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**International Criminal Court
Situation in the Talandia v. Veridia**

Memorial for Prosecutor

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22. *The Prosecutor v. Milomir Stakić* (Judgement) IT-97-24-A (22 March 2006) **[Stakić Appeal Judgement]**
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32. Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 [RS]
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BOOKS

34. Otto Triffterer and Kai Ambos : *The Rome Statute of the International Criminal Court A Commentary* (3rd edn, Beck/Hart 2016) [RCS]

INTERNATIONAL ORGANIZATIONS DOCUMENTS

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35. Elements of Crimes, ICC-PIDS-LT-03-002/11_Eng, 2011 [EoC]

WRITTEN ARGUMENTS

I. THE CRIMES AGAINST HUMANITY EXISTS IN VERDALIAN BORDERLAND

The Prosecutor submits that that crimes against humanity were conducted in Verdalian Borderland as the situation fulfills the required thresholds under Article 7(1) RS, namely **(a)** there was an attack directed against a civilian population, **(b)** the attack was systematic, and **(c)** the Defendant had knowledge of the attack.

a) There was an attack directed against a civilian population

1. The attack against Verdalian people **(i)** formed a course of conduct and **(ii)** was directed against a civilian population, **(iii)** pursuant to the government policy.

i. The attack formed a course of conduct

2. The forcible transfer and persecution formed a course of conduct. A course of conduct is indicated by the occurrence of a series of events, involving multiple commissions of acts,¹ which are not incidental or isolated acts.² In *Kunarac*, an attack is not limited to the use of armed force as an act of mistreatment of the civilian population was also considered as an attack.³
3. In this case, the attack against Verdalian people cannot be regarded as incidental as there were multiple series of events leading to the mistreatment of a civilian population. It was proven by the implementation of the National Development Program (“NDP”), which involves military oversight through the Strategic Security Zone (“SSZs”) sub-program. It started in February 2023, tensions escalated since there was an increase of military presence in Verdalian Borderland which led to the property confiscation and restricted access to farmland. Furthermore, In June 2023 over 15,000 Verdalian people were forcibly displaced due to the implementation of the NDP program. In November 2023 the attack occurred since a series of violent protests broke out in the Verdalian Borderland and led to excessive force towards the civilian population. It is proven by the images of Veridian forces shooting unarmed civilians, including women and children.
4. Therefore, the series of events as a result of the NDP program formed a course of conduct.

¹ Ag Mahmoud Trial Judgment, [1108].

² Bemba Judgment, [149], referring to the Gbagbo Charges, 209.

³ Kunarac *et al.* Appeals, [86]; Kunarac Judgement, [416].

ii. The attack was directed against a civilian population

5. The attack was directed against civilians. The term “civilians” refers to individuals not part of state armed forces or organized armed groups in a conflict.⁴ An attack can be regarded as directed against civilians when they are the primary target of the attack.⁵ Furthermore, the attack does not have to be directed against the civilian population of the entire area relevant to the indictment.⁶
6. In this case, the attack was limited to the Verdalian Borderland, specifically the area where the NDP was implemented. The attack was directed against civilians as they were indigenous population, and were not related to any armed groups. They were also being primarily targeted by such an attack through the acts of mistreatment, including restriction of their movement, access to farmlands, and property confiscation, resulting in 15,000 of them being forcibly displaced.⁷ This includes the shooting of unarmed civilians during the 2023 November protest.⁸ Thus, the attack was directed against the civilian population.

iii. The attack was in furtherance of government Policy

7. The acts must be in furtherance of a policy,⁹ which refers to the active promotion or encouragement of an attack.¹⁰ The policy can be inferred from statements attributable to the State that encouraged the commission of crimes and the involvement of the State forces in its execution.¹¹
8. In this case, the Veridia’s President Kellen Thorne issued a statement consisting a declaration to continue the NDP, regardless of the international community urging to cease the program.¹² This resulted in the continued implementation of NDP conducted by the Defendant, which led to a protest that broke out in November 2023. Additionally, the Veridian military was utilizing excessive force towards the unarmed civilians.¹³
9. Overall, the first contextual element is fulfilled.

⁴ Ntaganda Judgment, [883, 921].

⁵ Prlić Judgement, [36].

⁶ Kunarac *et al.* Appeals, 90.

⁷ *Supra*, ¶ 3.

⁸ Facts, ¶ 18.

⁹ Ntaganda Judgement, 673.

¹⁰ *Ibid.*

¹¹ *Ibid.*, 674.

¹² Facts, ¶ 17.

¹³ Facts, ¶ 18.

b) There was a systematic attack

10. The attack in the Verdalian Borderland was systematic. The term ‘systematic’ reflects the organised nature of the acts of violence and the improbability of their random occurrence.¹⁴ In *Ntaganda*, the Court has assessed several factors to establish the systematic element, including the repetition of identical or similar acts and usage of the same *modus operandi*, or the repeated method which targeted a certain group through the acts.¹⁵
11. In this case, the Defendant carried out a systematic attack. First, the organized nature of the acts of violence can be seen from the pressure and confiscation of the homes of the Verdalian people, as well as the restriction of access to agricultural lands, all of which were carried out under the SSZs sub-program formed by the Defendant.¹⁶ Second, the improbability of a random occurrence can be seen from the fact that the Defendant authorized the deployment of military units by signing the memorandum of "strategic necessity".¹⁷ Looking at the timeline in the case, there was a recurrence of violent acts. In February 2023, there was an increase in military presence, which led to property confiscation and restricted access to farmlands.¹⁸ In June 2023, approximately 15,000 people were seen moving from the Verdalian borderland to the near Talandia border.¹⁹ Third, the *modus operandi* in this case involved using the military under SSZs for the sake of national development.²⁰ Therefore, the Defendant meets the criteria for carrying out a systematic attack.

c) The Defendant had knowledge of the attack

12. The conduct must be committed as part of the attack. The perpetrator may solely have the knowledge that his conduct formed a part of the systematic attack, which is not required to know every detail of the systematic attack.²¹ In *Gbagbo*, the Chamber deemed that by keeping abreast of operations carried out on the instructions of the perpetrator²² proved that the perpetrator sufficiently had the knowledge regarding the conduct was part of a systematic attack.²³

¹⁴ *Ntaganda* Judgement, 692.

¹⁵ *Ntaganda* Judgement, 693. *See also* *Katanga* Judgement, [1123].

¹⁶ Facts, ¶ 13.

¹⁷ Facts, ¶ 25.

¹⁸ Facts, ¶ 14.

¹⁹ Facts, ¶ 16.

²⁰ Facts, ¶ 13.

²¹ *Bemba* Judgement, [167]. *See also* *Katanga* Judgement, [1125].

²² *Gbagbo* Charges, [250]. *See also* [175].

²³ *Ibid.*, 249.

13. In this case, the Defendant played a role as the head of the NDP task force, who was responsible for coordinating the implementation of such projects.²⁴ He was the main perpetrator who established the SSZs and Verdalian Infrastructure Initiative (“VII”), which led into an organised plan, resulting in the forcible transfer of Verdalian people. In addition, the Defendant issued signing a strategic necessity, directing the military in purpose to clearing areas.²⁵ In this regard, the Defendant was aware of his operation which was part of a systematic attack. Therefore, the Defendant was aware that there was a systematic attack in Verdalian Borderland and that his conduct was part of said attack.
14. Overall, the contextual elements of crimes against humanity under Article 7 RS are fulfilled in the situation of Verdalian Borderland.

COUNT 1

I. THE SPECIFIC ELEMENTS OF FORCIBLE TRANSFER UNDER ARTICLE 7(1)(d) ARE FULFILLED

15. Forcible transfer is defined as forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.²⁶ The Prosecutor submits that the Defendant committed Article 7(1)(d) RS as he **(a)** forcibly transferred, contrary to international law, by expulsion **(b)** persons that were lawfully present in the transfer area, and **(c)** he was aware of the factual circumstances that established the lawfulness of such presence.

a) The Defendant forcibly transferred one or more persons to another location, contrary to international law, by coercive acts.

16. The Prosecutor submits that **(i)** the Defendant forcibly transferred one or more persons to another location, **(ii)** which was contrary to international law, **(iii)** and was conducted through coercive acts.

(i) The Defendant forcibly transferred one or more persons to another location

17. The Defendant forcibly transferred the Verdalian people from their land. Forcible transfer involves displacement of persons within national boundaries.²⁷ The term “forcibly” includes threat of force or coercion, such as that caused by fear of duress or

²⁴ Facts, ¶ 12.

²⁵ Facts, ¶ 25.

²⁶ Article 7(2)(d) RS.

²⁷ Mladić Judgement, [3118].

psychological oppression against persons, which is not restricted to a mere physical force.²⁸ In *Karadzic*, Bosnian Muslims and Bosnian Croats had a limited amount of time prior leaving their homes to be forcibly displaced by the Serbian Force, which was deemed they were displaced as they left the area without their consent.²⁹

18. In this case, there were 15.000 individuals who had sought shelter in temporary camps located near Talandia's border. This was due to the fact that there were programs executed by the Defendant forcing them to move from their home to another location.³⁰ Furthermore, such programs were also involving the use of military forces and in June there was an increased military presence, which resulted in the threat of force and fear of violence for the Veridian people. This is evident as they had a limited amount of time to collect their belongings with the oppression of the military.³¹ Thus, The Defendant forcibly transferred one or more persons to another location.

(ii) Which was contrary to international law

19. The conduct was contrary to international law. Under Article 49 GC IV and Article 17 AP II, the displacements of the civilian population can be lawfully conducted under certain limited circumstances, including reasons of security of the civilian population or imperative military reasons. If an act of forced removal is carried out on such a basis, the conduct cannot constitute the *actus reus* of the crime of forcible transfers.³² The transfer should provide proper accommodation with hygiene, health, and nutritional conditions.³³

20. In the present case, the forcible transfers were caused due to the significant land acquisition and relocation efforts as the implementation of the VII, which do not fall to the permissible causes under international law. Moreover, the forcible transfer was conducted to ensure the program security towards workers, and not to protect any civilian population or imperative military reasons. In addition, the conditions of the temporary camp provided by the defendant were described as dire with a lack of access to food, clean water, and medicine supplies. Thus, the displacement of Verdalian people is not permitted under international law.

(iii) Was conducted through coercive acts

²⁸ Article 7(1)(d) EoC.

²⁹ *Karadžić* Judgement, [2469].

³⁰ Facts, ¶ 18.

³¹ Facts, ¶ 24.

³² *Stakić* Judgement, [284-285].

³³ Article 49, GC IV.

21. To establish the forced displacement there must be a forced displacement of persons carried out by the forms of coercion.³⁴ The term “coercion” is similar to the term “forcibly”.³⁵ In *Dordevic*, any displacement of a civilian population must be conducted with consent and each individual’s free will. Additionally, a military escalation resulted in the fear of the civilian population would satisfy this element.³⁶
22. As previously mentioned the conduct was a part of coercive acts.³⁷
23. Overall, the displacement of verdalian people fulfilled the first element of crimes under Article 7(1)(d) RS
- b) Such person or persons were lawfully present in the deported or transfer area.
24. Verdalian people were lawfully present in the transfer area. The requirement of ‘lawful presence’ does not mean that the victim must have had legal residence in the area as they are merely required to live in a community. For instance, in *Ntaganda*, the Hema people were living in Mongbwalu prior to their displacement to Sayo, in which Mongbwalu was deemed as the ‘transfer area’ under Article 7(1)(d) RS.³⁸
25. In this case, the Verdalian people were lawfully present in the Verdalian borderland as they have been living in such an area for more than a century, which is also home to the Lemiti and Barva peoples. The Defendant through his program transferred the Verdalian people from the Verdalian borderland to near Talandia border area. In this regard, the Verdalian borderland is the ‘transfer area’ pursuant to Article 7(1)(d) RS. Thus, the Verdalian people are lawfully present in the transfer area. Therefore, the second element is fulfilled.
- c) The perpetrator was aware of the factual circumstances that established the lawfulness of such presence.
26. The Defendant has knowledge that Verdalian people were lawfully present in the Verdalian Borderland. In *Ntaganda*, the Chamber deemed that the people were lawfully present in those areas since he had control over military decisions to displace the civilians, resulting in him having the knowledge of such presence.³⁹ In addition, the perpetrator is not required to sufficiently understand or determine a legal judgment

³⁴ Stakić Appeal Judgement, [279].

³⁵ Karadžić Judgement, [489].

³⁶ Dordević Judgement Vol I, [1622].

³⁷ *Supra*, ¶ 20.

³⁸ *Ntaganda* Judgement, 169,1071.

³⁹ *Ntaganda* Judgement, 1177, 1180, 1188.

about the legitimacy as he solely necessitated to be aware of the facts that a civilian population is lawfully present in the area.⁴⁰

27. In this case, the Verdalian people were lawfully present as previously mentioned.⁴¹

The Defendant was aware of the lawfulness of the Verdalian people's presence in Verdalian Borderland as he had control of the military and displacement of civilians.⁴²

His decisions to establish a strict military surveillance, clearing areas, property confiscation and restricted access to farmlands demonstrated that the Defendant was aware of the lawful presence of Verdalian people in order to displace the Verdalian people. Thus, this element is fulfilled.

28. Overall, the specific elements of forcible transfer under Article 7(1)(d) RS are fulfilled.

II. THE DEFENDANT IS LIABLE FOR ORDERING THE COMMISSION OF CRIME UNDER ARTICLE 25(3)(b) RS

29. The Defendant is liable for ordering the forcible transfer under Article 25(3)(b) RS.

The Prosecutor submits that the Defendant fulfilled the requirements to be liable under Article 25(3)(b) RS as the Defendant was in a position of authority who incurs the responsibility when ordering another person to commit a crime⁴³, which instructed another person in any form where the order had a direct effect on the commission of the crime, and he was aware that the crime will be committed in the ordinary course of events as a consequence of the execution of the order.

30. First, the Defendant was in a position of authority. In *Kordić*, the person giving the order must, at the time it is given, be in a position of formal or informal authority over the person who commits the crime.⁴⁴ In this case, the Defendant was in a position of formal authority because he was appointed by Veridia's Minister of Development to be the head of the NDP task force. His role was to ensure the smooth execution of the NDP for the benefit of all Veridians.⁴⁵ Therefore, It proves the defendant was in a position of authority over the crimes.

31. Second, the Defendant made decisions regarding the expulsion of Veridian people through NDP.⁴⁶ The accused must instruct others to carry out an act, the execution of

⁴⁰ RSC, [128].

⁴¹ *Supra*, ¶ 27.

⁴² Facts, ¶ 12.

⁴³ Nahimana Appeal Judgment, [481].

⁴⁴ *Kordić* Appeal Judgment, [28] *Semanza* Appeal Judgment, [361]; *Galic* Appeal Judgment, [176]; 481; *Boskoski and Tarculovski* Appeal Judgment, [160], [164]; *Kalimanzira* Appeal Judgment, [213].

⁴⁵ Facts, ¶ 12.

⁴⁶ Facts, ¶ 16.

which results in the commission of a crime.⁴⁷ It matters not that an order be expressed or implied,⁴⁸ as the nature of the order can be inferred through circumstantial evidence.⁴⁹ In this case, the defendant instructs the military to do the forcible transfers to Verdalian people through the implied order by signed a memorandum which outlined the “strategic necessity” of clearing areas for the NDP and authorizing the deployment of military units to ensure compliance.⁵⁰ Thus, the second requirement is satisfied.

32. Third, the Defendant’s order had a direct effect on the forcible transfer. But it suffices that the order was an advancing factor contributing to the conduct of the Defendant committing the crimes.⁵¹ Aforementioned, the implied order caused fear and pressure to the Verdalian people and it was evidenced by eyewitnesses who recounted harrowing details of forced evictions, often carried out under the watch of armed forces, with families being given little time to collect their belongings before their homes were destroyed.⁵² This condition made Verdalian people have no choice but to leave their homes. Overall, without the implied instruction from the Defendant, the forcible transfer would not have occurred.

33. Fourth, the Defendant was aware of a substantial risk that a crime would be committed as a consequence of his order. To prove this criminal responsibility, the Prosecutor need to prove the following elements of article 30 of RS,⁵³ including **(a)** a person has intent where in relation to conduct and in relation to consequence, and **(b)** a person has knowledge that a circumstance exists or a consequence will occur in the ordinary course of events.

a) The Defendant has intent where in relation to conduct and in relation to consequence.

34. For the purposes of this article, a person has intent where **(i)** in relation to conduct, that person means to engage in the conduct, and **(ii)** 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.

⁴⁷ Stakić Trial Judgement, 445.

⁴⁸ Blaškić Trial Chamber, [281].

⁴⁹ *Ibid.*

⁵⁰ Facts, ¶ 25.

⁵¹ Kordić Judgment, [387].

⁵² Facts, ¶ 24.

⁵³ article 30, [1] RCS.

(i) In relation to conduct, that person means to engage in the conduct

35. The defendant intentionally does an act that causes the crime. In Katanga it takes the view that in accordance with the criterion which article 30(2)(a) lays down, the accused must intend to engage in the conduct otherwise put, his or her actions must have been deliberate and made with awareness.⁵⁴
36. In the present case, The defendant's engagement can be shown from establishing the SSZs as a subprogram of NDP. The implementation of SSZs led to escalating tensions when reports emerged of increased military presence in the Verdalian Borderland. Furthermore, the emergence of increased military presence caused the forcible transfer over the Verdalian people. However, these reports did not lead the defendant to make a decision to discontinue the NDP program. This is proven by Official statements from Veridia's government that framed the deployment as necessary to safeguard the infrastructure projects under the NDP. The statement shows that the defendant was aware of the forcible transfer and he did not stop the program. Therefore, this element is fulfilled.

(ii) 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

37. The Defendant means to cause the consequence. “in relation to the consequence” which constitutes the crime, the group must “mean to cause that consequence”. This form of criminal intent presupposes that the person knows that his or her actions will necessarily bring about the consequence. In other words, it is nigh on impossible for him or her to envisage that the consequence will not occur.⁵⁵
38. *In casu*, the Defendant established the VII,⁵⁶ where it would need to vacate areas needed for development projects, which will result in the displacement of Verdalian people, that clearly shows his intent to cause the consequence. Furthermore, the establishment of SSZs with such tight surveillance⁵⁷, it was nearly impossible for Verdalian people to remain, so the consequences of displacement were something the Defendant was certainly aware of and expected. From the facts presented above, it shows the clear intent of the Defendant that he will justify all means to forcibly displace the Verdalian people. Thus, the Defendant intends to cause the consequence.

⁵⁴ Katanga Judgement, 1638

⁵⁵ Ibid, [777].

⁵⁶ Facts, ¶ 12.

⁵⁷ Facts, ¶ 13-14.

- b) The Defendant has knowledge that a consequence will occur in the ordinary course of events.
39. The defendant has knowledge that a consequence will occur in the ordinary course of events. In Lubanga, the “awareness that a consequence will occur in the ordinary course of events” means that the participants anticipate, based on their knowledge of how events ordinarily develop, that the consequence will occur in the future.⁵⁸
40. Here, as in the aforementioned program of VII, it's clear that developing the project will lead to the displacement of Verdalian people. Furthermore, by the establishment of SSZs, it exacerbated existing tensions in the Verdalian Borderland⁵⁹, citing instances of property confiscation and restricted access to farmlands.⁶⁰ In this situation, the Defendant must have knowledge that by developing VII and establishment of SSZs will lead them to be forcibly displaced. Therefore, the Defendant has knowledge that force displacement would occur as a consequence of his actions.
41. Accordingly, the Defendant is individually criminally responsible under Article 25(3)(b) for ordering a crime against humanity.

COUNT 2

I. THE SPECIFIC ELEMENTS OF PERSECUTION UNDER ARTICLE 7(1)(h) ARE FULFILLED

42. The Prosecutor submits that the Defendant committed the persecution under Article 7(1)(h) RS as **(a)** The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights, **(b)** was targeting based on political grounds **(c)** and the conduct was committed in connection with forcible transfers under Article 7(1)(d) RS.
- a) The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights.
43. The acts severely deprived Verdalian people's fundamental rights. For an act to be considered persecution the perpetrator must severely deprive one or more persons of fundamental rights.⁶¹ A deprivation of fundamental rights is "contrary to international

⁵⁸ Lubanga Judgement, [1012].

⁵⁹ Facts ¶ 13.

⁶⁰ Facts ¶ 14.

⁶¹ Article 7(1)(h) EoC.

law" if the right cannot be enjoyed by the person entitled to it.⁶² Parameters for defining fundamental rights can be derived from international instruments on international human rights.⁶³ The right to private property which includes the right to own property and no one may be arbitrarily deprived of it is enshrined in the UDHR and ICCPR.⁶⁴ The right to life has also been acknowledged in the UDHR and ICCPR.⁶⁵ In Ntaganda, the Chamber deemed that acts of destroying property and killing civilians deprived fundamental rights including their right to life.⁶⁶

44. Here, from the acts it resulted in depriving many rights of Lemiti and Barva communities as they were Verdalian people. First, there was property confiscation⁶⁷ and settlements destruction of Verdalian people's houses,⁶⁸ resulted in losing their rights to enjoy their personal property. Second, when there was a protest, the Veridia's military shot unarmed civilians, including women and children,⁶⁹ that resulted in the Verdalian people being severely deprived of their right to life. Thus, the first element is fulfilled.

b) The Defendant targeted persons by reason of identity of a group based on political grounds

45. The Defendant targeted such persons by the identity of a group.⁷⁰ In Gbagbo, the Chamber determined the requirement fulfilled when protesters were attacked with awareness of their political affiliation.⁷¹ Furthermore, the acts were considered as persecution if they were targeted based on discriminatory grounds that were mentioned in Article 7(1)(h) RS.⁷² In *Burundi*, the Chamber concluded that the persecution was directed against a group based on political grounds since the conduct was committed by members of the government security forces against civilians who oppose the ruling party.⁷³

46. The protesters were found in response to the forced displacement over Lemiti and Barva communities.⁷⁴ Here, the protesters were met with severe repression by the

⁶² Ntaganda Judgement, 993.

⁶³ *Ibid*, 991.

⁶⁴ Article 17 UDHR, Article 17 ICCPR.

⁶⁵ Article 3 UDHR, Article 6 ICCPR.

⁶⁶ Ntaganda Judgement, [999].

⁶⁷ Facts, ¶ 14.

⁶⁸ Facts, ¶ 24.

⁶⁹ Facts, ¶ 18.

⁷⁰ Article 7(2)(g) RS.

⁷¹ Gbagbo Judgement 40. *See also* Dominic Ongwen, [2737].

⁷² Article 7(1)(h)(3) EoC.

⁷³ *Ibid*, [136].

⁷⁴ Facts ¶ 18.

engagement of Verdia military forces.⁷⁵ This act occurred since the Defendant signed a memorandum outlining the "strategic necessity" that directed military units to clearing areas for NDP interest. Therefore, the Defendant targeted them specifically because they were dissenters of the NDP implementation.

c) The conduct was committed in connection with forcible transfers under Article 7(1)(d) RS

47. Persecution must be committed in connection with acts listed under Article 7(1) RS. Persecution must be committed in connection with another crime under Article 7(1) of the Statute.⁷⁶ It has been established since the incidents committed within the same location are determined that there was a connection between the charges.⁷⁷
48. In this case, the persecution and the forcible transfer as aforementioned happened in the same location, which is Verdalian Borderland. Thus, the Article 7(1)(h) is connected with the Article 7(1)(d) RS.

II. THE DEFENDANT IS LIABLE FOR AIDING THE COMMISSION OF CRIME UNDER ARTICLE 25(3)(c) RS

49. The defendant is liable under Article 25(3)(c) RS in aiding crimes against humanity under Article 7(1)(h) RS by providing the means for its commission.⁷⁸ Regardless of whether the Defendant did not perpetuate any of the elements of crimes or he was present at the crime scene, he is still liable.⁷⁹ This is proven by the Defendant fulfilling two requirements of Article 25(3)(c) RS, as (a) the Defendant fulfilled the objective elements, and (b) the Defendant fulfilled the subjective elements.

a. The Defendant fulfilled the objective elements

50. The Defendant fulfilled the objective elements of aiding in the commission of an offence under Article 25(3)(c) RS. This requirement is fulfilled when his assistance purposefully facilitates the perpetration of the crime and must have causal relationship with the result of the crime.⁸⁰ In this case, the Defendant facilitated the forced eviction since he was issued signing a "Strategic Necessity", directing the Veridian forces to clearing areas for NDP interest.⁸¹ The actions of the NDP created several acts in the form of forcible transfers, shootings of unarmed civilians, even Veridian forces

⁷⁵ Ibid.

⁷⁶ Ntaganda Judgement, [1023].

⁷⁷ Ibid, [1024].

⁷⁸ Article 25(3)(c) RS.

⁷⁹ Lubanga Judgement, [1003]. See also Akayesu Judgement, [484].

⁸⁰ Bemba Decision [1327]. See also Mbarushimana Charges[274].

⁸¹ Facts, ¶ 25.

executed the dissenters which were felt by the Verdalian people.⁸² Consequently, his contribution causally affected the commission of the crime. Therefore, his conduct fulfilled the objective elements.

b. The Defendant fulfilled the subjective elements

51. This element is related to Article 30 RS, which must fulfill the mental elements requirements.⁸³ Moreover, Article 25(3)(c) RS requires intent regarding the principal offense,⁸⁴ and the knowledge that a crime will occur in the ordinary course of events.⁸⁵
52. First, the Defendant had intent regarding the principal offense since he was a head of the NDP task force thus he holds the authority in the form of decision-making and implementation.⁸⁶ He established the SSZs, including deploying armed military personnel,⁸⁷ which led to acts of persecution. This action was carried out with a clear purpose to facilitate the NDP and proved that the Defendant has engaged regarding the course of conduct. Thus, his act showed an intent regarding the principal offense.
53. Second, the Defendant had knowledge that the crime would occur in the ordinary course of events.⁸⁸ Here, the Defendant was aware that involving SSZs will lead to persecution. By placing military forces in the Verdalian borderland, he must know it will result in heightened tensions and lead to property confiscation, restricted movement and access to farmlands⁸⁹ which is considered as persecution.⁹⁰ Then, by aforementioned acts, there's a chance there will be a protest supporting the fact that Verdalian people had been involved in violent clashes before⁹¹, indicates the knowledge of his system would be used in that type of situation. Therefore, the Defendant was aware of the knowledge that a crime would occur as a consequence of his conduct. Thus, this element is satisfied.
54. Overall, the Defendant is liable under Article 25(3)(c) RS for aiding the commission of the crime.

⁸² Facts, ¶ 18.

⁸³ Article 30 RS. *See also* Bemba Decision, [98].

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ Facts, ¶ 16.

⁸⁷ Facts, ¶ 13.

⁸⁸ *Ibid.*

⁸⁹ Facts, ¶ 13-14.

⁹⁰ *Supra*, ¶ 33.

⁹¹ Facts, ¶ 5.

PRAYERS FOR RELIEF

The Prosecutor respectfully requests this Honorable Court to confirm the charges against Vance Jarick to a Trial Chamber since there are substantial grounds to believe that he is liable under Article: 7(1)(d) and 7(1)(h) RS.

RESPECTFULLY SUBMITTED.

The Prosecution

TEAM 890

INTERNATIONAL CRIMINAL COURT

SITUATION IN THE VERDALIAN BORDERLAND

PROSECUTOR

V.

VANCE JARRICK

MEMORIAL FOR DEFENDANT



THE 2024 ALSA INDONESIA MEMORIALS WRITING COMPETITION

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1.	Terry D. Gill, Dieter Fleck (2011). <i>The Handbook of the International Law of Military Operations</i> . Oxford University Press.

2.	Agnieszka Jachec-Neale (2016). <i>The Concept of Military Objectives in International Law and Targeting Practice</i> . <i>Routledge</i> .
3.	Werle, Gerhard, and Florian Jessberger (2014). In <i>Principles of International Criminal Law</i> . <i>Oxford University Press</i> .
ARTICLES	
1.	Meloni, Chantal (2010). The Principle of Individual Responsibility and the Macro-dimension of International Crimes. <i>Command Responsibility in International Criminal Law</i> . 7–31.
2.	Van Sliedregt, Elies (2012). <i>Individual Criminal Responsibility in International Law</i> . <i>Oxford University Press</i> . 3-16.

WRITTEN ARGUMENTS

COUNT ONE:

Vance Jarrick does not bear individual responsibility in respect to forcibly displacing the civilian population in the Verdalian borderland under article 7(1)(d) of the Rome statute, as the relocations were done on grounds permitted under international law according to Article 49(2) of the 4th Geneva Convention, with the utmost respect towards human rights

I. The Crime Against Humanity of forcible transfer against a civilian population under article 7(1)(d) of the Rome Statute is not established

a. The perpetrator forcibly transferred, without grounds permitted under international law, one or more persons to another location, by expulsion or other coercive acts

1. The Geneva Convention IV permits the transfer of civilians (evacuation) from an area when a significant risk is posed towards the population. In the present case, an evacuation was done to ensure the safety and well-being of affected communities in the Verdalian borderland. Moreover, these relocations were done as part of the VII, which was designed with the utmost respect for human rights and local customs.¹
2. In *Krnjelac*, an act of displacement is considered as forced if physical force, threat of force, or coercion is present.² In this case, the Veridian military has not used force or threatened Veridian citizens during relocation, only overseeing the process in order to ensure that the relocations went smoothly and in-line with national law.³

b. The conduct was committed as part of a widespread or systematic attack directed against a civilian population

1. An attack is defined as the use of violence with the intention of injuring civilians.⁴ In this case, Jarrick has not shown any intention to harm civilians, whether through physical force or other means. Actions taken by the NDP in

¹ Moot Problem, [15].

² *Prosecutor v Krnjelac*, Case No IT-97-25-T, Trial Judgement, [475].

³ Moot Problem, [13].

⁴ *Prosecutor v. Bosco Ntaganda* (2019), ICC, Case No ICC-01/04-02/06, Trial Judgement, [18].

the Verdalian borderland were intended solely to protect civilians and essential infrastructure.

2. For an attack to be considered widespread or systematic, there needs to be evidence shown that the attack was massive, frequent, carried out collectively with considerable seriousness and directed against a large number of civilian victims.⁵ In this case, an attack had not occurred, as no physical force or threat of force was directed towards civilians in the Verdalian Borderland.
3. Any actions taken by the Veridian Military were only permitted within Strategic Security Zones, which were designated as a military area.⁶ Veridians were aware of these SSZs as they were announced by the Veridian government prior to February 2023.⁷ Veridia's government has repeatedly stated that relocations in the area were done voluntarily, with consent from those who resided in the area, and in accordance with national law.

c. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population

1. The *mens rea* of a crime is determined by the intent to commit the underlying offense, as well as the knowledge of the wider wider context in which the crime was committed. In *Bagilishema*, a commander is regarded as "having knowledge" if there was information available which would make him aware of crimes committed by his subordinates.⁸ An individual who did not, or had very little knowledge of a crime committed cannot be prosecuted by the court, as they are not considered to have *mens rea*.⁹
2. In the case at hand, the prosecutor has not provided sufficient evidence to suspect that Vance Jarrick had the *mens rea* to commit a widespread or systematic attack in the Verdalian borderland. Jarrick had acted under the command of the Veridian ministry of development, which stated that the

⁵ *Prosecutor v. Ruto, Koshey and Sang* (2012), ICC, Case No ICC-01/09-01/11, Trial Chamber II [176-177].

⁶ Moot Problem, [13].

⁷ Moot Problem, [10].

⁸ *Prosecutor v. Ignace Bagilishema* (2002), ICTR, Case No ICTR-95-1A-A, Appeal Judgement, [42].

⁹ *Prosecutor v. Lubanga* (2008), ICC, ICC-01/04-01/06, Appeal Judgement, [355].

relocations were necessary to ensure the safety of affected communities from potential threats.¹⁰

3. In terms of *actus reus*, Jarrick had signed a memorandum which stated the importance of the military to ensure compliance. As no physical force or threat of force was used by the Veridian military, it could be said that these relocations (and by extension the compliance meant by Jarrick) was voluntary.

II. Vance Jarrick does not bear Individual Responsibility for the Crime Against Humanity as he had not ordered, solicited, nor induced the commission of such a crime, and no crime had occurred

a. Vance Jarrick had not ordered, solicited nor induced the commission of such a crime, which had occurred or was attempted

1. A person may be considered to have ordered, solicited, or induced someone to commit a crime if their actions played a substantial role in the commission of that crime.¹¹ The accused is considered to have “ordered” a crime if it has been proven that they had the authority over another person, where they can exert their influence, coercion or order to commit a criminal act.
2. In the case at hand, although Jarrick held a position of authority over the military units in the Verdalian borderland, he has not explicitly ordered the displacement of civilians in leaked recordings of high-level meetings.¹²
3. Furthermore, there is insufficient evidence to conclude that the crime against humanity of forcible transfer and/or deportation had occurred in the region under article 7(1)(d) of the Rome Statute, as the relocations were done voluntarily and with grounds permitted under international law.
4. Therefore, Vance Jarrick cannot be held liable for the request, direction or persuasion of military units to conduct forcible transfer in the Verdalian borderland under article 7(1)(d) of the Rome Statute as Jarrick had never explicitly ordered the displacement of civilians, and no crime had occurred.

¹⁰ Moot Problem, [13], [15].

¹¹ ICRC (2016). Commentary on the First Geneva Convention. International Committee of the Red Cross.

¹² Moot Problem, [25].

COUNT TWO:

Vance Jarrick does not bear individual responsibility over the militarization of the Verdalian Borderland, as it constitutes a military objective under Article 52 of the Additional Protocol I of the 1949 Geneva Convention

I. According to the CIHL, the Verdalian Borderland could be considered as a military object.

a. The Verdalian Borderland is a military object

1. The CIHL describes a military object as any object that contributes towards a military action.¹³ Herein, the Verdalian Borderland could be considered as a military objective due to its location, purpose and use as an effective contribution to military action, and whose partial offers a definite military advantage.¹⁴
2. Historically, the Verdalian borderland has been a point of geopolitical significance, with its vast mineral resources, fertile soil and strategically important routes for military maneuvers. These factors had made control over the borderlands critical for both Veridia and Talandia's national security and economic interests. This has also caused the region to be a constant source of tension, with both nations competing to secure their hold in the area.¹⁵
3. Therefore, due to its nature as a volatile, contested region, its strategic location, and role in securing Veridia's security and economic interests, the Verdalian borderland may constitute a military objective under Article 52 of Additional Protocol I of the 1949 Geneva Convention.

b. Due to its status as a military object, The Verdalian Borderland is able to be militarized

1. The infrastructure located within these Strategic Security Zones can be considered as vital to the success of the Veridian Infrastructure Project (VII),¹⁶ which may be perceived by enemies of Veridia as a military objective. Due to this, a clear risk is posed towards the safety of both personnel and

¹³ Rule 8, Customary International Humanitarian Law.

¹⁴ Article 52, Additional Protocol I to the Geneva Conventions IV on Civilians 1949

¹⁵ Moot Problem, [3]

¹⁶ Moot Problem, [14]

civilians in the area, which justifies the deployment of military units and SSZs (which may amount to militarization of a civilian object).

2. Moreover, although jurisdictional lines were outlined under agreements made between Veridia and Talandia, these lines have been ambiguous and contested.¹⁷ Militarization of these disputed areas could be seen as a form of self defense.
3. These fears were confirmed following the November 2023 attacks, which were directed by external separatist groups in order to destabilize the Veridian government's hold in the region.¹⁸

c. Militarization of the Verdalian Borderland is necessary to ensure the safety of both civilians and infrastructure

1. The NDP's purpose was to modernize the Verdalian borderland and transform it into an industrial and economic hub. The program requires significant infrastructure projects such as roads, factories and housing complexes.
2. The presence of competing political and economic interests from indigenous groups and militant factions in the region has caused a necessity for a militarized environment in order to protect vital NDP infrastructure and safeguard workers.
3. Veridia and Talandia had also been involved in a long standing dispute over the region, which increased the possibility of external interference. There are reasonable grounds to suspect that Talandia may have played a part in orchestrating the November 2023 attacks by supporting Veridian separatist groups.
4. By militarizing the region, Veridia seeks to counter all external efforts to disrupt the stability of the region, including the possibility of supporting militias or separatist groups. Therefore, military presence could be seen as a form of deterrence against foreign intervention and an assertion of national sovereignty over contested border areas.

¹⁷ Clarification of the Moot Problem, [3]

¹⁸ Moot Problem, [19]

II. Vance Jarrick did not aid, abet, or assist in the commission of excessive force, confiscation of private property and restriction of access to farmlands under article 25(3)(c) of the Rome Statute, as his intentions of implementing strategic security zones in the Verdalian borderland was to ensure the safety of workers and vital infrastructure

a. The accused had not intended for the militarization to lead towards any unlawful acts to be committed in the Verdalian Borderland

1. The militarization of the Verdalian Borderland was authorized by Vance Jarrick through the implementation of SSZs.¹⁹ The Veridian government had stated that the purpose of these SSZs was to ensure the program's security and smooth execution as areas designated for military oversight.²⁰
2. The implementation of these SSZs were considered lawful as the Verdalian Borderland constitutes a military object respective to its location, purpose and use as an effective contribution to military action.²¹

b. If excessive force, confiscation of private property, and/or restriction of access to farmlands did occur, it was not carried out under orders from Vance Jarrick

1. Vance Jarrick had stated that his purpose in the NDP was "to ensure the smooth execution of the NDP for all Veridians."²² Additionally, the Veridian government had stated that the NDP was carried out with the utmost respect for human rights and local customs of the Veridian people.²³
2. In the *Brdanin* Trial Judgement, it was held that the accused will incur individual criminal responsibility when it is demonstrated that the accused had carried out an act that consisted of practical assistance, encouragement or moral support to the principal offender to the crime.²⁴
3. Jarrick cannot be held individually responsible as the Veridian military had not demonstrated the use of excessive force, confiscation of private property

¹⁹ Moot Problem, [25]

²⁰ Moot Problem, [13]

²¹ Article 52, Additional Protocol I to the Geneva Conventions IV on Civilians 1949

²² Moot Problem, [12]

²³ Moot Problem, [15]

²⁴ *Prosecutor v. Radoslav Brdanin* (2004), ICTY, Case No. IT-99-36-T, Judgement, [271].

and/or restriction of access to farmlands, under his own commission or otherwise.

4. Jarrick cannot be liable for facilitating crimes committed in the Verdalian borderland, as no crimes had occurred in the first place, as well as the Verdalian borderland being considered as a military objective. Vance Jarrick cannot be held individually responsible for aiding, abetting and/or assisting in the commission of excessive force under article 25(3)(c) of the Rome Statute.

PRAYER FOR RELIEF

For the foregoing reasons, the Counsels for the Defendant respectfully request this Honorable Court to adjudicate and declare that:

1. Vance Jarrick does not bear individual responsibility in respect to forcibly displacing the civilian population in the Verdalian borderland under article 7(1)(d) of the Rome statute, as the relocations were done on grounds permitted under international law according to Article 49(2) of the 4th Geneva Convention, with the utmost respect towards human rights.
2. Militarization on the Verdalian Borderland is allowed due to the region's location, purpose and use as an effective contribution to military action.
3. Vance Jarrick did not intend for militarization in the Verdalian borderland to lead towards excessive force, private property confiscation and access to farmlands.

[signed]

Counsels for the Defendant