100 so-called ‘wives’ in Sinia in 2003-2004.<sup>6142</sup> In light of the witness’s long experience within Sinia, the Chamber finds this estimate reliable.<sup>6143</sup>

2232. P-0070 testified that ‘[m]ost of the LRA commanders in the bush had wives’, and that ‘[s]ome people had 10 wives, some people had 20’.<sup>6144</sup>

2233. In addition to the evidence of P-0351, P-0352, P-0366, P-0374 and P-0396 discussed above, there is also abundant evidence of other specific cases of so-called ‘wives’ being assigned to Sinia commanders and fighters.

2234. First, the Chamber refers to the separate discussion of Dominic Ongwen himself having so-called ‘wives’ during the period relevant to the charges.<sup>6145</sup> Second, two Sinia insiders themselves testified to having had so-called ‘wives’ assigned to them.

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<sup>6141</sup> P-0070 at first confirmed that neither the man or the woman could reject the arrangement, but stated that if the man did reject the ‘wife’, ‘then they might decide not to give that person a wife for a long time, because he’s rejected the woman that he’s been given’; P-0070: [T-107](#), p. 42, lines 9-23. P-0085 testified that if a soldier refused a woman who has been ‘given’ to him, he would first be beaten and then required to give an explanation; P-0085: [T-158](#), p. 51, lines 16-20. P-0264 was asked whether the male soldier had the right to reject that a so-called ‘wife’ be given to him, and answered: ‘In the bush it’s not easy to get a woman so it is not logical to reject the woman unless the woman is really ugly or repellent’; P-0264: [T-66](#), p. 45, lines 1-5. D-0026 testified that a man could not refuse being assigned a ‘wife’, and that only the higher ranking commanders could turn down a specific person once; but when asked about the consequence of refusing a second time, his answer was that ‘you’re not given a wife on another occasion’; D-0026: [T-191](#), p. 38, line 16 – p. 39, line 5. D-0027, while purporting that it was ‘unacceptable’ to say no, also stated that he never saw anyone reject ‘a woman given to them’ and that ‘[i]f you are given a woman, you do not have any ways of objecting to that’; D-0027: [T-202](#), p. 42, lines 17-22. Finally, P-0142 also testified that a man had the option of saying he did not want a ‘wife’ or be with a particular woman, but if a man refused three or four times, ‘then maybe there are questions, it raises questions’; P-0142: [T-72](#), p. 49, lines 17-24. In light of this evidence, the Chamber does not consider decisive P-0028’s statement that if a man refused to ‘go with a woman’ in the LRA, he would be killed; P-0028 Interview Transcript, UGA-OTP-0217-0218-R01, at 0224-26, lines 223-66. By the same token, the Chamber does not follow D-0032’s affirmation that ‘whoever is given a girl cannot refuse to accept that girl’; D-0032: [T-201](#), p. 46, line 24 – p. 47, line 6.

<sup>6142</sup> P-0142: [T-71](#), p. 39, line 21 – p. 40, line 10.

<sup>6143</sup> See section IV.B.2.ii.a.vi above.

<sup>6144</sup> P-0070: [T-106](#), p. 38, line 23 – p. 39, line 3. P-0070 stated that Joseph Kony himself had approximately 90 ‘wives’, see P-0070: [T-106](#), p. 39, lines 3-4.

<sup>6145</sup> See section IV.C.10 above.

2235.P-0142 stated that he had so-called ‘wives’ in the LRA.<sup>6146</sup> Asked about how many they were in number, he testified that he had ‘quite a number of women’.<sup>6147</sup> He stated that he could not recall the name of his first so-called ‘wife’, but gave the names of four subsequent so-called ‘wives’ as [REDACTED].<sup>6148</sup> He also mentioned that younger girls stayed with him as *ting tings*, including one [REDACTED].<sup>6149</sup> P-0142 testified that his so-called ‘wives’ were ‘powerless to refuse to stay with [him]’, because as abducted people they could not refuse an order by the soldiers.<sup>6150</sup>

2236.P-0205 also testified that he had so-called ‘wives’ in the bush, and gave their names as [REDACTED]  
[REDACTED].<sup>6151</sup>

2237.Furthermore, insider witnesses testified about Sinia commanders or fighters having ‘wives’.

2238.P-0205 stated that in Oka battalion, Opoka, Okot Aliga, Ben Acellam, Okello Naptali, Okeny, Opiyo and others had ‘wives’.<sup>6152</sup> He stated that in Terwanga, Loum, Ojok Kampala, Kidega, Larit, Nyero, Kobi and some others had ‘wives’.<sup>6153</sup> For Siba, he named Ocan George, Awere and Otto Olebe as having had ‘wives’, and stated that there were others whose names he could not remember.<sup>6154</sup>

2239.P-0054 mentioned Dominic Ongwen and Kalalang as Sinia commanders who had ‘wives’.<sup>6155</sup>

2240.P-0264 testified that Ben Acellam had three so-called ‘wives’, and gave their names as Collin, also called Min Okonya, Ayero and Betty.<sup>6156</sup>

<sup>6146</sup> P-0142: T-71-CONF, p. 31, lines 21-22.

<sup>6147</sup> P-0142: T-71-CONF, p. 31, lines 23-24.

<sup>6148</sup> P-0142: T-71-CONF, p. 32, line 2 – p. 33, line 2, p. 36, lines 14-21.

<sup>6149</sup> P-0142: T-71-CONF, p. 33, line 1, p. 35, lines 6-25.

<sup>6150</sup> P-0142: T-71-CONF, p. 38, lines 13-20.

<sup>6151</sup> P-0205: T-47-CONF, p. 13, line 10 – p. 14, lines 10.

<sup>6152</sup> P-0205: [T-48](#), p. 28, lines 16-21.

<sup>6153</sup> P-0205: [T-48](#), p. 28, lines 22 – p. 29, line 1.

<sup>6154</sup> P-0205: [T-48](#), p. 29, lines 2-5.

<sup>6155</sup> P-0054: [T-93](#), p. 37, lines 9-11.

<sup>6156</sup> P-0264: [T-65](#), p. 11, lines 13-23.

2241.P-0309 was asked if any LRA fighters under Dominic Ongwen had so-called ‘wives’, and stated that there was a person under Dominic Ongwen called Richard who was ‘given a wife’.<sup>6157</sup>

2242.P-0314 stated that his superior officer Otto had a ‘wife’ by the name of Odong.<sup>6158</sup> He also stated that ‘within our group’ Okello and Okot were commanders who had so-called ‘wives’.<sup>6159</sup>

2243.P-0410 testified that his commander, Komakech, had a so-called ‘wife’ named Awelo, as did Okwee and Obol.<sup>6160</sup>

2244.P-0352, who was a *ting ting* in ██████’s household, stated that ██████ had three other ‘wives’.<sup>6161</sup> She also named three other Sinia soldiers who had ‘wives’: Ojok, Otto, and Opige.<sup>6162</sup>

2245.P-0374 testified that when she arrived at ██████’s house as a new abductee, she found two of ██████’s so-called ‘wives’ there, called ██████ and ██████.<sup>6163</sup> She later realised that ██████ and ██████ would alternately sleep with ██████ in his temporary house.<sup>6164</sup> They were later released.<sup>6165</sup> She also found there a lady called ██████, whose so-called ‘husband’ had gone to Sudan and left her at ██████’s.<sup>6166</sup> There were also three girls, one around P-0374’s age and two others of about 14-15 years old, in P-0374’s estimation.<sup>6167</sup>

2246.P-0372 testified that his sister ██████ was abducted in 1995 at the same time as himself and was later in Sinia until 2004, during which time she had a so-called ‘husband’ by the name of ██████.<sup>6168</sup>

<sup>6157</sup> P-0309: [T-60](#), p. 35, lines 14-22.

<sup>6158</sup> P-0314: [T-74](#), p. 56, line 21 – p. 57, line 1.

<sup>6159</sup> P-0314: [T-74](#), p. 57, lines 16-19.

<sup>6160</sup> P-0410: [T-151](#), p. 55, lines 6-10, p. 57, line 23 – p. 58, line 8.

<sup>6161</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 64.

<sup>6162</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 75.

<sup>6163</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 49-50.

<sup>6164</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 59.

<sup>6165</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 99. *See also* para. 2198 above.

<sup>6166</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 49, 53.

<sup>6167</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 51.

<sup>6168</sup> P-0372: T-148-CONF, p. 8, line 20 – p. 9, line 9.

2247. The Chamber also recalls that, as discussed above, P-0275 testified that a girl named Ajok was abducted by LRA fighters during the attack on Odek IDP camp and made a so-called ‘wife’ of an LRA fighter.<sup>6169</sup>

**Younger abducted girls were used as household servants, referred to as *ting tings*, until they were considered mature enough to become so-called ‘wives’.**<sup>6170</sup>

2248. The evidence is ample and consistent as to the existence of a separate status of young girls in the LRA, referred to as *ting tings*.<sup>6171</sup>

2249. P-0070 stated that younger girls of 11 or 12 years old were ‘given to a man’ at a later point, around the age of 17.<sup>6172</sup> Asked if there were any physical signs that would influence the decision, P-0070 stated that ‘[o]nce the girl has started sprouting breasts, and [...] once the girl has started her menstrual cycle, then they would make that decision as well’.<sup>6173</sup> He also stated that the ‘youngest girls’ helped as babysitters.<sup>6174</sup> The Chamber accepts P-0070’s evidence as a good general explanation of the LRA system of abduction and assignment to a male LRA member of very young girls, with the exception of his estimation that young girls were only ‘given to a man’ around the age of 17 years old. This estimation is overwhelmingly disproved by the evidence, referred to throughout this analysis and including first-hand testimony, that girls as young as around 12 years old were assigned to male LRA members as so-called ‘wives’.

2250. D-0074 corroborated P-0070’s testimony to the extent that he stated that in the LRA girls who did not menstruate were considered under age, but those who did were considered ‘mature’.<sup>6175</sup>

2251. P-0264 testified that if a girl was still very young, she was ‘nurtured’, ‘kept to grow until when she’s fit to be given out to a man’.<sup>6176</sup> He did not indicate a specific age, but stated that the decision that a girl was ‘old enough to be given to a man as a wife’ was sometimes

<sup>6169</sup> See para. 1573 above.

<sup>6170</sup> Para. 217 above.

<sup>6171</sup> Definitions of the term were provided by P-0016 ([T-34](#), p. 8, line 18 – p. 9, line 9), P-0226 (T-8-CONF, p. 32, lines 20-24), P-0227 (T-11-CONF, p. 7, lines 19-23), P-0231 ([T-122](#), p. 77, lines 2-6), P-0264 ([T-65](#), p. 3, line 23 – p. 4, line 1), P-0374 (Statement, UGA-OTP-0263-0023-R01, at para. 62), D-0006 ([T-194](#), p. 17, lines 1-10), D-0049 ([T-243](#), p. 24, lines 6-7), D-0085 ([T-239](#), p. 12, lines 1-5).

<sup>6172</sup> P-0070: [T-106](#), p. 36, line 17 – p. 37, line 2.

<sup>6173</sup> P-0070: [T-106](#), p. 37, lines 4-8.

<sup>6174</sup> P-0070: [T-106](#), p. 35, lines 11-14.

<sup>6175</sup> D-0074: [T-187](#), p. 49, lines 7-12.

<sup>6176</sup> P-0264: [T-65](#), p. 2, line 22 – p. 3, line 4.

made by Joseph Kony, but ‘whenever he [was] far the decision [could] come from the CO, it [could] also come from the brigade commander’.<sup>6177</sup> During examination by the Defence, P-0264 also confirmed that he witnessed numerous times *ting tings* being made ‘wives’, and that for this to happen, the person in charge of the *ting ting* would make their request to the battalion commander, who would then offer to speak to the brigade commander.<sup>6178</sup>

2252.P-0233 also testified that younger girls were kept temporarily as babysitters until they ‘mature[d]’, following which they were ‘given out to men’ as so-called ‘wives’.<sup>6179</sup>

2253.P-0352 testified that in ██████’s household where she was, ‘the girls like me were called *ting-tings*’.<sup>6180</sup> She testified that normally, girls who arrived would first be ‘given to a leader to be taken care of’, and then after some time they would become ‘wives’, sometimes staying with the same person and sometimes not.<sup>6181</sup> *Ting tings* had to cook, fetch water and wash the clothes.<sup>6182</sup> They received instructions on what to do from an escort in ██████’s household, called ██████.<sup>6183</sup> She stated that if the girls did not cook well, they were punished, and gave the example of a girl who was caned 50 times on the order of Buk for preparing an unsatisfactory meal.<sup>6184</sup> As discussed above, P-0352 eventually became ██████’s so-called ‘wife’,<sup>6185</sup> and she testified about two *ting tings* who became ██████’s so-called ‘wives’ before her.<sup>6186</sup>

2254.P-0406 stated that girls who were deemed to be able to conceive were ‘distributed’ to commanders, otherwise they were kept as *ting tings*.<sup>6187</sup>

2255.P-0142 estimated that there were ‘from 30 upwards to 50 or 70’ young girls ‘who were not yet ready to marry’ in Sinia in 2003-2004.<sup>6188</sup>

<sup>6177</sup> P-0264: [T-65](#), p. 3, lines 13-16.

<sup>6178</sup> P-0264: [T-66](#), p. 42, lines 10-15.

<sup>6179</sup> P-0233: [T-111](#), p. 50, line 16 – p. 51, line 8.

<sup>6180</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 40.

<sup>6181</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 82.

<sup>6182</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 40.

<sup>6183</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 41.

<sup>6184</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 47.

<sup>6185</sup> See para. 2205 above.

<sup>6186</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 64.

<sup>6187</sup> P-0406: [T-154](#), p. 21, lines 23-25.

<sup>6188</sup> P-0142: [T-71](#), p. 39, line 21 – p. 40, line 10.

**Sinia brigade members regularly forced abducted women and girls who had been ‘distributed’ to them into sexual intercourse. Sexual intercourse was specifically considered to be part of the role of the so-called ‘wives’. The women and girls were unable to resist, due to the physical force used by the Sinia brigade members and due to the threat of punishment for disobedience and their dependence on the Sinia brigade members for survival.<sup>6189</sup>**

2256.P-0351 testified that the first night that she was in ██████’s household after being told by Dominic Ongwen that she was now ██████’s so-called ‘wife’, another of ██████’s so-called ‘wives’ told her that ██████ was calling her and that she ‘should follow any instructions [she] was given because we have no relatives in the bush and we have no support and if we did not follow the rules we would be killed’.<sup>6190</sup> The witness continued:

I went to ██████’s tent. When I got there he said I was now his wife and I should sleep with him. I would say that what happened then was a rape. He removed my clothes and then he started sleeping with me. When I say sleeping with me I mean ██████ is a man and he put his male organ in my female organ. He did not say anything to me. I did nothing, I was only crying. I did not say anything nor refuse to sleep with him because I was fearful because he was a commander and if I said anything or refused I would be killed.<sup>6191</sup>

2257.P-0351 stated that after that first night, ██████ would sleep with her and his other ‘wives’ alternately.<sup>6192</sup> P-0351 testified this was painful, and continued:

I would not share my pain with anyone in the bush. I thought that if I shared this I may be killed, because all the time I saw that girls who made mistakes were being killed. I was very scared because he was the man who raped me. I did not know the people I stayed with and I did not trust anybody.<sup>6193</sup>

2258.P-0352 testified that on the day that ██████ told her that she was from then on his ‘wife’, he also told her to remove her clothes and lie down.<sup>6194</sup> She continued:

██████ then told me that I should remove my clothes and lie down. I did it because I thought that if I refused I would be killed because he was a leader and had a gun.

██████ removed his clothes and came to the bed. Then he put his male organ in my female organ. [...] ██████ slept with me. He did not say anything. I did not say

<sup>6189</sup> Para. 218 above.

<sup>6190</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 74.

<sup>6191</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 75.

<sup>6192</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 76.

<sup>6193</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 76.

<sup>6194</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 66-67.

anything. I was fearful because he was much older than me and I could not speak. When we finished he slept and I just stayed there, next to him.<sup>6195</sup>

2259.P-0352 stated that after this time, ██████ would call her to sleep with him, and that she did not have any choice.<sup>6196</sup> P-0352 stated that she thought that if she refused, she would be killed because this was what ██████ had told her the first night he slept with her.<sup>6197</sup>

2260.P-0374 testified:

One night ██████ called me and told me to bring him his toothbrush. When I was giving him the toothbrush it fell down. He then grabbed my hand and said: ‘Last time I told you to come and sleep with me. Why haven’t you come?’ I kept quiet. ██████ said that if I did not sleep with him he would kill me. I did not say anything and he started to forcefully remove my clothes. He was still holding my hand. I tried to resist but since he was stronger than me and a leader he overpowered me. When he removed all my clothes he forced me to lie on my back. He removed his clothes and put his penis in my vagina. Then he started to sleep with me. I cried. ██████ told me not to cry because I would make noise and people would hear. I kept crying silently because I could not stop crying.

I felt a lot of pain when he was sleeping with me. I tried not to show my pain because he was threatening me, slapping me, punching me and I was trying to keep quiet. ██████ was using a lot of energy while holding my hand and forcing me and I felt weak in my whole body.

After sleeping with me, ██████ told me that I had to stay next to him all night. He said that if I left he would kill me. He said that if I disrespected him he would kill me, meaning that I should not refuse what he did to me or told me to do. I did not say anything, I was just crying. I stayed there that night.<sup>6198</sup>

2261.P-0374 stated that the following morning ██████ asked her ‘who was [she] to refuse him when other girls who were given as wives to other rebels would just go straight away with their husbands’.<sup>6199</sup> The witness commented that she thought ██████ said this to convince her to accept him, and that in the bush most times people accepted things for fear of being killed, but that she did not know any girl or woman who accepted willingly to become a so-called ‘wife’.<sup>6200</sup>

<sup>6195</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at paras 67-69. See also P-0352: [T-67](#), p. 21, lines 3-6.

<sup>6196</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 70.

<sup>6197</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 70.

<sup>6198</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 103-05.

<sup>6199</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 106.

<sup>6200</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 106.

2262. P-0374 stated that on another night, after ██████ called her and she delayed because she did not want to go sleep with him, ██████ told her she was disrespecting him, and ordered an LRA soldier called Lagonga to cane her.<sup>6201</sup> Lagonga in fact beat her, and ██████ pointed his gun with a bayonet at P-0374's head and said that if she kept misbehaving he would kill her.<sup>6202</sup> The statement continues:

I was very scared because of the beating and the threats with the bayonet, and even though I was crying I went to sleep with him. From that night I started to go sleep with him because I was afraid of being killed. I was expected to go to sleep with him every night except when he had gone away to loot.<sup>6203</sup>

2263. In court, P-0374 further stated that she sustained 'injuries on her private parts' every time ██████ had sex with her.<sup>6204</sup> She stated the pain was 'so much that every time I'm trying to walk, I would experience pain and I would not be able to walk freely. And I also had pain on my lower abdomen, but because I feared that he would eventually kill me, I would try and live with the pain just like that'.<sup>6205</sup> The Chamber recalls that P-0374 was aged between 10 and 12 during the time of her stay with the LRA.<sup>6206</sup>

2264. P-0396 stated that in the evening of the day that she was 'distributed', ██████ came to her, took her hand, and said 'let's go to bed'.<sup>6207</sup> P-0396 followed ██████ to his tent, where ██████ told her: 'you are my wife now and you have to sleep with me'.<sup>6208</sup> She continued:

██████ removed my clothes and he removed his clothes. We were alone in the tent. ██████ had his gun with him and it was close to where we slept.

After he removed my clothes, ██████ told me to lay down. I tried to refuse but he pulled me down. I lay down on an empty bag used for storing maize and beans which was put on the floor. I was laying on my back and he lifted my leg and took his penis and pushed it into my private parts. It was very painful when he was inside me. I started crying, he told me he would kill me if I kept crying. While he was inside me, he said he will be with me forever. In that moment, I was thinking of escaping. It felt like he was on top of me for a long time. I felt his weight on me, he was heavy. He did not use a condom.

<sup>6201</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 108.

<sup>6202</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 108.

<sup>6203</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 108.

<sup>6204</sup> P-0374: [T-150](#), p. 14, line 21 – p. 15, line 1.

<sup>6205</sup> P-0374: [T-150](#), p. 15, lines 1-4.

<sup>6206</sup> See P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 14, 157.

<sup>6207</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 78.

<sup>6208</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 79.

After he finished he fell asleep next to me. We slept together for the night. I was in so much pain and I was bleeding from my private parts. I had never seen my period when ██████ slept with me for the first time. [...]

██████ slept with me many times after that. It was always forced. I did not have a choice. He pushed me down and forced himself in me. If I refused, he would take his gun and tell me he would shoot me.<sup>6209</sup>

2265. Insider witnesses corroborated the above testimonies. Considering the way that the witnesses spoke about forced sexual intercourse with their assigned ‘husbands’ being part of the role of so-called ‘wives’, there is no doubt that this fact was commonly known in the LRA, including Sinia.

2266. P-0070 testified that sexual relations were part of the role assigned to ‘wives’.<sup>6210</sup>

2267. P-0233 stated: ‘When I’m talking about husband and wife, that includes sexual intercourse.’<sup>6211</sup> He testified that the women and girls could not refuse to have sexual intercourse with the men they had been assigned to, and mentioned killings and beatings as possible punishment for violation of this rule.<sup>6212</sup>

2268. D-0134 also confirmed that so-called ‘wives’ were expected to have sex with their husbands.<sup>6213</sup>

2269. P-0045 testified that as a ‘wife’ of an LRA soldier, she had to sleep with him, and that she could not refuse for fear of being beaten.<sup>6214</sup>

2270. The above evidence – together with that provided by Dominic Ongwen’s own so-called ‘wives’ that the Chamber analysed in detail above<sup>6215</sup> – leaves no doubt to the Chamber that the sexual intercourse to which LRA fighters regularly subjected their so-called ‘wives’ took place by force or threat of force exercised by the LRA fighters against their so-called ‘wives’. Witnesses in particular testified that they were beaten by their so-called

<sup>6209</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at paras 79-82.

<sup>6210</sup> P-0070: [T-106](#), p. 35, line 21 – p. 36, line 3.

<sup>6211</sup> P-0233: [T-111](#), p. 58, lines 11-14.

<sup>6212</sup> P-0233: [T-111](#), p. 58, line 15 – p. 59, line 15.

<sup>6213</sup> D-0134: [T-241](#), p. 6, lines 17-18.

<sup>6214</sup> P-0045: [T-103](#), p. 79, lines 7-11. The Chamber notes that the witness also indicated that the two people concerned would have to handle the matter ‘within the household’, but does not consider this to be a contradiction, but rather an additional specification of the way in which refusals were dealt with in practice, in particular since P-0045 clarified that the issue would be ‘handle[d]’ ‘until she accepts’. See P-0045: [T-105](#), p. 15, line 25 – p. 16, line 20.

<sup>6215</sup> See section IV.C.10.ii.a above.

‘husbands’ so that they would submit to sexual intercourse. But the evidence equally makes very clear that the LRA fighters also relied on the fact that women and girls were held captive and under oppressive control and coercion, in order to require them to submit to sex. For the coercion, each LRA fighter relied on the organisation and its rules.

2271. The Chamber notes that there is evidence that so-called ‘wives’ in Sinia bore children.<sup>6216</sup> However, apart from the specific instances for which Dominic Ongwen is charged as direct perpetrator under Count 58 – addressed above, no charges are based on the fact of these pregnancies and the Chamber does not examine the matter further.

2272. Finally in this context, several witnesses testified to a prohibition of sexual relations with *ting tings*.<sup>6217</sup> P-0366, for example, stated that in the LRA, ‘there was a rule against boys sleeping with girls before they were initiated’.<sup>6218</sup> The manner in which the witnesses referred to this prohibition indicates that it was an important tenet of the LRA’s internal policy on the treatment of women and girls. In fact, this prohibition appears to be the crucial marker distinguishing the status of *ting ting* from the status of so-called ‘wife’.

2273. However, the evidence, including from the same witnesses, indicates that *ting ting* status did not protect young girls from sexual violence. P-0264 stated that there were instances when men to whom *ting tings* were assigned to be taken care of ‘circumvented’ the prohibition.<sup>6219</sup> He named a commander Komakech Lutugu who was assigned a *ting ting* and had sex with her, infecting her with syphilis.<sup>6220</sup> P-0264 stated that the commander was not punished but only reprimanded by his superior Ben Acellam.<sup>6221</sup> In fact, later in his testimony, P-0264 testified that Komakech Lutugu made a request that a *ting ting* in his household become his so-called ‘wife’ on the ground that he had already had sex with her.<sup>6222</sup> The witness also testified about another commander called Olwiko in the Oka

<sup>6216</sup> See P-0264: [T-65](#), p. 10, lines 9-15; P-0314: [T-74](#), p. 56, line 21 – p. 57, line 1. See also section IV.C.10.ii.a above.

<sup>6217</sup> P-0142: [T-72](#), p. 50, lines 19-20; P-0264: [T-65](#), p. 4, lines 11-15; D-0024: [T-192](#), p. 48, line 14 – p. 49, line 10.

<sup>6218</sup> P-0366 Statement, UGA-OTP-0260-0289-R01, at para. 87. See also P-0366: [T-147](#), p. 39, lines 14-22. It is clear from the statement that the term ‘initiated’ is used to mean the same act more commonly referred to in the evidence as ‘being given as a “wife” to a soldier’, see P-0366 Statement, UGA-OTP-0260-0289-R01, at paras 78-82.

<sup>6219</sup> P-0264: [T-65](#), p. 4, lines 14-25. See also [T-66](#), p. 40, lines 3-16.

<sup>6220</sup> P-0264: [T-65](#), p. 5, line 16 – p. 6, line 1.

<sup>6221</sup> P-0264: [T-65](#), p. 6, lines 2-4.

<sup>6222</sup> P-0264: [T-66](#), p. 43, line 11 – p. 44, line 1.

battalion, who also had sex with a *ting ting*, but was punished by Ben Acellam, and ‘[t]he issue was also forwarded to Dominic Ongwen, who was the commander’.<sup>6223</sup> P-0264 stated that Olwiko infected the *ting ting* with syphilis, and confirmed that she was then assigned to him as a ‘wife’ while she was receiving treatment.<sup>6224</sup>

2274. On the basis of the evidence, the Chamber finds that any prohibition of sex with *ting tings* did not protect them from sexual violence. The men to whom girls were ‘distributed’ as *ting tings* relied on the very same detention and coercion of the *ting tings* to force them into sexual intercourse. Even if it seemed that some LRA fighters were individually, without the knowledge of, and even against the prohibition from their superiors, raping *ting tings*, they were in fact relying on the system. The prohibition was not genuine.

**The abducted women and girls were not allowed to have sexual or romantic relations to any man other than the so-called ‘husband’ assigned to them.**<sup>6225</sup>

2275. P-0264 testified that for a so-called ‘wife’ to have sex with a man other than her ‘husband’ was outlawed.<sup>6226</sup> He also testified that while ‘wives’ could cook also for men who were not their husbands, they could only do their husband’s laundry and only bring bathing water to their husbands.<sup>6227</sup> P-0264 testified that punishment for violating these rules could be lashing or even death.<sup>6228</sup>

2276. P-0227 testified specifically about the case of a girl called Aciro, who was a ‘wife’ to Joseph Kony. P-0227 stated:

[I]t was said she had slept with one of the guards of Kony, when Kony was aware of that, Aciro and the boy were arrested and they were brought to Kony and right there on the spot Aciro was shot. Both Aciro and the boy were shot dead. Aciro had a child, one child. The baby was actually a baby girl. She was called Lakot.<sup>6229</sup>

<sup>6223</sup> P-0264: [T-65](#), p. 6, line 17 – p. 8, line 16.

<sup>6224</sup> P-0264: [T-65](#), p. 8, line 17 – p. 9, line 19.

<sup>6225</sup> Para. 219 above.

<sup>6226</sup> P-0264: [T-65](#), p. 11, lines 6-8.

<sup>6227</sup> P-0264: [T-65](#), p. 11, lines 6-8.

<sup>6228</sup> P-0264: [T-65](#), p. 11, lines 9-12.

<sup>6229</sup> P-0227: T-10-CONF, p. 51, lines 16-24.

2277.P-0374 testified that [REDACTED], the man to whom she was assigned as so-called ‘wife’, told her that in the bush, even if a girl had been ‘given as a wife’, some boys might try to be with her, and that if she did that she would be killed.<sup>6230</sup>

2278.P-0045 testified that ‘[e]ven when you are interested in another person, you have to stay with that person that you were given to’, otherwise both would be killed.<sup>6231</sup> Asked if she knew if anyone was killed for violating this rule, she gave two names.<sup>6232</sup>

2279.Two successive entries in an ISO logbook of intercept evidence corroborate the witness evidence on this point. On 1 April 2003, Dominic Ongwen is recorded as reporting that one Obalim, a soldier ‘left to keep women in the camp (hideout)’ had sex with the ‘wives’ of Abudema and Otim Charles ‘and impregnated them all’.<sup>6233</sup> Dominic Ongwen reported that he arrested and had Obalim ‘in custody’.<sup>6234</sup> Joseph Kony ordered that Dominic Ongwen ‘should kill Obalim imm[ediately] and the two women should be put in jail while they should also be pulled out f[ro]m that camp and they join mobile while awaits their final judgements’.<sup>6235</sup> The next day, Dominic Ongwen is recorded as reporting to Vincent Otti that he had ‘already killed Obalim whom he was ordered by Joseph Kony y/day evening to execute because of having sex with LRA offrs wives in the women’s camp here in Uganda’.<sup>6236</sup> Vincent Otti is recorded as replying that ‘Dominic did wonderful job’.<sup>6237</sup>

2280.The Chamber also heard evidence of the converse, i.e. of a prohibition for LRA members to sleep with other members’ so-called ‘wives’. P-0070 testified that if someone in the LRA slept with another man’s ‘wife’, that person ‘would be shot’.<sup>6238</sup> Daniel Opiyo

<sup>6230</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 117.

<sup>6231</sup> P-0045: [T-103](#), p. 79, lines 12-17.

<sup>6232</sup> P-0045: [T-103](#), p. 79, lines 18-19.

<sup>6233</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0071-72.

<sup>6234</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0072.

<sup>6235</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0072. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3548. It is noted that the Soroti UPDF logbook did not identify the person who reported the alleged infraction and recorded the order from Joseph Kony to kill Obal-Lim as having been given to Lapanyikwara (UGA-OTP-0242-6212, at 6257). The Soroti UPDF logbook also did not record the report on the execution of the order the following day. For these reasons, the Chamber considers the Soroti UPDF logbook less authoritative on this particular radio communication, and does not rely on it for the identification of speakers.

<sup>6236</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0073. The Chamber notes that while the entries in the corresponding UPDF logbooks do not seem to contain this detail, they appear overall less detailed than the ISO logbook entry for this specific communication time (*see* UPDF Logbook (Gulu), UGA-OTP-0254-3399, at 3548-49 or UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6257-58).

<sup>6237</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0073.

<sup>6238</sup> P-0070: [T-106](#), p. 41, lines 17-19.

testified that he knew of a case in the LRA where a so-called ‘wife’ of Ocan Bunia had sex with another soldier; they were both killed in punishment.<sup>6239</sup>

2281. In this context, and in addition to the evidence indicating the existence of a rule prohibiting a so-called ‘wife’ to have sex with a man other than her ‘husband’, the Chamber also notes the evidence relating to the purported general prohibition of any sexual relation outside so-called ‘marriage’. The Prosecution argues that the prohibition of sex outside so-called ‘marriage’ in the LRA ‘was primarily intended to ensure the exclusivity of commanders’ sexual access to their “wives” and to control the sexuality of abducted girls and women’.<sup>6240</sup> The Chamber shares this assessment. The rule against sexual relations outside so-called ‘marriage’ as it is apparent from the evidence cited hereunder is logically linked to the rules concerning ‘distribution’ of abducted women and girls to senior members of the LRA, and to the imposition of so-called ‘marriage’ on these women and girls. Without a prohibition of relations outside this so-called ‘marriage’, these rules would remain ineffective. For this reason, the Chamber views the evidence cited in the following paragraphs as corroborative of its other findings.

2282. Evelyn Amony provided a succinct and clear account of the prohibition of sexual relations outside ‘marriage’ in the LRA:

In the LRA there are rules. If you have not been given a woman as your wife, you are not allowed to sleep with that woman, to have sexual relations with that woman. If you do have sexual relations with that woman, two things would happen: One, you are either punished or you are told that the Holy Spirit would punish you.

And if you are sent to battle and you are a man who has had sexual relations with a woman who is not your wife, then your private parts would be shot. And those are some of the things that they would tell us in the LRA.<sup>6241</sup>

2283. P-0374 testified that if there was a relationship without authorisation of the leaders, the transgressors would be beaten or killed.<sup>6242</sup> She stated that she saw a boy and a girl whose names she did not recall be beaten for this reason at Ogwal’s home in the presence of

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<sup>6239</sup> D-0056: [T-228](#), p. 27, line 23 – p. 28, line 3.

<sup>6240</sup> [Prosecution Closing Brief](#), para. 141.

<sup>6241</sup> D-0049: [T-243](#), p. 15, lines 18-25.

<sup>6242</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 115.

Ogwal, ██████ and Kalalang, and some other leaders.<sup>6243</sup> She also stated that the morning after, ██████ told her that the girl had been killed.<sup>6244</sup>

2284.P-0396 similarly testified that Dominic Ongwen called all so-called ‘wives’, boys and girls together and told them that girls could not stay together with boys, unless they were ‘going to work’.<sup>6245</sup> She also testified about an instance where a girl was killed and a boy was beaten because they were ‘staying together’.<sup>6246</sup> She stated that Dominic Ongwen ordered the killing of the girl and the beating of the boy and that ██████ beat him.<sup>6247</sup>

2285.D-0117 testified that in the LRA, sexual relations outside of ‘marriage’ were not allowed and punished severely.<sup>6248</sup> She said this rule originated from Joseph Kony and was widely known in the LRA.<sup>6249</sup>

2286.D-0118’s explanation of this is worded differently, but in fact the same. She stated that if a girl was abducted, it was prohibited to ‘share a house’ with that girl unless she was ‘given’.<sup>6250</sup>

2287.P-0142 and P-0340 also confirmed that there was a rule in the LRA prohibiting sex outside so-called ‘marriage’.<sup>6251</sup>

2288.P-0379’s testimony indicates that this rule was strict: ‘If you are found having sexual intercourse with any girl, a girl who has not been officially given to you as your wife, if you are lucky you would be beaten, but if you are unlucky, the rules are that you should be killed.’<sup>6252</sup> Daniel Opiyo testified almost identically that ‘if any soldier or any commander [...] has sexual relations with a girl who has not yet been given to him [...] then that soldier has to be killed’.<sup>6253</sup>

<sup>6243</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 115-16.

<sup>6244</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 118; P-0374: [T-150](#), p. 60, lines 10-16.

<sup>6245</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 91.

<sup>6246</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 96.

<sup>6247</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 96.

<sup>6248</sup> D-0117: [T-215](#), p. 27, lines 10-15.

<sup>6249</sup> D-0117: [T-215](#), p. 27, line 23 – p. 28, line 1, p. 29, lines 1-6.

<sup>6250</sup> D-0118: [T-216](#), p. 16, lines 23-25.

<sup>6251</sup> P-0142: [T-72](#), p. 50, lines 21-23; P-0340: [T-102](#), p. 44, lines 11-15. *See also* P-0330: [T-52](#), p. 71, lines 11-14 (stating that ‘[t]he most important rule was not to have sexual intercourse with women’, not referring specifically to so-called ‘marriage’ in the LRA).

<sup>6252</sup> P-0379: [T-57](#), p. 37, lines 4-7. *See also* P-0330: [T-52](#), p. 72, line 22 – p. 73, line 2.

<sup>6253</sup> D-0056: [T-228](#), p. 25, lines 10-15.

vi. *Forced labour*

**The abducted women and girls were forced to perform work, such as household work and carrying items. Also this rule was strictly enforced by physical punishment.**<sup>6254</sup>

2289. The Chamber commences its analysis by reference to the personal experience of the witnesses who were abducted into the LRA and spent time as so-called ‘wives’ in Sinia, before turning to other evidence.

2290. P-0351 stated that the girls, both so-called ‘wives’ and *ting tings*, used to do a lot of work: they were the ones to carry the food and cook.<sup>6255</sup> She stated that when the group stayed somewhere, the commanders ate together in Dominic Ongwen’s household, and that after herself and the other so-called ‘wives’ had prepared the food at night they had to bring it to Dominic Ongwen’s household, and collect the dishes the following day.<sup>6256</sup>

2291. P-0351 particularly mentioned having to carry food even if there was an attack, pointing out that ‘[t]he food could burn you or you would be beaten if you lost it’.<sup>6257</sup> She explained her situation as follows:

I was beaten many times mainly because of dropping what I was carrying during attacks. I believed that if government soldiers caught me they would rape me so I would drop the food to be able to run.

I was ██████’s wife when these beatings took place. I was beaten with canes by two or three soldiers at the same time. ██████ would issue the order for the beatings to take place, he would say that the soldiers had to beat me because they were the ones who were risking their lives to go and loot the food and we could not even take care of it.<sup>6258</sup>

2292. P-0352 testified that as a so-called ‘wife’ of ██████ she had to cook and fetch water, and carry food, saucepans and jerry cans.<sup>6259</sup> She stated that she and the other girls sometimes prepared food and took it to Dominic Ongwen’s home.<sup>6260</sup> When asked in court if she

<sup>6254</sup> Para. 220 above.

<sup>6255</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 57, 60, 77, 80.

<sup>6256</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 89.

<sup>6257</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at para. 80.

<sup>6258</sup> P-0351 Statement, UGA-OTP-0263-0002-R01, at paras 81-82.

<sup>6259</sup> P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 70.

<sup>6260</sup> P-0352: [T-67](#), p. 16, lines 21-24.

could have refused to prepare that food, P-0352 stated: ‘No. If you refuse, you are killed. You cannot refuse to do anything.’<sup>6261</sup>

2293. P-0374 testified that in ██████’s household, women and girls had different tasks: the girls’ role was to cook, fetch water and wash the clothes, whereas the women had to collect grass for beds and make the beds of all the people in the house.<sup>6262</sup> She stated that she also took food to Dominic Ongwen’s home on one occasion when she was in ██████’s homestead.<sup>6263</sup> She referred to several examples of women and girls, including herself, being beaten for performing their tasks poorly.<sup>6264</sup>

2294. P-0396 stated that ██████ told her what to do on a daily basis, such as to collect water and to cook.<sup>6265</sup> She also had to carry saucepans for cooking and jerry-cans for fetching water, and to wash ██████’s clothes, cook and to get water to bathing.<sup>6266</sup> When ██████ was not there, P-0396 received instructions from those who were guarding her, from Dominic Ongwen or from Dominic Ongwen’s so-called ‘wives’.<sup>6267</sup> She stated that the leaders would eat together, ‘so you would bring the food to Ongwen, ██████ and other leaders’.<sup>6268</sup>

2295. The Chamber also takes into account the testimony of P-0045, who described as follows the tasks that a so-called ‘wife’ had to perform: ‘Once you have reached a position, you have to begin preparing food, you have to prepare water for bathing and take him water so that he would bathe, just as people live normally in a home.’<sup>6269</sup>

2296. Evelyn Amony testified that in the LRA, *ting tings* were used as slaves, taking care of babies, fetching water and firewood, cooking, cleaning and washing clothes.<sup>6270</sup>

<sup>6261</sup> P-0352: [T-67](#), p. 16, line 25 – p. 17, line 2.

<sup>6262</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 62.

<sup>6263</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at para. 122; P-0374: [T-150](#), p. 10, lines 3-13. P-0374 was in ██████’s homestead following the death of ██████, *see* P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 142-43.

<sup>6264</sup> P-0374 Statement, UGA-OTP-0263-0023-R01, at paras 64-67.

<sup>6265</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 85.

<sup>6266</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 86.

<sup>6267</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 85.

<sup>6268</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 92.

<sup>6269</sup> P-0045: [T-103](#), p. 79, lines 3-6.

<sup>6270</sup> D-0049: [T-243](#), p. 47, lines 3-20.

2297.D-0119 testified that women in the LRA carried ammunition and food during movements.<sup>6271</sup>

2298.Other insiders corroborate this evidence. P-0054, asked about the role of a ‘wife’ in the LRA, testified that the ‘daily duty of a wife is to cook and also to stay and live with the husband in the house’.<sup>6272</sup> As for *ting tings*, P-0054 mentioned as their duties carrying saucepans, collecting firewood and collecting water.<sup>6273</sup>

2299.P-0070 testified that once women were ‘distributed’ to men as ‘wives’, they performed domestic work including cooking, laying the bed, and carrying luggage and food.<sup>6274</sup>

2300.P-0231 stated that the young girls were ‘mostly responsible for babysitting’.<sup>6275</sup>

2301.P-0264 stated that following the return of the LRA to Uganda in 2002, some ‘wives’ had guns and served as fighters, and others did not.<sup>6276</sup> Those who did not have guns prepared meals and did laundry for their ‘husbands’ and their children if they had any.<sup>6277</sup> P-0264 also stated that the young girls were put in the household of a woman who had a child, and worked as babysitters, and sometimes carried bags.<sup>6278</sup>

2302.P-0330 stated that the tasks of the so-called ‘wives’ included gathering grass to make beds, cooking food, and carrying the clothes of the soldiers.<sup>6279</sup>

2303.P-0379 stated that the tasks of women who became ‘wives’ were ‘carrying the commander’s clothes, doing his laundry, cooking food, taking him water to bathe’.<sup>6280</sup>

2304.P-0379 similarly stated that the ‘girls who were not wives’, if the commander in whose household they were staying had a ‘wife’, helped the ‘wife’ cooking and carried the

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<sup>6271</sup> D-0119: [T-196](#), p. 27, lines 10-15.

<sup>6272</sup> P-0054: [T-93](#), p. 37, lines 5-8.

<sup>6273</sup> P-0054: [T-93](#), p. 38, lines 20-23.

<sup>6274</sup> P-0070: [T-106](#), p. 35, lines 21-25.

<sup>6275</sup> P-0231: [T-122](#), p. 77, lines 7-13.

<sup>6276</sup> P-0264: [T-65](#), p. 10, lines 1-5.

<sup>6277</sup> P-0264: [T-65](#), p. 10, lines 5-8.

<sup>6278</sup> P-0264: [T-65](#), p. 4, lines 5-10.

<sup>6279</sup> P-0330: [T-52](#), p. 62, lines 19-23.

<sup>6280</sup> P-0379: [T-57](#), p. 38, lines 14-17.

food.<sup>6281</sup> According to P-0379, the girls could not refuse this work for fear of being beaten.<sup>6282</sup>

2305.P-0233 testified that the tasks of so-called ‘wives’ were ‘household chores like cooking, being a housewife’.<sup>6283</sup> If they attempted to refuse, they would be threatened with beating or beaten until they accepted.<sup>6284</sup>

2306.Daniel Opiyo stated that *ting tings* in the LRA would carry light things that were not too heavy for them, do laundry, prepare food, and take care of children.<sup>6285</sup> Asked about the tasks of the so-called ‘wives’, he mentioned first that some women went for battle, and otherwise listed cooking, helping the injured and doing other domestic chores.<sup>6286</sup>

2307.Further corroborative evidence was provided by P-0307, who stated that the main role of the ‘girls’ was to babysit for the commanders’ ‘wives’, collect firewood, wash clothes and cook.<sup>6287</sup> He notably observed that based on what he saw, the girls in the bush ‘did not have an easy life’ as they were forced to work ‘so hard’.<sup>6288</sup> As for the so-called ‘wives’, P-0307 described their role as ‘ensur[ing] that their husbands were comfortable’.<sup>6289</sup>

2308.The Chamber also notes a radio communication intercepted by the ISO on 18 December 2002. It is reported that Joseph Kony wanted a certain woman to ‘release’ one young child to his ‘wife’ as a baby-sitter, but that woman refused.<sup>6290</sup> According to the logbook, Joseph Kony ordered that that woman be beaten 50 strokes for defying his order.<sup>6291</sup> Although it must be noted that the incident did not happen in Sinia, it is indicative of the coercion imposed on the abducted women and girls within the LRA, and therefore corroborative of the other evidence on this issue.

<sup>6281</sup> P-0379: [T-57](#), p. 39, lines 3-9.

<sup>6282</sup> P-0379: [T-57](#), p. 39, lines 10-20.

<sup>6283</sup> P-0233: [T-111](#), p. 57, lines 13-16.

<sup>6284</sup> P-0233: [T-111](#), p. 64, lines 11-22. It is noted that P-0233 stated that he saw such beatings on several occasions.

<sup>6285</sup> D-0056: [T-229](#), p. 19, line 20 – p. 20, line 2.

<sup>6286</sup> D-0056: [T-229](#), p. 20, lines 3-10.

<sup>6287</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 64.

<sup>6288</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 65.

<sup>6289</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 66.

<sup>6290</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0115. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>6291</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0115. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

*vii. Extent of suffering*

**As a result of the sexual and physical violence, and the living conditions to which they were submitted, the abducted women and girls suffered severe physical and mental pain.**<sup>6292</sup>

2309. The Chamber has made several findings that LRA soldiers, in execution of orders, including from Dominic Ongwen, inflicted violence on abducted women and girls. Physical violence was used as a mode of coercion to prevent escape, to rape, and to obtain labour. The Chamber, based on the evidence discussed above, determines that the physical pain caused was severe. At the same time, on the basis of the same evidence, the Chamber considers that the use of threatened or actual physical violence on the abductees for a protracted period of time, indeed throughout the entire period of abduction of the women and girls, also caused severe psychological suffering.

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<sup>6292</sup> Para. 221 above.

*12. Conscription and use of children in armed hostilities*

2310. The abduction of children by the LRA in order to integrate them into its military structure and use them as fighters has been one of the LRA's fundamental characteristic features over the course of its existence. The accused himself was abducted by the LRA at the age of under 15. The Chamber has heard the testimony of numerous witnesses describing this ongoing practice and its general devastating impact on the victims of this system. While conscious that this phenomenon was much larger and is not limited to the instances falling within the parameters of the charges in the present case, the Chamber's findings, in keeping with Article 74(2) of the Statute, is confined to the facts and circumstances described in the charges. Accordingly, the Chamber will only discuss evidence that is relevant to such – more limited – findings.

2311. In this section the Chamber will first assess how the LRA used abductions of children as a means to forcefully recruit them as new soldiers into its ranks. Then, the Chamber takes a look at how these children were integrated and trained in the Sinia brigade. And lastly, the Chamber discusses how children under the age of 15 actively participated in hostilities that the Sinia brigade was involved in.

*i. Coordinated and methodical nature of the abductions of children under the age of 15*

**Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct children under 15 years of age in Northern Uganda and force them to serve as Sinia fighters.**<sup>6293</sup>

2312. As discussed above, the LRA obtained new members through abductions.<sup>6294</sup> The coordinated and methodical nature of the abductions of boys and girls and the reliance by Dominic Ongwen, Joseph Kony and the Sinia brigade leadership on the LRA soldiers for the execution of the abductions are demonstrated by the factual analysis in the sections that follow, in particular as concerns evidence of orders for abductions and the evidence of abductions which occurred.

2313. In the present section, the Chamber provides its analysis of the evidence which demonstrates that the LRA focused specifically on abducting children. Indeed, as

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<sup>6293</sup> Para. 222 above.

<sup>6294</sup> See section IV.C.2.ii.a above.

demonstrated by the evidence, the recruitment of children as soldiers into the LRA was not incidental or a result of disregard for the age of the recruits, but was a specific and methodically pursued organisation-wide policy. As a further introductory note, the Chamber observes that the evidence includes various estimates of the age targeted for abduction by the LRA, sometimes also merely referring to ‘young children’ or children. In fact, whereas several witnesses provided estimates of the minimum age which was suitable for abduction in the view of the LRA, these appear to be estimates based on practice. It may therefore be noted that even though the LRA practice of abducting children was discussed with a number of witnesses, including insiders, evidence of any mandatory minimum age for abduction, or of any form of a screening system based on age, did not transpire. Bearing this in mind, and on the basis of the evidence discussed hereunder, the Chamber has no doubt that the LRA leadership, including Dominic Ongwen, Joseph Kony and the Sinia brigade leadership, specifically targeted children under 15 years of age for abduction.

2314. At this point, the Chamber notes the Defence’s general argument that the estimation of ages of persons who have not personally appeared before the Court is more susceptible to mistakes since the Chamber did not see the person in question, the witnesses were not experts and it is not known what standard a witness applies for the estimation.<sup>6295</sup> The Chamber finds that the Defence’s arguments are without merit. While it is true that the witnesses were not experts on the issue of age, this does not mean that a layman can never make a reliable estimation of a person’s age. Further, the witnesses routinely provided an explanation on what they based their estimate. For instance, asked on what he bases his assessment of age, P-0054 responded that he would compare the persons with the age he had at the time of his own abduction but also how they would comport themselves and execute the assigned work.<sup>6296</sup> P-0264, who was under the age of 15 during the period relevant to the charges, was simply asked whether there were other LRA fighters his age or younger, which he confirmed.<sup>6297</sup> It is therefore possible for the Chamber to evaluate how a witness arrived at his or her conclusion. The Chamber finds that there are no considerations generally speaking against the estimation of ages by witnesses and will consider and assess such evidence on an individual basis.

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<sup>6295</sup> [Defence Closing Brief](#), para. 508.

<sup>6296</sup> P-0054: [T-93](#), p. 22, lines 9-13.

<sup>6297</sup> P-0264: [T-64](#), p. 34, lines 17-20.

2315. Turning to the evidence, P-0233 testified that, in the context of a specific abduction event at Acet, only three abductees were kept, aged approximately 14-15 years old, while the rest were released.<sup>6298</sup> Asked why the rest were released, the witness stated:

The reason some people were released was because, at the time when I was still in the bush, I do understand that it was instructions were given that people, let's say aged from 17 upwards, already know the good things or the good side of the government and so they cannot stay in the bush. So that is why they were released. [...]

Good things, one of them include relationship between man and a woman, knowledge of things, of situation, knowing things and not being able to forget whatever you/she has gone through.<sup>6299</sup>

2316. More generally, P-0233 testified that persons '[f]rom the age 15, 14, even 13 years would be taken', reasoning that this was because such persons could still be 'mentored' and 'influenced to do what you want the person to do'.<sup>6300</sup> Considering that P-0233 spent more than 10 years in the LRA, including throughout the period relevant to the charges, his observations, based on long personal experience, are of value to the Chamber.

2317. Similarly indicative is the testimony of P-0070, who recalled specifically that when Joseph Kony issued his order for the LRA to move into Teso, each brigade was tasked with increasing the number of soldiers, and there was the instruction to abduct '[s]mall children'.<sup>6301</sup> It is noted that P-0070 testified to personally having heard Joseph Kony giving this order over the LRA radio.<sup>6302</sup> In P-0070's testimony, Charles Tabuley then transmitted the order downwards, ordering that 'children aged 14 to 18, or maximum 19, should be abducted', and saying that 'those young ones can still be trained'.<sup>6303</sup> Asked what he meant by this, P-0070 explained that 'it's easy to indoctrinate them so that they cannot escape' and that '[w]hen they are taken far away from the place where they were abducted from, they can be trained to become very good fighters of the LRA as soldiers'.<sup>6304</sup>

<sup>6298</sup> P-0233: T-111-CONF, p. 21, lines 13-20.

<sup>6299</sup> P-0233: [T-111](#), p. 24, line 17 – p. 25, line 2.

<sup>6300</sup> P-0233: [T-111](#), p. 25, lines 9-13.

<sup>6301</sup> P-0070: [T-105](#), p. 86, lines 3-10.

<sup>6302</sup> P-0070: [T-105](#), p. 86, lines 11-15.

<sup>6303</sup> P-0070: [T-105](#), p. 86, line 16 – p. 87, line 22.

<sup>6304</sup> P-0070: [T-105](#), p. 87, lines 9-14.

2318.P-0330 testified that the LRA abducted young people ‘because they would say the children would not be able to escape because they will fail to trace their way back home’ and because ‘the young people could be able to carry out any kind of atrocity’.<sup>6305</sup> He defined the age range of young people falling under this category as between 13 and 18 years of age.<sup>6306</sup> He stated that he heard Dominic Ongwen give an order not to abduct any ‘elderly person’, because such persons ‘are really mature and they know their way back home, they will be able to escape, but the young people will not be able to escape an go back home’.<sup>6307</sup>

2319.Further, when discussing Dominic Ongwen’s orders for the attack on Odek IDP camp,<sup>6308</sup> P-0205 stated that Dominic Ongwen gave the instruction that ‘[b]oys should also be abducted when found’, and that ‘[t]hose who were not fit to be in the army, those who were above 18 should not be brought, they should be killed instead’.<sup>6309</sup> It is significant that P-0205 referred to ‘boys’, and that he did not report any lower age limit as having been given by Dominic Ongwen to LRA soldiers as part of the instruction for abduction. P-0314 corroborated P-0205’s evidence, testifying that Dominic Ongwen’s order before the attack on Odek IDP camp was to ‘go and abduct some children’.<sup>6310</sup>

2320.Finally, the Chamber notes P-0231’s testimony to the effect that the focus of LRA units looking to abduct persons to increase LRA ranks was on finding ‘capable’ persons without regard to minimum age. P-0231 stated:

You know, at the time when we were in the bush during the period of abduction, as I stated earlier, even when you’re on the move, for example if we are leaving one location going across some road, at the time when people were still at home, before the camps were established, whoever you come across, whoever you think is able to fight you abduct that person. You abduct that person. And the abduction means an initiation into the army, starting from 10 or – if you estimate that the person is older, so anybody from between the ages of 10 to 30.

But there are certain times when some operations are organised and you’re sent to collect food, you’re sent to fight, when you fight if you overran the soldiers, if you

<sup>6305</sup> P-0330: [T-52](#), p. 58, lines 15-19. *See also* p. 60, lines 3-14.

<sup>6306</sup> P-0330: [T-52](#), p. 59, lines 14-16.

<sup>6307</sup> P-0330: [T-52](#), p. 59, lines 17-24.

<sup>6308</sup> *See also* section IV.C.7.iii above.

<sup>6309</sup> P-0205: [T-47](#), p. 44, lines 3-9.

<sup>6310</sup> P-0314: [T-75](#), p. 4, lines 7-12.

find anybody who is capable of joining the ranks of the LRA, that person is abducted and put in the LRA.<sup>6311</sup>

2321. It is observed that P-0231 did not articulate in as clear terms as some other witnesses the specific focus on younger abductees, speaking instead of capability. But the lower limit of the age range given by the witness nevertheless supports the same finding.

2322. Records of intercepted radio communications corroborate the witness testimony on this issue. The Chamber also notes its discussion of the reliability of the 2002 ISO logbooks above.<sup>6312</sup>

2323. On 18 August 2002, an ISO logbook records Raska Lukwiya reporting that he had abducted a good number of ‘young children’ who were undergoing training.<sup>6313</sup> Joseph Kony responded by telling Raska Lukwiya to ‘keep them well’, because they were ‘their fresh fighters’.<sup>6314</sup>

2324. On 21 November 2002, Joseph Kony is recorded in an ISO logbook as stating that no LRA should abduct people over 15 years of age ‘because they are problems’.<sup>6315</sup>

2325. The ISO logbook entry for 26 November 2002 records Joseph Kony ordering that all ‘mature p[eo]ple who are with them in the bush should be checked properly’, and commented that it was ‘very difficult to deal with such p[eo]ple who already know the use of money and material goods’ and that it was ‘far much easier to work with children’ because ‘they don’t mind about material goods’.<sup>6316</sup>

2326. Further, an ISO logbook entry dated 29 November 2002 records Joseph Kony as instructing Vincent Otti to concentrate on abducting only young children who are easy to control.<sup>6317</sup> Vincent Otti’s response is also recorded, stating that ‘this time’ he had only young people because Joseph Kony had told them earlier to concentrate on children other than mature people ‘who know what the world is’.<sup>6318</sup>

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<sup>6311</sup> P-0231: [T-122](#), p. 73, lines 11-21.

<sup>6312</sup> See para. 666 above.

<sup>6313</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0049.

<sup>6314</sup> ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0049.

<sup>6315</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0049.

<sup>6316</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0065.

<sup>6317</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0073.

<sup>6318</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0073.

2327. On 9 May 2003, an ISO logbook reported a radio conversation between Raska Lukwiya and Joseph Kony, where Raska Lukwiya reported that he had abducted ‘14 young children of the size LRA needs so much’.<sup>6319</sup> Joseph Kony responded that Raska Lukwiya should ‘keep them well’, and instructed Raska Lukwiya to embark seriously on abduction and only to ‘pick the right size LRA are in need’.<sup>6320</sup>

2328. Finally, it is also relevant that according to the evidence, a specific term – kadogo – was used in the organisation to refer soldiers of young age. P-0379 defined ‘kadogo’ (or ‘kadoge’ in plural) as ‘small boys’ aged downward of 15 or 16 years old.<sup>6321</sup> P-0330 stated that the ‘kadoge’, who were children between 13 and 15, were ‘people who were abducted while still very young, but grew up in the bush and they were very dangerous people’ adding that ‘that is why they insisted they should abduct young people’.<sup>6322</sup> It is also noted that P-0236 testified that she heard Dominic Ongwen use the word ‘kadogi’ to refer to children.<sup>6323</sup>

*ii. Abduction into Sinia brigade*

**Dominic Ongwen, Joseph Kony and the Sinia brigade leadership ordered Sinia soldiers to abduct children to serve as Sinia soldiers.**<sup>6324</sup>

2329. The evidence indicates that the orders for abductions generally, as well as specific orders for abduction of children, originated from Joseph Kony. P-0231 testified that the orders to abduct people came from Joseph Kony and then trickled down the hierarchical structure of the LRA.<sup>6325</sup> P-0138 almost identically stated that the orders for abductions ‘normally’ came from Joseph Kony to Vincent Otti, who then relayed them to the brigades.<sup>6326</sup>

2330. The Chamber also recalls its discussion of Joseph Kony’s order to abduct small children during the LRA operation in Teso.<sup>6327</sup>

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<sup>6319</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0151. *See also* UPDF Logbook (Soroti), UGA-OTP-0242-6212, at 6320-21.

<sup>6320</sup> ISO Logbook (Gulu), UGA-OTP-0068-0146, at 0151.

<sup>6321</sup> P-0379: [T-57](#), p. 56, line 18 – p. 57, line 4.

<sup>6322</sup> P-0330: [T-52](#), p. 60, lines 3-14.

<sup>6323</sup> P-0236: T-16-CONF, p. 33, lines 22-24.

<sup>6324</sup> Para. 223 above.

<sup>6325</sup> P-0231: [T-122](#), p. 74, lines 10-16.

<sup>6326</sup> P-0138: [T-120](#), p. 23, lines 4-6.

<sup>6327</sup> *See* para. 2317 above.

2331. There is also intercept radio communication evidence demonstrating that Joseph Kony regularly ordered the abduction of children. First, as singled out just above, in some orders Joseph Kony specifically explained the reasons behind the focus on children. In addition, there are further records of orders for abduction of children.

2332. On 16 November 2002, an ISO logbook records Joseph Kony ordering all commanders in Uganda to abduct boys of 10 years of age and below, adding that each commander must abduct at least 50.<sup>6328</sup>

2333. On 9 September 2002, Joseph Kony is recorded in the ISO logbook that all young children found in the villages, ‘when their parents run and leave them behind’, should be ‘collect[ed]’ and taken to him, and adding that ‘these children will grow as their soldiers’.<sup>6329</sup>

2334. Still further, there are records of Joseph Kony’s orders for ‘abduction’, without further specification, which the Chamber nevertheless makes reference to as relevant in the context of the totality of the evidence on the issue.<sup>6330</sup>

2335. In addition to specific orders, the notion that Joseph Kony issued general orders for abduction was brought up by P-0231, who stated that during the ‘period of abduction’, ‘whoever you come across, whoever you think is able to fight you abduct that person’.<sup>6331</sup> P-0205 similarly testified that in 2002, Joseph Kony convened everyone together and ordered, *inter alia*, that ‘boys should be abducted, boys who are able to participate in the army’ and that ‘[e]ach brigade should ensure that they increase or they boost the number of their units or their soldiers’.<sup>6332</sup>

2336. P-0231 testified that on certain occasions Joseph Kony issued orders to stop abductions.<sup>6333</sup> Corroborating this, P-0233, whose testimony was generally that ‘fighting

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<sup>6328</sup> ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0034-35. It is noted that the order is first logged as relating to boys aged 15 and below, but the entry is then corrected, *see* UGA-OTP-0065-0002, at 0035, bottom of page. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>6329</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0121. The Chamber notes that the date of the intercept does not appear written on the logbook, but that it can be discerned conclusively from the sequence of the entries. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>6330</sup> *See* ISO Logbook (Gulu), UGA-OTP-0064-0002, at 0006; ISO Logbook (Gulu), UGA-OTP-0068-0002, at 0027, 0042. The Chamber notes its discussion of the reliability of the 2002 ISO logbooks at para. 666 above.

<sup>6331</sup> P-0231: [T-122](#), p. 73, lines 9-15.

<sup>6332</sup> P-0205: [T-48](#), p. 20, line 24 – p. 21, line 4.

<sup>6333</sup> P-0231: [T-122](#), p. 74, lines 15-16.

and abduction go hand in hand’, stated that sometimes the order was that people should not be abducted.<sup>6334</sup>

2337. This is confirmed by the evidence of P-0205, who stated that the general order for abductions was revoked in 2003.<sup>6335</sup> In fact, such a revocation was recorded in an ISO logbook of intercepted radio communications, which noted on 18 August 2003 Vincent Otti as sending a message to all units ‘that starting f[ro]m today onwards no LRA should continue abducting more recruits any more’ and that ‘abduction should generally stop at the moment with LRA’.<sup>6336</sup>

2338. However, P-0205, whose testimony on this point bears high value on account of his position within the LRA, testified that the revocation of the general order for abductions did not in fact stop abductions; he stated:

There were no general orders to abduct, unless a particular commander decides to take his – to do it within his own initiative. If the commander comes across somebody that he or she thinks he can abduct, then you abduct the person, keep quiet about it and then send the report after a period has elapsed.

If you go to this – if you go with that person, if you go with that person openly they’ll know that this person has been abducted. So you hide the person, wait after a period and then re-introduce the person to your group.<sup>6337</sup>

2339. As concerns Dominic Ongwen’s orders for abduction, the Chamber notes that P-0231 testified in general terms about orders for abduction being passed by Dominic Ongwen onto the junior officers.<sup>6338</sup> P-0205 testified about a gathering in Koyo at which Dominic Ongwen organised the soldiers under his control, and also gave the order to ‘abduct girls and boys’.<sup>6339</sup> In addition, the Chamber notes the evidence discussed below in the context of specific abductions.

**Sinia soldiers, in execution of orders of Joseph Kony, Dominic Ongwen and the Sinia brigade leadership, abducted a large number of children under 15 years of age in Northern Uganda between 1 July 2002 and 31 December 2005. Children under the age of**

<sup>6334</sup> P-0233: T-111-CONF, p. 11, lines 17-19, p. 26, lines 1-4.

<sup>6335</sup> P-0205: [T-48](#), p. 21, lines 5-10.

<sup>6336</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0281.

<sup>6337</sup> P-0205: [T-48](#), p. 21, line 20 – p. 22, line 4.

<sup>6338</sup> P-0231: [T-122](#), p. 75, lines 2-21. It is noted that the witness specified that in the one example of abductions which took place pursuant to Dominic Ongwen’s order, there were ‘no children among the abductees’.

<sup>6339</sup> P-0205: T-48-CONF, p. 13, line 22 – p. 14, line 4. As discussed above, this order was given in or shortly after July 2004, *see* para. 2123 above.

**15 were also abducted during the four attacks relevant to the charges. Dominic Ongwen also abducted children himself.**<sup>6340</sup>

2340. The witnesses testifying before the Chamber provided ample reliable evidence about the ongoing practice of abductions of children into the Sinia brigade. The Chamber will first discuss the cases of abductions outside the context of the four attacks relevant to the charges, and then assess the evidence related specifically to such four attacks.

2341. A story of abduction which is exemplary of the LRA is provided by P-0097, who testified about his abduction into the Sinia brigade. The witness was abducted [REDACTED] in February 2005,<sup>6341</sup> when he was still under the age of 15.<sup>6342</sup> When the LRA fighters arrived, they fired shots and set the houses on fire: P-0097 ran away but was found by a group of four or five LRA fighters.<sup>6343</sup> When they found him, he did not resist coming with them out of fear of death.<sup>6344</sup> P-0097 had heard stories about people refusing and being shot.<sup>6345</sup>

2342. P-0097 testified that they were ‘Kony’s rebels’ who abducted him.<sup>6346</sup> He stated that he was not the only abductee, but there were others, boys and girls who were abducted with him.<sup>6347</sup> The rebels led the abductees to a predetermined meeting place where they met up with other LRA fighters.<sup>6348</sup> P-0097 stated that the youngest of the other abductees was about 12 or 13 years old, stating that ‘I was even taller than them’.<sup>6349</sup> After being attacked and chased away by government soldiers, the rebels convened at a different meeting point where P-0097 met ‘Odomi’.<sup>6350</sup> The witness and another new abductee, [REDACTED], were given to Dominic Ongwen.<sup>6351</sup> P-0097 remained with Dominic Ongwen for

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<sup>6340</sup> Para. 223 above.

<sup>6341</sup> P-0097: T-108-Conf, p. 6, line 23 – p. 7, line 7.

<sup>6342</sup> See para. 299 above.

<sup>6343</sup> P-0097: [T-108](#), p. 7, line 8 – p. 8, line 11.

<sup>6344</sup> P-0097: [T-108](#), p. 8, line 23 – p. 9, line 3.

<sup>6345</sup> P-0097: [T-108](#), p. 9, lines 4-7.

<sup>6346</sup> P-0097: [T-108](#), p. 6, lines 23-24.

<sup>6347</sup> P-0097: [T-108](#), p. 9, lines 11-18, p. 10, lines 13-15.

<sup>6348</sup> P-0097: [T-108](#), p. 11, line 18 – p. 12, line 3.

<sup>6349</sup> P-0097: [T-108](#), p. 12, line 18 – p. 13, line 2.

<sup>6350</sup> P-0097: [T-108](#), p. 14, lines 3-18.

<sup>6351</sup> P-0097: T-108-Conf, p. 15, lines 13-20.

the entirety of his time in the LRA.<sup>6352</sup> During this time he was assigned to a soldier under Dominic Ongwen's command.<sup>6353</sup>

2343.P-0264 testified that he was abducted in 2002.<sup>6354</sup> The Chamber recalls its assessment of this witness's credibility, in particular as concerns the witness's age at the time of abduction.<sup>6355</sup> As discussed, while the witness stated that he was 11 at the time of his abduction,<sup>6356</sup> there is documentary evidence which indicates that he was born in 1989 and thus would have been 12 or 13 year old at the time of abduction.<sup>6357</sup> The Defence submits that these 'apparent contradictions' should lead to the Chamber to disregard the witness's evidence.<sup>6358</sup> The Chamber repeats that this discrepancy has no influence on the witness's general credibility. Since the Chamber is unable to establish the witness's precise date of abduction in 2002 it cannot determine whether it occurred after 1 July 2002. However, with respect to the facts under consideration at this juncture, the Chamber notes that the fact whether the witness was 11, 12 or 13 is immaterial, since in any case he was under the age of 15 at the time of his abduction.

2344.P-0264 testified that he was abducted by a soldier belonging to the Oka battalion and became an escort<sup>6359</sup> to [REDACTED].<sup>6360</sup> During his initiation ceremony, P-0264 saw many other people of his age<sup>6361</sup> – that is to say, other abductees under the age of 15.

2345.P-0309 was abducted in September 2002 in the area of [REDACTED].<sup>6362</sup> The Chamber repeats again that it is aware of the contradicting evidence with regard to P-0309's age.<sup>6363</sup> However, the Chamber notes that even taking [REDACTED] 1987 as the witness's date of birth – that is the date which would make him the oldest – he would still have been under the age of 15 at the time of his abduction in September 2002,<sup>6364</sup> even if it

<sup>6352</sup> P-0097: [T-108](#), p. 16, lines 3-6.

<sup>6353</sup> P-0097: [T-109](#), p. 21, line 22 – p. 22, line 10.

<sup>6354</sup> P-0264: T-64-CONF, p. 9, lines 20-22; [T-65](#), p. 84, lines 12-14.

<sup>6355</sup> See paras 330-331 above.

<sup>6356</sup> P-0264: T-64-CONF, p. 10, lines 8-9; [T-66](#), p. 13, lines 16-18.

<sup>6357</sup> National ID Card, UGA-OTP-0270-1382.

<sup>6358</sup> [Defence Closing Brief](#), para. 527.

<sup>6359</sup> P-0264: [T-64](#), p. 27, line 21 – p. 28, line 8.

<sup>6360</sup> P-0264: T-64-CONF, p. 10, lines 12-18, p. 12, lines 22-23.

<sup>6361</sup> P-0264: [T-64](#), p. 25, line 25 – p. 26, line 9.

<sup>6362</sup> P-0309: T-60-CONF, p. 12, lines 17-24.

<sup>6363</sup> See paras 344-346 above.

<sup>6364</sup> P-0309: T-60-CONF, p. 12, lines 17-19.

was not for a long time. Importantly, P-0309 was integrated into Dominic Ongwen's home immediately after he was abducted, which means he would still have been under the age of 15 at that time.<sup>6365</sup>

2346. P-0309 described that the day after his abduction he was taken to a compound where a large number of people were gathered.<sup>6366</sup> One of the senior commanders, named 'Dominic', came and talked to the group.<sup>6367</sup> He also asked people for their age<sup>6368</sup> – P-0309 replied that he was 14<sup>6369</sup> – and separated them into groups according to their age.<sup>6370</sup> The witness was distributed into Dominic Ongwen's household, while others were taken to the homes of other commanders.<sup>6371</sup>

2347. Witness P-0142 referred to different general categories of people abducted by the LRA. Besides girls or grown-ups to carry luggage, he referred to the order 'to abduct young children from 10, 11, or 12 years old'.<sup>6372</sup> Witness P-0307 equally stated that '[m]any young children were abducted in Teso, boys and girls of my age group and even those above my age group.'<sup>6373</sup> As discussed above, P-0307 was under the age of 15 at that time.<sup>6374</sup> When describing another attack, P-0307 called abductions a 'standard practice' and explained more generally that 'abducting new recruits was part of routine activities during attacks so that there was no need for any commander to order you to abduct because this was part of the job.'<sup>6375</sup>

2348. Further, P-0307 – who was an escort to one of Dominic Ongwen's officers<sup>6376</sup> – testified that in the context of an attack on Pajule IDP camp in which he participated<sup>6377</sup> the LRA abducted 'many males and females including young people', some of whom were even

<sup>6365</sup> P-0309: [T-60](#), p. 18, line 22 – p. 19, line 15, p. 20, line 14 – p. 21, line 4.

<sup>6366</sup> P-0309: [T-60](#), p. 14, line 22 – p. 15, line 2.

<sup>6367</sup> P-0309: [T-60](#), p. 15, lines 3-6.

<sup>6368</sup> P-0309: [T-60](#), p. 15, line 7.

<sup>6369</sup> P-0309: [T-60](#), p. 15, lines 12-16.

<sup>6370</sup> P-0309: [T-60](#), p. 15, line 8.

<sup>6371</sup> P-0309: [T-60](#), p. 15, lines 8-10.

<sup>6372</sup> P-0142: [T-71](#), p. 25, line 22 – p. 26, line 4.

<sup>6373</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 28.

<sup>6374</sup> See paras 334-338 above.

<sup>6375</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 36.

<sup>6376</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 39.

<sup>6377</sup> In this regard, the Chamber recalls that the attack on Pajule IDP camp in which P-0307 took part was a different attack from the attack on the same camp which forms the basis of some of the charges brought against Dominic Ongwen in the present case (*see* para. 333 above).

younger than him or slightly older.<sup>6378</sup> He explained that the elderly ones were released after the attack once they had carried away the booty and the young ones were kept in the LRA.<sup>6379</sup> In his live-testimony before the Chamber, the witness specified that he could not recall the exact age of the young abductees, but stated that some ‘were almost my size’.<sup>6380</sup> The Chamber takes this to mean that the children were younger than P-0307.

2349.P-0406, who was an escort to a soldier in Sinia brigade, described how in early 2003 they were sent into the area of Soroti with the order to, inter alia, abduct people between 10 and 17 years old.<sup>6381</sup>

2350.P-0314 testified that he was abducted in September 2002,<sup>6382</sup> when he was 14.<sup>6383</sup> At that time, his family had already fled from a previous LRA attack and was in [REDACTED].<sup>6384</sup> The witness was told not to sleep in the houses, but in the bush since the LRA might come and abduct him.<sup>6385</sup> When he spent the night [REDACTED], two LRA fighters came into the house and took him and about eight others – [REDACTED] [REDACTED].<sup>6386</sup> They were all given booty to carry<sup>6387</sup> and left with the LRA group (other fighters had waited outside).<sup>6388</sup> The witness later learned that he was abducted by soldiers who belonged to the Terwanga battalion in Sinia.<sup>6389</sup>

2351. In addition to having ordered the abduction of children and their distribution, including into his own household, Dominic Ongwen was also personally involved in abductions. P-0205, in particular, recalled an occasion when Dominic Ongwen, who, at that time, was still commander of Oka battalion, abducted six girls and a number of boys from Laliya.<sup>6390</sup> P-0205 stated that the age of the boys ranged between 12 and 15 years.<sup>6391</sup>

<sup>6378</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 39.

<sup>6379</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 39.

<sup>6380</sup> P-0307: [T-152](#), p. 67, lines 22-25.

<sup>6381</sup> P-0406: [T-154](#), p. 28, lines 1-7.

<sup>6382</sup> P-0314: T-74-CONF, p. 7, lines 12-15; [T-74](#), p. 18, lines 14-18.

<sup>6383</sup> National ID Card, UGA-OTP-0258-0869-R01; P-0314: [T-74](#), p. 19, line 21 – p. 20, line 3; [T-75](#), p. 5, lines 9-14. See para. 348 above for a discussion on the witness’s age.

<sup>6384</sup> P-0314: T-74, p. 6, lines 3-6, p. 7, lines 18-22.

<sup>6385</sup> P-0314: T-74-CONF, p. 7, lines 18-25; [T-75](#), p. 60, lines 7-16.

<sup>6386</sup> P-0314: T-74-CONF, p. 8, lines 1-15.

<sup>6387</sup> P-0314: [T-74](#), p. 9, line 24 – p. 10, line 3.

<sup>6388</sup> P-0314: T-74-CONF, p. 8, lines 4-5, p. 9, lines 5-12.

<sup>6389</sup> P-0314: [T-74](#), p. 10, line 20 – p. 11, line 9.

<sup>6390</sup> P-0205: [T-47](#), p. 18, lines 6-18.

<sup>6391</sup> P-0205: [T-47](#), p. 18, lines 21-24.

2352. The Chamber recalls its findings on the attack on Pajule IDP camp.<sup>6392</sup> P-0309, who participated in the attack when he was no older than 15,<sup>6393</sup> stated that there was a large number of abductees from Pajule IDP camp, ‘well over 100 people’.<sup>6394</sup> According to the witness, they were of different age groups: ‘there were older people, there were young people, some of whom were early teens’.<sup>6395</sup> He stated that there were abducted children that were younger than him.<sup>6396</sup>

2353. P-0309 described how, at the meeting point after the attack, some abductees were released.<sup>6397</sup> When asked why some were released and not others, P-0309 explained: ‘[t]he ones who were released were adults.’<sup>6398</sup> One of the abductees [REDACTED]  
[REDACTED].<sup>6399</sup> [REDACTED]  
[REDACTED]<sup>6400</sup> Dominic Ongwen [REDACTED]  
[REDACTED].<sup>6401</sup> Later on,  
[REDACTED]  
[REDACTED].<sup>6402</sup>

2354. P-0015, herself abducted into the LRA, did not participate in the attack on Pajule IDP camp. However, she saw the LRA fighters returning from the attack.<sup>6403</sup> P-0015 described how the fighters also brought abductees with them, among them little boys and girls.<sup>6404</sup> While P-0015 could not remember the number of persons abducted, she stated that the youngest of them were about 8 years old.<sup>6405</sup> P-0015 corroborates P-0309 that the older abductees were released, while the LRA kept the younger ones.<sup>6406</sup>

<sup>6392</sup> See paras 1172-1383 above.

<sup>6393</sup> See para. 2345 above.

<sup>6394</sup> P-0309: T-60, p. 63, lines 15-17.

<sup>6395</sup> P-0309: T-60, p. 63, lines 18-20.

<sup>6396</sup> P-0309: T-60, p. 63, lines 21-23.

<sup>6397</sup> P-0309: T-60-CONF, p. 68, lines 22-25.

<sup>6398</sup> P-0309: T-60-CONF, p. 69, lines 14-16.

<sup>6399</sup> P-0309: T-60-CONF, p. 70, lines 1-2.

<sup>6400</sup> P-0309: T-60-CONF, p. 69, lines 18-21.

<sup>6401</sup> P-0309: T-60-CONF, p. 69, lines 21-25.

<sup>6402</sup> P-0309: T-60-CONF, p. 69, lines 24-25.

<sup>6403</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 92.

<sup>6404</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at paras 92-93.

<sup>6405</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 93.

<sup>6406</sup> P-0015 First Statement, UGA-OTP-0043-0131-R01, at para. 93.

2355. Similar evidence was provided by P-0144. During his testimony, the witness stated that around 200 of the abductees were released after the attack.<sup>6407</sup> Asked what happened to the remaining civilians, P-0144 replied:

They selected the younger abductees. From about the age of 11 to about 15 to 17 were the ones who remained behind, as they were taken in as newly recruited members of the force.<sup>6408</sup>

2356. P-0138 provided general corroborating evidence, stating that children under the age of 15 were abducted during this attack.<sup>6409</sup>

2357. The Chamber recalls its findings on the attack on Odek IDP camp.<sup>6410</sup>

2358. P-0252, who was 11 at the time of the attack,<sup>6411</sup> testified that during the attack an LRA fighter, Onen Kamdulu, tied children between the age of 11 and younger together to abduct them.<sup>6412</sup> P-0252 was tied together with these children, whose number P-0252 estimates between six and seven.<sup>6413</sup> At a later point in his testimony, P-0252 testified that there were many other children who were between 10 and 14 years old, who were abducted that same day and who were taken to ‘recruit them as fighters’.<sup>6414</sup> Hilary Kilama, a boy of 13 or 14 years of age,<sup>6415</sup> was abducted during the attack but subsequently killed because he could not keep up walking.<sup>6416</sup>

2359. P-0406, who was an escort to a commander named ██████ in Sinia,<sup>6417</sup> testified that he saw a group of children, boys as well as girls, abducted from Odek IDP camp after the attack and stated that they were between 11 and 12.<sup>6418</sup>

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<sup>6407</sup> P-0144: [T-91](#), p. 49, lines 1-11.

<sup>6408</sup> P-0144: [T-91](#), p. 49, lines 12-15.

<sup>6409</sup> See paras 1331 and 1369 above.

<sup>6410</sup> See paras 1384-1642 above.

<sup>6411</sup> See paras 322-323 above.

<sup>6412</sup> P-0252: [T-87](#), p. 17, line 22 – p. 18, line 16.

<sup>6413</sup> P-0252: [T-87](#), p. 18, lines 17-18.

<sup>6414</sup> P-0252: [T-87](#), p. 38, lines 9-16.

<sup>6415</sup> P-0269: [T-85](#), p. 47, line 25 – p. 48, line 2.

<sup>6416</sup> See paras 1596 and 1598 above.

<sup>6417</sup> P-0406: T-154-CONF, p. 16, lines 15-17, p. 19, lines 19-24.

<sup>6418</sup> P-0406: [T-154](#), p. 50, lines 5-13.

2360. P-0275 was abducted himself during the attack on Odek IDP camp.<sup>6419</sup> The Chamber recalls its assessment with regard to the age of the witness and its conclusion that the witness was nine years old at the time of the abduction.<sup>6420</sup>

2361. The Chamber recalls its findings regarding the attack on Lukodi IDP camp.<sup>6421</sup> P-0406 was an LRA rebel who participated in this attack.<sup>6422</sup> He testified that during the retreat after the attack, an older man was killed by ‘the new abductees’, ‘because he couldn’t walk fast enough’.<sup>6423</sup> When asked about the age of these ‘new abductees’, P-0406 stated that they were ‘mostly’ 12 to 13 years old.<sup>6424</sup> The witness also testified that in the morning after the attack he saw that children of approximately 12 or 14 years had been abducted.<sup>6425</sup>

2362. Lastly, the Chamber also recalls its findings with regard to the attack on Abok IDP camp.<sup>6426</sup> Several witnesses testified that children under the age of 15 were also abducted during this attack.

2363. When P-0286 – a camp resident who was abducted during the attack – described the assault, he stated that the rebels were ‘abducting children and adult people’.<sup>6427</sup>

2364. P-0406, who participated in the attack on Abok IDP camp, indicated that they abducted children, a mix of boys and girls, the youngest of them being 11.<sup>6428</sup> Some of these abducted boys became escorts to P-0406’s superior, like P-0406 himself.<sup>6429</sup> Others were sent to serve in the dog adaki.<sup>6430</sup>

2365. This evidence provided by the LRA fighters is also corroborated by the victims of the attack on Abok IDP camp. P-0284, one of the camp leaders, stated that there was a list

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<sup>6419</sup> P-0275 Statement, UGA-OTP-0244-3398-R01, at paras 23-30.

<sup>6420</sup> See para. 487 above.

<sup>6421</sup> See paras 1643-1857 above.

<sup>6422</sup> P-0406: [T-154](#), p. 54, lines 7-9.

<sup>6423</sup> P-0406: [T-154](#), p. 58, lines 8-21.

<sup>6424</sup> P-0406: [T-154](#), p. 59, lines 19-21.

<sup>6425</sup> P-0406: [T-154](#), p. 63, lines 1-12.

<sup>6426</sup> See 1858-2008 paras above.

<sup>6427</sup> P-0286: [T-131](#), p. 6, line 25.

<sup>6428</sup> P-0406: [T-154](#), p. 75, lines 9-15.

<sup>6429</sup> P-0406: [T-154](#), p. 77, lines 9-17.

<sup>6430</sup> P-0406: [T-154](#), p. 77, lines 12-19. The *dog adaki* were a sub-group of soldiers in a battalion, also charged with the security and served as standing guards to be look outs at the perimeter of the LRA camps (P-0379: [T-56](#), p. 26, lines 9-14, p. 29, lines 12-19; P-0330: [T-51](#), p. 67, lines 1-6).

of abductees; he remembers that about eight persons between the ages of 13 to 20 were abducted during the attack, of which two did not come back.<sup>6431</sup>

*iii. Presence, integration and training of children under the age of 15 in Sinia*

**Following their abduction, children under the age of 15 years were integrated into Sinia with the aim of using them in hostilities. Dominic Ongwen knew that children under 15 years of age were integrated into Sinia as soldiers. The abducted children were trained, in some cases received guns, and were assigned to service in Sinia. In some cases, Dominic Ongwen himself assigned abducted children to service within the Sinia brigade. The children served as escorts in Sinia brigade in general and specifically in Dominic Ongwen's household.**<sup>6432</sup>

a. Presence of children under 15 in Sinia brigade

2366. Following the abductions and distribution, children under the age of 15 were present in all parts of the LRA, also in Sinia brigade. P-0142 described that the distribution of the children in Sinia was done by Dominic Ongwen and his 'operation room'.<sup>6433</sup>

2367. However, not on all other occasions was the distribution of children so centralised. P-0054 recounts an occasion where he was 'given' a ten year old child by a lieutenant in Sinia headquarters.<sup>6434</sup> The boy, whose name was [REDACTED], had been brought in by Sinia after an attack on Kitgum and was given to P-0054 to 'take care of him', since he was very young.<sup>6435</sup>

2368. P-0233 stated in relation to the abduction policy in general that, when going on abduction missions, the age group the LRA was looking for was 13 years and older. P-0233 explained that the reason for this was that 'the person can still be kept, can be mentored, can be influenced to do what you want the person to do.'<sup>6436</sup>

2369. P-0372, when describing the attack on Labwor Omor, stated that a lot of people were abducted but the older ones were let go, while the young ones were kept.<sup>6437</sup> He stated that up to 40 younger abductees, whose age he estimated to be between 12 and 15

<sup>6431</sup> P-0284 Statement, UGA-OTP-0244-1180-R01, at para. 44.

<sup>6432</sup> Para. 224 above.

<sup>6433</sup> P-0142: [T-71](#), p. 57, line 21 – p. 58, line 9.

<sup>6434</sup> P-0054: [T-93](#), p. 25, lines 6-11.

<sup>6435</sup> P-0054: [T-93](#), p. 25, lines 1-8.

<sup>6436</sup> P-0233: [T-111](#), p. 25, lines 9-13.

<sup>6437</sup> P-0372: [T-148](#), p. 38, lines 4-7.

years,<sup>6438</sup> stayed in the LRA.<sup>6439</sup> When asked more generally about why the LRA kept the younger abductees, P-0372 replied:

The reason they would keep the younger ones, was because these young ones could get confused and indoctrinated and would not think about returning home. It was very easy to change their mindsets so that they could be part of the soldiers. Children could also easily forget.<sup>6440</sup>

2370.P-0372 stated that all the abductees from the attacks on Labwor Omor and Odek stayed in Sinia brigade.<sup>6441</sup> The abductees from the attack on Pajule partly went on to other brigades.<sup>6442</sup>

2371.P-0264, who was 11 at the time of the attack,<sup>6443</sup> testified that three girls and boys younger than himself were distributed to Ben Acellam in the aftermath of the attack on Odek IDP camp.<sup>6444</sup>

2372.P-0379, who was abducted during an attack on Pajule IDP camp different from the attack relevant to the charges in the present case, and distributed into the Oka battalion and the household of Okot Ot Ngec,<sup>6445</sup> stated that there were many young boys of the age of 11 and 12 in the household of Dominic Ongwen.<sup>6446</sup>

b. 'Beating out the civilian'

2373.The Chamber recalls its discussion that abductees were regularly beaten shortly after their abduction.<sup>6447</sup> One aspect, as explained above, was to ensure compliance with orders and create a climate of fear.<sup>6448</sup> Another aspect was that it was impressed upon these newly abductees that they were part of a military organisation from then on. Several witnesses recalled that there was an almost initiation-like flogging, caning or hitting of the newly abducted to 'beat out the civilian'.

<sup>6438</sup> P-0372: [T-148](#), p. 38, lines 10-17.

<sup>6439</sup> P-0372: [T-148](#), p. 38, lines 8-9.

<sup>6440</sup> P-0372: [T-148](#), p. 51, lines 5-8.

<sup>6441</sup> P-0372: [T-148](#), p. 54, lines 18-19.

<sup>6442</sup> P-0372: [T-148](#), p. 54, lines 16-17.

<sup>6443</sup> See para. 330 above.

<sup>6444</sup> P-0264: [T-64](#), p. 65, lines 13-22.

<sup>6445</sup> P-0379: [T-56](#), p. 18, lines 20-22.

<sup>6446</sup> P-0379: [T-56](#), p. 21, lines 12-21.

<sup>6447</sup> See paras 907-915 above.

<sup>6448</sup> See para. 906 above.

2374.P-0252, who was 11 at the time of his abduction,<sup>6449</sup> stated that on one of the ceremonies after his abduction he was told to think as a soldier now, not as a civilian and added ‘I was beaten for that’.<sup>6450</sup> He described how he was beaten with canes and a machete and explained this was done so that he would leave his civilian life behind.<sup>6451</sup>

2375. Similarly, P-0097 – who was 15 or younger at the time of his abduction<sup>6452</sup> – recalled that, when arriving at the LRA camp after his abduction, he was beaten:

When we arrived at the position, they told us, they told them to welcome us. When they say they should welcome us, we thought they were going to greet us. Later on we realised that we were supposed to be whipped, and we were indeed whipped. That was our welcome.<sup>6453</sup>

2376.P-0097, like all other new abductees that day, received 50 strokes on his back and buttocks with canes that had been freshly cut.<sup>6454</sup>

2377.P-0307, who was either 13 or 14 years old at the time of his abduction,<sup>6455</sup> stated that one of the initiations for new abductees was that they were caned. He explained that the LRA called it ‘recruiting people in the army’;<sup>6456</sup> ‘[t]hey will pick you and cane you uncountable strokes of the cane.’<sup>6457</sup> When they caned P-0307, he was told it was ‘to take away the civilian life from me’.<sup>6458</sup>

2378.P-0330, who was abducted as a child under the age of 15,<sup>6459</sup> testified:

They took me to a trench, took off my shirt and I was told that they had to recruit me into the army. I was told that I had to be recruited into the army. I was told to kneel down and touch my nails and I was beaten with a wire lock. And that was the initiation, the recruitment into the army.<sup>6460</sup>

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<sup>6449</sup> See paras 322-323 above.

<sup>6450</sup> P-0252: [T-87](#), p. 50, lines 7-8.

<sup>6451</sup> P-0252: [T-87](#), p. 50, lines 8-11.

<sup>6452</sup> See para. 299 above.

<sup>6453</sup> P-0097: [T-108](#), p. 13, lines 7-10.

<sup>6454</sup> P-0097: [T-108](#), p. 13, lines 11-21.

<sup>6455</sup> See paras 338-339 above.

<sup>6456</sup> P-0307: [T-153](#), p. 23, lines 3-10.

<sup>6457</sup> P-0307: [T-153](#), p. 23, lines 9-10.

<sup>6458</sup> P-0307: [T-153](#), p. 23, lines 10-11.

<sup>6459</sup> P-0330: [T-51](#), p. 50, line 16 – p. 51, line 9; UGA-OTP-0269-0697.

<sup>6460</sup> P-0330: [T-51](#), p. 57, lines 6-9.

2379.P-0314 recalled that during his time in the LRA he would see new abductees and testified that ‘the younger ones would be beaten, initiated into the army’.<sup>6461</sup> P-0314 called it brainwashing in order to ‘taking that civilian aspect of your life from you.’<sup>6462</sup>

c. Training

2380.P-0406 described how two persons belonging to the Sinia Brigade, Ooki and Denis, conducted military training in Sudan, in November or December 2002.<sup>6463</sup> The training included how to march and parade, how to disassemble and reassemble a gun, how to clean a gun and a limited shooting practice.<sup>6464</sup> P-0406 himself was already 16 years old when he received the training, but with him were three other persons amongst whom one was younger, around 12 years old.<sup>6465</sup> Besides this first-hand experience, P-0406 testified that there was also training of other groups, with boys of 11, 12 years of age being trained.<sup>6466</sup>

2381.D-0068 confirmed that there was shooting practice in Sudan for young boys of the age of 10, 11 or 12 years old – which was not done during the training in Uganda.<sup>6467</sup> Otherwise the same things were taught as in the training provided in Uganda: recruits were taught how to parade, how to dismantle and reassemble a gun.<sup>6468</sup>

2382.The Chamber notes that P-0142 testified that he did not train any persons under the age of 15 in Sudan.<sup>6469</sup> However, considering the abundance of contrary available evidence, the Chamber does not rely on the evidence provided by P-0142 that no children under 15 were trained in the LRA and more specifically in the Sinia Brigade.

2383.Several witnesses provided evidence to the more ad hoc way the children were trained in Uganda. P-0252, an abductee in Dominic Ongwen’s group,<sup>6470</sup> testified that, while there was not a lot of time, he did receive training after his abduction.<sup>6471</sup> According to P-0252, training was done in between walks when there was time, and in a more individualised

<sup>6461</sup> P-0314: [T-74](#), p. 28, lines 11-14.

<sup>6462</sup> P-0314: [T-74](#), p. 28, lines 14-16.

<sup>6463</sup> P-0406: [T-154](#), p. 20, lines 10-14, p. 22, lines 6-14.

<sup>6464</sup> P-0406: [T-154](#), p. 22, line 22 – p. 23, line 5.

<sup>6465</sup> P-0406: [T-154](#), p. 23, lines 6-14.

<sup>6466</sup> P-0406: [T-154](#), p. 23, lines 15-24.

<sup>6467</sup> D-0068: [T-223](#), p. 18, lines 10-11.

<sup>6468</sup> D-0068: [T-223](#), p. 18, lines 2-13, p. 19, line 13 – p. 20, line 1.

<sup>6469</sup> P-0142: [T-70](#), p. 15, line 19 – p. 16, line 1.

<sup>6470</sup> P-0252: [T-87](#), p. 41, lines 13-17.

<sup>6471</sup> P-0252: [T-87](#), p. 50, lines 12-15.

manner.<sup>6472</sup> Training was done ‘in short bursts and intensively’.<sup>6473</sup> P-0252 testified that he was trained theoretically and practically – marching or how to handle a gun, for instance dismantling, reassembling or cleaning it,<sup>6474</sup> how to behave during battle, how to take cover, crouch or fight while standing up.<sup>6475</sup> He stated that during practice no guns were fired, since the LRA did not want to waste any bullets.<sup>6476</sup> P-0252 testified that boys and girls were trained alike, the focus was put on whether the older fighters considered someone capable.<sup>6477</sup> However, the preferred age to train fighters was from six, seven years upwards.<sup>6478</sup>

2384.P-0264 also testified to the ‘ad hoc’ character of the training provided to children. Being abducted in 2002 and first serving as an escort to ██████████,<sup>6479</sup> he was re-assigned after ██████████’s death and, when serving as an escort to Ben Acellam, he received training from him. Ben Acellam would not only train P-0264 but all the escorts in his service.<sup>6480</sup> Additionally, P-0264 received training in Teso on how to use a gun, how to operate and dismantle it.<sup>6481</sup> The witness was 12 years old at the time.<sup>6482</sup> Afterwards, the witness received some target practice in Sudan<sup>6483</sup> and tactical training.<sup>6484</sup>

2385.P-0410 also provided evidence on this kind of training, adapted to the specific situation the recruit was in. He testified that this training lasted for two to three weeks, taking place in the wilderness.<sup>6485</sup> The informal character of the training was due to the fact that they were chased by government soldiers and helicopter gunships at that time.<sup>6486</sup> Accordingly, he was taught how to evade a helicopter gunship<sup>6487</sup> and how to avoid being spotted, even though he had not received a weapon yet.<sup>6488</sup> This training was provided in

<sup>6472</sup> P-0252: [T-87](#), p. 50, line 23 – p. 51, line 4.

<sup>6473</sup> P-0252: [T-87](#), p. 51, lines 21-22.

<sup>6474</sup> P-0252: [T-87](#), p. 50, lines 15-16, p. 51, lines 5-9.

<sup>6475</sup> P-0252: [T-87](#), p. 51, line 23 – p. 52, line 3.

<sup>6476</sup> P-0252: [T-87](#), p. 50, lines 16-22.

<sup>6477</sup> P-0252: [T-87](#), p. 52, lines 5-6.

<sup>6478</sup> P-0252: [T-87](#), p. 52, lines 4-8.

<sup>6479</sup> P-0264: T-64-CONF, p. 9, lines 20-21, p. 12, lines 14-16; [T-65](#), p. 84, lines 6-11.

<sup>6480</sup> P-0264: [T-64](#), p. 28, lines 9-13.

<sup>6481</sup> P-0264: [T-64](#), p. 28, lines 20-25.

<sup>6482</sup> P-0264: [T-64](#), p. 29, lines 9-12.

<sup>6483</sup> P-0264: [T-64](#), p. 29, lines 18-21.

<sup>6484</sup> P-0264: [T-64](#), p. 29, line 24 – p. 30, line 2.

<sup>6485</sup> P-0410: [T-151](#), p. 26, lines 1-4.

<sup>6486</sup> P-0410: [T-151](#), p. 26, lines 9-10.

<sup>6487</sup> P-0410: [T-151](#), p. 25, lines 23-24.

<sup>6488</sup> P-0410: [T-151](#), p. 26, lines 10-13.

addition to the more ‘standard’ repertoire which was generally taught: how to march, how to assemble and disassemble a gun and how to operate it, how to set an ambush and attack.<sup>6489</sup> The training was provided by Komakech, who was serving in Sinia under Dominic Ongwen,<sup>6490</sup> to a group of more than 20 people.<sup>6491</sup> Many in the group were 12, 13 or 14 years old.<sup>6492</sup>

2386. This is supported by P-0309, who testified that the training he received was done by two senior soldiers in Dominic Ongwen’s household.<sup>6493</sup> He learned how to operate, dismantle and clean different types of guns.<sup>6494</sup> He was not trained for a specific duration, but explained rather that ‘they would only show me how to operate at moments when we are stationed somewhere and when we are trying to rest.’<sup>6495</sup> P-0309 also stated that he was taught to be respectful ‘to the commanders like Dominic’.<sup>6496</sup>

2387. P-0379 recounted an episode where Dominic Ongwen saw the members of Ot Ngec’s household parade and said that the members of his own household – who comprised boys as young as 11 and 12 years old – should do the same, which was done.<sup>6497</sup>

2388. P-0307 testified that he and four other boys, who were all between 12 and 16 years old, received training at the Go Atoo foothill on how to march, stand attention and salute, by an officer called Ogwal.<sup>6498</sup> He stated that this training was not very long and lasted only for two days.<sup>6499</sup> He also named another soldier who trained him on how to dismantle and reassemble a gun – this was done while the group he was with was mobile and moving between different places.<sup>6500</sup> Finally, Ogwal also taught the witness how to cock a gun, pull the trigger and lastly P-0307 trained with live ammunition.<sup>6501</sup> When the group

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<sup>6489</sup> P-0410: [T-151](#), p. 25, lines 17-23.

<sup>6490</sup> P-0410: [T-151](#), p. 25, lines 8-15.

<sup>6491</sup> P-0410: [T-151](#), p. 26, lines 15-19.

<sup>6492</sup> P-0410: [T-151](#), p. 26, lines 20-25.

<sup>6493</sup> P-0309: [T-61](#), p. 32, lines 1-6.

<sup>6494</sup> P-0309: [T-61](#), p. 32, line 7 – p. 33, line 2.

<sup>6495</sup> P-0309: [T-61](#), p. 33, lines 15-18.

<sup>6496</sup> P-0309: [T-61](#), p. 34, lines 1-4.

<sup>6497</sup> P-0379: [T-56](#), p. 21, lines 6-21.

<sup>6498</sup> P-0307: [T-153](#), p. 20, lines 21-23; P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 69.

<sup>6499</sup> P-0307: [T-153](#), p. 20, line 18, p. 21, lines 19-22.

<sup>6500</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 70.

<sup>6501</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 71.

P-0307 was with entered into an ambush and one of the rebels carrying a gun was killed, P-0307 received this gun from his commanding officer.<sup>6502</sup>

2389. P-0307 also stated that when he was trained how to march, he saw Dominic Ongwen one time coming to observe the training.<sup>6503</sup> The Chamber does not agree with the Defence's suggestion<sup>6504</sup> that the witness might have been mistaken in the identity of the person, since – at that point in time – P-0307 did not yet know who Dominic Ongwen was. The witness later met Dominic Ongwen personally and the Chamber is convinced that the manner in which this happened ensured that P-0307 was certain about Dominic Ongwen's identity. The witness recounted an incident where he forgot to salute Dominic Ongwen properly. The accused then put a knife he held in his hand on P-0307's chest and told him that, since this was not a civilian place, the witness should have saluted his commander. Dominic Ongwen then made the witness believe for a moment that he would be killed for this infringement.<sup>6505</sup> In his statement P-0307 concluded: 'From that day I knew who Dominic Ongwen was and never forgot him'.<sup>6506</sup> The witness remained equally adamant in the courtroom that he saw Dominic Ongwen.<sup>6507</sup>

2390. P-0314 described that a month or two after his abduction<sup>6508</sup> he received training in the Sinia brigade. He was taught the same things as most other abductees: how to march and salute, how to disassemble, reassemble and clean a gun and how to use it.<sup>6509</sup> At one occasion the group got chased by government soldiers during the training and since P-0314 had a gun at that time, he also fired at them.<sup>6510</sup> P-0314 was trained by an escort of the same signaller the witness himself was serving.<sup>6511</sup>

2391. P-0054 confirmed that training such as how to dismantle a gun, how to fire a gun, how to behave in case of an attack and how to parade was done in Sinia brigade after operation Iron First.<sup>6512</sup> The witness stated that this training was given to the 'new recruits' who he

<sup>6502</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 72.

<sup>6503</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 69.

<sup>6504</sup> P-0307: [T-153](#), p. 22, lines 9-10.

<sup>6505</sup> P-0307: [T-153](#), p. 12, line 7 – p. 13, line 1; P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 20.

<sup>6506</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, para. 20.

<sup>6507</sup> P-0307: [T-153](#), p. 22, line 17-20.

<sup>6508</sup> P-0314: [T-74](#), p. 18, lines 8-18.

<sup>6509</sup> P-0314: [T-74](#), p. 18, line 9 – p. 19, line 5.

<sup>6510</sup> P-0314: [T-74](#), p. 19, lines 6-8.

<sup>6511</sup> P-0314: [T-74](#), p. 20, lines 7-13.

<sup>6512</sup> P-0054: [T-93](#), p. 23, lines 4-13.

estimated to be 10 or older.<sup>6513</sup> P-0054 came to the conclusion about the age of the new recruits because he remembered the time when he was abducted himself as a child and stated that he also observed how they would execute their assigned tasks.<sup>6514</sup>

2392. P-0372 provided general evidence regarding the issue of guns: children as young as 8 to 10 would be trained with a gun in Dominic Ongwen's group.<sup>6515</sup> A child would get a gun after having spent a certain amount of time in the LRA, but that also depended on the individual and his capabilities.<sup>6516</sup> P-0372 concluded by confirming that after this training, the children with the guns would join the other soldiers on their attacks.<sup>6517</sup>

2393. Similarly, with regard to the fact that the distribution of guns to the 'new recruits' would also depend on the individual, P-0054 stated:

For instance, you, you are lazy; you are lazy, you will take long without a gun. But if you are liked by your boss, yes, maybe after two/three months, when there is a gun they will give it to you.<sup>6518</sup>

2394. Other factors for this distribution were how mature or strong a person was.<sup>6519</sup> The commanding officer had to assess and determine whether he would give a child a gun: a consequence was that the commanding officer would be punished in case he gave a gun to a child and the child escapes with the gun afterwards.<sup>6520</sup>

d. Use of children under the age of 15 as escorts

2395. With regard to the tasks that children aged under 15 had to perform in the Sinia brigade, P-0264 provided evidence about the roles of escorts. Besides being tasked to 'be close' to the person he was serving, carrying his commanders chair and making his bed,<sup>6521</sup> an escort was also responsible for the security. This meant they had to be on the lookout while the group encamped, living on its edges and reporting if government soldiers or

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<sup>6513</sup> P-0054: [T-93](#), p. 22, lines 5-8, 18-20, p. 23, lines 4-11.

<sup>6514</sup> P-0054: [T-93](#), p. 22, lines 9-13.

<sup>6515</sup> P-0372: [T-148](#), p. 52, lines 3-10.

<sup>6516</sup> P-0372: [T-148](#), p. 51, line 17 – p. 52, line 1.

<sup>6517</sup> P-0372: [T-148](#), p. 52, lines 11-13.

<sup>6518</sup> P-0054: [T-93](#), p. 22, line 25 – p. 23, line 3.

<sup>6519</sup> P-0054: [T-93](#), p. 23, lines 14-18.

<sup>6520</sup> P-0054: [T-93](#), p. 23, lines 18-20.

<sup>6521</sup> P-0264: [T-64](#), p. 26, line 14 – p. 27, line 8.

other people would approach.<sup>6522</sup> They would also catch civilians approaching the camp so that they could be questioned for reconnaissance purposes.<sup>6523</sup>

2396.P-0252 described the role and function of being an escort to Dominic Ongwen:

Q: What was the role of the escorts? What did the escorts do?

A: Odomi's escorts, first they have to pay respect to the commander and listen to him and his orders that he gives to them. They are supposed to guard the commander to ensure he is not wounded, that nothing touches the commander. That is what I can say about the role of the escort.

Q: And you, when you talk about the commander, who are you referring to again?

A: The commander is Odomi.<sup>6524</sup>

2397.P-0252 further testified that Dominic Ongwen's escorts would follow him and guard him.<sup>6525</sup> The witness named several other people serving for Dominic Ongwen as escorts.<sup>6526</sup>

2398.This is corroborated by P-0309, who also listed escorts working in Dominic Ongwen's household and confirmed some of the names mentioned by P-0252, while also providing additional ones.<sup>6527</sup> P-0309 was himself an escort for Dominic Ongwen<sup>6528</sup> and under 15 years old at the time of his abduction.<sup>6529</sup> According to P-0309, some of these escorts were older but he also remembered some who came from the same group of abductees as himself and were younger than him or of the same age.<sup>6530</sup> The evidence also contradicts the Defence's assertion<sup>6531</sup> that there is no reliable evidence that there were children younger than 15 years in Dominic Ongwen's proximity.

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<sup>6522</sup> P-0264: [T-64](#), p. 27, lines 9-15. The Chamber notes that the witness describes duties of the escorts which others attributed to the *dog adaki*. However, due to the fact that both, escorts and *dog adaki*, were roles which were fulfilled by children in the LRA, the Chamber considers that it is possible that there was an overlap in the tasks.

<sup>6523</sup> P-0264: [T-64](#), p. 27, lines 15-19.

<sup>6524</sup> P-0252: [T-87](#), p. 45, lines 6-13.

<sup>6525</sup> P-0252: [T-87](#), p. 42, lines 3-7.

<sup>6526</sup> P-0252: [T-87](#), p. 42, line 8 – p. 43, line 4.

<sup>6527</sup> P-0309: T-60-CONF, p. 26, lines 19-25.

<sup>6528</sup> P-0309: [T-60](#), p. 24, line 21 – p. 25, line 4.

<sup>6529</sup> See para. 2345 above.

<sup>6530</sup> P-0309: T-60-CONF, p. 26, lines 19-24, p. 27, line 16 – p. 28, line 21.

<sup>6531</sup> [Defence Closing Brief](#), para. 509.

2399.P-0314, who was an escort for an LRA commander, [REDACTED],<sup>6532</sup> testified that there were numerous escorts in Dominic Ongwen's household, and that Dominic Ongwen would 'constantly' change them or alternate between them.<sup>6533</sup> While some of them were adults, 20 years and older,<sup>6534</sup> the young ones were 12 or 13 years old.<sup>6535</sup> The witness knew this as he was an escort himself and used to meet the escorts of Dominic Ongwen's household in his day-to-day routine.<sup>6536</sup> For instance, P-0314 [REDACTED]  
[REDACTED].<sup>6537</sup>

2400.P-0226, one of the so-called 'wives' of Dominic Ongwen, testified that there were many escorts in his household.<sup>6538</sup> She stated that the youngest was 13 years old<sup>6539</sup> and that, besides other duties such as protecting him, '[t]hey were also soldiers'.<sup>6540</sup> Witness P-0226 explained that, when Dominic Ongwen's group was back in Uganda from Sudan, these escorts would put the training they had received 'into use'.<sup>6541</sup> Upon request, P-0226 clarified that she meant that they would go kill someone, if ordered to do so by Dominic Ongwen.<sup>6542</sup>

2401.P-0352, an abductee who was the so-called 'wife' of [REDACTED]  
[REDACTED], stated that the youngest of Dominic Ongwen's escorts, Michael, was 15 years old.<sup>6543</sup> She testified that other young children she saw were not abductees but born in the bush.<sup>6544</sup> The Chamber recalls its assessment of the witness's credibility.<sup>6545</sup> It does not find that P-0352 testified untruthfully when saying that the youngest of Dominic Ongwen's escorts was 15. However, considering the witness's position in the LRA and length of time spent with the LRA, the fact that she did see persons younger than 15, but did not consider them to be escorts and – most importantly – the abundance of direct evidence cited above which indicates the contrary, the Chamber does not consider that

<sup>6532</sup> P-0314: T-74-CONF, p. 51, lines 7-9, 15-17.

<sup>6533</sup> P-0314: [T-74](#), p. 50, lines 8-11.

<sup>6534</sup> P-0314: [T-74](#), p. 50, lines 16-17.

<sup>6535</sup> P-0314: [T-74](#), p. 50, lines 21-23.

<sup>6536</sup> P-0314: T-74-CONF, p. 51, lines 7-14.

<sup>6537</sup>

<sup>6538</sup> P-0226: [T-8](#), p. 49, lines 10-11.

<sup>6539</sup> P-0226: [T-8](#), p. 49, lines 16-17.

<sup>6540</sup> P-0226: [T-8](#), p. 49, lines 18-24.

<sup>6541</sup> P-0226: [T-8](#), p. 50, lines 4-9.

<sup>6542</sup> P-0226: [T-8](#), p. 50, lines 10-20.

<sup>6543</sup> P-0352: [T-67](#), p. 81, lines 4-7.

<sup>6544</sup> P-0352: [T-67](#), p. 81, lines 8-11.

<sup>6545</sup> See paras 404-405 above.

P-0352's statement is credible in this regard and does not affect the Chamber's conclusion that children under the age of 15 served as escorts for Dominic Ongwen.

2402. The Chamber is aware that P-0231 also stated that there were no escorts under the age of 15 in Dominic Ongwen's household.<sup>6546</sup> The Chamber recalls the witness's credibility assessment<sup>6547</sup> and the fact that the witness was in the Oka battalion. However, taking into account the plentiful evidence to the contrary, which is credible, consistent and corroborative, the Chamber is of the view that there were numerous escorts under the age of 15 in Dominic Ongwen's household. The Chamber emphasizes that it reaches this conclusion on the basis of all evidence before it.

e. Dominic Ongwen's knowledge of the age of the abductees

2403. In this section, the Chamber lays out its analysis of evidence of several specific events during which the age of children under 15 years old serving in Sinia was specifically brought to Dominic Ongwen's attention. Such evidence is directly linked to the conclusion that at the time relevant for the charges Dominic Ongwen knew that children under 15 years old were integrated in Sinia. But also beyond such specific evidence, due consideration must be given to the facts, all discussed above, that children under 15 years old were objectively present in Sinia, that Dominic Ongwen also interacted with children under 15 years of age, and that Dominic Ongwen was a battalion or brigade commander with control over his unit. In the assessment of the Chamber, these facts are not reasonably compatible with the proposition that Dominic Ongwen would not know of the presence of children under 15 years of age in Sinia, and as such they further support the conclusion of the Chamber on this fact.

2404. The Chamber heard evidence about a particular meeting involving two government soldiers and Dominic Ongwen in September 2006. Whereas it is acknowledged that this meeting took place outside of the temporal scope of the charges, the Chamber nevertheless considers that the evidence of the witnesses who testified is relevant as indicative of Dominic Ongwen's intent and knowledge with respect to the presence of children in LRA soldier ranks.

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<sup>6546</sup> P-0231: [T-122](#), p. 72, lines 4-19.

<sup>6547</sup> See paras 275-276 above.

2405. Irumba Tingira testified that he met Dominic Ongwen in his capacity as UPDF division intelligence officer in the morning of 4 September 2006 at a location in the general area Lacekokot, on the Kitgum – Gulu road.<sup>6548</sup> He explained that the purpose of the meeting was for ‘UPDF members who were ex-LRA members to give a positive sign to the LRA members, and recent defector[s], three of them, also to give a positive sign and to be a leaving symbol for the LRA members’.<sup>6549</sup>

2406. Irumba Tingira stated that when he met Dominic Ongwen, in the group of around 60 fighters who were with him, he saw around 10 who were children he estimated as between 9 and 14 years of age.<sup>6550</sup> According to the witness, the children were ‘as a matter of fact loaded with luggage and they literally looked like loaded donkeys’.<sup>6551</sup>

2407. Irumba Tingira testified that he raised the matter with Dominic Ongwen in the following words:

Okay, what of these children? They don’t make their own decisions. These people I regard as children and whom I see as under age, they are at your mercy. You make your own decisions as a grown up. You have just indicated to me that you cannot defect whatsoever, although you are fully in charge here and your boss Kony is so many kilometres hiding inside Sudan, and in any case, we could support you to defect. You have told me you cannot defect. That’s your decision. So what of these children for whom you are making decisions, so why don’t you, okay, make your decision, hand me the children? I see them heavily laden. They seem to be forming your logistics train. I could receive them on behalf of their distraught parents, who have missed them for perhaps a while.<sup>6552</sup>

<sup>6548</sup> P-0189: [T-95](#), p. 24, line 20 – p. 25, line 23, p. 27, line 13 – p. 28, line 7. *See also* Photograph, UGA-OTP-0260-0140.

<sup>6549</sup> P-0189: [T-95](#), p. 26, lines 2-11.

<sup>6550</sup> P-0189: [T-95](#), p. 40, line 14 – p. 41, line 12. The Presiding Judge asked the witness to explain how he assessed the ages of the children, to which the witness stated: ‘Your Honour, first of all, I recognise that I appear before this Honourable Court not as an expert witness, but on the other side, perhaps by community diagnosis and very much used to the situation in Africa and in Uganda and particularly in northern Uganda, I could look at a kid, I mean, I could look at a group, a group of humans and I could segregate them in terms of estimated ages. So the particular group I’m talking about was really tender, small and you could simply look at them, you could simply look at them as a mature person, because I have kids too, and you could really grade them as children by observation.’ P-0189: [T-95](#), p. 41, lines 13-22. This answer indicates that the witness’s estimate was serious and considered, and it can for this reason be accepted by the Chamber. In addition, the Chamber notes that one of the children appears on a photograph, and that Irumba Tingira testified that he estimated the child to be approximately 13 years old. *See* Photograph, UGA-OTP-0260-0147; P-0189: [T-95](#), p. 48, lines 7-10. Although the face of the child is poorly visible, the photograph and the related testimony of Irumba Tingira further support the conclusion that Irumba Tingira’s estimates of the ages of the approximately ten children in Dominic Ongwen’s company are reliable.

<sup>6551</sup> P-0189: [T-95](#), p. 40, lines 19-20, p. 47, lines 2-12.

<sup>6552</sup> P-0189: [T-95](#), p. 43, lines 6-15.

2408. According to the witness, Dominic Ongwen then laughed sarcastically and turned down the request:

You call those kids children, but I call them my soldiers. So we are talking about my soldiers. We are not talking about the children you are talking about.<sup>6553</sup>

2409. Irumba Tingira testified that he responded to Dominic Ongwen by ‘lowering the bar’ and pleading for just one boy, who was standing in close proximity of Dominic Ongwen carrying a Kalashnikov and with luggage on his back, without putting anything down.<sup>6554</sup> Irumba Tingira testified that he said the following to Dominic Ongwen:

Okay, Dominic, the world will always remember you for this at least, get me that young boy there, who is standing without turning, give him to me. And I will also thank you for that.<sup>6555</sup>

2410. Irumba Tingira testified that he saw Dominic Ongwen’s facial expression changing and could see that he was getting irritated.<sup>6556</sup> According to the witness, Dominic Ongwen said in response: ‘[i]f that’s the case, I’m getting my soldiers ready to move’.<sup>6557</sup>

2411. As explained by Irumba Tingira, the meeting then turned into a larger group discussion.<sup>6558</sup> Irumba Tingira also stated that ‘the civilians tried to repeat the same plea, but one of my soldiers told me that Dominic shot them down in the same style’.<sup>6559</sup>

2412. Joseph Balikudembe testified that he was also present at the same meeting between the UPDF and Dominic Ongwen in Lacekocot in 2006 during ceasefire and peace talks.<sup>6560</sup> Notably, he also confirmed the presence of Irumba Tingira at the meeting.<sup>6561</sup> Joseph Balikudembe estimated the number of people in Dominic Ongwen’s group at more than 80, and stated that 15-20 of them were children, the youngest being, in his estimation, 14

<sup>6553</sup> P-0189: [T-95](#), p. 43, lines 16-19.

<sup>6554</sup> P-0189: [T-95](#), p. 43, line 23 – p. 44, line 3. *See also* Photograph, UGA-OTP-0260-0147. Irumba Tingira testified that this was the boy for whom he pleaded with Dominic Ongwen. P-0189: [T-95](#), p. 47, line 22 – p. 48, line 6. He also testified that the boy told him that his name was Suker. P-0189: [T-95](#), p. 45, lines 2-6.

<sup>6555</sup> P-0189: [T-95](#), p. 44, lines 5-7.

<sup>6556</sup> P-0189: [T-95](#), p. 44, lines 8-10.

<sup>6557</sup> P-0189: [T-95](#), p. 44, lines 10-11.

<sup>6558</sup> P-0189: [T-95](#), p. 44, line 25 – p. 45, line 2.

<sup>6559</sup> P-0189: [T-95](#), p. 44, lines 21-24.

<sup>6560</sup> P-0359: [T-109](#), p. 68, line 22 – p. 69, line 9, p. 83, line 23 – p. 84, line 2.

<sup>6561</sup> P-0359: [T-109](#), p. 81, lines 9-12. The fact that the name is given as ‘Tingira Ruhumba’ in the transcript is immaterial, as it is clear that this is the same person.

years old.<sup>6562</sup> Joseph Balikudembe testified that during the meeting ‘some NGOs, maybe the Red Cross’ tried to talk ‘about the children’ with Dominic Ongwen, who seemed not to have wanted to discuss the issue with them.<sup>6563</sup>

2413.P-0309 testified that following his abduction he was brought before Dominic Ongwen in a group of abductees and that Dominic Ongwen asked the abductees to state their names and ages.<sup>6564</sup> P-0309 testified that he responded to the question stating that he was 14 years old.<sup>6565</sup> Other abductees who were also asked about their ages stated that they were ‘13, 12, 15, 16’, while ‘[o]thers were even older, maybe 20 or 30’.<sup>6566</sup>

2414.P-0396 also testified that following her abduction she was brought before Dominic Ongwen in a group of abductees.<sup>6567</sup> She stated that Dominic Ongwen asked the abductees to state their names, ages and where they were coming from.<sup>6568</sup> P-0396 stated she was 14 years old, two other girls stated they were 16 and 7 years old respectively, and a boy stated that he was 10 years old.<sup>6569</sup> As discussed above, the girls became *ting tings* and so-called ‘wives’ in Sinia brigade,<sup>6570</sup> whereas P-0396 stated that the boy also remained in the LRA.<sup>6571</sup>

*iv. Use of children under the age of 15 to participate actively in hostilities*

**Children under 15 years of age serving as soldiers in Sinia brigade took part in fighting. They further facilitated LRA attacks by raising alarms, burning and pillaging civilian houses, collecting and carrying pillaged goods from attack sites and serving as scouts.**

<sup>6562</sup> P-0359: [T-109](#), p. 71, line 12 – p. 72, line 3, p. 75, lines 2-5. Asked how he estimated the age, Joseph Balikudembe answered: ‘Because I estimate the age because I’m also an adult. I have eyes. [...] I can estimate any age and the size itself can tell.’ P-0359: [T-109](#), p. 75, lines 6-8. In addition, earlier during his testimony, he had already explained that as a father himself, he was able to estimate the age of children compared to that of his own children (P-0359: [T-109](#), p. 57, lines 12-17).

<sup>6563</sup> P-0359: [T-109](#), p. 81, lines 18-22.

<sup>6564</sup> P-0309: [T-60](#), p. 13, line 24 – p. 15, line 7.

<sup>6565</sup> P-0309: [T-60](#), p. 15, lines 12-16.

<sup>6566</sup> P-0309: [T-60](#), p. 20, lines 7-13.

<sup>6567</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 51.

<sup>6568</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 51.

<sup>6569</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 51.

<sup>6570</sup> See para. 2188 above.

<sup>6571</sup> P-0396 Statement, UGA-OTP-0267-0246-R01, at para. 64.

**During all four attacks relevant to the charges, children under the age of 15 participated in the hostilities.**<sup>6572</sup>

2415. The abduction and training of children under 15 years of age had one clear aim: to use them as fighters in fighting with groups which were perceived as enemies of the LRA. The Chamber heard numerous witnesses who testified to the fact that children under 15 actively fought in the LRA.

2416. P-0054 left no doubt why those children were in the LRA: ‘If people are going to battle, children would also go. If one of them has been in the bush for a long time and has a gun, then the person would go as well.’<sup>6573</sup> He made clear that, in case the children had guns ‘they will fire their arms’ and in other cases would look for food.<sup>6574</sup>

2417. The Chamber first discusses the active participation of children under the age of 15 in hostilities other than the four attacks relevant to the charges and then turns to their participation in the context of such four attacks.

2418. P-0252 testified that he was given a gun by one of the more senior fighters in Sinia, Onen Kamdulu, and participated in a confrontation with government soldiers in Binya.<sup>6575</sup> The Chamber recalls that the witness was under 15 during his entire time with the LRA, as he was born in 1993<sup>6576</sup> and remained with the LRA until sometime around June 2004.<sup>6577</sup> The witness described that the LRA set up an ambushade against government soldiers and stated ‘I used the gun against soldiers’.<sup>6578</sup> Further explaining the LRA tactics regarding ambushes, the witness explained that he was ‘not only part of ambushes, I was also part of [...] battles’.<sup>6579</sup> He further stated that he was also part of another ambushade in Wii-Aceng.<sup>6580</sup>

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<sup>6572</sup> Para. 225 above.

<sup>6573</sup> P-0054: [T-93](#), p. 28, lines 17-21.

<sup>6574</sup> P-0054: [T-93](#), p. 28, line 24 – p. 29, line 1.

<sup>6575</sup> P-0252: [T-87](#), p. 52, lines 9-15, p. 53, lines 5-6.

<sup>6576</sup> See paras 322-323 above.

<sup>6577</sup> See para. 327 above.

<sup>6578</sup> P-0252: [T-87](#), p. 52, line 24 – p. 53, line 1.

<sup>6579</sup> P-0252: [T-87](#), p. 53, line 20 – p. 54, line 1.

<sup>6580</sup> P-0252: [T-87](#), p. 54, lines 2-5.

2419. After being presented with a sketch of another attack, P-0252 recalled another fight with government soldiers he participated in.<sup>6581</sup> The witness was injured in this attack and lost consciousness for about one and a half days.<sup>6582</sup>

2420. P-0252 also recalled another attempted attack on a camp in Acet.<sup>6583</sup> The attack did not succeed, because government troops noticed the presence of the LRA and the rebels had to flee.<sup>6584</sup> P-0252 stated that the plan was that one group of fighters would attack the barracks in Acet, shoot the soldiers and burn down the barracks, while another group would then attack the camp.<sup>6585</sup> ‘They told us that when you go to the camp you are going to determine whether you live or you will die. [...] If you choose to be kind, you are going to remain there as a dead body’.<sup>6586</sup> The witness described how he was selected by a soldier under Dominic Ongwen’s command to participate in the attack on Acet.<sup>6587</sup> Asked about his specific role for the attack, the witness explained that he was assigned to carry luggage and ‘commit any atrocity that I am told to commit’.<sup>6588</sup> P-0252 explained further that this meant to beat civilians, while being supported by fighters armed with guns.<sup>6589</sup> The witness was armed with a rope and a machete for this specific attack.<sup>6590</sup> He testified that other children were ordered to beat jerry cans during the attack so that the number of rebels would seem large and the government soldiers would get scared.<sup>6591</sup> P-0252 was afraid when he was told to go to Acet as he thought that ‘whatever happened in Odek’ would take place in Acet too,<sup>6592</sup> but he also testified that one could not refuse to go or otherwise would be killed.<sup>6593</sup>

2421. Lastly, P-0252 also described that a further aspect of his duties was to be an ‘OP’. The witness explained that this was a person on the lookout when the LRA camped.<sup>6594</sup> In this manner the LRA soldiers would be aware if there was activity by government

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<sup>6581</sup> P-0252: [T-87](#), p. 54, line 11 – p. 55, line 13, p. 55, lines 20-21.

<sup>6582</sup> P-0252: [T-87](#), p. 55, lines 14-19.

<sup>6583</sup> P-0252: [T-87](#), p. 57, lines 15-20.

<sup>6584</sup> P-0252: [T-87](#), p. 58, lines 5-7.

<sup>6585</sup> P-0252: [T-87](#), p. 60, lines 6-11.

<sup>6586</sup> P-0252: [T-87](#), p. 58, lines 2-5.

<sup>6587</sup> P-0252: [T-87](#), p. 58, lines 8-12.

<sup>6588</sup> P-0252: [T-87](#), p. 58, lines 20-25.

<sup>6589</sup> P-0252: [T-87](#), p. 59, lines 1-6.

<sup>6590</sup> P-0252: [T-87](#), p. 59, lines 17-20.

<sup>6591</sup> P-0252: [T-87](#), p. 60, line 20 – p. 61, line 3.

<sup>6592</sup> P-0252: [T-87](#), p. 60, lines 1-5.

<sup>6593</sup> P-0252: [T-87](#), p. 61, lines 4-13.

<sup>6594</sup> P-0252: [T-87](#), p. 55, line 6.

soldiers in the area.<sup>6595</sup> P-0252 explained that one would usually be an OP before being trained as a soldier, in order to know how to ‘survey’.<sup>6596</sup>

2422.P-0307, who was under 15 during the entire time he was in the bush with the LRA,<sup>6597</sup> described how he carried a gun during an attack on Pajule IDP camp.<sup>6598</sup> The LRA attacked the camp in order to loot foot items and the witness himself broke into a house.<sup>6599</sup> P-0307 testified that during his time in the bush he killed six persons, including the ones he shot with his gun during attacks.<sup>6600</sup>

2423.P-0264 described how he participated in several attacks in Teso<sup>6601</sup> during his time in the LRA with the Sinia brigade.<sup>6602</sup> He recalled numerous places where these attacks took place: Abalanga, Muringato, Dital, Kaberamaido.<sup>6603</sup> The witness recounted a specific episode when he took part in an ambush in which the LRA defeated the government soldiers.<sup>6604</sup> P-0264 was 12 at the time and stated that together with him, ‘several people’ of his age, with some even younger than him, also took part in that ambush,<sup>6605</sup> which occurred when Buk was still in charge of Sinia.<sup>6606</sup> The witness also specified that during that ambush, he carried a gun.<sup>6607</sup> On this topic, he further explained, in more general terms, that in the LRA the ‘younger ones’ would be given a gun depending on their ‘strength’: ‘if you’re strong enough you’ re given a gun. But if you look weak then they do not arm you, they do not give you a gun because you cannot then be made to carry a bag on top of the gun that you’re supposed to hold’.<sup>6608</sup> The witness testified that those who were too weak to carry a gun did not go to the frontline, especially where there was

<sup>6595</sup> P-0252: [T-87](#), p. 55, lines 8-10.

<sup>6596</sup> P-0252: [T-87](#), p. 56, lines 10-12.

<sup>6597</sup> See paras 334-338 above.

<sup>6598</sup> P-0307: [T-152](#), p. 67, lines 7-8. The Chamber recalls its finding that this was a different attack from the attack on Pajule IDP camp which forms the basis of several of the charges brought in the present case. See para. 333 above.

<sup>6599</sup> P-0307: [T-152](#), p. 67, lines 9-13, 16-18.

<sup>6600</sup> P-0307 Statement, UGA-OTP-0266-0425-R01, at para. 61.

<sup>6601</sup> The Chamber recalls that the witness was between 11 and 13 years old at the time of his abduction. See para. 2343 above.

<sup>6602</sup> P-0264: [T-64](#), p. 33, lines 1-4.

<sup>6603</sup> P-0264: [T-64](#), p. 33, lines 5-12.

<sup>6604</sup> P-0264: [T-64](#), p. 33, line 20 – p. 34, line 6.

<sup>6605</sup> P-0264: [T-64](#), p. 34, lines 15-20.

<sup>6606</sup> P-0264: [T-64](#), p. 33, lines 20-21.

<sup>6607</sup> P-0264: [T-64](#), p. 34, lines 11-14.

<sup>6608</sup> P-0264: [T-64](#), p. 34, lines 20-24.

battle,<sup>6609</sup> but were employed as lookouts, to climb in trees and signal the presence of civilians, for instance.<sup>6610</sup>

2424.P-0264 confirmed that he saw other children his age also participating in battle.<sup>6611</sup> He knew they were his age, since they had the same size as him and all of them were called ‘kadogis’.<sup>6612</sup> The witness stated that the participation of children in battle was not the exception but the rule in the LRA: ‘it continued throughout the time that I was in the LRA till I became a veteran with a gun.’<sup>6613</sup>

2425.The Chamber further takes note of the testimony of P-0352 who stated that the persons who were sent to fight were about 20 years old and that the 14, 15 year old would only be escorts.<sup>6614</sup> The Chamber again recalls its assessment of the witness’s credibility.<sup>6615</sup> It is of the view that P-0352’s statement is truthful and that the witness is reliable. However, regarding this aspect of her testimony, the Chamber does not conclude from this evidence that no person under the age of 15 participated in attacks. Notably, the witness makes a differentiation between ‘fighters’ and ‘escorts’ or ‘kadogos’ who, in her opinion, would not fight. However, considering the evidence above the Chamber finds that there are numerous examples of escorts under the age of 15 actively participating in attacks. Given the plentiful, consistent and corroborative evidence on this matter, the Chamber does not follow P-0352’s testimony in this aspect.

2426.The Chamber recalls its assessment of evidence with regard to the attack on Pajule IDP camp.<sup>6616</sup> There are numerous testimonies that children under the age of 15 participated in the attack. P-0372, when asked whether children participated in the attack on Pajule IDP camp, stated that ‘[t]here were very many young people.’<sup>6617</sup> He then specified that the youngest boys in Dominic Ongwen’s group were between 12 and 14 years old.<sup>6618</sup>

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<sup>6609</sup> P-0264: [T-64](#), p. 34, line 25 – p. 35, line 2.

<sup>6610</sup> P-0264: [T-64](#), p. 35, lines 2-6.

<sup>6611</sup> P-0264: [T-64](#), p. 35, lines 13-15.

<sup>6612</sup> P-0264: [T-64](#), p. 35, lines 7-10.

<sup>6613</sup> P-0264: [T-64](#), p. 35, lines 16-18.

<sup>6614</sup> P-0352: [T-67](#), p. 80, lines 14-19; P-0352 Statement, UGA-OTP-0260-0315-R01, at para. 90.

<sup>6615</sup> See paras 146-146 above.

<sup>6616</sup> See paras 1233-1369 above.

<sup>6617</sup> P-0372: [T-148](#), p. 52, lines 14-16.

<sup>6618</sup> P-0372: [T-148](#), p. 53, lines 1-4.

2427.P-0144, an LRA fighter who took part in the attack, stated that the youngest soldiers participating in the attack were around 13 or 14 years old.<sup>6619</sup> The witness came to the conclusion with regard to the age, because he knew what age the boys abducted by the LRA normally are,<sup>6620</sup> the physical features of the boys<sup>6621</sup> and the comparison with his own age (the witness was 17 at his abduction).<sup>6622</sup>

2428.The Chamber further recalls the testimonies of P-0249, P-0006 and John Lubwama (P-0047)<sup>6623</sup> about the participation of attackers under the age of 15. When talking about the age of the LRA soldiers attacking the camp, P-0249 described that some were so young, they were simply too small for the guns they were carrying: ‘the young soldiers, had guns but the guns were dragging on the ground. That means that that person is small, is very young.’<sup>6624</sup>

2429.The Chamber recalls its discussion of the evidence with regard to the attack on Odek IDP camp.<sup>6625</sup> Especially, the Chamber cited to evidence of witnesses P-0314, P-0410, P-0275, P-0054 and P-0269 that there were children younger than 15 years old among the LRA forces that attacked Odek IDP camp on 29 April 2004.

2430.Additionally to that evidence, the Chamber notes that P-0252, who was abducted during the attack, stated that children were participating in the attack: the older ones would even have guns, while the younger ones had jerry cans on which they would bang to make noise.<sup>6626</sup>

2431.P-0410 saw other children under 15 years participate, he himself carried a gun during the attack<sup>6627</sup> and was additionally put in charge of a heavier weapon, called a ‘12’.<sup>6628</sup> The Chamber recalls its conclusion above that the witness was born on 5 May 1989.<sup>6629</sup> Accordingly, he was 14 at the time of the attack on Odek IDP camp.

<sup>6619</sup> P-0144: [T-91](#), p. 33, lines 5-7.

<sup>6620</sup> P-0144: [T-91](#), p. 33, lines 8-13.

<sup>6621</sup> P-0144: [T-91](#), p. 33, lines 13-14.

<sup>6622</sup> P-0144: [T-91](#), p. 33, lines 15-19.

<sup>6623</sup> See paras 1237-1238 above.

<sup>6624</sup> P-0249: [T-79](#), p. 46, lines 11-12.

<sup>6625</sup> See paras 1429-1614 above.

<sup>6626</sup> P-0252: [T-87](#), p. 32, lines 20-24.

<sup>6627</sup> P-0410: [T-151](#), p. 43, lines 14-21.

<sup>6628</sup> P-0410: [T-151](#), p. 31, lines 13-15.

<sup>6629</sup> See para. 374 above.

2432.P-0264, who was himself under 15 at that time and participated [REDACTED] [REDACTED] in the same attack,<sup>6630</sup> stated that he was armed with a gun and used it during the attack,<sup>6631</sup> shooting at soldiers<sup>6632</sup> and civilians.<sup>6633</sup> His commander told him to be careful of government soldiers and the witness and other attackers shot at the houses until the government troops were defeated.<sup>6634</sup>

2433.P-0309, who also participated in the attack as an LRA fighter,<sup>6635</sup> stated that the LRA fighters selected for the attack ranged from 10 to 30 years old.<sup>6636</sup>

2434. [REDACTED], the 10-year old boy given into the care of P-0054,<sup>6637</sup> also participated in the attack on Odek IDP camp.<sup>6638</sup> He was released one or two weeks after the attack.<sup>6639</sup> During the attack on Odek IDP camp and until his release, the child's task was to carry jerry cans and smaller items of food 'because he was still very young'.<sup>6640</sup>

2435. Several witnesses testified that the purpose of the jerry cans and the noise made with them was to confuse the government troops and targeted camp residents, to pretend that the group of attackers was actually larger and to simulate gun shots.<sup>6641</sup>

2436. The Chamber recalls its assessment of evidence with regard to the attack on Lukodi IDP camp.<sup>6642</sup> P-0410, P-0142 and P-0406 all provided evidence to the participation of children under the age of 15 in the attack.

2437.P-0142, who also participated in the attack on Lukodi IDP camp, stated that amongst the group of rebels that were armed – the 'fighters' – there were children as young as 11.<sup>6643</sup> There was also another group that was not armed and not in the front, comprising children

<sup>6630</sup> P-0264: T-64-CONF, p. 49, line 24 – p. 50, line 4.

<sup>6631</sup> P-0264: [T-64](#), p. 53, lines 2-5.

<sup>6632</sup> P-0264: [T-64](#), p. 54, lines 12-17.

<sup>6633</sup> P-0264: [T-64](#), p. 55, lines 10-20.

<sup>6634</sup> P-0264: [T-64](#), p. 53, line 19 – p. 54, line 6.

<sup>6635</sup> P-0309: [T-60](#), p. 74, lines 10-12.

<sup>6636</sup> P-0309: [T-60](#), p. 76, lines 21-23.

<sup>6637</sup> See para. 2367 above.

<sup>6638</sup> P-0054: T-93-CONF, p. 24, lines 10-15.

<sup>6639</sup> P-0054: [T-93](#), p. 26, lines 14-16.

<sup>6640</sup> P-0054: [T-93](#), p. 26, lines 6-8, 23-25.

<sup>6641</sup> P-0252: [T-87](#), p. 32, line 25 – p. 33, line 7; P-0410: [T-151](#), p. 43, lines 6-13; P-0275 Statement, UGA-OTP-0244-3398-R01, at para. 25.

<sup>6642</sup> See paras 1700-1845 above.

<sup>6643</sup> P-0142: [T-71](#), p. 6, lines 18-21.

as young as 11, who took part in the assault.<sup>6644</sup> The tasks of these children were supporting activities such as carrying away the booty.<sup>6645</sup>

2438.P-0406, an LRA fighter who took part in the attack on Lukodi IDP camp, corroborates the information regarding the tasks of the children. When asked about the age of the youngest person participating on behalf of the LRA, P-0406 stated that their age as from 12, 13 and 14 upwards.<sup>6646</sup> He explained that they had several roles: they were supposed to hit on jerry cans in order to make some noise during the attack<sup>6647</sup> and they were also supposed to carry away the looted goods, in case the LRA could not abduct enough people to carry. In case there were enough abductees for this task, these fighters would take care of the fresh abductees.<sup>6648</sup>

2439.P-0410 also participated in the attack on Lukodi IDP camp and described that there were many who were 14 years old.<sup>6649</sup> From P-0410's statement it becomes clear that these children were an integral part of the LRA's fighting force during the attack: 'The younger people were brave and they fought without fear'.<sup>6650</sup> They were armed and sent to the barracks.<sup>6651</sup>

2440.P-0018 was abducted in June or July 2003 at the age of 12.<sup>6652</sup> The witness was selected<sup>6653</sup> and went to the attack on Lukodi IDP camp.<sup>6654</sup> She received instructions to carry food and abduct civilians<sup>6655</sup> and took a 10 litre jerry can during the attack.<sup>6656</sup>

2441.P-0018 also described how, after being looted, houses of the civilians were set on fire during the attack with people being locked inside the houses.<sup>6657</sup> As to the age of the persons who did this, the witness initially answered first they were between 15 and 20

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<sup>6644</sup> P-0142: [T-71](#), p. 6, lines 6-17.

<sup>6645</sup> P-0142: [T-71](#), p. 6, line 22 – p. 7, line 2.

<sup>6646</sup> P-0406: [T-154](#), p. 59, lines 11-13.

<sup>6647</sup> P-0406: [T-154](#), p. 54, lines 12-14.

<sup>6648</sup> P-0406: [T-154](#), p. 59, lines 13-18.

<sup>6649</sup> P-0410: [T-151](#), p. 64, lines 1-2.

<sup>6650</sup> P-0410: [T-151](#), p. 64, line 2.

<sup>6651</sup> P-0410: [T-151](#), p. 64, lines 5-19.

<sup>6652</sup> *See also* para. 294 above.

<sup>6653</sup> P-0018: [T-68](#), p. 54, lines 10-17.

<sup>6654</sup> P-0018: [T-69](#), p. 8, lines 19-21.

<sup>6655</sup> P-0018: [T-69](#), p. 8, lines 22-25.

<sup>6656</sup> P-0018: [T-69](#), p. 11, lines 23-25.

<sup>6657</sup> P-0018: [T-69](#), p. 12, lines 2-20.

years old,<sup>6658</sup> and upon further questioning replied that they were 15.<sup>6659</sup> After having been confronted with her prior statement from 2005, P-0018 stated that the boys setting the houses on fire were 10 years old.<sup>6660</sup>

2442. The Chamber notes that the witness changed her statement twice – and only testified upon suggestion by the Prosecution that the attackers were 10 years old. However, the Chamber still believes the witness’s final answers. The Presiding Judge put to her that she changed her narrative and explicitly asked her whether she was sure that the answer she provided in her prior statement was true. The witness again confirmed that her former statement was correct.<sup>6661</sup> The manner of testimony by the witness and the Chamber’s impression of her convince the Chamber that the witness provided truthful information. In this regard, the Chamber also notes that, on another occasion during her testimony, P-0018 resisted agreeing with information from her prior statement with which she was confronted, stating that she could not recall it.<sup>6662</sup> Accordingly, the Chamber is convinced by P-0018’s statement that the age of the boys was 10.

2443. The Chamber recalls its consideration of the evidence with regard to the attack on Abok IDP camp.<sup>6663</sup> Several witnesses testified to the participation of children under the age of 15 in the attack.

2444. P-0252 – who was 11 at the time of the attack<sup>6664</sup> – testified that before the attack he was selected with other young children to participate in the attack.<sup>6665</sup> This is corroborated by P-0054, who testified that there were fighters which were 13 years old, who participated in the attack.<sup>6666</sup>

2445. P-0252 also testified that the ‘guns were not enough for everybody’ and so people would be doing other things, like hitting on jerry cans or carrying pangas in order to attack.<sup>6667</sup>

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<sup>6658</sup> P-0018: [T-69](#), p. 12, line 23 – p. 13, line 1.

<sup>6659</sup> P-0018: [T-69](#), p. 13, lines 4-14.

<sup>6660</sup> P-0018: [T-69](#), p. 13, line 21 – p. 14, line 4.

<sup>6661</sup> P-0018: [T-69](#), p. 14, lines 18-22.

<sup>6662</sup> P-0018: [T-69](#), p. 58, line 25 – p. 59, line 22.

<sup>6663</sup> See paras 1877-2000 above.

<sup>6664</sup> See para. 2356 above.

<sup>6665</sup> P-0252: [T-87](#), p. 76, lines 10-12.

<sup>6666</sup> P-0054: [T-93](#), p. 35, lines 9-12.

<sup>6667</sup> P-0252: [T-87](#), p. 76, lines 16-21.

During the attack he waited, as ordered, at the edge of the camp until the ‘soldiers were defeated’ to go attack afterwards.<sup>6668</sup>

2446.P-0406 similarly testified that there were rebels going to the attack, who had not been provided with guns, but had other functions, like to blow whistles or hit on jerry cans.<sup>6669</sup> The witness stated that those people were between 13 and 16 years old.<sup>6670</sup>

2447.P-0293, who lived at the Abok IDP camp at the time of the attack, recounted that he heard the voices of children, who he estimated to be between 10 and 15 years old, during the attack.<sup>6671</sup> The witness explained that these children would remove grass from a hut, light it up and start burning civilian houses.<sup>6672</sup> P-0293 also saw them breaking into a house and loot the medicine they found in there and then move on to other houses.<sup>6673</sup> He stated that they were armed with ‘sticks and machetes’.<sup>6674</sup>

#### **D. Grounds excluding criminal responsibility**

2448. The Defence has raised two grounds for excluding criminal responsibility: mental disease or defect and duress. In the following two sections, the Chamber will address each in turn.

2449. As a preliminary issue before turning to these grounds, the Chamber notes that the Defence also raises an alibi in relation to the attack at Pajule IDP camp.<sup>6675</sup> Raising an alibi argues for the physical impossibility of an accused’s guilt by placing him/her in a location other than the scene of the crime at the relevant time.<sup>6676</sup> However, an alibi is not a ground for excluding criminal responsibility as such.<sup>6677</sup> This is why alibi does not appear in Article 31(1) of the Statute, and the statutory texts only reference the possibility

<sup>6668</sup> P-0252: [T-87](#), p. 78, lines 3-7.

<sup>6669</sup> P-0406: [T-154](#), p. 67, lines 11-17.

<sup>6670</sup> P-0406: [T-154](#), p. 67, lines 18-20.

<sup>6671</sup> P-0293: [T-138](#), p. 23, lines 2-15.

<sup>6672</sup> P-0293: [T-138](#), p. 23, line 15 – p. 24, line 3.

<sup>6673</sup> P-0293: [T-138](#), p. 24, lines 8-11.

<sup>6674</sup> P-0293: [T-138](#), p. 24, lines 5-14.

<sup>6675</sup> [Defence Closing Brief](#), para. 308, referring to Defence Notification Pursuant to Rule 79(2) of the Rules of Procedure and Evidence, 9 August 2016, ICC-02/04-01/15-519-Conf (public redacted version available: [ICC-02/04-01/15-519-Red2](#)).

<sup>6676</sup> ‘Alibi’, in Black’s Law Dictionary (Bryan A. Garner, ed., 11<sup>th</sup> 2019).

<sup>6677</sup> ICTY, Appeals Chamber, *Prosecutor v. Vujadin Popović et al.*, [Judgement](#), 30 January 2015, IT-05-88-A, para. 343; ICTR, Appeals Chamber, *Protais Zigiranyirazo v. The Prosecutor*, [Judgement](#), 16 November 2009, ICTR-01-73-A, paras 17-19; ICTY, Appeals Chamber, *Prosecutor v. Zejnil Delalić et al.*, [Judgement](#), 20 February 2001, IT-96-21-A, para. 581.

of an ‘alibi’ in the context of the Defence’s disclosure obligations.<sup>6678</sup> In any case, the substance of the matter is discussed in the appropriate context above.<sup>6679</sup>

*1. Mental disease or defect*

*i. Introduction*

2450. The Defence contends that the criminal responsibility of Dominic Ongwen is excluded by reason of mental disease or defect under Article 31 of the Statute.<sup>6680</sup> As the principal basis for this submission, the Defence refers to the conclusion of Professor Ovuga and Dr Akena that Dominic Ongwen suffered from ‘severe depressive illness, post-traumatic stress disorder (“PTSD”) and dissociative disorder (including depersonalization and multiple identity disorder) as well as severe suicidal ideation and high risk of committing suicide’, and from ‘dissociative amnesia and symptoms of obsessive compulsive disorder’.<sup>6681</sup>

2451. The Prosecution submitted in its closing brief that ‘there is no reliable evidence from which the Trial Chamber can determine that Mr Ongwen was suffering from any of the five mental health conditions identified by the Defence Experts at the time of the conduct constituting the charged crimes, let alone that those symptoms had destroyed his statutory capacities’, and that ‘[t]he evidence shows that, on the contrary, he was in full possession of all those capacities’.<sup>6682</sup>

2452. Pursuant to Article 31(1)(a) of the Statute, a person is not criminally responsible if, ‘at the time of that person’s conduct [...] [t]he person suffers from a mental disease or defect that destroys that person’s capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law’. Destruction of either of these capacities is enough to exclude criminal responsibility.

2453. Importantly, under the applicable law, a finding of a mental disease or defect is indispensable to conclude that there is a ground excluding criminal responsibility under Article 31(1)(a) of the Statute.

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<sup>6678</sup> Rule 79 of the Rules.

<sup>6679</sup> See sections IV.C.3, IV.C.6.ii.a.

<sup>6680</sup> See [Defence Closing Brief](#), para. 674.

<sup>6681</sup> [Defence Closing Brief](#), para. 536.

<sup>6682</sup> [Prosecution Closing Brief](#), para. 372.

2454. Further, the Chamber emphasises that the fact to be determined is the possible presence of a mental disease or defect, and the effect of such mental disease or defect on the relevant mental capacities of the accused, at the time of the relevant conduct. The determination does not concern the accused's mental state during the course of these proceedings. There is no rule preventing inferences from the latter to the former, but such inferences must be clearly explained and reliable.

2455. The Chamber notes that there has been a considerable amount of litigation on the issue of burden and standard of proof.<sup>6683</sup> As already stated above, there is no specific provision in the Statute related to the burden and standard of proof as concerns grounds excluding criminal responsibility under Article 31, and for this reason, the general provisions of the Statute apply.<sup>6684</sup> Under Article 66(2) of the Statute, the onus is on the Prosecutor to prove the guilt of the accused, and, under Article 66(3), in order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt.

2456. It may also be noted that Article 31(1)(a) of the Statute requires a judicial finding and that the Chamber is exclusively competent to make such a finding, including on the question of the presence of a mental disease or defect. In making its findings, the Chamber is assisted by the relevant evidence. Most importantly, such evidence was presented by five experts, i.e. Professor Gillian Mezey, Dr Catherine Abbo, Professor Roland Weierstall-Pust, as well as, jointly, Professor Emilio Ovuga and Dr Dickens Akena.<sup>6685</sup> All this evidence is discussed in detail below. As also discussed in detail below, the evidence presented generally during the trial is also a crucial foundation of the Chamber's findings, in particular because it allows important conclusions as to the mental state of Dominic Ongwen at the time of his conduct relevant for the charges.<sup>6686</sup>

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<sup>6683</sup> See [Prosecution Closing Brief](#), para. 380; [Defence Closing Brief](#), paras 529-34; [Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute](#), 28 January 2019, ICC-02/04-01/15-1423 (with two public annexes, A and B); [Prosecution Response to the "Defence Request for the Chamber to Issue an Immediate Ruling Confirming the Burden and Standard of Proof Applicable to Articles 31\(1\)\(a\) and \(d\) of the Rome Statute \(ICC-02/04-01/15-1423\)"](#), 7 February 2019, ICC-02/04-01/15-1439.

<sup>6684</sup> See section IV.A above.

<sup>6685</sup> For ease of reference, Professor Mezey, Dr Abbo and Professor Weierstall-Pust may be jointly referred to as the 'Prosecution experts', and Professor Ovuga and Dr Akena as 'Defence experts', although it may be added that this does not imply any difference in the procedural status of the experts or their evidence before the Chamber.

<sup>6686</sup> See section IV.D.1.iii below.

2457. In the following sections, the Chamber will in turn address: (i) the expert evidence and conclusions of Professor Mezey, Dr Abbo and Professor Weierstall-Pust; (ii) the corroborating evidence from the trial; (iii) the expert evidence and conclusions of Professor Ovuga and Dr Akena, on which the Chamber – as explained below – does not rely; (iv) the other evidence discussed by the parties; and (v) the Chamber’s conclusion.

*ii. Expert evidence of Professor Mezey, Dr Abbo and Professor Weierstall-Pust*

*a. Preliminary issues*

2458. Before entering into the substance of the evidence given by Professor Mezey, Dr Abbo and Professor Weierstall-Pust, the Chamber considers it necessary to provide its conclusions in relation to two issues which were discussed between the parties and which have a general bearing on the consideration of the evidence at hand.

2459. First, the Defence argues that ‘[t]he Prosecution did not disprove beyond a reasonable doubt that culture impacted on the conclusions of Mr Ongwen’s mental health’.<sup>6687</sup> It submits that ‘[w]hile the psychiatric profession recognizes the importance of cultural factors, the Prosecution experts repeatedly minimized and even dismissed them’.<sup>6688</sup> On the other hand, the Defence states that ‘[t]he Defence Experts addressed cultural issues throughout their testimonies, but they explained that mental health symptoms are not solely determined by cultural factors’.<sup>6689</sup>

2460. As concerns the latter point, the Chamber observes that whereas Professor Ovuga and Dr Akena evoked cultural factors on several occasions, they did not provide any real explanation of what these factors were, how they impacted the analysis, and how their consideration was to take place according to the standards and practices of mental health expertise.<sup>6690</sup>

2461. But more importantly, the Defence argument misrepresents the evidence of Professor Mezey, Dr Abbo and Professor Weierstall-Pust. The Defence does not provide any

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<sup>6687</sup> [Defence Closing Brief](#), p. 176.

<sup>6688</sup> [Defence Closing Brief](#), para. 661.

<sup>6689</sup> [Defence Closing Brief](#), para. 662 (footnote omitted).

<sup>6690</sup> See D-0041: [T-248](#), p. 18, lines 5-9, p. 23, lines 8-14, p. 46, line 1 – p. 47, line 5; D-0042: [T-250](#), p. 19, line 24 – p. 20, line 21; [T-251](#), p. 95, lines 1-21. See also Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0970.

reference for its claim that Prosecution experts ‘repeatedly minimized’ and ‘dismissed’ cultural factors. In fact, there was general agreement among all experts that the cultural context must be taken into account in assessments of mental health, but that at the same time the standard criteria to determine mental disorders were universally accepted. Professor Weierstall-Pust addressed this issue directly in his rebuttal report. He stated that whereas cultural factors needed to be acknowledged, ‘[t]his, however, doesn’t change the core characteristics of the diagnosis’.<sup>6691</sup> Professor Mezey made the observation that ‘PTSD is one of the few diagnos[e]s that has been very much studied across different cultures because of its utility in relation to victims of war trauma and terrorist attacks, and therefore it has been validated across many different cultures and languages’.<sup>6692</sup> Dr Abbo acknowledged that culture can influence diagnostic instruments but explained that this does not affect the standardisation of such instruments or internationally valid criteria, such as ‘impairment of functioning’.<sup>6693</sup> Dr Akena also stated that the core symptoms of mental illnesses are similar across cultures.<sup>6694</sup>

2462. Also, Professor Mezey, Dr Abbo and Professor Weierstall-Pust have explained the process by which they came to their conclusions, and the Chamber does not see any indication that in doing so, they ignored cultural factors.

2463. The Defence pointed to five specific issues which – it appears – would indicate the superiority of the Defence experts’ assessments over those of Prosecution experts in this context. Two of these, i.e. the interpretation of Dominic Ongwen’s request for termites as a serious food request rather than a joke and the absence of the word ‘blues’ in ‘many African languages’,<sup>6695</sup> are trivial and without any serious link to the issue under consideration. The other three points, i.e. that Professor Ovuga stated that symptoms of mental illness are somatised, that they could be interpreted as spirit possession, and that symptoms of mental illness would not be described as illness ‘in an African context’,<sup>6696</sup> are addressed below in the context of the discussion of the corroborative evidence of witnesses who observed or interacted with Dominic Ongwen during the period of the

<sup>6691</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0079. *See also* P-0447: [T-253](#), p. 41, lines 8-11.

<sup>6692</sup> P-0446: [T-162](#), p. 25, lines 7-12.

<sup>6693</sup> P-0445: [T-167](#), p. 4, line 21 – p. 5, line 21.

<sup>6694</sup> D-0041: [T-248](#), p. 46, lines 9-11.

<sup>6695</sup> [Defence Closing Brief](#), para. 663.

<sup>6696</sup> [Defence Closing Brief](#), para. 663.

charges.<sup>6697</sup> Finally, the Chamber notes further reference to ‘cultural considerations’ in the Defence Closing Brief,<sup>6698</sup> but any link between those and the validity of the methodology or the conclusions of the Prosecution experts is not apparent.

2464. Second, the Defence states that while it is ‘not faulting the Prosecution for not being able to interview the client when he had refused their requests: he agreed only to be interviewed by the Defence Experts and the Court-appointed expert Dr de Jong [,] [...] none of them [i.e. Prosecution experts] acknowledged this as a shortcoming in the preparation of their Reports, nor included a caveat in their Report’.<sup>6699</sup>

2465. The Defence submission is factually incorrect. Professor Mezey wrote in her report: ‘As Mr Ongwen has declined to allow myself or my colleagues (...) to conduct a full psychiatric examination, this opinion is necessarily focused on an analysis of the material (written and video) that I have been sent’.<sup>6700</sup> She explicitly addressed the issue of whether this affected her conclusions, and stated:

It is unfortunate that Mr Ongwen has been unwilling to allow myself, or my colleagues within the Chamber of Experts, to psychiatrically examine him. [...] I am nevertheless confident of the conclusions I have reached in the report on Mr Ongwen’s mental health, based on the extensive documentation and material that I have been provided with, for the purpose of preparing this report.<sup>6701</sup>

2466. Dr Abbo noted in her report that a ‘[f]ace to face interview was not carried out as DO declined a request by OTP to be interviewed’.<sup>6702</sup> She also stated:

One major limitation [o]f this report is the fact that CA did not clinically interview DO and therefore Mental State Examination section of this report is missing. However, the opinions throughout this document was based on the materials that were provided by OTP, in addition to other materials sourced from the internet (these are referenced).<sup>6703</sup>

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<sup>6697</sup> See section IV.D.1.iii. below.

<sup>6698</sup> See [Defence Closing Brief](#), para. 666.

<sup>6699</sup> [Defence Closing Brief](#), para. 657.

<sup>6700</sup> Professor Mezey’s Report, UGA-OTP-0280-0786, at 0791.

<sup>6701</sup> Professor Mezey’s Report, UGA-OTP-0280-0786, at 0814-15.

<sup>6702</sup> Dr Abbo’s Report, UGA-OTP-0280-0732, at 0733.

<sup>6703</sup> Dr Abbo’s Report, UGA-OTP-0280-0732, at 0755.

2467. Professor Weierstall-Pust also acknowledged in his report that ‘[a] face-to-face examination [...] was requested by RW but declined’.<sup>6704</sup> He also explicitly discussed this as a limitation of his report:

The present forensic report is solely based on the files that were provided to RW. A face-to-face interview in which RW had the chance to prove all the aspects outlined in the present report would have been the preferable option, as this could have helped to dissolve the outlined contradictions.<sup>6705</sup>

2468. In addition, the Chamber notes that Professor Mezey, Dr Abbo and Professor Weierstall-Pust made use of the information provided by Dominic Ongwen to mental health experts to whom he did agree to speak, as reflected in the reports of those experts, in particular Professor Ovuga and Dr Akena, and Professor De Jong.<sup>6706</sup>

2469. In these circumstances, considering that the clinical interview was not possible due to circumstances beyond the control of the Prosecution experts, that the Prosecution experts addressed this fact in their reports and used the information provided by Dominic Ongwen to other experts to whom he did agree to speak, and that they clearly laid out the bases for their reports they otherwise did rely on, the Chamber has no related methodological concerns with regard to the reports in question.

b. Professor Gillian Mezey

2470. Professor Gillian Mezey, Professor of Forensic Psychiatry at St Georges University of London in Tooting, United Kingdom, and an Honorary Consultant in Forensic Psychiatry at Springfield Hospital, United Kingdom, prepared a written report and testified before the Chamber.<sup>6707</sup>

2471. It is noted that the report of Professor Mezey lays out comprehensively the instructions given to her and thereby the scope of the report, as well as the sources of her information, which included documents from the present proceedings, prior expert reports, and other evidence relevant to the case.<sup>6708</sup> The report considered ‘unfortunate’ that Dominic

<sup>6704</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0676.

<sup>6705</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0701.

<sup>6706</sup> See Professor Mezey’s Report, UGA-OTP-0280-0786, at 0795-810; Dr Abbo’s Report, UGA-OTP-0280-0732, at 0735-43, 0752; Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0683-84, 0689, 0693.

<sup>6707</sup> See Professor Mezey’s Report, UGA-OTP-0280-0786; P-0446: [T-162](#); [T-163](#).

<sup>6708</sup> Professor Mezey’s Report, UGA-OTP-0280-0786, at 0789-95. The Chamber notes that the Defence made certain arguments in relation to the formulation of the report as concerns the use of sources, Annex XI to the Registry’s Third Report on the Evidence recognised as formally submitted to the Chamber, 24 July 2018, ICC-

Ongwen was not willing to be psychiatrically examined by Professor Mezey or the other Prosecution experts.<sup>6709</sup> The report engaged critically with the preceding psychiatric reports, i.e. that of Professor De Jong and the first report of Professor Ovuga and Dr Akena,<sup>6710</sup> before presenting Professor Mezey's own conclusions. The principal conclusion of Professor Mezey reads as follows:

Based on a review of all the material I have been provided with, I do not consider that there is evidence to show that Mr Ongwen is currently, or has at any time, suffered from Posttraumatic Stress Disorder, Depressive Disorder (although he has 'mild' transient depressive symptoms during his incarceration), Dissociative Disorder or any other significant mental illness or disorder.<sup>6711</sup>

2472. Professor Mezey noted that exposure to trauma, which she did not question in Dominic Ongwen's case, does not automatically result in the development of PTSD, and that 'the majority of individuals exposed to trauma do not go on to develop [PTSD]'.<sup>6712</sup> She also added that PTSD was not 'generally associated with repeated and persistent aggression and violence'.<sup>6713</sup>

2473. The Chamber also notes Professor Mezey's point that 'the presence of [...] severe and incapacitating mental disorders would have been incompatible with Mr Ongwen not only functioning adequately, but actively thriving within the LRA for over twenty years'.<sup>6714</sup> Professor Mezey also considered the evidence in the case as provided to her by the Prosecution, which consisted of witness testimonies during trial, and testified that she 'found no evidence from the transcript that you sent me of, of any, any suggestion of mental instability or behaviours that might amount to instability being reported in any of the abstracts'.<sup>6715</sup> Referred specifically to P-0231's evidence,<sup>6716</sup> she stated that it suggested that Dominic Ongwen was 'functioning normally' and that there was 'no obvious impairment in his ability to engage, to make decisions, to process information,

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02/04-01/15-1313-AnxXI, page 4. However, the Chamber considers that the basis of Professor Mezey's report is clear and therefore the points raised have no bearing on the report's probative value.

<sup>6709</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0814.

<sup>6710</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0795-810. The points raised by Professor Mezey in this regard are noted below wherever relevant to the Chamber's analysis.

<sup>6711</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0811.

<sup>6712</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0811.

<sup>6713</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0811-12.

<sup>6714</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0813.

<sup>6715</sup> P-0446: [T-162](#), p. 51, lines 1-14.

<sup>6716</sup> See para. 2507 below.

or to interact with other soldiers’.<sup>6717</sup> In relation to Dominic Ongwen’s report after the attack on Odek IDP camp,<sup>6718</sup> she stated that ‘if Mr Ongwen had been dissociating, or indeed was affected by any severe mental condition, he would not have been able to recall or to relate the detail of what happened or very much, if any, detail of what happened at the time’.<sup>6719</sup>

2474. Professor Mezey also noted as factors underlying her conclusion that Dominic Ongwen has ‘repeatedly stated that he knows now, and knew at material time, what he was doing and that his actions were wrong, for example when talking about the murder of civilians’ and that ‘[h]e has also stated that he feels guilty about what he did (indicating awareness and insight of the wrongfulness of his actions), in spite of the fact that he feels he should not be held responsible for his actions’.<sup>6720</sup>

2475. Professor Mezey provided clear, detailed and logical explanation of why she found the evidence of Dominic Ongwen’s behaviour during the relevant time incompatible with a mental disorder. In relation to PTSD, she elaborated:

[F]or a diagnosis of PTSD to be made, the criterion also require that the individual has to experience what’s called either significant clinical distress associated with the symptoms, because if they are not distressed, in a sense, there’s no significant disorder, or they must manifest significant functional impairment.

So these symptoms aren’t just there and the person can get on with their life and their day-to-day activities in the normal way. These symptoms are so severe and so intrusive that they stop the individual from being able to carry on with their normal day-to-day functioning. They cannot work. They cannot study. They cannot lead normal family lives. They don’t interact with their friends. All their – all their functioning is significantly impaired. So put together or when one puts that together, that would allow one to diagnose post-traumatic stress disorder.<sup>6721</sup>

2476. Asked to discuss the depressive disorder, Professor Mezey stated:

A depressive disorder is a disorder of mood, characterised by a persistent severe lowering of mood, sadness, hopelessness, despair, often associated with an inability to see any future, or to feel hope about the future. There is often a high risk of suicide associated with the disorder.

<sup>6717</sup> P-0446: [T-162](#), p. 51, lines 15-24.

<sup>6718</sup> See section IV.C.7.vii above.

<sup>6719</sup> P-0446: [T-162](#), p. 51, line 25 – p. 53, line 10.

<sup>6720</sup> Professor Mezey’s Report, UGA-OTP-0280-0786, at 0813-14.

<sup>6721</sup> P-0446: [T-162](#), p. 21, lines 9-19.

The more severe conditions will be associated with disruptions in the individual's physical health and functioning, so symptoms would include a reduction of appetite, loss of weight, disruption to sleep, particularly inability to go off to sleep and waking early in the morning. One would generally see a diurnal variation in the mood, with more severe symptoms earlier in the day.

The individual would become socially withdrawn. They tend to lose their interest in engaging in former activities or interacting with other people. There is often a disruption to the individual's cognitions so that they are unable to concentrate well. They are thinking more slowly than usual. You often see, in fact, what we call a retardation, so that the person's speech is slowed down, their movements are slowed down, they lack spontaneity in terms of both expressing themselves, but also in terms of their facial expressions or ability to verbalise or vocalise.

They often express unreasonable feelings of worthlessness, low self-esteem and guilt, sometimes to an extreme extent so that they feel guilty about the wars in the world, or the fact that people are starving. They feel guilty about things that they cannot possibly be held responsible for.<sup>6722</sup>

2477. In relation to dissociative identity disorder, Professor Mezey explained:

What dissociation means, essentially, is that dissociation is a disruption to the person's identity, to their sense of self, their sense of agency. A dissociative disorder essentially represents a fragmentation to the individual's ordinary psychological processes, so their memory, their consciousness, their perceptions, their feelings. [...]

Dissociative identity disorder characteristically involves a disruption to the person's identity, and what you see are two or more distinct personalities operating, essentially, side by side. Neither personality knows of the other person's existence. Now that is classic dissociative identity disorder. Where that occurs one sees marked discontinuities in the person's sense of self and in their sense of agency. And you typically see alterations in memory, in perceptions, in consciousness, in their motor functioning associated with the disorder.

Not surprisingly, because the two personalities are almost operating independently and in different worlds, different universes from each other, very often the person is not aware that they have the disorder, but it is noticed by other people.

And to make a diagnosis, again, one generally sees marked problems in the individual's social functioning or their occupational functioning or functioning on a day-to-day basis. Or they are very severely clinically distressed.

It is an enduring condition. It doesn't really remit, or you don't relapse or remit in the way that other illnesses might do, because it's the individual's identity, it's stable, static and enduring.<sup>6723</sup>

<sup>6722</sup> P-0446: [T-162](#), p. 32, lines 1-23.

<sup>6723</sup> P-0446: [T-162](#), p. 41, line 21 – p. 42, line 20.

2478. The Chamber finds Professor Mezey's report clear and convincing, and her testimony in the courtroom impressive. Professor Mezey's evidence also concords entirely with the corroborating evidence from the trial, discussed below.<sup>6724</sup> As such, the evidence of Professor Mezey is of great assistance to the Chamber in making its findings.

c. Dr Catherine Abbo

2479. Dr Catherine Abbo, Senior Lecturer and Child and Adolescent Psychiatrist at Makerere University, Uganda, prepared a written report and testified before the Chamber.<sup>6725</sup>

2480. Dr Abbo's report provided an explanation of its sources, which included 'medical reports, clinical notes, video and audio recordings provided and some materials sourced from the internet', and its methodology.<sup>6726</sup> It acknowledged the limitation represented by the absence of a clinical interview with Dominic Ongwen, due to the latter's refusal of consent.<sup>6727</sup> Dr Abbo found that '[i]t appears like up till the time of [Dominic Ongwen's] abduction, the complex interactions between individual, societal, and ecological factors over the course of his life had gone on satisfactorily well'.<sup>6728</sup> She discussed Dominic Ongwen's 'impress[ion] as above average intelligence' and 'bush socialisation' as factors which could have helped Dominic Ongwen to cope with his situation.<sup>6729</sup> She went on to state that Dominic Ongwen 'would seem to have matured developmentally against all odds with flexibility of moral reasoning which seem to have been not fully exercised before he becomes top commander'.<sup>6730</sup>

2481. Dr Abbo evaluated the moral development attained by Dominic Ongwen and concluded that he attained the highest level of moral development, the post conventional level.<sup>6731</sup> Dr Abbo's report explained that this level of moral development is 'characterized by the pursuance of impartial interests for each member in society as well as the establishing of self-chosen moral principles'.<sup>6732</sup>

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<sup>6724</sup> See section IV.D.1.iii.

<sup>6725</sup> See Dr Abbo's Report, UGA-OTP-0280-0732; P-0445: [T-166](#); [T-167](#); [T-168](#).

<sup>6726</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0732-34.

<sup>6727</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0755. See also P-0445: [T-166](#), p. 12, line 10 – p. 13, line 3.

<sup>6728</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0735.

<sup>6729</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0741-44.

<sup>6730</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0753.

<sup>6731</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0740-41.

<sup>6732</sup> Dr Abbo's Report, UGA-OTP-0280-0732, at 0740.

2482. While noting the previous reports of other authors indicating that Dominic Ongwen suffered from mental disorders, she stated that ‘there is hardly any evidence of which particular symptoms of these disorders lead to [Dominic Ongwen] committing of which alleged crimes’, and concluded that ‘[Dominic Ongwen] was likely motivated by his existential situation rather than his symptoms of mental illnesses’.<sup>6733</sup> It is noted that Dr Abbo stated in her report that she wrote her assessment of the relationship between the diagnoses of mental illnesses and criminal responsibility ‘from the point of view that [Dominic Ongwen] suffers from the three disorders documented in the professional reports’ of Professor Ovuga and Dr Akena, and of Professor De Jong, with reference to her not having been able to examine Dominic Ongwen in person.<sup>6734</sup> For this reason, the Defence argument that the Prosecution experts ‘were divided on the diagnosis of PTSD’ is ill-founded.<sup>6735</sup>

2483. As a general conclusion in her report, Dr Abbo found that there was no evidence from the materials provided that the illnesses identified by the other experts were directly linked to the crimes Dominic Ongwen allegedly committed.<sup>6736</sup>

2484. In court, Dr Abbo was asked some questions in relation to the mental disorders identified in the reports that preceded hers, and provided some clarification useful for the findings of the Chamber. In relation to dissociative identity disorder, Dr Abbo testified that a dissociative state, especially in its severe forms, would be apparent even for a layperson, and that it was ‘[u]nlikely’ that a person would be in dissociative state for months or even years.<sup>6737</sup> She also stated, in the specific context of a discussion of dissociative flashbacks as a symptom of PTSD, that a planned premeditated action would not be consistent with a dissociative state.<sup>6738</sup>

2485. The Chamber finds Dr Abbo’s expert report and testimony pertinent and valuable for use in its findings. This holds true in particular in relation to Dr Abbo’s assessment of the level of Dominic Ongwen’s moral development. In addition, even though Dr Abbo

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<sup>6733</sup> Dr Abbo’s Report, UGA-OTP-0280-0732, at 0739. *See also* Dr Abbo’s Report, UGA-OTP-0280-0732, at 0744-51; P-0445: [T-166](#), p. 21, lines 2-25.

<sup>6734</sup> Dr Abbo’s Report, UGA-OTP-0280-0732, at 0745. *See also* Dr Abbo’s Report, UGA-OTP-0280-0732, at 0732.

<sup>6735</sup> *See* [Defence Closing Brief](#), para. 659.

<sup>6736</sup> Dr Abbo’s Report, UGA-OTP-0280-0732, at 0756.

<sup>6737</sup> P-0445: [T-166](#), p. 33, lines 15-22.

<sup>6738</sup> P-0445: [T-166](#), p. 36, lines 6-8.

assumed for her report the prior diagnoses made by Professor Ovuga and Dr Akena, and by Dr De Jong, and focused on the relationship between these diagnoses and the conduct of Dominic Ongwen which represented the commission of the crimes charged, the considerations expressed by Dr Abbo nevertheless assist the Chamber in the understanding of the mental disorders in question.

d. Professor Roland Weierstall-Pust

2486. Professor Roland Weierstall-Pust, Professor of Clinical Psychology and Psychotherapy at the University of Applied Science and Medical University, Hamburg, Germany, prepared a written report and testified orally before the Chamber.<sup>6739</sup> It is noted that following the testimony of Dr Akena and Professor Ovuga, Professor Weierstall-Pust also prepared a rebuttal report, and testified for a second time.<sup>6740</sup>

2487. Professor Weierstall-Pust explained that as a psychologist he had not studied medicine, but that he had obtained the additional qualification to ‘diagnose and treat people with mental disorders or with disorders that need psychotherapeutical assistance’.<sup>6741</sup> He testified that there was no reason why a psychiatrist, who had studied medicine, and a psychologist, when they do a proper assessment in line with international standards, would not come to the same conclusion.<sup>6742</sup> Based on Professor Weierstall-Pust’s testimony, the Chamber does not consider that there are any limitations to his expertise due to the fact that he is a clinical psychologist and not a psychiatrist.

2488. Professor Weierstall-Pust’s main report detailed the information which served as its basis, which included psychiatric experts’ reports, the Prosecution pre-trial brief, audio-visual material and Detention Centre documentation.<sup>6743</sup> The report also noted that a face-to-face examination and access to assessment protocols of Professor De Jong were requested but declined.<sup>6744</sup> As concerns the rebuttal report, the Chamber notes that it was based on

<sup>6739</sup> See Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674; P-0447: [T-169](#); [T-170](#).

<sup>6740</sup> See Rebuttal Report, UGA-OTP-0287-0072; P-0447: [T-252](#); [T-253](#).

<sup>6741</sup> P-0447: [T-169](#), p. 5, line 4 – p. 6, line 11. See also P-0447: [T-253](#), p. 5, line 13 – p. 7, line 7.

<sup>6742</sup> P-0447: [T-170](#), p. 4, line 7 – p. 5, line 1.

<sup>6743</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0676.

<sup>6744</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0676.

the reports and testimonies of Professor Ovuga and Dr Akena, and additionally also on trial transcripts and excerpts of evidence from the trial.<sup>6745</sup>

2489. In his main report, Professor Weierstall-Pust noted that the diagnosis of a trauma-spectrum disorder required that the individual was exposed to at least one potentially traumatic event, but emphasised that trauma is of subjective nature and that it need not necessarily lead to a trauma-related mental disorder.<sup>6746</sup> On this point, the report reads:

A person that experiences a potentially traumatic event could therefore 1) process this event as traumatizing and develop a trauma-related mental disorder later in life, 2) process this event as traumatizing but not develop a trauma related mental disorder later in life due to factors of resilience, 3) not process this event as traumatizing and not develop a trauma-related disorder later in life, 4) not process this event as traumatizing but develop some other type of mental disorder later in life, 5) process this event as appealing and rewarding and not develop a trauma-related mental disorder later in life, 6) process this event as appealing/positively rewarding and develop a trauma-related mental disorder later in life due to other traumatic experiences, 7) process this event as appealing/positively rewarding and develop some other type of mental disorder later in life, 8) etc. etc. Thus, the relation between the experiences Mr. Ongwen might have made and potential mental health symptoms must be specified, as there doesn't necessarily have to be a relation between the exposure with violence and trauma and the development of impairments.<sup>6747</sup>

2490. Furthermore, Professor Weierstall-Pust stated in this report '[t]hat Mr. Ongwen experienced at least one traumatic event and suffers from a trauma-related disorder is not sufficient to draw any conclusions about his capacity to appreciate the wrongfulness of his actions'.<sup>6748</sup> He also noted that every mental disorder fluctuates over time, which he discussed in the context of the fact that the charges in the present case cover a period of several years.<sup>6749</sup>

2491. Professor Weierstall-Pust finally found that Dominic Ongwen was exposed to potentially traumatic events that could have preceded a psychopathological development and a later manifestation of a mental disorder.<sup>6750</sup> He also found it 'plausible' that Dominic Ongwen 'showed some signs of a mental disorder' during the period of the charges.<sup>6751</sup> However,

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<sup>6745</sup> See Rebuttal Report, UGA-OTP-0287-0072, at 0074.

<sup>6746</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0678-79.

<sup>6747</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0679-80.

<sup>6748</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0680.

<sup>6749</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0681.

<sup>6750</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0697; P-0447: [T-169](#), p. 18, lines 8-13.

<sup>6751</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0698.

Professor Weierstall-Pust concluded that ‘there is not sufficient evidence to justify the diagnosis of a manifest mental disorder during the period between 2002 and 2005’.<sup>6752</sup> Importantly and convincingly, in particular in light of the evidence available from the trial,<sup>6753</sup> Professor Weierstall-Pust also wrote:

Even if Mr. Ongwen suffered from some of his experiences, it is highly unlikely that his level of functioning was severely impaired, at least not for a longer period of time. He must have adapted to the war scenario in order to make the achievements he himself describes and which are not only limited to promotion in the armed force but also include his support of other people and his psychosocial abilities.<sup>6754</sup>

2492. In court, Professor Weierstall-Pust convincingly explained the relation to PTSD and trauma-related avoidance:

[P]eople that suffer from PTSD tend to avoid trauma reminders. [...] So if I suffer from PTSD and have bad memories from seeing people being killed, then I would try everything to avoid more trauma reminders. And this means that this also impairs my ability to fight.

People that suffer from PTSD, they are not functioning properly. Also in the military, if you have someone who suffers from PTSD, you wouldn’t send him to the front line because he will make mistakes, he will suffer from hyperarousal, which means that he is not able to follow orders, which means that he is not even able to control a weapon when you have a shaking hand because of your anxiety symptoms and this means, for me, my conclusion was that when he – and there are some other quotes where it was said that he, Mr Ongwen, was a good fighter and this was also the reason for promotion, then this means that or for me the consequence or my conclusion was that then he couldn’t have suffered from severe PTSD symptoms or severe depression because this would have prevented him from acting out this behaviour.<sup>6755</sup>

2493. Professor Weierstall-Pust also stated that being fearless ‘completely contradicts the diagnosis of a fear-related disorder like PTSD’.<sup>6756</sup> Professor Weierstall-Pust wrote that

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<sup>6752</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0698; P-0447: [T-169](#), p. 19, line 17 – p. 20, line 12.

<sup>6753</sup> See section IV.D.1.iii.

<sup>6754</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0698. The Chamber notes that Professor Weierstall-Pust’s Report refers to several statements of Dominic Ongwen describing his success in the LRA given in particular to Professor De Jong. See Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0684-86; Professor De Jong’s Report, UGA-D26-0015-0046-R01, at 0058 (‘R asks again how he got to higher ranks. DO answers that it happened through fighting. [...] He fought well against the soldiers. [...] He was a very good shot.’), 0059 (‘He was also good at using different types of ammunition, in being a diplomat [...]').

<sup>6755</sup> P-0447: [T-169](#), p. 35, lines 2-23.

<sup>6756</sup> P-0447: [T-169](#), p. 37, lines 9-19. The Chamber notes that the description of Dominic Ongwen as ‘fearless’ originated in the ‘collateral interviews’ conducted by Professor Ovuga and Dr Akena and was included as such in their First Report, see Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0010.

being a ‘good administrator’ and ‘likeable’, as well as ‘hard-working’ – descriptions equally taken from Professor Ovuga and Dr Akena’s First Report – contradicts the diagnosis of a severe depressive disorder.<sup>6757</sup> The Defence refers to the testimony of Professor Ovuga, who said that ‘[t]he presence of a mental disorder does not necessarily negate the ability of someone to execute activities or functions that are given to him or her’.<sup>6758</sup> It also points to Professor Weierstall-Pust accepting during examination by Defence counsel that some functioning is possible in an individual with PTSD.<sup>6759</sup> However, during the same exchange, Professor Weierstall-Pust also provided a fuller explanation:

One thing I wanted to add is that I don’t want to say that it’s not possible to function at all, but I mean the high level of functioning is not possible in the way it was described in the report, as I read it from the material that is available to me.<sup>6760</sup>

2494. The Defence argument that Professor Weierstall-Pust did not qualify the level of functionality in his original report is incorrect,<sup>6761</sup> as Professor Weierstall-Pust’s report plainly stated that ‘rather severe mental disorders (at least PTSD, MDD and dissociative disorders) are usually associated with a significant impairment of psycho-social functioning’.<sup>6762</sup> It may be added that, as discussed below, the Chamber has not found in the evidence any indicia of such impairment.

2495. As such, the Chamber does not accept the Defence interpretation that Professor Weierstall-Pust ‘clearly backtracked’ and took ‘the opposite view’ as before.<sup>6763</sup> Conversely, the Chamber finds Professor Weierstall-Pust’s evidence on this particular topic consistent and coherent. His evidence is also in line with the corroborating evidence from the trial, laid out just below.

2496. The Chamber finds Professor Weierstall-Pust’s evidence entirely convincing and his testimony in the courtroom impressive in its clarity and comprehensibility. As such, his evidence is of great assistance to the Chamber in the determination of the issue, including

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<sup>6757</sup> P-0447: [T-169](#), p. 37, line 20 – p. 38, line 18. These descriptions of Dominic Ongwen are likewise based on the ‘collateral interviews’ conducted by Professor Ovuga and Dr Akena and included in their First Report, *see* Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0010.

<sup>6758</sup> D-0042: [T-251](#), p. 73, lines 12-21.

<sup>6759</sup> P-0447: [T-253](#), p. 41, lines 21-23.

<sup>6760</sup> P-0447: [T-253](#), p. 40, lines 7-10.

<sup>6761</sup> [Defence Closing Brief](#), para. 641.

<sup>6762</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0685.

<sup>6763</sup> *See* [Defence Closing Brief](#), para. 639.

in the determination of the relevance and significance of other evidence in the case, in particular witness evidence, in relation to the behaviour of Dominic Ongwen during the period of the charges.

*iii. Corroborating evidence from the trial*

2497. Guided by the testimonies of the experts, the Chamber has assessed the evidence in the case, which relates to the events during the period of the charges, for indication of any symptoms of mental health disorders in Dominic Ongwen. As pointed out by the experts, an assessment of mental health cannot be made in the abstract, but only on the basis of the facts and evidence relating to the period under examination. Therefore, on the basis of this evidence the Chamber, assisted by the experts, makes its own conclusions on the issue.

2498. Professor Mezey emphasised that a serious mental illness would have manifested itself in ‘hallucinations, delusions, loss of weight, loss of appetite, an inability to function, which would include an inability to function as a soldier, as a fighter’.<sup>6764</sup> She stated that she ‘would expect his comrades to pick up on that and to have noticed it and commented on it’.<sup>6765</sup> As is clear from the analysis of witness testimony below, such evidence did not transpire during the trial.

2499. Professor Weierstall-Pust stated that evidence otherwise available at trial is ‘absolutely important, because we meet other people that have lived with the – in this case with the accused person to report their impression of the client’.<sup>6766</sup> In his rebuttal report, Professor Weierstall-Pust further elaborated that ‘[t]he psychosocial consequences of mental disorders are in fact a direct consequence of a disorder’s recognizable manifestations in daily life’.<sup>6767</sup> He stated that ‘if [Dominic Ongwen] suffered from a severe mental disorder, people in his environment would have clearly noticed at least “strange” or “unexplainable” signs’, and also that ‘[m]any of the relevant symptoms are objectively observable and in fact frequently noticed by family members and friends of persons suffering from mental health disorders’.<sup>6768</sup> Yet, the Chamber observes that, as

<sup>6764</sup> P-0446: [T-163](#), p. 86, lines 23-25.

<sup>6765</sup> P-0446: [T-163](#), p. 86, line 25 – p. 87, line 1.

<sup>6766</sup> P-0447: [T-169](#), p. 57, lines 14-25.

<sup>6767</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0079.

<sup>6768</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0079.

laid out below, no such testimony was given by witnesses who were in position to observe Dominic Ongwen's behaviour at the time relevant for the charges.

2500. The evidence of Professor Ovuga and Dr Akena also indicates that they agreed that albeit lay persons could not make a diagnosis, they would have noted at least some symptoms of the mental disorders in question.<sup>6769</sup> The Chamber addresses separately below the failure of Professor Ovuga and Dr Akena to properly consider corroborating information, which is an important methodological shortcoming, and notes that in fact the evidence from the trial contradicts the findings of Professor Ovuga and Dr Akena.<sup>6770</sup>

2501. Contrary to what is implied by the Defence,<sup>6771</sup> the Chamber is not looking in this evidence for diagnoses of mental disease or defect. It is clear that, save for the experts within the scope of their expertise, the witnesses in the case are not qualified to make such diagnoses. Rather, the exercise consists of assessing whether any descriptions in particular of the conduct of Dominic Ongwen correspond to symptoms of mental disorders.<sup>6772</sup> Further, as correctly pointed out by the Prosecution, the possibility that witnesses may regard symptoms of mental disorders as spirit possession is immaterial, insofar as they would still describe certain symptoms, irrespective of the cause attributed to them.<sup>6773</sup>

2502. The Defence submits that holding that a '[m]ental illness, including severe mental health illness is visible 24/7 to anyone observing but especially those closest to the person affected' is a myth, and that the symptoms of mental disorders fluctuate over time.<sup>6774</sup> First, the Defence misconstrues the issue. The proposition that persons close to the individual under examination may recognise symptoms of mental disorders is not the same as stating that mental illness would necessarily be visible at all times. Second, whereas the Chamber accepts that fluctuation of symptoms may indeed be the reason for contradictions in evidence in cases where there is in fact a mental disorder present, it is

<sup>6769</sup> See D-0041: [T-249](#), p. 91, line 9 – p. 92, line 22; D-0042: [T-251](#), p. 52, lines 2-16.

<sup>6770</sup> See paras 2545-2557 below.

<sup>6771</sup> [Defence Closing Brief](#), paras 634-35. See also D-0041: [T-249](#), p. 90, lines 19-21.

<sup>6772</sup> It is for this reason that the Defence submission that there exists corroborative testimony in relation to 'LRA's forced abductions' and in relation to Dominic Ongwen's abduction and early years in the LRA is flawed; see [Defence Closing Brief](#), paras 617-621.

<sup>6773</sup> [Prosecution Closing Brief](#), para. 439. See also Rejoinder Report, UGA-D26-0015-1574, at 1577; D-0042: [T-251](#), p. 52, lines 9-16; [Defence Closing Brief](#), paras 630, 663.

<sup>6774</sup> [Defence Closing Brief](#), paras 622-27. See also [Defence Closing Brief](#), para. 643.

an unconvincing explanation in the case of a complete absence of evidence of facts which could be seen as symptoms of mental disorders.

2503. The possibility of masking symptoms of mental disorders, also raised by the Defence in this context,<sup>6775</sup> is discussed below.<sup>6776</sup> The Chamber also rejects as entirely unsupported in light of the analysis which follows the Defence submission that ‘any signs of resiliency were temporary and sporadic, and should not be interpreted as indicative of functionality’.<sup>6777</sup>

2504. In addition, the Defence suggested that former LRA members are unreliable witnesses on the issue because of their own victimisation in the same coercive and hostile environment of the LRA.<sup>6778</sup> This argument is overwhelmingly proved wrong by the fact that a large number of former LRA members, called by the Prosecution and the Defence, testified before the Chamber reliably, credibly and in detail about their experiences in the LRA, including their observations of Dominic Ongwen. There is no indication that they are, as a class, unable to observe, perceive or accurately recount Dominic Ongwen’s behaviour in the bush.

2505. Thus, the Chamber considers it absolutely necessary to examine the evidence presented during the trial in order to identify information relevant to the issue.

2506. First, the Chamber notes that a number of witnesses were asked general questions about their observations of Dominic Ongwen. P-0142 stated:

When I joined the bush, the LRA, when I was abducted and I was amongst them, first Dominic Ongwen wasn’t a bad person. He was a people’s person. I would talk to people and stay amongst people, hid together with people. You would share laughters and jokes. He was a person who cared about people. But that was when he was still having a lower rank. When he, when he was promoted and he started climbing through the ranks there were changes. You know, when you, you are promoted and you leave the ranks of a private you also change the way you behave, you need to start behave like a commander. Like for me, I would not go close to him, he was already a commander. I cannot go and familiar him all the time. A commander is having a different responsibility than an ordinary gap – an ordinary soldier. There was a gap now between him and the ordinary soldiers, but he was still good to his soldiers. I did not notice anything which was strange. But when he was in operation room he was tough. He was tough because by nature of being a

<sup>6775</sup> [Defence Closing Brief](#), paras 627-28.

<sup>6776</sup> See paras 2555-2557 below.

<sup>6777</sup> See [Defence Closing Brief](#), para. 644.

<sup>6778</sup> [Defence Closing Brief](#), para. 630.

commander he thought easy to control the soldiers. He was tough on the rules and he always wanted things done according to the schedule. For example, going to collect food he would come up with tough orders to go and collect food. That, according to me, is how a leader is changed because of the responsibilities that he has. That's what I know about Dominic.<sup>6779</sup>

2507.P-0231 testified:

I lived with Dominic for quite a long time. I know a lot about him. He also knows a lot about me. In terms of relations to people, talking to people, command in the army, Dominic is very well acquainted. He is very well – he is very good at it and he knows how to speak to his soldiers. I have to speak openly without fear that Dominic, when it comes to military matters, he is very knowledgeable.

My stay with him for the time I was with him, even when government soldiers learned that this is Dominic's group, they know very well if you follow them, there will be fierce battle. That is what was – that is what was happening when I was with Dominic. So for that matter, the government soldiers would rarely follow us. If they want to fight us, they would ambush us.

Dominic is one person who does not give out arbitrary orders. Even when his superior gives an order, for the time that I was with him, if any message comes to him for an operation, he would invite all the officers and will explain to them the particular nature of the operation.<sup>6780</sup>

2508.P-0205 testified that Dominic Ongwen was 'nice', 'straightforward' and that he 'cared about people'.<sup>6781</sup>

2509.P-0264 testified that among the LRA commanders that he met, Dominic Ongwen was a 'good person'.<sup>6782</sup> He stated that Dominic Ongwen 'always encouraged his soldiers', that '[e]ven a soldier who was frightened [would] be able to participate', and that 'whenever he gives instructions, people work accordingly'.<sup>6783</sup>

2510.Daniel Opiyo gave the following answer when asked to explain his opinion of Dominic Ongwen as a caring and empathetic leader:

When I was in the sickbay, or when I was in the convoy moving together with him in Uganda, Dominic was not segregative. He would eat freely, dine together with the young officers. Unlike other senior commanders who would not dine with other lower ranking officers, he would do that very freely. He would chat very freely with his people, unlike the other commanders.

<sup>6779</sup> P-0142: [T-73](#), p. 16, lines 2-22.

<sup>6780</sup> P-0231: [T-123](#), p. 81, line 22 – p. 82, line 18.

<sup>6781</sup> P-0205: T-51-CONF, p. 35, lines 2-8.

<sup>6782</sup> P-0264: [T-64](#), p. 86, lines 18-21.

<sup>6783</sup> P-0264: [T-64](#), p. 87, lines 4-8.

If you are walking in the convoy he would also share – eats with his ordinary soldiers. That’s why he was highly loved by his people and he was also a very loving person. He was a simple commander, very relaxed and easy to work with. Those are the kind of things I observed.

You know, children, including myself, I loved that kind of life because it made life easier.<sup>6784</sup>

2511. When questioned about Dominic Ongwen’s bravery, Daniel Opiyo stated that ‘not just him but many other commanders had the same skills and braveness’, but that Dominic Ongwen distinguished himself as being one who ‘would only do what he knew he could accomplish’, and that ‘if he knew something was going to bring problems for his soldiers, he would not engage in, and that’s why his soldiers loved him’.<sup>6785</sup>

2512. Joseph Okilan described Dominic Ongwen’s personality as follows:

Ongwen was a happy man, talkative, never got angry and he was always joking. He was also a very easy man to deal with and he was very playful, always wanting to play around.<sup>6786</sup>

2513. D-0026 testified:

What I can say about the character of Dominic Ongwen, I’m basing on my interactions with him and how I used to observe him lead his life, he was a person who loved to joke. He was a carefree person. Even at that time when he was at that rank, he would take his time to come and sit down with the other junior people, people who were not at his rank. He would enact with them, interface with them and joke with them a lot of times. He would even play games, would play cards with them, together with the young ones instead. That was what I witnessed when he was there, that was his character. He – he led a kind of childish life. He had a lot of jokes and fun making. That was what I saw about him. [...]

I mean to say that he was a very simple person, who was down to earth. For instance, if he was in the position of a BM, going down to sit with the people at the coy, if it’s not for a person who love other people, would not come down to that level, but because of his love for the people, that is why he would come down to that level and stay with those people as well.<sup>6787</sup>

2514. D-0027 stated:

Dominic was liked by so many people. And just like I told you earlier, his lifestyle didn’t change. He was easily likeable, everyone liked him, the young, the old. Even

<sup>6784</sup> D-0056: [T-229](#), p. 32, line 22 – p. 33, line 11.

<sup>6785</sup> D-0056: [T-229](#), p. 33, lines 17-23.

<sup>6786</sup> D-0019: [T-236](#), p. 32, lines 3-7.

<sup>6787</sup> D-0026: [T-191](#), p. 33, lines 6-24.

personally, when I met him the last time, he was a bigger commander. But when I met him we stayed together, we chatted and spent a lot of time together, we talked about so many things. And what I know is his life didn't change, his lifestyle didn't change. He loved people and people liked him as well.<sup>6788</sup>

2515.D-0118 described Dominic Ongwen as a person who 'used to talk to everyone very freely' and for this reason referred to him as a 'loving person'.<sup>6789</sup>

2516.D-0032 also described Dominic Ongwen as a skilled fighter, emphasising that Dominic Ongwen 'really, really knew how to take good care of his soldiers'.<sup>6790</sup>

2517. The Chamber considers that the above witnesses, who spent a considerable period of time in close proximity of Dominic Ongwen, living and fighting alongside him, were well placed to make these observations. These witnesses, when prompted by general, even very broad questions about Dominic Ongwen or his personality, did not provide answers indicating any particularity which could represent a symptom of the mental disorders under discussion. As a result of the very general questions put to them, the answers of the witnesses were spontaneous and, thus, reliable. The testimonies of many witnesses are also all strikingly coherent, and as such they weigh heavily in the Chamber's assessment.

2518. Furthermore, as discussed above, Professor Mezey testified that she considered the evidence from the trial presented to her by the Prosecution, which consisted of witness testimonies during trial, and found no suggestion of mental instability or behaviours that might amount to instability.<sup>6791</sup> Professor Weierstall-Pust, who also reviewed witness testimonies on record, also opined that they presented a coherent picture contradicting the clinical picture he 'would expect on a severely – for example, depressed or traumatised individual'.<sup>6792</sup> A strong link of corroboration therefore exists between the witness evidence from the trial, and the expert evidence relied on by the Chamber.

2519. The Chamber further notes that nothing in the testimonies of P-0099, P-0101, P-0214, P-0226, P-0227, P-0235 or P-0236 indicates that these women, who were, as discussed above, held as so-called 'wives' or otherwise captive in Dominic Ongwen's immediate

<sup>6788</sup> D-0027: [T-202](#), p. 46, lines 3-11.

<sup>6789</sup> D-0118: [T-216](#), p. 31, line 25 – p. 32, line 6.

<sup>6790</sup> D-0032: [T-201](#), p. 5, lines 5-17.

<sup>6791</sup> P-0446: [T-162](#), p. 51, lines 1-14. *See also* para. 2473 above.

<sup>6792</sup> P-0447: [T-252](#), p. 34, line 24 – p. 35, line 1.

proximity at various times over the course of around 20 years, observed behaviour on the part of Dominic Ongwen suggestive of a mental disease or defect. P-0214 testified that Dominic Ongwen ‘was taking care of us properly’, and that he used to treat ‘us’ ‘equally’ and ‘well’.<sup>6793</sup> P-0235 described Dominic Ongwen as cooperative and a ‘good man’.<sup>6794</sup> Finally in this regard, the Chamber notes that no indication of a mental disease or defect come out during the testimony of Florence Ayot, who described Dominic Ongwen as ‘nice’, ‘sociable’ and ‘just’.<sup>6795</sup>

2520. Moreover, and equally importantly, above in its analysis of the evidence relating to the charged crimes, the Chamber also assessed the evidence and made numerous conclusions in relation to the conduct of Dominic Ongwen.<sup>6796</sup> This evidence is of great importance also for assessing whether there is a possibility that, at the time, Dominic Ongwen suffered from a mental disease or defect. The Chamber finds it significant that the large number of witnesses who described Dominic Ongwen’s actions and interactions with others, at various times relevant to the charges and in numerous contexts, did not provide any testimony which could corroborate a historical diagnosis of mental disease or defect.

2521. The Chamber notes in particular that many of the actions undertaken by Dominic Ongwen, as found by the Chamber, involved careful planning of complex operations, which is incompatible with a mental disorder. Indeed, Professor Mezey stated:

[B]ehaviour that is planned, behaviour that appears to be motivated and premeditated is highly unlikely to represent the sort of automatic motiveless actions that are typically associated with a dissociative state or other severe mental health conditions. And referring back to the attacks, all four of the attacks, and confirmed by many of the extracts from the transcripts, appear from the accounts to have been determined and carried out through the instructions of Mr Ongwen. So they appear to have been planned and premeditated, rather than impulsive and out of the blue, if I can put it that way.<sup>6797</sup>

<sup>6793</sup> P-0214: T-15-CONF, p. 41, lines 18-23.

<sup>6794</sup> P-0235: T-17-CONF, p. 70, line 15 – p. 71, line 6.

<sup>6795</sup> D-0013: [T-245](#), p. 4, lines 14-21.

<sup>6796</sup> See section IV.C above.

<sup>6797</sup> P-0446: [T-163](#), p. 9, line 21 – p. 10, line 6. Dr Abbo and Professor Weierstall-Pust provided similar testimony, see P-0445: [T-166](#), p. 36, lines 6-8. See also P-0445: [T-166](#), p. 32, lines 12-24, p. 35, line 23 – p. 36, line 5; P-0447: [T-169](#), p. 36, line 14 – p. 37, line 3; [T-252](#), p. 24, lines 8-10.

*iv. Expert evidence of Professor Ovuga and Dr Akena*

2522. The Chamber turns now to the evidence provided by Professor Emilio Ovuga, of Gulu University, Uganda, and Dr Dickens Akena, Lecturer at Makerere University, Uganda. Their evidence includes a joint first undated report,<sup>6798</sup> a joint second report dated 28 June 2018,<sup>6799</sup> as well as testimony provided in court.<sup>6800</sup>

2523. The Chamber notes that Professor Weierstall-Pust prepared a rebuttal report in relation to the evidence of Professor Ovuga and Dr Akena and gave testimony in court,<sup>6801</sup> whereupon Professor Ovuga prepared a rejoinder report and also testified again.<sup>6802</sup> There exists a dispute between the parties as to the validity of the diagnoses put forward by Dr Akena and Professor Ovuga.

2524. The first report was based on a series of interviews Professor Ovuga and Dr Akena held with Dominic Ongwen at the Detention Centre of the Court, a meeting with the clinical psychologist, clinical notes, and on ‘in-depth interviews with four of Mr Ongwen’s close associates’.<sup>6803</sup> It provides conclusions on the ‘prevailing mental state of Mr Dominic Ongwen’, adding that, in the opinion of the authors, the mental state described ‘dated back from the time when [Dominic Ongwen] was abducted’.<sup>6804</sup> The report states that ‘[t]he predominant mental state of Mr Dominic Ongwen is characterized by depressed mood and intense suicidal feelings, urges and verbalizations as well as features of dissociative disorder’, and then devotes a short section each to ‘depressed mood’, ‘posttraumatic stress disorder’, ‘dissociative disorder’ and ‘suicidal thoughts, urges and attempts’, without, however, clearly articulating any diagnosis of a mental disease or defect.<sup>6805</sup> The diagnoses appear then in the concluding section of the report (‘Recommendations’), where it is stated: ‘Mr Ongwen suffers from severe depressive illness, posttraumatic stress disorder (PTSD), and dissociative disorder.’<sup>6806</sup> A structured

<sup>6798</sup> See UGA-D26-0015-0004. Based on the dates of interviews with Dominic Ongwen given in the report, it can be concluded that it was written sometime after 4 November 2016.

<sup>6799</sup> See UGA-D26-0015-0948.

<sup>6800</sup> [T-248](#); [T-249](#) (Dr Akena); [T-250](#); [T-251](#) (Professor Ovuga).

<sup>6801</sup> See UGA-OTP-0287-0072; [T-252](#); [T-253](#).

<sup>6802</sup> See UGA-D26-0015-1574; [T-254](#); [T-255](#).

<sup>6803</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0004-05. See also Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0020-23.

<sup>6804</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0013.

<sup>6805</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0013-14.

<sup>6806</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0017.

examination of the criteria for each diagnosis is not present. Further, in what is *prima facie* manifestly beyond the scope of the role of experts in criminal proceedings, the report states: ‘In our considered opinion, Mr Dominic Ongwen is not criminally liable for his actions while he was in the bush’.<sup>6807</sup> The report states to base this conclusion on ‘the clinical findings of significant episodes of dissociation, depression and post-traumatic stress disorder’.<sup>6808</sup> The report concludes by providing a series of recommendations for treatment.<sup>6809</sup>

2525. The second report of Professor Ovuga and Dr Akena was exclusively based on interviews with Dominic Ongwen,<sup>6810</sup> and was, according to the report itself, ‘prepared for consideration alongside our first report’.<sup>6811</sup> Following two sections devoted, respectively, to ‘psychiatric history’ and ‘mental status examination’, the report schematically presents five diagnoses: (i) ‘Dissociative Identity Disorder (Multiple episodes)’; (ii) ‘Dissociative Amnesia’, (iii) ‘Posttraumatic Stress Disorder’; (iv) ‘Depressive Disorder’; and (v) ‘Symptoms of obsessive compulsive Disorder’.<sup>6812</sup> A diagnosis as to these five mental conditions is also the main conclusion of the report.<sup>6813</sup> At the end of the report, recommendations are again listed ‘in order to facilitate [Dominic Ongwen’s] rehabilitation into a useful adult post-conflict’.<sup>6814</sup>

2526. Prior to the two formal reports, Professor Ovuga and Dr Akena also prepared a ‘Brief Medical Report for Dominic Ongwen’, dated 9 February 2016.<sup>6815</sup> It is noted that the report is accompanied by an ‘[i]mportant notice’, stating that it is ‘written in medical language, and is only suitable for medical and not legal purposes’.<sup>6816</sup> It is also stated in the introduction that the aim was to ‘report the history of the presenting complaints in the last one year, for the sole reason of getting the client to access medical help’.<sup>6817</sup> However, it is noted that the scope of the report partly overlaps with the two formal reports prepared

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<sup>6807</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0015.

<sup>6808</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0016.

<sup>6809</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0018.

<sup>6810</sup> See Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0973-74.

<sup>6811</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0949.

<sup>6812</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0971-72. See also Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0951-70.

<sup>6813</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0974.

<sup>6814</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0980.

<sup>6815</sup> See Brief Medical Report for Dominic Ongwen, UGA-D26-0015-0154.

<sup>6816</sup> Brief Medical Report for Dominic Ongwen, UGA-D26-0015-0154, at 0154.

<sup>6817</sup> Brief Medical Report for Dominic Ongwen, UGA-D26-0015-0154, at 0154.

by Professor Ovuga and Dr Akena. Similarly, Professor Ovuga and Dr Akena prepared a ‘Supplemental Report’, dated 25 January 2019.<sup>6818</sup> This report, according to the information contained therein, was prepared following a request by the Defence of Dominic Ongwen to ‘assess Mr. Ongwen’s current mental status’, ‘determine if Mr. Ongwen is able to participate in the proceedings of his trial at the International Criminal Court’, and ‘make recommendations based on the results of mental status assessment’.<sup>6819</sup> Accordingly, also this report had a substantially different purpose than the two formal reports prepared for determination of the issue at hand.

2527. A number of issues, in particular as concerns the methodology employed, affect the reliability of the evidence provided by Professor Ovuga and Dr Akena, to the extent that the Chamber cannot rely on it. These issues were discussed extensively during the trial, including, as already stated above, through rebuttal and rejoinder reports and testimony.

2528. First, the Prosecution correctly submits that the ‘blurring of [Professor Ovuga and Dr Akena’s] role as both treating physicians and forensic experts has led to a loss of objectivity on their part’.<sup>6820</sup>

2529. That Professor Ovuga and Dr Akena concerned themselves not only with a forensic examination to assist the Chamber in its determination under Article 31(1)(a) of the Statute, but also with identifying recommendations for the treatment of the current mental conditions of Dominic Ongwen which they identified, is manifest from the face of their reports, as summarised above. Moreover, Dr Akena stated that he and Professor Ovuga established a ‘therapeutic alliance with the client’.<sup>6821</sup> He also accepted the suggestion by Prosecution counsel that as a treating physician, it is his duty to the person he is treating to attempt to secure for them the treatment which will be of greatest benefit to their health.<sup>6822</sup>

2530. In his rebuttal report, Professor Weierstall-Pust wrote that he suspected ‘fundamental confusion, as between the role of treating physicians and forensic experts’, which in his

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<sup>6818</sup> Supplemental Report of 25 January 2019, UGA-D26-0015-1219-R01.

<sup>6819</sup> Supplemental Report of 25 January 2019, UGA-D26-0015-1219-R01, at 1219.

<sup>6820</sup> [Prosecution Closing Brief](#), para. 374.

<sup>6821</sup> D-0041: [T-248](#), p. 87, line 17 – p. 88, line 9.

<sup>6822</sup> D-0041: [T-249](#), p. 29, line 24 – p. 30, line 2.

opinion may have been one reason for what he termed ‘the vast amount of shortcomings in the report of [Professor Ovuga and Dr Akena]’.<sup>6823</sup>

2531. In the assessment of the Chamber, there is an inherent incompatibility between the duties of a treating physician and the duties of a forensic expert. The duty of a treating doctor is primarily towards the patient, whereas an expert engaged by a court for a forensic examination is primarily in the service of the court. It is not in the role of a forensic expert to sustain a relationship of trust and confidence with the person to be examined for the court, and the expert must in fact take care to remain as objective and detached as possible. The blurring of these roles in the evidence of Professor Ovuga and Dr Akena is a factor which as such negatively affects the reliability of the reports they prepared as evidence in this case.

2532. Second, Professor Weierstall-Pust identified in his rebuttal report a number of issues where, in his opinion, Professor Ovuga and Dr Akena failed to apply scientifically validated methods and tools for use as a basis for a forensic report.<sup>6824</sup> He criticised Professor Ovuga and Dr Akena’s use of open-ended questions and stated that their approach of avoiding giving clues about the nature of information they were interested in was inadequate and not supported by scientific literature as a method to rule out malingering.<sup>6825</sup> He similarly criticised the decision by Professor Ovuga and Dr Akena not to use structured rating scales, stating instead that their use is recommended in scientific literature.<sup>6826</sup> The essence of Professor Weierstall-Pust’s opinion in this regard is his criticism of Professor Ovuga and Dr Akena’s exclusive reliance on the clinical interview, and the failure to ‘make use of the wealth of assessment recommendations from the scientific literature [and to] utilize multiple sources of information as recommended in guidelines and publications’.<sup>6827</sup> Separately, Professor Weierstall-Pust also identified as problematic the lack of a clear distinction between data on the one hand, and inferences and opinions on the other hand.<sup>6828</sup>

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<sup>6823</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0097.

<sup>6824</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0076-77.

<sup>6825</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0076. *See* Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0950.

<sup>6826</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0077.

<sup>6827</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0077.

<sup>6828</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0077-78.

2533. Professor Weierstall-Pust also criticised the work of Professor Ovuga and Dr Akena on the ground that they used diagnostic labels from an outdated international classification system, i.e. DSM-IV, rather than DSM-5.<sup>6829</sup> In this context, the Chamber notes that Professor Ovuga and Dr Akena explained their choice in the Second Report by stating that they ‘present the summary of diagnoses using DSM-IV-TR to ease understanding of the psychiatric problems we identified’.<sup>6830</sup>

2534. Professor Weierstall-Pust further explained that the DSM provides a ‘syndromal model’ to categorise mental disorders, meaning that each disorder is defined by clusters of relevant symptoms: a diagnosis is made when a patient demonstrates a certain number of symptoms within the criteria of the syndrome.<sup>6831</sup> He took issue with Dr Akena’s statement that ‘the diagnosis of mental illness doesn’t rely squarely on the core symptoms’.<sup>6832</sup> Additionally, Professor Weierstall-Pust provided detailed critique of each of the diagnoses put forward by Professor Ovuga and Dr Akena.<sup>6833</sup>

2535. Noting also some of the alleged deficiencies in the reports which are discussed specifically below, the Chamber considers that major doubts exist as to the validity of the methods employed by Professor Ovuga and Dr Akena. The heavy reliance on the clinical interview, disregarding the evidence from the trial, is striking, as is the scepticism expressed by Professor Ovuga and Dr Akena towards other methods, which Professor Weierstall-Pust sufficiently demonstrated to be standard. Furthermore, the explanation provided in the Second Report for the use of DSM-IV rather than DSM-5 is entirely unconvincing as it is illogical to use an outdated system merely on the ground that it may arguably be easier to understand. As experts, Professor Ovuga and Dr Akena had the opportunity, and the role, to provide all necessary explanation.

2536. Third, and relatedly, there are unexplained contradictions in the evidence of Professor Ovuga and Dr Akena between the various statements and observations made, or between such statements and observations and the conclusions finally drawn. In this regard, the Chamber accepts the submission of the Prosecution that the symptoms recorded in the

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<sup>6829</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0078. It is noted that the commonly used acronym DSM stands for ‘diagnostic and statistical manual for mental disorders’.

<sup>6830</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0971.

<sup>6831</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0078, referring directly to scientific literature.

<sup>6832</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0079. *See* D-0041: [T-248](#), p. 46, lines 10-11.

<sup>6833</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0082-96.

reports of Professor Ovuga and Dr Akena are ‘sometimes incoherent’ and the diagnoses ‘inconsistent’.<sup>6834</sup> The Chamber also notes that this was also the general assessment of Professor Weierstall-Pust.<sup>6835</sup>

2537. Turning to particulars, there are a number of internal contradictions in Professor Ovuga and Dr Akena’s Second Report. Dominic Ongwen is recorded as ‘report[ing] persistent sadness to an extent that he says he forgot to be happy or smile for many years’, but his mood is assessed as ‘happy’ during the clinical interview on 17 April 2018, and generally during Professor Ovuga and Dr Akena’s interactions with Dominic Ongwen as ‘subdued [...] alternating with happiness, excitement and sense of satisfaction’.<sup>6836</sup> Similarly, the same report states that Dominic Ongwen ‘suffered severe distress and psychosocial impairment to the extent that his depressed mood and split personality interfered with his ability to follow court proceedings and appreciate the significance of the trial’, as well as that ‘Mr. Ongwen seemed to have been well informed about our visit, and was positive about it’.<sup>6837</sup> Professor Ovuga stated in the Rejoinder Report that Dominic Ongwen was ‘masking symptoms’ when presenting happy,<sup>6838</sup> but given that this is not specifically explained in the original report, the ex-post explanation is unconvincing.

2538. The Chamber is also entirely unpersuaded by Professor Ovuga and Dr Akena’s contradictory claim that they identified suicidal tendencies in Dominic Ongwen, including referring to the occurrence of ‘8 suicide attempts with the intention to die’,<sup>6839</sup> and that, at the same time, many of Dominic Ongwen’s actions were motivated by survival instinct.<sup>6840</sup> Whereas the Chamber does not exclude in principle that a person may simultaneously have suicidal tendencies and a strong survival instinct, the contradiction lies in the fact that in expert evidence of Professor Ovuga and Dr Akena they are put forward as the reason for essentially the same type of acts. Indeed, Professor Ovuga and Dr Akena claimed in their first report that Dominic Ongwen went to battle

<sup>6834</sup> [Prosecution Closing Brief](#), para. 374.

<sup>6835</sup> P-0447: [T-252](#), p. 15, lines 9-24.

<sup>6836</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0951, 0961-62. *See also* Rebuttal Report, UGA-OTP-0287-0072, at 0081.

<sup>6837</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0950, 0970. *See also* Rebuttal Report, UGA-OTP-0287-0072, at 0081.

<sup>6838</sup> *See* Rejoinder Report, UGA-D26-0015-1574, at 1578.

<sup>6839</sup> *See* Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0009. *See also* Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0957.

<sup>6840</sup> *See* D-0042: [T-250](#), p. 37, lines 18-19.

with the intent to get killed by enemy forces,<sup>6841</sup> while Professor Ovuga also testified that, due to his obsessive-compulsive disorder, ‘Mr Ongwen would feel or experience the smell of blood, gun powder and then a premonition that they were being attacked’, as a result of which ‘he would organise his forces to ward off an attack’.<sup>6842</sup> It is nowhere clarified whether Professor Ovuga and Dr Akena ever tried to explore with Dominic Ongwen at what time or on which occasions he acted out of one or the other motivation.

2539. Furthermore, in court Professor Ovuga gave contradictory evidence on the issue whether the presence of a mental disorder does or does not militate against careful planning, saying first that it did and subsequently that it did not necessarily.<sup>6843</sup> He also simultaneously claimed both that Dominic Ongwen’s psychological and cognitive development was arrested at a sensitive period in his development and growth, at about between 8 and 10 years, and that he possessed cognitive ability that allowed him to discuss with other people important tactical matters.<sup>6844</sup> The wholly unsubstantiated claim of the Defence that Dominic Ongwen’s cognitive abilities were ‘uneven’, made in the context of discussion whether mental illness leads to dysfunctionality, does not solve this contradiction.<sup>6845</sup>

2540. Turning to the contradictions between the statements and observations made by the Defence experts and their conclusions, the Chamber notes, as pointed out by the Prosecution,<sup>6846</sup> that there is a contradiction between the finding that Dominic Ongwen had good long term memory and ‘had no amnesia of the events that happened while in the LRA ranks’, which appears in the Brief Report of February 2016,<sup>6847</sup> and the diagnosis of dissociative identity disorder. This is because one of the symptoms of the latter is amnesia in the form of ‘gaps in the recall of everyday events, important personal information and/or traumatic events that are inconsistent with ordinary forgetting’.<sup>6848</sup>

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<sup>6841</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0009.

<sup>6842</sup> D-0042: [T-250](#), p. 37, lines 13-16.

<sup>6843</sup> D-0042: [T-251](#), p. 72, line 25 – p. 73, line 5, p. 76, lines 1-7. On this point, *see also* para. 2520 above.

<sup>6844</sup> D-0042: [T-255](#), p. 7, lines 15-23, p. 14, lines 12-17.

<sup>6845</sup> [Defence Closing Brief](#), para. 643.

<sup>6846</sup> [Prosecution Closing Brief](#), para. 417.

<sup>6847</sup> Brief Medical Report for Dominic Ongwen, UGA-D26-0015-0154, at 0155.

<sup>6848</sup> Book extract, UGA-OTP-0287-0032, at 0033. *See also* Professor Mezey’s Report, UGA-OTP-0280-0786, at 0802; Rebuttal Report, UGA-OTP-0287-0072, at 0083.

This statement also directly contradicts the diagnosis of dissociative amnesia, also put forward by Professor Ovuga and Dr Akena.

2541. Further, Professor Weierstall-Pust also noted that Professor Ovuga and Dr Akena's statement that Dominic Ongwen appeared for the clinical interview 'dressed smartly', 'in a happy mood', and was able to follow the interview for three hours, 'contradicts the clinical picture of a person suffering from a severe mental disorder'.<sup>6849</sup>

2542. Specifically in relation to dissociative identity disorder, Professor Ovuga stated that other persons around Dominic Ongwen not noticing any manifestation of the disorder may be explained by Dominic Ongwen's 'cop[ing]' and disguising one of the two identities.<sup>6850</sup> However, Professor Weierstall-Pust explained that it has been described in scientific literature that 'the ability to initiate and end dissociative states is one of the core features to differentiate between health and pathological states'.<sup>6851</sup> The first diagnostic criterion under the DSM-5 also states that the two or more identities of personality states must 'involve a marked discontinuity in sense of self and sense of agency, accompanied by related alterations in affect, behaviour, consciousness, memory, perception, cognition, and/or sensory-motor functioning'.<sup>6852</sup> As is evidenced from the analysis above, there are no indicia for such discontinuity in the evidence obtained during the trial.<sup>6853</sup>

2543. Professor Ovuga and Dr Akena's Second Report diagnosed, *inter alia*, PTSD and dissociative amnesia, a symptom of the former being re-experience of the traumatic events, and a symptom of the latter the loss of memory.<sup>6854</sup> In court, Dr Akena acknowledged that the two were in contradiction, and stated that this was 'the beauty of mental health' and 'the beauty of psychiatry'.<sup>6855</sup> He also stated that the symptoms of mental disorders needed to be interpreted in context.<sup>6856</sup> The Chamber accepts that, in principle, there may be symptoms that at first sight appear incompatible, but can be

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<sup>6849</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0081. *See also* Professor Ovuga and Dr Akena's Second Report, UGA-D26-0015-0948, at 0961.

<sup>6850</sup> D-0042: [T-251](#), p. 30, line 3 – p. 31, line 8.

<sup>6851</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0084.

<sup>6852</sup> Book extract, UGA-OTP-0287-0032, at 0033. *See also* Rebuttal Report, UGA-OTP-0287-0072, at 0083.

<sup>6853</sup> *See* section IV.D.1.iii.

<sup>6854</sup> Professor Ovuga and Dr Akena's Second Report, UGA-D26-0015-0948, at 0971.

<sup>6855</sup> D-0041: [T-249](#), p. 99, lines 9-25.

<sup>6856</sup> D-0041: [T-249](#), p. 100, lines 4-8.

explained. Such interpretation in context is, however, not found in the Second Report, which presents the two contradictory findings in isolation of each other.

2544. The Chamber appreciates that mental health assessments may ordinarily have to process contradictory information, and that the presence of contradictory information as such does not invalidate any conclusions. However, in the present case, the identified contradictions are major and readily apparent. Yet, they are not sufficiently, or at all, acknowledged and explained by Professor Ovuga and Dr Akena. This represents a further factor militating against relying on their conclusions.

2545. Fourth, it is the assessment of the Chamber that Professor Ovuga and Dr Akena, in their work for the purposes of this trial, failed to take into account other sources of information about Dominic Ongwen which were readily available to them. This is an unjustifiable and fundamental failure that in itself invalidates the conclusions put forward by Professor Ovuga and Dr Akena. As observed above, the failure to consider corroborative sources is also in contradiction with the evidence of Professor Ovuga and Dr Akena to the effect that others interacting with the person under examination at the relevant time would have noted at least some symptoms of the mental disorders in question.<sup>6857</sup>

2546. The Chamber notes at this juncture that there is no dispute in the case as to the usefulness of a clinical interview in diagnosing a mental disease and effect. The Defence argument that Professor Mezey ‘not only failed to acknowledge it as a “missing” element in her conclusions, [but] claimed that this was an “advantage”’ is premised on an obvious misrepresentation of the evidence of Professor Mezey in court.<sup>6858</sup> During her testimony, Professor Mezey first testified that ‘[i]t would have been desirable to assess Mr Ongwen because there are a number of matters that I would have wanted to put to him’ and noted that this could not be done.<sup>6859</sup> Only after having stated this, Professor Mezey continued that she however, ‘had the advantage of being provided with an enormous bundle of documentation’.<sup>6860</sup> This statement cannot be interpreted as meaning that Professor Mezey found the absence of the interview with Dominic Ongwen to be an advantage in itself.

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<sup>6857</sup> See para. 2500 above.

<sup>6858</sup> See [Defence Closing Brief](#), para. 656. See also paras 872-873 above.

<sup>6859</sup> P-0446: [T-162](#), p. 17, lines 11-14.

<sup>6860</sup> P-0446: [T-162](#), p. 17, lines 15-16.

2547. However, an interview with the concerned person, while being important, does not make any further additional information superfluous. Professor Weierstall-Pust stated in his rebuttal report that ‘[i]t is widely accepted that especially in the case of an insanity defence, collateral information is required to adequately assess potential impairments’.<sup>6861</sup> He takes issue with Professor Ovuga and Dr Akena’s claim that they were unable to access any source of collateral information, stating that ‘there would have been a sufficient amount of collateral information from testimonies of victims, close associates or other court examination available’.<sup>6862</sup> Moreover, Professor Weierstall-Pust stated that ‘[t]hese documents reveal a vast amount of inconsistencies that would have had to be considered and thoroughly discussed’.<sup>6863</sup>

2548. As a general consideration, Professor Ovuga accepted that it is important to corroborate the account given by the accused person, and that one of the ways to do so is by accounts of people who were close to them at the time of the alleged crime.<sup>6864</sup> Already on this basis, the failure of Professor Ovuga and Dr Akena to consider the corroborating material reveals itself as striking.

2549. Dr Akena claimed that he and Professor Ovuga sought corroborative sources ‘to the best of [their] abilities’,<sup>6865</sup> an assertion that the Chamber finds entirely unconvincing, based on the evident failure to consider the available material. Indeed, despite this assertion, Dr Akena readily conceded that the narrative of Dominic Ongwen having attempted suicide eight times was based exclusively on what Dominic Ongwen told him and Professor Ovuga.<sup>6866</sup> They did not seek to verify the claims against the evidence of witnesses who interacted with Dominic Ongwen at the time, and could have observed pertinent facts. Both Dr Akena and Professor Ovuga also explicitly confirmed that they did not look for any sources of corroboration for Dominic Ongwen’s own reports of how his colleagues interpreted his behaviour related to his experience of two different personalities.<sup>6867</sup> In relation to another specific fact, which is Dominic Ongwen’s reporting of the words he said to Professor Mezey during an incident in the courtroom, Dr Akena stated that they

<sup>6861</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0080.

<sup>6862</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0080.

<sup>6863</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0080.

<sup>6864</sup> D-0042: [T-251](#), p. 3, line 18 – p. 4, line 5.

<sup>6865</sup> D-0041: [T-249](#), p. 34, lines 2-6.

<sup>6866</sup> D-0041: [T-249](#), p. 34, line 9 – p. 35, line 10.

<sup>6867</sup> D-0041: [T-249](#), p. 96, line 21 – p. 97, line 4; D-0042: [T-251](#), p. 27, lines 12-20.

asked the Defence for the transcript of the hearing but did not obtain it.<sup>6868</sup> The Chamber is not persuaded by this explanation, which, in any event, is also not included in the report where it should have been recorded.

2550. The Prosecution also submitted that the evidence of Professor Ovuga and Dr Akena is affected by their failure to engage seriously with the clinical notes of the Detention Centre psychiatrist.<sup>6869</sup> Professor Weierstall-Pust similarly stated that ‘[t]he DC experts were the treating mental health experts and to dismiss their qualified professional views formed over time without discussion is inappropriate’.<sup>6870</sup> Professor Ovuga and Dr Akena indicated in their first report having been informed of the content of the clinical notes and having had the ‘impression’ that what they heard was ‘to a large extent similar’ to the information they had.<sup>6871</sup> Yet the report itself does not include any further discussion of the information contained in the clinical notes. More importantly, having been confronted with some of the clinical notes the content of which seemed to contradict the diagnoses made by the Defence experts, Dr Akena suggested that ‘clinical notes are written differently from notes that are written for other purposes’, and that they record the patient’s state at a given moment, without ‘point[ing] too much towards how well the patient was functioning per se’.<sup>6872</sup> The Chamber finds this explanation, and in fact deviation from what seemed to be the initial position on the clinical notes in the First Report, unpersuasive. In the view of the Chamber, the failure of Professor Ovuga and Dr Akena to engage in a detailed discussion of the content of the clinical notes is not justifiable.

2551. But even more importantly, Professor Ovuga and Dr Akena did not consider, or seek to consider, for their examination the evidence obtained during the trial. The crucial character of that evidence for the conclusions on the issue of the purported presence of mental disorders in Dominic Ongwen is explained above.<sup>6873</sup> In this regard, it is noted that Professor Ovuga and Dr Akena themselves conducted ‘in-depth interviews with four

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<sup>6868</sup> D-0041: T-249-CONF, p. 36, line 3 – p. 40, line 4. *See also* Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0953.

<sup>6869</sup> [Prosecution Closing Brief](#), para. 393. *See also* D-0041: [T-249](#), p. 50, line 12 – p. 58, line 10.

<sup>6870</sup> Rebuttal Report, UGA-OTP-0287-0072, at 0081.

<sup>6871</sup> Professor Ovuga and Dr Akena’s First Report, UGA-D26-0015-0004, at 0005.

<sup>6872</sup> D-0041: [T-249](#), p. 12, lines 15-24. *See also* p. 57, line 5 – p. 58, line 10.

<sup>6873</sup> *See* section IV.D.1.iii.

of Mr Ongwen's close associates' before the production of their first report.<sup>6874</sup> This means that they accepted that persons who interacted with Dominic Ongwen could provide relevant collateral information.

2552. In this context, the Chamber finds entirely unpersuasive Professor Ovuga's explanation in the Rejoinder Report to the effect that '[a] number of psychiatrists practice mental health in settings where collateral history is difficult to get', given that during the trial in this case relevant information was collected from witnesses under oath, or the further self-contradictory assertion that Professor Ovuga and Dr Akena attempted to obtain the clinical notes of the treating psychiatrist but their request was 'declined, at least initially'.<sup>6875</sup>

2553. It is noted that prior to the preparation of their first report, Professor Ovuga and Dr Akena conducted four 'collateral interviews' with persons identified by the Defence as having been close to Dominic Ongwen while he was in the LRA.<sup>6876</sup> However, this is not determinative, as the issue at hand, as explained, is in their failure to take into account other sources of information and evidence about Dominic Ongwen which were readily available to them. In any case, the corroborative character of this information is questionable. Indeed, the report refers to 'witnesses', which the Chamber understands to be a reference to the collateral interviews, for their description of Dominic Ongwen as a diligent fearless fighter, and also kind, likable and being a good administrator, and someone who 'liked to counsel those in trouble and [...] was not a vicious person toward his colleagues'.<sup>6877</sup> Other than that, a 'witness' is cited in the first report only one other time, for the proposition that brutal measures were implemented in the LRA to prevent escape.<sup>6878</sup> The second report does not refer to the collateral interviews.

2554. Whereas the methodological shortcomings of the evidence of Professor Ovuga and Dr Akena, in the sense that they did not properly consider corroborative sources, is an issue affecting the reliability of their evidence in and of itself, the Chamber also notes that, as

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<sup>6874</sup> Professor Ovuga and Dr Akena's First Report, UGA-D26-0015-0004, at 0005. *See also* Professor Ovuga and Dr Akena's First Report, UGA-D26-0015-0004, at 0020-23; D-0041: [T-248](#), p. 37, lines 15-21.

<sup>6875</sup> *See* Rejoinder Report, UGA-D26-0015-1574, at 1576.

<sup>6876</sup> *See* Professor Ovuga and Dr Akena's First Report, UGA-D26-0015-0004, at 0020-23.

<sup>6877</sup> Professor Ovuga and Dr Akena's First Report, UGA-D26-0015-0004, at 0010. *See also* Professor Ovuga and Dr Akena's First Report, UGA-D26-0015-0004, at 0022.

<sup>6878</sup> Professor Ovuga and Dr Akena's First Report, UGA-D26-0015-0004, at 0012.

explained above, various sources of reliable information, each within their specific context, overwhelmingly establish a picture incompatible with the conclusion that Dominic Ongwen suffered from a mental disease or defect at any time relevant to the charges.<sup>6879</sup>

2555. This was discussed with Professor Ovuga and Dr Akena. In particular, Professor Ovuga pointed to the phenomenon of masked depression as the reason why ‘there should be no surprise that people close to or in his – under his control could not tell the difference between what is normal and what is not normal’.<sup>6880</sup> Dr Akena’s evidence was more nuanced, as he stated that ‘it’s possible to mask symptoms of psychological distress, although not for long’.<sup>6881</sup>

2556. Indeed, the Chamber finds the possibility that Dominic Ongwen was able to successfully hide from the persons around him the symptoms of his mental disorders, and that he was able to do so for a long period of time, throughout the period of the charges and possibly throughout, or almost throughout, his entire stay in the LRA, impossible in practice and purely theoretical. This is surely the case considering that per the diagnoses of Professor Ovuga and Dr Akena, Dominic Ongwen would have had to hide over a long period of time a large variety of complex symptoms, including hiding/suppressing depressive mood, his alter personality, dissociative states, anxieties and hyperarousals.

2557. Dr Akena’s own evidence, cited just above, provides the first basis for this conclusion. Furthermore, Dr Abbo acknowledged that masking of symptoms of depression can occur, but also stated that from her experience, severe depression is ‘easily picked, and the masking I think would be for me as a far second, in my opinion’.<sup>6882</sup> Professor Mezey testified that ‘[i]n practice it is very difficult for people to either mask their symptoms because they – in severe mental illness you do not have control over your thought processes and behaviours and feelings. You often don’t have insight into the fact that you

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<sup>6879</sup> See section IV.D.1.iii above.

<sup>6880</sup> D-0042: [T-251](#), p. 40, line 8 – p. 41, line 17. It is noted that Professor Weierstall-Pust stated in his rebuttal report that Professor Ovuga’s description of masked depression was a ‘fundamental misunderstanding’, stating that rather than a description of ‘someone being depressed without showing any signs and appearing to be normal, this term refers to “a clinical picture where symptoms of depressed mood are less obvious than dominant somatic ones”’; Rebuttal Report, UGA-OTP-0287-0072, at 0091.

<sup>6881</sup> D-0041: [T-248](#), p. 110, lines 18-21.

<sup>6882</sup> P-0445: [T-167](#), p. 67, line 7 – p. 68, line 7.

have a problem with your feelings and behaviours and so you therefore don't feel the need to control them'.<sup>6883</sup>

2558. Fifth, the Prosecution submits that Professor Ovuga and Dr Akena's 'failure to meaningfully address the possibility of malingering renders their conclusions unreliable'.<sup>6884</sup> The Defence submits that the Defence experts considered, assessed and then rejected that possibility.<sup>6885</sup>

2559. The experts who gave evidence before the Chamber generally agreed that malingering, also referred to as dissimulation, or 'faking bad', is a known risk in mental health assessments. Professor Mezey wrote in her report that exaggeration and malingering are 'very common in forensic populations' and criticised for not considering the possibility of malingering or exaggeration the report of Professor De Jong and the first report of Professor Ovuga and Dr Akena, which had been provided to her.<sup>6886</sup> In court, Professor Mezey stressed 'the importance of not being too credulous, the need to be critical and challenging, and the need to cross-reference what you are being told with other sources of information and what you see before you'.<sup>6887</sup> She noted that at the time of her testimony Dominic Ongwen had been in detention for two years and had been seen by a number of mental health experts, and stated that repeated contact with mental health experts can place a person in a situation where they 'learn over a period of time what responses are likely to result in secondary gain for them and what responses are perhaps less desirable'.<sup>6888</sup>

2560. Professor Weierstall-Pust wrote in his report that dissimulation is a 'major issue in forensic assessments'.<sup>6889</sup> He testified that standardised psychometric assessment tools and the accounts of third parties with direct contact with the person can be used to control against malingering, and that there is a duty on forensic experts, according to commonly accepted professional standards, to use such methods.<sup>6890</sup> Specifically in relation to

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<sup>6883</sup> P-0446: [T-163](#), p. 44, lines 21-25.

<sup>6884</sup> [Prosecution Closing Brief](#), para. 398.

<sup>6885</sup> [Defence Closing Brief](#), para. 668.

<sup>6886</sup> Professor Mezey's Report, UGA-OTP-0280-0786, at 0800, 0804, 0806.

<sup>6887</sup> P-0446: [T-162](#), p. 24, lines 2-5.

<sup>6888</sup> P-0446: [T-163](#), p. 60, lines 10-24.

<sup>6889</sup> Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0681. *See also* P-0447: [T-169](#), p. 55, line 15 – p. 56, line 6.

<sup>6890</sup> P-0447: [T-169](#), p. 56, line 7 – p. 58, line 5; Professor Weierstall-Pust's Report, UGA-OTP-0280-0674, at 0682. *See also* Rebuttal Report, UGA-OTP-0287-0072, at 0081, 0087-88.

Dominic Ongwen, Professor Weierstall-Pust asserted that a ‘reputable forensic assessment would also have to follow all traces that falsify this hypothesis [of disassociations], also considering dissimulation or fraud, decidedly discussing the strengths and limitations of the applied methods’.<sup>6891</sup>

2561. The Second Report of Professor Ovuga and Dr Akena contains a brief section titled ‘Malingering’, in which they wrote that ‘[w]hile the possibility of malingering existed, this was unlikely in [their] opinion’.<sup>6892</sup> They explained that they did not ask leading questions, and were keen not to suggest any clues to Dominic Ongwen.<sup>6893</sup> They also noted Dominic Ongwen’s ‘lack of insight and interest in the outcome of his trial and eventual death’.<sup>6894</sup>

2562. In court, Dr Akena stated that he found it ‘a bit difficult to appreciate the role of malingering in this particular case simply because there – there did not seem to be a direct gain, at least when we assessed him, that would accrue from that’.<sup>6895</sup> During examination by the Prosecution, Dr Akena similarly stated that ‘we really don’t see why the client would do that’, and that ‘the client’, i.e. Dominic Ongwen, was ‘extremely distressed about what he goes through’, whereas ‘[w]e don’t see that in malingering’.<sup>6896</sup> Similarly, Professor Ovuga testified that ‘[t]here is nothing [Dominic Ongwen] gains from faking an illness’.<sup>6897</sup> In the assessment of the Chamber, rather, the potential gain from malingering in the present context is obvious – exclusion of criminal responsibility.

2563. Dr Akena nevertheless stated that himself and Professor Ovuga ‘[a]bsolutely’ did consider the possibility of malingering, and then appeared to claim that this risk could be excluded by asking the person what they expected from the interaction given that ‘[p]eople who are malingering don’t want to get better’.<sup>6898</sup> In light of the other evidence on the phenomenon of malingering, in particular that obtained from Professor Mezey and Professor Weierstall-Pust, the Chamber considers that this particular statement by Dr Akena in fact represents a serious failure to grasp the problem appropriately. Additionally,

<sup>6891</sup> Professor Weierstall-Pust’s Report, UGA-OTP-0280-0674, at 0682.

<sup>6892</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0969.

<sup>6893</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0969.

<sup>6894</sup> Professor Ovuga and Dr Akena’s Second Report, UGA-D26-0015-0948, at 0969.

<sup>6895</sup> D-0041: [T-248](#), p. 55, lines 1-6.

<sup>6896</sup> D-0041: [T-249](#), p. 79, lines 11-25. *See also* p. 80, line 13 – p. 81, line 6.

<sup>6897</sup> D-0042: [T-250](#), p. 32, lines 3-5.

<sup>6898</sup> D-0041: [T-248](#), p. 56, line 3 – p. 57, line 1.

it confirms the concern of the Chamber, laid out above,<sup>6899</sup> that Professor Ovuga and Dr Akena, focusing on Dominic Ongwen getting better, did not have the necessary distance to consider the totality of the evidence, which they should have done as forensic experts.

2564. Dr Akena also stated that to assess the reliability of Dominic Ongwen's self-report they 'looked for collateral history', and 'asked the client the same kinds of questions but using different methods'.<sup>6900</sup> The texts of the reports, however, do not indicate this to be the case.

2565. At the same time, during examination by the Prosecution, Dr Akena confirmed that he knew of psychometric tests which can be used to detect malingering, but claimed that they did not 'assess for malingering' because the 'clinical situations under which we operated did not point towards malingering'.<sup>6901</sup> It is noted that Dr Akena expressed a clear preference for clinical exams over psychometric tests in order to address the possibility of malingering.<sup>6902</sup> On the other hand, Professor Ovuga accepted that they 'could' have used psychometric tools to establish a greater or lesser likelihood of malingering, but stated that 'we had limited time and we needed to collect lots of other information and we didn't think it was economically wise to waste time using a scale'.<sup>6903</sup> On this point, the explanation is entirely unconvincing in light of the ample access Professor Ovuga and Dr Akena had to Dominic Ongwen, as also pointed out by the Prosecution.<sup>6904</sup>

2566. In his rejoinder report, Professor Ovuga additionally stated that the signs and symptoms of individuals who are malingering are 'obvious to an experienced and good clinician'.<sup>6905</sup> However, the Chamber is not satisfied by the explanations provided by Professor Ovuga and Dr Akena for how they excluded malingering in Dominic Ongwen, and finds that the choice not to use further standardised methods to detect malingering remains questionable and undermined their analysis.

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<sup>6899</sup> See paras 2528-2531 above.

<sup>6900</sup> D-0041: [T-248](#), p. 57, lines 11-20.

<sup>6901</sup> D-0041: [T-249](#), p. 81, lines 7-23.

<sup>6902</sup> D-0041: [T-249](#), p. 82, line 16 – p. 83, line 3.

<sup>6903</sup> D-0042: [T-251](#), p. 19, lines 16-22.

<sup>6904</sup> See [Prosecution Closing Brief](#), para. 404. See also D-0042: [T-251](#), p. 19, line 23 – p. 20, line 8.

<sup>6905</sup> Rejoinder Report, UGA-D26-0015-1574, at 1575.

2567. The Chamber notes that the Defence, relying on Professor Mezey's evidence that symptoms that look like mental illness can occasionally be produced, but that to maintain that is almost impossible, states that Dominic Ongwen could not have kept producing those symptoms since the first interviews with the Defence experts, up until the present, and towards a variety of people.<sup>6906</sup> The Chamber is unconvinced by this argument, given the weight placed by Professor Ovuga and Dr Akena on Dominic Ongwen's self-reporting of feelings and incidents which were then taken at face value and interpreted as symptoms of mental illnesses, and which also diverged in the two examinations. In any case, this argument is unrelated to the Chamber's conclusion that the Defence experts failed to properly assess the possibility of malingering.

2568. The Chamber, in light of the reports of Dr Akena and Professor Ovuga, and in light of their testimonies in court, finds the way in which they dismissed malingering as a possible explanation for the presence of symptoms of mental disorders apparent from the self-report of Dominic Ongwen unconvincing, and considers this to be a major factor militating against reliance on their reports.

2569. Sixth, and finally, a further methodological problem in relation to the reports of Professor Ovuga and Dr Akena is the fact that the reports present very general analyses and findings, and are not clearly anchored on the relevant period and the more specific factual contexts in which Dominic Ongwen acted.

2570. The Prosecution made the point that one of the difficulties facing the mental health experts in this case is that their attempts to determine Dominic Ongwen's state of mental health at particular times between 2002 and 2005 are being made more than a decade later, and that this difficulty is 'nowhere acknowledged' in the reports of the Defence experts.<sup>6907</sup> The Chamber indeed considers that the absence of any engagement with this manifest challenge, specifically by addressing it in their examination of Dominic Ongwen, is a further factor significantly impairing the value of the reports prepared by Professor Ovuga and Dr Akena.

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<sup>6906</sup> [Defence Closing Brief](#), paras 670-71. *See also* P-0446: [T-163](#), p. 45, lines 16-20.

<sup>6907</sup> [Prosecution Closing Brief](#), para. 384.

2571. Dr Akena, when asked by Prosecution counsel whether he and Professor Ovuga ever discussed with Dominic Ongwen what he could remember about any of the charged crimes, brushed off the issue by stating that Dominic Ongwen ‘said he didn’t commit the crimes’.<sup>6908</sup> When asked again if they asked Dominic Ongwen about each of the crimes, Dr Akena responded: ‘We asked him about his mental state between the periods of 2002 and 2005’.<sup>6909</sup>

2572. Professor Ovuga, when asked a similar question, responded: ‘I am not sure if the alleged crimes were specifically linked to him with the evidence you have, or is it a matter of asking me for my opinion as to whether – opinion and fact as to whether I asked him’.<sup>6910</sup> Moreover, asked specifically about sexual and gender-based crimes, Professor Ovuga stated that ‘[t]he brief given to [them] was not sexual offences’ but was given ‘for nonsexual offences’.<sup>6911</sup>

2573. The Chamber considers the above explanations to be insufficient and unsatisfactory in light of the clear and unambiguous language of Article 31(1)(a) of the Statute, which requires an assessment of the relevant criteria ‘at the time of that person’s conduct’. That the task of mental health experts engaged by a criminal court for an examination of the accused with a view to establishing whether criminal responsibility is excluded is to explore specifically the mental status of the accused at the time of the acts in question is manifestly obvious and beyond discussion. The failure of Professor Ovuga and Dr Akena to correctly focus their examination is striking, and represents another reason preventing the Chamber from relying on their evidence.

2574. Based on the above factors affecting the reliability of the evidence of Professor Ovuga and Dr Akena, the Chamber concludes that it cannot rely on that evidence, and in particular not on the diagnoses of mental disorders in Dominic Ongwen which are advanced therein.

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<sup>6908</sup> D-0041: [T-249](#), p. 41, lines 21-24.

<sup>6909</sup> D-0041: [T-249](#), p. 42, lines 2-5. *See also* p. 43, lines 10-13.

<sup>6910</sup> D-0042: [T-251](#), p. 65, lines 8-13.

<sup>6911</sup> D-0042: [T-251](#), p. 65, line 14 – p. 67, line 6. *See also* p. 71, lines 1-15.

v. *Other evidence discussed by the parties*

2575. In this final section of its analysis under Article 31(1)(a) of the Statute, the Chamber provides a brief explanation of the reasons why it does not rely on some further evidence discussed by the parties.

2576. In particular, the Chamber also has before it the report of Professor Joop T. de Jong, dated 7 January 2017.<sup>6912</sup> This report was prepared following a decision by the Chamber of 16 December 2016, which ordered that ‘a psychiatric examination of Dominic Ongwen be conducted with a view to: (i) making a diagnosis as to any mental condition or disorder that Dominic Ongwen may suffer at the present time; and (ii) providing specific recommendations on any necessary measure/treatment that may be required to address any such condition or disorder at the detention centre’.<sup>6913</sup> In line with that, the report discussed Dominic Ongwen’s mental health at the time of preparation of the report, and properly did not attempt to make a historical diagnosis. In his report, Professor De Jong diagnosed Dominic Ongwen with post-traumatic stress disorder (severe), major depressive disorder (severe), and other specified dissociative disorder.<sup>6914</sup> Professor De Jong did not testify during the trial.

2577. The Chamber notes that Professor De Jong prepared his report on the basis of two in-person interviews and one telephone interview with Dominic Ongwen,<sup>6915</sup> as well as on the basis of ‘[d]ocumentation of the physical, psychological, and psychiatric assessment of the Detention Centre staff in The Hague’.<sup>6916</sup> Professor De Jong concluded his report by alerting to the fact that it has ‘several shortcomings’, among which he singled out as ‘most important’ the fact that ‘it was not possible to complement the interviews with additional information from the family and the community’.<sup>6917</sup>

2578. In sum, considering that Professor De Jong’s report was prepared for a different purpose, having as its object of examination Dominic Ongwen’s mental health at the time of the examination during the trial, and not at the time of his conduct relevant under the charges,

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<sup>6912</sup> See UGA-D26-0015-0046-R01.

<sup>6913</sup> Decision on the Defence Request to Order a Medical Examination of Dominic Ongwen, 16 December 2016, ICC-02/04-01/15-637-Conf (public redacted version available: [ICC-02/04-01/15-637-Red](#)), p. 18.

<sup>6914</sup> Professor De Jong’s Report, UGA-D26-0015-0046-R01, at 0051.

<sup>6915</sup> Professor De Jong’s Report, UGA-D26-0015-0046-R01, at 0048.

<sup>6916</sup> Professor De Jong’s Report, UGA-D26-0015-0046-R01, at 0047.

<sup>6917</sup> Professor De Jong’s Report, UGA-D26-0015-0046-R01, at 0074.

the Chamber does not consider that it can rely on that report directly for its conclusions with respect to the issue at hand.

2579. Further, the Chamber notes that the Defence also refers in its closing brief to the report of Professor Seggane Musisi, submitted by the Common Legal Representative of Victims.<sup>6918</sup> The Chamber does not rely on the evidence of Professor Musisi, for the reason that it does not provide specific information in relation to the question whether Dominic Ongwen suffered from a mental disease or defect during the period of the charges.

*vi. Conclusion*

2580. In line with the above, based on the expert evidence of Professor Mezey, Dr Abbo and Professor Weierstall-Pust, who did not identify any mental disease or disorder in Dominic Ongwen during the period of the charges, further based on the corroborating evidence heard during the trial, which is incompatible with any such mental disease or disorder, and noting that the evidence of Professor Ovuga and Dr Akena cannot be relied upon, the Chamber finds that Dominic Ongwen did not suffer from a mental disease or defect at the time of the conduct relevant under the charges. A ground excluding criminal responsibility under Article 31(1)(a) of the Statute is not applicable.

*2. Duress*

*i. Introduction*

2581. Duress in Article 31(1)(d) of the Statute has three elements. The first element is that the conduct alleged to constitute the crime has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person. The threat in question may either be: (i) made by other persons or (ii) constituted by other circumstances beyond that person's control.<sup>6919</sup> The threat is to be assessed at the time of that person's conduct.<sup>6920</sup>

2582. From the plain language of the provision, the words 'imminent' and 'continuing' refer to the nature of the threatened harm, and not the threat itself. It is not an 'imminent threat'

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<sup>6918</sup> [Defence Closing Brief](#), para. 539. See PCV-0003 Report, UGA-PCV-0003-0046.

<sup>6919</sup> Article 31(1)(d) of the Statute.

<sup>6920</sup> Article 31(1) of the Statute.

of death or a ‘continuing or imminent threat’ of serious bodily harm – the Statute does not contain such terms. Rather, the threatened *harm* in question must be either to be killed immediately (‘imminent death’), or to suffer serious bodily harm immediately or in an ongoing manner (‘continuing or imminent serious bodily harm’). On this understanding, duress is unavailable if the accused is threatened with serious bodily harm that is not going to materialise sufficiently soon. A merely abstract danger or simply an elevated probability that a dangerous situation might occur – even if continuously present – does not suffice.<sup>6921</sup>

2583. The second element of duress in Article 31(1)(d) of the Statute is that the person acts necessarily and reasonably to avoid the threat. The person is not required to take all conceivable action to avoid the threat, irrespective of considerations of proportionality or feasibility. The Chamber must specifically consider what, if any, acts could ‘necessarily and reasonably’ avoid the threat, and what the person should have done must be assessed under the totality of the circumstances in which the person found themselves. Whether others in comparable circumstances were able to necessarily and reasonably avoid the same threat is relevant in assessing what acts were necessarily and reasonably available.

2584. Finally, the third element of duress in Article 31(1)(d) of the Statute is that the person does not intend to cause a greater harm than the one sought to be avoided. This is a subjective element – it is not required that the person actually avoided the greater harm, only that he/she intended to do so. The Chamber considers that assessment of whether one intended harm is ‘greater’ than another depends on the character of the harms under comparison.

2585. In the present case, as is clear from the analysis below, already the first element of duress under Article 31(1)(d) of the Statute is not met, and it is not necessary, or even possible, to consider its remaining elements.

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<sup>6921</sup> A. Eser in O. Triffterer (ed.) *Commentary on the Rome Statute of the International Criminal Court: Observers’ Notes, Article by Article* (2008), p. 1151 (and at footnote 160 on this same page: ‘[t]he concrete imminence of the threat could become pertinent in a case of coerced recruitment, especially of child soldiers, since an accused cannot raise the duress defence, if he was “only” coercively enrolled generally but not forced to commit the charged offence’).

2586. The conduct underlying the charges in the present case is not a single discrete act on the part of Dominic Ongwen, momentary or of a short duration. Rather, the conduct charged is complex and spread over the entire period of the charges between 1 July 2002 and 31 December 2005. The Defence submits that Dominic Ongwen ‘was under a continuing threat of imminent death and serious bodily harm from Kony and his controlling, military apparatus’.<sup>6922</sup> The essence of the argument of the Defence is that the threat which caused Dominic Ongwen to engage in the conduct underlying the charged crimes originated in Joseph Kony’s control of the LRA, which Joseph Kony allegedly maintained through a combination of strict disciplinary rules which severely punished non-compliance with orders, the tight supervision of commanders, and successful assertion of spiritual powers.<sup>6923</sup>

2587. The Prosecution submits that duress is not applicable in the present case.<sup>6924</sup> It argues principally that ‘[a]lthough the LRA sometimes inflicted severe punishment on its members for breaking the armed group’s rules, the Chamber has heard no evidence that Mr Ongwen’s conduct was caused by a threat of imminent death or imminent or continuing serious bodily harm against him or another person’.<sup>6925</sup> To disprove the existence of such a threat to Dominic Ongwen, the Prosecutor makes arguments on five topics: the LRA disciplinary regime, collective punishment, spies, spirits, and specifically the threat of arrest, demotion or other punishment.<sup>6926</sup> In addition, the parties discussed the impossibility, or difficulty, of escape from the LRA.<sup>6927</sup> In the assessment of the Chamber, and in the circumstances of the present case, the possibility of escaping or otherwise leaving the LRA also informs the conclusions on the existence or nature of the threat, even though it possibly has a more straightforward relevance for the discussion of the necessity and reasonableness of the conduct in response to the threat. For this reason, the Chamber considers it appropriate to consider the evidence on the possibility of escape already for the purpose of determining whether a threat within the meaning of Article 31(1)(d) of the Statute existed at the time of Dominic Ongwen’s relevant conduct.

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<sup>6922</sup> [Defence Closing Brief](#), para. 680.

<sup>6923</sup> See generally [Defence Closing Brief](#), paras 681-722.

<sup>6924</sup> [Prosecution Closing Brief](#), para. 472.

<sup>6925</sup> [Prosecution Closing Brief](#), para. 475.

<sup>6926</sup> [Prosecution Closing Brief](#), paras 482-500.

<sup>6927</sup> [Prosecution Closing Brief](#), paras 507-15; [Defence Closing Brief](#), paras 714-22.

2588. As already stated above, there is no specific provision in the Statute related to the burden and standard of proof as concerns grounds excluding criminal responsibility under Article 31, and for this reason, the general provisions of the Statute apply.<sup>6928</sup> Under Article 66(2) of the Statute, the onus is on the Prosecutor to prove the guilt of the accused, and, under Article 66(3), in order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt.

2589. Taking into account the submissions of the parties, the Chamber provides hereunder its analysis of the question whether Dominic Ongwen, at the time of his relevant conduct, was subject to a threat of imminent death or of continuing or imminent serious bodily harm against himself or another person. For clarity and structure, the analysis is split into sub-sections covering broad topics, but it must be understood that the issues addressed significantly overlap and inform a single conclusion given in the final sub-section below.

*ii. Dominic Ongwen's status in the LRA hierarchy and the applicability of LRA disciplinary regime to him*

2590. It is an established fact that the mechanisms used in the LRA to ensure obedience in its ranks, discussed in detail above,<sup>6929</sup> were characterised by their brutality. However, as also discussed above, there was a difference between the status of low-ranking LRA members and the higher commanders: whereas the LRA was an effective, hierarchically structured organisation, it was not under the absolute control of Joseph Kony, and Joseph Kony relied on the co-operation of various LRA commanders to execute LRA policies.<sup>6930</sup>

2591. Therefore, Dominic Ongwen's situation in the LRA was not analogous to that of any low-level member or recent abductee. Those persons were, as the evidence demonstrates, frequently placed in situations where they had to perform certain actions under threat of imminent death or physical punishment.<sup>6931</sup> Dominic Ongwen was also personally the source of such threats,<sup>6932</sup> including the specific instance in which he explicitly threatened P-0226 and a number of other girls with death in order to make them beat a

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<sup>6928</sup> See section IV.A above.

<sup>6929</sup> See section IV.C.2.ii.d above.

<sup>6930</sup> See paras 866-873 above.

<sup>6931</sup> See section IV.C.2.ii.d. See also [Defence Closing Brief](#), para. 688.

<sup>6932</sup> See paras 964-966 above.

captured government soldier to death.<sup>6933</sup> The Chamber considers that due to his status as a battalion and brigade commander, in charge of his group, Dominic Ongwen's situation was fundamentally different from that of low-level LRA members or recent abductees.

2592. In its assessment, the Chamber focuses on the situation of Dominic Ongwen as battalion and brigade commander during the period of the charges. Dominic Ongwen's childhood experience in the LRA is not central to the issue. The Defence relies on certain evidence relating to Dominic Ongwen's life in the LRA in the period immediately following his abduction in the 1980s, when Dominic Ongwen was a child.<sup>6934</sup> However, this evidence is not as such relevant for the determination whether a threat relevant under Article 31(1)(d) of the Statute existed at the time of the conduct relevant for the charges, many years after Dominic Ongwen's abduction, when he was an adult and in a commanding position. Even if the threat to Dominic Ongwen were to start at the time of his abduction, that threat would have to express itself at the time of his conduct during the period of the charges – and be discernible from the abundant evidence which relates to that time. Also, as concerns Dominic Ongwen's mental development and status, the Chamber recalls that, as discussed above, no mental disease or defect at the time of the conduct relevant to the charges was identified in Dominic Ongwen.<sup>6935</sup> The Defence argument that the provisions of Article 31(1)(a) and (d) could be combined is addressed below.<sup>6936</sup>

2593. As discussed above,<sup>6937</sup> the evidence indicates that as a matter of fact, high-ranking commanders of the LRA, including Dominic Ongwen, did not always execute Joseph Kony's orders.

2594. One witness testimony already referred to above, but which is necessary to recall in detail also in the present context, is that of P-0440. During his testimony, P-0440 discussed Joseph Kony's order to stop abductions, and stated that compliance with this order 'varie[d], depending on how somebody ha[d] perceived it', and that '[s]ome people could – may follow that they should not abduct, but some people could violate the orders'.<sup>6938</sup>

<sup>6933</sup> See section IV.C.10.ii.d.i above.

<sup>6934</sup> See [Defence Closing Brief](#), para. 682.

<sup>6935</sup> See section IV.D.1 above.

<sup>6936</sup> See para. 2671.

<sup>6937</sup> See paras 866-873 above.

<sup>6938</sup> P-0440: [T-39](#), p. 83, line 25 – p. 84, line 14.

P-0440 named two persons, Onen Unita and Odongo, as examples of commanders who did not obey Joseph Kony's orders and who Joseph Kony complained about and called lazy.<sup>6939</sup> Asked how these commanders could avoid carrying out Joseph Kony's orders, P-0440 stated that they could delegate the tasks to subordinates,<sup>6940</sup> but also said:

I know most times when somebody does not want to do something, they make up excuses so that they do not go on mission, for example, they pretend to be ill or, if they don't want to go, they make up their minds that, okay, I do not really want to go, so if I pretend that I'm sick, then I would not suffer consequences from that.<sup>6941</sup>

2595. Similar to the evidence of P-0440 is the statement of Hillary Daniel Lagen, who testified that Ocan Bunia, Gilva brigade commander, did not take part in 'any of the Kony operations' for more than two years, and, specifically, that he refused Joseph Kony's order to go and attack the Alero camp.<sup>6942</sup> Hillary Daniel Lagen also stated that a number of commanders 'always found ways to not do exactly what... uh... he had instructed them to do'.<sup>6943</sup>

2596. P-0070 similarly testified that Ocan Bunia, Gilva brigade commander in 2003-04,<sup>6944</sup> was 'always accused of being a coward' and of avoiding going to the battlefield '[e]ven if he is issued instructions or orders to go and fight'.<sup>6945</sup> P-0070 was not aware of any punishments Ocan Bunia would have received for this, despite Ocan Bunia's lack of participation being discussed frequently during radio communications.<sup>6946</sup>

2597. P-0231, who served under Dominic Ongwen, testified specifically about commanders finding ways to not do exactly what they were instructed. Importantly, P-0231 described Dominic Ongwen as a commander who did not automatically execute Joseph Kony's orders, but intervened if he deemed it necessary, including going back to Joseph Kony for more information.<sup>6947</sup> Even though P-0231 stated that if Joseph Kony insisted his

<sup>6939</sup> P-0440: [T-40](#), p. 4, lines 17-22.

<sup>6940</sup> P-0440: [T-40](#), p. 4, line 23 – p. 5, line 12.

<sup>6941</sup> P-0440: [T-40](#), p. 6, line 18 – p. 7, line 9.

<sup>6942</sup> P-0040 Interview Transcript, UGA-OTP-0209-0569-R01, at 0575, lines 163-80. *See also* P-0040 Interview Transcript, UGA-OTP-0220-0678-R01, at 0697, lines 672-77.

<sup>6943</sup> P-0040 Interview Transcript, UGA-OTP-0209-0569-R01, at 0583, lines 400-01.

<sup>6944</sup> P-0070: [T-105](#), p. 72, lines 18-19.

<sup>6945</sup> P-0070: [T-106](#), p. 42, line 23 – p. 43, line 2.

<sup>6946</sup> P-0070: [T-106](#), p. 43, lines 3-7. On this point, P-0070 is corroborated by the records of intercepted radio communications, *see* ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0048, 0064, 0094, 0202-03; ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0209, 0337; UPDF Logbook (Gulu), UGA-OTP-0254-4143, at 4227, 4234, 4250, 4318, 4321-22; UPDF Logbook (Achol Pii), UGA-OTP-0242-7309, at 7426.

<sup>6947</sup> P-0231: [T-123](#), p. 83, line 6 – p. 84, line 9.

order would be executed,<sup>6948</sup> the kind of interaction between Dominic Ongwen and Joseph Kony as described by P-0231 is incompatible with a situation of threat of imminent death or serious bodily harm.

2598. P-0231's testimony is corroborated by other insiders' testimonies. P-0016, a longstanding LRA insider, testified that he personally observed when 'Kony wanted to do something bad' Dominic Ongwen 'would clearly tell Kony that this thing is bad, don't do it'.<sup>6949</sup>

2599. Furthermore, when asked about Dominic Ongwen's competence at tactics and planning, former LRA fighter Daniel Opiyo stated:

Well, Dominic would not just engage in something without being sure. If there is – and he wouldn't do things on his volition. If there is an order from his senior, he would sit down with his officers and they would assess. If they feel that this is not practical or they feel it's not feasible, Dominic would object to doing that. But if he knew he was able to accomplish that, he would do that.<sup>6950</sup>

2600. The Chamber also notes in this context P-0226's testimony to the effect that upon her abduction in 1998, Dominic Ongwen successfully evaded the authority of Joseph Kony to keep P-0226 for himself, even after Joseph Kony sent his escorts to collect her.<sup>6951</sup> P-0226 did not see Dominic Ongwen beaten for this conduct.<sup>6952</sup>

2601. Joseph Okilan testified that 'if you don't follow Kony's commands, that means death is assured for you',<sup>6953</sup> but the Chamber considers that this general assertion is unreliable in light of the specific and contextualised evidence provided by several other witnesses, as just laid out.

2602. Indeed, it transpires from the above that the relationship between Joseph Kony and Dominic Ongwen was not characterised by the complete dominance of the former and subjection of the latter. On the contrary, what results clearly from the above witness testimonies is that Dominic Ongwen was a self-confident commander who took his own decisions on the basis of what he thought right or wrong.

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<sup>6948</sup> P-0231: [T-123](#), p. 84, lines 8-9.

<sup>6949</sup> P-0016: T-34-CONF, p. 42, lines 5-7.

<sup>6950</sup> D-0056: [T-229](#), p. 33, line 24 – p. 34, line 6.

<sup>6951</sup> P-0226: T-8-CONF, p. 26, line 24 – p. 35, line 6. *See also* section IV.C.10.i.d above.

<sup>6952</sup> P-0226: T-9-CONF, p. 32, lines 16-22, p. 36, lines 11-12.

<sup>6953</sup> D-0019: [T-236](#), p. 16, line 24 – p. 17, line 8.

2603. The witness evidence as recounted is corroborated by intercepted radio communications, which contain exchanges between Joseph Kony and other LRA commanders in which the non-execution of orders is discussed.

2604. One particularly relevant communication was intercepted on 18 May 2004.<sup>6954</sup> According to the transcript and the annotation and summary provided by P-0003, P-0016, P-0059 and P-0440, the communication involves Joseph Kony, in a conversation with Vincent Otti and Buk Abudema, complaining that certain commanders, in particular Angola and Odongo, were not working well.<sup>6955</sup> Conversely, Joseph Kony gave to Vincent Otti the example of Dominic Ongwen as somebody who worked well, and expressed the wish that everybody would work as well as Dominic Ongwen.<sup>6956</sup>

2605. [REDACTED]  
[REDACTED]<sup>6957</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>6958</sup> [REDACTED]  
[REDACTED]<sup>6959</sup> [REDACTED]  
[REDACTED] is indicative for the determination of the control that Joseph Kony exerted over LRA commanders. As such, it is fully compatible with the Chamber's conclusion.

2606. Furthermore, there are other records of intercepted radio communications which indicate that Joseph Kony expressed dissatisfaction with LRA commanders, yet did not order

<sup>6954</sup> See section IV.B.3.ii.m above.

<sup>6955</sup> P-0003: [T-43](#), p. 31, line 3 – p. 33, line 13; P-0003 Tape 822 Transcript, UGA-OTP-0248-0198-R01, at 0201-06; P-0016: [T-33](#), p. 6, line 16 – p. 8, line 17; P-0016 Tape 822 Transcript, UGA-OTP-0259-0044; P-0059: [T-37](#), p. 13, line 8 – p. 15, line 24; P-0059 Tape 822 Transcript, UGA-OTP-0248-0436-R01, at 0437-46; P-0440: [T-40](#), p. 40, line 1 – p. 42, line 10; P-0440 Tape 822 Transcript, UGA-OTP-0262-0399-R01, at 0400-09.

<sup>6956</sup> P-0003: [T-43](#), p. 31, line 3 – p. 33, line 13; P-0003 Tape 822 Transcript, UGA-OTP-0248-0198-R01, at 0201-06; P-0016: [T-33](#), p. 6, line 16 – p. 8, line 17; P-0016 Tape 822 Transcript, UGA-OTP-0259-0044; P-0059: [T-37](#), p. 13, line 8 – p. 15, line 24; P-0059 Tape 822 Transcript, UGA-OTP-0248-0436-R01, at 0437-46; P-0440: [T-40](#), p. 40, line 1 – p. 42, line 10; P-0440 Tape 822 Transcript, UGA-OTP-0262-0399-R01, at 0400-09. The Defence submitted that D-0032 'testified that Kony was praising Mr Ongwen for being efficient in attacking government soldiers and defeating them in battle as opposed to the Prosecution inference of attacking civilians' ([Defence Closing Brief](#), para. 689). This submission is, in addition to being directly contradictory to the proposition that Dominic Ongwen committed crimes against civilians under duress originating from Joseph Kony, also irrelevant to the issue under consideration, which is whether Dominic Ongwen was under threat from Joseph Kony at the time. The submission is also not supported by the cited evidence, which in fact only contains an abstract definition of an efficient commander according to D-0032. See D-0032: T-201-CONF, p. 28, lines 9-20.

<sup>6957</sup> [REDACTED]

<sup>6958</sup> [REDACTED]

<sup>6959</sup> See [REDACTED]

punishment or issue threats, at least not on the same occasion. On 22 January 2004, Joseph Kony is recorded in the ISO logbook as complaining about ‘all his com[man]d[e]rs’ as ignorant and not listening to his advice, which resulted in gunship attacks on the LRA.<sup>6960</sup> On 5 July 2004, an ISO logbook recorded Joseph Kony as ‘seriously complaining that all his com[man]d[e]rs are not serious with what they are doing’, and that ‘a com[man]d[e]r like Galdino is on his own and not following orders of his superiors’.<sup>6961</sup> In light of this evidence the Chamber considers the Defence’s assertion that ‘[t]here was therefore an unquestionable obligation to follow Kony’s orders, failure of which would result into death’<sup>6962</sup> as totally unsupported by the evidence.

2607. The parties also discussed the question whether Joseph Kony employed spies in order to control his subordinate commanders, in particular Dominic Ongwen.<sup>6963</sup> The evidence in the trial does not provide any basis for consideration of spies, or a spy network, as a separate phenomenon,<sup>6964</sup> and the Chamber actually considers that the issue folds entirely within the analysis of the nature of the hierarchical relationship between Joseph Kony and the LRA commanders, including Dominic Ongwen.

2608. The Chamber notes that the Defence submits, also specifically in the context of duress, that ‘neither men nor women had a choice when partners were distributed to them by Kony’.<sup>6965</sup> However, in light of the preceding analysis, and in light of the specific discussion of this question above, which concluded that imposing so-called ‘marriage’ on men was not an issue in the LRA,<sup>6966</sup> the Chamber considers the submission of the Defence to be unsustainable on the basis of the evidence, and therefore rejects it.

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<sup>6960</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0013. It is noted that a corresponding UDPF logbook records Joseph Kony as continuing, saying that as from that day, if an abductee escapes, the ‘remnants’ should all be killed, ‘even if they are more than one hundred’ (UGA-OTP-0254-4143, at 4207). Whereas it indicates that Joseph Kony issued a general threat, this information does not indicate that Joseph Kony ordered any punishment for the events he was complaining about.

<sup>6961</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0088.

<sup>6962</sup> [Defence Closing Brief](#), para. 684.

<sup>6963</sup> [Prosecution Closing Brief](#), paras 492-94; [Defence Closing Brief](#), para. 691 (arguing, without referring to specific items of evidence, that there was ‘omnipresent surveillance by selected individuals within the LRA, who reported to Kony’). *See also* [Defence Closing Brief](#), para. 717 and the analysis at para. 2637 below.

<sup>6964</sup> *See also* in relation to a very specific related point, para. 2637 below.

<sup>6965</sup> [Defence Closing Brief](#), para. 683.

<sup>6966</sup> *See* para. 2229 above.

*iii. Executions of senior LRA commanders on Joseph Kony's orders*

2609. The Defence emphasised that on several occasions, high-ranking commanders of the LRA were killed on the orders of Joseph Kony and that due to the comparable position of Dominic Ongwen, these killings are indicative of the existence of a threat for his life too.<sup>6967</sup> This relates in particular to the killings of Otti Lagony and Okello Can Odonga in 1998, the killing of James Opoka in 2002 and the killing of Vincent Otti sometime after the period of the charges in the DRC.

2610. Even though, with the exception of the killing of James Opoka, these facts all occurred outside the period of the charges, the Chamber considers they are all relevant to the issue under consideration. For this reason, the Chamber analyses them in detail. Because the evidence indicates that the killings were widely known within the LRA, the Chamber focuses in its analysis on witnesses who indicated that they had some sort of personal knowledge about the events.

2611. As concerns the killings of Otti Lagony and Okello Can Odonga, the Chamber notes first that the evidence confirms that they occupied senior positions in the LRA.<sup>6968</sup> Several witnesses described in detail how Otti Lagony and Okello Can Odonga were killed on Joseph Kony's orders, after a large gathering of the LRA at which Joseph Kony addressed the members.<sup>6969</sup> P-0231 testified that this took place in 1998.<sup>6970</sup> Witness evidence also

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<sup>6967</sup> [Defence Closing Brief](#), para. 684.

<sup>6968</sup> D-0032: [T-199](#), p. 30, line 14 – p. 31, line 3 (testifying that he knew Otti Lagony, whose final position was commanding officer in charge of operations and 'more or less deputy to Kony', and Okello Can Odonga, commonly known only as Can Odonga, who was initially the deputy to the operations commander and was then moved to Stockree brigade command); P-0231: [T-123](#), p. 43, line 1 – p. 44, line 1 (stating that at the time Otti Lagony was the second most senior person in the LRA, in Control Altar, while Can Odongo was Gilva brigade commander); P-0172: [T-113](#), p. 44, lines 10-11 (stating that Otti Lagony was Joseph Kony's second-in-command).

<sup>6969</sup> D-0032: [T-199](#), p. 31, lines 4-12 (testifying that Otti Lagony and Can Odonga were killed on the order of Joseph Kony, who brought them in front of the 'whole congregation' and said that they had planned to escape and wanted to defect), p. 32, lines 5-7 (stating that about 2,500 were present at the gathering), p. 33, lines 8-23 (testifying that Otti Lagony and Okello Can Odonga were blindfolded, taken away and shot behind the barracks, 'somewhere in the bushes', and that he heard the gunshots); P-0172: [T-113](#), p. 44, lines 12-23 (testifying that 'we heard that Lagony was asking too many questions, he was accused of planning to escape', and that he was present when Joseph Kony gathered the people and asked 'What should we do to Lagony?', that later, in the evening, Otti Lagony was 'taken and killed', and that a brigadier known as 'Canodonga' was killed together with Otti Lagony). *See also* P-0231: [T-123](#), p. 43, line 1-16 (testifying that he was present at the place where Otti Lagony and 'Can Odongo' were killed); P-0205: [T-49](#), p. 29, line 3 – p. 30, line 2 (testifying that he was present nearby for the killings of 'Okello' and Otti Lagony, and specifying that while he could not hear the gunshots due to heavy downpour, he confirmed their absence from the group thereafter); D-0020 Statement, UGA-D26-0010-0382, para. 12 (stating that he saw Okello Can Odonga 'tied really tightly', heard Joseph Kony ordering to execute him together with Otti Lagony and that he later heard the gunshots).

<sup>6970</sup> P-0231: [T-123](#), p. 43, lines 1-5.

establishes that the reason behind the execution of Otti Lagony and Okello Can Odonga was that they were challenging Joseph Kony's authority as the exclusive leader of the LRA.<sup>6971</sup>

2612. Turning to the case of James Opoka, D-0032 testified that he heard from Vincent Otti that Joseph Kony had ordered the arrest and killing of James Opoka, because he 'ha[d] an arrangement to escape from the LRA with LRA soldiers, the former LRA soldiers so that he – they would take them back to Uganda'.<sup>6972</sup> D-0092 corroborated the evidence of D-0032.<sup>6973</sup> As to the time of this incident there is some discrepancy in the evidence, but the conclusion that suffices, and which can confidently be made, is that James Opoka was killed around the end of 2002.<sup>6974</sup>

2613. As for the killing of Vincent Otti, P-0205 testified that at Ri Kwamba – in the DRC, Vincent Otti was apprehended and taken away across a river and shot; the witness could hear the gunshots.<sup>6975</sup> P-0233 testified that he witnessed Joseph Kony order the killing.<sup>6976</sup> While noting that he was low in rank and would only hear things from other people, P-0233 also testified that there was a 'divergence between what Otti stood for and what Kony was standing for'.<sup>6977</sup>

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<sup>6971</sup> D-0032: [T-199](#), p. 31, lines 9-11 (testifying that Joseph Kony stated that the two men were 'competing' and did not have the desire to stay in the LRA, and for these reasons should be killed); P-0231: [T-123](#), p. 43, lines 7-14 (explaining that he at first heard that they had been trying to connect with the Ugandan government so that they may defect, and later also that Otti Lagony 'had ordered for abduction of women and he distributed them to some of his officers without telling Kony' and that this meant that 'he wanted to sway all the soldiers to respect him so that he becomes the overall boss'); D-0018: [T-185](#), p. 45, lines 6-16 (stating that Otti Lagony was 'executed because he went directly to deal with Arabs, the Sudan government'). *See also*: D-0020 Statement, UGA-D26-0010-0382, para. 12 (explained that he had heard that Okello Can Odongo and Otti Lagony were planning 'a coup'); *see also* para. 11.

<sup>6972</sup> D-0032: [T-199](#), p. 35, line 13 – p. 36, line 2.

<sup>6973</sup> D-0092: [T-208](#), p. 33, line 20 – p. 34, line 3 ('You know, the way Opoka joined us in the bush, I was already an escort with the boss himself, Opoka did not come alone. He came with some people, they even came with some radio calls. Opoka did not have any rank in the bush. He went as a boss himself. He was a bit big-headed and started planning with other officers and told other officers that Kony was taking long and delaying to overthrow the government, they should allow so that Kony is shot. That is when the spirit reported that to Kony and he was arrested. He had not taken long in the bush yet.'). The Chamber notes that D-0092 testified that he heard James Opoka was killed, but that he was not present at the time, *see* D-0092: [T-208](#), p. 34, lines 10-14.

<sup>6974</sup> *See* D-0032: [T-199](#), p. 36, lines 3-6 (stating that James Opoka was killed around October 2002); compared with ISO Logbook (Gulu), UGA-OTP-0065-0002, at 0118 (logbook entry dated 20 December 2002, stating that James Opoka was with Joseph Kony in Sudan) and ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0004-05 (a logbook entry on 13 March 2003, where Joseph Kony and Vincent Otti discuss how the information of the LRA killing James Opoka could have reached the media).

<sup>6975</sup> P-0205: [T-49](#), p. 30, lines 15-21. P-0205 added that afterwards, 'people were convened and some instructions were given that whoever is seen talking or heard talking about what has happened, the person would be punished', P-0205: [T-49](#), p. 30, lines 22-23.

<sup>6976</sup> P-0233: [T-112](#), p. 13, line 20 – p. 16, line 19.

<sup>6977</sup> P-0233: [T-122](#), p. 20, lines 8-10. *See also* [T-122](#), p. 20, line 10 – p. 21, line 25.

2614. In conclusion on this issue, the Chamber notes that the evidence in relation to all three instances of killings of senior LRA commanders on the orders of Joseph Kony does not indicate that the commanders were executed for failing to execute orders to engage in operations, by remaining passive. Rather, they were caused by these commanders challenging ‘politically’ the power of Joseph Kony as the exclusive leader of the LRA *i.e.* by seeking to take more general decisions in relation to the goals and priorities of the LRA. This is why the Chamber does not see a basis in this evidence to draw the conclusion that Joseph Kony inevitably and immediately ordered the killing of commanders who did not execute his orders.

2615. In fact, as discussed above, there is strong evidence to the effect that Joseph Kony could not always rely on the unconditional compliance with his orders by the commanders under him. There is evidence that during the period of the charges, Joseph Kony at most demoted or threatened to demote non-performing commanders. This is demonstrated by two entries in the logbooks of intercepted radio communications from the period of the charges.

2616. The ISO logbook recorded on 16 April 2003 Dominic Ongwen reporting a UPDF gunship raid on the previous day.<sup>6978</sup> The ISO staff recording the communication then noted:

Kony could not wait for Dominic to finish when he just blasted him that Dominic looks to be a weak com[man]d[e]r and why is it always that only him that gunship raid and succeeds very well and not others. Kony said that if Dominic is not careful, then he will be demoted so that another off[ice]r take charge of that BN. He strongly warned that if he again hear that any of his unit com[man]d[e]r was raided by gunship and they succeed as it happened to Dominic then that com[man]d[e]r will have problem with him.<sup>6979</sup>

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<sup>6978</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0124.

<sup>6979</sup> ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0124. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-0455, at 0490-91. The Chamber notes that the UPDF logbook records communication indicating that Lakati and Vincent Otti ‘forced’ Dominic Ongwen to send the report ‘on their behalf’. As concerns the reaction of Joseph Kony, the UPDF logbook corresponds in substance to the ISO logbook. In these circumstances, the small discrepancy between the two logbooks is immaterial.

2617. Similarly, on 14 May 2004 Joseph Kony is recorded in an ISO logbook as ordering the separation of two commanders ‘b[ecause] if they stay together they will keep on defying orders’.<sup>6980</sup>

2618. Finally under this heading, the Chamber recalls, noting the Defence allegation that ‘Dominic himself came close to execution for getting in touch with and receiving money from Lt General Salim Saleh’,<sup>6981</sup> that it does not rely on the item of evidence cited by the Defence.<sup>6982</sup> Considering also that there is no other evidence to the same effect, it must be concluded that there is no basis in the evidence to reach the conclusion proposed by the Defence.

*iv. Possibility of escaping from or leaving the LRA*

2619. The phenomenon of escape from the LRA is discussed above in the context of its mechanisms to ensure capability to undertake military operations, including compliance with orders.<sup>6983</sup> In that context, the Chamber also observed that escape from the LRA was relatively common.<sup>6984</sup> However, in the present context, the Chamber has to determine, on the basis of the evidence, whether and to what extent escape from or otherwise leaving the LRA was possible for Dominic Ongwen, or for LRA members of comparable status and authority. This is because, in the assessment of the Chamber, the possibility for Dominic Ongwen to escape or leave the LRA militates against the conclusion that threat of imminent death or imminent or continuing serious bodily harm to himself or another person caused him to engage in conduct underlying the charged crimes. In other words, for Dominic Ongwen to have engaged in such conduct when escaping or leaving was possible is a strong indication that he acted on his own accord.

2620. As discussed above, Dominic Ongwen was briefly arrested in April 2003.<sup>6985</sup> The evidence indicates that his arrest was ordered by Joseph Kony over an allegation of communicating by phone with the government.<sup>6986</sup> The Defence, citing Florence Ayot’s

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<sup>6980</sup> ISO Logbook (Gulu), UGA-OTP-0061-0206, at 0309. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-2982, at 3033; UPDF Logbook (Lira), UGA-OTP-0255-0228, at 0243; UPDF Logbook (Sudan), UGA-OTP-0242-7194, at 7270.

<sup>6981</sup> [Defence Closing Brief](#), paras 684-85.

<sup>6982</sup> *See* para. 1054 above.

<sup>6983</sup> *See* section IV.C.2.ii.e above.

<sup>6984</sup> *See* para. 972 above.

<sup>6985</sup> *See* paras 1050-1063 above.

<sup>6986</sup> *See* paras 1050-1051 above.

testimony, submits that ‘Dominic tried to escape while in sickbay, but was found out by Kony and arrested’.<sup>6987</sup> As found by the Chamber, the arrest of Dominic Ongwen in April 2003 did not for any significant period interrupt the exercise of his authority as an LRA commander.<sup>6988</sup> In September 2003, Dominic Ongwen was promoted.<sup>6989</sup> In light of the fact that the other evidence, which is detailed and reliable as discussed above,<sup>6990</sup> does not indicate that an attempt to escape was the reason for Dominic Ongwen’s arrest, but shows that the arrest followed contact with the government forces, the Chamber rejects the evidence of Florence Ayot on this point. But in any case, the incident demonstrated to Dominic Ongwen that defying Joseph Kony did not mean to be killed, and that the consequences of being on the wrong side of Joseph Kony were not necessarily grave.

2621. There is also overwhelming evidence that during the period relevant to the charges, persons of relatively high rank and position in the LRA successfully escaped, including some proximate to Dominic Ongwen.

2622. First, there is consistent evidence from multiple sources indicating that Odong Cow, the person in charge of the sickbay in which Dominic Ongwen was placed following his injury in late 2002,<sup>6991</sup> escaped from that sickbay around March 2003.<sup>6992</sup> The Chamber notes that P-0231 testified that he did not know of any punishment for Dominic Ongwen in relation to the escape of Odong Cow.<sup>6993</sup>

2623. Further, Charles Lokwiya, who was support commander in Control Altar,<sup>6994</sup> testified that he escaped from sickbay following his injury during the attack on Pajule IDP camp on 10 October 2003, with one of his so-called ‘wives’, two other girls who were living in his household, as well as his child.<sup>6995</sup> The Chamber notes the argument of the Defence

<sup>6987</sup> [Defence Closing Brief](#), para. 714, n. 1182; D-0013: [T-244](#), p. 53, line 19 – p. 54, line 16.

<sup>6988</sup> See para. 1063 above.

<sup>6989</sup> See para. 1071 above.

<sup>6990</sup> See paras 1050-1063 above.

<sup>6991</sup> See para. 1034 above.

<sup>6992</sup> P-0231: [T-122](#), p. 53, line 25 – p. 54, line 3 (testifying that Odong Cow remained in charge of the sickbay ‘for a short while, perhaps five to six months’ and thereafter surrendered to the government); P-0379: [T-57](#), p. 62, line 4 – p. 63, line 16 (providing a detailed account of the escape, which, the witness explained, took part during an operation). See also ISO Logbook (Gulu), UGA-OTP-0063-0002, at 0017, 0087. [REDACTED]

<sup>6993</sup> P-0231: [T-123](#), p. 53, lines 6-11.

<sup>6994</sup> D-0134: [T-240](#), p. 30, line 18 – p. 31, line 3.

<sup>6995</sup> D-0134: [T-240](#), p. 71, lines 1-12. See also p. 70, line 15 – p. 71, line 5 (explaining the immediate circumstances of his escape).

that Charles Lokwiya ‘was so worried about his plan to escape being discovered that he [REDACTED]’,<sup>6996</sup> Charles Lokwiya explained he did not do so because he [REDACTED]  
[REDACTED]  
[REDACTED].<sup>6997</sup> This explanation, which is entirely reasonable, demonstrates indeed that Charles Lokwiya felt he had to ensure that his escape plan was not discovered. Yet, it is of no consequence for the present discussion that he felt [REDACTED]  
[REDACTED].

2624. P-0070 testified that he escaped just before the attack on Lukodi IDP camp, and therefore around May 2004, [REDACTED], together with [REDACTED] people under his command.<sup>6998</sup> P-0070 explained in detail how he proposed to the group that they should escape and secured their agreement.<sup>6999</sup>

2625. Still further, P-0440, who held the position of [REDACTED]  
[REDACTED],<sup>7000</sup> escaped from the LRA in August 2004.<sup>7001</sup> By reference to his prior statement, P-0440 confirmed that he escaped on [REDACTED] August 2004.<sup>7002</sup> [REDACTED]  
[REDACTED], less than two months before P-0440’s escape, [REDACTED], Joseph Kony told Vincent Otti that commanders P-0440 and Ogila were useless and that they might defect to the government.<sup>7003</sup> This is significant insofar as it demonstrates that Joseph Kony suspected that P-0440 could escape. Yet, as shown by the evidence, the escape was successful.

<sup>6996</sup> [Defence Closing Brief](#), para. 686.

<sup>6997</sup> D-0134: T-241-CONF, p. 20, lines 20-25.

<sup>6998</sup> P-0070: T-106-CONF, p. 47, line 12 – p. 48, line 6.

<sup>6999</sup> P-0070: [T-106](#), p. 48, lines 7-25.

<sup>7000</sup> P-0440: T-39-CONF, p. 68, line 11 – p. 69, line 1.

<sup>7001</sup> P-0440: T-39-CONF, p. 71, lines 22-25 (‘I did come out of the bush in 2004. When I escaped it was my own decision, because I realized that the life I was in was not the right life for me. So I decided to leave the bush and come back home.’).

<sup>7002</sup> P-0440: T-39-CONF, p. 72, line 6 – p. 73, line 3. [REDACTED]  
[REDACTED]  
[REDACTED]

<sup>7003</sup> [REDACTED]

2626. P-0085, who at some point was second-in-command of [REDACTED],<sup>7004</sup> escaped in May 2004, [REDACTED].<sup>7005</sup> He gave clear and compelling testimony in relation to his thoughts at the time, and the execution of his escape plan, including how he shared his plan with his so-called ‘wives’ and his escorts, and how he could escape even after revealing his intention to some escorts who refused to escape with him.<sup>7006</sup> In the assessment of the Chamber, this testimony is extremely relevant, not only because it demonstrates that an LRA commander could, in the right circumstances, make and execute the decision to leave, but also because it shows how a commander could manage the risk associated with escaping, and, also very importantly, how he could, if he so wanted, also save from life in the LRA those under his control.

2627. According to the evidence, other senior LRA members who successfully escaped during the period of the charges include Onen Kamdulu<sup>7007</sup> and Sam Kolo.<sup>7008</sup>

2628. Finally in this overview, the Chamber turns to the testimony of P-0209, who escaped in November 2009 when holding the position of [REDACTED].<sup>7009</sup> He testified that in 2008, he shared his escape plan with Dominic Ongwen, who in response told him ‘only one thing, about the court case on him, the indictment’.<sup>7010</sup> According to P-0209, Dominic Ongwen told him that he ‘feared the Court’.<sup>7011</sup> The fact that in this conversation, regarding which the Chamber has no reason to doubt P-0209, Dominic Ongwen did not mention the difficulty of escaping, or any fear of punishment should he fail in an attempt to escape, but referred only to the case before the Court, is further specific indication that there was no threat to him in the LRA. While this conversation took place in 2008, and therefore after the period of the charges, the Chamber still considers this evidence relevant with regard to the other evidence discussed.

<sup>7004</sup> P-0085: T-158-CONF, p. 21, line 3 – p. 22, line 22.

<sup>7005</sup> P-0085: [T-158](#), p. 44, line 23 – p. 45, line 5; T-158-CONF, p. 56, lines 2-7.

<sup>7006</sup> P-0085: T-158-CONF, p. 55, line 5 – p. 57, line 11.

<sup>7007</sup> D-0027: [T-202](#), p. 55, lines 17-22; ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0152. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1171; UPDF Logbook (Achol Pii), UGA-OTP-0242-7500, at 7600-01.

<sup>7008</sup> ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0161-62. *See also* P-0355: [T-96](#), p. 77, lines 19-21; *see also* p. 70, line 24 – p. 71, line 4.

<sup>7009</sup> P-0209: [T-160](#), p. 9, lines 5-6; T-160-CONF, p. 39, lines 7-19.

<sup>7010</sup> P-0209: [T-160](#), p. 36, lines 3-25, p. 37, lines 7-9.

<sup>7011</sup> P-0209: [T-160](#), p. 37, lines 1-6.

2629. It is noted that records of intercepted radio communications also indicate that Dominic Ongwen was aware of a risk of being held individually criminally responsible for his actions as LRA commander as early as mid-2004. On 11 August 2004, he is recorded in the ISO logbook as making reference to President Museveni's plan to take captured LRA commanders 'to court for committing crime against humanity'.<sup>7012</sup> In the same message, Dominic Ongwen is recorded as stating that he would 'fight until the dying hour and will die in the bush'.<sup>7013</sup> It may be added that, the risk of being held individually criminally responsible for one's actions is not relevant under Article 31(1)(d) of the Statute, and that evidence of this motivation for the continued stay in the LRA in fact militates against the suggestion that duress caused the conduct constituting crimes.

2630. The Defence points to the testimony of Nathan Iron Emory to argue that it was 'nearly impossible for him [i.e. the witness] to escape'.<sup>7014</sup> Reference to this witness in this context is inapposite, because he was never a member of the LRA, but a 'guest commander' as part of negotiations with various other actors in the conflict.<sup>7015</sup> Nathan Iron Emory's testimony also does not contain any indication that the witness had difficulties in leaving Joseph Kony after meeting with him.

2631. The Chamber also notes certain entries in the records of intercepted radio communications which represent further evidence of escapes from the LRA by persons of some status. On 9 September 2002, Lapanyikwara is recorded in the ISO logbook as informing Vincent Otti that one of their senior commanders called Ogwang escaped from his group.<sup>7016</sup> On 3 November 2004, an ISO logbook recorded a conversation between Labalpiny and Buk Abudema in which it was reported that a captain named Otim defected with four soldiers.<sup>7017</sup> The same logbook also includes an entry, dated 5 December 2004, indicating that a commander called Matata had escaped with five other soldiers.<sup>7018</sup>

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<sup>7012</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0183.

<sup>7013</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0183. *See also* UPDF Logbook, UGA-OTP-0255-0451, at 0468-69.

<sup>7014</sup> [Defence Closing Brief](#), para. 686.

<sup>7015</sup> D-0018: [T-185](#), p. 38, lines 13-15, p. 64, lines 19-24; T-186, p. 8, lines 19-24. *See also* for the context of the witness's stay with the LRA, D-0018: [T-185](#), p. 34, line 15 – p. 35, line 2, p. 41, line 18 – p. 42, line 1.

<sup>7016</sup> ISO Logbook (Gulu), UGA-OTP-0064-0093, at 0122.

<sup>7017</sup> ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0024. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-3833, at 4079.

<sup>7018</sup> ISO Logbook (Gulu), UGA-OTP-0152-0002, at 0082. *See also* UPDF Logbook (Gulu), UGA-OTP-0254-1077, at 1084.

2632. The above is the evidence on record in relation to escapes by persons of some status in the LRA. But even beyond that, the Chamber heard dozens of personal escape stories from witnesses who came to testify during the trial, in particular from persons who due to their low hierarchical position in the LRA were under much tighter control than Dominic Ongwen. Just as examples of escapes which took place during the period relevant to the charges, the Chamber notes the following. P-0138 escaped in [REDACTED] 2003 with another LRA soldier and some young children [REDACTED] [REDACTED],<sup>7019</sup> and stated that he escaped ‘because [he] was not brainwashed anymore’.<sup>7020</sup> P-0018, who had taken part in the attack on Lukodi IDP camp on or about 19 May 2004, escaped the following morning together with a woman who had been abducted from the camp, by simply staying behind at the location where the attackers spent the night and then returning to Lukodi IDP camp.<sup>7021</sup> D-0118 decided to return home with her four-year old child after becoming separated from her group during an attack.<sup>7022</sup> D-0119 successfully escaped in 2004, during her third attempt.<sup>7023</sup> P-0145 escaped in 2005 after 15 years in the LRA, taking with him two small children assigned to him, after having overcome their, and his own, fear that they may be killed upon return.<sup>7024</sup> P-0097, who was at most 15 years old at the time,<sup>7025</sup> escaped in November 2005 by hiding in the field that the unit had been sent to by Dominic Ongwen to loot.<sup>7026</sup> The Chamber further refers specifically to the analysis of evidence above, which shows that also women in Dominic Ongwen’s household, including some of his so-called ‘wives’, successfully escaped from the LRA.<sup>7027</sup>

2633. It is in this context that the Chamber reads the ISO logbook entry of 3 August 2004, recording Joseph Kony as stating that the ‘rate of defection in LRA has gone too high these days and it needs LRA to remain with strong heart otherwise there is nothing he can do’.<sup>7028</sup>

<sup>7019</sup> P-0138: T-120-CONF, p. 17, lines 5-8, p. 71, line 25 – p. 73, line 1.

<sup>7020</sup> P-0138: [T-120](#), p. 68, lines 20-22, p. 69, line 24 – p. 70, line 8.

<sup>7021</sup> P-0018: [T-69](#), p. 18, line 13 – p. 19, line 2.

<sup>7022</sup> D-0118: T-216-CONF, p. 41, lines 4-16.

<sup>7023</sup> D-0119: T-196-CONF, p. 35, line 7 – p. 45, line 2.

<sup>7024</sup> P-0145: [T-143](#), p. 31, line 25 – p. 33, line 11.

<sup>7025</sup> See section IV.B.2.ii.b.iv above.

<sup>7026</sup> P-0097: [T-108](#), p. 52, line 7 – p. 55, line 20.

<sup>7027</sup> See section IV.C.10.iii above.

<sup>7028</sup> ISO Logbook (Gulu), UGA-OTP-0062-0145, at 0162.

2634. There can be no doubt that Dominic Ongwen was aware of escapes occurring in the LRA, including, as explained above, in his proximity. Moreover, the measures aimed at preventing escape that he contributed to maintaining,<sup>7029</sup> are a further indicator of the fact that he knew of the possibility of escaping. Taking into account all the evidence, in particular the above evidence of escapes by many senior commanders, the Chamber also agrees with the submission of the Prosecutor that Dominic Ongwen's high rank and position placed him in a relatively better position to escape, as compared to lower-ranking LRA members.<sup>7030</sup>

2635. The above evidence leads the Chamber to concluding that escaping from or otherwise leaving the LRA was a realistic option available to Dominic Ongwen at the time of the conduct relevant for the charges, as it was for many others who successfully escaped. The fact that he did not take this option is further indicative that he was not under serious threat when engaging in the conduct relevant for the charges.

2636. The parties argued over the right interpretation of the fact that Dominic Ongwen refused to surrender at a meeting with government soldiers in September 2006.<sup>7031</sup> Joseph Balikudembe testified that during the meeting he asked Dominic Ongwen to surrender to him, and that Dominic Ongwen responded: 'No, no, no, I cannot surrender',<sup>7032</sup> and that also the resident district commissioner asked Dominic Ongwen to surrender, and Dominic Ongwen again refused.<sup>7033</sup>

2637. The Defence has argued that Adjumani and Acaye Doctor were present among the LRA during that meeting, deployed as Joseph Kony's personnel to ensure compliance with Joseph Kony's orders, but since this argument is based entirely on Michael Oryem, whom the Chamber deems to be an unreliable witness, the allegation is not established in the evidence.<sup>7034</sup> In addition, Irumba Tingira, a UPDF officer who was also present at the meeting, was asked about this possibility, and testified that Dominic Ongwen was 'fully

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<sup>7029</sup> See section IV.C.2.ii.e above.

<sup>7030</sup> See [Prosecution Closing Brief](#), para. 512.

<sup>7031</sup> See [Prosecution Closing Brief](#), para. 513; [Defence Closing Brief](#), paras 717-22. See also paras 2403-2412 above.

<sup>7032</sup> P-0359: [T-109](#), p. 78, lines 8-16. See also [T-109](#), p. 79, lines 15-22.

<sup>7033</sup> P-0359: [T-109](#), p. 83, lines 9-12.

<sup>7034</sup> [Defence Closing Brief](#), para. 717. See also section IV.B.2.ii.b.xxxi above. The Defence also cites, in favour of a similar proposition that Dominic Ongwen was under surveillance, a 2003 document in fact relating to Dominic Ongwen's brief arrest at that time, see [Defence Closing Brief](#), para. 718, n. 1189.

in charge of that group’ and that he remembered that at one point, he saw Dominic Ongwen give an order to Adjumani, and Adjumani ‘really hurried to execute the order’.<sup>7035</sup> The Chamber deems that this detail, coming as an observation from a military officer, is reliable and significant.

2638. Further, the Chamber does not accept the argument of the Defence that at the same time, Vincent Otti was ‘closely monitoring safe passage of the LRA convoy’, when the evidence pointed to by the Defence in fact only indicates that Vincent Otti, by telephone, pleaded with Joseph Balikudembe to allow the convoy to proceed.<sup>7036</sup> There is nothing in the circumstances of Vincent Otti’s intervention which would indicate that the purpose of the call was to put pressure on Dominic Ongwen not to surrender. The Defence argument that Mega FM journalist Lacamber, who passed on the phone, ‘subverted the pressure for Mr Ongwen to surrender or release the children by placing a phone call to Vincent Otti’ is speculative.<sup>7037</sup>

2639. The Chamber also rejects the argument of the Defence that following the ambush and killing of Raska Lukwiya by the UPDF a short time before, ‘it could not reasonably be expected for Mr Ongwen to surrender’ to the UPDF.<sup>7038</sup> The argument is irrelevant to the question of whether it was possible for Dominic Ongwen to leave the LRA, or more broadly to the question whether he was under threat of death or physical harm if he did not engage in the conduct underlying the charges. Equally irrelevant to the issue of duress is the Defence argument – which is speculative in nature – that Dominic Ongwen could not have been expected to contribute through his escape to the collapse of peace talks between the Ugandan government and the LRA.<sup>7039</sup>

2640. Accordingly, the Chamber concludes that Dominic Ongwen’s refusal to surrender in September 2006, although outside of the period of the charges, provides certain further basis to conclude that he was, during the time of his conduct relevant for the charges, not under threat of death or physical harm.

<sup>7035</sup> P-0189: [T-96](#), p. 45, line 14 – p. 46, line 9.

<sup>7036</sup> P-0359: [T-109](#), p. 80, lines 6-12. See [Defence Closing Brief](#), paras 719-21.

<sup>7037</sup> See [Defence Closing Brief](#), para. 719.

<sup>7038</sup> [Defence Closing Brief](#), para. 722.

<sup>7039</sup> Defence Closing Statement: [T-258](#), p. 11, line 18 – p. 12, line 17.

2641. The evidence of Dominic Ongwen's refusal to surrender during this meeting with government soldiers must also be considered together with the evidence of P-0172, who stated that following his own successful escape from the LRA, at the time of the peace talks around 2006, he spoke with Dominic Ongwen on the phone for about an hour, 'explaining to him the benefit, the advantages of ICC, also the bad side of the people who were telling him not to return'.<sup>7040</sup> P-0172 stated that he used himself as an example, and also: '[O]n the issue of ICC, I told him that ICC is not bad. We told him that when you go to ICC you will not be killed.'<sup>7041</sup>

2642. The Defence has further made the argument that '[i]mmminent threats were also real and constant to the families and communities of the abductees, including Dominic'.<sup>7042</sup> The argument relates to the general threat made to LRA members that their home areas would be attacked if they escaped. This topic is analysed exhaustively above, where the Chamber concluded that such threats were made and were widely known, but that punitive attacks on escapees' home areas occurred mostly before the relevant period, and during the relevant time only in one instance, which, however, presented characteristics which made it distinguishable from punishment for escape, in particular the fact that the person who escaped did so after stealing a weapon and opening fire on the LRA.<sup>7043</sup> On this basis, and also in light of all the evidence discussed above, as well as noting the complete absence of any evidence to the effect that the matter played a role for Dominic Ongwen, the Chamber does not consider that the possibility of collective punishment was a factor contributing to a threat relevant under Article 31(1)(d) of the Statute.

*v. Joseph Kony's alleged spiritual powers*

2643. The Defence submitted that 'Kony's use of spiritualism cemented the threat to Mr Ongwen's life and that of others'.<sup>7044</sup> The fact that Joseph Kony acted also as a spiritual leader, building on Acholi traditions, is uncontroversial and well-attested in the evidence.<sup>7045</sup> In this context, the Defence submits that 'children like Mr Ongwen had to

<sup>7040</sup> P-0172: [T-113](#), p. 34, line 15 – p. 36, line 10.

<sup>7041</sup> P-0172: [T-113](#), p. 36, lines 6-10.

<sup>7042</sup> [Defence Closing Brief](#), para. 690.

<sup>7043</sup> See para. 998 above.

<sup>7044</sup> [Defence Closing Brief](#), paras 692-93. See also [Defence Closing Brief](#), paras 24-29.

<sup>7045</sup> See, for example, P-0264: [T-65](#), p. 73, lines 8-10; P-0144: [T-92](#), p. 22, line 24 – p. 23, line 5; P-0045: [T-104](#), p. 41, lines 24-25; P-0233: [T-112](#), p. 9, lines 2-9; D-0079: [T-189](#), p. 16, lines 8-12. See also [Defence Closing Brief](#), para. 710.

adhere to the LRA's moral order, which within the environment of the LRA exposed one to violent acts'.<sup>7046</sup>

2644. During the trial, the Chamber heard a number of personal accounts by former LRA members who were questioned about the effect of LRA spiritualism on them. This evidence informs the Chamber's view on whether spiritualism was in some way used to create or sustain a threat relevant under Article 31(1)(d) of the Statute.

2645. Whereas there is evidence that some persons did believe in the spiritual powers of Joseph Kony,<sup>7047</sup> the Chamber observes that there is consistent evidence that for many persons who stayed in the LRA longer their belief followed a pattern: it was stronger in the young, new and impressionable abductees and then subsided and disappeared in those who stayed in the LRA longer.

2646. This trajectory was explained very clearly by P-0231, who stated that when he first saw Joseph Kony in 1995, he believed Joseph Kony was possessed by a spirit.<sup>7048</sup> However, the witness explained that when he was leaving the bush he was losing trust in what he heard and saw in the bush, and that he 'did not believe so much that the spirits really possessed [Joseph Kony]'.<sup>7049</sup> P-0231 also stated:

In regards to the spirits, when I had just arrived in the bush, when I was still young, I believed so much that the spirits were the ones that were protecting us against anything.

Later on, when I grew up and I became aware, I started realising that it was not that thing that was protecting me. I started believing that my own survival skill made

<sup>7046</sup> [Defence Closing Brief](#), para. 712.

<sup>7047</sup> P-0142: [T-72](#), p. 20, lines 17-22 (stating that it was difficult for him to understand but that 'from what [he] could see and what [Joseph Kony] would say' he could believe that 'maybe [Joseph Kony] has some spirit'); P-0233: [T-112](#), p. 8, line 24 – p. 10, line 7 (indicating that the witness believed and continues to believe in Joseph Kony's spiritual powers); D-0024: [T-192](#), p. 15, lines 5-9 (testifying that he did believe that Joseph Kony possessed supernatural powers); D-0027: [T-202](#), p. 14, line 24 – p. 15, line 10 (testifying that he believed in the power of spirits in the LRA, and purporting, when asked whether others had the same feelings about the rituals, that 'anybody who was a member of the LRA had the same kind of belief that I did'; an affirmation proved false by the evidence cited in the following paragraphs); D-0049: [T-243](#), p. 22, lines 7-23 (testifying that while she was in the LRA, she believed that Joseph Kony had spiritual powers, and mentioned that interactions with people she found in the bush contributed to her belief); D-0056: [T-228](#), p. 44, line 25 – p. 45, line 4 (stating that while in the bush, he 'did have some kind of belief, but not a hundred per cent belief'); D-0074: [T-187](#), p. 15, line 25 – p. 16, line 9; [T-188](#), p. 19, lines 9-15 (testifying that he believed in Joseph Kony's spirits and that '[e]verybody [within the LRA] believed').

<sup>7048</sup> P-0231: [T-123](#), p. 32, line 25 – p. 33, line 2.

<sup>7049</sup> P-0231: [T-123](#), p. 33, lines 10-14.

me to survive from whatever was happening in the bush. That was according to me.

I started realising that whatever Kony says, that this and that should be done, he first mentions so that you will follow what he wants. I realised later that because I was still young, it was what Kony used to brainwash you so that you can believe.

When I matured up, I became aware and knowledgeable in many of the things that were happening. I realised that even if I'm not told, I'm supposed to protect myself because I am already exposed to danger. No one can ensure I am safe. I should ensure that I safeguard myself so that I don't die.<sup>7050</sup>

2647. Very similarly to P-0231, also P-0379 testified:

That's what we are told. We are told, we are told about these things. But later on I, I became wiser and I decided that the use of things like the holy spirit is done to brainwash the younger children so that they do not escape. But at the time when it happened to me I believed it and I thought I had to comply and obey. But then when I realised that there were some people who were able to escape and not be apprehended, then I started doubting it because I knew that, that the holy spirit that they were talking about wasn't actually effective.<sup>7051</sup>

2648. P-0070, a witness with a long personal experience in the LRA, including in higher hierarchical positions, testified that while he was still young, the way Joseph Kony would speak and seeing the strength of the LRA at the time made him believe in Joseph Kony's spiritual message, but that 'later on [he] realised that it was different'.<sup>7052</sup>

2649. P-0145, asked about Joseph Kony's predictions about the future, affirmed that he 'actually [did] not believe anything like that'.<sup>7053</sup> When asked about Joseph Kony's alleged ability to know about LRA members' escape or defection plans in advance, he reacted as follows:

Well, he would say that he knew, he knew what people were thinking, he knew when people wanted to escape, but I believe he was just guessing because there are some times when he would kill somebody for no apparent reason if – regardless of whether the person wants to escape or not. So if he knew, if he actually knew people's thoughts, if he knew whether people attempted to escape or not, don't you think he would have called me and asked me as well at the time that I was planning to escape?<sup>7054</sup>

<sup>7050</sup> P-0231: [T-123](#), p. 84, line 18 – p. 85, line 5.

<sup>7051</sup> P-0379: [T-59](#), p. 81, lines 4-12. The witness stated that he spent about eight months in the bush at the age of about 14 years old, P-0379: [T-59](#), p. 81, lines 13-18.

<sup>7052</sup> P-0070: [T-107](#), p. 19, lines 9-22.

<sup>7053</sup> P-0145: [T-143](#), p. 58, lines 11-17.

<sup>7054</sup> P-0145: [T-143](#), p. 58, line 18 – p. 59, line 2.

2650.P-0205's response to the question whether he believed that spirits spoke through Joseph Kony was: 'If I did believe, if I did believe strongly in the spirits, I would not have escaped. No, I did not believe in the spirits because I cannot confirm some of this stuff.'<sup>7055</sup> He further explained:

We would follow, we would follow this because those were the rules, not because of belief, but we would follow it because of the rules. But whether or not you believe it you have to follow it. I did not believe it, but I followed it.<sup>7056</sup>

2651.P-0209 also expressed scepticism about the power of Joseph Kony to predict future events:

Yes, I heard. But basing on what I know, it's possible that there were spirits. But I think he could have received information from somewhere else, then he comes and then disguised that he received information from the spirits when he's talking.<sup>7057</sup>

2652.P-0209 went on to affirm that he did not believe in Joseph Kony's spirits, even though he did accept, based on Acholi traditional culture, that Joseph Kony could have been a chief and possessed some capacity for that reason.<sup>7058</sup> He stated that, based on his personal observation, Joseph Kony used to act in a certain manner 'so that people do not leave him'.<sup>7059</sup>

2653.Simon Tabo also testified that when he was abducted, he believed what Joseph Kony and others told them about the spirits, but that later, as he got older, he started to question those beliefs.<sup>7060</sup>

2654.Kenneth Banya testified:

In the beginning when we even saw what was happening, we believed in it. But when we started seeing him ordering all kinds of bad things we did not accept it anymore. But then... uh... you had to be very careful because if he knew that you did not believe or agree with him, you could be in trouble.<sup>7061</sup>

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<sup>7055</sup> P-0205: [T-49](#), p. 20, line 22 – p. 21, line 2.

<sup>7056</sup> P-0205: [T-49](#), p. 21, lines 5-9.

<sup>7057</sup> P-0209: [T-161](#), p. 52, lines 9-16.

<sup>7058</sup> P-0209: [T-161](#), p. 53, line 12 – p. 54, line 7.

<sup>7059</sup> P-0209: [T-161](#), p. 54, lines 18-21.

<sup>7060</sup> D-0034 Statement, UGA-D26-0022-0385, at para. 16.

<sup>7061</sup> P-0028 Interview Transcript, UGA-OTP-0217-0125-R01, at 0131, lines 202-05.

2655. Charles Lokwiya stated that the gatherings about spirituality did not have an effect on him, but that there were, still at the time of his testimony, people in the bush who did believe that ‘Kony has a spirit’.<sup>7062</sup>

2656. Joseph Okilan made a similar point when asked if he believed in Joseph Kony’s spirits, stating that ‘sometimes, as a human being, you can actually believe that probably this man’s spirits worked’, but that he, as somebody who has knowledge, did not believe.<sup>7063</sup>

2657. The Chamber also notes the explanation put forward by D-0092:

Once you are there in the bush, whether you like it or not, you have to believe because that is what they say that the spirits have said. There was one day that I was trying to ask myself because I didn’t know anything about the spirit, so I asked a colleague, that what does the spirit talk about? What does the spirit say? Then he warned me that do not ever open your mouth again to say anything about the spirit. And I immediately kept quiet. I promised myself never to ask anything about the spirits.<sup>7064</sup>

2658. All of this evidence leads the Chamber to the conclusion that LRA members with some experience in the organisation did not generally believe that Joseph Kony possessed spiritual powers. There is also no evidence indicating that the belief in Joseph Kony’s spiritual powers played a role for Dominic Ongwen, and in fact the evidence of Dominic Ongwen defying Joseph Kony, discussed above, speaks clearly against any such influence. The Chamber therefore does not discern in the issue of LRA spirituality a factor contributing to a threat relevant under Article 31(1)(d) of the Statute.

*vi. Dominic Ongwen’s personal loyalty to Joseph Kony and his career advancement*

2659. The evidence of Dominic Ongwen’s performance during the period relevant to the charges is another important factor which the Chamber takes into account and which militates against a finding that, at the time of his conduct relevant for the charges, Dominic Ongwen was under threat of being killed or suffering serious bodily harm. This is because performance under threat is not reasonably compatible with the performance and results obtained by Dominic Ongwen as an LRA commander during the relevant time period.

<sup>7062</sup> D-0134: [T-240](#), p. 36, line 8 – p. 37, line 25.

<sup>7063</sup> D-0019: [T-236](#), p. 21, line 20 – p. 21, line 6.

<sup>7064</sup> D-0092: [T-208](#), p. 41, line 24 – p. 42, line 7.

2660. On 27 September 2003, an ISO logbook recorded Joseph Kony instructing that a ‘serious warning’ be given to Lapanyikwara for the ‘mess he has done which made up to 14 recruits and soldiers to escape and also some soldiers killed’, and stating that ‘Lapanyikwara should know that he can be demoted anytime if he repeats it’.<sup>7065</sup> According to the same entry in the ISO logbook, Joseph Kony then ‘praised Dominic so much for his hard work he is doing’.<sup>7066</sup> Then, Joseph Kony blamed ‘Pokot and the entire Sinia Bde under Abudema that they are so weak and almost all the lo[s]ses LRA are incurring normally comes f[ro]m Sinia Bde’, and ‘warned Abudema to be careful if not BC of Sinia will be appointed another person’.<sup>7067</sup> This message, transmitted at a crucial time for many of the charges in the case, shows both that Dominic Ongwen’s performance was highly valued by Joseph Kony, and also that poorer performance did not lead to more than threat of demotion, as already discussed above. The Chamber also notes that Joseph Kony again praised Dominic Ongwen for having ‘good plans’ shortly before the attack on Pajule IDP camp,<sup>7068</sup> and eventually appointed Dominic Ongwen as Sinia brigade commander on 5 March 2004.<sup>7069</sup>

2661. On 12 February 2004, Joseph Kony, in a radio message recorded in the ISO logbook, singled out Dominic Ongwen as an example, stating that what Dominic Ongwen did was ‘good’ because he ‘caused a lot of havoc before he was hit by g[un]ships and mobiles in Koch Ongako’.<sup>7070</sup> The Chamber also makes reference to the radio communication after the attack on Odek IDP camp, analysed above, wherein Joseph Kony specifically praised Dominic Ongwen’s performance, stating, *inter alia*, ‘This guy has pleased me very much.’<sup>7071</sup>

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<sup>7065</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0477.

<sup>7066</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0477. The Chamber notes that several other corresponding logbooks which recorded this communication, do not include mention of Joseph Kony praising Dominic Ongwen, *see* UGA-OTP-0254-0725, at 1024-26; UPDF Logbook (Achol Pii), UGA-OTP-0242-6018, at 6147; UPDF Logbook (Soroti), UGA-OTP-0254-1991, at 2052-53. Noting the Chamber’s general considerations on the use of logbooks (*see* para. 666 above), and noting that these logbooks do not contain any indication that would bring in doubt the ISO’s interpretation of the recording, the Chamber concludes that the ISO logbook is reliable on this point, even if it was the only logbook noting Joseph Kony’s praise for Dominic Ongwen.

<sup>7067</sup> ISO Logbook (Gulu), UGA-OTP-0232-0234, at 0477.

<sup>7068</sup> *See* section IV.C.6.ii.a above.

<sup>7069</sup> *See* paras 1075-1077 above.

<sup>7070</sup> ISO Logbook (Gulu), UGA-OTP-0061-0002, at 0069.

<sup>7071</sup> *See* section IV.C.7.vii above.

2662. The Chamber also refers to its analysis of the evidence of Dominic Ongwen's report on 24 May 2004 after the attack on Lukodi IDP camp, in particular to the fact that the intercept evidence reveals that Dominic Ongwen's report was met with approval.<sup>7072</sup>

2663. On 18 July 2004, an ISO logbook recorded Vincent Otti stating that 'Dominic is working very well', to which Joseph Kony commented that 'Dominic always first of all plan[s] before moving to attack and that is why he is performing very well'.<sup>7073</sup>

2664. While noting P-0070's general evidence that '[i]f Kony knew that you were having a different mind and to motivate you, what he would do, he would just give you a promotion',<sup>7074</sup> the Chamber notes that the above evidence demonstrates a clear link between Dominic Ongwen's actions on the ground, including the commission of charged crimes, and the praise received from Joseph Kony. There is also a temporal overlap with some of the promotions conferred on Dominic Ongwen by Joseph Kony.<sup>7075</sup>

2665. In addition, the Chamber notes the findings made above in relation to Dominic Ongwen's conduct relevant for the charges.<sup>7076</sup> Those findings, and the evidence underlying them, indicate a commander in control of his unit, directing its organisation and its actions according to his own planning. Whereas some of Dominic Ongwen's conduct in relation to the crimes was undertaken directly upon orders originating from Joseph Kony, much of his relevant conduct resulted instead from his own initiative.<sup>7077</sup> This is the case entirely with the attacks on Lukodi and Abok IDP camps, which were conceived and set in motion by Dominic Ongwen completely independently.<sup>7078</sup> Such actions are, in the view of the Chamber, entirely incompatible with a commander in fear for his life or similar, and as such militate against a finding that there existed a threat to Dominic Ongwen.

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<sup>7072</sup> See section IV.C.8.v above.

<sup>7073</sup> ISO Logbook (Gulu), UGA-OTP-0062-0002, at 0111.

<sup>7074</sup> P-0070: [T-107](#), p. 14, lines 3-8.

<sup>7075</sup> See section IV.C.3 above.

<sup>7076</sup> See section IV.C above.

<sup>7077</sup> See also paras 866-873 above.

<sup>7078</sup> See sections IV.C.8.ii, IV.C.9.iii above.

*vii. Crimes committed in private*

2666. During the closing statements, the Prosecution made the following argument, which relates to the portion of the charges concerning direct perpetration of sexual and gender-based violence by Dominic Ongwen:

They want to persuade your Honours that after having caused these young girls to be beaten into submission and then having brought them to the privacy of his tent, it would have been impossible on the pain of death for him to have said quietly to them, ‘Actually, I am not so wicked and monstrous as to rape a young girl like you. I have only done this to satisfy Joseph Kony. But if you lie here quiet and safe, we can pretend in the morning that we had sex.’ He didn’t do that.<sup>7079</sup>

2667. The Chamber finds this argument persuasive. As found above in the relevant section, the conduct underlying the crimes charged under counts 50-60 includes to a large extent conduct performed in the relative privacy of Dominic Ongwen’s household, or even in complete privacy of his sleeping place.<sup>7080</sup> The fact that Dominic Ongwen engaged in this conduct, when, had he not, it would have been relatively easy to hide that fact, further indicates that his actions were not caused by threat. Even though this argument specifically relates only to one section of the charges, it also has persuasive force for the Chamber’s broader conclusion.

*viii. Conclusion*

2668. It transpires from the above that there is no basis in the evidence to hold that Dominic Ongwen was subjected to a threat of imminent death or imminent or continuing serious bodily harm to himself or another person at the time of his conduct underlying the charged crimes. In fact, based on the above, the Chamber finds that Dominic Ongwen was not in a situation of complete subordination vis-à-vis Joseph Kony, but frequently acted independently and even contested orders received from Joseph Kony. The evidence indicates that in the period of the charges, Dominic Ongwen did not face any prospective punishment by death or serious bodily harm when he disobeyed Joseph Kony. Dominic Ongwen also had a realistic possibility of leaving the LRA, which he did not pursue. Rather, he rose in rank and position, including during the period of the charges. Finally,

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<sup>7079</sup> Prosecution Closing Statement: [T-256](#), p. 19, lines 12-17. *See also* [Prosecution Closing Brief](#), para. 518.

<sup>7080</sup> *See* section IV.C.10 above.

he committed some of the charged crimes in private, in circumstances where any threats otherwise made to him could have no effect.

2669. Based on a thorough analysis of the evidence, the Chamber finds that Dominic Ongwen was not under threat of death or serious bodily harm to himself or another person when engaging in conduct underlying the charged crimes. It is therefore not possible to further discuss specifically the imminence of the threatened harm, in the sense that it would follow, without delay, Dominic Ongwen's failure to perform as required by the source of the threat. It is also conceptually not possible to discuss the other requirements of Article 31(1)(d) of the Statute, namely the necessity and reasonableness of the act undertaken to avoid the threat, and the requirement that the person did not intend to cause a greater harm than the one sought to be avoided.

2670. The actions which Dominic Ongwen took and which underlie the crimes charged and found in this judgment were, within the meaning of Article 31(1)(d), free of threat of imminent death or imminent or continuing serious bodily harm. Duress as a ground excluding criminal responsibility under Article 31(1)(d) of the Statute is therefore not applicable.

2671. In light of the above analysis and conclusions, the Chamber also considers that no further specific consideration is needed to address the Defence argument that Dominic Ongwen should be acquitted as a result of a 'cumulative effect from the combination of lack of capacity to appreciate the unlawfulness of the conduct or to conform to the conduct to the law and the extensive threats and coercion under which Mr Ongwen lived and acted'.<sup>7081</sup> On the one hand, it may be observed that the two grounds for excluding criminal responsibility cannot coexist even in the abstract, given that one is premised on a destruction of the person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of the law, and the other on a conscious choice to engage in conduct which constitutes a crime based on an evaluation of the harm that is caused. On the other hand, the Chamber recognises that similar discussion of facts and evidence partly underlies the analysis of both grounds excluding criminal responsibility discussed in the present case, and to the

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<sup>7081</sup> [Defence Closing Brief](#), para. 729.

extent that the Defence in fact aimed to make this point, the Chamber is confident that all relevant considerations have been made under each heading.

2672. In addition to specific arguments made under Article 31 of the Statute, the Defence also made some legally unspecified submissions emphasising that Dominic Ongwen was himself a victim of crimes, on account of his abduction at a young age by the LRA.<sup>7082</sup> The Chamber has duly considered above the facts underlying these submissions. In addition, and while acknowledging that indeed Dominic Ongwen had been abducted at a young age by the LRA,<sup>7083</sup> the Chamber notes that Dominic Ongwen committed the relevant crimes when he was an adult and, importantly, that, in any case, the fact of having been (or being) a victim of a crime does not constitute, in and of itself, a justification of any sort for the commission of similar or other crimes – beyond the potential relevance of the underlying facts to the grounds excluding criminal responsibility expressly regulated under the Statute. The separate and more specific Defence assertion that ‘Article 21(3) prohibits charging a victim of a crime with the same crime’ is equally without merit: a rule that would immunize persons who suffer human rights violations from responsibility for all similar human rights violations that they may themselves commit thereafter manifestly does not exist in international human rights law.<sup>7084</sup> Finally, the Chamber notes that during its oral closing submissions the Defence referred to the notion of superior orders, including specifically to Article 33 of the Statute,<sup>7085</sup> but that – by its very terms – this argument is placed by the Defence within the discussion of the applicability of duress as a ground excluding criminal responsibility under Article 31(d) of the Statute, which the Chamber addressed above.

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<sup>7082</sup> [Defence Closing Brief](#), paras 11-21; Defence Closing Statement: [T-258](#), p. 5, lines 13-19, p. 27, lines 5-20. See also [Defence Closing Brief](#), paras 6, 487-488, 494-496, 715. The Prosecution responded during the closing hearings, see Prosecution Closing Statement: [T-256](#), p. 12, line 21 – p. 14, line 15.

<sup>7083</sup> See paras 27-30 above.

<sup>7084</sup> See [Defence Closing Brief](#), paras 494-496.

<sup>7085</sup> Defence Closing Statement: [T-258](#), p. 78, line 6 – p. 82, line 14, p. 92, lines 7-8.

## V. LEGAL FINDINGS

### A. Applicable law

#### 1. *Crimes against humanity and war crimes*

##### i. *Contextual elements*

##### a. Crimes against humanity

2673. The chapeau of Article 7(1) of the Statute, which sets out the contextual elements of crimes against humanity, reads: ‘[f]or the purpose of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack’. The provision is complemented by Article 7(2)(a) of the Statute which stipulates: “[a]ttack directed against any civilian population” means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack’.

##### i *Attack against any civilian population*

2674. An ‘attack’ in this context means a ‘course of conduct involving the multiple commission of acts referred to in [Article 7(1)]’.<sup>7086</sup> The requirement that the acts form part of a ‘course of conduct’ indicates that Article 7 is meant to cover a series or overall flow of events, as opposed to a mere aggregate of random or isolated acts.<sup>7087</sup> The ‘multiple commission of acts’ sets a quantitative threshold involving a certain number of acts falling within the course of conduct.<sup>7088</sup>

2675. The course of conduct must be ‘directed against any civilian population’, namely a collective, as opposed to individual civilians. The civilian population must be the primary target of the attack and not an incidental victim of it.<sup>7089</sup> The presence within a civilian population of individuals who do not fall under the definition of ‘civilians’ does not deprive the population of its civilian character.<sup>7090</sup> Further, and although the attack must be directed against a civilian population, there is no requirement that the individual

<sup>7086</sup> Article 7(2)(a) of the Statute.

<sup>7087</sup> [Ntaganda Trial Judgment](#), para. 662.

<sup>7088</sup> [Ntaganda Trial Judgment](#), para. 663.

<sup>7089</sup> [Ntaganda Trial Judgment](#), para. 668; [Katanga Trial Judgment](#), para. 1104.

<sup>7090</sup> [Ntaganda Trial Judgment](#), para. 668; [Katanga Trial Judgment](#), para. 1105.

victims of crimes be civilians; they need only be ‘persons’ under the Elements of Crimes.<sup>7091</sup> In any case, the Chamber notes that there also must be a sufficient nexus to an attack against a ‘civilian’ population.

*ii Organisational policy*

2676. The ‘course of conduct involving the multiple commission of acts’ must take place ‘pursuant to or in furtherance of a State or organizational policy to commit such attack’ within the meaning of Article 7(2)(a) of the Statute. The Elements of Crimes specify that the “‘policy to commit such attack” requires that the [...] organization actively promote[s] or encourage[s] such an attack against a civilian population’.<sup>7092</sup> For the purposes of this judgment, only the ‘organisational policy’ prong is relevant.

2677. As regards the ‘organisation’ pursuing the policy, the Chamber adheres to the definition established by Trial Chamber II:

In the Chamber’s view, the connection of the term “organisation” to the very existence of the attack and not to its systematic or widespread nature presupposes that the organisation has sufficient resources, means and capacity to bring about the course of conduct or the operation involving the multiple commission of acts referred to in article 7(2)(a) of the Statute. It therefore suffices that the organisation [has] a set of structures or mechanisms, whatever those may be, that are sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population.<sup>7093</sup>

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<sup>7091</sup> [Ntaganda Trial Judgment](#), para. 669. Victims are described as ‘person’ or ‘persons’ across all Article 7(1) crimes except for forced pregnancy (refers to ‘women’) and the residual ‘other inhumane acts’ (which only speaks generally of inflicting ‘great suffering, or serious injury to body or to mental or physical health [...]’). No further status requirement is specified. In contrast, see the elements for the crimes under Article 8(2)(a) of the Statute (specifically requiring that the victim was ‘protected under one or more of the Geneva Conventions of 1949’). See also ICTY, Appeals Chamber, *Prosecutor v. Mile Mrkšić & Veselin Šljivančanin*, [Judgement](#), 5 May 2009, IT-95-13/1-A, para. 32; ICTY, Appeals Chamber, *Prosecutor v. Dragomir Milošević*, [Judgement](#), 12 November 2009, IT-98-29/1-A, paras 58, 96; United States Military Tribunal, *The High Command Case*, Trials of War Criminals Before the Nuremberg Military Tribunals, 1949, Vol. XI, pp. 675, 679 (convicting General Walter Warlimont for significantly contributing to the illegal plan to lynch Allied flyers; this plan is described as a crime against humanity).

<sup>7092</sup> Elements of Crimes, Introduction to Article 7, para. 3. See also footnote 6 of the same paragraph.

<sup>7093</sup> [Katanga Trial Judgment](#), para. 1119.

2678. As the terms ‘pursuant to or in furtherance of’ imply, the policy requirement ensures that the multiple acts forming the course of conduct are linked. It ensures that acts which are unrelated or perpetrated by individuals acting randomly on their own are excluded.<sup>7094</sup>

2679. A policy may consist of a pre-established design or plan, but it may also crystallise and develop only as actions are undertaken by the perpetrators.<sup>7095</sup> The ‘policy’ may be inferred from a variety of factors, such as: (i) a recurrent pattern of violence; (ii) the existence of preparations or collective mobilisation orchestrated and coordinated by the organisation; (iii) the use of public or private resources to further the policy; (iv) the involvement of organisational forces in the commission of crimes; (v) statements, instructions or documentation attributable to the organisation condoning or encouraging the commission of crimes; and (vi) an underlying motivation.<sup>7096</sup> In principle, a state or organisation committing a systematic attack against a civilian population will satisfy the policy requirement.<sup>7097</sup>

### *iii Widespread or systematic attack*

2680. The alternative qualifiers of ‘widespread’ or ‘systematic’ serve to characterise the ‘attack’ itself.

2681. The term ‘widespread’ connotes the large-scale nature of the attack and the number of targeted persons.<sup>7098</sup> The assessment of whether the attack is widespread is neither exclusively quantitative nor geographical, but must be carried out on the basis of all the relevant facts of the case.<sup>7099</sup>

2682. The term ‘systematic’ reflects the organised nature of the violent acts, referring often to the existence of ‘patterns of crimes’ and the improbability of their random or accidental occurrence.<sup>7100</sup>

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<sup>7094</sup> Similarly Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Judgment pursuant to Article 74 of the Statute](#), 21 March 2016, ICC-01/05-01/08-3343 (with public annexes I, II and A to F, hereinafter: ‘*Bemba Trial Judgment*’), para. 161.

<sup>7095</sup> [Ntaganda Trial Judgment](#), para. 674; [Katanga Trial Judgment](#), para. 1110.

<sup>7096</sup> Similarly [Ntaganda Trial Judgment](#), para. 674; [Katanga Trial Judgment](#), paras 1108-10.

<sup>7097</sup> [Katanga Trial Judgment](#), paras 1111-13.

<sup>7098</sup> See [Ntaganda Trial Judgment](#), para. 691; [Katanga Trial Judgment](#), para. 1123.

<sup>7099</sup> [Ntaganda Trial Judgment](#), para. 691.

<sup>7100</sup> [Ntaganda Trial Judgment](#), para. 692; [Katanga Trial Judgment](#), para. 1123.

b. War crimes – armed conflict not of an international character

2683. The war crimes charged in this case exclusively concern a non-international armed conflict.<sup>7101</sup> An armed conflict not of an international character exists when there is protracted armed violence between governmental authorities and organised armed groups or between such groups within a State.<sup>7102</sup> Such a conflict exceeds situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of similar nature.<sup>7103</sup>

2684. When evaluating the intensity of the conflict to determine its ‘protracted’ character, chambers consider factors such as: (i) the seriousness and frequency of attacks and armed clashes; (ii) the spread of clashes over territory and the group’s ability to control territory over a period of time; (iii) whether any ceasefire orders had been issued or agreed to; (iv) the type and number of armed forces deployed, including any involvement of the government; (v) the type of weapons used; (vi) whether the situation had attracted the attention of the UN Security Council, or involvement of other international organisations; (vii) whether those fighting considered themselves bound by international humanitarian law and (viii) the effects of the violence on the civilian population, including the extent to which civilians left the relevant area, the extent of destruction, and the number of persons killed.<sup>7104</sup> Exercise of control over a part of the territory is not required, though the importance of this factor increases in the absence of active hostilities.<sup>7105</sup> It is also not required that the violence be continuous and uninterrupted – the Chamber need only find that the violence goes beyond isolated or sporadic acts.<sup>7106</sup>

2685. When evaluating whether an entity qualifies as an ‘organised armed group’, chambers consider factors such as: (i) the existence of a command structure, the existence of headquarters, the issuing of political statements, and the use of official spokespersons; (ii) the military (operational) capacity of the armed group, which may be shown by, for example, the ability to define a unified military strategy, the use of military tactics, the

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<sup>7101</sup> Articles 8(2)(c)(i)-(ii) and 8(2)(e)(i), (v), (vi), (vii) and (xii) of the Statute.

<sup>7102</sup> Article 8(2)(f) of the Statute; [Ntaganda Trial Judgment](#), paras 701-03; Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqui Al Mahdi, Judgment and Sentence*, 27 September 2016, ICC-01/12-01/15-171, para. 17; [Katanga Trial Judgment](#), paras 1183-87; [Lubanga Trial Judgment](#), paras 531-38.

<sup>7103</sup> Article 8(2)(d) and (f) of the Statute.

<sup>7104</sup> See [Ntaganda Trial Judgment](#), paras 716-17; [Lubanga Trial Judgment](#), para. 538; [Katanga Trial Judgment](#), para. 1187.

<sup>7105</sup> [Ntaganda Trial Judgment](#), para. 717.

<sup>7106</sup> [Bemba Trial Judgment](#), para. 140.

ability to carry out (large scale or coordinated) operations, the control of territory, and having a territorial division into zones of responsibility; (iii) the logistical capacity of the armed group, indicated, among others, by the existence of a supply chain for military equipment, as well as by the group's ability to move troops around and to recruit and train personnel; (iv) the existence of an internal disciplinary system and the ability to implement international humanitarian law; and (v) the group's ability to speak with one voice, indicated, for example, by the capacity of the leadership to act on behalf of its members in political negotiations and to conclude agreements, such as cease-fire or peace agreements.<sup>7107</sup>

2686. A situation that starts out as a non-international armed conflict may become international, if another State intervenes in the conflict directly (through its troops) or indirectly (when some of the groups involved act on behalf of that other State).<sup>7108</sup> The intervention must be to assist a non-State armed group that is engaged in an armed conflict with the government of a State. In case of an intervention by a third State in support of an armed group fighting on the government's side or with the consent of the host State, the conflict remains non-international.<sup>7109</sup>

2687. To assess whether an international armed conflict exists as a result of such indirect participation of a State, the Chamber must appraise the degree of control exerted by that State over the armed group in question. In doing so, the Chamber will rely on the 'overall control' test, whereby it must be established that the State had 'a role in organising, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group'.<sup>7110</sup> An international armed conflict therefore exists if a degree of control is exercised by the intervening third State over a non-State actor fighting in opposition to, or without the consent of, the government, that goes beyond the mere financing and equipping of the

<sup>7107</sup> [Ntaganda Trial Judgment](#), para. 704; [Lubanga Trial Judgment](#), para. 537; [Katanga Trial Judgment](#), para. 1186.

<sup>7108</sup> [Ntaganda Trial Judgment](#), para. 726; [Katanga Trial Judgment](#), para. 1178; [Lubanga Trial Judgment](#), paras 541-42.

<sup>7109</sup> [Ntaganda Trial Judgment](#), para. 726.

<sup>7110</sup> [Ntaganda Trial Judgment](#), para. 727; [Katanga Trial Judgment](#), para. 1178; [Lubanga Trial Judgment](#), para. 541; ICTY, Appeals Chamber, *Prosecutor v. Duško Tadić*, [Judgement](#), 15 July 1999, IT-94-1-A, paras 115-45. This is the dominant test used in international criminal tribunals, but for a different approach see ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, [Judgment \(Merits\)](#), 27 June 1986, para. 115 ('effective control' test).

armed group. It does not require, however, that such control extends to the issuance of specific orders or instructions relating to single military actions.<sup>7111</sup>

c. Nexus requirement and perpetrators' awareness

2688. Crimes against humanity must have been committed as part of a widespread or systematic attack directed against a civilian population.<sup>7112</sup> When assessing such a nexus, due regard must be given to the characteristics, aims, nature and consequences of the acts concerned.<sup>7113</sup>

2689. The war crimes charged in the present case require, as their contextual elements, that the relevant took place in the context of and was associated with an armed conflict not of an international character.<sup>7114</sup> The perpetrator's conduct need not take place as part of hostilities, meaning that the nexus requirement could still be satisfied for crimes temporally or geographically remote from the actual fighting.<sup>7115</sup> What is required is a sufficiently close link to the hostilities – the Chamber may take into account, amongst other factors, the status of the perpetrator and the victim, whether the act may be said to serve the ultimate goal of a military campaign, and whether the crime is committed as part of, or in the context of, the perpetrator's official duties.<sup>7116</sup>

2690. These nexus requirements find their subjective equivalent in the requisite knowledge or awareness of the perpetrator.

2691. In the case of a crime against humanity, the perpetrator must know that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. However, it is not necessary that the perpetrator be aware of the precise details of the plan or policy of the State or organisation.<sup>7117</sup>

<sup>7111</sup> [Ntaganda Trial Judgment](#), para. 727.

<sup>7112</sup> See the chapeau of Article 7(1) of the Statute ('as part of').

<sup>7113</sup> [Ntaganda Trial Judgment](#), para. 696; [Katanga Trial Judgment](#), para. 1124.

<sup>7114</sup> See the penultimate element of the crimes in the Elements of Crimes of the individual war crimes with which Dominic Ongwen is charged.

<sup>7115</sup> [Ntaganda Trial Judgment](#), para. 731; Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqui Al Mahdi, Judgement and Sentence*, 27 September 2016, ICC-01/12-01/15-171, paras 18, 49; [Katanga Trial Judgment](#), para. 1176; [Lubanga Trial Judgment](#), para. 571; ICTY, Appeals Chamber, *Prosecutor v. Dragoljub Kunarac et al., Judgement*, 12 June 2002, IT-96-23/1-A (hereinafter: '[Kunarac et al. Appeals Judgment](#)'), para. 57.

<sup>7116</sup> [Ntaganda Trial Judgment](#), para. 732; [Bemba Trial Judgment](#), para. 143.

<sup>7117</sup> Elements of Crimes, Introduction to Article 7, para. 2.

2692. In the case of a war crime, the perpetrator must have been aware of factual circumstances that established the existence of an armed conflict.<sup>7118</sup>

2693. These nexus and awareness requirements must be met in order to prove any crime against humanity or war crime. All crimes set forth in the next sub-section must have been committed with the required nexus and awareness of the perpetrator.

*ii. The crimes*

2694. In the following, the Chamber will set forth the relevant applicable law of the individual crimes with which Dominic Ongwen is charged. The crimes are embedded in the context that gives them their international character and differentiates them from ordinary crimes.

2695. Unless otherwise provided in the Statute, the material elements of the crimes must have been committed with ‘intent’ and ‘knowledge’ within the meaning of Article 30 of the Statute.<sup>7119</sup> As regards the phrase ‘will occur in the ordinary course of events’ in Article 30(2)(b) and (3) of the Statute, this requires virtual certainty that the consequence in question would occur.<sup>7120</sup> ‘Knowledge’ means awareness that a circumstance exists or a consequence will occur in the ordinary course of events.<sup>7121</sup> To the extent that any further discussion beyond Article 30’s terms is necessary, the Chamber will also discuss the required mental elements below.

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<sup>7118</sup> See the last element in the Elements of Crimes of the individual war crimes with which Dominic Ongwen is charged. Para. 3 of the Introduction to Article 8 of the Elements of Crimes reads: “[w]ith respect to the last two elements listed for each crime: (a) There is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international; (b) In that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as international or non-international; (c) There is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms “took place in the context of and was associated with””.

<sup>7119</sup> Article 30 provides: ‘1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge. 2. For the purposes of this article, a person has intent where: (a) In relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events. 3. For the purposes of this article, “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. “Know” and “knowingly” shall be construed accordingly’. See also [Lubanga Appeals Judgment](#), paras 446-51.

<sup>7120</sup> [Lubanga Appeals Judgment](#), paras 447-50.

<sup>7121</sup> Article 30(3) of the Statute.

a. Murder and attempted murder (Article 7(1)(a) and Article 8(2)(c)(i))

2696. The crime of murder is committed in case a person is killed<sup>7122</sup> as a result of the perpetrator's act or omission.<sup>7123</sup> In the case of attempted murder, substantial steps have been taken to execute the crime but it does not occur because of circumstances independent of the perpetrator's intentions.<sup>7124</sup>

2697. For the purpose of murder as a war crime, Article 8(2)(c) of the Statute prescribes that the crime 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'.<sup>7125</sup> Taking an active part in the hostilities is understood as acts of war that by their nature or purpose strike at the personnel and *matériel* of enemy armed forces.<sup>7126</sup> It is not considered taking an active part in the hostilities when persons otherwise protected under international humanitarian law exercise their right to individual self-defence.<sup>7127</sup>

2698. Lastly, while the Prosecutor must demonstrate, to the extent possible, the location, date and means of killing, she is not required to demonstrate for each killing the identity of the victim or that the corpse of the deceased has been found.<sup>7128</sup>

2699. The attempted commission of a crime is characterised by the fact that the perpetrator did not fulfil all objective elements despite his or her intention to do so. Accordingly, there

<sup>7122</sup> Footnotes 7 and 31 in the Elements of Crimes specify that '[t]he term "killed" is interchangeable with the term "caused death"'.  
<sup>7123</sup> [Bemba Trial Judgment](#), paras 87-88, 91-94; [Katanga Trial Judgment](#), paras 767-69, 783-91.

<sup>7124</sup> Article 25(3)(f) of the Statute.

<sup>7125</sup> Equally, para. 2 of the Elements of Crimes of Article 8(2)(c)(i)-1 of the Statute determines that the 'person or persons were either *hors de combat*, or were civilians, medical personnel, or religious personnel, taking no active part in the hostilities'.

<sup>7126</sup> [Ntaganda Trial Judgment](#), para. 883; ICTY, Trial Chamber I, *Prosecutor v. Stanislav Galić*, [Judgement and Opinion](#), 5 December 2003, IT-98-29-T, para. 48.

<sup>7127</sup> ICTY, Trial Chamber, *Prosecutor v. Duško Tadić*, [Judgment](#), 7 May 1997, IT-94-1-T, para. 640; Pre-Trial Chamber I, *The Prosecutor v. Callixte Mbarushimana*, [Public Redacted Version of Decision on the confirmation of charges](#), 16 December 2011, ICC-01/04-01/10-465-Red, para. 148; [ICRC Interpretive Guidance on 'Direct Participation'](#), p. 61 (citations removed: '[t]he causation of harm in individual self-defence or defence of others against violence prohibited under IHL lacks belligerent nexus. For example, although the use of force by civilians to defend themselves against unlawful attack or looting, rape, and murder by marauding soldiers may cause the required threshold of harm, its purpose clearly is not to support a party to the conflict against another. If individual self-defence against prohibited violence were to entail loss of protection against direct attack, this would have the absurd consequence of legitimizing a previously unlawful attack. Therefore, the use of necessary and proportionate force in such situations cannot be regarded as direct participation in hostilities.').

<sup>7128</sup> [Ntaganda Trial Judgment](#), para. 862; [Katanga Trial Judgment](#), para. 768.

are no distinctions to be drawn between the mental elements required for murder in its consummated form and those required for its attempted form.<sup>7129</sup>

b. Torture (Article 7(1)(f) and Article 8(2)(c)(i))

2700. The crime of torture, whether as a crime against humanity or war crime, is committed either by act or omission and has a common material element that ‘[t]he perpetrator inflicted severe physical or mental pain or suffering upon one or more persons’.<sup>7130</sup>

2701. The severity implies an important degree of pain and suffering<sup>7131</sup> and may be met by a single act or by a combination of acts when viewed as a whole.<sup>7132</sup> This can be assessed only on a case-by-case basis in the light of all the circumstances of the case.<sup>7133</sup> It is not

<sup>7129</sup> [Ntaganda Trial Judgment](#), para. 861.

<sup>7130</sup> See Article 7(2)(e) of the Statute and para. 1 of the Elements of Crimes of Articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute.

<sup>7131</sup> Similarly Pre-Trial Chamber I, *The Prosecutor v. Al Hassan Ag Abdou Aziz Ag Mohamed Ag Mahmoud*, [Rectificatif à la Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdou Aziz Ag Mohamed Ag Mahmoud](#), 13 November 2019, ICC-01/12-01/18-461-Corr-Red (hereinafter: ‘[Al Hassan Confirmation Decision](#)’), para. 230; Pre-Trial Chamber II, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo](#), 15 June 2009, ICC-01/05-01/08-424, para. 193. See also ICTY, Trial Chamber II, *Prosecutor v. Milorad Krnojelac*, [Judgment](#), 15 March 2002, IT-97-25-T, paras 181, 219, 222, 224, 236; ECtHR, Grand Chamber, *El Masri v. The Former Yugoslav Republic of Macedonia*, [Judgment](#), 13 December 2012, Application No. 39630/09, paras 196-97; ECtHR, Grand Chamber, *Gäfgen v. Germany*, [Judgment](#), 1 June 2010, Application No. 22978/05, para. 90; ECtHR, Grand Chamber, *Selmouni v. France*, [Judgment](#), 28 July 1999, Application No. 25803/94, para. 100. See also ECtHR, Chamber, *Case of Ireland v. United Kingdom*, [Judgment](#), 18 January 1978, Application No. 5310/71, paras 162-63; IACtHR, *Case of Caesar v. Trinidad and Tobago*, [Judgment](#), 11 March 2005, Series C No. 123, paras 67-69; African Commission on Human and Peoples’ Rights, *Shumba v. Zimbabwe*, [Decision](#), 2 May 2012, Comm. No. 288/2004, para. 138.

<sup>7132</sup> Similarly [Al Hassan Confirmation Decision](#), para. 230; ICTY, Appeals Chamber, *Prosecutor v. Mladen Naletilić and Vinko Martinović*, [Judgement](#), 3 May 2006, IT-98-34-A, para. 299; ICTY, Trial Chamber II, *Prosecutor v. Milorad Krnojelac*, [Judgment](#), 15 March 2002, IT-97-25-T, para. 182; ECtHR, Grand Chamber, *Selmouni v. France*, [Judgment](#), 28 July 1999, Application No. 25803/94, para. 105; ECtHR, Grand Chamber, *Aydin v. Turkey*, [Judgment](#), 25 September 1997, Application No. 23178/94, para. 86.

<sup>7133</sup> Similarly [Al Hassan Confirmation Decision](#), para. 230; ICTY, Appeals Chamber, *Prosecutor v. Radoslav Brđanin*, [Judgement](#), 3 April 2007, IT-99-36-A, para. 251; ECCC, Trial Chamber, *Prosecutors v. Kaing Guek alias Duch*, [Judgement](#), 26 July 2010, 001/18-07-200/ECCC/TC (hereinafter: ‘[Duch Trial Judgment](#)’), para. 355; ECtHR, Chamber, *Case of Ireland v. United Kingdom*, [Judgment](#), 18 January 1978, Application No. 5310/71, para. 162 (‘[t]he assessment of th[e] minimum [level of severity] is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc.’). See also African Commission on Human and Peoples’ Rights, *Shumba v. Zimbabwe*, [Decision](#), 2 May 2012, Comm. No. 288/2004, para. 138 (‘The assessment of this minimum level is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.’); IACtHR, *Case of Espinoza Gonzáles v. Peru*, [Judgment](#), 20 November 2014, Series C No. 289, para. 142 (the violation of the right to physical and mental integrity has different connotations of degree, and ranges from torture to other kinds of abuse or cruel, inhuman or degrading treatment, the physical and mental aftereffects of which vary in intensity in accordance with factors that are endogenous and exogenous to the individual (such as, duration of the treatment, age, sex, health, context, and vulnerability) that must be analyzed in each specific situation. [...] the personal characteristics of a presumed victim of torture or cruel, inhuman or degrading treatment must be taken into account when determining whether their personal integrity was violated, because these characteristics may change the

necessary to prove that the pain or suffering involved specific physical injury (such as organ failure), impairment of a bodily function or death.<sup>7134</sup> The pain and suffering may be either physical or mental.<sup>7135</sup> The consequences of torture do not have to be visible, nor must the injury be permanent.<sup>7136</sup>

2702. There are some notable differences between the elements of torture as a crime against humanity versus a war crime.

2703. For torture as a crime against humanity, Article 7(2)(e) of the Statute further requires that '[s]uch person or persons were in the custody or under the control of the perpetrator'. Torture as a crime against humanity also requires that the pain or suffering did not arise only from, and was not inherent or incidental to, lawful sanctions.<sup>7137</sup>

2704. In contrast, for torture as a war crime, the custody/control element is not required. Instead, for the war crime of torture there is an additional mental element specified below. The war crime must also 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*.<sup>7138</sup>

2705. In addition to the mental elements specified in Article 30, the war crime of torture further requires that:

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.

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individual's perception of the reality and, consequently, increase the suffering and the feeling of humiliation when they are subjected to certain treatments').

<sup>7134</sup> Similarly [Al Hassan Confirmation Decision](#), para. 231; [Duch Trial Judgment](#), para. 355; ICTY, Appeals Chamber, *Prosecutor v. Radoslav Brđanin*, [Judgement](#), 3 April 2007, IT-99-36-A, paras 244-51.

<sup>7135</sup> Para. 1 of the Elements of Crimes of Articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute; United Nations, Human Rights Committee (Committee on Civil and Political Rights), [General comment No. 20: Article 7 \(Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment\)](#), 10 March 1992, 44<sup>th</sup> Session, para. 5. See also ECtHR, Chamber, *Case of Ireland v. United Kingdom*, [Judgment](#), 18 January 1978, Application No. 5310/71, para. 167; IACtHR, *Case of Loayza Tamayo v. Peru*, [Judgment](#), 17 September 1997, Series C No. 33, para. 57; African Commission on Human and Peoples' Rights, *Shumba v. Zimbabwe*, [Decision](#), 2 May 2012, Comm. No. 288/2004, paras 143-44.

<sup>7136</sup> Similarly [Duch Trial Judgment](#), para. 355; [Kunarac et al. Appeals Judgment](#), para. 150; ICTY, Trial Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgement](#), 2 November 2001, IT-98-30/1-T, para. 148.

<sup>7137</sup> Para. 3 of the Elements of Crimes of Article 7(1)(f) of the Statute.

<sup>7138</sup> Article 8(2)(c) of the Statute.

2706. This specific purpose must be part of the motivation behind the conduct but it need not be the ‘predominant or sole purpose’.<sup>7139</sup> No specific purpose need be proven for torture as a crime against humanity.<sup>7140</sup> For torture as a war crime, the perpetrator must also have been aware of the factual circumstances that established the status of the victim.<sup>7141</sup>

2707. As concerns the severe pain or suffering required, the perpetrator need not have completed a value judgment as to the severity of the pain inflicted.<sup>7142</sup>

c. Rape (Article 7(1)(g) and Article 8(2)(e)(vi))

2708. The crime of rape, whether as a crime against humanity or war crime, is committed when the following two material elements are fulfilled:

1. The perpetrator invaded<sup>7143</sup> 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.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.<sup>7144</sup>

2709. The establishment of one of the coercive circumstances or conditions set out in the second element is sufficient for penetration to amount to rape.<sup>7145</sup> It is not necessary to prove the

<sup>7139</sup> Similarly [Duch Trial Judgment](#), para. 356; ICTY, Trial Chamber, *Prosecutor v. Radovan Karadžić, Judgment*, 24 March 2016, IT-95-5/18-T, para. 508; [Kunarac et al. Appeals Judgment](#), para. 155. See similarly IACtHR, *Case of Maritza Urrutia v. Guatemala, Judgment*, 27 November 2003, Series C No. 103, para. 91 (‘the elements of the concept of torture established in Article 2 of the Inter-American Convention against Torture include methods to obliterate the personality of the victim in order to attain certain objectives, such as obtaining information from a person; or intimidation or punishment, which may be inflicted through physical violence or through acts that produce severe mental or moral suffering in the victim’).

<sup>7140</sup> Article 30(3) of the Statute; Footnote 14 of the Elements of Crimes of Article 7(1)(f) of the Statute. See for example IACtHR, *Case of the Gómez-Paquiyaui Brothers v. Peru, Judgment*, 8 July 2004, Series C No. 110, para. 116 (‘In general, in situations of massive human rights violations, the systematic use of torture has the aim of intimidating the population’).

<sup>7141</sup> Para. 4 of the Elements of Crimes of Article 8(2)(c)(i)-4.

<sup>7142</sup> Para. 4 of the General Introduction of the Elements of Crimes (‘[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms “inhumane” or “severe”, it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated.’).

<sup>7143</sup> Footnotes 15 and 63 of the Elements of Crimes specify: ‘[t]he concept of “invasion” is intended to be broad enough to be gender-neutral’.

<sup>7144</sup> Footnotes 16 and 64 of the Elements of Crimes specify: ‘[i]t is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity’.

<sup>7145</sup> [Ntaganda Trial Judgment](#), para. 934; [Katanga Trial Judgment](#), para. 965.

victim's lack of consent<sup>7146</sup> and there is no requirement of resistance on the part of the victim.<sup>7147</sup>

2710. Coercive circumstances need not be evidenced by a show of physical force – threats, intimidation, extortion, and other forms of duress which prey on fear or desperation may constitute coercion.<sup>7148</sup> Coercion may be inherent in certain circumstances, such as armed conflict or the military presence of hostile forces amongst the civilian population.<sup>7149</sup> Several factors may contribute to creating a coercive environment, such as the number of people involved in the commission of the crime, or whether the rape is committed during or immediately following a combat situation, or is committed together with other crimes.<sup>7150</sup>

d. Enslavement (Article 7(1)(c))

2711. Article 7(2)(c) of the Statute defines 'enslavement' as the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.<sup>7151</sup> The Elements of Crimes include a non-exhaustive list of the various forms in which ownership over a person may be exercised, namely 'by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty'.<sup>7152</sup>

<sup>7146</sup> Similarly [Ntaganda Trial Judgment](#), para. 934; [Katanga Trial Judgment](#), para. 965. See also Rules 70 and 71 of the Rules.

<sup>7147</sup> Similarly [Duch Trial Judgment](#), para. 363; SCSL, Trial Chamber II, *Prosecutor v. Charles Ghankay Taylor, Judgment*, 18 May 2012, SCSL-03-01-1281, para. 416; [Kumarac et al. Appeals Judgment](#), para. 128. See also IACtHR, *Case of Fernández Ortega et al. v. Mexico, Judgment*, 30 August 2010, Series C No. 215, para. 115.

<sup>7148</sup> [Ntaganda Trial Judgment](#), para. 935. See also IACtHR, *Case of Fernández Ortega et al. v. Mexico, Judgment*, 30 August 2010, Series C No. 215, para. 118, referring to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention Belem do Pará): 'violence against women constitutes not only a violation of human rights, but is "an offense against human dignity and a manifestation of the historically unequal power relations between women and men," that "pervades every sector of society, regardless of class, race, or ethnic group, income, culture, level of education, age or religion, and strikes at its very foundation'.

<sup>7149</sup> [Ntaganda Trial Judgment](#), para. 935.

<sup>7150</sup> [Ntaganda Trial Judgment](#), para. 935. See also IACtHR, *Case of Miguel Castro Castro Prison v. Peru, Judgment*, 25 November 2006, Series C No. 160, para. 224 ('It has been acknowledged that during domestic and international armed conflicts the confronting parties used sexual violence against women as a means of punishment and repression. The use of state power to breach the rights of women in a domestic conflict, besides affecting them directly, may have the purpose of causing an effect in society through those breaches and send a message or give a lesson').

<sup>7151</sup> Article 7(2)(c) of the Statute.

<sup>7152</sup> Para. 1 of the Elements of Crimes of Article 7(1)(c) of the Statute. A footnote to this paragraph further stipulates: '[i]t is understood that such deprivation of liberty may, in some circumstances, include exacting forced

2712. Indicia for the exercise of the powers attaching to the right of ownership include: (i) control or restrictions of someone's movement and, more generally, measures taken to prevent or deter escape; (ii) control of physical environment; (iii) psychological control or pressure; (iv) force, threat of force or coercion; (v) duration of the exercise of powers attaching to the right of ownership; (vi) assertion of exclusivity; (vii) subjection to cruel treatment and abuse; (viii) control of sexuality; (ix) forced labour or subjecting the person to servile status; and (x) the person's vulnerability and the socio-economic conditions in which the power is exerted.<sup>7153</sup>

2713. The elements of the crime of enslavement are satisfied without any additional ill-treatment.<sup>7154</sup> A commercial transaction is also not required.<sup>7155</sup> Imposition of a 'similar deprivation of liberty' may take various forms – it may cover situations in which the victims may not have been physically confined, but were otherwise unable to leave as they would have nowhere else to go and fear for their lives.<sup>7156</sup>

2714. The law also does not establish a minimum period of enslavement.<sup>7157</sup> As outlined above, the duration of the exercise of powers attaching to the right of ownership is a factor to be taken into account in the specific circumstances of the case.

e. Sexual Slavery (Article 7(1)(g) and Article 8(2)(e)(vi))

2715. The crime of sexual slavery<sup>7158</sup> is a specific form of the crime of 'enslavement', penalising the perpetrator's restriction or control of the victim's sexual autonomy while held in the state of enslavement.<sup>7159</sup> The crime of sexual slavery, whether as a crime

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labour or otherwise reducing a person to a servile status as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956. It is also understood that the conduct described in this element includes trafficking in persons, in particular women and children'.

<sup>7153</sup> [Ntaganda Trial Judgment](#), para. 952; [Katanga Trial Judgment](#), para. 976. Similarly [Duch Trial Judgment](#), para. 342; SCSL, Trial Chamber II, *Prosecutor v. Charles Ghankay Taylor*, [Judgement](#), 18 May 2012, SCSL-03-01-1281, para. 447; SCSL, Trial Chamber I, *Prosecutor v. Issa Hassan Sesay et al.*, [Judgement](#), 2 March 2009, SCSL-04-15-T (hereinafter: '[Sesay et al. Trial Judgment](#)'), para. 199; [Kunarac et al. Appeals Judgment](#), para. 119. See also IACtHR, *Case of Hacienda Brasil Verde v. Brazil*, [Judgment](#), 20 October 2016, Series C No. 318, paras 271-72.

<sup>7154</sup> Similarly [Duch Trial Judgment](#), para. 344; [Kunarac et al. Appeals Judgment](#), para. 123.

<sup>7155</sup> [Ntaganda Trial Judgment](#), para. 952; [Katanga Trial Judgment](#), para. 976.

<sup>7156</sup> [Ntaganda Trial Judgment](#), para. 952.

<sup>7157</sup> SCSL, Trial Chamber II, *Prosecutor v. Charles Ghankay Taylor*, [Judgement](#), 18 May 2012, SCSL-03-01-1281, para. 447; [Sesay et al. Trial Judgment](#), para. 200; [Kunarac et al. Appeals Judgment](#), para. 121.

<sup>7158</sup> Footnotes 17 and 65 of the Elements of Crimes, specify: '[g]iven the complex nature of this crime, it is recognized that its commission could involve more than one perpetrator as a part of a common criminal purpose'.

<sup>7159</sup> IACtHR, *Case of López Soto v. Venezuela*, [Judgment](#), 26 September 2018, Series C No. 362, paras 176-79.

against humanity or war crime, is committed when the material element of enslavement is fulfilled<sup>7160</sup> and the perpetrator also caused such person or persons to engage in one or more acts of a sexual nature.

2716. Acts of a sexual nature in this context include acts of rape,<sup>7161</sup> but are not limited to them. Accordingly, they not need involve penetration or even physical contact.<sup>7162</sup> The term ‘sexual’ may refer to acts carried out through sexual means or by targeting sexuality.<sup>7163</sup> Whether an act is sexual in nature must be determined on a case-by-case basis, depending on the specific facts and circumstances of a given case.

f. Forced pregnancy (Article 7(1)(g) and Article 8(2)(e)(vi))

2717. This is the first time forced pregnancy is to be considered by a trial chamber of this Court. The crime of forced pregnancy is grounded in the woman’s right to personal and reproductive autonomy and the right to family.<sup>7164</sup>

<sup>7160</sup> Para. 2711 above.

<sup>7161</sup> [Ntaganda Trial Judgment](#), para. 955; [Al Hassan Confirmation Decision](#), para. 547.

<sup>7162</sup> See similarly ICTR, Chamber I, *The Prosecutor v. Jean-Paul Akayesu*, [Judgement](#), 2 September 1998, ICTR-96-4-T, para. 688 (discussing sexual violence: ‘The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.’); ICTY, Trial Chamber, *Prosecutor v. Milan Milutinović et al.*, [Judgement](#), 26 February 2009, IT-05-87-T, para. 199 (discussing sexual assault in the context of persecution). See also IACtHR, *Case of Rosendo Cantú et al. v. Mexico*, [Judgment](#), 31 August 2010, Series C No. 216, para. 109 (‘sexual violence involves acts of a sexual nature, committed against a person without their consent, and that in addition to the physical invasion of the human body, they may include acts which do not involve penetration or even any physical contact’.)

<sup>7163</sup> UN Commission on Human Rights, Contemporary Forms of Slavery, Systematic rape, sexual slavery and slavery like practices during armed conflict, [Final report submitted by Ms. Gay J. McDougall, Special Rapporteur](#), 22 June 1998, E/CN.4/Sub2/1998/13, para. 21.

<sup>7164</sup> See generally Article 16(1)(e) of the [Convention on the Elimination of All Forms of Discrimination Against Women](#), UNTS vol. 1249, p. 13 (‘[s]tates Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: [...]’); Article 16 of the [Proclamation of Teheran, Final Act of the International Conference on Human Rights](#), Teheran, 22 April to 13 May 1968, UN Doc A/CONF/32/41. See also Women’s Caucus for Gender Justice in the International Criminal Court, Recommendations and Commentary For December 1997 PrepCom On The Establishment of An International Criminal Court, December 1997, para. W.C.4.4, available at <http://www.iccnw.org/documents/5PrepComRecommWomensC.pdf> (classifying forced pregnancy as an attack on reproductive integrity); E. La Haye, ‘Article 8(2)(b)(xxii)-4 Forced Pregnancy’ in R. S. Lee (ed.) *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001), p. 193; C. K. Hall, J. Powderly, N. Hayes in O. Triffterer (ed.) *Commentary on the Rome Statute of the International Criminal Court: Observers’ Notes, Article by Article* (2008), p. 274 n. 838; W. A. Schabas, *The International Criminal Court: A Commentary on the Rome Statute* (2016), pp. 191-92 (treatises noting other international instruments which used the expression ‘forced pregnancy’ prior to the Rome Statute).

2718. The Statute adopted a ‘narrow’ definition of forced pregnancy,<sup>7165</sup> largely because the provision was ‘one of the most difficult and controversial to draft’.<sup>7166</sup> Negotiations for the crime of forced pregnancy were largely driven with atrocities of the Bosnian conflict in mind, where Bosnian women were raped and then unlawfully detained with the intent to change the ethnic composition of their group by giving birth to half-Serb children.<sup>7167</sup>

2719. Some States argued that the crime was unnecessary because its elements were already covered by the crimes of rape and unlawful detention in the Statute<sup>7168</sup> and there was no need to create a new crime to punish those acts committed in Bosnia. Another group of States, including Bosnia and Herzegovina and the United States of America, argued that this approach denied the existence of a distinct and terrible crime.<sup>7169</sup> Some States focused on fair labelling and how each gender-based crime, including forced pregnancy, should be specifically punished in the Statute.<sup>7170</sup>

2720. The Holy See and certain States were also concerned that the crime might be construed as interfering with national laws on abortion<sup>7171</sup> and wanted a high threshold of intent by

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<sup>7165</sup> E. La Haye, ‘Article 8(2)(b)(xxii)-4 Forced Pregnancy’ in R. S. Lee (ed.) *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001), p. 193.

<sup>7166</sup> C. K. Hall, J. Powderly, N. Hayes in O. Triffterer (ed.) *Commentary on the Rome Statute of the International Criminal Court: Observers’ Notes, Article by Article* (2008), p. 274.

<sup>7167</sup> C. Steains, ‘Gender Issues’ in R. S. Lee (ed.) *The International Criminal Court: The Making of the Rome Statute: Issues, Negotiations, Results* (1999), p. 366. See [Kunarac et al. Appeals Judgment](#), paras 342, 583, 654; ICTY, Trial Chamber II, *Prosecutor v. Radoslav Brđanin*, [Judgement](#), 1 September 2004, IT-99-36-T, para. 1011.

<sup>7168</sup> See Preparatory Committee Meeting, 18 June 1998, A/CONF.183/C.1/SR.5, paras 11, 33, 83; Preparatory Committee Meeting, 17 June 1998, A/CONF.183/C.1/SR.4, paras 63, 66; C. Steains, ‘Gender Issues’ in R. S. Lee (ed.) *The International Criminal Court: The Making of the Rome Statute: Issues, Negotiations, Results* (1999), p. 367.

<sup>7169</sup> C. Steains, ‘Gender Issues’ in R. S. Lee (ed.) *The International Criminal Court: The Making of the Rome Statute: Issues, Negotiations, Results* (1999), p. 367.

<sup>7170</sup> Preparatory Committee Meeting, 18 June 1998, A/CONF.183/C.1/SR.8, para. 83 (emphasis added: ‘[r]ape, sexual slavery, enforced prostitution, enforced pregnancy, mass rape and other forms of sexual and gender-based persecution must be *specifically* listed [...]’); Women’s Caucus for Gender Justice in the International Criminal Court, Recommendations and Commentary For December 1997 PrepCom On The Establishment of An International Criminal court, December 1997, Recommendation 7 (emphasis added: ‘[t]he enumeration of war crimes should include a subparagraph identifying, as examples, rape, sexual slavery, enforced prostitution, forced pregnancy, forced sterilization and other forms of sexual and gender violence *as war crimes in themselves*’).

<sup>7171</sup> C. Steains, ‘Gender Issues’ in R. S. Lee (ed.) *The International Criminal Court: The Making of the Rome Statute: Issues, Negotiations, Results* (1999), pp. 366-67; W. A. Schabas, *The International Criminal Court: A Commentary on the Rome Statute* (2016), p. 191. See Preparatory Committee Meeting, 18 June 1998, A/CONF.183/C.1/SR.5, para. 72; Preparatory Committee Meeting, 17 June 1998, A/CONF.183/C.1/SR.3, para. 32.

limiting it to ‘ethnic-cleansing’. Other States wanted a less restrictive approach because they argued that this crime might occur in other situations.<sup>7172</sup>

2721. The resulting definition of forced pregnancy in the Statute is a delicate compromise that specified the *mens rea* requirement as ‘affecting the ethnic composition of any population or carrying out other grave violations of international law’. A final sentence was added, saying that this crime ‘shall not in any way be interpreted as affecting national laws related to pregnancy’.<sup>7173</sup> This final sentence does not add a new element to the offence – and is thus not reproduced in the Elements of Crimes – but allays the concern that criminalising forced pregnancy may be seen as legalising abortion.

2722. As with any crime, forced pregnancy must be interpreted in a manner which gives this crime independent meaning from the other sexual and gender based violence crimes in the Statute. This is demanded by the rule against surplusage, a basic principle of statutory interpretation that presumes that the legislator does nothing in vain and that the court must endeavour to give significance to every word of a statutory instrument. This also implicates the principle of fair labelling, and how the proper characterisation of the evil committed, that is to say, calling the crime by its true name, is part of the justice sought by the victims. It is not enough to punish it merely as a combination of other crimes (e.g., rape and unlawful detention), or subsumed under the generic “any other form of sexual violence’.<sup>7174</sup> The crime of forced pregnancy depends on the unlawful confinement of a (forcibly made) pregnant woman, with the effect that the woman is deprived of reproductive autonomy.

*i Material elements (actus reus)*

2723. The crime of forced pregnancy, whether as a crime against humanity<sup>7175</sup> or a war crime, is committed when the perpetrator ‘confined one or more women forcibly made pregnant’.<sup>7176</sup> The forcible conception of the woman could occur prior to or during the

<sup>7172</sup> C. Steains, ‘Gender Issues’ in R. S. Lee (ed.) *The International Criminal Court: The Making of the Rome Statute: Issues, Negotiations, Results* (1999), p. 368.

<sup>7173</sup> Article 7(2)(f) of the Statute.

<sup>7174</sup> Article 7(1)(g) of the Statute.

<sup>7175</sup> Article 7(2)(f) of the Statute stipulates: “‘Forced pregnancy’ means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy’.

<sup>7176</sup> See para. 1 of the Elements of Crimes of Articles 7(1)(g)-4 and 8(2)(e)(vi)-4 of the Statute.

unlawful confinement.<sup>7177</sup> The perpetrator need not have personally made the victim forcibly pregnant – confining a woman made forcibly pregnant by another is necessary and sufficient for the crime of forced pregnancy.<sup>7178</sup>

2724. The material element of this crime can be split into two components. The first of these is ‘unlawful confinement’, which means that the woman must have been restricted in her physical movement contrary to standards of international law.<sup>7179</sup> The Elements of Crimes do not indicate a specific duration of confinement, nor do they specify that the deprivation of liberty be ‘severe’ as is explicitly required for the crime against humanity of imprisonment.<sup>7180</sup>

2725. The second component of the material element is that the woman has been ‘forcibly made pregnant’. This is understood as encompassing the same coercive circumstances described for other sexual violence crimes in the Statute.<sup>7181</sup> This means that the woman need not have been made pregnant through physical violence alone. ‘Forcibly’ in this context means force, or threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against her or another person, or by taking advantage of a coercive environment, or that the woman made pregnant was a person incapable of giving genuine consent. The existence of such coercive circumstances undermines the woman’s ability to give voluntary and genuine consent.<sup>7182</sup>

#### *ii Mental elements (mens rea)*

2726. Not every confinement of a forcibly impregnated woman constitutes the crime of forced pregnancy. In addition to the mental elements specified in Article 30, the perpetrator must act with the specific intent of ‘affecting the ethnic composition of any population or carrying out other grave violations of international law’.<sup>7183</sup>

<sup>7177</sup> See also [Confirmation Decision](#), para. 100.

<sup>7178</sup> See also [Confirmation Decision](#), para. 99.

<sup>7179</sup> Interpreting and applying the Rome Statute in conformity with internationally recognised human rights, the Chamber notes Article 9 of the [UDHR](#); Articles 9-11 of the [ICCPR](#); Article 6 of the [AfCHPR](#); Article 7 of the [ACHR](#); Article 5 of the [ECHR](#).

<sup>7180</sup> Article 7(1)(e) of the Statute.

<sup>7181</sup> Para. 2 of the Elements of Crimes of Articles 7(1)(g)-1 and 8(2)(e)(vi)-1 of the Statute (rape); para. 1 of the Elements of Crimes of Articles 7(1)(g)-3 and 8(2)(e)(vi)-3 of the Statute (enforced prostitution); para. 1 of the Elements of Crimes of Articles 7(1)(g)-6 and 8(2)(e)(vi)-6 of the Statute (other sexual violence).

<sup>7182</sup> See Rule 70(a) of the Rules.

<sup>7183</sup> See para. 1 of the Elements of Crimes of Articles 7(1)(g)-4 and 8(2)(e)(vi)-4 of the Statute.

2727. This requirement of special intent is phrased alternatively, meaning that the crime of forced pregnancy under the Statute is committed with the intent *either* to affect the ethnic composition of the population *or* to carry out other grave violations of international law, e.g., confining a woman with the intent to rape, sexually enslave, enslave and/or torture her.

2728. It is not required that the accused intended to keep the woman pregnant beyond these alternative intentions.<sup>7184</sup> In the negotiations for the Elements of Crimes, there was a proposal to include an element that ‘the accused intended *to keep the woman or women pregnant* in order to affect the ethnic composition of a population or to carry out another grave violation of international law’.<sup>7185</sup> This emphasised draft text was deliberately removed from the elements adopted,<sup>7186</sup> with one commentator explaining why some delegations were opposed to it:

Delegations that were against the addition argued, for example, that the insertion would unduly restrict the scope of the crime. It was pointed out that if a prison warden keeps women forcibly made pregnant in an internment camp in order to torture them, i.e. carrying out any other violation of international law, he/she should be guilty of forced pregnancy. This would be excluded if an intent to keep the women pregnant were required.<sup>7187</sup>

2729. On this understanding, the crime of forced pregnancy consists in the confinement of a forcibly pregnant woman in order to carry out other grave violations of international law, regardless of whether the accused specifically intended to keep the woman pregnant.

g. Persecution (Article 7(1)(h))

*i Material elements (actus reus)*

2730. Article 7(1)(h) of the Statute defines persecution as conduct against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3,<sup>7188</sup> or other grounds that are universally recognized as

<sup>7184</sup> Similarly [Confirmation Decision](#), para. 100.

<sup>7185</sup> Preparatory Commission for the International Criminal Court, [Proceedings of the Preparatory Commission at its second session \(26 July-13 August 1999\)](#), 18 August 1999, PCNICC/1999/L.4/Rev.1, p. 71.

<sup>7186</sup> E. La Haye, ‘Article 8(2)(b)(xxii)-4 Forced Pregnancy’ in R. S. Lee (ed.) *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001), pp. 194-195.

<sup>7187</sup> K. Dörmann, *Elements of War Crimes under the Rome Statute of the International Criminal Court - Sources and Commentary* (2003), p. 330, n. 5.

<sup>7188</sup> Article 7(3) of the Statute stipulates: ‘For the purpose of this Statute, it is understood that the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above’.

impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.

2731. Article 7(2)(g) of the Statute stipulates that “[p]ersecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity’.

2732. The crime is committed when the four material elements are fulfilled.

2733. The first of these elements is that the perpetrator severely deprived, contrary to international law,<sup>7189</sup> one or more persons of fundamental rights. Not every infringement of human rights is relevant but only a ‘severe deprivation’ of a person’s ‘*fundamental rights contrary to international law*’ (emphasis added). This may include a variety of rights, such as the right to life, the right to personal liberty, the right not to be held in slavery or servitude, the right not to be subjected to torture or cruel treatment, inhuman or degrading treatment, and the right to private property.<sup>7190</sup>

2734. The second and third elements of the crime of persecution are that the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such, and that such targeting was based on political, racial, national, ethnic, cultural religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognised as impermissible under international law.

2735. The targeted group can be defined both in a positive or a negative manner, meaning that it may be the case that the perpetrator targeted only members of a certain group or collectivity or that the perpetrator targeted individuals for not belonging to a certain group or collectivity.<sup>7191</sup>

2736. In evaluating the alleged status as a protected group, the particular political, social, and cultural context are relevant, as are, in addition to the objective factors relevant to the

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<sup>7189</sup> The Chamber heeds to footnote 21 of the Elements of Crimes which stipulates: ‘This requirement is without prejudice to paragraph 6 of the General Introduction to the Elements of Crimes’. Para. 6 of the General Introduction reads: ‘The requirement of ‘unlawfulness’ found in the Statute or in other parts of international law, in particular international humanitarian law, is generally not specified in the elements of crimes’.

<sup>7190</sup> See [Universal Declaration of Human Rights](#), 10 December 1948, United Nations General Assembly Resolution 217 A(III), Articles 3, 4, 5, 17. See also [Ntaganda Trial Judgment](#), para. 991.

<sup>7191</sup> [Ntaganda Trial Judgment](#), para. 1009.

discriminatory ground alleged, the subjective perception of belonging of both the perpetrator and the victim.<sup>7192</sup> It is noted, however, that while it must be demonstrated that the perpetrator targeted certain persons, a group, or a collectivity, based on one of the prohibited grounds, it is not required that all victims of the crime of persecution be members, sympathisers, allies of, or in any other way related to, the protected group.<sup>7193</sup>

2737. Of relevance to this judgment is discriminatory targeting on ‘political’ grounds. In this regard, the Chamber observes that this includes targeting by reason of political affiliations, whether actual or only perceived by the perpetrator.<sup>7194</sup>

2738. Fourth, persecution requires that the conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court.<sup>7195</sup>

*ii Mental elements (mens rea)*

2739. The act of discrimination must be carried out with the requisite intent, *i.e.* an intent to discriminate against the targeted persons on any of the grounds enumerated in Article 7(1)(h) of the Statute. The perpetrator harms the victim *because* the perpetrator perceives the victim as belonging to a particular group or collectivity.<sup>7196</sup> This intent may be inferred from the general behaviour of the perpetrator as well as the circumstances surrounding the commission of the crime.<sup>7197</sup>

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<sup>7192</sup> [Ntaganda Trial Judgment](#), para. 1010.

<sup>7193</sup> [Ntaganda Trial Judgment](#), para. 1011.

<sup>7194</sup> See also Pre-Trial Chamber III, *Situation in the Republic of Burundi*, [Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi”](#), ICC-01/17-X-9-US-Exp, 25 October 2017, 9 November 2017, ICC-01/17-9-Red, para. 133; ECCC, Supreme Court Chamber, *Prosecutors v. Kaing Guek alias Duch*, [Judgement](#), 3 February 2012, 001/18-07-2007-ECCC/SC, para. 272.

<sup>7195</sup> The Chamber notes footnote 22 of the Elements of Crimes, which stipulates: ‘[i]t is understood that no additional mental element is necessary for this element other than that inherent in element 6’.

<sup>7196</sup> Similarly [Al Hassan Confirmation Decision](#), para. 671; ICTY, Trial Chamber II, *Prosecutor v. Vujadin Popović et al.*, [Judgement Volume I](#), 10 June 2010, IT-05-88-T, para. 968.

<sup>7197</sup> Similarly [Al Hassan Confirmation Decision](#), para. 671; ICTY, Appeals Chamber, *Prosecutor v. Vujadin Popović et al.*, [Judgement](#), 30 January 2015, IT-05-88-A, para. 969; ICTY, Appeals Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgement](#), 28 February 2005, IT-98-30/1-A, para. 460.

2740. As to the severe deprivation of fundamental human rights required by this crime, the perpetrator need not have completed a value judgment as to the severity of the deprivation inflicted.<sup>7198</sup>

h. Other inhumane acts, including forced marriage (Article 7(1)(k))

2741. Dominic Ongwen is charged with the crime of other inhumane acts, including forced marriage, within the meaning of Article 7(1)(k) of the Statute. In conformity with the principle of legality, this category of crimes against humanity must be interpreted conservatively and – with due regard to Article 22(2) of the Statute – must not be used to expand uncritically the scope of crimes against humanity.<sup>7199</sup> Judicial interpretation within Article 7(1)(k) of the Statute must be consistent with the essence of the offence and in a manner which could have been reasonably foreseen.<sup>7200</sup>

2742. Following a Defence challenge during the confirmation phase, the Pre-Trial Chamber confirmed the Court’s jurisdiction over the crime of forced marriage.<sup>7201</sup> This Chamber dismissed a similar challenge during the defence presentation of evidence as untimely, though it noted it would decide upon the proper legal interpretation of this crime in the judgment.<sup>7202</sup> In its closing brief, the Defence reiterates, by reference to its previous

<sup>7198</sup> Para. 4 of the General Introduction of the Elements of Crimes (“[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms “inhumane” or “severe”, it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated”).

<sup>7199</sup> Article 22(2) of the Statute provides: “[t]he definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted”. See also Pre-Trial Chamber II, *The Prosecutor v. Francis Kirimi Muthaura et al.*, [Public Redacted Version Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, ICC-01/09-02/11-382-Red, para. 269.

<sup>7200</sup> Article 21(3) of the Statute; ECtHR, Grand Chamber, *Del Río Prada v. Spain*, [Judgment](#), 21 October 2013, Application No. 42750/09, para. 93; ECtHR, Grand Chamber, *Kafkaris v. Cyprus*, [Judgment](#), 12 February 2008, Application No. 21906/04, para. 141; ECtHR, Chamber, *S.W. v. United Kingdom*, [Judgment](#), 22 November 1995, Application No. 20166/92, para. 36. See also IACtHR, *Case of Gelman v. Uruguay*, [Monitoring Compliance with Judgment](#), 20 March 2013, Serie C No. 221, para. 97. In the specific context of interpreting a provision drafted through the legislative technique of categorisation (such as Article 7(1)(k) of the Statute). See also ECtHR, Grand Chamber, *Cantoni v. France*, [Judgment](#), 11 November 1996, Application No. 17862/91, paras 31-32.

<sup>7201</sup> [Confirmation Decision](#), paras 87-95.

<sup>7202</sup> [Decision on Defence Motions Alleging Defects in the Confirmation Decision](#), 7 March 2019, ICC-02/04-01/15-1476, paras 31-35, 37, *ruling upheld in Appeals Chambers*, [Judgment on the appeal of Mr Dominic Ongwen against Trial Chamber IX’s ‘Decision on Defence Motions Alleging Defects in the Confirmation Decision’](#), 17 July 2019, ICC-02/04-01/15-1562, paras 155-58, 163(vii).

submissions it made before the Pre-Trial Chamber, that ‘forced marriage is not a crime under the Rome Statute’.<sup>7203</sup>

2743. The crime of other inhumane acts is committed, either by act or omission, when the following two material elements are fulfilled:

1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.
2. Such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute.<sup>7204</sup>

2744. International case-law suggests that serious beatings, subjection to deplorable conditions of detention and requiring persons to witness the beatings or killings of others can constitute other inhumane acts.<sup>7205</sup> Other international jurisdictions have also recognised forced marriage as an ‘other inhumane act’ falling under crimes against humanity.<sup>7206</sup>

2745. The prior jurisprudence of this Court has understood Article 7(1)(k) of the Statute as a residual category of crimes against humanity, requiring that the specific act in question fails to qualify as any of the enumerated crimes under Article 7(1) of the Statute.<sup>7207</sup> The Chamber agrees that the crime of ‘other inhumane acts’ has indeed a residual nature. It notes in this regard that Article 7(1)(k) of the Statute was included in recognition of the

<sup>7203</sup> [Defence Closing Brief](#), para. 471.

<sup>7204</sup> Elements of Crimes, Article 7(1)(k).

<sup>7205</sup> Egs ICTY, Trial Chamber, *Prosecutor v. Duško Tadić*, [Judgment](#), 7 May 1997, IT-94-1-T, paras 726, 730; [Duch Trial Judgment](#), paras 260-77, 372; ECCC, Trial Chamber, *Prosecutors v. Nuon Chea and Khieu Samphan*, [Judgment](#), 16 November 2018, 002/19-09-2007-ECCC/TC, paras 733-39; ICTY, Trial Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgement](#), 2 November 2001, IT-98-30/1-T, para. 209; ICTR, Trial Chamber I, *The Prosecutor v. Ignace Bagilishema*, [Judgement](#), 7 June 2001, ICTR-95-1A-T, paras 490-94; ICTY, Trial Chamber, *Prosecutor v. Zoran Kupreškić et al.*, [Judgement](#), 14 January 2000, IT-95-16-T, para. 819; Pre-Trial Chamber II, *The Prosecutor v. Francis Kirimi Muthaura et al.*, [Public Redacted Version Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, ICC-01/09-02/11-382-Red, paras 274-80.

<sup>7206</sup> ECCC, Trial Chamber, *Prosecutors v. Nuon Chea and Khieu Samphan*, [Judgment](#), 16 November 2018, 002/19-09-2007-ECCC/TC, paras 740-49; SCSL, Appeals Chamber, *Prosecutor v. Alex Tamba Brima et al.*, [Judgment](#), 22 February 2008, SCSL-2004-16-A, paras 197-201.

<sup>7207</sup> Pre-Trial Chamber II, *The Prosecutor v. Francis Kirimi Muthaura et al.*, [Public Redacted Version Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, ICC-01/09-02/11-382-Red, para. 269; Pre-Trial Chamber I, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Public Redacted Version of Decision on the confirmation of charges](#), 30 September 2008, ICC-01/04-01/07-717, para. 450.

impossibility of exhaustively enumerating every inhumane act which could constitute a crime.<sup>7208</sup>

2746. If the act is the same as one of the enumerated acts, with an identical ‘character’ in terms of its nature, harm suffered and protected interests involved, then the second material element under Article 7(1)(k) is not satisfied. In this case, a conviction can be entered for a crime under Article 7(1)(a)-(j), but not for the crime of ‘other inhumane act’ under Article 7(1)(k).

2747. However, this does not mean that a conviction under Article 7(1)(k) of the Statute can be entered only when the conduct in question, considered in its entirety, falls completely outside any act under Article 7(1)(a)-(j). Rather, a conviction can be entered *also* under Article 7(1)(k) when the full scope of the culpable conduct is not reflected by its qualification under the enumerated crime(s) alone. The Chamber notes that ‘character’ under the second material element of Article 7(1)(k) refers to the nature and gravity of the act.<sup>7209</sup> The Chamber can enter a conviction under Article 7(1)(k) if the perpetrator inflicts great suffering, or serious injury to body or to mental or physical health, by means of a course of conduct which, despite comprising also acts falling under one or more of the enumerated crimes, is, in its entirety, not identical, but is nonetheless ‘similar’ in character in terms of nature and gravity, to those enumerated crimes.

2748. The Chamber considers forced marriage – and the enumerated acts charged out of the same overall course of conduct in this case – to be just such an example. Every person enjoys the fundamental right to enter a marriage with the free and full consent of another person.<sup>7210</sup> Marriage creates a status based on a consensual and contractual relationship

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<sup>7208</sup> G. Witschel and W. Rückert, ‘Article 7(1)(k) – Crime Against Humanity of Other Inhumane Acts’, in R. S. Lee (ed.) *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001), pp. 106-07. For a similar explanation of ‘other inhumane acts’ under customary international law, see ICTY, Appeals Chamber, *Prosecutor v. Dario Kordić and Mario Čerkez*, [Judgement](#), 17 December 2004, IT-95-14/2-A, para. 117, quoting ICTY, Trial Chamber, *Prosecutor v. Zoran Kupreškić et al.*, [Judgement](#), 14 January 2000, IT-95-16-T, para. 563 (inhumane acts as crimes against humanity were ‘deliberately designed as a residual category, as it was felt undesirable for this category to be exhaustively enumerated. An exhaustive categorization would merely create opportunities for evasion of the letter of the prohibition.’).

<sup>7209</sup> See Elements of Crimes, footnote 30.

<sup>7210</sup> Article 16 of the [UDHR](#); Article 23(3) of the [ICCPR](#); Article 10(1) of the [ICESCR](#); Human Rights Committee, [General Comment 28](#), 29 March 2000, HRI/GEN/1/Rev.9 (Vol. I), paras 23-24; Article 1(1) of the [Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#), 9 December 1964, UNTS vol. 521, p. 231; Article 16(1)(b) of the [Convention on the Elimination of All Forms of Discrimination Against Women](#), 3 September 1981, UNTS vol. 1249, p. 13; Article 6(2)(a) of the UN Declaration on the Elimination of All Forms of Discrimination against Women, 7 November 1967, A/RES/22/226; Article 6(a) of the [Protocol of](#)

– it is an institution and also an act or rite.<sup>7211</sup> The central element, and underlying act of forced marriage is the imposition of this status on the victim, i.e. the imposition, regardless of the will of the victim, of duties that are associated with marriage – including in terms of exclusivity of the (forced) conjugal union imposed on the victim – as well as the consequent social stigma.<sup>7212</sup> Such a state, beyond its illegality, has also social, ethical and even religious effects which have a serious impact on the victim’s physical and psychological well-being. The victim may see themselves as being bonded or united to another person despite the lack of consent. Additionally, a given social group may see the victim as being a ‘legitimate’ spouse. To the extent forced marriage results in the birth of children, this creates even more complex emotional and psychological effects on the victim and their children beyond the obvious physical effects of pregnancy and child-bearing.

2749. Accordingly, the harm suffered from forced marriage can consist of being ostracised from the community, mental trauma, the serious attack on the victim’s dignity, and the deprivation of the victim’s fundamental rights to choose his or her spouse.<sup>7213</sup>

2750. The conduct underlying forced marriage – as well as the impact it has on victims – are not fully captured by other crimes against humanity. To focus on sexual slavery and rape in particular, these crimes and forced marriage exist independently of each other. While the crime of sexual enslavement penalises the perpetrator’s restriction or control of the victim’s sexual autonomy while held in a state of enslavement, the ‘other inhumane act’

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[the African Charter on Human Rights and Peoples’ Rights on the Rights of Women in Africa](#); Article 19(i) of the [Islamic Declaration of Human Rights](#); Article 33(1) of the Arab Charter on Human Rights, 15 March 2008, *reprinted in* 12 Int’l Hum. Rts. Rep. 893; Article 17(3) of the [ACHR](#); Article 8(1) of the [ECHR](#); Article 5 of the Protocol No. 7 to the [ECHR](#). *See also* Human Rights Council, Child, early and forced marriage in humanitarian settings – Report of the United Nations High Commissioner for Human Rights, 26 April 2019, A/HRC/41/19, para. 4 (‘[c]hild, early and forced marriage is a human rights violation, a form of gender-based discrimination, a harmful practice and a form of sexual and gender-based violence, which requires States to take steps to prevent and eliminate it.’).

<sup>7211</sup> Merriam Webster dictionary defines marriage as: ‘a: [...] the state of being united as spouses in a consensual and contractual relationship recognized by law; b : the mutual relation of married persons : wedlock; c : the institution whereby individuals are joined in a marriage 2 : an act of marrying or the rite by which the married status is effected especially : the wedding ceremony and attendant festivities or formalities [...]’.

<sup>7212</sup> [Confirmation Decision](#), para. 93; [Al Hassan Confirmation Decision](#), para. 555. *See also* [AFRC Appeal Judgement](#), para. 195.

<sup>7213</sup> Concretely as regards sexual violence and in analysing whether it caused ‘severe physical or mental suffering’, the Inter-American Court of Human Rights has determined that the specific circumstances of each case must be taken into account, including: ‘characteristics of the action, the duration, the method used, or the way in which the suffering was inflicted, the potential physical and mental effects, and also the status of the person who endured this suffering, including their age, gender, and physical condition, among other personal details’ (IACtHR, *Case of Fernández Ortega et al. v. Mexico*, [Judgment](#), 30 August 2010, Series C No. 215, para. 122).

of forced marriage penalises the perpetrator's imposition of 'conjugal association' with the victim. Forced marriage implies the imposition of this conjugal association and does not necessarily require the exercise of ownership over a person, an essential element for the existence of the crime of enslavement. Likewise, the crime of rape does not penalise the imposition of the 'marital status' on the victim. When a concept like 'marriage' is used to legitimatise a status that often involves serial rape, victims suffer trauma and stigma beyond that caused by being a rape victim alone.<sup>7214</sup>

2751. The Chamber thus interprets Article 7(1)(k) of the Statute and its elements to include the inhumane act of forced marriage, namely forcing a person, regardless of his or her will, into a conjugal union with another person by using physical or psychological force, threat of force or taking advantage of a coercive environment.<sup>7215</sup> Such an act does not fall under any of the acts enumerated in Article 7(1)(a)-(j) of the Statute, but is similar in character to them. Whether the conduct charged in this case constitutes forced marriage under this definition is assessed on the facts.

2752. It follows that forced marriage is a continuing crime, in the sense that it covers the entire period of the forced conjugal relationship, and only ends when the individual is freed from it.<sup>7216</sup>

2753. The perpetrator need not make a value judgment as to the 'inhumane' character of the act.<sup>7217</sup> They need only be aware of the factual circumstances that established the character of the inhumane act.<sup>7218</sup>

i. Cruel treatment (Article 8(2)(c)(i))

2754. The crime of cruel treatment requires that:

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.

<sup>7214</sup> [Al Hassan Confirmation Decision](#), para. 555.

<sup>7215</sup> [Confirmation Decision](#), paras 91-93; SCSL, Appeals Chamber, *Prosecutor v. Issa Hassan Sesay et al.*, [Judgment](#), 26 October 2009, SCSL-04-15-A, paras 736-40.

<sup>7216</sup> Similarly [Sesay et al. Trial Judgment](#), paras 1211-14. Although in the context of conscription and enlistment of children, see [Lubanga Trial Judgment](#), para. 618.

<sup>7217</sup> Elements of Crimes, General Introduction, para. 4.

<sup>7218</sup> Elements of Crimes, Article 7(1)(k) of the Statute, para. 3.

2. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.
3. The perpetrator was aware of the factual circumstances that established this status.

j. Outrages upon personal dignity (Article 8(2)(c)(ii))

2755. The crime of outrages upon personal dignity is committed when the following three material elements are fulfilled:

1. The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons.
2. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity.
3. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.<sup>7219</sup>

2756. Whether the ‘severity’ of the humiliation, degradation or violation is ‘generally recognised’ as an outrage upon personal dignity entails an objective assessment of a reasonable person and must be assessed on a case-by-case basis.<sup>7220</sup> There is no requirement that the suffering or injury must have long term effects.<sup>7221</sup>

2757. The perpetrator must have been aware of the factual circumstances that established the status of the victim.<sup>7222</sup> The perpetrator need not have completed a value judgment as to

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<sup>7219</sup> See also footnote 57 of the Elements of Crimes, which stipulates: ‘[f]or this crime, “persons” can include dead persons. It is understood that the victim need not personally be aware of the existence of the humiliation or degradation or other violation. This element takes into account relevant aspects of the cultural background of the victim’.

<sup>7220</sup> Similarly [Al Hassan Confirmation Decision](#), para. 262; [Sesay et al. Trial Judgment](#), para. 176; [Kunarac et al. Appeals Judgment](#), para. 504.

<sup>7221</sup> [Al Hassan Confirmation Decision](#), para. 262; Pre-Trial Chamber I, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Public Redacted Version of Decision on the confirmation of charges](#), 30 September 2008, ICC-01/04-01/07-717, para. 369. Similarly ICTY, Trial Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgement](#), 2 November 2001, IT-98-30/1-T, para. 168; [Kunarac et al. Appeals Judgment](#), paras 501, 503.

<sup>7222</sup> Para. 4 of the Elements of Crimes of Article 8(2)(c)(ii).

the severity of the humiliation, degradation or violation inflicted.<sup>7223</sup> There is also no additional requirement that the perpetrator had a discriminatory intent or motive.<sup>7224</sup>

k. Attack against the civilian population (Article 8(2)(e)(i))

2758. This crime requires the two material elements. The first of these is that the perpetrator directed an attack. An ‘attack’ constitutes any ‘acts of violence against the adversary, whether in offence or defence’.<sup>7225</sup> To ‘direct’ an attack in this context means that the perpetrator selected the intended target and decided on the attack.<sup>7226</sup> No particular harm to civilians need be caused; the crime is directing the attack as such.<sup>7227</sup>

2759. The second material element of the crime is that the object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities. Civilians are persons who are not members of State armed forces or organised armed groups of a party to the conflict.<sup>7228</sup> The term ‘civilian population’ denotes a collective, as opposed to individual civilians.<sup>7229</sup> The presence within a civilian population of individuals who do not fall under the definition of ‘civilians’ does not deprive the population of its civilian character.<sup>7230</sup>

2760. The civilian population or individual civilians must have been the *primary* object of the ‘attack’; directing the attack against military objects that affect civilians incidentally does not suffice.<sup>7231</sup> Efforts to comply with international humanitarian law are relevant in this context, including the principle of distinction between legitimate targets and protected persons or objects and the duty to take precautionary measures.<sup>7232</sup> Depending on the

<sup>7223</sup> Para. 4 of the General Introduction of the Elements of Crimes (‘[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms “inhumane” or “severe”, it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated.’).

<sup>7224</sup> Similarly [Sesay et al. Trial Judgment](#), para. 177; ICTY, Appeals Chamber, *Prosecutor v. Zlatko Aleksovski, Judgment*, 24 March 2000, IT-95-14/1-A, para. 28.

<sup>7225</sup> [Ntaganda Trial Judgment](#), para. 916; [Katanga Trial Judgment](#), para. 798; Article 13(2) of [Additional Protocol II](#); Article 49 of [Additional Protocol I](#). See also Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqui Al Mahdi, Judgment and Sentence*, 27 September 2016, ICC-01/12-01/15-171, paras 15-16.

<sup>7226</sup> [Ntaganda Trial Judgment](#), paras 744, 917.

<sup>7227</sup> [Ntaganda Trial Judgment](#), para. 904.

<sup>7228</sup> [Ntaganda Trial Judgment](#), para. 883; [Katanga Trial Judgment](#), para. 788; Common Article 3 of the four Geneva Conventions.

<sup>7229</sup> [Ntaganda Trial Judgment](#), para. 921.

<sup>7230</sup> [Ntaganda Trial Judgment](#), para. 921.

<sup>7231</sup> [Katanga Trial Judgment](#), para. 802.

<sup>7232</sup> See [Ntaganda Trial Judgment](#), para. 921; [Katanga Trial Judgment](#), para. 802.

circumstances, the civilian population can still qualify as the primary object of an attack in a situation where everyone is targeted at a mixed military-civilian position.<sup>7233</sup>

2761. The perpetrator must also have intended the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack.<sup>7234</sup>

1. Pillaging (Article 8(2)(e)(v))

*i* Material elements (*actus reus*)

2762. The first material element of pillaging is that the perpetrator appropriated certain property.

2763. Article 8(2)(e)(v) relates to ‘pillaging a town or place’. The pillaging of a town or place comprises all forms of appropriation of property, including appropriation committed by individuals in their own interest and acts of organised or systematic appropriation.<sup>7235</sup>

2764. Though noting that the jurisprudence is not uniform on this point, the Chamber – relying on the absence of any statutory language to this effect – considers that there is no requirement that appropriations must occur on a large scale basis before constituting the crime of pillaging.<sup>7236</sup>

2765. The second material element of pillaging is that the appropriation was without the consent of the owner.

2766. When the property owner has fled, such appropriations must be assumed to have been without the owner’s consent absent any contrary indication.<sup>7237</sup> This could occur, for example, when items are appropriated from an empty house whose residents have fled.<sup>7238</sup> The concept of private property and the right to property must be understood as encompassing not only the property of individuals, but also the communal property of

<sup>7233</sup> See [Ntaganda Trial Judgment](#), paras 921, 923; [Katanga Trial Judgment](#), para. 802. Similarly ICTY, Appeals Chamber, *Prosecutor v. Stanislav Galić*, [Judgement](#), 30 November 2006, IT-98-29-A, para. 132.

<sup>7234</sup> Para. 3 of the Elements of Crimes of Article 8(2)(e)(i) of the Statute.

<sup>7235</sup> [Ntaganda Trial Judgment](#), para. 1028; [Katanga Trial Judgment](#), para. 905.

<sup>7236</sup> In accord with [Ntaganda Trial Judgment](#), para. 1044. But see [Bemba Trial Judgment](#), para. 117; [Katanga Trial Judgment](#), para. 909.

<sup>7237</sup> [Ntaganda Trial Judgment](#), para. 1034; [Katanga Trial Judgment](#), para. 954.

<sup>7238</sup> [Ntaganda Trial Judgment](#), paras 1034, 1037; [Katanga Trial Judgment](#), para. 954.

the communities. It must also take into consideration the customary law of the community (*i.e.* practices on possession, titles and registration).<sup>7239</sup>

*ii Mental elements (mens rea)*

2767. Appropriations justified by military necessity cannot constitute the crime of pillaging.<sup>7240</sup> Military necessity requires that the appropriation's use be directed to further the war effort and thus be used for military purposes.<sup>7241</sup> This is in contrast to appropriations for private or personal use.<sup>7242</sup> The perpetrator must have specifically intended to deprive the owner of the property and to appropriate it for private or personal use.<sup>7243</sup> If combatants appropriate property essential to their survival, such as food, this alone does not make the appropriation one of military necessity.<sup>7244</sup>

*m. Conscription of children or their use in armed hostilities  
(Article 8(2)(e)(vii))*

2768. Article 8(2)(e)(vii) of the Statute concerns conscripting, enlisting and using children under the age of 15 years in hostilities. Conscripting or enlistment alone are sufficient and it is therefore not required that a child under 15 years of age who has been conscripted or enlisted also be 'used' to participate actively in hostilities.<sup>7245</sup> The crime is committed when the following two material elements are fulfilled:

1. The perpetrator conscripted or enlisted one or more persons into an armed force or group or used one or more persons to participate actively in hostilities.
2. Such person or persons were under the age of 15 years.

2769. 'Conscripting' has been defined as the coercive and 'enlisting' as the voluntary integration of children under the age of 15 years into an armed force or group.<sup>7246</sup> The

<sup>7239</sup> See IACtHR, *Case of Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, [Judgment](#), 31 August 2001, Series C No. 79, paras 149-51. See also African Commission on Human and Peoples' Rights, *African Commission on Human and Peoples' Rights v. Republic of Kenya*, [Judgment](#), 26 May 2017, Application No. 006/2012, para. 123.

<sup>7240</sup> Footnote 62 of the Elements of Crimes of Article 8(2)(e)(v) of the Statute.

<sup>7241</sup> [Ntaganda Trial Judgment](#), para. 1030.

<sup>7242</sup> [Ntaganda Trial Judgment](#), paras 1030, 1041-42.

<sup>7243</sup> Para. 2 of the Elements of Crimes of Article 8(2)(e)(v) of the Statute.

<sup>7244</sup> [Katanga Trial Judgment](#), paras 951-52; ICTY, Trial Chamber, *The Prosecutor v. Enver Hadžihasanović and Amir Kubura*, [Judgement](#), 15 March 2006, IT-01-47-T, paras 1895, 1976-77.

<sup>7245</sup> [Ntaganda Trial Judgment](#), para. 1104.

<sup>7246</sup> [Lubanga Appeals Judgment](#), paras 278, 311-312; [Ntaganda Trial Judgment](#), para. 1107 (noting that '[i]t may be difficult to distinguish between voluntary and forced recruitment in the case of children under the age of 15,

element of compulsion distinguishes both forms of integration and is established by taking into account ‘whether the force, threat of force or psychological pressure applied was of such a degree and so pervasive, that individuals can be said to have been forced to join the armed force or group’.<sup>7247</sup> This compulsion must be determined on a case-by-case basis, considering the particular circumstances of the child and the way she or he was recruited.

2770. As concerns the use of such children, to ‘participate actively in hostilities’ ranges from direct participation in hostilities to other supporting combat-related activities.<sup>7248</sup> Conversely, activities unrelated to hostilities fall outside of Article 8(2)(e)(vii) of the Statute.<sup>7249</sup> When assessing whether the role of the child is to be treated as active participation, what matters is a case-by-case assessment of the link between the activity undertaken by the child and the hostilities in which the armed force or group for which he or she is acting is engaged.<sup>7250</sup>

2771. Conscripting and using children under the age of 15 years is a crime of continuing nature for as long as the children remain in the armed force or group; consequently, it ceases to be committed when the children leave the force or group or reach the age of 15 years, whichever comes first.<sup>7251</sup>

2772. In addition to the mental elements specified in Article 30, the perpetrator must know or should have known that such person or persons were under the age of 15 years.<sup>7252</sup>

n. Destruction of property (Article 8(2)(e)(xii))

2773. Dominic Ongwen is charged with the crime of destroying property of an adversary as a war crime, within the meaning of Article 8(2)(e)(xii) of the Statute. This provision also governs ‘seizing’ such property, but only destruction of property is relevant in this case.

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particularly since such individuals may be unable to give genuine and informed consent when enlisting in an armed force or group.’).

<sup>7247</sup> [Lubanga Appeals Judgment](#), para. 282. See also [Ntaganda Trial Judgment](#), paras 1106-07.

<sup>7248</sup> [Lubanga Appeals Judgment](#), paras 333-40; [Katanga Trial Judgment](#), para. 1044.

<sup>7249</sup> [Katanga Trial Judgment](#), para. 1044.

<sup>7250</sup> [Lubanga Appeals Judgment](#), paras 333, 340 (from para. 340, with further quotation marks removed: to participate actively in hostilities ‘imports a wide interpretation to the activities and roles that are covered by the offence of using children under the age of 15 actively to participate in hostilities’); [Ntaganda Trial Judgment](#), paras 1108-09.

<sup>7251</sup> [Ntaganda Trial Judgment](#), para. 1104; [Lubanga Trial Judgment](#), para. 618.

<sup>7252</sup> Para. 3 of the Elements of Crimes of Article 8(2)(e)(vii) of the Statute.

2774. The crime of destroying the adversary's property is committed if the following four material elements are fulfilled.<sup>7253</sup>

2775. First, it is required that the perpetrator destroyed certain property. The property, including movable or immovable, private or public items,<sup>7254</sup> is 'destroyed', either by act or omission, if it is set ablaze, demolished, pulled down or so badly damaged it is no longer fit for purpose.<sup>7255</sup>

2776. Second, the crime of destruction of property requires that such property was property of an adversary. The property must belong to the 'adversary', namely to individuals or entities considered to be aligned to the opposing party to the conflict adverse or hostile to the perpetrator.<sup>7256</sup> With regard to the destruction of property belonging to persons who had no stated or apparent allegiance to a party involved in the conflict, the Chamber notes that it may be established that these persons or entities were 'adverse', or considered as such by the perpetrators, for example by showing that they were not aligned to or supportive of the perpetrators' party or its objectives.<sup>7257</sup>

2777. Third, such property must have been protected from that destruction under the international law of armed conflict. The property is protected under international law when it does not constitute 'military objectives', namely 'objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage'.<sup>7258</sup> Whether or not the action offered a 'military advantage' must be evaluated from the attacker's perspective for each targeted object and 'such advantage must be definite and cannot in any way be indeterminate or

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<sup>7253</sup> See paras 1-3, 5 of the Elements of Crimes of Article 8(2)(e)(xii) of the Statute.

<sup>7254</sup> [Katanga Trial Judgment](#), para. 892; Pre-Trial Chamber I, *The Prosecutor v. Callixte Mbarushimana*, [Public Redacted Version of Decision on the confirmation of charges](#), 16 December 2011, ICC-01/04-01/10-465-Red, para. 171.

<sup>7255</sup> [Katanga Trial Judgment](#), para. 891; Pre-Trial Chamber I, *The Prosecutor v. Callixte Mbarushimana*, [Public Redacted Version of Decision on the confirmation of charges](#), 16 December 2011, ICC-01/04-01/10-465-Red, para. 171.

<sup>7256</sup> [Katanga Trial Judgment](#), para. 892; Pre-Trial Chamber I, *The Prosecutor v. Callixte Mbarushimana*, [Public Redacted Version of Decision on the confirmation of charges](#), 16 December 2011, ICC-01/04-01/10-465-Red, para. 171.

<sup>7257</sup> [Ntaganda Trial Judgment](#), para. 1160.

<sup>7258</sup> Article 52(2) of [Additional Protocol I](#); [Katanga Trial Judgment](#), para. 893.

potential'.<sup>7259</sup> As a result, objects of the adversary lose their protection under international law of armed conflict if and for such time as they are 'military objects'.<sup>7260</sup>

2778. Fourth, the perpetrator must have been 'aware of the factual circumstances that established the status of the property'.<sup>7261</sup>

2779. Fifth, the crime of destruction of property requires that the destruction was not required by military necessity. This relates to situation where destruction is 'imperatively demanded by the necessities of the conflict'. Such a compelling necessity must be assessed on a case-by-case basis.<sup>7262</sup>

## 2. *Mode of liability – Commission (Article 25(3)(a) of the Statute)*

2780. In this section, the Chamber will set out the applicable law for the mode of liability relevant to its findings which, for the reasons provided in the present judgment, is the responsibility under Article 25(3)(a) of the Statute as direct or indirect perpetrator, or indirect co-perpetrator, as the case may be. Indeed, in light of the Chamber's findings, it is unnecessary to set out the requirements for the alternative modes of liability charged by the Prosecution and confirmed by the Pre-Trial Chamber.<sup>7263</sup>

2781. Article 25(3)(a) of the Statute provides that a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible.

### *i. Commission 'as an individual' (direct perpetration)*

2782. Direct perpetrators must personally carry out the material elements of the crime with the requisite intent and knowledge pursuant to Article 30 of the Statute as well as any further specific provision.<sup>7264</sup>

<sup>7259</sup> [Katanga Trial Judgment](#), para. 893.

<sup>7260</sup> [Katanga Trial Judgment](#), para. 893.

<sup>7261</sup> Para. 4 of the Elements of Crimes of Article 8(2)(e)(xii) of the Statute.

<sup>7262</sup> [Katanga Trial Judgment](#), para. 894.

<sup>7263</sup> Other trial judgments have proceeded similarly. Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqui Al Mahdi*, [Judgement and Sentence](#), 27 September 2016, ICC-01/12-01/15-171, para. 20; [Ntaganda Trial Judgment](#), para. 1200.

<sup>7264</sup> [Ntaganda Trial Judgment](#), para. 735; [Bemba et al. Trial Judgment](#), para. 58.

*ii. Commission 'through another person' (indirect perpetration)*

2783. An indirect perpetrator controls the person or persons who execute the material elements of the crime by subjugating their will.<sup>7265</sup> This subjugation of the will is what distinguishes indirect perpetration from ordering, where a lesser degree of influence is required. The crucial element is the perpetrator's control of the action of another person or persons to such a degree that the will of that person becomes irrelevant, such that their action must be attributed to the perpetrator as if it were his or her own.<sup>7266</sup> Whether the controlled person is also criminally responsible for the crime is irrelevant.<sup>7267</sup>

2784. The subjugation of the will of the person or persons who execute the material elements of the crime may occur in various ways. The use of an organisation is one such way,<sup>7268</sup> but this is a factual consideration and not a requirement for establishing this mode of liability. In such a case, while the potential physical perpetrators are interchangeable within the organisation,<sup>7269</sup> the criterion of control means that the indirect perpetrator used 'at least part of the apparatus of power subordinate to him or her, so as to steer it intentionally towards the commission of the crime, without leaving one of the subordinates at liberty to decide whether the crime is to be executed.'<sup>7270</sup>

2785. In addition, for an indirect perpetrator to be individually criminally responsible, he or she must satisfy the subjective elements as required by Article 30 and any further specific provision.

*iii. Commission 'jointly with another' and 'through another person' (indirect co-perpetration)*

2786. Joint commission (co-perpetration) is when the execution of the material elements of the crime results from the actions of a plurality of persons.<sup>7271</sup> The execution of the material elements of the crime by the co-perpetrators may take place through yet another person or persons, including, as just stated above, through the use of an organization to control

<sup>7265</sup> See [Ntaganda Trial Judgment](#), paras 774, 777-79 (discussed in the context of indirect co-perpetration); [Katanga Trial Judgment](#), paras 1396, 1402-03, 1406. See also [Confirmation Decision](#), paras 38-40.

<sup>7266</sup> [Ntaganda Trial Judgment](#), para. 777; [Confirmation Decision](#), paras 39-40.

<sup>7267</sup> Article 25(3)(a) of the Statute (the person is responsible for committing a crime through another person 'regardless of whether that other person is criminally responsible').

<sup>7268</sup> [Ntaganda Trial Judgment](#), para. 778; [Katanga Trial Judgment](#), paras 1403-06.

<sup>7269</sup> [Ntaganda Trial Judgment](#), para. 778; [Katanga Trial Judgment](#), para. 1408.

<sup>7270</sup> [Ntaganda Trial Judgment](#), para. 778; [Katanga Trial Judgment](#), para. 1411.

<sup>7271</sup> [Lubanga Appeals Judgment](#), para. 445. See also [Confirmation Decision](#), para. 38.

such persons. This is what the Chamber understands ‘indirect co-perpetration’ to be in the confirmed charges.<sup>7272</sup> Defence arguments that indirect co-perpetration has no statutory basis<sup>7273</sup> are misconceived because, as understood<sup>7274</sup> by this Chamber, indirect co-perpetration is nothing more than a particular form of committing a crime ‘jointly with another’ under Article 25(3)(a) of the Statute.

2787. Indirect co-perpetration requires the following objective elements: (i) the existence of an agreement or common plan, between the accused and one or more other persons, to commit the crimes or to engage in conduct which, in the ordinary course of events, would result in the commission of the crimes; and (ii) the control of the members of the common plan over a person or persons who execute the material elements of the crimes by subjugating the will of the direct perpetrators.<sup>7274</sup> The accused, though not required to carry out the criminal conduct directly and personally, must have control over the crime ‘by virtue of his or her essential contribution to it and the resulting power to frustrate its commission’.<sup>7275</sup>

2788. In addition, for an indirect co-perpetrator to be individually criminally responsible, he or she must satisfy the subjective elements as required by Article 30 and any further specific provision. In particular, the indirect co-perpetrator must have meant to engage in the conduct which constituted his or her essential contribution,<sup>7276</sup> and must have intended the execution of the material elements of the crime or have been aware that the implementation of the agreement between the co-perpetrators would in the ordinary course of events result in execution of the material elements of the crimes.<sup>7277</sup>

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<sup>7272</sup> See [Confirmation Decision](#), paras 38-39. Similarly [Ntaganda Trial Judgment](#), para. 772 (citations removed: ‘[h]owever, the Chamber understands that in the current case, the concept of indirect co-perpetration entails a form of co-perpetration where the common plan is executed through other persons, who function as a tool of all of the co-perpetrators. In this sense, ‘indirect co-perpetration’ in this case should not be seen as a stand-alone mode of liability, but as a particular form of co-perpetration, which is compatible with the wording of the Statute.’); [Al Hassan Confirmation Decision](#), para. 809.

<sup>7273</sup> [Defence Closing Brief](#), para. 183.

<sup>7274</sup> [Ntaganda Trial Judgment](#), para. 777.

<sup>7275</sup> [Lubanga Appeals Judgment](#), para. 473.

<sup>7276</sup> Article 30(2)(a) of the Statute.

<sup>7277</sup> Article 30(2)(b) of the Statute.

## **B. Legal characterisation of the facts**

### *1. Introduction*

2789. Above, the Chamber has established, by way of detailed analysis of the evidence, the facts of the case.<sup>7278</sup> It has also excluded, on the evidence, the applicability of grounds excluding criminal responsibility under Article 31 of the Statute. In the present section, the Chamber proceeds to the subsumption of the factual findings within the legal characterisation proposed in the corresponding charges, *i.e.* to the application of the law, as laid out above, to the factual findings and the analysis of each element of each of the crimes charged – including the constituent elements of Dominic Ongwen’s criminal responsibility.

2790. The Chamber addresses first the two sets of contextual elements, crimes against humanity and war crimes, of the crimes charged. Thereafter, it proceeds in the order of the charges as presented, addressing in turn the charges: (i) related to the attack on Pajule IDP camp; (ii) related to the attack on Odek IDP camp; (iii) related to the attack on Lukodi IDP camp; (iv) related to the attack on Abok IDP camp; (v) of sexual and gender-based crimes directly perpetrated by Dominic Ongwen; (vi) of sexual and gender-based crimes not directly perpetrated by Dominic Ongwen; and (vii) of conscription and use in hostilities of children under the age of 15 years. In each of the sub-sections, with the exception of the charges of sexual and gender-based crimes directly perpetrated by Dominic Ongwen where no further division is necessary, the Chamber proceeds again in two steps, addressing first the specific objective elements of each charged crime, and second the individual criminal responsibility of Dominic Ongwen, including the mental elements of the crimes.

2791. The Chamber notes that some charges, in particular as concerns the modes of liability under Articles 25(3) and 28 of the Statute, are presented in the alternative. As laid out below at appropriate points in the analysis, the Chamber accepts the primary alternative stated in the charge, which is responsibility under Article 25(3)(a) of the Statute as direct or indirect perpetrator, or indirect co-perpetrator, as the case may be. The primary

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<sup>7278</sup> See section III, the Chamber’s discussion of the Findings of Facts above.

alternative being established, the Chamber does not proceed to consider the further subsidiary alternative modes of liability.

2792. As also indicated in the present section, the Chamber has not retained some legal qualifications of facts proposed in the charges on account of impermissible concurrence of crimes. Concurrence of crimes, also referred to as cumulative conviction, is a situation where the same facts satisfy the legal definition of multiple crimes. In this regard, the Chamber notes that there is no provision in the Statute explicitly requiring it to exclude some legal qualifications of facts on the ground that they are in impermissible concurrence with other legal qualifications of the same facts; also, the provisions on sentencing may be considered in themselves adequate to address, in the context of the determination of the sentence to be imposed, those instances in which a person is convicted of more than one crime on the basis of the same conduct.<sup>7279</sup> Nonetheless, the Chamber agrees with the consistent stance of Trial Chambers of the Court that there are certain limitations on the permissibility of concurrence of crimes and consequential cumulative convictions. In particular, it has consistently been held that convictions may be entered cumulatively if the conduct in question violates two distinct provisions of the Statute, each having a ‘materially distinct’ element not contained in the other, i.e. an element which requires proof of a fact not required by the other.<sup>7280</sup>

2793. The Defence argued that the Statute requires ‘a conduct-based test, not merely elements of a crime’ as the standard of assessing concurrence of crimes.<sup>7281</sup> Its submission is that the ‘prohibition on subsequent prosecutions for the same conduct, and consequently multiple convictions, should be considered as broader than merely a legal elements test’.<sup>7282</sup> The Prosecutor responded that ‘there is no need to resort to a *conduct-based* approach addressed to article 20(1) situations to resolve the question’ and that ‘[a]

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<sup>7279</sup> See Article 78(3) of the Statute, giving the Trial Chamber discretion to impose for multiple crimes a total sentence equal to the highest individual sentence.

<sup>7280</sup> [Bemba et al. Trial Judgment](#), para. 951; [Bemba Trial Judgment](#), paras 747-748; [Katanga Trial Judgment](#), para. 1695.

<sup>7281</sup> [Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#), 9 December 2019, ICC-02/04-01/15-1697 (hereinafter: ‘[Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#)’), p. 5.

<sup>7282</sup> [Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#), para. 23. See also paras 24-33.

*materially distinct legal-elements* approach is the correct approach to apply at the Court for the imposition of multiple convictions'.<sup>7283</sup>

2794. The so-called 'conduct-based test' put forward by the Defence is primarily based on Article 20(1) of the Statute. However, the Chamber does not accept the argument of the Defence that Article 20 of the Statute contains 'guiding law on the interpretation for multiple convictions within one case'.<sup>7284</sup> This is because Article 20 of the Statute, by its terms, regulates consecutive trials for the same conduct, and protects persons from being unduly subjected to criminal proceedings twice, as well as the finality of judgments and thus the integrity of the legal system. In its three paragraphs, Article 20 of the Statute also places obligations both on the Court and on States Parties, seeking to regulate with precision the different situations, notably related also to the Court's jurisdiction being limited *ratione materiae*, as opposed to the jurisdiction of States. As also observed by the Appeals Chamber,<sup>7285</sup> it is evident that the procedural situations foreseen by Article 20 of the Statute are entirely different from the one at hand: concurrence of crimes within single criminal proceedings before the Court.

2795. Thus, contrary to the submission by the Defence, there is no basis in Article 20 of the Statute for the so-called 'conduct-based test' in relation to concurrence of crimes. However, this does not mean that the analysis as to the permissibility of concurrence of crimes – and consequent cumulative conviction – is entirely abstract. Indeed, as explained, the test based on materially distinct legal elements defines such elements as those which require proof of a fact not required by the other.

2796. In this regard, the Chamber is also mindful of the recent statement of the Appeals Chamber in the *Bemba et al.* case, where the Appeals Chamber, on the one hand, found no error in the application of the test based on materially distinct legal elements in the concrete circumstances, while, on the other hand, observing that 'it is arguable that a bar to multiple convictions could also arise in situations where the same conduct fulfils the elements of two offences even if these offences have different legal elements, for instance if one offence is fully consumed by the other offence or is viewed as subsidiary to it'.<sup>7286</sup>

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<sup>7283</sup> [Prosecution's Response to Defence's 'Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions'](#), 20 December 2019, ICC-02/04-01/15-1704, para. 3.

<sup>7284</sup> [Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#), para. 10.

<sup>7285</sup> See also [Bemba et al. Appeals Judgment](#), para. 748.

<sup>7286</sup> [Bemba et al. Appeals Judgment](#), para. 751.

The Chamber agrees that there may be situations in which crimes requiring *in abstracto* different legal elements may nevertheless be in impermissible concurrence, and bears this in mind in its analysis of the concrete questions posed in this case.

2797. The Chamber observes that, in the present case, situations in which the same conduct fulfils the legal elements of more than one crime include: (i) the concurrence of analogous crimes against humanity under Article 7 and war crimes under Article 8 of the Statute;<sup>7287</sup> (ii) the concurrence of torture and cruel treatment as war crimes under Article 8(2)(c)(i) of the Statute;<sup>7288</sup> (iii) the concurrence of torture and other inhumane acts as crimes against humanity under Article 7(1)(f) and (k) of the Statute;<sup>7289</sup> (iv) the concurrence of enslavement and sexual slavery as crimes against humanity under Article 7(1)(f) and (g) of the Statute;<sup>7290</sup> and (v) the concurrence of rape and sexual slavery, both as crimes against humanity under Article 7(1)(g) of the Statute, and as war crimes under Article 8(2)(e)(vi) of the Statute.<sup>7291</sup> These concrete questions of concurrence of crimes are discussed in their immediate context in the legal analysis below.

## 2. Contextual elements

### *i. Contextual elements of crimes against humanity*

2798. The Chamber found that throughout the period of the charges, i.e. from 1 July 2002 to 31 December 2005, in Northern Uganda, the LRA killed, injured and enslaved a large number of civilians in numerous attacks on individual civilians, IDP camps and other civilian locations.<sup>7292</sup> It also abducted and enslaved, and used as sexual slaves and so-called ‘wives’, and as domestic servants, a large number of civilians.<sup>7293</sup> This constitutes a course of conduct involving the multiple commission of acts referred to in Article 7(1) of the Statute, directed against a civilian population, i.e. the civilians of Northern Uganda, within the meaning of Article 7(2)(a) of the Statute.

<sup>7287</sup> See paras 2818-2821 below.

<sup>7288</sup> See paras 2835, 2893, 2946, 2992 below.

<sup>7289</sup> See paras 2837, 2891, 2944, 2990 below.

<sup>7290</sup> See paras 3051, 3086 below.

<sup>7291</sup> See paras 3036-3039, 3079 below.

<sup>7292</sup> See para. 143 above.

<sup>7293</sup> See para. 143 above.

2799. Moreover, as found by the Chamber, the LRA had a hierarchical structure, with Joseph Kony being the highest authority.<sup>7294</sup> During the period relevant to the charges, his deputy was Vincent Otti, who led a headquarters unit called Control Altar.<sup>7295</sup> The LRA was further divided into four brigades: Sinia, Stockree, Gilva and Trinkle.<sup>7296</sup> From 2003, there was also a division called Jogo.<sup>7297</sup> The brigades were divided into battalions and further into companies or ‘coys’.<sup>7298</sup> Each of these units was led by a commander.<sup>7299</sup> Orders were generally communicated from Joseph Kony directly or through Vincent Otti to the brigade commanders, who communicated them to the battalion commanders, who in turn passed them to their subordinates.<sup>7300</sup> Joseph Kony’s orders were generally complied with.<sup>7301</sup> At the same time, in particular when Joseph Kony was geographically removed from LRA units, brigade and battalion commanders took their own initiatives.<sup>7302</sup>

2800. The LRA had at its disposal weapons and ammunition for use in military operations.<sup>7303</sup> It regularly seized weapons from the UPDF during combat.<sup>7304</sup> It also obtained weapons and other supplies from Sudan.<sup>7305</sup> The LRA supplied itself with food, medicines and other items of use by looting from civilians in Northern Uganda, in particular from IDP camps.<sup>7306</sup> The LRA relied on high-frequency radio as the principal mode of communication between units in various locations in Northern Uganda and Sudan.<sup>7307</sup>

2801. The Chamber also found that the LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda.<sup>7308</sup> LRA

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<sup>7294</sup> See para. 123 above.

<sup>7295</sup> See para. 123 above.

<sup>7296</sup> See para. 123 above.

<sup>7297</sup> See para. 123 above.

<sup>7298</sup> See para. 123 above.

<sup>7299</sup> See para. 123 above.

<sup>7300</sup> See para. 124 above.

<sup>7301</sup> See para. 124 above.

<sup>7302</sup> See para. 124 above.

<sup>7303</sup> See para. 125 above.

<sup>7304</sup> See para. 125 above.

<sup>7305</sup> See para. 125 above.

<sup>7306</sup> See para. 125 above.

<sup>7307</sup> See para. 125 above.

<sup>7308</sup> See para. 140 above.

commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA.<sup>7309</sup>

2802. On the basis of these facts, the Chamber finds, first, that the LRA meets the definition of an ‘organisation’ for the purposes of Article 7(2)(a) of the Statute. Further, the repeated occurrence of attacks on individual civilians, IDP camps and other civilian locations,<sup>7310</sup> and the LRA’s perception of civilians living in Northern Uganda as associated with the Government of Uganda, and thus as the enemy, of civilians living in Northern Uganda<sup>7311</sup> as well as the fact that the LRA abducted and enslaved, and used as sexual slaves and so-called ‘wives’, and as domestic servants, a large number of civilians in a coordinated and methodical effort,<sup>7312</sup> reveal that the acts described above as an attack against the civilian population occurred pursuant to a policy to attack the civilian population.

2803. On the basis of the temporal and geographic extent of the attack, the Chamber finds that it was widespread within the meaning of Article 7(1) of the Statute. In addition, considering that throughout the period of the charges the LRA attacked civilians living in Northern Uganda whom, as recalled, it perceived as associated with the Government of Uganda<sup>7313</sup> and considering again that the LRA, as part of a coordinated and methodical effort, abducted and enslaved, and used as sexual slaves and so-called ‘wives’, and as domestic servants, a large number of civilians,<sup>7314</sup> the Chamber finds that the attack was also systematic in nature.

2804. The crimes charged in relation to the attacks on Pajule IDP camp, Odek IDP camp, Lukodi IDP camp and Abok IDP camp under Counts 2, 4, 8, 10, 12, 14, 16, 20, 23, 25, 27, 29, 33, 36, 38, 40, 42, 46 and 49 were committed, as discussed below, in the context of specific LRA attacks on these four IDP camps in Northern Uganda. Considering that the LRA perceived civilians living in Northern Uganda as associated with the Government of Uganda, and thus as the enemy, in particular those who lived in government-established IDP camps in Northern Uganda,<sup>7315</sup> the four specific attacks

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<sup>7309</sup> See para. 140 above.

<sup>7310</sup> See para. 143 above.

<sup>7311</sup> See para. 140 above.

<sup>7312</sup> See paras 143, 212 above.

<sup>7313</sup> See paras 140, 143 above.

<sup>7314</sup> See paras 143, 212 above.

<sup>7315</sup> See para. 140 above.

form part of the attack against the civilian population within the meaning of Article 7 of the Statute as defined in this section. As concerns the crimes charged under Counts 50, 51, 53, 55, 57, 58, 61, 62, 64, 66 and 68, the Chamber found that throughout the period of charges, in Northern Uganda, the LRA also abducted and enslaved, and used a large number of civilians as sexual slaves and so-called ‘wives’, and as domestic servants.<sup>7316</sup> The crimes found under the enumerated counts fall squarely within this category, considering the type of conduct and the characteristics of the victims. Accordingly, the Chamber finds, in respect of Counts 2, 4, 8, 10, 12, 14, 16, 20, 23, 25, 27, 29, 33, 36, 38, 40, 42, 46, 49, 50, 51, 53, 55, 57, 58, 61, 62, 64, 66 and 68, that the conduct was committed as part of the widespread and systematic attack directed against a civilian population, as required by Article 7(1) of the Statute.

2805. The Chamber found that Dominic Ongwen knew that throughout the period of charges, in Northern Uganda, the LRA killed and injured a large number of civilians in numerous attacks on individual civilians, IDP camps and other civilian locations, and that it abducted and enslaved, and used as sexual slaves and so-called ‘wives’, and as domestic servants, a large number of civilians.<sup>7317</sup> In addition, the Chamber found that Dominic Ongwen knew that the LRA perceived (and also himself perceived) the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7318</sup> On this basis, the Chamber finds that Dominic Ongwen knew that the conduct in relation to the crimes charged under Counts 2, 4, 8, 10, 12, 14, 16, 20, 23, 25, 27, 29, 33, 36, 38, 40, 42, 46, 49, 50, 51, 53, 55, 57, 58, 61, 62, 64, 66 and 68 was part of a widespread and systematic attack directed against a civilian population.

2806. On the basis of the above, the Chamber concludes that the contextual elements are satisfied in respect of the crimes against humanity charged under Counts 2, 4, 8, 10, 12, 14, 16, 20, 23, 25, 27, 29, 33, 36, 38, 40, 42, 46, 49, 50, 51, 53, 55, 57, 58, 61, 62, 64, 66 and 68.

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<sup>7316</sup> See para. 143 above.

<sup>7317</sup> See para. 143 above.

<sup>7318</sup> See para. 141 above.

*ii. Contextual elements of war crimes*

2807. In relation to the facts underlying the contextual elements of the charged war crimes, the Chamber recalls again its findings to the effect that the LRA had a hierarchical structure, with Joseph Kony being the highest authority in this structure.<sup>7319</sup> During the time period relevant to the charges, i.e. between 1 July 2002 and 31 December 2005, his deputy was Vincent Otti, who led a headquarters unit called Control Altar.<sup>7320</sup> Further, the LRA was divided into four brigades: Sinia, Stockree, Gilva and Trinkle.<sup>7321</sup> From 2003, there was also a division called Jogo.<sup>7322</sup> The brigades were divided into battalions and further into companies or ‘coys’.<sup>7323</sup> Each of these units was led by a commander.<sup>7324</sup> Orders were generally communicated from Joseph Kony directly or through Vincent Otti to the brigade commanders, who communicated them to the battalion commanders, who in turn passed them to their subordinates.<sup>7325</sup> Joseph Kony’s orders were generally complied with.<sup>7326</sup> At the same time, in particular when Joseph Kony was geographically removed from LRA units, brigade and battalion commanders took their own initiatives.<sup>7327</sup>

2808. Moreover, it must be recalled again that the LRA had at its disposal weapons and ammunition for use in military operations.<sup>7328</sup> It regularly seized weapons from the UPDF during combat.<sup>7329</sup> It also obtained weapons and other supplies from Sudan.<sup>7330</sup> The LRA supplied itself with food, medicines and other items of use by looting from civilians in Northern Uganda, in particular from IDP camps.<sup>7331</sup> The LRA relied on high-frequency radio as the principal mode of communication between units in various locations in Northern Uganda and Sudan.<sup>7332</sup>

2809. On this basis, the Chamber finds that the LRA constituted an organised armed group. The Chamber notes that the LRA’s military adversary were the armed forces of the

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<sup>7319</sup> See para. 123 above.

<sup>7320</sup> See para. 123 above.

<sup>7321</sup> See para. 123 above.

<sup>7322</sup> See para. 123 above.

<sup>7323</sup> See para. 123 above.

<sup>7324</sup> See para. 123 above.

<sup>7325</sup> See para. 124 above.

<sup>7326</sup> See para. 124 above.

<sup>7327</sup> See para. 124 above.

<sup>7328</sup> See para. 125 above.

<sup>7329</sup> See para. 125 above.

<sup>7330</sup> See para. 125 above.

<sup>7331</sup> See para. 125 above.

<sup>7332</sup> See para. 125 above.

Government of Uganda and associated local armed units, i.e. a State.<sup>7333</sup> Thus, the organisational requirement of the contextual elements of war crimes is met.

2810. The Chamber further found that throughout the period of charges, the LRA regularly fought the armed forces of the Government of Uganda and associated local armed units in Northern Uganda.<sup>7334</sup> Accordingly, the military conflict was of such intensity that surpassed the threshold required by the contextual elements of war crimes. It was also protracted in nature, noting that it spanned the entire period relevant to the charges, i.e. 1 July 2002 to 31 December 2005.

2811. The armed conflict in question was not of an international character. The Chamber notes the argument of the Defence that the conflict was international ‘because the operational command decisions on the war were made by Kony from Sudan, the weaponry for the Prosecution of the war came from Sudan, and the multinational forces conducted war operations against the LRA and Kony in Sudan’.<sup>7335</sup>

2812. In this regard, the Chamber refers to its analysis of the applicable law on the question of the conditions under which a conflict that starts out as a non-international armed conflict may become international.<sup>7336</sup> In its evidentiary analysis, the Chamber has addressed this issue and no factual finding was made which could sustain the qualification of the armed conflict between the LRA and the government forces in Northern Uganda as international in nature.<sup>7337</sup> At the same time, the Chamber observes that the facts specifically referred to by the Defence as allegedly demonstrating the international character of the armed conflict in Northern Uganda in fact do not have that effect. First, that Joseph Kony was physically located in Sudan for much of the period of time relevant to the charges is not relevant to the issue under consideration. Second, the fact that the LRA obtained some of the weapons that it used for its fight against the Ugandan government forces also from Sudan – a fact established by the Chamber<sup>7338</sup> – is not sufficient in the absence of a finding that Sudan also had any role in organising, coordinating or planning the military actions of the LRA in the context of the armed conflict at issue. Third, the events

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<sup>7333</sup> See para. 142 above.

<sup>7334</sup> See para. 142 above.

<sup>7335</sup> [Defence Closing Brief](#), para. 305.

<sup>7336</sup> See paras 2686, 2687 above.

<sup>7337</sup> See para. 1154 above. See also para. 876.

<sup>7338</sup> See para. 125 above.

mentioned which may have simultaneously taken place in Sudan – which the Chamber made no finding on – do not have an impact on the qualification of the armed conflict in Northern Uganda.

2813. In relation to the crimes charged as having occurred during the LRA attacks on Pajule IDP camp, Odek IDP camp, Lukodi IDP camp and Abok IDP camp under Counts 1, 3, 5, 9, 11, 13, 15, 17, 21, 22, 24, 26, 28, 30, 34, 35, 37, 39, 41, 43, 47 and 48, the Chamber recalls that the LRA perceived civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda as associated with the Government of Uganda, and thus as the enemy.<sup>7339</sup> In addition, simultaneously to committing crimes against civilian residents of the IDP camps, LRA soldiers during the four attacks also fought the government forces present.<sup>7340</sup> These circumstances demonstrate conclusively that the conduct underlying the crimes charged under Counts 1, 3, 5, 9, 11, 13, 15, 17, 21, 22, 24, 26, 28, 30, 34, 35, 37, 39, 41, 43, 47 and 48 took place in the context of and was associated with the non-international armed conflict as described.

2814. As concerns the crimes charged under Counts 52, 54, 56, 59, 60, 63, 65 and 67, which relate to sexual and gender based violence against abducted women and girls, the Chamber found that the abducted women and girls were held captive in the Sinia brigade of the LRA at the time when the LRA was engaged in an armed conflict with the Government of Uganda.<sup>7341</sup> The principal aim of the LRA's abduction of women and girls in Northern Uganda was for them to serve as so-called 'wives' of members of Sinia brigade, and as domestic servants.<sup>7342</sup> As such, the abduction of women and girls was designed to support the LRA in its activity. These circumstances demonstrate conclusively that the conduct underlying the crimes charged under Counts 52, 54, 56, 59, 60, 63, 65 and 67 took place in the context of and was associated with the non-international armed conflict as described.

2815. Finally, in relation to Counts 69 and 70, i.e. the conscription and use in hostilities of children under the age of 15, the Chamber notes that because the children were integrated

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<sup>7339</sup> See para. 140 above.

<sup>7340</sup> See paras 147, 164, 181, 194 above.

<sup>7341</sup> See paras 142, 205, 211, 213 above.

<sup>7342</sup> See para. 212 above.

into the LRA, and in fact also regularly participated in the hostilities with the Ugandan government forces,<sup>7343</sup> the nexus requirement is met.

2816. The Chamber found, on facts, that Dominic Ongwen knew that throughout the period of charges, the LRA fought the armed forces of the Government of Uganda and associated local armed units in Northern Uganda.<sup>7344</sup> Accordingly, the relevant legal element of war crimes in terms of knowledge on the part of the perpetrator is established.

2817. On the basis of the above, the Chamber concludes that the contextual elements are satisfied in respect of the war crimes charged under Counts 1, 3, 5, 9, 11, 13, 15, 17, 21, 22, 24, 26, 28, 30, 34, 35, 37, 39, 41, 43, 47, 48, 52, 54, 56, 59, 60, 63, 65, 67, 69 and 70.

*iii. Concurrence of analogous crimes against humanity and war crimes*

2818. Several underlying crimes are charged in the present case both as crimes against humanity under Article 7 of the Statute and as war crimes under Article 8 of the Statute. The Defence addressed this issue specifically, arguing that ‘multiple convictions [are] barred’ in such cases of ‘[o]verlapping war crimes and crimes against humanity’.<sup>7345</sup> The Defence argues for this result primarily on the basis that both charges are based on the same conduct, but adds that ‘[e]ven if the Court follows the elemental approach, the analysis should consist solely of a comparison of the *actus reus* and *mens rea* elements and not the contextual chapeau elements’.<sup>7346</sup> In its response to the Defence submission, the Prosecution stated that ‘[c]ontextual elements are mandatory constituent components of the crimes in the Court’s jurisdiction’ and ‘must form part of any assessment of whether multiple convictions should be entered when the different charges are based on the same underlying conduct’.<sup>7347</sup>

2819. This issue with regard to analogous war crimes and crimes against humanity concerns the charges of: murder and attempted murder as a crime against humanity under Article 7(1)(a) of the Statute and as a war crime under Article 8(2)(c)(i) of the Statute (Counts 2-3, 12-13, 14-15, 25-26, 27-28, 38-39, 40-41); torture as a crime against humanity under Article 7(1)(f) of the Statute and as a war crime under Article 8(2)(c)(i) of the Statute

<sup>7343</sup> See paras 224, 225 above.

<sup>7344</sup> See para. 142 above.

<sup>7345</sup> [Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#), para. 40.

<sup>7346</sup> [Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#), paras 42-43.

<sup>7347</sup> [Prosecution’s Response to Defence’s ‘Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions’](#), 20 December 2019, ICC-02/04-01/15-1704, paras 33, 38.

(Counts 4-5, 16-17, 29-30, 42-43, 51-52, 62-63); rape as a crime against humanity under Article 7(1)(g) of the Statute and as a war crime under Article 8(2)(e)(vi) of the Statute (Counts 53-54, 64-65); sexual slavery as a crime against humanity under Article 7(1)(g) of the Statute and as a war crime under Article 8(2)(e)(vi) of the Statute (Counts 55-56, 66-67); and forced pregnancy as a crime against humanity under Article 7(1)(g) of the Statute and as a war crime under Article 8(2)(e)(vi) of the Statute (Counts 58-59). It must be noted immediately however that murder and torture each contain further differences – beyond the different contextual elements – in the legal elements of, respectively, Articles 7(1)(a) and 8(2)(c)(i), and Articles 7(1)(f) and 8(2)(c)(i) of the Statute.

2820. That said, the Chamber does not consider that contextual elements are qualitatively different from the specific elements of the crimes, and that they should for that reason be set aside in the consideration of whether concurrence of analogous crimes against humanity and war crimes is impermissible. The contextual elements of crimes against humanity on the one hand and war crimes on the other hand require proof of facts not required by the other.<sup>7348</sup> In addition, contrary to the essence of the argument of the Defence, the contextual elements of crimes in the jurisdiction of the Court are not neutral as concerns the qualitative legal evaluation of the charged conduct. Indeed, beyond their unitary function of distinguishing crimes within the material jurisdiction of the Court from ordinary crimes falling outside such jurisdiction, the statutory contextual elements of crimes, considered individually, encapsulate distinct interests protected by the corresponding incriminating provisions under the Statute. Indeed, and as far as the charges in the present case are concerned, the Chamber observes that war crimes give protection in criminal law to persons in times of armed conflict, whereas crimes against humanity protect persons where there is a widespread and systematic attack on a civilian population. Thus, the two sets of crimes reflect (partly) different forms of criminality, in that they complement, in terms of protected interests, the incrimination of the individual ‘specific’ crimes – which, in turn, are therefore distinct depending (also) on the relevant contextual elements. In these circumstances, neither of these two sets of crimes can thus be said to be subsumed or consumed in any way by the other.

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<sup>7348</sup> See also [Ntaganda Trial Judgment](#), para. 1203; [Bemba Trial Judgment](#), para. 750; [Katanga Trial Judgment](#), para. 1696.

2821. Accordingly, the Chamber finds that concurrence of analogous crimes against humanity and war crimes is permissible.

3. *Attack on Pajule IDP camp (Counts 1 to 10)*

i. *Specific objective elements of the charged crimes*

a. Attack against the civilian population as such (Count 1)

2822. Under Count 1, Dominic Ongwen is charged with attack against the civilian population as such as a war crime, pursuant to Article 8(2)(e)(i) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2823. At the outset, the Chamber observes that the Defence makes the argument – equally applicable to the charges in relation to the attacks on Odek, Lukodi and Abok IDP camps – that it is ‘incorrect to use Article 7 crimes as an underlying conduct for an Article 8 war crime’.<sup>7349</sup> On this basis, the Defence ‘objects to the Prosecution qualifying murder as a crime against humanity (‘CAH’) (counts 2, 12, 25, 38), attempted murder as a CAH (counts 14, 27, 40), torture as a CAH (counts 4, 16, 29, 42), other inhumane acts as a CAH (counts 7, 18, 31, 44) and enslavement (counts 8, 20, 33, 46) as an underlying conduct of the war crime of attack against a civilian population’.<sup>7350</sup> Alternatively, the Defence also argues that torture under Article 7(1)(f) of the Statute and enslavement under Article 7(1)(c) of the Statute specifically ‘cannot amount to an underlying conduct for the war crime of attack against a civilian population’ on the ground that under their statutory definitions these crimes cannot be committed ‘before the individuals fall into the hands of the attacking party, as required by Article 8(2)(e)(i)’.<sup>7351</sup> The Chamber holds that any discussion of qualifying one charged *crime* (also) as another, or to ‘use’ one *crime* as the underlying conduct for another charge (as opposed to the qualification of a *fact*) is legally and methodologically unsound. The charges do not contain any such language; they refer – correctly – to the relevant underlying conduct of the different crimes charged, rather than to other crimes as such. The Defence points to the Prosecution Pre-Trial Brief, which, however, merely uses crimes and counts of the charges as cross-references within the structure of its submissions in the Pre-Trial Brief.<sup>7352</sup> Thus, contrary

<sup>7349</sup> [Defence Closing Brief](#), para. 468.

<sup>7350</sup> [Defence Closing Brief](#), para. 468.

<sup>7351</sup> [Defence Closing Brief](#), para. 470.

<sup>7352</sup> [Prosecution Pre-Trial Brief](#), paras 217, 295, 377, 437.

to the Defence submission, there exists no issue in the present case of ‘qualifying’ crimes against humanity as the underlying conduct of the war crime of attack against the civilian population as such.

2824. Turning to the facts established in relation to the attack on Pajule IDP camp, the Chamber finds that the specific material elements of the crime, namely that the perpetrator directed an attack and that the object of the attack was a civilian population as such or individual civilians not taking part in hostilities, are met, considering that a large group of LRA fighters went to Pajule IDP camp and attacked the civilian camp.<sup>7353</sup> The Chamber also found that the attackers were armed with an assortment of weapons, including SPG-9, AK-47s, a 12.7 mm anti-aircraft gun, RPGs, a PKM machine gun as well as pangas/machetes and knives.<sup>7354</sup> In the conclusion of the Chamber, the object of the attack was the civilian population of Pajule IDP camp as such.

b. Murder (Counts 2-3)

2825. Under Counts 2 and 3, Dominic Ongwen is charged with murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2826. The Chamber found that during the course of the attack on Pajule IDP camp, LRA fighters killed at least four civilians.<sup>7355</sup> Accordingly, the Chamber finds that the first legal element of both murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the perpetrator killed one or more persons, is met.

2827. Furthermore, considering in particular that the killed persons were civilians, most of whom were killed because they tried to escape or refused to carry looted goods,<sup>7356</sup> the Chamber finds that the second element of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were either *hors de combat*,

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<sup>7353</sup> See para. 147 above.

<sup>7354</sup> See para. 147 above.

<sup>7355</sup> See para. 152 above.

<sup>7356</sup> See para. 152 above.

or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

c. Torture (Counts 4-5)

2828. Under Counts 4 and 5, Dominic Ongwen is charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2829. The Chamber found that in the course of the attack on Pajule IDP camp, LRA fighters abducted hundreds of civilians and forced them to carry injured LRA fighters and looted items from the camp, including heavy loads, for long distances.<sup>7357</sup> The Chamber also found that the abductees were under armed guard to prevent their escape and were under constant threat of beatings or death, that some were tied to each other, and that many of the abductees were forced to walk barefoot or not fully clothed through the bush for a long distance.<sup>7358</sup> The Chamber also found that LRA fighters beat abductees to make them walk faster.<sup>7359</sup>

2830. The Chamber finds that by way of these acts, LRA fighters inflicted severe physical or mental pain or suffering upon the civilian residents of Pajule IDP camp. The first legal element of torture as a crime against humanity under Article 7(1)(f) of the Statute and of torture as a war crime under Article 8(2)(c)(i) of the Statute is therefore met.

2831. Considering that these acts were committed against civilians whom the LRA fighters abducted, placed under armed guard to prevent their escape and under constant threat of beatings or death,<sup>7360</sup> the Chamber finds that they were in the custody of the LRA fighters who attacked Pajule IDP camp. The second legal element of torture as a crime against humanity under Article 7(1)(f) is therefore met.

2832. In respect of the third constitutive element of torture as a crime against humanity under Article 7(1)(f) of the Statute, i.e. that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber notes that it

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<sup>7357</sup> See para. 153 above.

<sup>7358</sup> See para. 153 above.

<sup>7359</sup> See para. 153 above.

<sup>7360</sup> See para. 153 above.

did not find, on facts, any nexus between the acts under consideration and a context of lawful sanctions. The element is therefore likewise met.

2833. Turning to the distinct element of torture as a war crime, the Chamber, considering in particular that the relevant acts were committed against civilians,<sup>7361</sup> finds that the third element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

d. Cruel treatment (Count 6)

2834. Under Count 6, Dominic Ongwen is charged with cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2835. The facts underlying the charge of torture as a war crime under Count 5 and the charge of cruel treatment as a war crime under Count 6 are identical. This is therefore a situation of concurrence of crimes, the permissibility of which must be specifically considered by the Chamber. In this regard, and as observed above,<sup>7362</sup> the Chamber notes that the legal elements of the war crime of cruel treatment are entirely encompassed within the legal elements of the war crime of torture, with the latter containing an additional (mental) constitutive element.<sup>7363</sup> In these circumstances, and as explained,<sup>7364</sup> while the same facts under consideration indeed fulfil the legal elements of both crimes, concurrence of crimes (and consequent cumulative conviction) are not permissible. For this reason, and considering the finding below as to the additional mental element required for the crime of torture as a war crime under Count 5,<sup>7365</sup> the charge of cruel treatment under Count 6 will not be further considered.

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<sup>7361</sup> See paras 153, 154 above.

<sup>7362</sup> See paras 2700-2707 (torture) and para. 2754 (cruel treatment) above.

<sup>7363</sup> Indeed, in addition to the otherwise identical legal elements, torture as a war crime requires the following additional element which is not required for cruel treatment as a war crime: '[t]he perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any discrimination of any kind'.

<sup>7364</sup> See para. 2792 above.

<sup>7365</sup> See para. 2872 below.

e. Other inhumane acts (Count 7)

2836. Under Count 7, Dominic Ongwen is charged with other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2837. The facts underlying the charge of other inhumane acts as a crime against humanity under Count 7 are identical to those underlying the charge of torture as a crime against humanity under Count 4. The permissibility of this further concurrence of crimes must therefore be considered by the Chamber. In this regard, the Chamber recalls the residual character of Article 7(1)(k) of the Statute,<sup>7366</sup> which, in the statutory system of the Court, is therefore in a relationship of subsidiarity with all other crimes against humanity under Article 7(1) of the Statute. That said, and in light of the established facts, the Chamber observes that there is no act underlying the charge under Count 7 which may be considered as different but of similar character, in terms of harm and protected interests involved, compared to those already qualified as a crime against humanity of torture under Count 4. In these circumstances, due to the residual nature of Article 7(1)(k) of the Statute, concurrent legal qualification under this provision is not possible. For this reason, the charge of other inhumane acts under Count 7 will not be further considered by the Chamber.

f. Enslavement (Count 8)

2838. Under Count 8, Dominic Ongwen is charged with enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2839. The Chamber found that in the course of the attack on Pajule IDP camp, LRA fighters abducted hundreds of civilians and forced them to carry looted items from the camp, including heavy loads, for long distances.<sup>7367</sup> Some civilians were forced to carry injured LRA fighters.<sup>7368</sup> The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death.<sup>7369</sup> Some were tied to each other.<sup>7370</sup>

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<sup>7366</sup> See para. 2745 above.

<sup>7367</sup> See para. 153 above.

<sup>7368</sup> See para. 153 above.

<sup>7369</sup> See para. 153 above.

<sup>7370</sup> See para. 153 above.

Many of the abductees were forced to walk bare foot or not fully clothed through the bush for a long distance.<sup>7371</sup>

2840. The principal question before the Chamber is whether these acts represented an exercise of any or all of the powers attaching to the right of ownership over the abductees. In this context, the Chamber considers that the LRA fighters, by committing the acts referred to, deprived the abductees of their personal liberty, restricted and dictated their movement, and subjected them to measures aimed at preventing their escape, including threats, physical restraints and armed guard. The LRA fighters subjected the abductees to forced labour. The LRA fighters also engaged in physical and psychological abuse of the abductees. On the basis of these considerations, the Chamber finds that by way of abducting civilians and placing them in the situation as found, the LRA fighters exercised powers attaching to the right of ownership over the abductees by imposing on them a deprivation of liberty similar to those explicitly stated in Article 7(2)(c) of the Statute.

g. Pillaging (Count 9)

2841. Under Count 9, Dominic Ongwen is charged with pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2842. The Chamber found that during the attack, LRA attackers, some of them led by Dominic Ongwen, broke into homes and shops and looted food and other property from them in Pajule IDP camp.<sup>7372</sup> There was widespread looting throughout the camp.<sup>7373</sup> The attackers raided the trading centre in the camp, broke into shops and took food items and supplies.<sup>7374</sup> Among the items looted by the LRA attackers were foodstuffs like beans, flour, salt, sugar, cooking oil, maize, sweets, biscuits, groundnuts, soda as well as household goods such as bedding, clothing, a radio set, saucepans and items such as medicine, livestock and money.<sup>7375</sup>

2843. The Chamber finds, on the basis of these facts, that the first element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute, i.e. that the perpetrator appropriated certain property, is met.

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<sup>7371</sup> See para. 153 above.

<sup>7372</sup> See para. 150 above.

<sup>7373</sup> See para. 150 above.

<sup>7374</sup> See para. 150 above.

<sup>7375</sup> See para. 150 above.

2844. Further, the Chamber finds that the circumstances of the appropriation, which took place during an armed attack on Pajule IDP camp by the LRA fighters, who broke into homes and shops and raided the trading centre, show that the appropriation took place without the consent of the owners of the property looted.

h. Persecution (Count 10)

2845. Under Count 10, Dominic Ongwen is charged with persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, on or about 10 October 2003, at or near Pajule IDP camp.

2846. The Chamber finds that, as required by the first legal element of the crime against humanity of persecution, LRA attackers severely deprived, contrary to international law, civilians of fundamental rights in the course of the attack on Pajule IDP camp. Specifically, the LRA attackers deprived civilians of the right to life,<sup>7376</sup> the right not to be subjected to cruel, inhuman or degrading treatment,<sup>7377</sup> the right to personal liberty,<sup>7378</sup> the right not to be held in slavery or servitude,<sup>7379</sup> and the right to private property.<sup>7380</sup> Based on the circumstances of the victimisation, the Chamber finds that the deprivation was severe.

2847. The Chamber also finds that the LRA fighters targeted civilians during the attack on Pajule IDP camp by reason of their identity as perceived supporters of the Ugandan government, and therefore on political grounds. This is because the LRA perceived civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda as associated with the Government of Uganda, and thus as the enemy.<sup>7381</sup>

2848. In this context, the selection of Pajule IDP camp as a target for the LRA attack indeed constituted targeting on political grounds. This is further confirmed by the fact that after the attack, Vincent Otti told abductees that the LRA reproached the civilians for settling

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<sup>7376</sup> See para. 152 above.

<sup>7377</sup> See para. 153 above.

<sup>7378</sup> See para. 153 above.

<sup>7379</sup> See para. 153 above.

<sup>7380</sup> See para. 150 above.

<sup>7381</sup> See para. 140 above.

in IDP camps set up by the government, and that there was a punitive nature to the LRA's attack on the camp.<sup>7382</sup>

2849. Finally in this regard, the Chamber deems the requirement that persecution as a crime against humanity be committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court met, in light of the other legal findings of the Chamber in relation to the attack on Pajule IDP camp.

*ii. Individual criminal responsibility of Dominic Ongwen*

2850. Dominic Ongwen is charged with the commission of the crimes under Counts 1 to 9 'jointly with' and 'through' others within the meaning of Article 25(3)(a) of the Statute.

*a. Existence of an agreement or common plan*

2851. The Chamber found that several days before the attack on Pajule IDP camp, Vincent Otti summoned a number of LRA units to join him, and that around that time, Dominic Ongwen and his group of fighters joined Vincent Otti.<sup>7383</sup> A meeting took place the day before the attack at a location east of Pajule IDP camp, including Vincent Otti, Raska Lukwiya, Okot Odhiambo, Dominic Ongwen and other LRA commanders.<sup>7384</sup> Several hundred LRA members were present nearby.<sup>7385</sup> Furthermore, the Chamber found that after the meeting, on the eve of the attack, the LRA soldiers were selected from the Control Altar, as well as Trinkle and Sinia brigades.<sup>7386</sup> Raska Lukwiya was designated as the overall commander for the attack.<sup>7387</sup> The attackers were briefed about the attack and instructed to attack the UPDF at the barracks, as well as civilian areas of the camp in order to loot radio equipment, food and other items.<sup>7388</sup> The attackers were also told to abduct civilians.<sup>7389</sup> The same evening after the briefing, the attackers, including Dominic Ongwen, departed for Pajule IDP camp.<sup>7390</sup> The Chamber also found that after

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<sup>7382</sup> See para. 156 above.

<sup>7383</sup> See para. 145 above.

<sup>7384</sup> See para. 146 above.

<sup>7385</sup> See para. 146 above.

<sup>7386</sup> See para. 146 above.

<sup>7387</sup> See para. 146 above.

<sup>7388</sup> See para. 146 above.

<sup>7389</sup> See para. 146 above.

<sup>7390</sup> See para. 146 above.

the attack, Vincent Otti communicated the results of the attack to Joseph Kony on the LRA radio communication system.<sup>7391</sup>

2852. The Chamber also notes that it found that the LRA, including Dominic Ongwen, perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda.<sup>7392</sup> The Chamber particularly notes that after the attack on Pajule IDP camp, Vincent Otti told abductees that the LRA reproached the civilians for settling in IDP camps set up by the government, and that there was a punitive nature to the LRA's attack on the camp.<sup>7393</sup>

2853. On the basis of these facts, the Chamber finds that the attack on Pajule took place pursuant to an agreement involving Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders. As demonstrated by the briefing given to the soldiers selected for the attack, this agreement was to attack both the UPDF at the barracks as well as civilian areas of the camp, to loot radio equipment, food and other items, and to abduct civilians. The Chamber finds that, as such, the agreement was specifically directed at engaging in conduct which amounted to: (i) attack against the civilian population as such as a war crime, pursuant to Article 8(2)(e)(i) of the Statute; (ii) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute; (iii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; (iv) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute; (v) pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute; and (vi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute.

2854. Furthermore, the Chamber finds that the agreement of Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders to attack Pajule IDP camp aimed at engaging in conduct during the attack which, in the ordinary course of events, would result in: (i) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute; and (ii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute. This conclusion is based on the fact that the LRA fighters were sent to attack with firearms,<sup>7394</sup>

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<sup>7391</sup> See para. 158 above.

<sup>7392</sup> See paras 140-141 above.

<sup>7393</sup> See para. 156 above.

<sup>7394</sup> See paras 146-147 above.

that, as found above, Dominic Ongwen and his co-perpetrators intended to engage in violent acts against civilians<sup>7395</sup> and that, more generally, recruits in the LRA were not taught, as part of their training which included training in military discipline, to distinguish between civilians and combatants, or between civilian objects and military objectives.<sup>7396</sup>

b. Execution of the material elements of the crime through other persons

2855. Above, the Chamber found that during the attack on Pajule IDP camp LRA fighters executed the material elements of the crimes charged under Counts 1-10. The Chamber also found that LRA fighters attacked Pajule IDP camp after receiving instructions to this effect the night before, following a meeting including Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders.<sup>7397</sup> The question before the Chamber at this juncture is whether the conduct of the LRA fighters as direct perpetrators of the crimes is attributable to the co-perpetrators acting pursuant to the common plan by virtue of their control which allowed them to subjugate the will of the LRA fighters.

2856. The Chamber's factual findings in relation to the organisation of the LRA are relevant in this regard. The Chamber found that the LRA had a hierarchical structure, within which Joseph Kony was the highest authority and Vincent Otti Joseph Kony's deputy, who led a headquarters unit called Control Altar.<sup>7398</sup> The Chamber also made a number of factual findings specifically relating to the mechanisms to ensure capability to undertake military operations, including compliance with orders. The Chamber found that Sinia brigade obtained new fighters through abductions of civilians.<sup>7399</sup> These abductions were targeted at civilians deemed capable of fighting, including young children.<sup>7400</sup> Following their abduction, recruits generally passed through initiation rituals, most regularly including anointment with shea butter, intended to instil obedience and prevent escape.<sup>7401</sup> Beating

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<sup>7395</sup> See para. 2852 above.

<sup>7396</sup> See para. 130 above.

<sup>7397</sup> See para. 146 above.

<sup>7398</sup> See para. 123 above.

<sup>7399</sup> See para. 129 above.

<sup>7400</sup> See para. 129 above.

<sup>7401</sup> See para. 129 above.

was also a common feature of such initiation.<sup>7402</sup> With some regularity, recruits were forced to brutally kill, or were forced to witness brutal killings, shortly after their abduction.<sup>7403</sup> Upon abduction into Sinia brigade, recruits were given training in fighting skills, including the use of firearms.<sup>7404</sup> Weapons were distributed to recruits.<sup>7405</sup> As part of the training, recruits were also taught military discipline.<sup>7406</sup> Recruits were not taught, as part of their training, to distinguish between civilians and combatants, or between civilian objects and military objectives.<sup>7407</sup> There were clear rules requiring obedience of LRA soldiers, and a violent disciplinary system that guaranteed adherence to them.<sup>7408</sup> Penalties ranged from beating to execution.<sup>7409</sup> Sinia members, and LRA members generally, were threatened with death if they were to attempt escape.<sup>7410</sup> On certain occasions, execution of re-captured escapees in fact took place.<sup>7411</sup> Members were also threatened that their home areas would be attacked by the LRA if they escaped.<sup>7412</sup> A further measure taken to discourage escaping was giving soldiers false or negative information about life outside of the LRA and preventing them from obtaining information through public radio broadcasts.<sup>7413</sup> Sinia, and more generally LRA members, especially those of lower rank, suffered from hunger and lack of adequate clothing.<sup>7414</sup> They regularly slept outside on the ground.<sup>7415</sup> There was no or very limited treatment available in case of sickness or injury.<sup>7416</sup>

2857. The Chamber found that for the attack on Pajule IDP camp, soldiers were selected from the Control Altar, as well as Trinkle and Sinia brigades.<sup>7417</sup> As explained above, Sinia

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<sup>7402</sup> See para. 129 above.

<sup>7403</sup> See para. 129 above.

<sup>7404</sup> See para. 130 above.

<sup>7405</sup> See para. 130 above.

<sup>7406</sup> See para. 130 above.

<sup>7407</sup> See para. 130 above.

<sup>7408</sup> See para. 131 above.

<sup>7409</sup> See para. 131 above.

<sup>7410</sup> See para. 132 above.

<sup>7411</sup> See para. 132 above.

<sup>7412</sup> See para. 132 above.

<sup>7413</sup> See para. 132 above.

<sup>7414</sup> See para. 133 above.

<sup>7415</sup> See para. 133 above.

<sup>7416</sup> See para. 133 above.

<sup>7417</sup> See para. 146 above.

was a typical LRA brigade, and the below conclusions can also be drawn with respect to the LRA generally.<sup>7418</sup>

2858. It is the conclusion of the Chamber that the conditions of recruitment, initiation and training, and service in the LRA generally of its members were such that LRA commanders could rely for obedience in the execution of orders on a reliable pool of persons. Also taking into account that several hundred LRA soldiers went for the attack on Pajule IDP camp and that these fighters were selected from an even larger pool of available persons,<sup>7419</sup> the Chamber considers that the will of the individual LRA soldiers was irrelevant in the execution of a given order. The LRA soldiers selected and sent for the attack on Pajule IDP camp as a whole functioned as a tool of Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders, through which they were able to execute their agreement to attack Pajule IDP camp, including the commission of crimes. Accordingly, the Chamber concludes that the conduct of the individual LRA fighters in the execution of the crimes during the attack on Pajule IDP camp must be attributed to Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders as their own.

c. Dominic Ongwen's control over the crime

2859. Following the findings that (i) Dominic Ongwen was a participant to the agreement with Vincent Otti, Raska Lukwiya, Okot Odhiambo, and other LRA commanders, pursuant to which the attack on Pajule IDP camp took place, including the commission of crimes, and (ii) the conduct of the LRA fighters who executed the material elements of the crimes must be attributed to Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders as their own, the Chamber must specifically assess the involvement of Dominic Ongwen in those crimes in order to determine whether he had control over the crime by virtue of his essential contribution to it and the resulting power to frustrate its commission, and accordingly whether his individual criminal responsibility can be qualified under Article 25(3)(a) of the Statute. For this purpose, the Chamber takes into account Dominic Ongwen's involvement in maintaining the LRA as an organisation with the capacity to conduct armed attacks, his involvement in the

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<sup>7418</sup> See para. 883 above.

<sup>7419</sup> See paras 146-147 above.

planning and preparation of the attack on Pajule IDP camp, his involvement in the execution of the attack itself, as well as the fact that he benefited from the attack.

2860. As found by the Chamber, at the time of the attack on Pajule IDP camp, Dominic Ongwen had been appointed second-in-command of the Sinia brigade, after having been commander of Oka battalion since at least 1 July 2002.<sup>7420</sup> He joined Vincent Otti in advance of the attack on Pajule IDP camp with a number of soldiers under his command.<sup>7421</sup> As an LRA commander, by virtue of his position, Dominic Ongwen was crucial in maintaining the organisation. The Chamber made specific findings to the effect that Dominic Ongwen personally ordered disciplinary measures, issued threats to LRA members that they would be killed if they attempted to escape, and ordered killings of abductees in front of LRA members to illustrate this threat.<sup>7422</sup>

2861. Concerning the planning and preparation of the attack on Pajule IDP camp, the Chamber found that Dominic Ongwen participated in a meeting with Vincent Otti, Raska Lukwiya, Okot Odhiambo, and other LRA commanders the day before the attack at a location east of Pajule IDP camp.<sup>7423</sup> It was following this meeting in which Dominic Ongwen was a participant that LRA soldiers were selected for the attack, Raska Lukwiya was designated as the overall commander for the attack, the attackers were briefed about the attack and instructed to attack the UPDF at the barracks, as well as civilian areas of the camp in order to loot radio equipment, food and other items, and told to abduct civilians.<sup>7424</sup>

2862. The Chamber also found that Dominic Ongwen participated on the ground in the attack on Pajule IDP camp.<sup>7425</sup> He led a group of attackers to fight at the barracks, before directing them to attack the trading centre within the camp.<sup>7426</sup> Dominic Ongwen ordered a subordinate to abduct civilians and this order was immediately executed.<sup>7427</sup> Dominic Ongwen personally ordered LRA attackers to loot within the trading centre, ordering them to loot items from shops and homes within the camp, and the LRA attackers

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<sup>7420</sup> See paras 134-136 above.

<sup>7421</sup> See para. 145 above.

<sup>7422</sup> See paras 131-132 above.

<sup>7423</sup> See para. 146 above.

<sup>7424</sup> See para. 146 above.

<sup>7425</sup> See paras 144, 149, 150, 153 above.

<sup>7426</sup> See para. 149 above.

<sup>7427</sup> See para. 153 above.

complied with this order.<sup>7428</sup> Dominic Ongwen also led a group of abductees and ordered abductees to carry looted goods and instructed them not to drop items.<sup>7429</sup> These findings demonstrate that Dominic Ongwen carried out a commanding role, through the exercise of which he personally determined the specific actions undertaken on the ground by the LRA fighters under his control, and thereby also the extent of the commission of crimes.

2863. The Chamber also found that after the fighters returned from the camp, Dominic Ongwen spoke to a group of abductees, telling them that anyone who escaped or dropped looted goods would be killed and that abductees would be trained as soldiers.<sup>7430</sup> Also significantly, some abductees were distributed among Dominic Ongwen's group.<sup>7431</sup> Looted items were also distributed within Dominic Ongwen's group.<sup>7432</sup> Considering that abducting civilians and looting was, as explained above, one of the principal objectives of the attack on Pajule IDP camp,<sup>7433</sup> the fact that some abductees were placed under the control of Dominic Ongwen, and looted items distributed also within his group, is an important indicator of his control over the crime.

2864. Taking into account all of the above, and in particular Dominic Ongwen's position in the LRA at the relevant time, his participation at the meeting in which the attack was planned and prepared and his subsequent command of LRA fighters on the ground in the context of the attack, the Chamber concludes that Dominic Ongwen had control over the crimes committed during the attack on Pajule IDP camp by virtue of his essential contribution to them, and the resulting power to frustrate their commission.

#### d. Mental elements

2865. The conduct which Dominic Ongwen undertook in relation to the crimes committed during the attack on Pajule IDP camp, i.e. his participation in the planning and in the execution of the attack, is such that, by its nature, it could only have been undertaken intentionally. Thus, the Chamber considers that the conduct-related requirement of Article 30(2) of the Statute is met.

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<sup>7428</sup> See para. 150 above.

<sup>7429</sup> See para. 153 above.

<sup>7430</sup> See para. 156 above.

<sup>7431</sup> See para. 157 above.

<sup>7432</sup> See para. 155 above.

<sup>7433</sup> See para. 146 above.

2866. Furthermore, in relation to the required mental elements the Chamber reiterates again that Dominic Ongwen took part in the attack on Pajule IDP camp on the ground after having participated in a prior meeting with Vincent Otti, Raska Lukwiya, Okot Odhiambo, and after being present on location where the LRA soldiers were selected for the attack, briefed about the attack and instructed to attack the UPDF at the barracks, as well as civilian areas of the camp in order to loot radio equipment, food and other items, and also told to abduct civilians.<sup>7434</sup> He led a group of attackers to attack the trading centre within the camp and ordered them to pillage food items and supplies from shops and homes within the camp.<sup>7435</sup> He also ordered a subordinate to abduct civilians.<sup>7436</sup> He led a group of abductees and ordered abductees to carry looted goods and instructed them not to drop items.<sup>7437</sup> After the fighters returned from the camp, some abductees were distributed among Dominic Ongwen's group.<sup>7438</sup>

2867. On the basis of these facts, the Chamber finds that Dominic Ongwen: (i) meant for civilians to be attacked during the attack on Pajule IDP camp; (ii) meant for civilians to be abducted and forced to carry away looted goods; and (iii) meant for food items and other property to be looted during the attack.

2868. The Chamber found that the LRA perceived the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda as associated with the Government of Uganda, and thus as the enemy.<sup>7439</sup> LRA commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA.<sup>7440</sup> Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7441</sup> On this basis, the Chamber finds that Dominic Ongwen meant for civilian residents of Pajule IDP camp to be severely deprived of their rights by reason of their identity as perceived as associated with the Government of Uganda.

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<sup>7434</sup> See para. 146 above.

<sup>7435</sup> See paras 149-150 above.

<sup>7436</sup> See para. 153 above.

<sup>7437</sup> See para. 153 above.

<sup>7438</sup> See para. 157 above.

<sup>7439</sup> See para. 140 above.

<sup>7440</sup> See para. 140 above.

<sup>7441</sup> See para. 141 above.

2869. Furthermore, as an LRA commander, Dominic Ongwen was necessarily aware of the features of the organisation, including that recruits were not taught, as part of their training which included training in military discipline, to distinguish between civilians and combatants, or between civilian objects and military objectives.<sup>7442</sup> He was also aware, at the time of the attack on Pajule IDP camp, that the LRA in Northern Uganda had already killed, injured and enslaved a large number of civilians in numerous attacks on individual civilians, IDP camps and other civilian locations.<sup>7443</sup> On this basis, the Chamber finds that Dominic Ongwen was aware that the execution of the attack on Pajule IDP camp as planned and with the instructions that were given to LRA fighters, would lead to, in the ordinary course of events, (i) the killings of civilians; and (ii) forcing abducted civilians to carry heavy loads for long distances, beatings of civilians, and threats of beatings or death.

2870. Accordingly, the general mental elements under Article 30(2) of the Statute are met with respect to the crimes charged under Counts 1-10. The Chamber turns to the additional mental elements imposed by the Statute in relation to some of these crimes.

2871. In relation to the requirement that the perpetrator be aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in the hostilities, applicable to the crimes of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 2) and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 5), the Chamber found that following a meeting of Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders, the LRA fighters selected for the attack were, *inter alia*, specifically instructed to attack the civilian areas of Pajule IDP camp.<sup>7444</sup> Dominic Ongwen also attended the attack on the ground, where he led a group of attackers to attack the trading centre within the camp and ordered them to pillage food items and supplies from shops and homes within the camp.<sup>7445</sup> After the attack, Dominic Ongwen also spoke to a group of abductees, telling them that anyone who escaped or dropped looted goods would be

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<sup>7442</sup> See para. 130 above.

<sup>7443</sup> See para. 143 above.

<sup>7444</sup> See para. 146 above.

<sup>7445</sup> See paras 149-150 above.

killed and that abductees would be trained as soldiers.<sup>7446</sup> In light of the foregoing, the Chamber concludes that this specific requirement of knowledge is met.

2872. In relation to the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 5), the Chamber recalls its finding that Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7447</sup> On this basis, the Chamber finds that Dominic Ongwen intended to inflict such pain or suffering as discussed above,<sup>7448</sup> for the purpose of punishment and/or intimidation of the residents of Pajule IDP camp, on account of their perceived support for the Government of Uganda.

2873. In relation to the special intent requirement applicable to pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 9), the Chamber notes that following the meeting of Dominic Ongwen, Vincent Otti, Raska Lukwiya, Okot Odhiambo and other LRA commanders prior to the attack, an explicit instruction to loot radio equipment, food and other items was given to the LRA fighters before the attackers, including Dominic Ongwen, set out for the attack.<sup>7449</sup> Also on the ground, Dominic Ongwen issued an order to pillage food items and supplies from shops and homes within the camp to the group of soldiers he led into the civilian camp.<sup>7450</sup> He also ordered civilians to carry looted goods and instructed them not to drop items.<sup>7451</sup> The only reasonable conclusion is that Dominic Ongwen intended to deprive the owner of the property and to appropriate it for private or personal use. The circumstances of the appropriation do not allow for consideration of military necessity as a justification. The special intent requirement is therefore met.

### *iii. Conclusion*

2874. On the basis of the above, the Chamber therefore finds that, within the context of the attack carried out by the LRA on the Pajule IDP camp on 10 October 2003, Dominic Ongwen committed, jointly with Vincent Otti, Raska Lukwiya, Okot Odhiambo, and

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<sup>7446</sup> See para. 156 above.

<sup>7447</sup> See para. 141 above.

<sup>7448</sup> See paras 2829-2830 above.

<sup>7449</sup> See para. 146 above.

<sup>7450</sup> See paras 149-150 above.

<sup>7451</sup> See para. 153 above.

other LRA commanders and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such as a war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 1); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 2); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 3); (iv) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 4); (v) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 5); (vi) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 8); (vii) pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 9); and (viii) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 10).

4. *Attack on Odek IDP camp (Counts 11 to 23)*

i. *Specific objective elements of the charged crimes*

a. *Attack against the civilian population as such (Count 11)*

2875. Under Count 11, Dominic Ongwen is charged with attack against the civilian population as such as a war crime, pursuant to Article 8(2)(e)(i) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2876. The Chamber finds that the specific material elements of the crime, namely that the perpetrator directed an attack and that the object of the attack was a civilian population as such or individual civilians not taking part in hostilities, are met, considering that at least 30 LRA attackers, including children under the age of 15, executed Dominic Ongwen's orders and, with an assortment of arms, including AK guns, a mortar, an RPG, a PK and a 'B-10' gun, attacked Odek IDP camp from the northern side of the camp.<sup>7452</sup> Specifically, a group of fighters spread into the civilian area, including the trading centre, where they dispelled several government soldiers and proceeded to attack the civilian residents, shooting, beating, abducting and forcing them to carry looted goods.<sup>7453</sup> The facts establish that the object of the attack was the civilian population of Odek IDP camp as such.

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<sup>7452</sup> See para. 163 above.

<sup>7453</sup> See para. 164 above.

b. Murder (Counts 12-13)

2877. Under Counts 12 and 13, Dominic Ongwen is charged with murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2878. The Chamber found that during the attack, LRA fighters fired their weapons at civilians, and that at least 52 civilians died as a result of the injuries sustained in the camp or on the course of the retreat.<sup>7454</sup>

2879. Accordingly, the Chamber finds that the first legal element of both murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the perpetrator killed one or more persons, is met.

2880. Furthermore, the Chamber, considering in particular that the victims of the killings were civilians,<sup>7455</sup> the Chamber finds that the second element of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

c. Attempted murder (Counts 14-15)

2881. Under Counts 14 and 15, Dominic Ongwen is charged with attempted murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, in conjunction with Article 25(3)(f) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2882. The Chamber found that at least ten civilians were shot, shot at or otherwise injured by LRA fighters during the attack on Odek IDP camp, and survived.<sup>7456</sup> On the facts, the requirements of Article 25(3)(f) of the Statute are met: the shooting of the victims represented a substantial step commencing the execution of the crime against humanity

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<sup>7454</sup> See para. 167 above.

<sup>7455</sup> See paras 168, 174-175 above.

<sup>7456</sup> See para. 169 above.

and the war crime of murder, whereas the completion of the crime, i.e. the death of the victims, did not occur due to independent circumstances.

2883. Furthermore, the Chamber, considering in particular that the persons whom the LRA fighters attempted to kill were civilians,<sup>7457</sup> the Chamber finds that the second element of attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

d. Torture (Counts 16-17)

2884. Under Counts 16 and 17, Dominic Ongwen is charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2885. The Chamber found that LRA fighters severely mistreated civilians during the attack on Odek IDP camp and in its aftermath. Civilians suffered instances of grave physical abuse at the hands of the LRA fighters, such as beatings with sticks and guns.<sup>7458</sup> Civilians were forced to carry heavy loads for long distances under constant threat of harm; some civilians walked these long distances barefoot.<sup>7459</sup> Abductees were under armed guard to prevent their escape and were under constant threat of beatings or death.<sup>7460</sup> If the abductees walked too slowly, they were beaten.<sup>7461</sup> A female LRA attacker raped ██████████ ██████████, a civilian resident of the camp, with a comb and a stick used for cooking, while the victim's husband was forced to watch.<sup>7462</sup> The assault was committed with such force that the victim started to bleed.<sup>7463</sup>

2886. The Chamber finds that by way of these acts, LRA fighters inflicted severe physical or mental pain or suffering upon the civilian residents of Pajule IDP camp. The first legal

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<sup>7457</sup> See para. 169 above.

<sup>7458</sup> See para. 173 above.

<sup>7459</sup> See para. 172 above.

<sup>7460</sup> See para. 172 above.

<sup>7461</sup> See para. 173 above.

<sup>7462</sup> See para. 166 above. The Chamber observes in this regard that the Prosecution did not charge Dominic Ongwen with the crime of rape in relation to this fact. The rape of this civilian resident of Odek IDP camp falls within the factual scope of the charges under Counts 16 to 19 (*see* para. 35 of the charges, in [Confirmation Decision](#), p. 79).

<sup>7463</sup> See para. 166 above.

element of torture as a crime against humanity under Article 7(1)(f) of the Statute and of torture as a war crime under Article 8(2)(c)(i) of the Statute is therefore met.

2887. Considering that these acts were committed against civilians whom the LRA fighters abducted or physically constrained,<sup>7464</sup> the Chamber finds that the victims were in the custody, or under the control of the LRA fighters who attacked Odek IDP camp. The second legal element of torture as a crime against humanity under Article 7(1)(f) of the Statute is therefore met.

2888. In respect of the third constitutive element of torture as a crime against humanity under Article 7(1)(f) of the Statute, i.e. that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber notes that it did not find, on facts, any nexus between the acts under consideration and a context of lawful sanctions. The element is therefore likewise met.

2889. Turning to the distinct element of torture as a war crime, the Chamber, considering in particular that the relevant acts were committed against civilians,<sup>7465</sup> finds that the third element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

e. Other inhumane acts (Count 18)

2890. Under Count 18, Dominic Ongwen is charged with other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2891. The facts underlying the charge of other inhumane acts as a crime against humanity under Count 18 are identical to those underlying the charge of torture as a crime against humanity under Count 16. The permissibility of this concurrence of crimes must therefore be considered by the Chamber. In this regard, the Chamber recalls the residual character of Article 7(1)(k) of the Statute,<sup>7466</sup> which, in the statutory system of the Court, is therefore in a relationship of subsidiarity with all other crimes against humanity under

<sup>7464</sup> See paras 166, 171-173 above.

<sup>7465</sup> See paras 166, 172-173 above.

<sup>7466</sup> See para. 2745 above.

article 7(1) of the Statute. That said, and in light of the established facts, the Chamber observes that there is no act underlying the charge under Count 18 which may be considered as different but of similar character, in terms of harm and protected interests involved, compared to those already qualified as a crime against humanity of torture under Count 16. In these circumstances, due to the residual nature of Article 7(1)(k) of the Statute, concurrent legal qualification under this provision is not possible. For this reason, the charge of other inhumane acts under Count 18 will not be further considered by the Chamber.

f. Cruel treatment (Count 19)

2892. Under Count 19, Dominic Ongwen is charged with cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2893. The facts underlying the charge of torture as a war crime under Count 17 and the charge of cruel treatment as a war crime under Count 19 are identical. This is therefore a further situation of concurrence of crimes, the permissibility of which must be specifically considered by the Chamber. In this regard, and as observed above,<sup>7467</sup> the Chamber recalls that the legal elements of the war crime of cruel treatment are entirely encompassed within the legal elements of the war crime of torture, with the latter containing an additional (mental) constitutive element.<sup>7468</sup> In these circumstances, and as explained,<sup>7469</sup> while the same facts under consideration indeed fulfil the legal elements of both crimes, concurrence of crimes (and consequent cumulative conviction) are not permissible. For this reason, and considering the finding below as to the additional mental element required for the crime of torture as a war crime under Count 17,<sup>7470</sup> the charge of cruel treatment under Count 19 will not be further considered.

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<sup>7467</sup> See paras 2700-2707 (torture) and para. 2754 (cruel treatment) above.

<sup>7468</sup> Indeed, in addition to the otherwise identical legal elements, torture as a war crime requires the following additional element which is not required for cruel treatment as a war crime: '[t]he perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any discrimination of any kind'.

<sup>7469</sup> See para. 2792 above.

<sup>7470</sup> See para. 2925 below.

g. Enslavement (Count 20)

2894. Under Count 20, Dominic Ongwen is charged with enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2895. The Chamber found that in the course of the attack on Odek IDP camp LRA fighters abducted at least 40 civilian residents from the camp: men, women and children.<sup>7471</sup> Abductees, including children as young as 11 or 12 years old, were forced to carry looted items away from the camp.<sup>7472</sup> Some abductees were released after a few days in the bush; others were killed in the bush or integrated into the LRA, including into Dominic Ongwen's household.<sup>7473</sup> The Chamber also found that civilians were forced to carry heavy loads for long distances under constant threat of harm; some civilians walked these long distances barefoot.<sup>7474</sup> Abductees were under armed guard to prevent their escape and were under constant threat of beatings or death.<sup>7475</sup>

2896. Considering that the LRA fighters, by committing the acts referred to, deprived the civilian abductees of their personal liberty, restricted and dictated their movement, subjected them to forced labour, and engaged in physical and psychological abuse of the abductees, the Chamber finds that by way of abducting civilians and placing them in the situation as found, the LRA fighters exercised powers attaching to the right of ownership over the abductees by imposing on them a deprivation of liberty similar to those explicitly stated in Article 7(2)(c) of the Statute.

h. Pillaging (Count 21)

2897. Under Count 21, Dominic Ongwen is charged with pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2898. The Chamber found that during the attack, LRA attackers broke into homes and shops and looted food and other items from the camp, both from shops in the trading centre and from civilian homes, including items such as beans, cooking oil, maize, flour, soda and

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<sup>7471</sup> See para. 171 above.

<sup>7472</sup> See para. 172 above.

<sup>7473</sup> See para. 176 above.

<sup>7474</sup> See para. 172 above.

<sup>7475</sup> See para. 172 above.

other beverages, biscuits, sugar, salt, posho, soap, clothes, saucepans, bedding, shoes.<sup>7476</sup>  
The food aid which had been recently distributed to the camp was looted by the attackers.<sup>7477</sup>

2899. The Chamber finds, on the basis of the facts, that the first element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute, i.e. that the perpetrator appropriated certain property, is met.

2900. Further, the Chamber finds that the circumstances of the appropriation, which took place during an armed attack on Odek IDP camp by LRA fighters, who raided the trading centre and broke into shops and homes,<sup>7478</sup> indicate that the appropriation took place without the consent of the owners of the property looted. Accordingly, the corresponding legal element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute is met.

i. Outrages upon personal dignity (Count 22)

2901. Under Count 22, Dominic Ongwen is charged with outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2902. The Chamber found that one abductee was forced to kill another abductee with a club and forced to inspect corpses.<sup>7479</sup> Another abductee was forced to watch someone being killed.<sup>7480</sup> Further, the Chamber found that some mothers were forced to abandon their children on the side of the road; one child was left on a rubbish pit.<sup>7481</sup>

2903. The Chamber finds that forcing an abductee to kill another abductee with a club and to inspect corpses, forcing an abductee to watch someone being killed, as well as forcing mothers to abandon their children on the side of the road, in the circumstances of the attack on Odek IDP camp, constituted a violation of the dignity of the victims, and that this violation of the dignity was so severe as to be generally recognised as an outrage

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<sup>7476</sup> See para. 165 above.

<sup>7477</sup> See para. 165 above.

<sup>7478</sup> See para. 165 above.

<sup>7479</sup> See para. 173 above.

<sup>7480</sup> See para. 173 above.

<sup>7481</sup> See para. 173 above.

upon personal dignity. The first and second elements of outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute are met.

2904. Furthermore, considering in particular that these acts were committed against civilians abducted during the attack from Odek IDP camp,<sup>7482</sup> the Chamber finds that the third element of outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute, i.e. that the victims were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

j. Persecution (Count 23)

2905. Under Count 23, Dominic Ongwen is charged with persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, on or about 29 April 2004, at or near Odek IDP camp.

2906. The Chamber finds that as required by the first legal element of the crime against humanity of persecution, LRA attackers severely deprived, contrary to international law, civilians of fundamental rights in the course of the attack on Odek IDP camp. Specifically, the LRA attackers deprived civilians of the right to life,<sup>7483</sup> the right not to be subjected to cruel, inhuman or degrading treatment,<sup>7484</sup> the right to personal liberty,<sup>7485</sup> the right not to be held in slavery or servitude,<sup>7486</sup> and the right to private property.<sup>7487</sup> Based on the circumstances of the victimisation, the Chamber finds that the deprivation was severe.

2907. The Chamber also finds that the LRA fighters targeted civilians during the attack on Odek IDP camp by reason of their identity as perceived supporters of the Ugandan government, and therefore on political grounds. This is because the LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda.<sup>7488</sup> In this context, the selection of Odek IDP camp as a target for the LRA attack indeed constituted targeting on political grounds.

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<sup>7482</sup> See para. 173 above.

<sup>7483</sup> See paras 167-168, 174-175 above.

<sup>7484</sup> See paras 166, 172-173 above.

<sup>7485</sup> See paras 171-173 above.

<sup>7486</sup> See paras 171-173 above.

<sup>7487</sup> See para. 165 above.

<sup>7488</sup> See para. 140 above.

2908. Finally in this regard, the Chamber deems the requirement that persecution as a crime against humanity be committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court met, in light of the other legal findings of the Chamber in relation to the attack on Odek IDP camp.

*ii. Individual criminal responsibility of Dominic Ongwen*

2909. Dominic Ongwen is charged with the commission of the crimes under Counts 11 to 23 ‘jointly with’ and ‘through’ others within the meaning of Article 25(3)(a) of the Statute.

a. Existence of an agreement or common plan

2910. The Chamber found that shortly before the attack on Odek IDP camp, Joseph Kony ordered that the people of Odek be attacked, to punish their perceived failure to support the LRA.<sup>7489</sup> Dominic Ongwen knew of Joseph Kony’s order before the attack.<sup>7490</sup> Dominic Ongwen decided that LRA soldiers under his command would attack Odek IDP camp.<sup>7491</sup> He coordinated with subordinate commanders and appointed them to lead the attack on the ground.<sup>7492</sup> Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians, and also instructed them to loot food and abduct civilians.<sup>7493</sup> Dominic Ongwen ordered the selection of soldiers for the attack, and participated in a ritual and prayer before they set out.<sup>7494</sup> He encouraged the soldiers and repeated the orders to target everyone, including civilians, to loot and to abduct civilians.<sup>7495</sup> In this regard, the Chamber recalls that the LRA, including Dominic Ongwen, perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda.<sup>7496</sup> Furthermore, it is also noted in this context that recruits in the LRA, who were given training *inter alia* in military discipline, were not taught, as part of their training, to

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<sup>7489</sup> See para. 160 above.

<sup>7490</sup> See para. 160 above.

<sup>7491</sup> See para. 161 above.

<sup>7492</sup> See para. 161 above.

<sup>7493</sup> See para. 161 above.

<sup>7494</sup> See para. 161 above.

<sup>7495</sup> See para. 161 above.

<sup>7496</sup> See paras 140-141 above.

distinguish between civilians and combatants, or between civilian objects and military objectives.<sup>7497</sup>

2911. The Chamber also found that after the attack, the attackers joined the rest of the group commanded by Dominic Ongwen.<sup>7498</sup> The subordinate commanders briefed Dominic Ongwen, who thanked the fighters.<sup>7499</sup> Dominic Ongwen communicated the results of the attack on military radio to other LRA commanders and to Joseph Kony, reporting that his fighters successfully carried out an attack on Odek IDP camp, shooting people, abducting civilians and looting in the camp.<sup>7500</sup>

2912. On the basis of the above, the Chamber finds that the attack on Odek IDP camp took place pursuant to an agreement involving Dominic Ongwen, Joseph Kony and other Sinia brigade leaders. It is noted that this agreement was not concluded in a specific direct communication between Dominic Ongwen, Joseph Kony and others, but the sequence of events, in particular Joseph Kony's order, followed by Dominic Ongwen's planning and instructions prior to the attack, and his reporting of the results of the attack after it occurred, demonstrate clearly that such meeting of the minds existed in substance. The Chamber also finds, on the basis of the above, that the agreement was to attack everyone at Odek IDP camp, including civilians, to loot and to abduct civilians. As such, the agreement was specifically directed at engaging in conduct which amounted to: (i) attack against the civilian population as such as a war crime, pursuant to Article 8(2)(e)(i) of the Statute; (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute; (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; (iv) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute; (v) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; (vi) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute; (vii) pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute; (viii) outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute and (ix) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute.

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<sup>7497</sup> See para. 130 above.

<sup>7498</sup> See para. 177 above.

<sup>7499</sup> See para. 177 above.

<sup>7500</sup> See para. 177 above.

b. Execution of the material elements of the crime through other persons

2913. Above, the Chamber found that during the attack on Odek IDP camp LRA fighters executed the material elements of the crimes charged under counts 11-23. The Chamber also found that the LRA fighters attacked Odek IDP camp after Dominic Ongwen decided that LRA soldiers under his command would attack the camp.<sup>7501</sup> Dominic Ongwen coordinated with subordinate commanders and appointed them to lead the attack on the ground.<sup>7502</sup> Dominic Ongwen ordered the fighters to attack the camp in two groups, one focused on the military barracks in the camp and the other focused on the civilian areas.<sup>7503</sup> Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians, and also instructed them to loot food and abduct civilians.<sup>7504</sup> Dominic Ongwen ordered the selection of soldiers for the attack, and participated in a ritual and prayer before they set out.<sup>7505</sup> He encouraged the soldiers and repeated the orders to target everyone, including civilians, to loot and to abduct civilians.<sup>7506</sup>

2914. The Chamber also refers to its above analysis and the resulting finding that the conditions of recruitment, initiation and training, and service in the LRA generally of its members were such that LRA commanders could rely for obedience in the execution of orders on a reliable pool of persons.<sup>7507</sup> Also taking into account that at least 30 LRA fighters participated in the attack, and that they were selected from an even larger pool of available persons,<sup>7508</sup> the Chamber considers that the will of the individual LRA soldiers was irrelevant in the execution of a given order. The LRA soldiers selected and sent for the attack on Odek IDP camp as a whole functioned as a tool of Dominic Ongwen, Joseph Kony and other Sinia brigade leaders, through which they were able to execute their agreement to attack Odek IDP camp, including the commission of crimes. Accordingly, the Chamber concludes that the conduct of the individual LRA fighters in the execution

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<sup>7501</sup> See para. 161 above.

<sup>7502</sup> See para. 161 above.

<sup>7503</sup> See para. 161 above.

<sup>7504</sup> See para. 161 above.

<sup>7505</sup> See para. 161 above.

<sup>7506</sup> See para. 161 above.

<sup>7507</sup> See paras 2856, 2858 above.

<sup>7508</sup> See para. 161, 163 above.

of the crimes during the attack on Odek IDP camp must be attributed to Dominic Ongwen, Joseph Kony and other Sinia brigade leaders as their own.

c. Dominic Ongwen's control over the crime

2915. Following the findings that (i) Dominic Ongwen was a participant to the agreement with Joseph Kony and other Sinia brigade leaders, pursuant to which the attack on Odek IDP camp took place, including the commission of crimes, and (ii) that the conduct of the LRA fighters who executed the material elements of the crimes must be attributed to Dominic Ongwen, Joseph Kony and other Sinia brigade leaders as their own, the Chamber must specifically assess the involvement of Dominic Ongwen in those crimes in order to determine whether he had control over the crime by virtue of his essential contribution to it and the resulting power to frustrate its commission, and accordingly whether his individual criminal responsibility can be qualified under Article 25(3)(a) of the Statute.

2916. In this regard, the Chamber found that Dominic Ongwen decided that LRA soldiers under his command would attack Odek IDP camp.<sup>7509</sup> He coordinated with subordinate commanders and appointed them to lead the attack on the ground.<sup>7510</sup> Dominic Ongwen ordered the fighters to attack the camp in two groups, one focused on the military barracks in the camp and the other focused on the civilian areas.<sup>7511</sup> Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians, and also instructed them to loot food and abduct civilians.<sup>7512</sup> Dominic Ongwen ordered the selection of soldiers for the attack, and participated in a ritual and prayer before they set out.<sup>7513</sup> He encouraged the soldiers and repeated the orders to target everyone, including civilians, to loot and to abduct civilians.<sup>7514</sup> Afterwards, Dominic Ongwen moved with the attackers in the direction of Odek IDP camp, although he did not enter the camp with the fighters sent to attack.<sup>7515</sup>

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<sup>7509</sup> See para. 161 above.

<sup>7510</sup> See para. 161 above.

<sup>7511</sup> See para. 161 above.

<sup>7512</sup> See para. 161 above.

<sup>7513</sup> See para. 161 above.

<sup>7514</sup> See para. 161 above.

<sup>7515</sup> See para. 162 above.

2917. It follows from the above that Dominic Ongwen had full operational control of the attack on Odek IDP camp. He designed the attack, gave instructions and set the attack in motion. It is also significant that after the attack, Dominic Ongwen communicated the results of the attack on military radio to other LRA commanders and to Joseph Kony, reporting that his fighters successfully carried out an attack on Odek IDP camp, shooting people, abducting civilians and looting in the camp.<sup>7516</sup>

2918. Accordingly, the Chamber concludes that Dominic Ongwen had control over the crimes committed during the attack on Odek IDP camp by virtue of his essential contribution to them, and the resulting power to frustrate their commission.

d. Mental elements

2919. The conduct which Dominic Ongwen undertook in relation to the crimes committed during the attack on Odek IDP camp, i.e. his participation in the planning and in the execution of the attack, is such that, by its nature, it could only have been undertaken intentionally. Thus, the Chamber considers that the conduct-related requirement of Article 30(2) of the Statute is met.

2920. Furthermore, the Chamber reiterates, also in relation to the required mental elements, that Dominic Ongwen decided that LRA soldiers under his command would attack Odek IDP camp.<sup>7517</sup> He coordinated with subordinate commanders and appointed them to lead the attack on the ground.<sup>7518</sup> Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians, and also instructed them to loot food and abduct civilians.<sup>7519</sup> Dominic Ongwen ordered the selection of soldiers for the attack, and participated in a ritual and prayer before they set out.<sup>7520</sup> He encouraged the soldiers and repeated the orders to target everyone, including civilians, to loot and to abduct civilians.<sup>7521</sup> After the attack, the returning attackers briefed Dominic Ongwen, and Dominic Ongwen thanked them.<sup>7522</sup> Dominic Ongwen communicated the results of the attack on military radio to other LRA commanders and

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<sup>7516</sup> See para. 177 above.

<sup>7517</sup> See para. 161 above.

<sup>7518</sup> See para. 161 above.

<sup>7519</sup> See para. 161 above.

<sup>7520</sup> See para. 161 above.

<sup>7521</sup> See para. 161 above.

<sup>7522</sup> See para. 177 above.

to Joseph Kony, reporting that his fighters successfully carried out an attack on Odek IDP camp, shooting people, abducting civilians and looting in the camp.<sup>7523</sup>

2921. On this basis, the Chamber finds that Dominic Ongwen: (i) meant for civilians to be attacked during the attack on Odek IDP camp; (ii) meant for civilians to be killed; (iii) meant for civilians to be severely physically and psychologically abused; (iv) meant for civilians to be abducted and forced to carry away looted goods; and (v) meant for food items and other property to be looted during the attack.

2922. The Chamber reiterates its finding that the LRA perceived the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda, as associated with the Government of Uganda, and thus as the enemy.<sup>7524</sup> LRA commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA.<sup>7525</sup> Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7526</sup> The Chamber also found that shortly before the attack on Odek IDP camp, Joseph Kony ordered that the people of Odek be attacked, to punish their perceived failure to support the LRA.<sup>7527</sup> Dominic Ongwen knew of Joseph Kony's order before the attack.<sup>7528</sup> On this basis, the Chamber finds that Dominic Ongwen meant for civilian residents of Odek IDP camp to be severely deprived of their rights by reason of their identity as perceived as associated with the Government of Uganda.

2923. Accordingly, the general mental elements under Article 30(2) of the Statute are met with respect to the crimes charged under Counts 11-23. The Chamber turns to the additional mental elements imposed by the Statute in relation to some of these crimes.

2924. In relation to the requirement that the perpetrator be aware of the victims' being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in the hostilities, applicable to the crimes of murder as a war crime, pursuant to

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<sup>7523</sup> See para. 177 above.

<sup>7524</sup> See para. 140 above.

<sup>7525</sup> See para. 140 above.

<sup>7526</sup> See para. 141 above.

<sup>7527</sup> See para. 160 above.

<sup>7528</sup> See para. 160 above.

Article 8(2)(c)(i) of the Statute (Count 13 and Count 15 – attempted murder), torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 17), and outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute (Count 22), the Chamber found that Dominic Ongwen and his subordinate commanders ordered LRA soldiers to target everyone they find at Odek IDP camp, including civilians.<sup>7529</sup> Before the attackers set out, Dominic Ongwen encouraged the soldiers and repeated the orders to target everyone, including civilians.<sup>7530</sup> In light of the foregoing, the Chamber concludes that this specific requirement of knowledge is met.

2925. In relation to the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 17), the Chamber recalls once again its finding that Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7531</sup> The Chamber also found that shortly before the attack on Odek IDP camp, Joseph Kony ordered that the people of Odek be attacked, to punish their perceived failure to support the LRA.<sup>7532</sup> Dominic Ongwen knew of Joseph Kony’s order before the attack.<sup>7533</sup> On this basis, the Chamber finds that Dominic Ongwen intended to inflict such pain or suffering as discussed above,<sup>7534</sup> for the purpose of punishment and/or intimidation of the residents of Odek IDP camp, on account of their perceived support for the Government of Uganda.

2926. In relation to the special intent requirement applicable to pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 21), the Chamber notes that before the attack on Odek IDP camp, Dominic Ongwen gave the instruction to loot.<sup>7535</sup> The items looted from Odek IDP camp were distributed to the household of different commanders, including Dominic Ongwen.<sup>7536</sup> After the attack, Dominic Ongwen reported to other LRA commanders and to Joseph Kony that his fighters successfully carried out an attack on Odek IDP camp, *inter alia*, looting in the camp.<sup>7537</sup> The only

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<sup>7529</sup> See para. 161 above.

<sup>7530</sup> See para. 161 above.

<sup>7531</sup> See para. 141 above.

<sup>7532</sup> See para. 160 above.

<sup>7533</sup> See para. 160 above.

<sup>7534</sup> See paras 2885-2886 above.

<sup>7535</sup> See para. 161 above.

<sup>7536</sup> See para. 165 above.

<sup>7537</sup> See para. 177 above.

reasonable conclusion is that Dominic Ongwen intended to deprive the owner of the property and to appropriate it for private or personal use. The circumstances of the appropriation do not allow for consideration of military necessity as a justification. The special intent requirement is therefore met.

*iii. Conclusion*

2927. On the basis of the above, the Chamber therefore finds that, within the context of the attack carried out by the LRA on the Odek IDP camp on 29 April 2004, Dominic Ongwen committed, jointly with Joseph Kony and other Sinia brigade leaders and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such as a war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 11); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 12); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 13); (iv) attempted murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, in conjunction with Article 25(3)(f) of the Statute (Count 14); (v) attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, in conjunction with Article 25(3)(f) of the Statute (Count 15); (vi) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 16); (vii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 17); (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 20); (ix) pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 21); (x) outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute (Count 22); and (xi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 23).

*5. Attack on Lukodi IDP camp (Counts 24 to 36)*

*i. Specific objective elements of the charged crimes*

*a. Attack against the civilian population as such (Count 24)*

2928. Under Count 24, Dominic Ongwen is charged with attack against the civilian population as such as a war crime, pursuant to Article 8(2)(e)(i) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2929. The Chamber finds that the specific material elements of the crime, namely that the perpetrator directed an attack and that the object of the attack was a civilian population as such or individual civilians not taking part in hostilities, are met, considering that LRA fighters who on Dominic Ongwen's orders attacked Lukodi camp also went into the civilian areas of the camp.<sup>7538</sup> LRA fighters targeted civilians within the camp.<sup>7539</sup> Civilians in Lukodi IDP camp were shot, burnt and beaten and huts were set on fire.<sup>7540</sup> The facts establish that the object of the attack was the civilian population of Lukodi IDP camp as such.

b. Murder (Counts 25-26)

2930. Under Counts 25 and 26, Dominic Ongwen is charged with murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2931. The Chamber found that LRA fighters killed civilians in Lukodi IDP camp: men, women and children.<sup>7541</sup> At least 48 civilians died as a result of injuries sustained in the attack.<sup>7542</sup> Civilians were shot, burnt and beaten to death.<sup>7543</sup> The killing of civilians was not confined to the area of Lukodi IDP camp.<sup>7544</sup> After they left Lukodi, LRA fighters killed persons they had abducted from the camp.<sup>7545</sup>

2932. Accordingly, the Chamber finds that the first legal element of both murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the perpetrator killed one or more persons, is met.

2933. Furthermore, and considering in particular that the victims of the killings were civilians,<sup>7546</sup> the Chamber finds that the second element of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were

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<sup>7538</sup> See paras 179-181 above.

<sup>7539</sup> See para. 181 above.

<sup>7540</sup> See paras 182, 184, 186 above.

<sup>7541</sup> See para. 182 above.

<sup>7542</sup> See para. 182 above.

<sup>7543</sup> See para. 182 above.

<sup>7544</sup> See para. 182 above.

<sup>7545</sup> See para. 188 above.

<sup>7546</sup> See paras 182-183, 188 above.

either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

c. Attempted murder (Counts 27-28)

2934. Under Counts 27 and 28, Dominic Ongwen is charged with attempted murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, in conjunction with Article 25(3)(f) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2935. The Chamber found that the LRA fighters attempted to kill at least 11 civilians during the attack on Lukodi IDP camp.<sup>7547</sup> The fighters shot at civilians and wounded them.<sup>7548</sup> Civilians were beaten and left for dead.<sup>7549</sup> Civilians, including children, were thrown into burning houses.<sup>7550</sup> On such facts, the requirements of Article 25(3)(f) are met: the shooting, beating and burning of the victims represented a substantial step commencing the execution of the crime against humanity and the war crime of murder, whereas the completion of the crime, i.e. the death of the victims, did not occur due to independent circumstances.

2936. Furthermore, the Chamber, considering in particular that the persons whom the LRA fighters attempted to kill were civilians,<sup>7551</sup> the Chamber finds that the second element of attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

d. Torture (Counts 29-30)

2937. Under Counts 29 and 30, Dominic Ongwen is charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2938. The Chamber found that LRA fighters severely mistreated civilians during the attack and in its aftermath. Civilians were forced to carry heavy loads, some for long distances while

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<sup>7547</sup> See para. 184 above.

<sup>7548</sup> See para. 184 above.

<sup>7549</sup> See para. 184 above.

<sup>7550</sup> See para. 184 above.

<sup>7551</sup> See para. 184 above.

tied together and under constant threat of harm.<sup>7552</sup> Civilians were also injured by the LRA. Witness P-0187 was wounded by an LRA fighter.<sup>7553</sup> She was also raped by an LRA fighter.<sup>7554</sup> Witness P-0024 was beaten throughout her abduction as were other civilians.<sup>7555</sup> LRA fighters kept slapping and threatening her.<sup>7556</sup> Mothers were forced to abandon their children in the bush.<sup>7557</sup> LRA fighters threw small children, including babies, into the bush because the children were crying and making it difficult for their mothers to carry looted goods.<sup>7558</sup>

2939. The Chamber finds that by way of these acts, LRA fighters inflicted severe physical or mental pain or suffering upon the civilian residents of Pajule IDP camp. The first legal element of torture as a crime against humanity under Article 7(1)(f) of the Statute and of torture as a war crime under Article 8(2)(c)(i) of the Statute is therefore met.

2940. Considering that these acts were committed against civilians whom the LRA fighters abducted,<sup>7559</sup> the Chamber finds that they were in the custody of the LRA fighters who attacked Lukodi IDP camp. The second legal element of torture as a crime against humanity under Article 7(1)(f) of the Statute is therefore met.

2941. In respect of the third constitutive element of torture as a crime against humanity under Article 7(1)(f) of the Statute, i.e. that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber notes that it did not find, on facts, any nexus between the acts under consideration and a context of lawful sanctions. The element is therefore likewise met.

2942. Turning to the distinct element of torture as a war crime, considering in particular that the relevant acts were committed against civilians,<sup>7560</sup> the Chamber finds that the third element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were

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<sup>7552</sup> See para. 187 above.

<sup>7553</sup> See para. 187 above.

<sup>7554</sup> See para. 187 above. The Chamber observes in this regard that the Prosecution did not charge Dominic Ongwen with the crime of rape in relation to this fact. In the charges, the rape of P-0187 is contained within the factual scope of the charges under Counts 29 to 32 (*see* para. 49 of the charges, in [Confirmation Decision](#), p. 83).

<sup>7555</sup> See para. 187 above.

<sup>7556</sup> See para. 187 above.

<sup>7557</sup> See para. 187 above.

<sup>7558</sup> See para. 187 above.

<sup>7559</sup> See para. 187 above.

<sup>7560</sup> See para. 187 above.

civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

e. Other inhumane acts (Count 31)

2943. Under Count 31, Dominic Ongwen is charged with other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2944. The facts underlying the charge of other inhumane acts as a crime against humanity under Count 31 are identical to those underlying the charge of torture as a crime against humanity under Count 29. The permissibility of this concurrence of crimes must therefore be considered by the Chamber. In this regard, the Chamber recalls the residual character of Article 7(1)(k) of the Statute,<sup>7561</sup> which, in the statutory system of the Court, is therefore in a relationship of subsidiarity with all other crimes against humanity under article 7(1) of the Statute. That said, and in light of the established facts, the Chamber observes that there is no act underlying the charge under Count 31 which may be considered as different but of similar character, in terms of harm and protected interests involved, compared to those already qualified as a crime against humanity of torture under Count 29. In these circumstances, due to the residual nature of Article 7(1)(k) of the Statute, concurrent legal qualification under this provision is not possible. For this reason, the charge of other inhumane acts under Count 31 will not be further considered by the Chamber.

f. Cruel treatment (Count 32)

2945. Under Count 32, Dominic Ongwen is charged with cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2946. The facts underlying the charge of torture as a war crime under Count 30 and the charge of cruel treatment as a war crime under Count 32 are identical. This is therefore a further situation of concurrence of crimes, the permissibility of which must be specifically considered by the Chamber. In this regard, and as observed above,<sup>7562</sup> the Chamber

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<sup>7561</sup> See para. 2745 above.

<sup>7562</sup> See paras 2700-2707 (torture) and para. 2754 (cruel treatment) above.

recalls that the legal elements of the war crime of cruel treatment are entirely encompassed within the legal elements of the war crime of torture, with the latter containing an additional (mental) constitutive element.<sup>7563</sup> In these circumstances, and as explained,<sup>7564</sup> while the same facts under consideration indeed fulfil the legal elements of both crimes, concurrence of crimes (and consequent cumulative conviction) are not permissible. For this reason, and considering the finding below as to the additional mental element required for the crime of torture as a war crime under Count 30,<sup>7565</sup> the charge of cruel treatment under Count 32 will not be further considered.

g. Enslavement (Count 33)

2947. Under Count 33, Dominic Ongwen is charged with enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2948. The Chamber found that in the course of the attack on Lukodi IDP camp, LRA fighters abducted at least 29 civilians, men, women and children, to carry looted goods from the camp.<sup>7566</sup> Some of the abductees were tied together.<sup>7567</sup> The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death.<sup>7568</sup> Many of the women abductees were subsequently released.<sup>7569</sup> Some abductees, particularly men were killed in the bush.<sup>7570</sup> Some of the abducted children remained with the LRA.<sup>7571</sup>

2949. Considering that the LRA fighters, by committing the acts referred to, deprived the civilian abductees of their personal liberty, restricted and dictated their movement, including by physically restraining them and subjecting them to armed guard, subjected them to forced labour, and engaged in physical and psychological abuse of the abductees, the Chamber finds that by way of abducting civilians and placing them in the situation

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<sup>7563</sup> Indeed, in addition to the otherwise identical legal elements, torture as a war crime requires the following additional element which is not required for cruel treatment as a war crime: '[t]he perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any discrimination of any kind'.

<sup>7564</sup> See para. 2792 above.

<sup>7565</sup> See para. 2971 below.

<sup>7566</sup> See para. 187 above.

<sup>7567</sup> See para. 187 above.

<sup>7568</sup> See para. 187 above.

<sup>7569</sup> See para. 187 above.

<sup>7570</sup> See para. 187 above.

<sup>7571</sup> See para. 187 above.

as found, the LRA fighters exercised powers attaching to the right of ownership over the civilian abductees by imposing on them a deprivation of liberty similar to those explicitly stated in Article 7(2)(c) of the Statute.

#### h. Pillaging (Count 34)

2950. Under Count 34, Dominic Ongwen is charged with pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2951. The Chamber found that during the attack, LRA fighters entered civilian homes and shops in Lukodi IDP camp and looted food and other property from them.<sup>7572</sup> Among the items stolen by the attackers were beans, maize, cooking oil, soap, cooking utensils, chickens, money and clothes.<sup>7573</sup>

2952. The Chamber finds, on the basis of these facts, that the first element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute, i.e. that the perpetrator appropriated certain property, is met.

2953. Further, the Chamber finds that the circumstances of the appropriation, which took place during an armed attack on Lukodi IDP camp by the LRA fighters, indicate that the appropriation took place without the consent of the owners of the property looted. Accordingly, the corresponding legal element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute is met.

#### i. Destruction of property (Count 35)

2954. Under Count 35, Dominic Ongwen is charged with destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2955. The Chamber found that during their attack on the camp, LRA fighters set huts on fire.<sup>7574</sup> Approximately 210 civilian huts in the camp were burnt.<sup>7575</sup> Civilians' household goods, including food stocks, were destroyed in these fires.<sup>7576</sup> Domestic animals such as goats

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<sup>7572</sup> See para. 185 above.

<sup>7573</sup> See para. 185 above.

<sup>7574</sup> See para. 186 above.

<sup>7575</sup> See para. 186 above.

<sup>7576</sup> See para. 186 above.

were also burnt by the LRA.<sup>7577</sup> Accordingly, the Chamber finds that the first element of the war crime of destruction of property, i.e. that the perpetrator destroyed certain property, is met.

2956. The property in question belonged to the residents of Lukodi IDP camp. The Chamber reiterates its finding that the LRA perceived the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda, as associated with the Government of Uganda, and thus as the enemy.<sup>7578</sup> Accordingly, the second element of the war crime of destruction of property, i.e. that the property was property of an adversary, is also met.

2957. Considering that the objects destroyed were civilian huts, household goods, including food stocks, and domestic animals,<sup>7579</sup> the Chamber also finds that no circumstances are indicated on facts which could mean that they constituted military objectives and finds that the property destroyed was protected from that destruction under the international law of armed conflict. There is also no indication on facts that the destruction was required by military necessity. The third and fifth elements of the war crime of destruction of property are therefore established.

j. Persecution (Count 36)

2958. Under Count 36, Dominic Ongwen is charged with persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

2959. The Chamber finds that as required by the first legal element of the crime against humanity of persecution, LRA attackers severely deprived, contrary to international law, civilians of fundamental rights in the course of the attack on Lukodi IDP camp. Specifically, the LRA attackers deprived civilians of the right to life,<sup>7580</sup> the right not to be subjected to cruel, inhuman or degrading treatment,<sup>7581</sup> the right to personal liberty,<sup>7582</sup>

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<sup>7577</sup> See para. 186 above.

<sup>7578</sup> See para. 140 above.

<sup>7579</sup> See para. 186 above.

<sup>7580</sup> See paras 182-183, 188 above.

<sup>7581</sup> See para. 187 above.

<sup>7582</sup> See para. 187 above.

the right not to be held in slavery or servitude,<sup>7583</sup> and the right to private property.<sup>7584</sup> Based on the circumstances of the victimisation, the Chamber finds that the deprivation was severe.

2960. The Chamber also finds that the LRA fighters targeted civilians during the attack on Lukodi IDP camp by reason of their identity as perceived supporters of the Ugandan government, and therefore on political grounds. This is because the LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda.<sup>7585</sup> In this context, the selection of Lukodi IDP camp as a target for the LRA attack indeed constituted targeting on political grounds.

2961. Finally in this regard, the Chamber deems the requirement that persecution as a crime against humanity be committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court met, in light of the other legal findings of the Chamber in relation to the attack on Lukodi IDP camp.

*ii. Individual criminal responsibility of Dominic Ongwen*

2962. Dominic Ongwen is charged with the commission of the crimes under Counts 24 to 36 through 'others within the meaning of Article 25(3)(a) of the Statute.

- a. Execution of the material elements of the crime through other persons

2963. The Chamber found that Dominic Ongwen decided to attack Lukodi IDP camp.<sup>7586</sup> For the purpose of the attack, he gathered soldiers from Sinia as well as from the nearby Gilva brigade sickbay.<sup>7587</sup> At a gathering the morning of the day before the attack, Dominic Ongwen instructed LRA fighters to attack Lukodi IDP camp and everyone present at that location, including civilians, and to take food from the camp.<sup>7588</sup> Dominic Ongwen selected his subordinate Ocaka to be commander on the ground.<sup>7589</sup> Pursuant to Dominic

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<sup>7583</sup> See para. 187 above.

<sup>7584</sup> See paras 185-186 above.

<sup>7585</sup> See para. 140 above.

<sup>7586</sup> See para. 179 above.

<sup>7587</sup> See para. 179 above.

<sup>7588</sup> See para. 179 above.

<sup>7589</sup> See para. 179 above.

Ongwen's instruction, the attackers left for Lukodi IDP camp; they executed his orders and attacked the camp.<sup>7590</sup> After the attack, LRA fighters returned and reported to Dominic Ongwen about the success of their mission.<sup>7591</sup> Dominic Ongwen also reported his soldiers' attack on Lukodi IDP camp to other LRA commanders, including Joseph Kony and Vincent Otti.<sup>7592</sup> Dominic Ongwen took responsibility for the attack on Lukodi IDP camp.<sup>7593</sup>

2964. The Chamber refers to its above analysis and the resulting finding that the conditions of recruitment, initiation and training, and service in the LRA generally of its members were such that LRA commanders could rely for obedience in the execution of orders on a reliable pool of persons.<sup>7594</sup> Also taking into account that at least 80 LRA fighters – selected from an even larger pool of available persons – participated in the attack,<sup>7595</sup> the Chamber considers that the will of the individual LRA soldiers was irrelevant in the execution of a given order. The LRA soldiers selected and sent for the attack on Lukodi IDP camp as a whole functioned as a tool of Dominic Ongwen, through which he was able to execute his plan to attack Lukodi IDP camp, including the commission of crimes. Accordingly, the Chamber concludes that the conduct of the individual LRA fighters in the execution of the crimes during the attack on Lukodi IDP camp must be attributed to Dominic Ongwen as his own.

b. Mental elements

2965. The conduct which Dominic Ongwen undertook in relation to the crimes committed during the attack on Lukodi IDP camp, i.e. his participation in the planning and in the execution of the attack, is such that, by its nature, it could only have been undertaken intentionally. Thus, the Chamber considers that the conduct-related requirement of Article 30(2) of the Statute is met.

2966. Furthermore, the Chamber's findings to the effect that Dominic Ongwen decided to attack Lukodi IDP camp<sup>7596</sup> are relevant also with respect to the required mental elements.

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<sup>7590</sup> See paras 179-180 above.

<sup>7591</sup> See para. 189 above.

<sup>7592</sup> See para. 189 above.

<sup>7593</sup> See para. 189 above.

<sup>7594</sup> See paras 2856, 2858 above.

<sup>7595</sup> See paras 179-180.

<sup>7596</sup> See para. 179 above.

In this regard, the Chamber reiterates that at a gathering the morning of the day before the attack, Dominic Ongwen instructed LRA fighters to attack Lukodi IDP camp and everyone present at that location, including civilians, and to take food from the camp.<sup>7597</sup> As an LRA commander, Dominic Ongwen was necessarily aware of the features of the organisation, including that recruits were not taught, as part of their training which included training in military discipline, to distinguish between civilians and combatants, or between civilian objects and military objectives.<sup>7598</sup> After the attack, LRA fighters returned and reported to Dominic Ongwen about the success of their mission.<sup>7599</sup> Dominic Ongwen also reported his soldiers' attack on Lukodi IDP camp to other LRA commanders, including Joseph Kony and Vincent Otti.<sup>7600</sup> Dominic Ongwen took responsibility for the attack on Lukodi IDP camp.<sup>7601</sup>

2967. On this basis, the Chamber finds that Dominic Ongwen: (i) meant for civilians to be attacked during the attack on Lukodi IDP camp; (ii) meant for civilians to be killed; (iii) meant for civilians to be severely physically and psychologically abused; (iv) meant for civilians to be abducted and forced to carry away looted goods; (v) meant for food items and other property to be looted during the attack; and (vi) meant for the property of civilian residents of Lukodi IDP camp to be destroyed.

2968. The Chamber found that the LRA perceived the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda, as associated with the Government of Uganda, and thus as the enemy.<sup>7602</sup> LRA commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA.<sup>7603</sup> Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7604</sup> On this basis, the Chamber finds that Dominic Ongwen meant for civilian residents of Lukodi IDP

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<sup>7597</sup> See para. 179 above.

<sup>7598</sup> See para. 130 above.

<sup>7599</sup> See para. 189 above.

<sup>7600</sup> See para. 189 above.

<sup>7601</sup> See para. 189 above.

<sup>7602</sup> See para. 140 above.

<sup>7603</sup> See para. 140 above.

<sup>7604</sup> See para. 141 above.

camp to be severely deprived of their rights by reason of their identity as perceived as associated with the Government of Uganda.

2969. Accordingly, the general mental elements under Article 30(2) of the Statute are met with respect to the crimes charged under Counts 24-36. The Chamber turns to the additional mental elements imposed by the Statute in relation to some of these crimes.

2970. In relation to the requirement that the perpetrator be aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in the hostilities, applicable to the crimes of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 26 and Count 28 – attempted murder) and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 30), the Chamber found that Dominic Ongwen instructed LRA fighters to attack Lukodi IDP camp and everyone present at that location, including civilians.<sup>7605</sup> In light of the foregoing, the Chamber concludes that this specific requirement of knowledge is met. Similarly, on the basis of the fact that Dominic Ongwen instructed LRA fighters to attack an IDP camp,<sup>7606</sup> the Chamber concludes that he was aware of the factual circumstances that established the protected status of property in the camp. Accordingly, the specific knowledge requirement of destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute, is met.

2971. In relation to the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 30), the Chamber recalls its finding that Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7607</sup> On this basis, the Chamber finds that Dominic Ongwen intended to inflict such pain or suffering as discussed above,<sup>7608</sup> for the purpose of punishment and/or intimidation of the residents of Lukodi IDP camp, on account of their perceived support for the Government of Uganda.

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<sup>7605</sup> See para. 179 above.

<sup>7606</sup> See para. 179 above.

<sup>7607</sup> See para. 141 above.

<sup>7608</sup> See paras 2938-2939 above.

2972. In relation to the special intent requirement applicable to pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 34), the Chamber notes that before the attack on Lukodi IDP camp Dominic Ongwen gave the attacking fighters the instruction to loot.<sup>7609</sup> Thus, the only reasonable conclusion is that Dominic Ongwen intended to deprive the owner of the property and to appropriate it for private or personal use. The circumstances of the appropriation do not allow for consideration of military necessity as a justification. The special intent requirement is therefore met.

*iii. Conclusion*

2973. On the basis of the above, the Chamber therefore finds that, within the context of the attack carried out by the LRA on the Lukodi IDP camp on or about 19 May 2004, Dominic Ongwen committed, through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such as a war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 24); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 25); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 26); (iv) attempted murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, in conjunction with Article 25(3)(f) of the Statute (Count 27); (v) attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, in conjunction with Article 25(3)(f) of the Statute (Count 28); (vi) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 29); (vii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 30); (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 33); (ix) pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 34); (x) destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute (Count 35) and (xi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 36).

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<sup>7609</sup> See para. 179 above.

6. *Attack on Abok IDP camp (Counts 37 to 49)*

*i. Specific objective elements of the charged crimes*

a. Attack against the civilian population as such (Count 37)

2974. Under Count 37, Dominic Ongwen is charged with attack against the civilian population as such as a war crime, pursuant to Article 8(2)(e)(i) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2975. The Chamber finds that the specific material elements of the crime, namely that the perpetrator directed an attack and that the object of the attack was a civilian population as such or individual civilians not taking part in hostilities, are met, considering that as LRA fighters attacked Abok IDP camp, they went past the old barracks in the south of the camp and entered the camp, firing their guns,<sup>7610</sup> and specifically considering that the LRA attacked the civilians in the camp, shooting, burning and beating them, and burning several hundred civilian homes.<sup>7611</sup> The facts establish that the object of the attack was the civilian population of Abok IDP camp as such.

b. Murder (Counts 38-39)

2976. Under Counts 38 and 39, Dominic Ongwen is charged with murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2977. The Chamber found that in the course of the attack, LRA fighters killed civilians by shooting, burning and/or beating them.<sup>7612</sup> The attackers killed at least 28 civilian residents of the camp.<sup>7613</sup>

2978. Accordingly, the Chamber finds that the first legal element of both murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the perpetrator killed one or more persons, is met.

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<sup>7610</sup> See para. 194 above.

<sup>7611</sup> See paras 196-197 above.

<sup>7612</sup> See para. 197 above.

<sup>7613</sup> See para. 197 above.

2979. Furthermore, considering in particular that the victims of the killings were civilians,<sup>7614</sup> the Chamber finds that the second element of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

c. Attempted murder (Counts 40-41)

2980. Under Counts 40 and 41, Dominic Ongwen is charged with attempted murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, in conjunction with Article 25(3)(f) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2981. The Chamber found that in the course of the attack on Abok IDP camp, LRA fighters attempted to kill at least four civilians.<sup>7615</sup> On such facts, the requirements of Article 25(3)(f) are met: the shooting, burning or beating of the victims represented a substantial step commencing the execution of the crime against humanity and the war crime of murder, whereas the completion of the crime, i.e. the death of the victims, did not occur due to independent circumstances.

2982. Furthermore, the Chamber, considering in particular that the persons whom the LRA fighters attempted to kill were civilians,<sup>7616</sup> the Chamber finds that the second element of attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the person or persons killed were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

d. Torture (Counts 42-43)

2983. Under Counts 42 and 43, Dominic Ongwen is charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2984. The Chamber found that many civilians were severely mistreated by LRA fighters. On the march from the camp through the bush, LRA fighters forced civilians to carry heavy

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<sup>7614</sup> See para. 197 above.

<sup>7615</sup> See paras 199, 202 above.

<sup>7616</sup> See paras 199, 202 above.

looted goods, as well as an injured fighter, for long distances oftentimes under the threat of beatings or death.<sup>7617</sup> LRA fighters beat civilians as a means of punishment for not being able to continue walking and to intimidate other abductees to continue without stopping or resisting.<sup>7618</sup> LRA fighters forced an abductee to kill another abductee with a club, as a lesson to others who were thinking of escaping.<sup>7619</sup>

2985. The Chamber finds that by way of these acts, LRA fighters inflicted severe physical or mental pain or suffering upon the civilian residents of Pajule IDP camp. The first legal element of torture as a crime against humanity under Article 7(1)(f) of the Statute and of torture as a war crime under Article 8(2)(c)(i) of the Statute is therefore met.

2986. Considering that these acts were committed against civilians whom the LRA fighters abducted so that they would carry away the goods looted by the attackers,<sup>7620</sup> the Chamber finds that they were in the custody of the LRA fighters who attacked Abok IDP camp. The second legal element of torture as a crime against humanity under Article 7(1)(f) of the Statute is therefore met.

2987. In respect of the third constitutive element of torture as a crime against humanity under Article 7(1)(f) of the Statute, i.e. that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber notes that it did not find, on facts, any nexus between the acts under consideration and a context of lawful sanctions. The element is therefore likewise met.

2988. Turning to the distinct element of torture as a war crime, the Chamber, considering in particular that the relevant acts were committed against civilians,<sup>7621</sup> finds that the third element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

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<sup>7617</sup> See paras 201-202 above.

<sup>7618</sup> See paras 201-202 above.

<sup>7619</sup> See para. 201 above.

<sup>7620</sup> See paras 201-202 above.

<sup>7621</sup> See paras 201-203 above.

e. Other inhumane acts (Count 44)

2989. Under Count 44, Dominic Ongwen is charged with other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2990. The facts underlying the charge of other inhumane acts as a crime against humanity under Count 44 are identical to those underlying the charge of torture as a crime against humanity under Count 42. The permissibility of this concurrence of crimes must therefore be considered by the Chamber. In this regard, the Chamber recalls the residual character of Article 7(1)(k) of the Statute,<sup>7622</sup> which, in the statutory system of the Court, is therefore in a relationship of subsidiarity with all other crimes against humanity under Article 7(1) of the Statute. That said, and in light of the established facts, the Chamber observes that there is no act underlying the charge under Count 44 which may be considered as different but of similar character, in terms of harm and protected interests involved, compared to those already qualified as a crime against humanity of torture under Count 42. In these circumstances, due to the residual nature of Article 7(1)(k) of the Statute, concurrent legal qualification under this provision is not possible. For this reason, the charge of other inhumane acts under Count 44 will not be further considered by the Chamber.

f. Cruel treatment (Count 45)

2991. Under Count 45, Dominic Ongwen is charged with cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2992. The facts underlying the charge of torture as a war crime under Count 43 and the charge of cruel treatment as a war crime under Count 45 are identical. This is therefore a further situation of concurrence of crimes, the permissibility of which must be specifically considered by the Chamber. In this regard, and as observed above,<sup>7623</sup> the Chamber recalls that the legal elements of the war crime of cruel treatment are entirely encompassed within the legal elements of the war crime of torture, with the latter

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<sup>7622</sup> See para. 2745 above.

<sup>7623</sup> See paras 2700-2707 (torture) and para. 2754 (cruel treatment) above.

containing an additional (mental) constitutive element.<sup>7624</sup> In these circumstances, and as explained,<sup>7625</sup> while the same facts under consideration indeed fulfil the legal elements of both crimes, concurrence of crimes (and consequent cumulative conviction) are not permissible. For this reason, and considering the finding below as to the additional mental element required for the crime of torture as a war crime under Count 43,<sup>7626</sup> the charge of cruel treatment under Count 45 will not be further considered.

g. Enslavement (Count 46)

2993. Under Count 46, Dominic Ongwen is charged with enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2994. The Chamber found that in the course of the attack, the LRA fighters deprived many civilians of their liberty by abducting them and forcing them to carry looted goods, as well as an injured fighter, for long distances.<sup>7627</sup> Some of the abductees were tied to each other.<sup>7628</sup> The abductees were under armed guard to prevent their escape and were under constant threat of beatings or death.<sup>7629</sup> Some abductees were killed in captivity, at times for failing to keep up with their captors, others eventually escaped and returned home, some remained with the LRA.<sup>7630</sup>

2995. Considering that the LRA fighters, by committing the acts referred to, deprived the civilian abductees of their personal liberty, restricted and dictated their movement, including by physically restraining them and subjecting them to armed guard, subjected them to forced labour, and engaged in physical and psychological abuse of the abductees, the Chamber finds that by way of abducting civilians and placing them in the situation as found, the LRA fighters exercised powers attaching to the right of ownership over the

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<sup>7624</sup> Indeed, in addition to the otherwise identical legal elements, torture as a war crime requires the following additional element which is not required for cruel treatment as a war crime: '[t]he perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any discrimination of any kind'.

<sup>7625</sup> See para. 2792 above.

<sup>7626</sup> See para. 3018 below.

<sup>7627</sup> See para. 201 above.

<sup>7628</sup> See para. 201 above.

<sup>7629</sup> See para. 201 above.

<sup>7630</sup> See para. 203 above.

abductees by imposing on them a deprivation of liberty similar to those explicitly stated in Article 7(2)(c) of the Statute.

#### h. Pillaging (Count 47)

2996. Under Count 47, Dominic Ongwen is charged with pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

2997. The Chamber found that during the attack on the camp, the LRA fighters looted civilian houses and shops at the trading centre, taking away food items such as sugar, flour, beans, maize, goats, cooking oil, biscuits and salt, as well as a radio, money, clothing, cooking utensils and medicine.<sup>7631</sup> At times, while demanding the goods, LRA fighters would use violence.<sup>7632</sup>

2998. The Chamber finds, on the basis of these facts, that the first element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute, i.e. that the perpetrator appropriated certain property, is met.

2999. Further, the Chamber finds that the circumstances of the appropriation, which took place during an armed attack on Abok IDP camp by the LRA fighters, who raided the trading centre and broke into shops, indicate that the appropriation took place without the consent of the owners of the property looted. Accordingly, the corresponding legal element of pillaging as a war crime under Article 8(2)(e)(v) of the Statute is met.

#### i. Destruction of property (Count 48)

3000. Under Count 48, Dominic Ongwen is charged with destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

3001. The Chamber found that during their attack on the camp, LRA fighters set huts on fire, taking grass from burning thatched roofs to set other huts on fire.<sup>7633</sup> Several hundred

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<sup>7631</sup> See para. 195 above.

<sup>7632</sup> See para. 195 above.

<sup>7633</sup> See para. 196 above.

civilian homes were burnt during the attack.<sup>7634</sup> Civilians' food stocks were also destroyed.<sup>7635</sup>

3002. Accordingly, the Chamber finds that the first element of the war crime of destruction of property, i.e. that the perpetrator destroyed certain property, is met.

3003. The property in question belonged to the residents of Abok IDP camp. The Chamber found that the LRA perceived the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda, as associated with the Government of Uganda, and thus as the enemy.<sup>7636</sup> Accordingly, also the second element of the war crime of destruction of property, i.e. that the property was property of an adversary, is met.

3004. Considering that the objects destroyed were civilian huts and food stocks,<sup>7637</sup> the Chamber also finds that no circumstances are indicated on facts which could mean that they constituted military objectives and finds that the property destroyed was protected from that destruction under the international law of armed conflict. There is also no indication on facts that the destruction was required by military necessity. The third and fifth elements of the war crime of destruction of property are therefore established.

j. Persecution (Count 49)

3005. Under Count 49, Dominic Ongwen is charged with persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, on or about 8 June 2004, at or near Abok IDP camp.

3006. The Chamber finds that as required by the first legal element of the crime against humanity of persecution, LRA attackers severely deprived, contrary to international law, civilians of fundamental rights in the course of the attack on Abok IDP camp. Specifically, the LRA attackers deprived civilians of the right to life,<sup>7638</sup> the right not to be subjected to cruel, inhuman or degrading treatment,<sup>7639</sup> the right to personal liberty,<sup>7640</sup> the right

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<sup>7634</sup> See para. 196 above.

<sup>7635</sup> See para. 196 above.

<sup>7636</sup> See para. 140 above.

<sup>7637</sup> See para. 196 above.

<sup>7638</sup> See paras 197-198 above.

<sup>7639</sup> See paras 201-202 above.

<sup>7640</sup> See para. 201 above.

not to be held in slavery or servitude,<sup>7641</sup> and the right to private property.<sup>7642</sup> Based on the circumstances of the victimisation, the Chamber finds that the deprivation was severe.

3007. The Chamber also finds that the LRA fighters targeted civilians during the attack on Abok IDP camp by reason of their identity as perceived supporters of the Ugandan government, and therefore on political grounds. This is because the LRA perceived as associated with the Government of Uganda, and thus as the enemy, the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda.<sup>7643</sup> In this context, the selection of Abok IDP camp as a target for the LRA attack indeed constituted targeting on political grounds.

3008. Finally in this regard, the Chamber deems the requirement that persecution as a crime against humanity be committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court, met in light of the other legal findings of the Chamber in relation to the attack on Abok IDP camp.

*ii. Individual criminal responsibility of Dominic Ongwen*

3009. Dominic Ongwen is charged with the commission of the crimes under Counts 37 to 49 ‘through’ others within the meaning of Article 25(3)(a) of the Statute.

- a. Execution of the material elements of the crime through other persons

3010. The Chamber found that Dominic Ongwen chose to attack Abok IDP camp.<sup>7644</sup> Prior to the attack, Dominic Ongwen ordered LRA fighters subordinate to him to attack this camp, including civilians.<sup>7645</sup> At a gathering in the foothills of Atoo, Dominic Ongwen addressed the troops before the attack and gave instructions to go and collect food, abduct people, attack the barracks and burn down the camp and the barracks.<sup>7646</sup> Dominic Ongwen did not go to Abok as part of the fighting force.<sup>7647</sup> He appointed Okello Kalalang to command the attackers on the ground according to his instructions.<sup>7648</sup>

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<sup>7641</sup> See para. 201 above.

<sup>7642</sup> See paras 195-196 above.

<sup>7643</sup> See para. 140 above.

<sup>7644</sup> See para. 192 above.

<sup>7645</sup> See para. 192 above.

<sup>7646</sup> See para. 192 above.

<sup>7647</sup> See para. 192 above.

<sup>7648</sup> See para. 192 above.

Kalalang led the LRA fighters in the attack on the camp on behalf of Dominic Ongwen;<sup>7649</sup> the LRA fighters executed Dominic Ongwen's orders.<sup>7650</sup> After the attack, Dominic Ongwen communicated the results of the attack on the LRA military radio to other LRA commanders and to Joseph Kony, reporting that his fighters carried out an attack on Abok IDP camp, directing fire and burning everything that was there including huts in the camp.<sup>7651</sup>

3011. The Chamber refers to its above analysis and the resulting finding that the conditions of recruitment, initiation and training, and service in the LRA generally of its members were such that LRA commanders could rely for obedience in the execution of orders on a reliable pool of persons.<sup>7652</sup> Also taking into account that at least 20 LRA fighters participated in the attack, and that they were selected from an even larger pool of available persons,<sup>7653</sup> the Chamber considers that the will of the individual LRA soldiers was irrelevant in the execution of a given order. The LRA soldiers selected and sent for the attack on Abok IDP camp as a whole functioned as a tool of Dominic Ongwen, through which he was able to execute his plan to attack Abok IDP camp, including the commission of crimes. Accordingly, the Chamber concludes that the conduct of the individual LRA fighters in the execution of the crimes during the attack on Abok IDP camp must be attributed to Dominic Ongwen as his own.

b. Mental elements

3012. The conduct which Dominic Ongwen undertook in relation to the crimes committed during the attack on Abok IDP camp, i.e. his participation in the planning and in the execution of the attack, is such that, by its nature, it could only have been undertaken intentionally. Thus, the Chamber considers that the conduct-related requirement of Article 30(2) of the Statute is met.

3013. Furthermore, the Chamber's findings to the effect that Dominic Ongwen chose to attack Abok IDP camp are of particular relevance also in this regard. This is the case in relation to the Chamber's finding that, prior to the attack, Dominic Ongwen ordered LRA fighters

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<sup>7649</sup> See para. 192 above.

<sup>7650</sup> See para. 193 above.

<sup>7651</sup> See para. 204 above.

<sup>7652</sup> See paras 2856, 2858 above.

<sup>7653</sup> See paras 192-193 above.

subordinate to him to attack this camp, including civilians.<sup>7654</sup> The Chamber reiterates that, at a gathering in the foothills of Atoo, Dominic Ongwen addressed the troops before the attack and gave instructions to go and collect food, abduct people, attack the barracks and burn down the camp and the barracks.<sup>7655</sup> Dominic Ongwen, who did not go to Abok as part of the fighting force,<sup>7656</sup> appointed Okello Kalalang to command the attackers on the ground according to his instructions.<sup>7657</sup> As an LRA commander, Dominic Ongwen was necessarily aware of the features of the organisation, including that recruits were not taught, as part of their training which included training in military discipline, to distinguish between civilians and combatants, or between civilian objects and military objectives.<sup>7658</sup> After the attack, Dominic Ongwen communicated the results of the attack on the LRA military radio to other LRA commanders and to Joseph Kony, reporting that his fighters carried out an attack on Abok IDP camp, directing fire and burning everything that was there including huts in the camp.<sup>7659</sup>

3014. On this basis, the Chamber finds that Dominic Ongwen: (i) meant for civilians to be attacked during the attack on Abok IDP camp; (ii) meant for civilians to be killed; (iii) meant for civilians to be severely physically and psychologically abused; (iv) meant for civilians to be abducted and forced to carry away looted goods; (v) meant for food items and other property to be looted during the attack; and (vi) meant for the property of civilian residents of Abok IDP camp to be destroyed.

3015. The Chamber found that the LRA perceived the civilians living in Northern Uganda, in particular those who lived in government-established IDP camps in Northern Uganda, as associated with the Government of Uganda, and thus as the enemy.<sup>7660</sup> LRA commanders routinely declared that civilians were failing to support the LRA in its effort against the government and should be killed by the LRA.<sup>7661</sup> Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7662</sup> On this basis,

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<sup>7654</sup> See para. 192 above.

<sup>7655</sup> See para. 192 above.

<sup>7656</sup> See para. 192 above.

<sup>7657</sup> See para. 192 above.

<sup>7658</sup> See para. 130 above.

<sup>7659</sup> See para. 204 above.

<sup>7660</sup> See para. 140 above.

<sup>7661</sup> See para. 140 above.

<sup>7662</sup> See para. 141 above.

the Chamber finds that Dominic Ongwen meant for civilian residents of Abok IDP camp to be severely deprived of their rights by reason of their identity as perceived as associated with the Government of Uganda.

3016. Accordingly, the general mental elements under Article 30(2) of the Statute are met with respect to the crimes charged under Counts 37-49. The Chamber turns to the additional mental elements imposed by the Statute in relation to some of these crimes.

3017. In relation to the requirement that the perpetrator be aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in the hostilities, applicable to the crimes of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 39 and Count 41 – attempted murder) and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 43), the Chamber found that Dominic Ongwen instructed LRA fighters to attack the Abok IDP camp, including civilians, and to go and collect food, abduct people, attack the barracks and burn down the camp and the barracks.<sup>7663</sup> In light of the foregoing, the Chamber concludes that this specific requirement of knowledge is met. Similarly, on the basis of the instruction given by Dominic Ongwen, which was to attack an IDP camp, and in particular noting the specific reference to the ‘camp’ as opposed to the barracks,<sup>7664</sup> the Chamber also concludes that Dominic Ongwen was aware of the factual circumstances that established the protected status of property in the camp. Accordingly, the specific knowledge requirement of destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute, is met.

3018. In relation to the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 43), the Chamber recalls its finding that Dominic Ongwen knew that the LRA perceived, and also himself perceived, the civilians living in Northern Uganda as associated with the Government of Uganda – and thus as the enemy.<sup>7665</sup> On this basis, the Chamber finds that Dominic Ongwen intended to inflict such pain or suffering as discussed above,<sup>7666</sup> for the purpose of punishment and/or

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<sup>7663</sup> See para. 192 above.

<sup>7664</sup> See para. 192 above.

<sup>7665</sup> See para. 141 above.

<sup>7666</sup> See paras 2984-2985 above.

intimidation of the residents of Abok IDP camp, on account of their perceived support for the Government of Uganda.

3019. In relation to the special intent requirement applicable to pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 47), the Chamber recalls that before the attack on Abok IDP camp, Dominic Ongwen gave the instruction to go and collect food.<sup>7667</sup> The only reasonable conclusion is that Dominic Ongwen intended to deprive the owner of the property and to appropriate it for private or personal use. The circumstances of the appropriation do not allow for consideration of military necessity as a justification. The special intent requirement is therefore met.

*iii. Conclusion*

3020. On the basis of the above, the Chamber therefore finds that, within the context of the attack carried out by the LRA on the Abok IDP camp on or about 8 June 2004, Dominic Ongwen committed, through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) attack against the civilian population as such as a war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 37); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 38); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 39); (iv) attempted murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, in conjunction with Article 25(3)(f) of the Statute (Count 40); (v) attempted murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, in conjunction with Article 25(3)(f) of the Statute (Count 41); (vi) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 42); (vii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 43); (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 46); (ix) pillaging as a war crime, pursuant to Article 8(2)(e)(v) of the Statute (Count 47); (x) destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute (Count 48) and (xi) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 49).

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<sup>7667</sup> See para. 192 above.

7. *Sexual and gender-based crimes perpetrated directly by Dominic Ongwen*  
(Counts 50 to 60)

i. *Forced marriage (Count 50)*

3021. Under Count 50, Dominic Ongwen is charged with forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute, of ██████████ (P-0099) between 1 July 2002 and September 2002; ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

3022. The Chamber found that P-0099 had been abducted by LRA fighters from Purongo, Northern Uganda in February 1998 and from there taken by the LRA to Sudan.<sup>7668</sup> By 1 July 2002, while in Sudan, she had been forced to become Dominic Ongwen's so-called 'wife'.<sup>7669</sup> P-0099 escaped in September 2002.<sup>7670</sup> P-0099 was in Uganda from 1 July 2002 until her escape.<sup>7671</sup> She was placed by Dominic Ongwen in a sickbay where she continued her life under identical circumstances.<sup>7672</sup> P-0101 had been personally abducted by Dominic Ongwen from Northern Uganda in August 1996 and was immediately taken by him into his household<sup>7673</sup> where she stayed until her release from the LRA in July 2004.<sup>7674</sup> P-0214 had been abducted from Laliya, Northern Uganda, by LRA fighters in June 2000 and from there taken by the LRA to Sudan.<sup>7675</sup> In September 2002, she was 'distributed' to Dominic Ongwen.<sup>7676</sup> P-0227 was abducted from Pageya, Northern Uganda by LRA fighters under Dominic Ongwen's command in approximately April 2005.<sup>7677</sup> She joined Dominic Ongwen's household.<sup>7678</sup> P-0214 and P-0227 remained in Dominic Ongwen's household beyond 31 December 2005, the end date of the period relevant to the charges, and escaped in 2010.<sup>7679</sup> P-0226 had been abducted

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<sup>7668</sup> See para. 205 above.

<sup>7669</sup> See para. 205 above.

<sup>7670</sup> See para. 211 above.

<sup>7671</sup> See para. 211 above.

<sup>7672</sup> See para. 211 above.

<sup>7673</sup> See para. 205 above.

<sup>7674</sup> See paras 205, 211 above.

<sup>7675</sup> See para. 205 above.

<sup>7676</sup> See para. 205 above.

<sup>7677</sup> See para. 205 above.

<sup>7678</sup> See para. 205 above.

<sup>7679</sup> See para. 211 above.

from her home at Patiko Cetkana, Lukome, Northern Uganda, by LRA fighters under Dominic Ongwen's command around 1998.<sup>7680</sup> By 1 July 2002, she was a *ting ting* in Dominic Ongwen's household.<sup>7681</sup> She was captured by government soldiers in 2003 in Koch.<sup>7682</sup>

3023. P-0099, P-0101, P-0214, P-0226 and P-0227, who were 'distributed' to Dominic Ongwen, were not allowed to leave.<sup>7683</sup> Dominic Ongwen placed them under heavy guard.<sup>7684</sup> They were told or came to understand that if they tried to escape they would be killed.<sup>7685</sup> These women were ultimately considered Dominic Ongwen's so-called 'wives' and had to maintain an exclusive conjugal relationship with him.<sup>7686</sup> Being Dominic Ongwen's so-called 'wife' did not cease until P-0099, P-0101, P-0214, P-0226 and P-0227 escaped or were released from the LRA.<sup>7687</sup>

3024. The Chamber makes reference to its discussion of the applicable law in relation to forced marriage as qualifying within other inhumane acts under Article 7(1)(k) of the Statute.<sup>7688</sup> In the present circumstances, as concerns P-0099, P-0101, P-0214, P-0226 and P-0227 at the relevant times during the period of the charges going from 1 July 2002 to 31 December 2005, the Chamber finds that Dominic Ongwen executed the specific legal elements of forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute.

3025. As concerns the mental elements, due to the nature of the acts performed by Dominic Ongwen and due to the sustained character of the acts over a long period of time, the Chamber considers that Dominic Ongwen meant both to engage in his relevant conduct and to cause the consequence.

3026. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crime of forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute (Count 50),

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<sup>7680</sup> See para. 205 above.

<sup>7681</sup> See para. 205 above.

<sup>7682</sup> See para. 211 above.

<sup>7683</sup> See para. 206 above.

<sup>7684</sup> See para. 206 above.

<sup>7685</sup> See para. 206 above.

<sup>7686</sup> See para. 206 above.

<sup>7687</sup> See para. 206 above.

<sup>7688</sup> See section V.A.1.ii.h above.

of ██████████ (P-0099) between 1 July 2002 and September 2002, ██████████ (P-0101) between 1 July 2002 and July 2004, ██████████ (P-0214) between September 2002 and 31 December 2005, ██████████ (P-0226) between 1 July 2002 and sometime in 2003, and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

*ii. Torture (Counts 51-52)*

3027. Under Counts 51 and 52, Dominic Ongwen is charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, of ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

3028. The Chamber found that P-0101, P-0214, P-0226 and P-0227 were subjected to beating at Dominic Ongwen's command at any time.<sup>7689</sup> They were hit with canes and sticks.<sup>7690</sup> Some beatings knocked them unconscious, left them unable to walk and left permanent scars.<sup>7691</sup> On this basis, the Chamber finds that the first element of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the perpetrator inflicted on the victim severe physical or mental pain or suffering, is met.

3029. At the relevant times P-0101, P-0214, P-0226 and P-0227 were abducted and as so-called 'wives' they were in custody and under control of Dominic Ongwen. The second element of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute is also met.

3030. In respect of the third constitutive element of torture as a crime against humanity under Article 7(1)(f) of the Statute, i.e. that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber notes that it

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<sup>7689</sup> See para. 208 above.

<sup>7690</sup> See para. 208 above.

<sup>7691</sup> See para. 208 above.

did not find, on facts, any nexus between the acts under consideration and a context of lawful sanctions. The element is therefore likewise met.

3031. Considering in particular the circumstances of their abduction, as well as of their stay within the LRA, and more specifically in Dominic Ongwen's household,<sup>7692</sup> the Chamber is also satisfied that P-0101, P-0214, P-0226 and P-0227 were civilians at the relevant time. Accordingly, the Chamber finds that the third element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

3032. As concerns the mental elements, due to the nature of the acts performed by Dominic Ongwen and due to the sustained character of the acts over a long period of time, the Chamber considers that Dominic Ongwen meant to engage in his relevant conduct and to cause the consequence. Considering that Dominic Ongwen knew the victims personally, he also knew of their civilian status.

3033. Finally, and recalling again that failure on the part of P-0101, P-0214, P-0226 and P-0227 to perform the domestic duties assigned to them led to punishment by beating,<sup>7693</sup> the Chamber is also satisfied that Dominic Ongwen acted with the purpose of coercing, intimidating or punishing, and that the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, is therefore met.

3034. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crimes of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 51), and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 52), of [REDACTED] (P-0101) between 1 July 2002 and July 2004, [REDACTED] (P-0214) between September 2002 and 31 December 2005, [REDACTED] (P-0226) between 1 July 2002 and sometime in 2003, and [REDACTED] (P-0227) between approximately April 2005 and 31 December 2005.

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<sup>7692</sup> See paras 205-208 above.

<sup>7693</sup> See para. 208 above.

*iii. Rape (Counts 53-54)*

3035. Under Counts 53 and 54, Dominic Ongwen is charged with rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, of ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

3036. At the outset, the Chamber notes the Defence argument, albeit apparently only with respect to P-0226, that the charges of rape and those of sexual slavery are based on the ‘same alleged conduct of intercourse without consent’ and that concurrence of crimes is not permissible.<sup>7694</sup> In light of the findings below in relation of the charges of sexual slavery,<sup>7695</sup> the Chamber considers it appropriate to address this matter at this juncture.

3037. The Chamber observes that in application of the test based on the principle of speciality – *i.e.* whether each statutory provision involved has a materially distinct element not included in the other, requiring proof of at least one additional fact – concurrence of the crimes of rape and sexual slavery is in principle permissible, on the ground that each of the crimes requires an element not required by the other. Indeed, the crime of rape requires the invasion of the body of a person by conduct resulting in penetration, however slight, committed under certain specific circumstances, while for the crime of sexual slavery any act of a sexual nature in which the victim is caused to engage, would suffice without the need for penetration; conversely, the crime of sexual slavery requires the exercise by the perpetrator of any or all of the powers attaching to the right of ownership over the victim – an element which is not required for the commission of the crime of rape. It is worth reiterating in this regard that, significantly, the crime of sexual slavery, as defined under the Statute, may be committed through subjecting the victim to *any* act of sexual nature and not only rape.

3038. The Chamber is mindful of the Appeals Chamber’s consideration that, beyond the operation of the principle of speciality, a bar to the permissibility of concurrence of crimes may also result from the full consumption of one crime by another in the concrete

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<sup>7694</sup> [Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions](#), paras 40-42.

<sup>7695</sup> See paras 3044-3049 below.

circumstances.<sup>7696</sup> The Chamber is of the view that this is not the case as concerns the facts at issue; to the contrary, the full scope of Dominic Ongwen's culpable conduct may only be reflected by the concurrence of the crimes of rape under Counts 53 and 54 and those of sexual slavery under Counts 55 and 56.

3039. Accordingly, on the basis of the principle of speciality *in abstracto* and considering in addition that the crimes of rape cannot be said to be fully consumed within the crimes of sexual slavery nor that there exists a relation of subsidiarity between the two crimes, the Chamber considers that concurrence of the two sets of crimes on the basis of the same facts, *i.e.* the same repeated acts of rape on the part of Dominic Ongwen, is permissible. The Chamber notes that the same was also held recently in analogous circumstances by Trial Chamber VI.<sup>7697</sup> The Defence submissions in this regard are therefore rejected.

3040. That said, the Chamber recalls that it found above that during the period relevant to the charges, Dominic Ongwen had sex by force with P-0101, P-0214, P-0226 and P-0227.<sup>7698</sup> This happened on a repeated basis whenever Dominic Ongwen wanted.<sup>7699</sup> On this basis, the Chamber finds that the first legal element of rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, is met.

3041. Likewise, considering that P-0101, P-0214, P-0226 and P-0227 were abductees, detained and beaten on Dominic Ongwen's command,<sup>7700</sup> and thus living under threat of force in a coercive environment, the Chamber finds that the second legal element of rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute is met.

3042. As concerns the mental elements, due to the nature of the acts performed by Dominic Ongwen and due to the sustained character of the acts over a long period of time, the Chamber considers that Dominic Ongwen meant to engage in the relevant conduct.

3043. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crimes of rape

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<sup>7696</sup> [Bemba et al. Appeals Judgment](#), para. 751.

<sup>7697</sup> [Ntaganda Trial Judgment](#), paras 1204-1205.

<sup>7698</sup> See para. 207 above.

<sup>7699</sup> See para. 207 above.

<sup>7700</sup> See paras 206, 208 above.

as a crime against humanity, pursuant to Article 7(1)(g) of the Statute (Count 53), and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute (Count 54), of ██████████ (P-0101) between 1 July 2002 and July 2004, ██████████ (P-0214) between September 2002 and 31 December 2005, ██████████ (P-0226) between 1 July 2002 and sometime in 2003, and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

*iv. Sexual slavery (Counts 55-56)*

3044. Under Counts 55 and 56, Dominic Ongwen is charged with sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, of ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

3045. The Chamber found that the seven women ‘distributed’ to Dominic Ongwen were not allowed to leave.<sup>7701</sup> Dominic Ongwen placed them under heavy guard.<sup>7702</sup> They were told or came to understand that if they tried to escape they would be killed.<sup>7703</sup> They were also subjected to beating at Dominic Ongwen’s command at any time.<sup>7704</sup> They were hit with canes and sticks.<sup>7705</sup> Some beatings knocked them unconscious, left them unable to walk and left permanent scars.<sup>7706</sup> The seven women had to perform different domestic duties, including cooking, working in the garden, doing laundry, fetching and chopping wood, carrying Dominic Ongwen’s dishes, fetching water, washing, nursing Dominic Ongwen when he was injured and taking things to him.<sup>7707</sup> Failing to perform these tasks led to punishment by beating.<sup>7708</sup>

3046. The above findings of the Chamber are relevant for Counts 55-56 insofar as they concern P-0101, P-0214, P-0226 and P-0227. Considering that Dominic Ongwen, as described, deprived them of their personal liberty, restricted and dictated their movement, including

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<sup>7701</sup> See para. 206 above.

<sup>7702</sup> See para. 206 above.

<sup>7703</sup> See para. 206 above.

<sup>7704</sup> See para. 208 above.

<sup>7705</sup> See para. 208 above.

<sup>7706</sup> See para. 208 above.

<sup>7707</sup> See para. 208 above.

<sup>7708</sup> See para. 208 above.

by threats and subjecting them to armed guard, subjected them to forced labour, and physically and psychologically abused them, the Chamber finds that Dominic Ongwen exercised powers attaching to the right of ownership over these women by imposing on them a deprivation of liberty similar to those explicitly stated in Articles 7(1)(g) and 8(2)(e)(vi) of the Statute. The first element of sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute is therefore met.

3047. The Chamber further found that Dominic Ongwen had sex by force with P-0101, P-0214, P-0226 and P-0227.<sup>7709</sup> This happened on a repeated basis whenever Dominic Ongwen wanted during the time in which these women were deprived of their personal freedom.<sup>7710</sup> Accordingly, the Chamber finds that the second element of sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute – i.e. that the victims were caused to engage in one or more acts of sexual nature, which, in the present case took the form of repeated rapes – is also met.

3048. As concerns the mental elements, due to the nature of the acts performed by Dominic Ongwen and due to the sustained character of the acts over a long period of time, the Chamber considers that Dominic Ongwen meant to engage in the relevant conduct.

3049. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crimes of sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute (Count 55), and sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute (Count 56), of ██████████ (P-0101) between 1 July 2002 and July 2004, ██████████ (P-0214) between September 2002 and 31 December 2005, ██████████ (P-0226) between 1 July 2002 and sometime in 2003, and ██████████ (P-0227) between approximately April 2005 and 31 December 2005.

v. *Enslavement (Count 57)*

3050. Under Count 57, Dominic Ongwen is charged with enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, of ██████████ (P-0099) between 1

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<sup>7709</sup> See para. 207 above.

<sup>7710</sup> See para. 207 above.

July 2002 and September 2002; ██████████ (P-0101) between 1 July 2002 and July 2004; ██████████ (P-0214) between September 2002 and 31 December 2005; ██████████ (P-0226) between 1 July 2002 and sometime in 2003; ██████████ (P-0227) between approximately April 2005 and 31 December 2005; ██████████ (P-0235) between September 2002 and 31 December 2005; ██████████ (P-0236) between September 2002 and 31 December 2005.

3051. At the outset, the Chamber notes that Count 57 is charged cumulatively with Count 55 as concerns P-0101, P-0214, P-0226 and P-0227, based on the same facts. The Defence argued that ‘the elements of the crime of enslavement are not distinct from sexual slavery and the charges of enslavement should be dismissed’.<sup>7711</sup> The Chamber agrees with the Defence. Indeed, as is clear already from the analysis of the applicable law above,<sup>7712</sup> enslavement as a crime against humanity is in the abstract entirely encompassed within sexual slavery. In other words, sexual slavery, as a crime against humanity, is a specific form of enslavement, qualified by the additional fact that the victim is *also* caused to engage in at least one act of a sexual nature. Thus, concurrence of these crimes is not permissible. Accordingly, the Chamber considers the charge of enslavement under Count 57 only in relation to P-0099, P-0235 and P-0236.

3052. The Chamber recalls its finding that P-0099 had been abducted by LRA fighters from Purongo, Northern Uganda in February 1998 and from there taken by the LRA to Sudan, and that by 1 July 2002, while in Sudan, she had been forced to become Dominic Ongwen’s so-called ‘wife’.<sup>7713</sup> P-0099 escaped in September 2002.<sup>7714</sup> P-0099 was in Uganda from 1 July 2002 until her escape.<sup>7715</sup> She was placed by Dominic Ongwen in a sickbay where she continued her life under identical circumstances.<sup>7716</sup> As regards P-0235, the Chamber found that she was abducted by the LRA fighters in Kitgum town in September 2002, and, after her abduction, placed in Dominic Ongwen’s household.<sup>7717</sup> Finally, the Chamber found that P-0236 was abducted from Wang’yaa in Ogule, Pajule,

<sup>7711</sup> [Defence Closing Brief](#), para. 466. *See also* [Motion for Immediate Ruling on the Request for Dismissal of the Charge of Enslavement](#), 10 January 2020, ICC-02/04-01/15-1708.

<sup>7712</sup> *See* para. 2715 above.

<sup>7713</sup> *See* para. 205 above.

<sup>7714</sup> *See* para. 211 above.

<sup>7715</sup> *See* para. 211 above.

<sup>7716</sup> *See* para. 211 above.

<sup>7717</sup> *See* para. 205 above.

Northern Uganda, by LRA fighters in September 2002.<sup>7718</sup> She was then ‘distributed’ to Dominic Ongwen.<sup>7719</sup> The Chamber also recalls its finding that P-0235 and P-0236 were released from the LRA only in April 2015.<sup>7720</sup>

3053. Considering that Dominic Ongwen, as described, deprived these women of their personal liberty, restricted and dictated their movement, including by threats and subjecting them to armed guard, subjected them to forced labour, and physically and psychologically abused them,<sup>7721</sup> the Chamber finds that Dominic Ongwen exercised powers attaching to the right of ownership over these women by imposing on them a deprivation of liberty similar to those explicitly stated in Article 7(2)(c) of the Statute.

3054. As concerns the mental elements, due to the nature of the acts performed by Dominic Ongwen and due to the sustained character of the acts over a long period of time, the Chamber considers that, Dominic Ongwen meant to engage in the relevant conduct.

3055. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crime of enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 57), of ██████████ (P-0099) between 1 July 2002 and September 2002, ██████████ (P-0235) between September 2002 and 31 December 2005, and ██████████ (P-0236) between September 2002 and 31 December 2005.

*vi. Forced pregnancy (Counts 58-59)*

3056. Under Counts 58-59, Dominic Ongwen is charged with forced pregnancy as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and forced pregnancy as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, of ██████████ (P-0101, two pregnancies), between 1 July 2002 and July 2004 and ██████████ (P-0214), sometime in 2005.

3057. The Chamber found that Dominic Ongwen had sex by force with his so-called ‘wives’, including with P-0101 and P-0214.<sup>7722</sup> This happened on a repeated basis whenever

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<sup>7718</sup> See para. 205 above.

<sup>7719</sup> See para. 205 above.

<sup>7720</sup> See para. 211 above.

<sup>7721</sup> See para. 3045 above.

<sup>7722</sup> See para. 207 above.

Dominic Ongwen wanted.<sup>7723</sup> P-0101 became pregnant and gave birth to a girl fathered by Dominic Ongwen sometime between July 2002 and July 2004.<sup>7724</sup> In 2004, P-0101 became pregnant and gave birth to a boy fathered by Dominic Ongwen.<sup>7725</sup> In 2005, P-0214 became pregnant and, in December 2005, gave birth to a girl fathered by Dominic Ongwen.<sup>7726</sup>

3058. The Chamber also found that during the time relevant to the charges the seven women ‘distributed’ to Dominic Ongwen, including P-0101 and P-0214 during their pregnancies, were not allowed to leave.<sup>7727</sup> Dominic Ongwen placed them under heavy guard.<sup>7728</sup> They were told or came to understand that if they tried to escape they would be killed.<sup>7729</sup>

3059. On this basis, the Chamber finds that Dominic Ongwen confined P-0101 and P-0214, who had been forcibly made pregnant. The objective element of forced pregnancy as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and forced pregnancy as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute is met.

3060. As concerns the mental elements, due to the nature of the acts performed by Dominic Ongwen and due to the sustained character of the acts over a long period of time, the Chamber considers that Dominic Ongwen meant to engage in the relevant conduct.

3061. Moreover, the Chamber finds that Dominic Ongwen confined P-0101 and P-0214, who had been forcibly made pregnant, with the intent of sustaining the continued commission of other crimes found, in particular of forced marriage, torture, rape and sexual slavery. The special intent requirement of the crime of forced pregnancy is therefore equally met.

3062. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crimes of forced pregnancy as a crime against humanity, pursuant to Article 7(1)(g) of the Statute (Count 58), and forced pregnancy as a war crime, pursuant to Article 8(2)(e)(vi) of the

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<sup>7723</sup> See para. 207 above.

<sup>7724</sup> See para. 207 above.

<sup>7725</sup> See para. 207 above.

<sup>7726</sup> See para. 207 above.

<sup>7727</sup> See para. 206 above.

<sup>7728</sup> See para. 206 above.

<sup>7729</sup> See para. 206 above.

Statute (Count 59), of ██████████ (P-0101) between 1 July 2002 and July 2004 (two pregnancies) and ██████████ (P-0214) sometime in 2005.

*vii. Outrages upon personal dignity (Count 60)*

3063. Under Count 60, Dominic Ongwen is charged with outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute of ██████████ (P-0226) sometime in 2002 or early 2003 close to Patongo, and ██████████ (P-0235) sometime in late 2002 or early 2003 at an unspecified location in Northern Uganda.

3064. The Chamber found that on 1 July 2002, Dominic Ongwen forced P-0226 to beat to death a captured UPDF soldier near Patongo, Northern Uganda.<sup>7730</sup> P-0226 hit him once, as did other girls.<sup>7731</sup> She had blood splattered on her clothes.<sup>7732</sup> P-0226 had never killed anyone before, and this was part of the reason Dominic Ongwen gave as to why he selected her to do this.<sup>7733</sup> This experience caused her severe anguish.<sup>7734</sup> In late 2002 or early 2003 in Northern Uganda, soon after P-0235's abduction, Dominic Ongwen ordered her to, along with other abductees, beat people to death until their blood splashed on the abductees.<sup>7735</sup> This caused her severe anguish, although she eventually did not have to carry out the killings.<sup>7736</sup>

3065. The Chamber finds that by forcing P-0226 to beat a person to death, in the circumstances as described, constituted a violation of her dignity, and that this violation of the dignity was so severe as to be generally recognised as an outrage upon personal dignity. The Chamber reaches the same conclusion in respect of Dominic Ongwen's order to P-0235 to beat people to death. In the circumstances, soon after the abduction of P-0235, the fact that in the end P-0235 did not have to kill is not decisive. The first and second elements of outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute are met.

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<sup>7730</sup> See para. 209 above.

<sup>7731</sup> See para. 209 above.

<sup>7732</sup> See para. 209 above.

<sup>7733</sup> See para. 209 above.

<sup>7734</sup> See para. 209 above.

<sup>7735</sup> See para. 210 above.

<sup>7736</sup> See para. 210 above.

3066. Considering in particular the circumstances of their abduction, as well as of their stay within the LRA, and more specifically in Dominic Ongwen's household, the Chamber is also satisfied that P-0226 and P-0235 were civilians at the relevant time.<sup>7737</sup> Accordingly, the Chamber finds that the third element of outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

3067. As concerns the mental elements, due to the nature of the act performed by Dominic Ongwen, the Chamber considers that he meant to engage in the relevant conduct. Considering that Dominic Ongwen knew the victims personally, he also knew of their civilian status.

3068. On the basis of the above, the Chamber therefore finds that Dominic Ongwen committed, as an individual, within the meaning of Article 25(3)(a) of the Statute, the crime of outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) of the Statute (Count 60), of ██████████ (P-0226) sometime in 2002 or early 2003 near Patongo and ██████████ (P-0235) sometime in late 2002 or early 2003 in Northern Uganda.

8. *Sexual and gender based crimes not directly perpetrated by Dominic Ongwen (Counts 61 to 68)*

i. *Specific objective elements of the charged crimes*

a. *Forced marriage (Count 61)*

3069. Under Count 61, Dominic Ongwen is charged with forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute, from at least 1 July 2002 until 31 December 2005.

3070. The Chamber found that Sinia brigade soldiers, in execution of orders of Joseph Kony, Dominic Ongwen and the Sinia brigade leadership, abducted civilian women and girls in Northern Uganda between 1 July 2002 and 31 December 2005.<sup>7738</sup> At any time during

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<sup>7737</sup> See paras 205-210, above.

<sup>7738</sup> See para. 213 above.

this period, there were over one hundred abducted women and girls in Sinia brigade.<sup>7739</sup> Joseph Kony, Dominic Ongwen and the Sinia brigade leadership designated abducted women and girls as so-called ‘wives’ of male members of Sinia brigade.<sup>7740</sup> Occasionally, ceremonies were performed to mark the so-called ‘marriage’.<sup>7741</sup> Frequently no such ceremony occurred, and abducted women and girls were considered so-called ‘wives’ from the time they were first forced to have sex with the man they had been assigned to.<sup>7742</sup> The abducted women and girls were not able to refuse.<sup>7743</sup> The abducted women and girls were not allowed to have sexual or romantic relations to any man other than the so-called ‘husband’ assigned to them.<sup>7744</sup>

3071. The Chamber makes reference to its discussion of the applicable law in relation to forced marriage as qualifying within other inhumane acts under Article 7(1)(k) of the Statute.<sup>7745</sup> In light of the facts as found above, the Chamber finds that the specific legal elements of forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute are met.

b. Torture (Counts 62-63)

3072. Under Counts 62 and 63, Dominic Ongwen is charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, from at least 1 July 2002 until 31 December 2005.

3073. The Chamber found that the abducted women and girls were severely beaten for attempting escape or if they failed to perform the work demanded of them.<sup>7746</sup> Furthermore, the Chamber found that Sinia brigade members regularly forced abducted women and girls who had been ‘distributed’ to them into sexual intercourse.<sup>7747</sup> The women and girls were coerced, due to the physical force used by the Sinia brigade members and due to the threat of punishment for disobedience and their dependence on

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<sup>7739</sup> See para. 213 above.

<sup>7740</sup> See para. 216 above.

<sup>7741</sup> See para. 216 above.

<sup>7742</sup> See para. 216 above.

<sup>7743</sup> See para. 216 above.

<sup>7744</sup> See para. 219 above.

<sup>7745</sup> See section V.A.1.ii.h above.

<sup>7746</sup> See paras 215, 220 above.

<sup>7747</sup> See para. 218 above.

the Sinia brigade members for survival.<sup>7748</sup> As a result of the sexual and physical violence, and the living conditions to which they were submitted, the abducted women and girls suffered severe physical and mental pain.<sup>7749</sup>

3074. On this basis, and also in light of the duration of the time in which each abducted woman or girl was subjected to the acts described, the Chamber finds that the first element of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the perpetrator inflicted on the victim severe physical or mental pain or suffering, is met.

3075. Since these acts were committed against women and girls who had been abducted and were therefore in custody and under control of Sinia brigade members, the second element of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute is also met.

3076. In respect of the third constitutive element of torture as a crime against humanity under Article 7(1)(f) of the Statute, i.e. that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber notes that it did not find, on facts, any nexus between the acts under consideration and a context of lawful sanctions. The element is therefore likewise met.

3077. Moreover, considering in particular that the women and girls were abducted as civilians, as well as the circumstances of their stay within Sinia brigade,<sup>7750</sup> the Chamber finds that the third element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, i.e. that the persons on whom pain or suffering was inflicted were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

c. Rape (Counts 64-65)

3078. Under Counts 64 and 65, Dominic Ongwen is charged with rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, from at least 1 July 2002 until 31 December 2005.

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<sup>7748</sup> See para. 218 above.

<sup>7749</sup> See para. 221 above.

<sup>7750</sup> See paras 213-220 above.

3079. The Chamber observes that the crimes of rape charged under Counts 64-65 and the crimes of sexual slavery under Counts 66-67 are based (partly) on the same underlying conduct. Indeed, the acts of sexual nature – which are required for the commission of the crimes of sexual slavery – are identified in the charges against Dominic Ongwen exclusively as repeated acts of rape. This situation is therefore identical to the one concerning the relationship between Counts 53-54, on the one hand, and Counts 55-56. Thus, the considerations expressed above in this regard<sup>7751</sup> equally apply. Accordingly, the Chamber considers that concurrence of the crimes of rape under Counts 64-65 and the crimes of sexual slavery under Counts 66-67 is permissible.

3080. That said, the Chamber recalls that it found that Sinia brigade members regularly forced abducted women and girls who had been ‘distributed’ to them into sexual intercourse.<sup>7752</sup> The women and girls were coerced, due to the physical force used by the Sinia brigade members and due to the threat of punishment for disobedience and their dependence on the Sinia brigade members for survival.<sup>7753</sup> On this basis, the Chamber finds that the first legal element of rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute is met. Likewise, the Chamber finds that the second legal element of rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute is met.

d. Sexual slavery (Counts 66-67)

3081. Under Counts 66 and 67, Dominic Ongwen is charged with sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, from at least 1 July 2002 until 31 December 2005.

3082. The Chamber found that following their abduction, the abducted women and girls were ‘distributed’ to members of Sinia brigade.<sup>7754</sup> The abducted women and girls were threatened with death if they attempted to escape.<sup>7755</sup> In some cases, women and girls

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<sup>7751</sup> See paras 3036-3039 above.

<sup>7752</sup> See para. 218 above.

<sup>7753</sup> See para. 218 above.

<sup>7754</sup> See para. 214 above.

<sup>7755</sup> See para. 215 above.

were in fact killed for attempting to escape.<sup>7756</sup> In other cases, they were severely beaten.<sup>7757</sup> In addition, they were placed under heavy guard.<sup>7758</sup> Abducted women and girls were also forced to beat or kill other abductees for attempting escape or breaking rules.<sup>7759</sup> The abducted women and girls were forced to perform work, such as household work and carrying items.<sup>7760</sup> Also this rule was strictly enforced by physical punishment.<sup>7761</sup>

3083. Considering that members of Sinia brigade, as described, deprived the abducted women and girls of their personal liberty, restricted and dictated their movement, including by threats and subjecting them to armed guard, subjected them to forced labour, and physically and psychologically abused them, the Chamber finds that members of Sinia brigade exercised powers attaching to the right of ownership over the abducted women and girls by imposing on them a deprivation of liberty similar to those explicitly stated in Articles 7(1)(g) and 8(2)(e)(vi) of the Statute. The first element of sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute is therefore met.

3084. Furthermore, Sinia brigade members regularly forced abducted women and girls who were deprived of their personal freedom and had been ‘distributed’ to them into sexual intercourse.<sup>7762</sup> On this basis, the Chamber finds that the second element of sexual slavery, i.e. that the perpetrator caused the victim to engage in one or more acts of a sexual nature – in the present case, acts of rape – is also met.

e. Enslavement (Count 68)

3085. Under Count 68, Dominic Ongwen is charged with enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, from at least 1 July 2002 until 31 December 2005.

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<sup>7756</sup> See para. 215 above.

<sup>7757</sup> See para. 215 above.

<sup>7758</sup> See para. 215 above.

<sup>7759</sup> See para. 215 above.

<sup>7760</sup> See para. 220 above.

<sup>7761</sup> See para. 220 above.

<sup>7762</sup> See para. 218 above.

3086. As discussed above, since the legal elements of enslavement as a crime against humanity under Article 7(1)(c) of the Statute are wholly included within the legal elements of sexual slavery as a crime against humanity under Article 7(1)(g) of the Statute,<sup>7763</sup> sexual slavery and enslavement cannot concur on the basis of the same facts.<sup>7764</sup> Thus, and insofar as the definition of sexual slavery is met, the same facts are not further considered as enslavement. However, the factual findings of the Chamber reveal that even though sexual abuse of the abducted women and girls was systematic in the LRA, not all abducted women and girls were immediately subjected to institutionalised sexual abuse. As found by the Chamber, this had to do with a determination which was made in each case as to whether an abducted girl was ‘mature enough’ to become a so-called ‘wife’.<sup>7765</sup> Younger abducted girls not yet considered mature enough were used as household servants, referred to as *ting tings*.<sup>7766</sup> While the Chamber’s factual finding that Sinia brigade members regularly forced abducted women and girls who had been ‘distributed’ to them into sexual intercourse is not limited to so-called ‘wives’, and in fact noted that *ting ting* status did not effectively protect abducted girls from sexual abuse, the Chamber nevertheless considers that there existed, systemically, a sub-category of abducted girls in the LRA who were not sexually enslaved, but enslaved. It is to this specific category that the Chamber’s affirmative conclusions under Count 68 are limited.

3087. In respect of the specific objective element of enslavement, the considerations expressed above apply also at this place.<sup>7767</sup> Considering that members of Sinia brigade, as described, deprived the abducted women and girls of their personal liberty, restricted and dictated their movement, including by threats and subjecting them to armed guard, subjected them to forced labour, and physically and psychologically abused them, the Chamber finds that members of Sinia brigade exercised powers attaching to the right of ownership over the abducted girls by imposing on them a deprivation of liberty similar to those explicitly stated in Articles 7(1)(g) and 8(2)(e)(vi) of the Statute. The specific objective element of enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute, is therefore met.

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<sup>7763</sup> See para. 2715 above.

<sup>7764</sup> See para. 2792 above. See also para. 3051 above.

<sup>7765</sup> See para. 217 above.

<sup>7766</sup> See para. 217 above.

<sup>7767</sup> See para. 3082 above.

*ii. Individual criminal responsibility of Dominic Ongwen*

3088. Dominic Ongwen is charged with the commission of the crimes under Counts 61 to 68 ‘jointly with’ and ‘through’ others within the meaning of Article 25(3)(a) of the Statute.

a. Existence of an agreement or common plan

3089. The Chamber found that Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct women and girls in Northern Uganda and force them to serve in Sinia brigade as so-called ‘wives’ of members of Sinia brigade, and as domestic servants.<sup>7768</sup> On these facts, the Chamber finds that there existed among them an agreement to engage in conduct which amounted to: (i) forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute; (ii) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; (iii) rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute; (iv) sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute; (v) sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute and (vi) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute.

b. Execution of the material elements of the crime through other persons

3090. As found by the Chamber, the material elements of the crimes charged under Counts 61-68 were executed by Sinia brigade members. Dominic Ongwen, Joseph Kony and the Sinia brigade leadership relied on the LRA soldiers under their control for the execution of their agreement defined just above.<sup>7769</sup>

3091. The Chamber refers to its above analysis and the resulting finding that the conditions of recruitment, initiation and training, and service in the LRA generally of its members were such that LRA commanders could rely for obedience in the execution of orders on a reliable pool of persons.<sup>7770</sup> Taking into account also the systemic nature of the crimes in question, the Chamber considers that the will of the individual Sinia brigade members

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<sup>7768</sup> See para. 212 above.

<sup>7769</sup> See para. 212 above.

<sup>7770</sup> See paras 2856, 2858 above.

was irrelevant in the execution of a given order. The LRA soldiers as a whole functioned as a tool of Dominic Ongwen, Joseph Kony and the Sinia brigade leadership, through which they were able to execute their agreement and commit the crimes. Accordingly, the Chamber concludes that the conduct of the individual Sinia brigade members in the execution of the crimes must be attributed to Dominic Ongwen, Joseph Kony and other Sinia brigade leaders as their own.

c. Dominic Ongwen's control over the crime

3092. Following the findings that (i) Dominic Ongwen was a participant to the agreement with Joseph Kony and the Sinia brigade leadership, pursuant to which the crimes charged under Counts 61-68 were committed, and (ii) the conduct of the Sinia brigade members who executed the material elements of the crimes must be attributed to Dominic Ongwen, Joseph Kony and the Sinia brigade leadership as their own, the Chamber must specifically assess the involvement of Dominic Ongwen in those crimes in order to determine whether he had control over the crime by virtue of his essential contribution to it and the resulting power to frustrate its commission, and accordingly whether his individual criminal responsibility can be qualified under Article 25(3)(a) of the Statute.

3093. In this regard, the Chamber found that Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct women and girls in Northern Uganda and force them to serve in Sinia brigade as so-called 'wives' of members of Sinia brigade, and as domestic servants.<sup>7771</sup> Sinia brigade soldiers abducted civilian women and girls in execution of Dominic Ongwen's orders.<sup>7772</sup> In the exercise of his authority, Dominic Ongwen personally decided on the 'distribution' of abducted women and girls.<sup>7773</sup> Dominic Ongwen personally assigned women and girls as so-called 'wives' and used his authority as LRA commander to enforce the so-called 'marriage' in Sinia brigade.<sup>7774</sup>

3094. These facts reveal that Dominic Ongwen was among the persons who helped define and, through their actions over a protracted period, sustained the system of abduction and

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<sup>7771</sup> See para. 212 above.

<sup>7772</sup> See para. 213 above.

<sup>7773</sup> See para. 214 above.

<sup>7774</sup> See para. 216 above.

victimisation of civilian women and girls in the LRA. Within Sinia, his role was crucial and indispensable.

3095. Accordingly, the Chamber concludes that Dominic Ongwen had control over the crimes charged under Counts 61-68 by virtue of his essential contribution to them, and the resulting power to frustrate their commission.

d. Mental elements

3096. The conduct which Dominic Ongwen undertook in relation to the crimes charged under Counts 61-68, is such that, by its nature, it could only have been undertaken intentionally. Thus, the Chamber considers that the conduct-related requirement of Article 30(2) of the Statute is met.

3097. Furthermore, the Chamber reiterates, also with respect to the required mental elements, its findings to the effect that Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct women and girls in Northern Uganda and force them to serve in Sinia brigade as so-called ‘wives’ of members of Sinia brigade, and as domestic servants.<sup>7775</sup> Dominic Ongwen ordered Sinia brigade soldiers to abduct civilian women and girls.<sup>7776</sup> In the exercise of his authority, he personally decided on the ‘distribution’ of abducted women and girls.<sup>7777</sup> He also personally assigned women and girls as so-called ‘wives’ and used his authority as LRA commander to enforce the so-called ‘marriage’ in Sinia brigade.<sup>7778</sup> The Chamber also found that some abducted women and girls were placed in Dominic Ongwen’s household under heavy guard, and some of them were made his so-called ‘wives’.<sup>7779</sup> Dominic Ongwen had sex by force with his so-called ‘wives’.<sup>7780</sup> Abducted women and girls ‘distributed’ to him were subjected to beating at his command at any time.<sup>7781</sup> They also performed domestic duties in his household.<sup>7782</sup>

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<sup>7775</sup> See para. 212 above.

<sup>7776</sup> See para. 213 above.

<sup>7777</sup> See para. 214 above.

<sup>7778</sup> See para. 216 above.

<sup>7779</sup> See para. 206 above.

<sup>7780</sup> See para. 207 above.

<sup>7781</sup> See para. 208 above.

<sup>7782</sup> See para. 208 above.

3098. On this basis, the Chamber finds that Dominic Ongwen meant for the crimes charged under Counts 61-68 to occur. Accordingly, the general mental elements under Article 30(2) of the Statute are met with respect to the crimes charged under Counts 61-68.

3099. As concerns the special intent requirement of torture as a war crime under Article 8(2)(c)(i) of the Statute, the Chamber finds, on the basis of the facts as found, that Dominic Ongwen intended to inflict severe physical or mental pain or suffering on the abducted women in girls for the purpose of coercion. The requirement is therefore met.

*iii. Conclusion*

3100. On the basis of the above, the Chamber therefore finds that, between 1 July 2002 and 31 December 2005, Dominic Ongwen committed, jointly with Joseph Kony and the Sinia brigade leadership and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, the following crimes: (i) forced marriage as an other inhumane act, pursuant to Article 7(1)(k) of the Statute (Count 61); (ii) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 62); (iii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 63); (iv) rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute (Count 64); (v) rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute (Count 65); (vi) sexual slavery as a crime against humanity, pursuant to Article 7(1)(g) of the Statute (Count 66); (vii) sexual slavery as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute (Count 67); and (viii) enslavement as a crime against humanity, pursuant to Article 7(1)(c) of the Statute (Count 68).

*9. Conscripted and use of children under the age of 15 years and their use in armed hostilities (Counts 69-70)*

*i. Specific objective elements of the charged crime*

3101. Under Counts 69-70, Dominic Ongwen is charged with conscription of children and their use in armed hostilities as a war crime, pursuant to Article 8(2)(e)(vii) of the Statute, between 1 July 2002 and 31 December 2005 in Northern Uganda.

3102. The Chamber found that Sinia soldiers, in execution of orders of Joseph Kony, Dominic Ongwen and the Sinia brigade leadership, abducted a large number of children under 15

years of age in Northern Uganda between 1 July 2002 and 31 December 2005.<sup>7783</sup> Children under the age of 15 were also abducted during the four attacks relevant to the charges.<sup>7784</sup> Dominic Ongwen also abducted children himself.<sup>7785</sup> Following their abduction, children under the age of 15 years were integrated into Sinia with the aim of using them in hostilities.<sup>7786</sup> The abducted children were trained, in some cases received guns, and were assigned to service in Sinia.<sup>7787</sup> The children served as escorts in Sinia brigade in general and specifically in Dominic Ongwen's household.<sup>7788</sup>

3103. Children under 15 years of age serving as soldiers in Sinia brigade took part in fighting.<sup>7789</sup> They further facilitated LRA attacks by raising alarms, burning and pillaging civilian houses, collecting and carrying pillaged goods from attack sites and serving as scouts.<sup>7790</sup> During all four attacks relevant to the charges, children under the age of 15 participated in the hostilities.<sup>7791</sup>

3104. The Chamber finds, on the basis of these facts, that the first two legal elements under Article 8(2)(e)(vii), i.e. that the perpetrator conscripted or enlisted one or more persons into an armed force or group or used one or more persons to participate actively in hostilities, and that such person or persons were under the age of 15 years, is met.

*ii. Individual criminal responsibility of Dominic Ongwen*

3105. Dominic Ongwen is charged with the commission of the crime under Counts 69-70 'jointly with' and 'through' others within the meaning of Article 25(3)(a) of the Statute.

a. Existence of an agreement or common plan

3106. The Chamber found that Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct children under 15 years of age in Northern Uganda and force them to serve as Sinia fighters.<sup>7792</sup> On these facts, the Chamber finds that there existed among

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<sup>7783</sup> See para. 223 above.

<sup>7784</sup> See para. 223 above.

<sup>7785</sup> See para. 223 above.

<sup>7786</sup> See para. 224 above.

<sup>7787</sup> See para. 224 above.

<sup>7788</sup> See para. 224 above.

<sup>7789</sup> See para. 225 above.

<sup>7790</sup> See para. 225 above.

<sup>7791</sup> See para. 225 above.

<sup>7792</sup> See para. 222 above.

them an agreement to engage in conduct which amounted to conscription of children and their use in armed hostilities.

b. Execution of the material elements of the crime through other persons

3107. As found by the Chamber, the material elements of the crimes charged under Counts 69-70 were executed by Sinia soldiers. Dominic Ongwen, Joseph Kony and the Sinia brigade leadership relied on the LRA soldiers under their control for the execution of their agreement defined just above.<sup>7793</sup>

3108. The Chamber refers to its above analysis and the resulting finding that the conditions of recruitment, initiation and training, and service in the LRA generally of its members were such that LRA commanders could rely for obedience in the execution of orders on a reliable pool of persons.<sup>7794</sup> Also taking into account that abduction of children under 15 years of age and forcing them to serve as Sinia fighters took place pursuant to a coordinated and methodical effort, the Chamber considers that the will of the individual Sinia brigade members was irrelevant in the execution of a given order. The LRA soldiers as a whole functioned as a tool of Dominic Ongwen, Joseph Kony and the Sinia brigade leadership, through which they were able to execute their agreement and commit the crimes. Accordingly, the Chamber concludes that the conduct of the individual Sinia brigade members in the execution of the crimes must be attributed to Dominic Ongwen, Joseph Kony and other Sinia brigade leaders as their own.

c. Dominic Ongwen's control over the crime

3109. Following the findings that (i) Dominic Ongwen was a participant to the agreement with Joseph Kony and the Sinia brigade leadership, pursuant to which the crimes charged under Counts 69-70 were committed, and (ii) the conduct of the Sinia soldiers who executed the material elements of the crimes must be attributed to Dominic Ongwen, Joseph Kony and the Sinia brigade leadership as their own, the Chamber must specifically assess the involvement of Dominic Ongwen in those crimes in order to determine whether he had control over the crime by virtue of his essential contribution

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<sup>7793</sup> See para. 222 above.

<sup>7794</sup> See paras 2856, 2858 above.

to it and the resulting power to frustrate its commission, and accordingly whether his individual criminal responsibility can be qualified under Article 25(3)(a) of the Statute.

3110. In this regard, the Chamber found that Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct children under 15 years of age in Northern Uganda and force them to serve as Sinia fighters.<sup>7795</sup> Dominic Ongwen ordered Sinia soldiers to abduct children to serve as Sinia soldiers.<sup>7796</sup> Dominic Ongwen also abducted children himself.<sup>7797</sup> In some cases, Dominic Ongwen himself assigned abducted children to service within the Sinia brigade.<sup>7798</sup> The children served as escorts in Sinia brigade in general and specifically in Dominic Ongwen's household.<sup>7799</sup> It is also noted that during all four attacks relevant to the charges, and in the context of which the Chamber determined Dominic Ongwen's involvement as indirect (co-)perpetrator, children under the age of 15 participated in the hostilities.<sup>7800</sup>

3111. On this basis, the Chamber concludes that Dominic Ongwen had control over the crimes charged under Counts 69-70 by virtue of his essential contribution to them, and the resulting power to frustrate their commission.

d. Mental elements

3112. The conduct which Dominic Ongwen undertook in relation to the crimes charged under Counts 69-70, is such that, by its nature, it could only have been undertaken intentionally. Thus, the Chamber considers that the conduct-related requirement of Article 30(2) of the Statute is met.

3113. Further, also with respect to the required mental elements, the Chamber reiterates its findings to the effect that Dominic Ongwen, Joseph Kony and the Sinia brigade leadership engaged in a coordinated and methodical effort, relying on the LRA soldiers under their control, to abduct children under 15 years of age in Northern Uganda and

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<sup>7795</sup> See para. 222 above.

<sup>7796</sup> See para. 223 above.

<sup>7797</sup> See para. 223 above.

<sup>7798</sup> See para. 224 above.

<sup>7799</sup> See para. 224 above.

<sup>7800</sup> See para. 225 above.

force them to serve as Sinia fighters.<sup>7801</sup> Dominic Ongwen ordered Sinia soldiers to abduct children to serve as Sinia soldiers.<sup>7802</sup> Dominic Ongwen also abducted children himself.<sup>7803</sup> Dominic Ongwen knew that children under 15 years of age were integrated into Sinia as soldiers.<sup>7804</sup> In some cases, Dominic Ongwen himself assigned abducted children to service within the Sinia brigade.<sup>7805</sup> The children served as escorts in Sinia brigade in general and specifically in Dominic Ongwen's household.<sup>7806</sup>

3114. On this basis, the Chamber finds that Dominic Ongwen meant for children under the age of 15 years old to be abducted, integrated into Sinia and used in hostilities. Accordingly, the general mental elements under Article 30(2) of the Statute are met with respect to the crimes charged under Counts 69-70, as is the specifically articulated knowledge element under Article (8)(2)(e)(vii) of the Statute.

*iii. Conclusion*

3115. On the basis of the above, the Chamber therefore finds that, between 1 July 2002 and 31 December 2005, Dominic Ongwen committed, jointly with Joseph Kony and the Sinia brigade leadership and through LRA soldiers, within the meaning of Article 25(3)(a) of the Statute, conscription of children and their use in armed hostilities as a war crime, pursuant to Article 8(2)(e)(vii) of the Statute (Counts 69-70).

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<sup>7801</sup> See para. 222 above.

<sup>7802</sup> See para. 223 above.

<sup>7803</sup> See para. 223 above.

<sup>7804</sup> See para. 224 above.

<sup>7805</sup> See para. 224 above.

<sup>7806</sup> See para. 224 above.

## VI. VERDICT

3116. For the foregoing reasons and on the basis of the evidence submitted and discussed before this Chamber at trial and the entire proceedings, pursuant to Article 74(2) of the Statute, **THE CHAMBER FINDS**

### **DOMINIC ONGWEN**

under **Count 1** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 2** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 3** of the charges **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 4** of the charges **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 5** of the charges, **GUILTY** of the **war crime of torture**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 6** of the charges, **NOT GUILTY** of the **war crime of cruel treatment**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) or (c) or (d)(i) and (ii), or 28(a), of the Rome Statute, on 10 October 2003, at or near Pajule IDP camp;

under **Count 7** of the charges, **NOT GUILTY** of the **crime against humanity of other inhumane acts**, pursuant to Articles 7(1)(k) and 25(3)(a), or (c), or (d)(i) and (ii), or 28(a), of the Rome Statute on 10 October 2003, at or near Pajule IDP camp;

under **Count 8** of the charges, **GUILTY**, of the **crime against humanity of enslavement**, pursuant to Articles 7(1)(c) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 9** of the charges, **GUILTY** of the **war crime of pillaging**, pursuant to Articles 8(2)(e)(v) and 25(3)(a) of the Rome Statute, committed on 10 October 2003, at or near Pajule IDP camp;

under **Count 10** of the charges, **GUILTY** of the **crime against humanity of persecution**, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attack against the civilian population, murder, torture, enslavement, and pillaging, committed on 10 October 2003 at or near Pajule IDP camp, pursuant to Article 7(1)(h) and 25(3)(a) of the Rome Statute;

under **Count 11** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 12** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 13** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 14** of the charges, **GUILTY** of the **crime against humanity of attempted murder**, pursuant to Articles 7(1)(a) and 25(3)(f) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 15** of the charges, **GUILTY** of the **war crime of attempted murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(f) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 16** of the charges, **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 17** of the charges, **GUILTY** of the **war crime of torture**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 18** of the charges **NOT GUILTY** of the **crime against humanity of other inhumane acts**, pursuant to Articles 7(1)(k) and 25(3)(a), or (b), or (d)(i) and (ii) or 28(a), of the Rome Statute, on 29 April 2004, at or near Odek IDP camp;

under **Count 19** of the charges, **NOT GUILTY** of the **war crime of cruel treatment**, pursuant to Articles 8(2)(c)(i) and 25(3)(a), or (b), or (d)(i) and (ii), or 28(a), of the Rome Statute on 29 April 2004, at or near Odek IDP camp;

under **Count 20** of the charges, **GUILTY** of the **crime against humanity of enslavement**, pursuant to Articles 7(1)(c), and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 21** of the charges, **GUILTY** of the **war crime of pillaging**, pursuant to Articles 8(2)(e)(v) and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 22** of the charges, **GUILTY** of the **war crime of outrages upon personal dignity**, pursuant to Articles 8(2)(c)(ii), and 25(3)(a) of the Rome Statute, committed on 29 April 2004, at or near Odek IDP camp;

under **Count 23** of the charges, **GUILTY** of the **crime against humanity of persecution**, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attack against the civilian population as such, murder, attempted murder, torture, enslavement, outrages upon personal dignity and pillaging, committed on 29 April 2004 at or near Odek IDP camp, pursuant to Article 7(1)(h) and 25(3)(a) of the Rome Statute;

under **Count 24** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP camp;

under **Count 25** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP camp;

under **Count 26** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP camp;

under **Count 27** of the charges, **GUILTY** of the **crime against humanity of attempted murder**, pursuant to Articles 7(1)(a) and 25(3) (f) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP camp;

under **Count 28** of the charges, **GUILTY** of the **war crime of attempted murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(f) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 29** of the charges, **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 30** of the charges, **GUILTY** of the **war crime of torture**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 31** of the charges, **NOT GUILTY** of the **crime against humanity of other inhumane acts**, pursuant to Articles 7(1)(k) and 25(3)(a), or (b), or (d)(i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 32** of the charges, **NOT GUILTY** of the **war crime of cruel treatment**, pursuant to Articles 8(2)(c)(i) and 25(3)(a), or (b), or (d)(i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 33** of the charges, **GUILTY** of the **crime against humanity of enslavement**, pursuant to Articles 7(1)(c) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004 at or near Lukodi IDP Camp;

under **Count 34** of the charges, **GUILTY** of the **war crime of pillaging**, pursuant to Articles 8(2)(e)(v) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 35** of the charges, **GUILTY** of the **war crime of destruction of property**, pursuant to Articles 8(2)(e)(xii) and 25(3)(a) of the Rome Statute, committed on or about 19 May 2004, at or near Lukodi IDP Camp;

under **Count 36** of the charges, **GUILTY** of the **crime against humanity of persecution**, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attack against the civilian population as such, murder, attempted murder, torture, enslavement, pillaging and destruction of property committed on or about 19 May 2004, at or near Lukodi IDP camp, pursuant to Article 7(1)(h) and 25(3)(a) of the Rome Statute;

under **Count 37** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 38** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 39** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 40** of the charges, **GUILTY** of the **crime against humanity of attempted murder**, pursuant to Articles 7(1)(a) and 25(3)(f) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 41** of the charges, **GUILTY** of the **war crime of attempted murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(f) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 42** of the charges, **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 43** of the charges, **GUILTY** of the **war crime of torture**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 44** of the charges, **NOT GUILTY** of the **crime against humanity of other inhumane acts**, pursuant to Articles 7(1)(k) and 25(3)(a), or (b), or (d)(i) and (ii) or 28(a), of the Rome Statute, on 8 June 2004, at or near Abok IDP camp;

under **Count 45** of the charges, **NOT GUILTY** of the **war crime of cruel treatment**, pursuant to Articles 8(2)(c)(i) and 25(3)(a), or (b), or (d) (i) and (ii), or 28(a), of the Rome Statute, on 8 June 2004, at or near Abok IDP camp;

under **Count 46** of the charges, **GUILTY** of the **crime against humanity of enslavement**, pursuant to Articles 7(1)(c) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 47** of the charges, **GUILTY** of the **war crime of pillaging**, pursuant to Articles 8(2)(e)(v) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 48** of the charges, **GUILTY** of the **war crime of destruction of property**, pursuant to Articles 8(2)(e)(xii) and 25(3)(a) of the Rome Statute, committed on 8 June 2004, at or near Abok IDP camp;

under **Count 49** of the charges, **GUILTY** of the **crime against humanity of persecution**, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attack against the civilian population as such, murder, attempted murder, torture, enslavement, pillaging and destruction of property, committed on 8 June 2004 at or near Abok IDP camp, pursuant to Article 7(1)(h) and 25(3)(a) of the Rome Statute;

under **Count 50** of the charges, **GUILTY** of the **crime of forced marriage, an inhumane act of a character similar to the acts set out in Article 7(1) (a)-(j)**, as a

**crime against humanity**, pursuant to Articles 7(1)(k) and 25(3)(a) of the Rome Statute of [REDACTED] (P-0099) between 1 July 2002 and September 2002, of [REDACTED] (P-0101) between 1 July 2002 and July 2004, of [REDACTED] (P-0214) between September 2002 and 31 December 2005, of [REDACTED] (P-0226) between 1 July 2002 and sometime in 2003, of [REDACTED] (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 51** of the charges, **GUILTY** of the **crime against humanity of torture** pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute of [REDACTED] (P-0101) between 1 July 2002 and July 2004, of [REDACTED] (P-0214) between September 2002 and 31 December 2005, of [REDACTED] (P-0226) between 1 July 2002 and sometime in 2003, of [REDACTED] (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 52** of the charges, **GUILTY** of the **war crime of torture** pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute of [REDACTED] (P-0101) between 1 July 2002 and July 2004, of [REDACTED] (P-0214) between September 2002 and 31 December 2005, of [REDACTED] (P-0226) between 1 July 2002 and sometime in 2003, of [REDACTED] (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 53** of the charges, **GUILTY** of the **crime against humanity of rape** pursuant to Articles 7(1)(g) and 25(3)(a) of the Rome Statute of [REDACTED] (P-0101) between 1 July 2002 and July 2004, of [REDACTED] (P-0214) between September 2002 and 31 December 2005, of [REDACTED] (P-0226) between 1 July 2002 and sometime in 2003, of [REDACTED] (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 54** of the charges, **GUILTY** of the **war crime of rape** pursuant to Articles 8(2)(e)(vi) and 25(3)(a) of the Rome Statute of [REDACTED] (P-0101) between 1 July 2002 and July 2004, of [REDACTED] (P-0214) between September 2002 and 31 December 2005, of [REDACTED] (P-0226) between 1 July 2002 and sometime in 2003, of [REDACTED] (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 55** of the charges, **GUILTY** of the **crime against humanity of sexual slavery** pursuant to Articles 7(1)(g) and 25(3)(a) of the Rome Statute of [REDACTED]

██████████ (P-0101) between 1 July 2002 and July 2004, of ██████████ (P-0214) between September 2002 and 31 December 2005, of ██████████ (P-0226) between 1 July 2002 and sometime in 2003, of ██████████ (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 56** of the charges, **GUILTY** of the **war crime of sexual slavery** pursuant to Articles 8(2)(e)(vi) and 25(3)(a) of the Rome Statute of ██████████ (P-0101) between 1 July 2002 and July 2004, of ██████████ (P-0214) between September 2002 and 31 December 2005, of ██████████ (P-0226) between 1 July 2002 and sometime in 2003, of ██████████ (P-0227) between approximately April 2005 and 31 December 2005;

under **Count 57** of the charges, **GUILTY** of the **crime against humanity of enslavement**, pursuant to Articles 7(1)(c) and 25(3)(a) of the Rome Statute of ██████████ ██████████ (P-0099) between 1 July 2002 and September 2002, of ██████████ (P-0235) from September 2002 to 31 December 2005, of ██████████ (P-0236) between September 2002 and 31 December 2005;

under **Count 58** of the charges, **GUILTY** of the **crime against humanity of forced pregnancy** pursuant to Articles 7(1)(g) and 25(3)(a) of the Rome Statute of ██████████ ██████████ (P-0101, two pregnancies) between 1 July 2002 and July 2004, of ██████████ ██████████ (P-0214) sometime in 2005;

under **Count 59** of the charges, **GUILTY** of the **war crime of forced pregnancy** pursuant to Articles 8(2)(e)(vi) and 25(3)(a) of the Rome Statute of ██████████ (P-0101, two pregnancies) between 1 July 2002 and July 2004, of ██████████ (P-0214) sometime in 2005;

under **Count 60** of the charges, **GUILTY** of the **war crime of outrages upon personal dignity**, pursuant to Articles 8(2)(c)(ii) and 25(3)(a) of the Rome Statute of ██████████ (P-0226) sometime in 2002 or early 2003 close to Patongo, Northern Uganda, of ██████████ ██████████ (P-0235) sometime in late 2002 or early 2003 at an unspecified location in Northern Uganda;

under **Count 61** of the charges, **GUILTY** of the **crime of forced marriage, an inhumane act of a character similar to the acts set out in Article 7(1)(a)-(j)**, as a

**crime against humanity**, pursuant to Articles 7(1)(k), and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Count 62** of the charges, **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Count 63** of the charges, **GUILTY** of the **war crime of torture**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Count 64** of the charges, **GUILTY** of the **crime against humanity of rape**, pursuant to Articles 7(1)(g) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Count 65** of the charges, **GUILTY** of the **war crime of rape**, pursuant to Articles 8(2)(e)(vi) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Count 66** of the charges, **GUILTY** of the **crime against humanity of sexual slavery**, pursuant to Articles 7(1)(g) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Count 67** of the charges, **GUILTY** of the **war crime of sexual slavery**, pursuant to Articles 8(2)(e)(vi) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

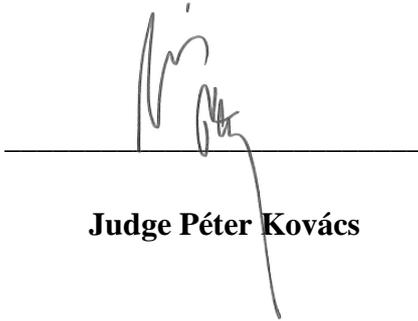
under **Count 68** of the charges, **GUILTY** of the **crime against humanity of enslavement**, pursuant to Articles 7(1)(c) and 25(3)(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005;

under **Counts 69 and 70** of the charges, **GUILTY** of the **war crime of conscripting children under the age of 15 into an armed group and using them to participate actively in hostilities**, pursuant to Articles 8(2)(e)(vii) and 25(3)(a) of the Rome Statute, between 1 July 2002 and 31 December 2005 in Northern Uganda.

Done in both English and French, the English version being authoritative.



**Judge Bertram Schmitt, Presiding Judge**



**Judge Péter Kovács**



**Judge Raul C. Pangalangan**

Dated 4 February 2021

At The Hague, The Netherlands