ELEVENTH SYMBIOSIS LAW SCHOOL, PUNE – INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION

[SICTA – 2026]

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PREVIOUS YEARS' BEST MEMORIALS

INDEX

SICTA _05_P

10TH SYMBIOSIS LAW SCHOOL PUNE INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION, 2025

BEFORE

TRIAL CHAMBER I, INTERNATIONAL CRIMINAL COURT THE HAGUE, NETHERLANDS

IN THE MATTER *of*

THE PROSECUTOR ..... PROSECUTION

V.

MR. JULES VERNE ..... DEFENCE

DEFENDANT CHARGED WITH

Persecution against the nationals of Titan belonging to the Cavern Clan covered under article 7(1)(h) of the Rome Statute

WORD COUNT: 6307

WRITTEN SUBMISSIONS ON BEHALF *of* THE PROSECUTION

Cour Pénale Internationale

International Criminal Court

Original: **English**

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Date: _____

TRIAL CHAMBER I

Before: **Judge, _____ the Presiding Judge**

Judge _____ and

Judge _____

SITUATION IN THE TERRITORY OF TITAN IN THE CASE OF

THE PROSECUTOR v. JULES VERNE

Source: Office of Prosecution

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LIST OF ABBREVIATIONS

Abbreviation	Full Forms
&	And
v.	Versus
¶	Paragraph
p.	Page number
ICC	International Criminal Court
Art.	Article
TC	Trial Chamber
TSC	Titanian Service Cloud
U.N.T.S.	United Nations Treaty Series
JCE	Joint Criminal Enterprise
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
Id	Idem
i.e.	Id est
AC	Appeal Chamber
Anx.	Annexure
Res.	Resolution
RPE	ICC Rules of Procedure and Evidence
RS	Rome Statute
u/a	Under article
Intl. Crim. Ct.	International Criminal Court
PTC	Pre Trial Chamber
USD	United States Dollars

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Universal Declaration of Human Rights, 1948, 2, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 . 8

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STATEMENT OF FACTS

Background

1. Titan is a landlocked country rich in natural resources and cultural diversity. The country is home to multiple ethnic groups including the Scorpions and the Caverns. There has, however, historically been tension between the two groups.
2. The Cavern Clan, through natural resources such as fertile soil and water, have accumulated wealth, something the Scorpions resent. The Cavern economy is predominantly agrarian.
3. Within the Cavern Clan, there is a sub-ethnicity called the Valours, who have historically been the most respected of the Clan, considered descendants of the deities they worshipped.

The Accused

4. The Accused is a serial entrepreneur belonging to the Scorpion community who has previously been accused of white-collar crimes.
5. He was the co-founder of AlphaBeacon LLC, the largest cryptocurrency exchange in Titan, as well as the owner of Titanian Secure Cloud (TSC), an effective blockchain. During the relevant period, he was the CEO and promoter of AlphaBeacon.

The Conflict

6. The violence commenced with the murder of two children from the Cavern clan by those believed to be rogue Scorpions. Later, massive amounts of misinformation about the Caverns was spread on social media channels, encouraging hate.
7. This confrontation soon spread into organized violence, with the Scorpions launching raids on markets housing Cavern businesses, sabotaging property and assets worth 10,000 USD. Over one-hundred and twenty people lost their lives, while twelve hundred sustained injuries.
8. The conflict was especially devastating for the Valours, with only two households comprising of five Valours remaining in the valley. Thirty members of the house of Valours are believed to have been killed or are missing due to the conflict.
9. The aftermath of the conflict was disastrous economically and otherwise, especially for the Valours. Agricultural output in the valley plummeted as farms were abandoned or destroyed. The valley saw massive destruction which would require 3,000,000 USD in costs.

Role of AlphaBeacon and TSC

10. Proceeds from crimes such as extortion, theft, and smuggling were converted into cryptocurrency tokens and traded on AlphaBeacon, Titan's largest cryptocurrency exchange. This funded a shadow economy, used to provide arms to the Scorpions, and further contributing to the cycle of violence.
11. TSC was used by rogue Scorpions to upload information of the Caverns. Those individuals whose details were uploaded on such servers often found themselves targeted by mobs of Scorpion community members, their homes vandalised and their persons lynched by the crowd.

Charges

12. On August 30, 2023, the ICC Prosecutor filed before the Chamber, the document containing charges leveled against the Accused for acts committed during the relevant period. The charge on which the Accused is sought to be prosecuted is Article 7(1)(h) of the Rome Statute, relating to persecution, along with Article 25(3)(c) of the Rome Statute and Article 25(3)(d) of the Rome Statute, dealing with individual criminal responsibility.
13. Additionally, noting the devastating impact of the conflict on the Valours, the Valours have requested for a priority in reparations.

ISSUES PRESENTED

ISSUE I

WHETHER THE FACTS AS DESCRIBED BY THE PRE-TRIAL CHAMBER CONSTITUTE A CRIME AGAINST HUMANITY OF PERSECUTION UNDER ARTICLE 7(1)(H) OF THE ROME STATUTE?

ISSUE II

WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(C) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

ISSUE III

WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(D) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

SUMMARY OF ARGUMENTS

ISSUE I

The Accused has committed Crimes against Humanity of Persecution under Article 7(1)(h) of the Statute of the International Criminal Court ["**Rome Statute**"] as *firstly,* the Contextual Elements of Crimes against Humanity have been satisfied as there was a widespread and systematic attack perpetrated against the victims in furtherance of an organizational policy, *secondly,* the Objective Elements of the Crimes against Humanity of Persecution have been met as the principal perpetrator severely deprived the victims of their fundamental rights. Further, the victims were targeted based on their distinct ethnicity and culture and the crime against humanity of murder was also committed by the principal perpetrators, and *lastly,* the Subjective Element of 'knowledge of attack' is satisfied as the Accused had knowledge of the attacks and was aware of his contributions to it.

ISSUE II

It is humbly submitted that the Accused can be held criminally liable under Article 25(3)(c) as *firstly,* the objective element is satisfied since the Accused has provided assistance through TSC, and *secondly,* that the subjective element is satisfied since the Accused meets the thresholds for general and specific intent as apparent by his inaction and motives.

ISSUE III

It is submitted that the Accused can be held criminally liable under Article 25(3)(d) of the Rome Statute as *firstly,* the objective elements are fulfilled, since it is a crime under the jurisdiction of the Court and carried out by a group with a common purpose and *secondly,* the subjective elements are fulfilled, since the Accused knowingly and intentionally took the risk.

ARGUMENTS IN DETAIL

I. WHETHER THE FACTS AS DESCRIBED BY THE PRE-TRIAL CHAMBER CONSTITUTE A CRIME AGAINST HUMANITY OF PERSECUTION UNDER ARTICLE 7(1)(H) OF THE ROME STATUTE

1. Mr. Jules Verne ["**The Accused**"] has committed crimes against humanity of persecution Articles 7(1)(h) of the Statute of the International Criminal Court ["**Rome Statute**"] as **[A]** the Contextual Elements of crimes against humanity have been satisfied, **[B]** the Objective Elements of the crimes against humanity of persecution have been met, and that **[C]** the Subjective Element of 'knowledge of attack' is satisfied.

[A]. THE CONTEXTUAL ELEMENTS OF CRIMES AGAINST HUMANITY HAVE BEEN SATISFIED

2. The chapeau of Article 7(1) of the Rome Statute requires that crimes against humanity be committed against a civilian population as part of a state or organizational policy in a widespread or systematic manner. The contextual requirements state that **(i)** there must be an attack **(ii)** the attack must be widespread or systematic, **(iii)** the attack must be directed against a civilian population and **(iv)** in furtherance of a State or organizational policy.

(i) There must be an attack

3. For the Accused to be prosecuted under crimes against humanity, the chapeau requires that an attack must take place. The Chamber has previously held that an attack need not be part of the armed conflict.[1] The attack may occur in the context of the armed context however the attack may precede, continue with the conflict and may even continue after the armed conflict has ended.[2]
4. Further, an 'attack' has been defined as a course of conduct involving the commission of acts of violence.[3] However, the term 'attack' has not merely been confined to the use of armed

[1] Prosecutor v. Jadranko Prlić, IT-04-74-T, Judgement, TC, ¶ 35 (29 May 2013) ["**Jadranko**"].

[2] *Id.*

[3] Rome Statute of the International Criminal Court, 1998, 7(2)(a), 2187 U.N.T.S. 90.

forces rather it includes any mistreatment of the civilian population.[4]

5. The Chamber has further defined 'civilian population' as any group that is distinguishable on the basis of nationality, ethnicity or any other distinguishable features.[5] Furthermore, a civilian population may be considered as distinguishable based upon its perceived political affiliation.[6]
6. In the present case, it is estimated that over a hundred and twenty people lost their lives, while twelve hundred people sustained injuries.[7] Moreover, there were planned attacks by the Scorpions based upon different ethical and cultural affiliations on the members of the Valours Community of the Valours leading to its near complete extinction.[8]
7. There was a clear commission of violent acts against the Cavern Clan, including multiple counts of murder, sexual assault, and kidnapping.[9] Furthermore, specific acts of violence were committed against the Valours, as mobs of scorpions attacked and kidnapped even the elders and children of the Valours community.[10]
8. Clearly, considering the above facts, it is clear that there were acts of violence committed against a civilian population which distinguishable on the basis of ethical and cultural considerations. Thus, it can be established that there were attacks committed by the Scorpions.

(ii) The attacks were widespread and systematic

9. Article 7 of the Rome Statute requires that the attack should be widespread or systematic. An attack is considered to be widespread when it is on a massive scale[11] and spread out over a

[4] Jadranko ¶ 35; Prosecutor v Dragoljub Kunarc, Radomir Kovac and Zoran Vukovic, IT-96-23-T, Judgement, ¶ 86 (12 June 2002).

[5] Jadranko ¶ 35; The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, ICC-01/09-01/11, Decision on Mr Ruto's Request for Excusal from Continuous Presence at Trial, AC, ¶ 165 (25 October 2013) ["**William Ruto**"].

[6] William Ruto, ¶ 165.

[7] Compromis, p. 12, ¶ d(i).

[8] Compromis, p. 9, ¶ 3(b)(v); Compromis, p. 9, ¶ 3(b)(vi).

[9] Compromis, p. 9, ¶ 3(b); Compromis, p. 12, ¶ 5(d)(i).

[10] Compromis, p. 9, ¶ 3(b)(v); Witness Testimonials, Victim Witness-1, p. 36.

[11] Prosecutor v. Bemba, ICC01/05-01/08-424, Judgment pursuant to Article 74 of the Statute, ¶ 83 (15 June 2009) ["**Bemba**"]; Prosecutor v. Katanga, ICC-01/04-01/07-717, Decision on the confirmation of Charges, ¶ 394 (14 October 2008); Prosecutor v. Al Bashir, ICC-02/05-01/09-3, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir (4 March 2009); The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, ICC-01/09-01/11, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the

large geographical area.[12]

10. Further, the Chamber has considered the assessment of a 'widespread' attack is neither exclusively quantitative nor geographical but must be carried out on the basis of the individual facts of each case.[13]
11. The Chamber defines an attack as considered systematic when the acts of violence are organised and there is a distinct improbability of their random occurrence.[14] There must be a non-accidental recurrence of criminal conduct.[15] The term "systematic" denotes the organized nature of violent acts. While the presence of a plan or policy may indicate the systematic nature of an attack, it is not a separate legal requirement.[16]
12. The extent or systematic character of an attack is inherently a relative concept. The Trial Chamber must first determine the population targeted by the attack and, considering the means, methods, resources, and impact of the attack on this population, assess whether it qualifies as widespread or systematic.[17]
13. Factors such as the attack's consequences on the targeted population, the number of victims, the nature of the acts, the involvement of officials or authorities, or any discernible patterns of crimes may be considered in determining whether the attack meets either or both criteria of being "widespread" or "systematic" in relation to the civilian population.
14. Further, the Chamber has previously considered planning the attack, identifying targets, approaching the target in large numbers as well as organized attacks on the properties of the victim to be considered as 'widespread and systematic'.[18]

Rome Statute, PTC, ¶ 179 (23 January 2012).

[12] Situation in the Republic of Kenya, ICC-01/09-19-Corr, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation in the Situation in the Republic of Kenya, ¶ 95 (31 March 2010) ["**Situation in the Republic of Kenya**"].

[13] Bemba ¶ 163; The Prosecutor v. Laurent Gbagbo, ICC-02/11-01/11-656-Red, Decision on the confirmation of charges against Laurent Gbagbo, PTC (5 December 2014).

[14] Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, IT-96-23/1-T, ¶ 48 (22 February 2001) ["**Kunarac**"].

[15] *Id.*

[16] Kunarac ¶ 48.

[17] Kunarac ¶ 46- 48.

[18] The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, ICC-01/09-01/11-373, Decision on Confirmation

15. In the present case, the Scorpion Community had clearly incited violence against the Cavern Clan.[19] Furthermore, the violence had occurred in a massive geographical location i.e., throughout the entire country.[20] The Scorpions had specifically targeted the Valours as in the aftermath only two households comprising five Valours remained in the valley.[21]
16. Furthermore, members of the Scorpion Community utilised the Titan Secure Cloud [**'TSC'**] to uncover and disclose information about the Valours Clan, enabling them to specifically target their properties, which were subsequently assaulted by co-ordinated groups from the Scorpion Community.[22] Additionally, the Scorpion Community members deliberately targeted schoolgirls, staking out their schools to launch their attack at the most opportune time.[23]
17. Moreover, the use of TSC software to identify targets, organize specific groups of Scorpion Community members, and plan further attacks on the especially vulnerable population of children clearly establishes that these actions were systematic.[24]
18. Therefore, the massive scale of the assault, spanning the entirety of Titan,[25] nearly decimating the Valours,[26] and inflicting life-altering injuries on thousands,[27] demonstrates the 'widespread' nature of the attack.
19. Thus, these facts clearly demonstrate that the attack was both widespread and systematic, and the first contextual element has been met by fulfilling both requirements despite their disjunctive nature.

(iii) The attack was directed at a civilian population

20. As per Article 50 of the Additional Protocol 1 of the Geneva Convention, a civilian has been defined as any person who is not a member of the armed forces, militias, or volunteer corps

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of charges pursuant to article 61(7)(a) and (b) of the Rome statute, PTC, ¶ 179 (23 January 2012).

[19] Compromis, p. 12, ¶ 5(c)(i).

[20] Compromis, p. 11, ¶ 5.

[21] Compromis, p. 8, ¶ 3(b)(iv); p. 9, ¶ 3(b)(v).

[22] Compromis, p. 14, ¶ 5(f)(ii).

[23] Compromis, Witness Testimonials, Victim Witness-1, p. 36.

[24] Compromis, p. 14, ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[25] Compromis, p. 12, ¶ 5(c)(i).

[26] Compromis, p. 12, ¶ 5(d)(i).

[27] Compromis, p. 12, ¶ 5(d)(i).

forming part of such armed forces, and who is not a member of organized resistant groups.[28] Furthermore, the same definition has been previously accepted by the ICTY Chamber.[29]

21. For an attack to be considered "directed against" the civilian population, civilians must be the primary target rather than incidental victims. However, it is not required to prove that the entire population of a geographic area was targeted. Instead, it must be demonstrated that civilians were targeted in such numbers or in a manner sufficient to convince the Chamber that the attack was directed against the civilian population.
22. In the present case, the targeted individuals belonged to the Cavern Clan and Valours.[30] Further, these persons were not part of any armed forces, militias or volunteer corps. The use of the TSC software to identify and specifically target the property of the Valours and the members of the Valour community clearly establishes that they were the primary target and the attack was 'directed against' them.[31]
23. Thus, the second contextual element of the attack being 'directed' against a 'civilian population' has also been satisfied, as there was a specific intent and targeting to attack a particular set of civilians.

(iv) The attack was in furtherance of state or organizational policy

24. It is sufficient for an organization to have structures or mechanisms, regardless of their specific form, that are effective enough to coordinate an attack against a civilian population. Therefore, the organization must possess adequate means to facilitate or encourage such an attack, without any additional requirements.[32]
25. Notably, given the realities of modern asymmetric warfare, it cannot be ruled out that an attack on a civilian population may also be carried out by a private entity, a group of individuals with the objective of targeting civilians, without necessarily having a highly developed, quasi-state structure.[33]

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[28] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International armed Conflicts (Protocol 1), 1977, 50, 1125 U.N.T.S. 3 ["**Geneva Convention**"].

[29] Prosecutor v. Milan Martic, IT-95-11-A, Judgement, ¶ 291-302 (8 October 2008).

[30] Compromis, p. 14 ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[31] Compromis, p. 14 ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[32] Situation in the Republic of Kenya, ¶ 90.

[33] The Prosecutor v. Germain Katanga, ICC-01/04-01/07-3436-tENG, Judgment pursuant to article 74 of the Statute,

26. The Chamber holds that a policy does not need to be formally documented; it can be inferred from a range of factors that collectively indicate its existence.[34] These factors include: (i) evidence that the attack was planned, directed, or organized; (ii) a repeated pattern of violence; (iii) the use of public or private resources to advance the policy; (iv) the participation of State or organizational forces in committing crimes; (v) an underlying motivation.[35]
27. It must also be established that the course of conduct was carried out pursuant to or in furtherance of a State or organizational policy.[36] This requirement is met when a perpetrator deliberately acts to advance the policy, but it can also be satisfied if the perpetrator engages in conduct envisioned by the policy with knowledge of its existence.[37] The Chamber emphasizes that there is no requirement for perpetrators to be motivated by the policy, nor must they necessarily be members of the State or organization.[38]
28. In the present factual matrix, it is evident that an informal organization of scrupulous Scorpion Community members exists,[39] and they have leaked target information, revealing the identities of the Valours.[40] Furthermore, the existence of such an informal organization is evident from the intense planned spread of disinformation against the Cavern Clan, which initially triggered the eruption of violence against them.[41]
29. Additionally, it can be clearly seen that there exists an informal undocumented organizational

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TC, ¶ 1119 (7 March 2014) ["**Katanga**"].

[34] The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, PTC, ¶ 81 (15 June 2009); Katanga, ¶ 1109; The Prosecutor v. Laurent Gbagbo, ICC-02/11-01/11-656-Red, Decision on the confirmation of charges against Laurent Gbagbo, PTC, ¶ 214 (12 June 2014); Situation in the Republic of Kenya, ICC-01/09-19- Corr, Corrigendum of the Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation in t he Situation in the Republic of Kenya, PTC, ¶ 87-88 (1 April 2010); P. v. Tihomir Blaskic, IT-95-14, Judgement, TC, ¶ 204 (3 March 2000).

[35] *Id.*

[36] Katanga, ¶ 1119.

[37] *Id.*

[38] *Id.*

[39] Compromis, p. 14, ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[40] *Id.*

[41] Compromis, p. 12, ¶ 5(c)(i).

policy as the attacks were clearly systematic and organized as shown in the earlier arguments. There was clear use of TSC technology which significantly worsened the impact of the attacks.[42]

30. An underlying motivation of vengeance can be observed within the Scorpion Community borne out of resentment of the resources available to the Cavern Clans.[43] Further, the escalation to violence also occurred due to the misguided vendetta developed by the Scorpion Community against the Cavern Clan for a perceived destruction of nature which may have threatened their way of life.[44]
31. Thus, the Scorpion Community constitutes an informal organisation that maintains a policy against the Cavern Clans. Consequently, the present case also meets the organisational policy requirement, as the attack was carried out with the assistance of the Accused, in accordance with this policy.

[B]. THE OBJECTIVE ELEMENTS OF THE CRIMES AGAINST HUMANITY OF PERSECUTION HAVE BEEN SATISFIED

32. The Elements of Crime of Article 7 of the Rome Statute provides for objective elements of crime of persecution, which have to be satisfied for commission of *crime against humanity* within the meaning of Article 7(1)(h). In order to constitute the crime against humanity of persecution it must be established that **(i)** The Principal Perpetrator has severely deprived people of their Fundamental Rights **(ii)** The Principal Perpetrator has targeted individuals or groups on the basis of political, ethnic, cultural or other grounds **(iii)** The Acts are connected with any act referred to in Article 7(1) or any crime within the jurisdiction of the Court

(i) The Principal Perpetrators have severely deprived people of their Fundamental Rights

33. As per Article 7(1)(h) sub-paragraph 1 in the Elements of Crime, there must be a severe deprivation of the Fundamental Rights which shall be contrary to international law.[45]
34. Further, The Chamber has previously considered murder, cruel inhuman treatment, and

[42] Compromis, Witness Testimonials, Victim Witness-2, p. 39.

[43] Compromis, p. 11, ¶ 5(b)(ii).

[44] Compromis, p. 11, ¶ 5(b)(ii).

[45] Elements of Crime, 2010, Article 7(1)(h), 1, Intl. Crim. Ct. (2011).

terrorizing of the civilian population as severe deprivation of Fundamental Rights causing a brutal impact on the victims.[46]

35. Moreover, as per Article 3 of the Universal Declaration of Human Rights, every person has a right to life, liberty, and security of person.[47] Additionally, as per Article 17(2), no one shall be deprived of their property in an arbitrary manner.[48]
36. Further, as per the International Covenant on Economic, Social and Cultural Rights, every State Party has to recognise the fundamental right to an adequate standard of living which includes but is not limited to food, clothing, healthcare and housing.[49]
37. Moreover, according to the International Covenant on Civil and Political Rights, every human has an inherent right to life as well as the right to freely practice, profess and enjoy their religion and culture.[50]
38. Additionally, the Convention on the Rights of the Child obligates state parties to recognize the inherent right to life of each child and to do the maximum possible to ensure their survival.[51] Furthermore, State Parties must also undertake appropriate steps to protect children from all mental, physical and emotional violence including but not limited to sexual abuse, maltreatment, exploitation, etc.[52]
39. As per the 1977 Additional Protocol I of the Geneva Convention, Article 53 prohibits any acts of hostility directed against historical monuments, artisanal objects, and spiritual objects that constitute the cultural heritage of the people.[53]
40. From the above Conventions and treaties, it is clear that customary international law affords certain Fundamental Rights to every human being which include but are not limited to the right to life, the right to property, the right against sexual abuse and right to protection of cultural objects and religious freedom.

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[46] Prosecutor v. Vidoje Blagojević and Dragan *Jokić*, IT-02-60-T, Judgement, TC, ¶ 619-621 (17 January 2005).

[47] Universal Declaration of Human Rights, 1948, 2, G.A. Res. 217A (III), U.N. Doc. A/810 at 71.

[48] Universal Declaration of Human Rights, 1948, 17(2), G.A. Res. 217A (III), U.N. Doc. A/810 at 71.

[49] International Covenant on Economic, Social and Cultural Rights, 1966, 11, 993 U.N.T.S. 3.

[50] International Covenant on Civil and Political Rights, 1966, 6, 27, 999 U.N.T.S. 171.

[51] Convention on the Rights of the Child, 1989, 6, 1577 U.N.T.S. 3.

[52] Convention on the Rights of the Child, 1989, 19, 1577 U.N.T.S. 3.

[53] Geneva Convention, Article 53.

41. In the present case, the Scorpion Community has undertaken numerous targeted attacks against the Cavern Clan.[54] Moreover, the members of the Scorpion Community have specifically kidnapped and sexually assaulted schoolgirls belonging to the Valours.[55]
42. Moreover, the elderly members of the Valours were deliberately targeted, culminating in the murder of their eldest patriarch, who was a hundred and two years old.[56] The Scorpion Community also burned down Valours' homes and destroyed cultural artifacts of great significance to their people.[57]
43. There was a clear violation of Fundamental Rights established under customary international law by the acts of the Scorpion Community.
44. Thus, in light of these facts and the laws applicable, the *first* objective requirement under Article 7(1)(h) has been satisfied, as the Principal Perpetrator through their actions have caused the severe deprivation of Fundamental Rights contrary to international law to the Cavern Clan.

(ii) The Principal Perpetrators have targeted such individuals or groups on the basis of political, ethnic, cultural or other grounds

45. Article 7(1)(h) sub-paragraph 3 of the Elements of Crime requires that the individuals or groups of individuals were targeted based on political, racial, national, ethnic, cultural, religious, gender grounds or any other grounds deemed as impermissible under international law.[58]
46. The Chamber has previously defined ethnic or ethnicity as a group whose members share a common language or culture.[59] Any community that has a distinct language, customs and traditional lands can be considered as an ethnic community.[60]
47. Culture has been defined as the complex whole which includes knowledge, belief, art, law,

[54] Compromis p. 10, ¶ 4(e); p. 14 ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, Communication, p. 25.

[55] Compromis p. 12, ¶ 5(d)(i); Witness Testimonials, Victim Witness-1, Communication, p. 38.

[56] Compromis p. 8, ¶ 3(b)(iv).

[57] Compromis Witness Testimonials, Victim Witness-1, General Description, p. 38.

[58] Elements of Crime, 2010, Article 7(1)(h), 3, Intl. Crim. Ct. (2011).

[59] The Prosecutor v. Jean-Paul Akayesu, ICTR-96-4-T, Judgement, TC, ¶ 122 (2 September 1998).

[60] Prosecutor v. Omar Hassan Ahmad Al Bashir, ICC-02/05-01/09-3, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, PTC I, ¶ 137 (4 March 2009).

morals, custom, and any other capabilities acquired by man as a member of society.[61] Moreover, a shared cultural heritage will usually include at least one defining feature of a persecuted group and can be used by the perpetrators to identify that group, which may include the elderly, the disabled, women and children.[62]

48. The Cavern Clan are clearly a distinct ethnic and cultural group, with a rich array of historic practices, customs, arts, and traditions.[63] They have passed down their agrarian practices, artisanal techniques, and traditional songs and dances to future generations.[64]

49. Furthermore, the Valours can be regarded as a distinct sub-ethnicity of the Cavern Clan, given that they possess their own customs, legends, and cultural artefacts.[65] Moreover, their hundred-and-two-year-old patriarch serves as the head of the household within the Valours emphasizing the shared cultural heritage of the community.[66]

50. It is clear that the Scorpion Community targeted the Cavern Clan based on their ethnic and cultural identity. As shown above, the attacks were meticulously organized by the Scorpions, aiming to decimate both the Cavern and Valour Clans, a goal nearly achieved, with only five members of the Valours remaining in the valley.[67]

51. Thus, in light of these facts and the laws applicable, the *second* objective requirement under Article 7(1)(h) has been satisfied, as the Principal Perpetrators have targeted such individuals or groups on the basis of recognised impermissible grounds.

(iii) The Principal Perpetrators have committed acts in connection with any act referred to in Article 7(1) or any crime within the jurisdiction of the Court.

52. Article 7(1)(h) sub-paragraph 4, requires that there must be some conduct 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. [68]

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[61] Edward B. Tylor, Primitive Culture 1 (Cambridge University Press 2012).

[62] Policy on Cultural Heritage, 2021, 74, Intl. Crim. Ct. (June 2021).

[63] Compromis p. 7, ¶ 3(b)(i).

[64] *Id.*

[65] Compromis p. 7, ¶ 3(b)(i); Compromis Witness Testimonials, Victim Witness-1, General Description, p. 38.

[66] Compromis p. 8, ¶ 3(b)(iv).

[67] Compromis p. 8, ¶ 3(b)(iv).

[68] Rome Statute of the International Criminal Court, 1998, 7(1)(h), 2187 U.N.T.S. 90.

53. In the present case, there is a clear commission of the crime against humanity of Murder as defined under Article 7(1)(a). The objective element of Murder as a crime against humanity requires that the perpetrator has killed one or more persons.[69]
54. From the present factual matrix, it can be clearly seen that the principal perpetrators have undertaken attacks upon the Valours leading to the deaths of at least twenty-three people.[70] Further, the attacks have also caused the near-decimation of the entire Valours Clan leaving merely five members in the Valley of Titan.[71] Moreover, in the entire attacks and conflict, a hundred and twenty people lost their lives.[72]
55. Therefore, it is clear that the object elements of the crime against humanity were fulfilled along with the contextual elements of Article 7 which have been satisfied as per the above facts and jurisprudence.
56. Thus, in light of these facts and the laws applicable, the *third* objective requirement under Article 7(1)(h) has been satisfied, as the Principal Perpetrator through their actions have caused the severe deprivation of Fundamental Rights contrary to international law to the Cavern Clan.

[C]. THE SUBJECTIVE ELEMENT OF 'KNOWLEDGE OF ATTACK' IS SATISFIED.

57. The chapeau of Article 7(1) requires that the Accused must have knowledge of the attack and that his or her conduct formed part of the larger attack.
58. Further, Paragraph 2 of the Introduction to Article 7 of the Elements of Crimes clarifies that the "knowledge" element "should not be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization.[73]
59. Moreover, it is sufficient to demonstrate that the Accused possesses a general awareness of the attack and that this awareness heightened the danger posed by his actions to the victims.[74]

[69] Elements of Crime, 2010, Article 7(1)(a), 1, Intl. Crim. Ct. (2011).

[70] Compromis p. 14, ¶ 5(f)(ii).

[71] Compromis p. 8, ¶ 3(b)(iv).

[72] Compromis p. 12, ¶ 5(d)(i).

[73] Elements of Crime, 2010, Article 7(1)(a), 2, Intl. Crim. Ct. (2011).

[74] Prosecutor v. Tadic, IT-94-1-T, Judgement, ¶ 657 (07 May 1997); Kunarac ¶ 102; Prosecutor v. Blaskic, IT-95-14-T, Judgement, TC ¶ 251 (03 March 2000); Prosecutor v. Krnojelac, IT-97-25-T, Judgement, ¶ 59 (15 March 2002); Kai Ambos and Steffen Wirth, The Current Law of Crimes Against Humanity: An analysis of UNTAET Regulation

60. From the present factual matrix, it is clear that the Accused was well aware of the actions taking place in Titan. The Accused had received a legal notice on 15th November 2022 regarding his contributions to the crimes perpetrated by the Scorpion Community, which demanded that he cease operations that were exacerbating the impact of their attacks.[75]
61. Moreover, an email sent by the Accused to his senior employees on January 10, 2023, directly referenced the attacks occurring throughout Titan.[76] His message also indicated awareness of his product's use and its significant impact on the conflict, as evidenced by his remarks about the meteoric increase in the number of users.[77]
62. Thus, as the Accused was aware of the attack, and used this knowledge to his advantage, at the detriment of the victims, intending his conduct to be a part of the attack, the subjective requirement of the mental element has also been met.

II. WHETHER JULES VERNE CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(C) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

It is humbly submitted that the Accused can be held criminally liable under Article 25(3)(c) since **[A]** The objective element is satisfied, and **[B]** The subjective element is satisfied.

[A]. THE OBJECTIVE ELEMENT IS SATISFIED

63. The Accused has been charged under Articles 25(3)(c)[78] and (d)[79] of the Rome Statute.[80] For individual criminal responsibility, a person should have either committed a crime,[81] or

15/2000, 13-41 (Criminal Law Forum 1, 2002).

[75] Compromis, Witness Testimonials, Prosecution Witness-2, Communication, p. 25.

[76] Compromis, Annexures, Annexure 1, p. 43.

[77] *Id.*

[78] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[79] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[80] Compromis, p. 16, ¶ 7.

[81] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

ordered[82], solicited[83] or induced[84] its commission. Aiding[85], abetting[86] or otherwise assisting for the purpose of commission of such a crime[87] also renders an individual criminally liable under the Statute. Intentional contribution in any other way[88] also has the same effect.

64. Article 25(3)(c) of the Statute deals with accessorial liability[89]. This assessment makes a person who assists the principal perpetrator of an offence responsible.[90] The assessment may focus on factors such as the Accused's position of authority and their level of influence in carrying out the criminal act to arrive at a decision.[91] This liability does not depend on whether the principal perpetrator or perpetrators could be identified, convicted or charged.[92]

65. While aiding, abetting and assisting are listed separately in the Statute, they are all included under the broader category of assisting the crime in question.[93] Aiding has been understood as providing *physical or material assistance* to the crime[94], while abetting has been understood as *morally or psychologically encouraging* the commission of the crime.[95] Sympathy to the cause may also fall under this category. Quiet presence may also make someone liable.[96]

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[82] Rome Statute of the International Criminal Court, 1998, 25(3)(b), 2187 U.N.T.S. 90.

[83] *Id.*

[84] *Id.*

[85] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[86] *Id.*

[87] *Id.*

[88] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[89] Lubanga trial judgment, ¶ 997, 999; Prosecutor v. Bemba Gombo, ICC-01/05-01/13-1989-Red, Judgment pursuant to Article 74 of the Statute, TC VII, ¶ 84 (19 October 2016) ["**Bemba October**"].

[90] Bemba October, ¶ 84.

[91] Prosecutor v. Blaškić, IT-95-14-A, AC, ¶ 195 (29 July 2004) ["**Blaškić**"]; Prosecutor v. Anto Furundzija, IT-95-17/1-T, ¶ 233,234 (10 December 1998) ["**Furundzija**"].

[92] Bemba October, ¶ 84.

[93] Bemba October, ¶ 87.

[94] Bemba October, ¶ 88; Akayesu ¶ 484; Prosecutor v. Kamuhanda, ICTR-99-54A-T, TC II, ¶ 596 (22 January 2003).

[95] Bemba October, ¶ 89; Prosecutor v. Taylor, SCSL-03-01-T, Judgement, TC II, ¶ 482 fn. 1136 (18 May 2012).

[96] Bemba October, ¶ 89.

66. The defendant must have assisted in the commission of the crime and acted with the intent to facilitate its commission in order to him criminally liable.[97] Either aiding or abetting alone is sufficient to prove criminal liability on his part.[98]
67. Aiding, abetting, or assisting constitutes a single mode of liability, and the assistance may be given before, during, or after the offence[99]. There is no requirement of physical presence.[100] No specific threshold of assistance is required, any aid contributing to the crime meets the threshold under Article 25(3)(c).[101] The accessory's liability is independent of the principal perpetrator's identification, conviction,[102] or valid defence.[103]
68. Aiding and abetting do not require inherently criminal acts, neutral activities like political, military, or business actions can also incur liability.[104] Additionally, providing weapons with the knowledge they will be used in mass killings during a systematic attack on civilians constitutes aiding and abetting, regardless of the number of deaths caused by the weapon.[105]
69. In the present scenario, the conflict commenced due to the murder of two Cavern children by rogue elements from the Scorpions, which soon escalated into organised violence.[106] The Scorpions launched raids on markets housing Cavern businesses, sabotaging property, and assets worth 10,000 USD.[107] Violence soon erupted and engulfed the region.[108] Law and order

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[97] Prosecutor v. Ble Goude, ICC-02/11-02/11, Decision on confirmation of Charges, PTC I, ¶ 167 (11 December 2014).

[98] Prosecutor v. Akayesu, ICTR-96-4-T, Judgment, TC I, ¶ 484 (2 September 1998) ["**Akayesu**"].

[99] Prosecutor v. Blaškić, IT-95-14-A, Appeal Judgement, AC, ¶ 48 (29 July 2004); Prosecutor v. Renzaho, ICTR-97-31-T, Judgement and Sentence, TC I, ¶ 742 (14 July 2009).

[100] Prosecutor v. Sesay, SCSL-04-15-T, Judgement, TC I, ¶ 278 (2 March 2009).

[101] Prosecutor v. Al-Mahdi, ICC-01/12-01/15, Decision on the confirmation of charges against Al-Mahdi, PTC I, ¶ 26 (24 March 2016).

[102] Prosecutor v. Krstić, IT-98-33-A, Judgement, AC, ¶ 143 (19 April 2004); Prosecutor v. Kaing, 001/18-07 2007, Judgement, ECCC/TC, ¶ 534 (26 July 2010); Prosecutor v. Vasiljevic, IT-98-32-A, Appeal Judgement, AC, ¶ 143 (25 February 2004).

[103] Prosecutor v. Simić, IT-95-9-T, Judgement, TC II, ¶ 161 (17 October 2003).

[104] Prosecutor v. Krajišnik IT-00-39-A, Judgement, AC, ¶ 217 (17 March 2009).

[105] *Id.*

[106] Compromis, p. 12, ¶ 5(c)(i).

[107] *Id.*

[108] *Id.*

in the region rapidly disintegrated.[109] Local law enforcement agencies, tasked with maintaining peace, were found to be deeply compromised.[110]

70. It was a severe blow to the population, with over one hundred twenty people losing their lives and over twelve hundred sustaining injuries.[111] Many of these injuries were life-altering.[112] The violence also caused one hundred and ten missing persons as well as displaced three hundred families.[113] There were reports of five hundred other acts of violence, including kidnappings, assault and sexual violence.[114] It was a massive breakdown of social order[115] and a severe humanitarian crisis.[116]
71. The Accused owned Titanian Secure Cloud (TSC), a blockchain which allowed stakeholders to maintain an immutable digital ledger.[117] This blockchain was employed by members of the Scorpion Community to upload information about vulnerable Caverns, including their names, location and the protection around older men, women and children.[118] Once any information was uploaded on the server, it could be accessed from anywhere, even without internet access, by anyone.[119]
72. Individuals whose details were on these servers found themselves attacked, lynched and their homes vandalised by mobs of Scorpion community members.[120] At least twenty-three people, probably more, lost their lives because of the use of this method of violence and targeted assault.[121]

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[109] Compromis, p. 12, ¶ 5(c)(ii).

[110] *Id.*

[111] Compromis, p. 12, ¶ 5(d)(i).

[112] *Id.*

[113] *Id.*

[114] *Id.*

[115] *Id.*

[116] Compromis, p. 12, ¶ 5(d)(ii).

[117] Compromis, p. 10, ¶ 4(c).

[118] Compromis, p. 14, ¶ 5(f)(ii).

[119] *Id.*

[120] *Id.*

[121] *Id.*

73. Civil society organisations, international humanitarian groups as well as activists also faced threats and assault.[122] The unrest also spread to other parts of the country as people grew increasingly disillusioned with the dismal situation.[123]
74. The Accused was sent a formal legal notice on November 15, 2022, requesting his cooperation in investigating the misuse of TSC, by the Titan Police Department.[124] He, however, ignored the notice.[125] He took no action.[126] The Accused sent a mail to his employees, outlining the necessity of continuing work despite the challenging times the country was facing as a result of the technology.[127] This mail was sent on January 10, 2023[128], after receipt of the legal notice on 15 November 2022.[129]
75. The Accused was a business magnate who had co-founded the company and helped develop its technology. He was thus in a position of authority, both as a co-founder as well as a CEO.
76. Through his platform, he provided clear physical and material assistance to the Scorpions to carry out their persecution of the Caverns. The easy and accessible nature of the blockchain made it a deadly weapon. The Accused thus essentially provided the means of aggravating the intensity of the violence to the Scorpions.
77. The Accused was well-aware of the situation. He had been sent a legal notice on 15 November, 2022 detailing the situation, yet he sent an email to his senior employees on 10 January, 2023, encouraging them to keep up work.
78. Despite being well aware of the situation, the Accused effectively aided the Scorpions by not shutting down the servers and allowing anyone to access the information. Despite being aware of the violence and the unrest, he took no action to attempt to curb it.

[122] Compromis, p. 14, ¶ 5(f)(iii).

[123] *Id.*

[124] Compromis Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[125] *Id.*

[126] *Id.*

[127] Compromis, Annexures, Annexure 1, p. 43.

[128] *Id.*

[129] Compromis Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

79. It is hence submitted that the Accused's system played a critical role in perpetuating the organised violence against the Cavern clan, especially the Valours, and therefore, his actions satisfy the objective elements of aiding and abetting.

[B]. THE SUBJECTIVE ELEMENT IS SATISFIED

80. It is submitted that the Accused had the required subjective element or *mens rea* since **(i)** the general intent requirement under Article 30 is met, and **(ii)** the specific intent requirement under Article 25(3)(c) is met.

(i) The General Intent Requirement Under Article 30 is Met

81. Article 25(3)(c)[130] details one subjective limitation to individual criminal responsibility under it, namely, that the accomplice must assist for the *purpose* of facilitating the commission.[131]
82. The requirement is two-fold.[132] The Accused must have had the *specific intent* to facilitate the commission of the crime, and assistance must be given with that intention.[133] One must read this requirement along with the general mental element under Article 30.[134] This mental element may include actions as well as omissions.[135]
83. Article 25(3)(c)[136] relates to the accessory's participation, and not the perpetrator's crime in question.[137] Article 30(2)(b)[138] provides for *dolus directus* of the second degree, where the person is aware that the crime will occur in the ordinary course of events because of his

[130] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[131] Kai Ambos, Principles of Criminal Law in the Rome Statute 10 (Bloomsbury 1999).

[132] Triffter and Kai Ambos, Rome Statute of the International Criminal Court: Article by Article Commentary 1225 (4th edn, Beck Hart Nomos 2022).

[133] Bemba October, ¶ 97,98.

[134] Rome Statute of the International Criminal Court, 1998, 30, 2187 U.N.T.S. 90.

[135] Lubanga, p. 119, ¶ 352(i); Volume 1, ESER, A., Mental Elements–Mistakes of Fact and Law in The Rome Statute of the International Criminal Court: A Commentary 898-899 (Oxford, Oxford University Press, 2002).

[136] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[137] Prosecutor v. Seromba, ICTR-2001-66-A, Judgement, AC, ¶ 56 (12 March 2008).

[138] Rome Statute of the International Criminal Court, 1998, 30(2)(b), 2187 U.N.T.S. 90.

conduct.[139] This element is assessed on what a reasonable person would have expected in each circumstance.[140] This also includes wilful omissions.[141]

84. Knowing of the exact elements of the crime is not necessary. To prove criminal liability, a general awareness of the essential elements of the crime is enough.[142]
85. In the present scenario, the Accused had been sent a legal notice requesting him to take steps to curb the violence spreading through his technology in good faith.[143] The investigation of the Titan Police Department revealed that the Accused had opportunities to reduce the damage being caused by TSC.[144]
86. The Accused was thus aware of the damage being caused by his technology. He could clearly see that the crime was being facilitated by his actions, or, rather, his willful inaction in not dismantling the network provided by his technology to the rogue Scorpions. A reasonable person would easily have assessed the gravity of the situation after the legal notice.
87. As a man of technology, the Accused could have assessed the role his technology was playing and taken steps accordingly, saving innocent lives. Hence, the general intent requirement under Article 30 is met.

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[139] Rome Statute of the International Criminal Court, 1998, 30(2)(b), 2187 U.N.T.S. 90; Ambos and Otto Triffterer, The Rome Statute of the International Criminal Court: A Commentary 1120 (Hart Publishing 2016).

[140] Katanga, ¶ 770-779; Prosecutor v. Zlatko Aleksovski, T-95-14/1-AR77, AC, ¶ 162,164 (30 May 2001); Prosecutor v. Krnojelac, IT-97-25-A, Judgement, AC, ¶ 51,52 (17 September 2003); Blaškić-Appeal, ¶ 50; Prosecutor Blagojevic, IT-02-60-A, Judgement, AC, ¶ 22 (9 May 2007); Prosecutor v. Naser Orić, IT-03-68-A, Judgement, AC, ¶ 43 (3 July 2008); Prosecutor v. Mrksić, IT-9513/1-A, Judgement, AC, ¶ 159 (5 May 2009); Prosecutor v. Momčilo Perišić, IT-04-81-A, Judgement, AC, ¶ 48 (28 February 2013); Prosecutor v. Khieu Samphân and Nuon Chea, 002/19-09-2007/ECCC/TC, Trial, ¶ 704 (16 November 2018).

[141] Lubanga, p. 119, ¶ 352(i); ESER, A., "Mental Elements–Mistakes of Fact and Law", in The Rome Statute of the International Criminal Court: A Commentary, Oxford, Oxford University Press, 2002, Vol. I, p. 898 and 899.

[142] Prosecutor v. Karera, ICTR-01-74-A, Judgement, AC, ¶ 321 (2 February 2009).

[143] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication at p. 25.

[144] *Id.*

(ii) The Specific Intent Requirement Under Article 25(3)(c) is Met

88. The aider and abettor must act with specific intent to be liable under Article 25(3)(c).[145] The aiding and/or abetting must be in order to facilitate the crime.[146] The required intent and knowledge can be gleaned from examining the circumstances and facts relevant.[147]

89. In the case of *Zyklon B*[148], the accused supplied poison gas originally intended for pests and vermin such as rats, knowing that it would be used for the systematic extermination of people who were Jews. This knowledge was held enough to establish the accused's role and involvement in aiding and abetting the crime.[149]

90. In the *Zyklon* case[150], there was no need to prove the intention of the accused to kill the internees or assist in killing them. The purpose of selling insecticide for profit, a lawful purpose, was accepted. However, it was held sufficient for criminal liability that the seller knew what the buyer intended to do with the product, namely, commit murders.[151]

91. The suggestion made by jurisprudence such as the *Zyklon* case[152] as well as the *Einsatzgruppen* case[153] is that the relationship between the acts of the principal and the accomplice must be in such a manner as to make the accomplice's acts have a significant effect.

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[145] Prosecutor v. Mrkšić, IT-95-13/1-A, Appeal Judgement, AC, ¶ 159 (5 May 2009); Prosecutor v. Blagojevic, IT-02-60-A, Judgement, AC, ¶ 188-189 (9 May 2007); Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[146] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90; Mbarushimana, ¶ 274 and 281; Bemba, ¶ 97.

[147] Elements of Crime, 2010, General Introduction, 3, Intl. Crim. Ct. (2011).

[148] Furundzija**,** ¶ 222.

[149] *Id.*

[150] 1 United Nations War Crimes Commission, Law Reports of Trials of War Criminals 93 (Majesty's Stationary Office, 1947).

[151] *Id*; Furundjiza, ¶ 238.

[152] Furundzija**,** ¶ 222.

[153] Furundzija**,** ¶ 219.

92. Where there is knowledge of someone else's crimes and that knowledge is combined with further aiding, abetting or assistance for perpetration of those crimes, relevant intent required for responsibility under Article 25(3)(c)**[154]** may be imputed.**[155]**

93. In the present case, the Accused was well aware of the criminal activities being carried on. A legal notice was sent to him requesting his cooperation in stopping the horrors TSC was playing a role in.**[156]** He also sent an email to his employees urging them to continue work.**[157]**

94. Moreover, when the hapless victims attempted to somehow stop the bloodshed, they found that escalating issues or seeking help from administrators was not feasible.[158] This was in spite of the fact that alternatives to reduce the violence did exist, such as implementing safeguards or disabling services in zones of conflict.[159] Yet, the Accused looked the other way and attributed it to the company's inherent goal of making profit.[160] He was also bitter about the Valours and accused them of a 'political hunt'[161] despite clear signs of violence.

95. The above factual matrix makes it clear that the Accused had knowledge of the crimes being committed as well as the fact that they were being committed through his platform. Instead of stopping the crimes by disabling the platform, he sent an email to his employees encouraging them that they were workers first and to not stop providing services in any circumstances.

96. His motives were twofold, firstly, the inherent motive of profit, for which he sacrificed innocent lives, and secondly, the bitterness he attributed to the Valours attempting to stop the advances the Scorpions had made.

97. The use of TSC, developed and kept running by the Accused, aided the crimes committed by the Scorpions. Despite being well aware of this, the Accused did nothing about it, instead, encouraged his employees to keep providing these services. There was thus knowledge of the

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[154] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[155] Prosecutor v. Momčilo Krajišnik, IT-00-39-A, Judgement, AC, ¶697-698 (17 March 2009).

[156] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[157] Compromis, Annexures, Annexure 1, p. 43.

[158] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 37.

[159] Compromis, Witness Testimonials, Victim Witness-2, General Communication, p. 41.

[160] Compromis, Witness Testimonials, Defence Witness-1, General Communication, p. 28.

[161] *Id.*

crimes and this knowledge was combined with further facilitation. Hence, the specific intent requirement under Article 25(3)(c) of the Rome Statute[162] is fulfilled.

III. WHETHER JULES VERNE CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(D) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

98. It is submitted that the Accused must be held criminally liable under Article 25(3)(d) of the Rome Statute since **[A].** The objective elements are fulfilled, and **[B].** The subjective elements are fulfilled.

[A]. THE OBJECTIVE ELEMENTS ARE FULFILLED

99. Article 25(3)(d) mandates contribution to the commission of the crime in any other manner apart from aiding and abetting.[163]
100. According to Article 25(3)(d)[164] of the Rome Statute, a person can be held criminally responsible if he, in any other way, apart from Articles 25(3)(a)165, 25(3)(b)[166] and 25(3)(c)[167], contributes to the commission or attempted commission of such a crime by a group of persons acting with a *common purpose.*
101. Such contribution should be intentional and should either be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court, or be made in the knowledge of the intention of the group to commit the crime.[168]

[162] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[163] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[164] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[165] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

[166] Rome Statute of the International Criminal Court, 1998, 25(3)(b), 2187 U.N.T.S. 90.

[167] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[168] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

102. It is thus different from aiding and abetting.[169] It has usually been employed in instances where there has been conspiracy or contribution to a group attempt by many persons acting with a common purpose in mind.[170] Logistical support has been held to be covered under this Article.[171]

103. Liability under article 25(3)(d) of the Statute entails three objective requirements, namely, a crime within the jurisdiction of the Court was attempted or committed, the commission or attempted commission of such a crime was carried out by a group of persons acting with a common purpose, and that the individual contributed to the crime in any way other than those set out in Articles 25(3)(a)[172], (b)[173] and (c)[174] of the Statute.[175]

104. For establishing common purpose, the purpose must be to commit the crime or its execution. It is not a requirement that the group must be inherently criminal or the purpose must only be criminal.[176] People involved must desire the consequence of the crime or must know that the crime would occur in the ordinary course of events. This includes acts or omissions.[177]

105. In the present scenario, the Scorpions stand accused of carrying out persecution against the Caverns.[178] Groups of rogue Scorpions carried out organised violence against the Caverns after the conflict commenced following the murder of two children belonging to the Cavern clan.[179] Twenty-seven persons stand formally arrested.[180]

106. Proceeds from various crimes such as theft, extortion and smuggling were converted into cryptocurrency tokens by a few members of the Scorpion Community and by those who

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[169] Furundzija, ¶ 216,249.

[170] Preparatory Committee Draft, Art. 23, ¶ 7(e)(ii).

[171] Katanga, p. 646, ¶ 1671-1681.

[172] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

[173] Rome Statute of the International Criminal Court, 1998, 25(3)(b), 2187 U.N.T.S. 90.

[174] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[175] Mbarushimana ¶ 283; Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90; Katanga, p. 625, ¶ 1620.

[176] Katanga, p. 627, ¶ 1627.

[177] Katanga, p. 628, ¶ 1627.

[178] Compromis, p. 15, ¶ 6(c).

[179] Compromis, p. 12, ¶ 5(c)(i).

[180] Compromis, p. 15, ¶ 6(c).

supported them. These tokens were traded on Titan's largest crypto exchange - AlphaBeacon. This created a shadow economy, enabled by systemic corruption. It provided funding for armed groups of the Scorpions, helping to keep the violence running.[181]

107. The Accused served as the CEO of AlphaBeacon during the relevant time[182] and oversaw the management of the company as CEO.[183] Reports prepared, both national and international, indicated towards the role of the tools offered by AlphaBeacon, a company co-founded by the Accused[184], in assisting the criminals belonging to the Scorpion community to convert and trade fiat currency, other tangible valuables into tokens, list such tokens, and trade them easily.[185] This became one of the primary causes of the grave intensity of the violence that occurred and the casualties.[186]

108. Some commentators noted that the violence could have stopped much before it did if AlphaBeacon had withdrawn the services it was offering to the rogue elements.[187] Tokens worth a significant amount of money were traded by those who perpetrated the violence against the Caverns with almost total security and almost no barriers.[188] The use of these tokens made it difficult to trace and disrupt these illicit financial networks.[189]

109. The crime of persecution is clearly under the jurisdiction of the Court.[190] Moreover, this persecution was carried out by a group of individuals acting with a common purpose, namely, attacking the Cavern Clan. This is apparent through the way the violence was organised, by creating a shadow economy.

110. The Accused, through wilful inaction, contributed in a manner different to Articles 25(3)(a), (b) and (c) of the Statute. Had AlphaBeacon withdrawn its services, rogue groups would have lost funding and the violence would not have occurred. While the Accused did not provide

[181] Compromis, p. 13, ¶ 5(e)(ii).

[182] Compromis, Witness Testimonials, Defence Witness-1, General Description at p. 28.

[183] Compromis, p. 9, ¶ 4(c).

[184] *Id.*

[185] Compromis, p. 13, ¶ 5(e)(ii).

[186] *Id.*

[187] *Id.*

[188] *Id.*

[189] *Id.*

[190] Rome Statute of the International Criminal Court, 1998, 7(1)(h), 2187 U.N.T.S. 90.

physical or material assistance in itself by providing company resources as under Article 25(3)(c), he did contribute towards the same by allowing the Scorpions to utilise an illicit shadow economy for their funding.

111. Hence, the objective elements of liability under Article 25(3)(d) of the Rome Statute stand fulfilled and the Accused should be held individually responsible for the crimes committed under the same.

[B]. THE SUBJECTIVE ELEMENTS ARE FULFILLED

112. A reading of Article 25(3)(d) as well as the jurisprudence on the subject highlights two subjective requirements for individual criminal responsibility under this Article. These two requirements are that, **firstly**, the contribution should be *intentional*, and **secondly**, should either be made with the aim of furthering the criminal activity or criminal purpose of the group, and/or in the *knowledge of the intention of the group* to commit the crime.[191]

113. In the present case, there was trading of illegal tokens on AlphaBeacon[192], a platform co-founded by the Accused.[193] It was clearly noted that had AlphaBeacon withdrawn its services, this illicit funding could have stopped.[194]

114. Looking at the situation and after investigating, the Accused was sent a legal notice by the Titan Police Department requesting cooperation in the investigation, which the Accused ignored.[195] About two months later, he sent an email to his employees encouraging them to keep working.[196]

115. The Accused thus contributed intentionally to the crimes, since he did nothing to stop them, in fact, encouraged his company to keep working the way it had been. Secondly, he was well aware and in knowledge of the intention of the Scorpions to commit these crimes, especially after the legal notice. He thus furthered the criminal activity while being perfectly aware of the

[191] Mbarushimana ¶ 283; Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90; Katanga, p. 625, ¶ 1620.

[192] Compromis, p. 13, ¶ 5(e)(ii).

[193] Compromis, Witness Testimonials, Defence Witness-1, General Description, p. 28.

[194] Compromis, p. 13, ¶ 5(e)(ii).

[195] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[196] Compromis, Annexures, Annexure 1, p. 43.

intention of the group to do what it did. Both the subjective elements are thus fulfilled and the Accused is guilty of contributing to persecution under Article 25(3)(d) of the Rome Statute.

PRAYER

Wherefore, in light of the issues raised, arguments on merit, evidence supplied and authorities cited, the Prosecution most humbly and respectfully requests the Court to adjudge and declare that:

I. The facts as described by the pre-trial chamber **constitute a crime against humanity of persecution** under Article 7(1)(h) of the Rome Statute.

II. The Accused **should be held criminally liable under Article 25(3)(c) of the Rome statute** for his role towards the aid extended by him towards the commission of the crime.

III. The Accused **should be held criminally liable under Article 25(3)(d) of the Rome statute** for his role towards the aid extended by him towards the commission of the crime.

All of which is respectfully submitted,

ON BEHALF of THE PROSECUTION

COUNSELS FOR THE PROSECUTION

SICTA _05_D

10TH SYMBIOSIS LAW SCHOOL PUNE INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION, 2025

BEFORE

TRIAL CHAMBER I, INTERNATIONAL CRIMINAL COURT THE HAGUE, NETHERLANDS

IN THE MATTER *of*

THE PROSECUTOR ..... PROSECUTION

V.

MR. JULES VERNE ..... DEFENCE

DEFENDANT CHARGED WITH

Persecution against the nationals of Titan belonging to the Cavern Clan covered under article 7(1)(h) of the Rome Statute

WORD COUNT: 6526

WRITTEN SUBMISSIONS ON BEHALF *of* THE DEFENCE

Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No: ICC-/-/**

Date: _____

TRIAL CHAMBER II

Before: **Judge, _____ the Presiding Judge**

Judge _____ and

Judge _____

SITUATION IN THE TERRITORY OF TITAN IN THE CASE OF

THE PROSECUTOR v. JULES VERNE

Source: Office of Prosecution

TABLE OF CONTENTS

LIST OF ABBREVIATIONS

Abbreviation	Full Forms
&	And
v.	Versus
¶	Paragraph
p.	Page number
ICC	International Criminal Court
Art.	Article
TC	Trial Chamber
TSC	Titanian Service Cloud
U.N.T.S.	United Nations Treaty Series
JCE	Joint Criminal Enterprise
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
Id	Ibid
i.e.	Id est
AC	Appeal Chamber
Anx.	Annexure
Res.	Resolution
RPE	ICC Rules of Procedure and Evidence
RS	Rome Statute
u/a	Under article
USD	United States Dollars

INDEX OF AUTHORITIES

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STATEMENT OF FACTS

Background

1. Titan is a landlocked country rich in natural resources, cultural diversity as well as economic disparity. The country is home to multiple ethnic groups including the Scorpions and the Caverns.
2. The Scorpion community lives in the desolate, unforgiving peaks of the Homroz Mountains in northern Titan, in stark contrast to the affluence of the valley below the mountains. These harsh, barren mountains are characterized by rocky terrain, an arid climate, and an acute scarcity of natural resources. The soil is too poor for substantial agriculture, leaving the Scorpions to subsist on meagre yields from sparse terraced farms or foraged wild roots and berries. Water is a constant struggle; the community relies on seasonal meltwater from glaciers or arduous journeys to distant, unreliable springs. Starvation is not uncommon, and malnutrition is rampant among children. Politically, the Scorpions are marginalized, their voices drowned out by the more prosperous regions of Titan.
3. Compared to other ethnic groups in Titan, the Cavern Clan enjoys an exceptional standard of living. While much of Titan grapples with poverty and underdevelopment, the Caverns display a standard of rural opulence that is rare in such settings. The Caverns' dominance over Titan's most coveted resources places them in a position of significant power and influence.
4. Within the legal corpus of the Cavern Clan exists a sub-division of the ethnicity called the Valours. The Valours are one of the longest-surviving and most powerful families of the Cavern.

The Accused

5. Mr. Jules Verne is a renowned entrepreneur who has won several accolades and recognitions from prominent business associations.
6. During the relevant period, the Accused was the promoter and the CEO of AlphaBeacon LLC, a privately held corporation, established in 2015, which controlled the second largest crypto exchange in South America.
7. He also owns Titanian Secure Cloud, an effective blockchain serving a variety of uses.

The Conflict

8. The source of tension between the Scorpions and the Caverns lies in the Cavern Clan's exploitation of the valley's resources, particularly its intensive mining activities and large-scale deforestation.
9. The violence erupted due to the murder of 2 children as well as widespread misinformation against the Cavern clan.
10. The Scorpions launched raids on markets housing Cavern businesses, sabotaging property, and assets worth 10,000 USD. In retaliation, the Caverns mobilized armed groups to protect their operations, targeting Scorpion settlements in punitive raids. The violence soon engulfed the region, with both sides committing acts of aggression against one another.
11. Over one hundred and twenty people lost their lives, while twelve hundred sustained injuries.

The Controversy Surrounding AlphaBeacon and TSC

12. Proceeds from crimes such as extortion, theft, and smuggling were converted into cryptocurrency tokens and traded on AlphaBeacon, Titan's largest cryptocurrency exchange.
13. TSC was used by some Scorpions to upload information about the Caverns. Those individuals whose details were uploaded on such servers often found themselves targeted by mobs of Scorpion community members, their homes vandalised and their persons lynched by the crowd.

Charges

14. On August 30, 2023, the ICC Prosecutor filed before the Chamber, the document containing charges levelled against the Accused for acts committed during the relevant period. The charge on which the Accused is sought to be prosecuted is Article 7(1)(h) of the Rome Statute, relating to persecution, along with Article 25(3)(c) of the Rome Statute and Article 25(3)(d) of the Rome Statute, dealing with individual criminal responsibility.
15. The Valours have also requested for a priority in reparations, which the defence does not agree to.
16. The Chamber has confirmed the jurisdiction and admissibility of the said charges.

ISSUES PRESENTED

ISSUE I

WHETHER THE FACTS AS DESCRIBED BY THE PRE-TRIAL CHAMBER CONSTITUTE A CRIME AGAINST HUMANITY OF PERSECUTION UNDER ARTICLE 7(1)(H) OF THE ROME STATUTE?

ISSUE II

WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(C) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

ISSUE III

WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(D) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

ISSUE IV

WHETHER THE VALOURS CLAIM FOR PRIORITY OF REPARATION AND THE DEMAND OF THE SAME FROM THE ACCUSED IS JUSTIFIED?

SUMMARY OF ARGUMENTS

ISSUE I

The Pre-Trial Chamber has *erroneously* confirmed the charges against the Accused for the crime against humanity of persecution, under Article 7(1)(h) of the Rome Statute as, *firstly,* the Contextual requirements of Article 7 of the Rome Statute are not fulfilled as there was no widespread and systematic attack perpetrated against the Cavern Clan, *secondly,* the Subjective element of knowledge of the attack is not satisfied as the Accused did not have any knowledge regarding the Scorpion's attack nor did he have any knowledge of his alleged contributions.

ISSUE II

It is submitted that the Accused cannot be held criminally liable under Article 25(3)(c) of the Rome Statute since, *firstly,* the objective element is not satisfied since there is no substantial contribution and *secondly,* the subjective element is not satisfied since the Accused does not meet the required threshold of intent.

ISSUE III

It is submitted that the Accused cannot be held criminally liable under Article 25(3)(d) of the Rome Statute since, *firstly,* there was no contribution to conspiracy on the Accused's part since the elements of conspiracy, namely, an agreement, and specifically, an agreement to commit a crime are not fulfilled and *secondly,* he has not contributed to any joint criminal enterprise since the Accused's actions fall in none of the three degrees of joint criminal enterprise because of absence of criminal intent.

ISSUE IV

The demands of reparation from the Accused are not justified as the Accused has not committed any of the crimes that have been charged and is wholly innocent. Moreover, the Accused objects to the reparations and their modalities on the grounds of, *firstly,* the indigence of the Accused as there are no assets remaining with the Accused and imposition of reparation would be unrealistic and impractical, *secondly,* the Accused does not individually own any remaining assets or estate as nearly all of his assets are frozen by Titanian Government and the remaining are under joint ownership with an unrelated third party, *thirdly,* the reparations must be made on a collective basis

due to the harm suffered by both the communities as well as to maintain equality and reduce communal animosity and, *lastly*, the conflict does not warrant the establishment of any priority of distribution of reparation(s) in favour of the Valours as the community is not a vulnerable group and priority to the Valours would reinforce systemic discrimination.

ARGUMENTS IN DETAIL

I. WHETHER THE FACTS AS DESCRIBED BY THE PRE-TRIAL CHAMBER CONSTITUTE A CRIME AGAINST HUMANITY OF PERSECUTION UNDER ARTICLE 7(1)(H) OF THE ROME STATUTE?

1. The Pre-Trial Chamber ["**PTC**"] has *erroneously* confirmed the charges against Mr. Jules Verne ["**The Accused**"] for the crime against humanity of persecution, under Article 7(1)(h) of the Rome Statute as **[A.]** the Contextual requirements of Article 7 of the Rome Statute are not fulfilled, **[B.]** the Subjective element of knowledge of the attack is not satisfied.

[A]. THE CONTEXTUAL REQUIREMENTS OF ARTICLE 7 OF THE ROME STATUTE ARE NOT FULFILLED

2. The chapeau of Article 7(1) of the Rome Statute requires that crimes against humanity be committed against a civilian population as part of a state or organizational policy in a widespread or systematic manner.[1]

(i) The attack was not widespread

3. An attack is considered to be widespread when it is perpetuated on a large scale.[2] An attack must be massive, frequent, carried out collectively with considerable seriousness, and directed

[1] Rome Statute of the International Criminal Court, 1998, 7(1), 2187 U.N.T.S. 90.

[2] The Prosecutor v. Jean-Pierre Bemba Gombo, : ICC-01/05-01/08, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, PTC II ¶ 83 (15 June 2009) ["**Bemba PTC II**"]; Prosecutor v. Katanga, ICC-01/04-01/07-717, Decision on the confirmation of Charges, ¶ 394 (14 October 2008); Prosecutor v. Al Bashir, ICC-02/05-01/09-3, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir (Mar. 4, 2009); William Schabas, General Principles of Criminal Law in the International Criminal Law Statute 97 (European Journal of Crime, Criminal Law and Criminal Justice 1998); Otto Triffterer, The Rome Statute of the International Criminal Court: A Commentary 1120 (Hart Publishing 2016).

against a large number of civilian victims.[3] Furthermore, the assessment of whether an attack is widespread must be carried out based on individual facts of each case.[4]

4. The chamber has previously held an attack to be widespread when it affected 'hundreds of thousands of victims' and the attack took place over a large geographical area.
5. In the present factual matrix, the attack was not widespread in nature as it did not affect the Cavern Clan on a massive scale as a large number of civilians were not affected by the so-called targeted attacks. Furthermore, the purported targeted actions were associated with a comparatively limited casualty count, reportedly affecting only twenty-three individuals from the Cavern Clan.[5]
6. The larger effect on society which led to a loss of one hundred and twenty lives along with twelve hundred sustaining injuries was not due to the targeted attacks but rather the civil conflict between the community,[6] where even the purported victims participated in punitive raids,[7] causing losses to the Scorpion Community as well.
7. Therefore, considering the above facts, the attacks could not be regarded as widespread as they were not massive and frequent nor were they carried out against a large number of civilian populations.

(ii) The attack was not systematic

8. An attack is considered systematic when the acts of violence are organised and there is a distinct improbability of their random occurrence.[8] There must be a non-accidental recurrence of criminal conduct.[9] Further, the Chamber previously classified an attack as systematic where it lasted for well over five years and the committed acts significantly followed a similar pattern.[10]

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[3] The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, ICC-01/09-01/11-373, ¶ 176-177 (22 January 2012); Situation in the Republic of Kenya, ICC-01/09-19-Corr, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation in the Situation in the Republic of Kenya, ¶ 95 (31 March 2010).

[4] The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08 A, ¶ 163 (8 June 2018).

[5] Compromis, p. 14, ¶ (f)(ii).

[6] Compromis p. 14, ¶ g.

[7] Compromis p. 12, ¶ c(i).

[8] Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, IT-96-23/1-T, ¶ 46- 48 (22 February 2001).

[9] *Id.*

[10] Prosecutor v. Al Bashir, ICC-02/05-01/09-3 ¶ 85 (4 March 2009).

9. In the present case, the attacks occurred as a part of an armed conflict that began spontaneously due to the spread of misinformation and the alleged acts of some individuals.[11] Moreover, the mere use of a software to disseminate information cannot be called a 'systematic' attack.[12]
10. The attacks carried out by the Scorpion community were part of an armed conflict in which both communities had engaged in violence, leading to mob attacks on homes, marketplaces, and other properties.[13]
11. Regrettably, armed conflict between the communities had become commonplace.[14] However, they did not follow any systemic pattern but were instead driven by the escalating conflict and deteriorating relations between the people.
12. Moreover, the so-called targeted attacks were merely acts of violence which occurred during the armed conflict against the entirety of Cavern Clan and were caused by the eruption of mob violence. [15]
13. Despite the leaked information, attacks by mobs can hardly be classified as organized,[16] recurrent, and as having a distinct improbability of repetition, especially in a civil and communal conflict.
14. Thus, it is clear that the attack was not systematic as no clear pattern can be established and there were no frequent. Therefore, it is clear that the attacks do not sufficiently occur in order to form a modus operandi or a clear pattern of crimes.

[11] Compromis p. 12, ¶ 5(c)(i).

[12] Kai Ambos, Cyber Attack International Crimes under Rome Statute of the International Criminal Court? ICC Forum 2022 (7 March 2022) https://iccforum.com/cyberwar#Ambos .

[13] Compromis, p. 12, ¶ 5(c)(i).

[14] Compromis, p. 4, ¶ 1(h); Compromis, p. 14, ¶ 5(g).

[15] Compromis, p. 14, ¶ 5(f)(ii); Compromis p. 12, ¶ 5(c)(i).

[16] Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyattta and Mohammed Hussein Ali, ICC-01/09-02/11, ¶ 160-161, 163 (23 January 2012).

[B]. THE SUBJECTIVE ELEMENT OF KNOWLEDGE OF THE ATTACK IS NOT SATISFIED.

15. Article 7(1) which describes the mental element of crimes against humanity requires that an Accused must know that their conduct could be or intended it to be a part of the widespread or systematic attack against a civilian population.[17]
16. Further, the Accused must be aware that his actions are part of a broader context.[18] The phrase '*with knowledge*' pertains to the mental element under Article 30(3) of the Statute, which defines '*knowledge*' as awareness that a circumstance exists or that a consequence will occur in the ordinary course of events.[19] Additionally, the Accused must know that there is an ongoing widespread and systematic attack on a civilian population and the acts of the Accused are a part of the attack.[20]
17. In the present case, the Accused was the CEO of AlphaBeacon[21] and had no direct involvement in the alleged crimes against humanity committed by the Scorpion community.[22] The Accused also had no prior knowledge of the Scorpion community's plans.[23]
18. Further, the Accused had merely created a blockchain platform for the storage and transmission of information.[24] He had no control over how the people used the actual platform and did not have the authority to singlehandedly enforce restrictions upon the platform's users.[25]
19. No evidence or testimony presented by the prosecution suggests that the Accused created TSC with the knowledge to facilitate crimes against humanity nor do any acts of the Accused show that he wished to bring about the material elements as an inevitable consequence.

[17] Rome Statute of the International Criminal Court, 1998, 7(1), 2187 U.N.T.S. 90.

[18] The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08 A, ¶ 359-360 (8 June 2018).

[19] Bemba PTC II, ¶ 87.

[20] Prosecutor v. Kunarac, IT-96-23&IT-96-23/1-A, Judgment, AC ¶ 102 (12 June 2002); S. R. Lee, The International Criminal Court, The Making of the Rome Statute, Issues, Negotiations, Results, p. 98, fn. 55 (Kluwer Law International, 1999).

[21] Compromis p. 9, ¶ 4(c).

[22] Compromis, p. 12, ¶ c(i).

[23] *Id.*

[24] Compromis, Witness Testimonials, Defence Witness-1, General Communication, p. 30.

[25] Compromis, Witness Testimonials, Defence Witness-2, General Description, p. 32.

20. Thus, it is clear that the Accused had no intention nor any knowledge that their acts or omissions would inevitably cause the material elements to occur. The Accused therefore does not cross the required threshold and hence does not have the required knowledge for the commission of crimes against humanity.

II. WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(C) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

21. It is submitted that the Accused cannot be held criminally liable under Article 25(3)(c) of the Rome Statute since **[A].** The objective element is not satisfied **[B].** The subjective element is not satisfied.

[A]. THE OBJECTIVE ELEMENT IS NOT SATISFIED

22. For individual criminal responsibility, a person should have either committed a crime[26] or ordered[27], solicited[28] , or induced[29] its commission.
23. Aiding[30], abetting[31] , or otherwise assisting for the purpose of commission of such a crime[32] also renders an individual criminally liable under the Statute. Intentional contribution in any other way[33] also has the same effect.

[26] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

[27] Rome Statute of the International Criminal Court, 1998, 25(3)(b), 2187 U.N.T.S. 90.

[28] *Id.*

[29] *Id.*

[30] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[31] *Id.*

[32] *Id.*

[33] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

24. In the present scenario, the Accused has been charged under Article 25(3)(c)[34] and Article 25(3)(d)[35] of the Rome Statute.[36]
25. It is necessary that the accessory's actions must have a significant causal link to its perpetration[37] to hold them responsible for aiding and abetting the crime under Article 25(3)(c). Their actions must substantially lead to the crime in question.[38]
26. One proof for establishing the same may be the 'but for' test, i.e., that the crime in question would probably not have occurred had the Accused's assistance not been at hand, or at least not have occurred in the manner in which it did.[39]
27. Minimal or marginal involvement is not sufficient[40]; and the assessment focuses on certain factors such as the Accused's position of authority and/or their level of influence in carrying out the criminal act to arrive at a decision.[41]
28. The Cavern Clan had historically exploited the valley's natural resources, which was the source of their present wealth, and the tension between the two communities originated from the same. The Scorpions viewed this as an environmental threat as well as an unfair concentration of economic power. They saw this as a danger to the future of their children and the long term stability of the area. There was perception of systemic neglect at the hands of the administrators of Titan, further fuelling the Scorpions' grievances.[42]
29. The conflict is believed to have been spurred due to the murder of two children belonging to the Cavern Clan by rogue elements alleged to be from the Scorpion community on March 30, 2022. Subsequently, a massive amount of misinformation was spread on social media channels

[34] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[35] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[36] Compromis, p. 16, ¶ 7.

[37] Prosecutor v. Tadić, IT-94-1-T, TC, ¶ 688 (7 May 1997) ["**Tadić**"].

[38] Prosecutor v. Lubanga, ICC-01/04-01/06, TC I, ¶ 997 (10 July 2012) ["**Lubanga**"].

[39] Prosecutor v. Mbarushimana, ICC-01/04-01/10-465-Red, PTC I, ¶ 277 (16 December 2011) ["**Mbarushimana**"].

[40] Prosecutor v. Furundzija IT-95-17/1-T, TC, ¶ 231 (10 December 1998) ["**Furundzija**"].

[41] Prosecutor v. Blaškić IT-95-14-A, ¶ 195 AC (29 July 2004) ["**Blaškić**"]; Furundzija, ¶ 233,234.

[42] Compromis, p. 11, ¶ 5(b)(ii).

distributing hate-filled content targeting the Cavern Clan.[43] This eventually led to severe violence propagated by both sides.[44]

30. Officials provided protection to criminal elements within both clans.[45] Over one hundred and twenty people lost their lives, while around twelve hundred sustained injuries.[46] Twenty three people were thought to have lost either belongings or life through the Scorpions targeting Caverns through Titanian Secure Cloud (TSC).[47]
31. The Accused was an individual in his company, a system governed and bound by a network of shareholders, legal framework and boards.[48]
32. It is apparent from the data and facts that violence would have taken place irrespective of the Scorpions using TSC. The conflict sparked by the murder of two children and the massive amount of misinformation spread quickly escalated into organised violence, which would have occurred irrespective of the use of TSC.
33. The Accused had no authority or influence over how the system was utilized. He did not own TSC or AlphaBeacon LLC personally. He was one individual in a company governed by, as all companies are, shareholders, boards, and legal frameworks.
34. Even if his work on the TSC is considered to have contributed to the Scorpions' actions, such participation was purely technical and marginal, falling far short of the substantial assistance required under Article 25(3)(c).

[B]. THE SUBJECTIVE ELEMENT IS NOT SATISFIED

35. Article 25(3)(c) details one subjective limitation to individual criminal responsibility under it, namely, that the accomplice must assist for the *purpose* of facilitating the commission.[49]

[43] Compromis, p. 12, ¶ 5(c)(i).

[44] *Id.*

[45] *Id.*

[46] Compromis, p. 12, ¶ 5(d)(i).

[47] Compromis, p. 14, ¶ 5(f)(ii).

[48] Compromis, Witness Testimonials, Defence Witness-1, p. 28.

[49] Kai Ambos, Principles of Criminal Law in the Rome Statute 10 (Bloomsbury 1999).

36. The requirement is two-fold.[50] The Accused must have had the *specific intent* to facilitate the commission of the crime, and assistance must be given with that intention.[51] One must read this requirement along with the general mental element under Article 30.[52]
37. Article 25(3)(c) relates to the accessory's participation and not the perpetrator's crime in question.[53] The threshold exceeds the mental requirement under Article 30.[54] Mere knowledge of the existence of perpetration of the crime is thus insufficient.[55] Indifference marks the division between purpose and knowledge.[56]
38. Article 30(2)(b) provides for *dolus directus* of the second degree, where the person is aware that the crime will occur in the ordinary course of events because of his conduct.[57] This element is assessed on what a reasonable person would have expected in each circumstance.[58]
39. The Accused owns Titanian Secure Cloud, a rustic but effective blockchain used across Titan and some countries in Asia for *a variety of public and private purposes.* This cloud service allowed stakeholders to maintain an immutable digital ledger and served a variety of use cases – with particular emphasis towards assisting technologically challenged small and medium enterprises in Titan and other countries.[59]

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[50] Triffter and Kai Ambos, Rome Statute of the International Criminal Court: Article by Article Commentary 1225 (Beck Hart Nomos 2022).

[51] Prosecutor v. Bemba Gombo, ICC-01/05-01/13-1989-Red, TC VII, ¶ 97,98 (19 October 2016) ["**Bemba**"].

[52] Rome Statute of the International Criminal Court, 1998, 30, 2187 U.N.T.S. 90.

[53] Prosecutor v. Seromba ICTR-2001-66-A, AC, ¶ 56 (12 March 2008).

[54] Bemba, ¶ 97.

[55] Prosecutor v. Bemba Gombo, ICC-01/05-01/08-424, PTC II, ¶ 35 (15 June 2009).

[56] James Stewart, Transitional Justice in Colombia and the Role of the International Criminal Court (ICC, 2015).

[57] Rome Statute of the International Criminal Court, 1998, 30(2)(b), 2187 U.N.T.S. 90; Triffter and Kai Ambos, Rome Statute of the International Criminal Court: Article by Article Commentary 1225 (Beck Hart Nomos 2022); Otto Triffterer, The Rome Statute of the International Criminal Court: A Commentary 1120 (Hart Publishing 2016).

[58] The Prosecutor v. Germain Katanga, ICC-01/04-01/07, Judgment pursuant to article 74 of the Statute, TC II, ¶ 770–779 (7 March 2014) ["**Katanga Trial**"]; Prosecutor v. Zlatko Aleksovski, IT-95-14/1-AR, 77 ¶ 162,164 (30 May 2001); Prosecutor v. Krnojelac IT-97-25-A, AC, ¶ 51,52 (17 September 2003); Blaškić, ¶ 50; Prosecutor v. Blagojevic, IT-02-60-A, AC, ¶ 22 (9 May 2007); Prosecutor v. Naser Orić IT-03-68-A, AC, ¶ 43 (3 July 2008); Prosecutor v. Mrksić IT-9513/1-A, AC, ¶ 159 (5 May 2009); Prosecutor v. Momčilo Perišić, IT-04-81-A, AC, ¶ 48 (28 February 2013); Prosecutor v. Khieu Samphân and Nuon Chea, 002/19-09-2007/ECCC/TC, ¶ 704 (16 November 2018).

[59] Compromis, p. 10, ¶ 4(c).

40. This makes it amply clear that the purpose of creating the blockchain was, *inter alia*, assisting technologically challenged small and medium enterprises in Titan and other countries. The *purpose* was not to aid and abet the Scorpions in committing persecution against the Caverns, or specifically the Valours.
41. Moreover, a company is inherently designed to seek business opportunities and maximize profits; this is neither illegal nor immoral but the very essence of its purpose.[60] During the relevant period, the Accused was the promoter and the CEO of AlphaBeacon LLC, a privately held corporation, established in 2015.[61] The company in question was not established for the purpose of aiding and abetting persecution.
42. Blockchain technology operates on the principle of decentralization—a democratic ideal at its core. TSC was designed to empower its users by removing central authority, ensuring that no single entity or individual could unilaterally control or manipulate its operation.[62] By design, blockchains like TSC are self-regulating and immutable.[63]
43. Technology is naturally open to anyone who meets legal requirements. TSC had been in existence long before the conflict began. In fact, the Accused's companies had employed members of the Cavern Clan and offered technological services, including TSC's cloud servers.[64] Even the Valours found TSC a useful tool. Its simplicity and reliability were praised.[65]
44. The platform had investors.[66] In his email to the company, the Accused invited employees to place forth any concerns or suggestions they may have.[67] The board of directors exercised significant oversight over the company's operations, with managerial teams required to report regularly and justify strategic decisions.[68] Major decisions were taken by the board of

[60] Compromis, Witness Testimonials, Defence Witness-1, p. 28.

[61] Compromis, p. 8, ¶ 4(c).

[62] Compromis, Witness Testimonials, Defence Witness-1, p. 29.

[63] *Id.*

[64] Compromis, Witness Testimonials, Victim Witness-1, p. 36 and 37.

[65] *Id.*

[66] Compromis, Annexures, Annexure 1, p. 43.

[67] Compromis, Annexures, Annexure 1, p. 44.

[68] Compromis, Annexures, Annexure 4, p. 51.

directors[69], the Chairman was elected[70], and the CEO was a part of these officers[71], not the sole authority.

45. When the Accused developed the technology, he could not have reasonably anticipated that the platform would be used in escalating violence one day. It had been established to increase accessibility to technology in marginalised areas as well as to promote profit, as all companies do. Investors and customers have certain expectations from any company. The Accused could not unexpectedly shut down the operation.
46. The Accused thus did not have any specific intent to aid in the commission of persecution, neither was the platform offered in furtherance of any such intent. He was simply attempting to keep his organisation running in turbulent times.
47. The Accused was also governed by the board of directors in decisions the company took. His position and power, though substantial, were not enough to influence the company in such an extreme measure that no one took any decision or step to block the platform or the Scorpions from committing persecution.

III. WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(D) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

48. It is submitted that the Accused cannot be held criminally liable under Article 25(3)(d) of the Rome Statute since **[A]** There was no conspiracy on the Accused's part, **[B]** He has not contributed to any joint criminal enterprise. **[C]** There was no contribution in any other manner.

[69] Compromis, Annexures, Annexure 5, p. 53, ¶ 12.2.

[70] Compromis, Annexures, Annexure 5, p. 53, ¶ 12.3.

[71] Compromis, Annexures, Annexure 5, p. 53, ¶ 12.1.

[A]. THERE WAS NO CONSPIRACY ON THE ACCUSED'S PART

49. According to Article 25(3)(d)[72] of the Rome Statute, a person can be held criminally responsible if he, in any other way, apart from Articles 25(3)(a)[73], 25(3)(b)[74] and 25(3)(c)[75], contributes to the commission or attempted commission of such a crime by a group of persons acting with a *common purpose.*
50. Such contribution should be intentional and should either be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Chamber or be made in the knowledge of the intention of the group to commit the crime.[76]
51. It is thus different from aiding and abetting.[77] It has usually been employed in instances where there has been conspiracy or contribution to a group attempt by many persons acting with a common purpose in mind.[78] However, since everything has a chain reaction, any contribution cannot be deemed to be a contribution under this Article.[79]
52. Liability under Article 25(3)(d) of the Statute entails three objective and two subjective requirements. The objective requirements entail that a crime within the jurisdiction of the Chamber was committed or attempted to be committed, the commission or attempted commission of such a crime was done by a group of people acting with a common purpose, and that the individual in question contributed to the crime in any way other than those set out in Articles 25(3)(a) to (c) of the Statute.[80]
53. The subjective requirements have been identified as that the contribution should be intentional, and should either have been made with the aim of furthering the criminal activity or criminal

[72] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[73] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

[74] Rome Statute of the International Criminal Court, 1998, 25(3)(b), 2187 U.N.T.S. 90.

[75] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[76] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[77] Furundzija, ¶ 216,249.

[78] Preparatory Committee Draft, Art. 23, ¶ 7(e)(ii).

[79] Mbarushimana, ¶ 283.

[80] *Id.*

purpose of the group and/or in the knowledge of the intention of the group to commit the crime.[81]

54. Intentional conduct is defined in Article 30(2)(a) of the Statute such that a person must mean to engage in the conduct.[82] However, the Chamber has noted that simply applying this standard of liability may lead to the imposition of criminal liability on persons whose intentional actions have an unintended, significant effect on a group that is acting with a common purpose.[83]
55. In order to be criminally responsible under Article 25(3)(d) of the Statute, a person must make a *significant* contribution to the crimes committed or attempted. The extent of the person's contribution is determined by considering the person's relevant *conduct* and the *context* in which this conduct is performed.[84] There is a threshold of significance below which responsibility under this provision does not arise.[85]
56. The wording of the Article[86] is the result of negotiations at the Rome Conference on the inclusion of conspiracy.[87] It[88] was characterized as being related to the ''very divisive issue'' of conspiracy throughout the Preparatory Committee meetings of the Working Group on General Principles in Rome.[89] The 1991 ILC Draft Code referred to a conspiracy as a form of participation in a common plan for the commission of a crime against the peace and security of mankind.[90] Agreement thus becomes an important element.
57. In the present scenario, the crimes were committed during the span of April 01, 2022, till February 28, 2023.[91] Mr. Chein Klix stepped down as director of AlphaBeacon LLC in 2022

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[81] *Id.*

[82] Rome Statute of the International Criminal Court, 1998, 30(2)(a), 2187 U.N.T.S. 90.

[83] Mbarushimana, ¶ 288.

[84] Mbarushimana, ¶ 285.

[85] Mbarushimana, ¶ 283.

[86] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[87] William Schabas, General Principles of Criminal Law in the International Criminal Law Statute, 97 (European Journal of Crime, Criminal Law and Criminal Justice 1998).

[88] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[89] Per Saland, "International Criminal Law Principles", The International Criminal Court – The Making of the Rome Statute 199 (Kluwer Law International, 1999).

[90] Kai Ambos, Principles of Criminal Law in the Rome Statute 99 (Bloomsbury 1999).

[91] Compromis, p. 15, ¶ 6(d).

after working in the company for six years.[92] AlphaBeacon LLC was founded in 2015.[93] TSC was a blockchain, a technology that is generally self-regulating and immutable.[94] AlphaBeacon LLC, like any other cryptocurrency exchange, was a neutral platform.[95]

58. At AlphaBeacon, there were documents that defined the powers and responsibilities of each individual involved in the company's management.[96] These documents specified the scope of authority granted to the CEO, the board of directors, and shareholders.[97]

59. Beyond the charter documents, the employment agreements of people like the CEO further limited their authority in the company.[98] These agreements specified the scope of these officers' duties and established accountability mechanisms to make them answerable to the board of directors and, ultimately, to the shareholders. A CEO in the company was not a sovereign ruler; they were an employee bound by these agreements.[99]

60. An overseeing layer of governance also came from internal policies and practices. These were general rules that attempted to fill gaps left by formal agreements or laws. These policies were essential in making sure that every decision was in harmony with the company's values and regulatory obligations. At AlphaBeacon, such policies were followed in the culture, providing accountability in decision making.[100]

61. AlphaBeacon and TSC were thus created much before the conflict and subsequent violence. The objective of creating them was financial gain[101] as well as for offering technological services.[102] The Accused was not the sole in charge of the decisions taken.

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[92] Compromis, Witness Testimonials, Prosecution Witness-1, General Description, p. 20.

[93] Compromis, Witness Testimonials, Defence Witness-1, General Description, p. 28.

[94] Compromis, Witness Testimonials, Defence Witness-1, Communication, p. 29.

[95] *Id.*

[96] Compromis, Witness Testimonials, Defence Witness-2, Communication, p. 33; Compromis, Annexures, Annexure 5, p. 53.

[97] Compromis, Witness Testimonials, Defence Witness-2, Communication, p. 33.

[98] *Id.*

[99] *Id.*

[100] *Id.*

[101] Compromis, Witness Testimonials, Defence Witness-1, Communication, p. 28.

[102] Compromis, Witness Testimonials, Victim Witness-1, Communication, p. 36.

62. It can thus reasonably be concluded that the elements of conspiracy, namely, an agreement, and an agreement to commit a crime[103], are not fulfilled by the Accused's actions, and hence, there was no conspiracy on the Accused's part.

[B]. THE ACCUSED HAS NOT CONTRIBUTED TO ANY JOINT CRIMINAL ENTERPRISE

63. It is submitted that the Accused has not contributed to any Joint Criminal Enterprise (JCE) since **(i)** The Accused has not contributed to the first category of JCE, **(ii)** The Accused has not contributed to the second category of JCE, and **(iii)** The Accused has not contributed to the third category of JCE.

(i) The Accused has not Contributed to the First Category of JCE

64. For liability under Article 25(3)(d)[104], one of the parameters is that the Accused must have *contributed* to a joint criminal enterprise[105] under Article 25(3)(a).[106]
65. In the jurisprudence of the ICTY three categories of joint criminal enterprise have been identified as having the status of customary international law.[107] The Rome Statute allows the application of principles and rules of international law.[108] The first category is a "basic" form of joint criminal enterprise. It is represented by cases where all co-perpetrators, acting pursuant to a common purpose, *possess the same criminal intention*.[109]
66. When two or more persons act together to further a common criminal purpose, offences perpetrated by any of them may entail the criminal liability of all the members of the group.[110]

[103] Kai Ambos, Principles of Criminal Law in the Rome Statute 99 (Bloomsbury 1999).

[104] Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[105] The Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana, ICTR-96-1, ¶ 463 (13 December 2004) ["**Ntakirutimana**"]; Tadić ¶ 195-226.

[106] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

[107] Ntakirutimana, ¶ 463; Tadić ¶ 195-226.

[108] Rome Statute of the International Criminal Court, 1998, 21(1)(b), 2187 U.N.T.S. 90.

[109] Ntakirutimana, ¶ 463; Tadić ¶ 195.

[110] Tadić, p. 83, ¶ 195.

67. The objective and subjective prerequisites for imputing criminal responsibility to a participant who did not, or cannot be proven to have, effected the killing are as follows: (i) the Accused must *voluntarily* participate in one aspect of the common design (for instance, by inflicting non-fatal violence upon the victim, or by providing material assistance to or facilitating the activities of his co-perpetrators); and (ii) the Accused, even if not personally effecting the killing, must nevertheless *intend* this result.[111]
68. In the present case, the Accused has had a glorious career as a serial entrepreneur in Titan. The Accused has won numerous awards and has been recognised by prominent business associations, forums, media channels, and lobby bodies for creating many endeavours– each focused on leveraging modern technology in the specific context of Titan to build a suite of software as a service (SaaS) product line.[112]
69. The Accused owned Titanian Secure Cloud, an effective blockchain used across Titan as well as some countries in Asia for a variety of private and public purposes.[113] This cloud service allowed stakeholders to maintain an immutable digital ledger and served a variety of use cases – with particular emphasis towards assisting technologically challenged small and medium enterprises in Titan and other countries.[114]
70. Certain Scorpions would use the TSC platform to update the name, location, and protection around older men, women, and children from the Cavern Clan on the blockchain. Once this block of information found its place on the servers, it could be assessed by anyone from any place even without constant internet access. Those individuals whose details were uploaded on such servers often found themselves targeted by mobs of Scorpion community members, their homes vandalised and their persons lynched by the crowd.[115]
71. It is submitted that the blockchain was created and used across countries for a variety of public and private purposes. The Accused had no hand in the atrocities allegedly committed by the Scorpions. There was no voluntary participation on his part. The CEO of a neutral platform,

[111] Tadić, p. 83, ¶ 196.

[112] Compromis, p. 9, ¶ 4(a).

[113] Compromis, p.10, ¶ 4(c).

[114] *Id.*

[115] Compromis, p. 14, ¶ 4(f)(ii).

the Accused did not create the platform for the purpose of persecution, nor did he voluntarily participate in the crimes allegedly perpetrated.

72. Hence, it is submitted that the elements of establishing the first category of JCE are not fulfilled in the case of the Accused and his contribution cannot be proved.

(ii) The Accused has not Contributed to the Second Category of JCE

73. The second category is a "systemic" form of joint criminal enterprise. It is a variant of the basic form, characterised by the existence of an organised system of ill-treatment.[116] The notion of this second category of common purpose was applied to instances where the offences charged were alleged to have been committed by members of military or administrative units such as those running concentration camps; i.e., by groups of persons acting pursuant to a concerted plan.[117]
74. In the present case, the conflict is believed to have been caused due to the murder of two children belonging to the Cavern Clan by rogue elements alleged to be from the Scorpion community on March 30, 2022. During the course of the same day and the subsequent days, a massive amount of misinformation was spread on social media channels distributing hate-filled content targeting the Cavern Clan. These events are believed by the local authorities to have resulted in the first set of confrontations between members of the said communities. However, these incidents quickly escalated into organized violence.[118]
75. The Accused has won several accolades and recognitions from prominent business associations, lobby bodies, forums, and media channels for building multiple ventures – each focused on leveraging modern technology in the specific context of Titan to build a suite of software as a service (SaaS) product line.[119]
76. It is submitted that the Accused is an entrepreneur.[120] He is not a member of any military or administrative unit. There is no evidence of any system such as concentration camps being set up against the Caverns or the Valours.

[116] Ntakirutimana, ¶ 464; Tadić, ¶ 202-203.

[117] Tadić, p. 87, ¶ 202.

[118] Compromis, p. 12, ¶ 5(c)(i).

[119] Compromis, p. 9, ¶ 4(a).

[120] *Id.*

77. Hence, contribution to the second category of JCE is not fulfilled and the Accused is not liable towards the same.

(iii) The Accused has not Contributed to the Third Category of JCE

78. The third category is an "extended" form of joint criminal enterprise. It concerns cases involving a common purpose to commit a crime where one of the perpetrators commits an act which, while outside the common purpose, is nevertheless a *natural and foreseeable consequence* of executing that common purpose.[121]
79. With regard to the extended form of joint criminal enterprise, what is required is the intention to participate in and further the common criminal purpose of a group and to contribute to the joint criminal enterprise or in any event to the commission of a crime by the group.[122]
80. In addition, responsibility for a crime other than the one that was part of the common design arises only if, under the circumstances of the case, it was *foreseeable* that such a crime might be perpetrated by one or other members of the group and the Accused *willingly took that risk*[123] – that is, being aware that such crime was a possible consequence of the execution of that enterprise, and with that awareness, the Accused decided to participate in that enterprise.[124]
81. In the case at hand, the Accused was an entrepreneur[125], who formed his company for financial gain[126] and technological advancement.[127] The platform was neutral and open to all.[128] The company[129] and blockchain[130] were developed before the violence began. There was an emphasis towards assisting technologically challenged small and medium enterprises in Titan and other countries.[131]

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[121] Ntakirutimana, p. 147-148 ¶ 465; Tadić, ¶ 204.

[122] Tadić, ¶ 228.

[123] *Id.*

[124] Prosecutor v. Mitar Vasiljevi, IT-98-32-A, p. 36-37, ¶ 101 (25 February 2004).

[125] Compromis, p. 9, ¶ 4(a).

[126] Compromis, Witness Testimonials, Defence Witness-1, p. 28.

[127] Compromis, p. 10, ¶ 4(c).

[128] Compromis, Witness Testimonials, Defence Witness-1, Communication, p. 29.

[129] Compromis, Witness Testimonials, Defence Witness-1, General Description, p. 28.

[130] Compromis, Witness Testimonials, Defence Witness-2, p. 32.

[131] Compromis, p. 10, ¶ 4(c).

82. It is submitted that it cannot be reasonably said that it was foreseeable that the technology developed by the Accused would one day be used in times of conflict and violence at the time the Accused developed it.
83. At that time, there was an emphasis towards assisting technologically challenged small and medium enterprises in Titan and other countries. Considering the neutrality of the platform, its accessibility as well as its reach, and the massive amount of people involved in a company and its projects, including employees, investors, shareholders, etc., the Accused could not simply shut down the platform on an unenforceable legal notice[132] and without any legal sanction.
84. Therefore, it is submitted that contribution to the third category of JCE is not fulfilled. Misuse of the platform was not foreseeable. The Accused could not be said to be aware that the possible consequence of developing an accessible blockchain technology would be escalated violence, and hence, did not participate in the enterprise willingly taking that risk.

[C]. THERE WAS NO CONTRIBUTION IN ANY OTHER MANNER

85. Liability under Article 25(3)(d) requires that *firstly*, the contribution should be *intentional*, and *secondly*, should either be made with the aim of furthering the criminal activity or criminal purpose of the group, and/or in the *knowledge of the intention of the group* to commit the crime.[133]
86. The Accused, in the present case, had created his platforms for furthering technology.[134] He had given jobs in his company indiscriminately to people from the Cavern Clan as well.[135] As a CEO, he was answerable to his investors[136] and the board of directors.[137]
87. He did not mean the Caverns any harm, rather, he was simply carrying out his duties as a CEO. If the company's tools were used to perpetuate violence and create a shadow economy, it was not the individual's fault. He had no intention to hurt the Caverns or further criminal activities.

[132] Compromis, Witness Testimonials, Prosecution Witness-2, Communication, p. 25.

[133] Mbarushimana ¶ 283; Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90; Katanga Trial, p. 625, ¶ 1620.

[134] Compromis, p. 10, ¶ 4(c).

[135] Compromis, Witness Testimonials, Victim Witness-1, Communication, p. 36.

[136] Compromis, Annexures, Annexure 1, p. 43.

[137] Compromis, Annexures, Annexure 5, p. 53, ¶ 12.2.

88. Thus, since the subjective elements of liability under Article 25(3)(d) of the Rome Statute are not fulfilled, the Accused cannot be held liable under this Article. Even if a common purpose of the Scorpions is assumed, it does not indicate any liability upon the Accused.

IV. WHETHER THE VALOURS CLAIM FOR PRIORITY OF REPARATION AND THE DEMAND OF THE SAME FROM THE ACCUSED IS JUSTIFIED?

89. The demands of reparation from the Accused are not justified as the Accused has not committed any of the crimes that have been charged and is wholly innocent. Moreover, the Accused objects to the reparations and their modalities on the grounds of **[A].** Indigence of the Accused, **[B].** The Accused does not individually own any remaining assets or estate, **[C].** the reparations must be made on a collective basis, and **[D].** the conflict does not warrant the establishment of any priority of distribution of reparation(s) in favour of the Valours.

[A]. THE ACCUSED IS INDIGENT

90. According to the Lubanga Appeals, the Chamber declined to consider the indigence of the convicted person as a basis for exemption from the reparation imposed, relying on Article 75(4) of the Statute, which outlines the procedure for identifying and freezing assets.[138] The Chamber also referenced Regulation 117 to monitor the financial situation of the sentenced person.[139]
91. As per Rule 97 of the RPE, the Court may award reparation either individually or collectively, or both.[140] Further, the Court shall respect the rights of the victim and convicted person.[141]
92. Additionally, the reparations awarded to the victims must be limited to such awards that can

[138] The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, Appeal against Trial Chamber I's Decision establishing the principles and procedures to be applied to reparation of 7 August 2012, AC, ¶ 105 (18 July 2019); Rome Statute of the International Criminal Court, 1998, 75(4), 2187 U.N.T.S. 90.

[139] Regulations of the Court, International Criminal Court, ICC-BD/01-05-16, 117 (2016).

[140] International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 and Corr.1 (September 3-10, 2002), rule 97, 2002.

[141] International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 and Corr.1 (September 3-10, 2002), rule 97(2), 2002.

be realistically amended while taking into consideration the financial standing of the convicted person.[142]

93. In the present case, the Accused is clearly without any resources of his own and cannot be expected to pay the reparation that may be imposed on him. The Accused has been removed from his previous position as CEO of TSC[143] and, therefore, does not have a stable income flow.
94. Moreover, the assets of the Accused have been seized and frozen by the Government of Titan. Within forty-eight hours, the Courts of Titan have frozen around 9,500,000 USD worth of assets of AlphaBeacon which was the entirety of their resources crippling the future of the entire company.[144]
95. In the present case, the *Lubanga Appeals* do not hold precedence as the assets of the Accused have already been seized and frozen by the government leaving almost no resources with the Accused.
96. Moreover, the investigations of the Titan Regulatory Authority and other foreign authorities have virtually gutted the future of the Accused's Company, preventing any inflow of considerable wealth which could be monitored and used for the payment of any reparation.
97. Thus, keeping in mind the above argument, it is submitted that the Chamber should not impose the reparation as requested by the Victims.

[B]. ACCUSED DOES NOT INDIVIDUALLY OWN ANY REMAINING ASSETS OR ESTATE

98. Rule 97(3) of the RPE states that the Court must respect the rights of the victims and the convicted person. Further, the Court may cooperate with the State of the Accused to freeze and acquire the assets of the Accused.[145]
99. The Victims in their application have claimed that the estate of the Accused may be ordered

[142] Prosecutor v. Kaing Guek Eav, 001/18-07-2007, ¶ 668 (03 February 2012).

[143] Compromis, Witness Testimonials, Defence Witness-1, General Description.

[144] Compromis, Annexures, Annexure 3, p. 48.

[145] International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 and Corr.1 (September 3-10, 2002), rule 97(3), 2002.

for reparation on an individual basis to the Cavern Clan.[146] However, as stated above, all the assets of the Accused in AlphaBeacon have been frozen and seized.[147]

100. Moreover, the Tax Records of the Accused clearly show that there is merely thirty thousand of local currency in his bank account and does not have any foreign currency or additional resources in any foreign bank accounts.[148]

101. It must be noted that the victims may claim the assets under FlagPole LLP to be used for the reparations of the Cavern Clan, however, the assets of FlagPole LLP are not individually owned by the Accused. The FlagPole LLP is an investment vehicle jointly owned by the Accused and his family, who are not relevant to this trial, with a 51% equity.[149] The equity shares are not under the sole control or ownership of the Accused and cannot be wholly considered as his property.

102. Furthermore, the assets and operations of FlagPole LLP, through a series of injunctions, attachments, and forfeitures, have been frozen by the Government of Titan. These Corporations are effectively dead and have no hope for recovery in the future.

103. Therefore, it is clear that the Accused does not own the assets for which the victims are seeking reparation. These assets are best described as community property, as they are jointly owned by other parties who were not involved in the conflict. Furthermore, the government has seized these assets, leaving little to no possibility of using them to provide reparation to the victims.

[C]. THE REPARATIONS MUST BE MADE ON A COLLECTIVE BASIS

104. Rule 85 defines victims as any who have been harmed by any crime committed in the jurisdiction of the Court. Further, retaliatory or punitive attacks hold the victims equally liable for any crimes that may be committed by them.[150]

[146] Compromis p. 16, ¶ 8(a).

[147] Compromis, Annexures, Annexure 3, p. 48.

[148] Compromis, Annexures, Annexure 2, p. 45.

[149] Compromis p. 10, ¶ 4 (c); Compromis, Annexures, Annexure 2, p. 45.

[150] Prosecutor v. Dragomir Milosevic, IT-98-29/1-A, ¶ 57 (12 November 2009); Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, IT-96-23/1-T, ¶ 130 (22 February 2001).

105. Furthermore, the Court must ensure that the reparations address underlying injustices and avoid replicating any discriminatory structures or practices that existed prior to the commission of the crimes.[151] Reparation must not create tension, jealousy, or animosity amongst affected communities and between cohabitating groups.
106. The Court must also follow the 'Do No Harm' principle. As per this principle, the Court must ensure that it does 'no harm' or minimises the harm that may be caused by awarding reparations to victims.[152] Reparations must be 'conflict-sensitive' and should assist reconciliation and recovery.[153] Reparations must be directed at reconciliation and bring about a transformation, providing the opportunity to overcome embedded inequality and exclusion.[154]
107. In the present case, the Scorpion community has been historically discriminated against in the Country of Titan. They have constantly struggled for resources such as water, electricity, etc.[155] Moreover, the Scorpion community members have been forced to move down to more prosperous lands where they are unable to find employment due to systemic prejudice.[156] The Government of Titan, where important officials are Caverns, has refused to hear the plea of the Scorpions and denied any aid.[157]
108. Moreover, when the armed conflict broke out, the Cavern Clan undertook retaliatory and punitive targeted raids against the Scorpion community members causing immense damage and loss of life. In the entire conflict, a hundred and twenty lives were lost along with twelve hundred injuries, with three hundred people displaced and five hundred other acts of violence.
109. The federal authorities continued to remain passive. They did not provide any aid or protection from such attacks, continuing its previous patterns by citing feeble excuses of logistical challenges and the complexity of the conflict.[158]
110. It is clear that the Scorpions were also victims of crimes that were committed during this

[151] The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06-2908-Red ¶ 108-111 (01 November 2024).

[152] The Prosecutor v. Lubanga, ICC-01/04-01/06, TC I, ¶ 122-124 (10 July 2012).

[153] *Id.*

[154] The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, ¶ 57, 227 (7 August 2012).

[155] Compromis, p. 5, ¶ 2(a).

[156] Compromis, p 5, ¶ 2(b).

[157] Compromis, p. 6, ¶ 2(c).

[158] Compromis, p. 12, ¶ c(ii).

armed conflict and sustained direct as well as indirect harm. Moreover, the Scorpions must be given reparations along with the Caverns to prevent discrimination and communal animosity.

111. Therefore, the Court must consider collective reparation for all persons in the Situation in order to root out the underlying causes of prejudice, prevent the festering of communal tension, and increase trust between the communities.

[D]. THE CONFLICT DOES NOT WARRANT THE ESTABLISHMENT OF ANY PRIORITY OF DISTRIBUTION OF REPARATION(S) IN FAVOUR OF THE VALOURS.

112. Pursuant to Article 75(6) the Court has to ensure that reparations should not operate to prejudice the rights of victims under national and international law. Further, the Court has a duty to treat all victims equally and fairly.[159]

113. The Court has to ensure that the reparations are conflict-sensitive and encourage reconciliation.[160] The reparations must not repeat any sort of hierarchical discriminatory structure that may have existed prior to the commission of the crimes.[161]

114. Prioritisation in reparations has been considered by the Court in various other cases. However, certain victims who are especially vulnerable or in urgent need of assistance may require priority.[162] Therefore, the Court may implement measures to ensure that these victims have equal, effective, and secure access to reparations.[163]

115. When setting priorities, the Court should give due consideration to individuals in need of urgent physical or psychological medical care, victims with disabilities, survivors of sexual or gender-based violence, those facing homelessness or financial hardship, as well as children born from rape and sexual slavery, and former child soldiers.[164]

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[159] The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06-3129 ¶ 12 (03 March 2015); The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06-2908-Red, ¶ 249 (01 November 2024).

[160] *Id.*

[161] *Id.*

[162] The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06, ¶ 92 (8 March 2021).

[163] *Id.*

[164] The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06-3129 ¶ 12 (03 March 2015); The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06-2908-Red ¶ 249 (01 November 2024).

116. In the present case, the Valours are a subset of the Cavern Clan. Historically, the Valour were considered the kith and kin of the pagan deities worshipped by the Cavern Clans and have always remained in powerful positions in their community.[165] Moreover, the Valours were able to amass a lot of wealth, foreign currency, and land resources, allowing them a position of power and prestige.[166]

117. The Valours had instilled a hierarchical structure in the community based on ownership and dominion over key real estate.[167] Further, the Valours in this hierarchy had even adopted positions of judges and arbitrators allowing them the power to judge community issues related to marriage, adoption, succession, etc.[168] This legal framework was constitutionally recognised by the Government of Titan adding even more prestige and power to the Valours.

118. During the conflict, it was reported by news outlets that a majority of Valours had escaped to Western nations such as the United States of America and the United Kingdom using the vast amount of material wealth they had amassed.[169]

119. Furthermore, considering the position and prestige associated with the Valours, it cannot be said that they are especially vulnerable and need affirmative actions.[170] The Valour Community has amassed wealth and resources over generations, and there is no clarity whether they were even severely harmed by the conflict.[171]

120. Moreover, considering the deeply hierarchical structure instilled in the society by the Valours, the Court must ensure that any form of reparation does not lead to an increase in exclusion and a replication of prejudice against the other members of Titan. The Court has to ensure that the Valours are not continuously given special treatment merely because of their position and wealth within the country of Titan.

121. Therefore, the Valours cannot be considered particularly vulnerable to the extent that they require affirmative action or priority in potential reparations, especially given the significant

[165] Compromis, p. 7, ¶ b(i).

[166] Compromis, p. 8, ¶ b(iii).

[167] *Id.*

[168] Compromis, p. 8, ¶ b(i).

[169] Compromis, p. 9, ¶ b(iv).

[170] Compromis, p. 8, ¶ b(iii).

[171] Compromis, p. 8, ¶ b(iii); Compromis, p.12, ¶ d(i).

political, economic, and social power historically wielded by the Valour Community.

PRAYER

Wherefore, in light of the issues raised, arguments on merit, evidence supplied and authorities cited, the Defendant most humbly and respectfully requests the Court to adjudge and declare that:

I. The facts as described by the pre-trial chamber **do not constitute a crime against humanity of persecution** under Article 7(1)(h) of the Rome Statute.

II. The Accused, Jules Verne, **cannot be held criminally liable under Article 25(3)(c) of the Rome statute** for his role towards the aid extended by him towards the commission of the crime.

III. The Accused **cannot be held criminally liable under Article 25(3)(d) of the Rome statute** for his role towards the aid extended by him towards the commission of the crime.

IV. The Valours claim for priority of reparation and the demand of the same from the Accused is **not justified**.

All of which is respectfully submitted,

ON BEHALF of THE DEFENSE

COUNSELS FOR THE DEFENSE

SICTA _05_V

10TH SYMBIOSIS LAW SCHOOL PUNE INTERNATIONAL CRIMINAL TRIAL ADVOCACY COMPETITION, 2025

BEFORE

TRIAL CHAMBER I, INTERNATIONAL CRIMINAL COURT THE HAGUE, NETHERLANDS

IN THE MATTER *of*

THE PROSECUTOR ..... PROSECUTION

V.

MR. JULES VERNE ..... DEFENCE

DEFENDANT CHARGED WITH

Persecution against the nationals of Titan belonging to the Cavern Clan covered under article 7(1)(h) of the Rome Statute

WORD COUNT: 7450

WRITTEN SUBMISSIONS ON BEHALF *of* THE VICTIM

Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No: ICC-/-/**

Date: _____

TRIAL CHAMBER I

Before: **Judge, _____ the Presiding Judge**

Judge _____ and

Judge _____

SITUATION IN THE TERRITORY OF TITAN IN THE CASE OF

THE PROSECUTOR v. JULES VERNE

Source: Office of Prosecution

TABLE OF CONTENTS

LIST OF ABBREVIATIONS

Abbreviation	Full Forms
v.	Versus
¶	Paragraph
p.	Page number
ICC	International Criminal Court
Art.	Article
TC	Trial Chamber
TSC	Titanian Service Cloud
U.N.T.S.	United Nations Treaty Series
JCE	Joint Criminal Enterprise
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
Id	Idem
AC	Appeal Chamber
Anx.	Annexure
Res.	Resolution
u/a	Under article
i.e.	Id est
Intl. Crim. Ct.	International Criminal Court
PTC	Pre Trial Chamber
fn.	Footnote
&	And
EoC	Elements of Crime
RS	Rome Statute

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STATEMENT OF FACTS

Background

1. Titan is a landlocked country rich in natural resources and cultural diversity. The country is home to multiple ethnic groups including the Scorpions and the Caverns. There has, however, historically been tension between the two groups.
2. The Cavern Clan, through natural resources such as fertile soil and water, have accumulated wealth, something the Scorpions resent. The Cavern economy is predominantly agrarian.
3. Within the Cavern Clan, there is a sub-ethnicity called the Valours, who have historically been the most respected of the Clan, considered descendants of the deities they worshipped.

The Accused

4. The Accused is a serial entrepreneur belonging to the Scorpion community who has previously been accused of white collar crimes.
5. He was the co-founder of AlphaBeacon LLC, the largest cryptocurrency exchange in Titan, as well as the owner of Titanian Secure Cloud (TSC), an effective blockchain. During the relevant period, he was the CEO and promoter of AlphaBeacon.

The Conflict

6. The violence commenced with the murder of two children from the Cavern clan by those believed to be rogue Scorpions. Later, massive amounts of misinformation about the Caverns was spread on social media channels, encouraging hate.
7. This confrontation soon spread into organized violence, with the Scorpions launching raids on markets housing Cavern businesses, sabotaging property and assets worth 10,000 USD. Over one-hundred and twenty people lost their lives, while twelve hundred sustained injuries.
8. The conflict was especially devastating for the Valours, with only two households comprising of five Valours remaining in the valley. Thirty members of the house of Valours are believed to have been killed or are missing due to the conflict.
9. The aftermath of the conflict was disastrous economically and otherwise, especially for the Valours. Agricultural output in the valley plummeted as farms were abandoned or

destroyed. The valley saw massive destruction which would require 3,000,000 USD in costs.

Role of AlphaBeacon and TSC

10. Proceeds from crimes such as extortion, theft, and smuggling were converted into cryptocurrency tokens and traded on AlphaBeacon, Titan's largest cryptocurrency exchange. This funded a shadow economy, used to provide arms to the Scorpions, and further contributing to the cycle of violence.
11. TSC was used by rogue Scorpions to upload information of the Caverns. Those individuals whose details were uploaded on such servers often found themselves targeted by mobs of Scorpion community members, their homes vandalised and their persons lynched by the crowd.

Charges

12. On August 30, 2023, the ICC Prosecutor filed before the Chamber, the document containing charges leveled against the Accused for acts committed during the relevant period. The charge on which the Accused is sought to be prosecuted is Article 7(1)(h) of the Rome Statute, relating to persecution, along with Article 25(3)(c) of the Rome Statute and Article 25(3)(d) of the Rome Statute, dealing with individual criminal responsibility.
13. Additionally, noting the devastating impact of the conflict on the Valours, the Valours have requested for a priority in reparations.

ISSUES PRESENTED

ISSUE I

WHETHER THE VALOURS FORM A DISTINCT COMMUNITY?

ISSUE II

WHETHER THE FACTS AS DESCRIBED BY THE PRE-TRIAL CHAMBER CONSTITUTE A CRIME AGAINST HUMANITY OF PERSECUTION UNDER ARTICLE 7(1)(H) OF THE ROME STATUTE?

ISSUE III

WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(C) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

ISSUE IV

WHETHER THE ACCUSED CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(D) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

ISSUE V

WHETHER THE VALOURS CLAIMS FOR PRIORITY OF REPARATION AND THE DEMAND OF THE SAME FROM THE ACCUSED IS JUSTIFIED?

SUMMARY OF ARGUMENTS

ISSUE I

The Valours form a distinct community as *firstly*, the Valours fulfill the essentials to be termed as a distinct ethnic and cultural group as they have unique traditions and cultural practices which se them apart and *secondly*, the Valours by fact are a distinct community as the Valours were treated as belonging to a separate group and the Valours perceived themselves to be a part of a separate group.

ISSUE II

The Accused has committed Crimes against Humanity of Persecution under Article 7(1)(h) of the Statute of the International Criminal Court ["**Rome Statute**"] as *firstly*, the Contextual Elements of Crimes against Humanity have been satisfied as there was a widespread and systematic attack perpetrated against the victims in furtherance of an organizational policy, *secondly*, the Objective Elements of the Crimes against Humanity of Persecution have been met as the principal perpetrator severely deprived the victims of their fundamental rights. Further, the victims were targeted based on their distinct ethnicity and culture and the crime against humanity of murder was also committed by the principal perpetrators, and *lastly*, the Subjective Element of 'knowledge of attack' is satisfied as the Accused had knowledge of the attacks and was aware of his contributions to it.

ISSUE III

It is humbly submitted that the Accused can be held criminally liable under Article 25(3)(c) as *firstly*, the objective element is satisfied since the Accused has provided assistance through TSC, and *secondly*, that the subjective element is satisfied since the Accused meets the thresholds for general and specific intent as apparent by his inaction and motives.

ISSUE IV

It is submitted that the Accused can be held criminally liable under Article 25(3)(d) of the Rome Statute as *firstly*, the objective elements are fulfilled, since it is a crime under the jurisdiction of

the Court and carried out by a group with a common purpose and *secondly*, the subjective elements are fulfilled, since the Accused knowingly and intentionally took the risk.

ISSUE V

The demands of reparation from the Accused are justified as the Accused has committed the crimes as charged. Moreover, the demands for the reparations and their modalities are justified on the grounds of, *firstly*, the indigence of the Accused is not relevant as per the accountability of offender principle, *secondly*, the Accused does individually own any remaining assets or estate as he wields complete control over his foreign shares. Further, the jointly owned shares are controlled by the Accused and his octogenarian mother effectively allowing him control over them as well, *thirdly*, the reparations must be made on an individual basis due to the specific harm suffered by the Cavern Clan as well as the victims' expectation of individual reparation and, *lastly*, the conflict does warrant the establishment of any priority of distribution of reparation(s) in favour of the Valours as the community, in the aftermath of the attacks, is a specially vulnerable group.

ARGUMENTS IN DETAIL

I. WHETHER THE VALOURS FORM A DISTINCT COMMUNITY?

1. The Valours form a distinct community as **[A]** The Valours fulfill the essentials to be termed as a distinct ethnic and cultural group and **[B]** The Valours by fact are a distinct community.

[A]. THE VALOUR COMMUNITY FULFILLS THE ESSENTIALS TO BE TERMED AS A DISTINCT CULTURAL AND ETHNIC GROUP

2. Article 7(1)(h)[1] of RS states that persecution is a crime against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, or gender. Further, under sub-clause 3 of 7(1)(h) of EoC it has been stated that the targeting must be based on the collective identity of these categories.[2]
3. The crime of persecution is not a crime against a person in their capacity but rather due to their membership in a particular group.[3] This distinction sets them apart from others and may also make them a target of attacks.[4]
4. An ethnic group has been defined as a group whose members share a common language or culture.[5] The presence of a shared language, customs, and traditional land has been considered a reasonable basis for recognizing a distinct ethnic community.[6]
5. A cultural group has also been defined by the ICC in its cultural heritage policy as a complex whole that encompasses knowledge, belief, art, law, morals, customs, and any other capabilities acquired by individuals as members of society.[7] Moreover, a shared cultural heritage often includes at least one defining characteristic of a persecuted group, which perpetrators may use to identify them.[8]

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[1] Rome Statute of the International Criminal Court, 1998, 7(1)(h), 2187 U.N.T.S. 90.

[2] Elements of Crime, 2010, Article 7(1)(h), 3, Intl. Crim. Ct. (2011).

[3] Elements of Crime, 2010, Article 7(1)(h), 2, Intl. Crim. Ct. (2011).

[4] *Id.*

[5] The Prosecutor v Jean-Paul Akayesu, ICTR-96-4-T, Judgement, TC ¶ 122 (2 September 1998) ["**Akayesu**"].

[6] Prosecutor v. Omar, Hassan Ahmad Al Bashir, ICC-02/05-01/09-3, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, PTC I, ¶ 137 (4 March 2009) ["**Al Bashir**"].

[7] Policy on Cultural Heritage, 2021, 74, Intl. Crim. Ct. (June 2021).

[8] *Id.*

6. In the present case, the Valour community is part of the Cavern Clan, the largest ethnic group in Titan and one of the two main communities living in the country.[9] These two communities differ in many aspects, including the land they inhabit and their cultural practices.[10]
7. The two communities have traditionally lived in different regions of Titan, with the Scorpions residing in the upper mountainous areas, while the Cavern Clan inhabits the valley below. Both communities have distinct cultural practices that have historically set them apart.[11]
8. The Valours are a distinguished subset of the Cavern Clan, occupying a prominent position within the community. They are deeply revered and regarded as the kith and kin of the pagan deity worshipped by the Cavern Clan, further strengthening their cultural and spiritual significance.[12] They are moreover, considered not just a lineage but a way of life, distinguished by their unique cultural practices and traditions.[13]
9. Thus, it is submitted that the Valours constitute a distinct ethnic group within the state. They have unique traditions and cultural practices that set them apart, along with ancestral lands and customs that have been passed down through generations.
10. Thus, Valour Community is a protected and distinct group under Article 7 of the RS, because the Valour community fulfills the essentials of a distinct cultural and ethnic group.

[B]. THE VALOURS WERE BY FACT AND SELF-PERCEPTION PART OF DISTINCT ETHNIC AND CULTURAL GROUPS

11. It is important to note that the groups and categories outlined under Article 7(1)(h) as criteria for persecution hold significance as collective entities. Furthermore, these categories are generally not subject to challenge, as they are typically associated with individuals by birth and persist continuously throughout their lives.[14]

[9] Compromis p. 7, ¶ 3(b)(i).

[10] Compromis p. 11, ¶ 5(b)(i).

[11] Compromis, p. 3, ¶ 1(f).

[12] Compromis, p. 7, ¶ 3(b)(i).

[13] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 36.

[14] Akayesu, ¶ 511.

12. To be recognized as part of a distinct community, an individual must be a member of the group. The term "group" is defined by two essential conditions[15]: **(i)** individuals must be treated as belonging to that group, and **(ii)** they must also perceive themselves as members of it.

(i) The Valours Were Treated as Belonging to a Group

13. The term group has been defined as stable groups constituted in a permanent fashion and membership which is determined by birth.[16]
14. It has been emphasized that the stigmatization of a group as a distinct national, ethnic, or racial unit by the broader community determines whether a targeted population is perceived as such in the eyes of the assailants.[17]
15. The Valours were perceived as the most influential community in Titan, belonging to a distinct ethnicity. As a subset of the Caverns, the Valours were more than just a lineage as they represented a way of life, bound by shared traditions, responsibilities, and mutual respect.[18]
16. Moreover, they were considered the descendants of the deity worshipped by the Cavern Clan, and their significance in society had been established historically.[19] The Valours held a crucial position in both the legal and personal affairs of the Cavern Clan.[20]
17. Additionally, the elders of the Valours commanded great respect, further reinforcing their influential role within the community.[21] Furthermore, their local governance structure was also formally recognized within Titan's constitutional framework, further solidifying their authority and influence.[22]
18. Hence, the Valours were held in high respect in Titan and were perceived as belonging to a group and were treated as such by the Cavern and Scorpion communities.

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[15] Akayesu, ¶ 170-171.

[16] Akayesu, ¶ 484; The Prosecutor v Clement Kayishema and Obed Ruzindana, ICTR-95-1-T, Judgement, TC II, (21 May 1999).

[17] Prosecutor v Goran Jelisic, IT-95-10-A, Judgement, AC, ¶ 70 (5 July 2001).

[18] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 36.

[19] Compromis, p. 7, ¶ 3(b)(i).

[20] Compromis, p. 8, ¶ 3(b)(i).

[21] Compromis, p. 7, ¶ 3(b)(i).

[22] Compromis, p. 7, ¶ 3(b)(ii).

(ii) The members of the Valours considered themselves as belonging to a group.

19. A community having its own customs and traditional ties to the land has been considered as reasonable grounds to believe that it is a distinct community.[23]
20. In the present case, the Valours were distinguished by their culture and status. Their ancestors established traditions and structures that set them apart from the other communities.[24]
21. The Valours consisted of Seven related households.[25] The foundation of this community was rooted in its practices, culture, language, traditional lands, social status, and the influence and resources it held in Titan which fostered a strong sense of identity.[26] This identity plays a crucial role in distinguishing them from the other community.
22. The Valours worked on the principles of socialism. Ownership over key real estate contributed to the hierarchy, helping the Valours to instil a sense of community, traditional values through numerous generations of the Cavern Clan.[27] They regarded themselves not merely as a lineage or generation of people but as a community bound by shared ideals, language, and culture, shaping a distinct way of life.[28]
23. Therefore, it is humbly submitted that the Valours are a distinct ethical and cultural community.

[23] Al Bashir, ¶ 7.

[24] Compromis, p. 7, ¶ 3(b)(i).

[25] Compromis, p. 8, ¶ 3(b)(iv).

[26] Compromis, p. 7, ¶ 3(b)(i); Compromis, p. 8, ¶ 3(b)(iii); Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 36.

[27] Compromis, p. 7, ¶ 3(b)(iii).

[28] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 36.

II. WHETHER THE FACTS AS DESCRIBED BY THE PRE-TRIAL CHAMBER CONSTITUTE A CRIME AGAINST HUMANITY OF PERSECUTION UNDER ARTICLE 7(1)(H) OF THE ROME STATUTE?

24. Mr. Jules Verne ["**The Accused**"] has committed the crime against humanity of persecution under Article 7(1)(h) of the RS as **[A]** the contextual Elements of Crime against Humanity have been satisfied, **[B]** the objective Elements of Crime against Humanity of persecution have been met, and that **[C]** the subjective element of 'knowledge of attack' is satisfied.

[A]. THE CONTEXTUAL ELEMENTS OF CRIME AGAINST HUMANITY HAVE BEEN SATISFIED

25. The chapeau of Article 7(1) of the RS requires that crimes against humanity be committed against a civilian population as part of a state or organizational policy in a widespread or systematic manner. The contextual requirements state that **(i)** there must be an attack, **(ii)** the attack must be widespread or systematic, **(iii)** the attack must be directed against a civilian population, and **(iv)** the attack must be in furtherance of a State or organizational policy.

(i) There must be an attack

26. For The Accused to be prosecuted under Crimes against Humanity, the chapeau requires that an attack must take place. It may occur in the context of the armed conflict however the attack may precede, continue with the conflict, and may even continue after the armed conflict has ended.[29]
27. An 'attack' has been defined as a course of conduct involving the commission of acts of violence[30] as well as any mistreatment of the civilian population.[31]
28. In the present case, over a hundred and twenty people lost their lives, while twelve hundred people sustained injuries.[32] Moreover, there were planned attacks by the Scorpions, who were the principal perpetrators, based upon different ethical and cultural affiliations on the Valour

[29] Prosecutor v. Jadranko Prlić, IT-04-74-T, Judgement, TC, ¶ 35 (29 May 2013) ["**Jadranko**"].

[30] Rome Statute of the International Criminal Court, 1998, 7(2)(a), 2187 U.N.T.S. 90.

[31] Jadranko ¶ 35; Prosecutor v Dragoljub Kunarc, Radomir Kovac and Zoran Vukovic, IT-96-23-T, Judgement, ¶ 86 (12 June 2002).

[32] Compromis, p. 12, ¶ d(i).

Community leading to its near complete extinction.[33]

29. There was a clear commission of violent acts against the Cavern Clan, including multiple counts of murder, sexual assault, and kidnapping.[34] Furthermore, specific acts of violence were committed against the Valours, as mobs of Scorpions attacked and kidnapped even elders and children.[35]
30. Considering the above facts, it is clear that there were acts of violence committed against a civilian population. Thus, it can be established that there were attacks committed by the Scorpions.

(ii) The attacks were widespread and systematic.

31. Article 7 of the RS requires that the attack should be widespread or systematic.[36] An attack is considered to be widespread when it is on a massive scale[37] and spread out over a large geographical area.[38]
32. Further, the Chamber has considered the assessment of a 'widespread' attack to be neither exclusively quantitative nor geographical but must be carried out based on the individual facts of each case.[39]
33. The Chamber has considered attacks 'systematic' when the acts of violence are organised and

[33] Compromis, p. 9, ¶ 3(b)(v); Compromis, p. 9, ¶ 3(b)(vi).

[34] Compromis, p. 9, ¶ 3(b); p. 12, ¶ 5(d)(i).

[35] Compromis, p. 9, ¶ 3(b)(v); Witness Testimonials, Victim Witness-1, General Communication, p. 36.

[36] William Schabas, General Principles of Criminal Law in the International Criminal Law Statute, 110 (European Journal of Crime, Criminal Law and Criminal Justice 1998).

[37] Prosecutor v. Bemba, ICC01/05-01/08-424, Judgment pursuant to Article 74 of the Statute, ¶ 83 (15 June 2009) ["**Bemba**"]; Prosecutor v. Katanga, ICC-01/04-01/07-717, Decision on the confirmation of Charges, ¶ 394 (14 October 2008); Prosecutor v. Al Bashir, ICC-02/05-01/09-3, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir (4 March 2009); The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, ICC-01/09-01/11, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, PTC, ¶ 179 (23 January 2012).

[38] Situation in the Republic of Kenya, ICC-01/09-19-Corr, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation in the Situation in the Republic of Kenya, ¶ 95 (31 March 2010).

[39] Bemba, ¶ 163; The Prosecutor v. Laurent Gbagbo, ICC-02/11-01/11-656-Red, Decision on the confirmation of charges against Laurent Gbagbo, PTC, (5 December 2014).

there is a distinct improbability of their random occurrence.[40] Identifying targets, approaching the target in large numbers, and attacks on the properties of the victim has been considered as 'widespread and systematic'.[41]

34. In the present case, the Scorpion Community had incited violence against the Cavern Clan.[42] Furthermore, the violence had occurred in a massive geographical location i.e., throughout the entire country.[43] The Scorpions had specifically targeted the Valours as in the aftermath only two households comprising five Valours remained in the valley.[44]
35. Furthermore, members of the Scorpion Community utilised TSC to uncover and disclose information about the Caverns, enabling them to specifically target them and subsequently subject them to assault by coordinated groups.[45]
36. Thus, the use of TSC software to identify targets, organize specific groups of Scorpion Community members, and plan further attacks on the especially vulnerable population of children establishes that these actions were systematic.[46]
37. Therefore, the massive scale of the assault, spanning the entirety of Titan,[47] nearly decimating the Valours,[48] and inflicting life-altering injuries on thousands,[49] demonstrates the 'widespread' nature of the attack.
38. Thus, these facts demonstrate that the attack was both widespread and systematic, and the first contextual element has been met by fulfilling both requirements despite their disjunctive nature.

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[40] Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, IT-96-23/1-T, ¶ 48 (22 February 2001) ["**Kunarac**"].

[41] The Prosecutor v. William Samoei Ruto and Joshua Arap Sang, ICC-01/09-01/11-373, Decision on Confirmation of charges pursuant to article 61(7)(a) and (b) of the Rome statute, PTC, ¶ 179 (23 January 2012).

[42] Compromis, p. 12, ¶ 5(c)(i).

[43] Compromis, p. 11, ¶ 5.

[44] Compromis, p. 8, ¶ 3(b)(iv); p. 9, ¶ 3(b)(v).

[45] Compromis, p. 14, ¶ 5(f)(ii).

[46] Compromis, p. 14, ¶ 5(f)(ii); Witness Testimonials, Victim Witness-1, p. 37-38.

[47] Compromis, p. 12, ¶ 5(c)(i).

[48] Compromis, p. 12, ¶ 5(d)(i).

[49] Compromis, p. 12, ¶ 5(d)(i).

(iii) The attack was directed at a civilian population.

39. As per Article 50 of the Additional Protocol-I of the Geneva Convention, a civilian has been defined as any person who is not a member of the armed forces, militias, or volunteer corps forming part of such armed forces, and who is not a member of organized resistant groups.[50] Furthermore, the same definition has been previously accepted by the ICTY Chamber.[51]
40. For an attack to be considered "directed against" the civilian population, civilians must be the primary target, and in such numbers, or in such a manner which is sufficient to convince the Chamber that the attack was directed against the civilian population.[52]
41. In the present case, the targeted individuals belonged to the Cavern Clan and Valours,[53] who were civilians.[54] The use of the TSC software to identify and specifically target the property of the Valours and the members of the Valour community establishes that they were the primary target and the attack was 'directed against' them.[55]
42. Thus, the second contextual element of the attack being 'directed' against a 'civilian population' has also been satisfied, as there was a specific intent and targeting to attack a particular set of civilians.

(iv) The attack was in furtherance of state or organizational policy

43. It is sufficient for an organisation to possess adequate means to facilitate or encourage a coordinated attack against a civilian population, without any additional requirements of specific form.[56]
44. Notably, given the realities of modern asymmetric warfare, it cannot be ruled out that an attack on a civilian population may also be carried out by a private entity, a group of individuals to

[50] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol 1), 1977, 50, 1125 U.N.T.S. 3 ["**Geneva Convention**"].

[51] Prosecutor v Milan Martic, IT-95-11-A, Judgement, ¶ 291-302 (8 October 2008).

[52] The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08, Judgment pursuant to Article 74 of the Statute, TC III, ¶ 154 (21 March 2016); P. v. Milomir Stakic, IT-97-24, Judgement, TC, ¶ 627 (31 July 2003); P. v. Radomir Kovac et al, IT-96-23 & 23/1, Judgement, AC, ¶ 90 (12 June 2002).

[53] Compromis, p. 14, ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[54] Compromis, p. 6, ¶ 3(a)(i).

[55] Compromis, p. 14, ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[56] Situation in the Republic of Kenya, ¶ 90.

target civilians, without necessarily having a highly developed, quasi-state structure.[57]

45. A policy does not need to be formally documented; it can be inferred from a range of factors that collectively indicate its existence.[58] These factors include: (i) evidence that the attack was planned, directed, or organized; (ii) a repeated pattern of violence; (iii) the use of public or private resources to advance the policy; (iv) the participation of State or organizational forces in committing crimes; (v) an underlying motivation.[59]
46. It must also be established that the course of conduct was carried out according to or in furtherance of a State or organizational policy.[60] The Chamber has emphasized that there is no requirement for perpetrators to be motivated by the policy, nor must they necessarily be members of the State or organization.[61]
47. In the present factual matrix, it is evident that an informal organization of scrupulous Scorpion Community members exists,[62] and that they have leaked target information, revealing the identities of the Valours.[63]
48. Furthermore, the existence of such an informal organization is evident from the intense planned spread of disinformation against the Cavern Clan, which initially triggered the eruption of violence against them.[64] Additionally, it can be seen that there exists an informal

[57] The Prosecutor v. Germain Katanga, ICC-01/04-01/07-3436-tENG, Judgment pursuant to article 74 of the Statute, TC, ¶ 1119 (7 March 2014) ["**Katanga**"].

[58] The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, PTC, ¶ 81 (15 June 2009); The Prosecutor v. Germain Katanga, ICC-01/04-01/07-3436-tENG, Judgment pursuant to article 74 of the Statute, TC, ¶ 1109 (7 March 2014) ["**Katanga**"]; The Prosecutor v. Laurent Gbagbo, ICC-02/11-01/11-656-Red, Decision on the confirmation of charges against Laurent Gbagbo, PTC, ¶ 214 (12 June 2014); Situation in the Republic of Kenya, ICC-01/09-19-Corr, Corrigendum of the Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation in t he Situation in the Republic of Kenya, PTC, ¶ 87-88 (1 April 2010); P. v. Tihomir Blaskic, IT-95-14, Judgement, TC, ¶ 204 (3 March 2000).

[59] *Id.*

[60] Katanga, ¶ 1119.

[61] *Id.*

[62] Compromis, p. 14 ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, p. 25.

[63] *Id.*

[64] Compromis, p. 12 ¶ 5(c)(i).

undocumented organizational policy as the attacks were systematic and organized as shown.[65]

49. An underlying motivation of vengeance can be observed within the Scorpion Community borne out of resentment towards the Cavern Clans.[66] Further, tensions were exacerbated due to the perception of the Scorpions of the Valours being a threat to their way of life.[67]

50. Thus, the Scorpion Community constitutes an informal organisation that maintains a policy against the Cavern Clan. Consequently, the present case meets the organisational policy requirement as the attack was carried out under this policy.

[B]. THE OBJECTIVE ELEMENTS OF THE CRIMES AGAINST HUMANITY OF PERSECUTION HAVE BEEN SATISFIED

51. The EoC of Article 7 of the RS provides for objective elements of the crime of persecution, which have to be satisfied for the commission of a *crime against humanity* within the meaning of Article 7(1)(h). In order to constitute the crime against humanity of persecution it must be established that **(i)** The Principal Perpetrator has severely deprived people of their fundamental rights, **(ii)** The Principal Perpetrator has targeted such individuals or groups based on ethnic, cultural or other grounds, and **(iii)** The acts are connected with an act referred to in Article 7(1) or a crime within the jurisdiction of the Court.

(i) The Principal Perpetrator has severely deprived people of their fundamental rights.

52. As per Section 7(1)(h) sub-section 1 in the EoC, there must be severe deprivation of fundamental rights contrary to international law.[68]

53. The Chamber has previously considered murder, cruel inhuman treatment, and terrorizing of the civilian population as severe deprivation of Fundamental Rights causing a brutal impact on the victims.[69]

54. Moreover, as per the Universal Declaration of Human Rights, every person has a right to life, liberty, and security of person,[70] as well as non-deprivation of their property in an arbitrary

[65] Written Submissions, p. 7 ¶ 38.

[66] Compromis, p. 11, ¶ 5(b)(ii).

[67] Compromis, p. 11, ¶ 5(b)(ii).

[68] Elements of Crime, 2010, Article 7(1)(h), 1, Intl. Crim. Ct. (2011).

[69] Prosecutor v. Vidoje Blagojević and Dragan *Jokić*, IT-02-60-T, Judgement, TC, ¶ 619-621 (17 January 2005).

[70] Universal Declaration of Human Rights, 1948, 2, G.A. Res. 217A (III), U.N. Doc. A/810 at 71.

manner.[71]

55. Further, as per the International Covenant on Economic, Social and Cultural Rights, every State Party must recognise fundamental rights to an adequate standard of living which includes but is not limited to food, clothing, healthcare and housing.[72]
56. Moreover, according to the International Covenant on Civil and Political Rights, every human has an inherent right to life as well as the right to freely practice, profess and enjoy their religion and culture.[73]
57. Additionally, the Convention on the Rights of the Child obligates state parties to recognize the inherent right to life of each child and to do the maximum possible to ensure their survival.[74] Furthermore, State Parties must also undertake appropriate steps to protect children from all mental, physical and emotional violence including but not limited to sexual abuse, maltreatment, exploitation, etc.[75]
58. As per the 1977 Additional Protocol-I of the Geneva Convention, Article 53 prohibits any acts of hostility directed against historical monuments, artisanal objects, and spiritual objects that constitute the cultural heritage of the people.[76]
59. From the above, it is apparent that customary international law affords certain fundamental rights to every human being which include but are not limited to the right to life, the right to property, the right against sexual abuse and right to protection of cultural objects and religious freedom.
60. In the present case, the Scorpion Community has undertaken numerous targeted attacks against the Cavern Clan.[77] Moreover, the members of the Scorpion Community have specifically kidnapped and sexually assaulted schoolgirls belonging to the Valour Community.[78]
61. The elderly members of the Valours were deliberately targeted, culminating in the murder of

[71] Universal Declaration of Human Rights, 1948, 17(2), G.A. Res. 217A (III), U.N. Doc. A/810 at 71.

[72] International Covenant on Economic, Social and Cultural Rights, 1966, 11, 993 U.N.T.S. 3.

[73] International Covenant on Civil and Political Rights, 1966, 6, 27, 999 U.N.T.S. 171.

[74] Convention on the Rights of the Child, 1989, 6, 1577 U.N.T.S. 3.

[75] Convention on the Rights of the Child, 1989, 19, 1577 U.N.T.S. 3.

[76] Geneva Convention, Article 53.

[77] Compromis p. 10, ¶ 4(e); p. 14 ¶ 5(f)(ii); Witness Testimonials, Prosecution Witness-2, Communication, p.25.

[78] Compromis p. 12, ¶ 5(d)(i); Witness Testimonials, Victim Witness-1, Communication, p. 38.

their eldest patriarch, who was a hundred and two years old.[79] The Scorpions also burned down Valours' homes and destroyed cultural artifacts of great significance to their people.[80]

62. There was a clear violation of Fundamental Rights established under customary international law by the acts of the Scorpion Community.

63. Thus, in light of these facts and the laws applicable, the *first* objective requirement under Article 7(1)(h) has been satisfied, as the Principal Perpetrator through their actions have caused the severe deprivation of Fundamental Rights contrary to international law to the Cavern Clan.

(ii) The Principal Perpetrators have targeted such individuals or groups based on recognised impermissible grounds.

64. Article 7(1)(h) sub-clause 3 of the EoC requires that the individuals or groups of individuals were targeted based on political, racial, national, ethnic, cultural, religious, gender grounds, or any other grounds deemed as impermissible under international law.[81]

65. The Chamber has previously defined ethnic or ethnicity as a group whose members share a common language or culture.[82] Any community that has a distinct language, customs, and traditional lands can be considered an ethnic community.[83]

66. Culture has been defined as the complex whole that includes knowledge, belief, art, law, morals, custom, and any other capabilities acquired by man as a member of society.[84] Moreover, a shared cultural heritage will usually include at least one defining feature of a persecuted group and can be used by the perpetrators to identify that group, which may include the elderly, the disabled, women, and children.[85]

67. The Cavern Clan is a distinct ethnic and cultural group, with a rich array of historic practices, customs, arts, and traditions.[86] They have passed down their agrarian practices, artisanal

[79] Compromis p. 8, ¶ 3(b)(iv).

[80] Compromis Witness Testimonials, Victim Witness-1, General Description, p. 38.

[81] Elements of Crime, 2010, Article 7(1)(h), 3, Intl. Crim. Ct. (2011).

[82] Akayesu, ¶ 122 (2 September 1998).

[83] Prosecutor v. Al Bashir, ICC-02/05-01/09-3, Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir, (4 March 2009).

[84] Edward B. Tylor, Primitive Culture 1 (Cambridge University Press 2012).

[85] Policy on Cultural Heritage, 2021, 74, Intl. Crim. Ct. (June 2021).

[86] Compromis p. 7, ¶ 3(a)(iv).

techniques, and traditional songs and dances to future generations.[87] Furthermore, the Valours can be regarded as a distinct sub-ethnicity of the Cavern Clan.[88]

68. The Scorpion Community targeted the Cavern Clan based on their ethnic and cultural identity. As shown above, the attacks were meticulously organized by the Scorpions, aiming to decimate both the Cavern and Valour Clans, a goal nearly achieved, with only five members of the Valours remaining in the valley.[89]

69. Thus, the *second* objective requirement under Article 7(1)(h) has been satisfied, as the Principal Perpetrators have targeted such individuals or groups based on recognised impermissible grounds.

(iii) The Principal Perpetrators have committed acts in connection with an act referred to in Article 7(1) or a crime within the jurisdiction of the Court.

70. Article 7(1)(h) sub-clause 4 of EoC, requires that there must be some conduct 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.[90]

71. In the present case, there is a clear commission of the crime against humanity of Murder as defined under Article 7(1)(a). The elements of Murder as a crime against humanity requires that the perpetrator has killed one or more persons.[91]

72. From the present factual matrix, it can be seen that the principal perpetrators have undertaken attacks upon the Caverns leading to the deaths of at least twenty-three people.[92] Further, the attacks have also caused the near-decimation of the entire Valour Clan leaving merely five members in the Valley of Titan.[93] Moreover, in the entire conflict, a hundred and twenty people lost their lives.[94]

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[87] *Id.*

[88] Compromis p. 7, ¶ 3(b)(i); Compromis Witness Testimonials, Victim Witness-1, General Description, p. 38; Written Submissions p. 4, ¶ 23.

[89] Compromis p. 8, ¶ 3(b)(iv).

[90] Rome Statute of the International Criminal Court, 1998, 7(1)(h), 2187 U.N.T.S. 90.

[91] Elements of Crime, 2010, Article 7(1)(a), 1, Intl. Crim. Ct. (2011).

[92] Compromis p. 14, ¶ 5(f)(ii).

[93] Compromis p. 8, ¶ 3(b)(iv).

[94] Compromis p. 12, ¶ 5(d)(i).

73. Thus, in light of these facts and the laws applicable, the *third* objective requirement under Article 7(1)(h) has been satisfied, as the Principal Perpetrator through their actions have committed the crime against humanity of murder.

[C]. THE SUBJECTIVE ELEMENT OF 'KNOWLEDGE OF ATTACK' IS SATISFIED.

74. The chapeau of Article 7(1) requires that The Accused must have knowledge of the attack and that their conduct formed part of the larger attack.[95]
75. The "knowledge" element should not be interpreted as requiring proof that The Accused knew all characteristics of the attack or the precise details of the plan or policy of the organization.[96] It is sufficient to demonstrate that The Accused possessed a general awareness of the attack and that this awareness heightened the danger posed by his actions to the victims.[97]
76. In the present factual matrix, The Accused had received a legal notice on November 15, 2022, regarding his contributions to the crimes perpetrated by the Scorpion Community, which demanded that he cease operations that were aggravating the negative impact.[98]
77. Moreover, an email sent by The Accused to his senior employees on January 10, 2023, directly referenced the attacks occurring throughout Titan.[99] His message also indicated awareness of his product's use and its significant impact on the conflict, as evidenced by his remarks about the meteoric increase in the number of users.[100]
78. Thus, as The Accused was aware of the attack, and used this knowledge to his advantage, to the detriment of the victims, knowing his conduct to be a part of the attack, the subjective requirement of the mental element has also been met.

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[95] Rome Statute of the International Criminal Court, 1998, 7(1), 2187 U.N.T.S. 90.

[96] Elements of Crime, 2010, Article 7(1)(a), 2, Intl. Crim. Ct. (2011).

[97] Prosecutor v. Tadic, IT-94-1-T, Judgement, ¶ 657 (07 May 1997); Kunarac ¶ 102; Prosecutor v. Blaskic, IT-95-14-T, Judgement, TC ¶ 251 (03 March 2000); Prosecutor v. Krnojelac, IT-97-25-T, Judgement, ¶ 59 (15 March 2002); Kai Ambos and Steffen Wirth, The Current Law of Crimes Against Humanity: An analysis of UNTAET Regulation 15/2000, 13-41 (Criminal Law Forum 1, 2002).

[98] Compromis, Witness Testimonials, Prosecution Witness-2, Communication, p. 25.

[99] Compromis, Annexures, Annexure 1, p. 43.

[100] *Id.*

III. WHETHER JULES VERNE CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(C) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

79. The Accused can be held criminally liable under Article 25(3)(c) since **[A]** The objective element is satisfied, and **[B]** The subjective element is satisfied.

[A]. THE OBJECTIVE ELEMENT IS SATISFIED

80. The Accused has been charged under Article 25(3)(c)[101] of the RS.[102] Aiding, abetting, or otherwise assisting for the commission or attempted commission of a crime within the jurisdiction of the Court renders an individual criminally liable under the Statute.[103]
81. Assessment for liability may focus on factors such as The Accused's position of authority and their level of influence in carrying out the criminal act.[104] The defendant must have assisted in the commission of the crime and acted with the intent to facilitate its commission to render him criminally liable.[105]
82. Either aiding or abetting alone is sufficient to prove criminal liability on his part.[106] 'Aiding' involves providing practical or material assistance,[107] while 'abetting' refers to providing encouragement or moral support to the perpetrator.[108] Sympathy to the cause or quiet presence may also make one liable.[109]

[101] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[102] Compromis, p. 16, ¶ 7.

[103] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[104] Prosecutor v. Blaškić IT-95-14-A, ¶ 195 AC (29 July 2004) ["**Blaškić**"]; Prosecutor v Anto Furundzija, IT-95-17/1-T, ¶ 233,234 (10 December 1998) ["**Furundzija**"].

[105] Prosecutor v Ble Goude (Decision on confirmation of Charges) ICC-02/11-02/11, PTC I (11 December 2014).

[106] Akayesu, ¶ 484.

[107] Akayesu ¶ 484; Prosecutor v Kamuhanda, ICTR-99-54A-T, Judgement, TC II, ¶ 596 (22 January 2003).

[108] Prosecutor v Taylor, SCSL-03-01-T, Judgement, TC II, ¶ 482 fn. 1136 (18 May 2012); Bemba ¶ 89.

[109] Bemba, ¶ 89.

83. Aiding, abetting, or assisting constitutes a single mode of liability, and the assistance may be given before, during, or after the offence[110]. There is no requirement for physical presence.[111] No specific threshold of assistance is required, any aid contributing to the crime meets the threshold under Article 25(3)(c).[112]
84. Aiding and abetting do not require inherently criminal acts, neutral activities like political, military, or business actions can also incur liability.[113] Additionally, providing instruments with the knowledge they will be used in criminal acts constitutes aiding and abetting, regardless of the number of deaths caused by the instrument.[114]
85. In the present case, the conflict commenced due to the murder of two Cavern children allegedly by the Scorpions, which soon escalated into organised violence.[115] The Scorpions launched raids on markets housing Cavern businesses, sabotaging property, and assets worth 10,000 USD.[116] Violence soon erupted and engulfed the region.[117]
86. It was a severe blow to the population, with over one hundred twenty people losing their lives and over twelve hundred sustaining injuries,[118] many of which were life-altering.[119] There were reports of five hundred other acts of violence, including kidnappings, assault, and sexual violence.[120] The violence also displaced many.[121] It was a massive breakdown of social order[122] and a severe humanitarian crisis.[123]

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[110] Blaškić ¶ 48; Prosecutor v Renzaho, Judgement and Sentence, ICTR-97-31-T, TC I, ¶ 742 (14 July 2009).

[111] Prosecutor v Sesay, SCSL-04-15-T, Judgement, TC I, ¶ 278 (2 March 2009).

[112] Prosecutor v Al-Mahdi, ICC-01/12-01/15, Decision on the confirmation of charges against Al-Mahdi, PTC I, ¶ 26 (24 March 2016).

[113] Prosecutor v Krajišnik, IT-00-39-A, Judgement, AC, ¶ 217 (17 March 2009).

[114] *Id.*

[115] Compromis, p. 12, ¶ 5(c)(i).

[116] *Id.*

[117] *Id.*

[118] Compromis, p. 12, ¶ 5(d)(i).

[119] *Id.*

[120] *Id.*

[121] *Id.*

[122] *Id.*

[123] Compromis, p. 12, ¶ 5(d)(ii).

87. Additionally, the Valours were the community that suffered the most. There was the destruction of cultural artifacts.[124] Only five Valours remained in the valley, after the violence.[125] Their hundred- and two-year-old patriarch was murdered in the violence.[126] Thirty members are believed to have been killed or are missing.[127]
88. The Chamber has acknowledged the efforts taken by the Scorpions to attack the Valours, who were historically regarded as the kith and kins of the pagan deities worshipped by the Caverns[128], to reduce the morale of the Caverns.[129]
89. For the Valours, the valley saw destruction which would require years of reconstruction and at least 3,000,000 USD worth of intervention.[130] Agricultural output in the valley also suffered due to the destruction of farms belonging to the Caverns.[131]
90. The Accused owned TSC, a blockchain which allowed stakeholders to maintain an immutable digital ledger.[132] This blockchain was employed by members of the Scorpion Community to upload information about vulnerable Caverns, including their names, location, and the protection around elders, women, and children.[133] Once information was uploaded on the server, it could be accessed from anywhere, even without internet access, by the Scorpions.[134]
91. These individuals were later attacked, lynched and their homes destroyed by mobs of Scorpion community members.[135] At least twenty-three people lost their lives because of this method of targeted assault.[136]

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[124] Compromis, Witness Testimonials, Victim Witness-1, General Description, p. 36.

[125] Compromis, p. 8, ¶ 3(b)(iv).

[126] *Id.*

[127] Compromis, p. 9, ¶ 3(b)(iv).

[128] Compromis, p. 7, ¶ 3(b)(i).

[129] Compromis, p. 9, ¶ 3(b)(v).

[130] Compromis, p. 13, ¶ 5(e)(i).

[131] *Id.*

[132] Compromis, p. 10, ¶ 4(c).

[133] Compromis, p. 14, ¶ 5(f)(ii).

[134] *Id.*

[135] *Id.*

[136] *Id.*

92. The Accused was sent a formal legal notice on November 15, 2022, requesting his cooperation in investigating the misuse of TSC, by the Titan Police Department, a notice which he ignored.[137] The Accused sent a mail to his employees, outlining the necessity of continuing work despite what the country was facing due to TSC.[138] This mail was sent on January 10, 2023[139], after receipt of the legal notice.
93. The Accused was a business magnate[140] who owned TSC[141] and was thus in a position of authority. Through his platform, he provided clear physical and material assistance to the Scorpions to carry out their persecution of the Caverns. The easy and accessible nature of the blockchain made it a deadly weapon.[142] The Accused thus essentially provided the means of aggravating the intensity of the violence to the Scorpions.
94. The Accused was well aware of the situation. He had been sent a legal notice detailing the situation, yet he sent an email to his senior employees later, encouraging them to keep up work. In his testimony, The Accused attempted to evade responsibility and instead blamed the victims, i.e., the Valours, for attempting to suppress his people.[143]
95. The Accused effectively aided the Scorpions by not shutting down the servers and allowing anyone to access the information. Despite being aware of the violence and the unrest, he took no action to attempt to curb it.
96. Additionally, the Valours suffered severe damage to life and property. They had been living in Titan for times immemorial, and they were thus robbed of their cultural heritage, a severe and painful shock to any community. The agricultural lands they largely lived on were destroyed and will cost a lot of time and money to replace. Their population severely dwindled. The loss and pain suffered are thus indescribable.

[137] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[138] Compromis, Annexures, Annexure 1, p. 43.

[139] *Id.*

[140] Compromis, p. 9, ¶ 4(a).

[141] Compromis, p. 10, ¶ 4(c).

[142] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 26.

[143] Compromis, Witness Testimonials, Defence Witness-1, General Communication, p. 30.

97. Therefore, The Accused's system played a critical role in perpetuating the organised violence against the Cavern Clan, especially the Valours, and therefore, his actions satisfy the objective elements of aiding and abetting.

[B]. THE SUBJECTIVE ELEMENT IS SATISFIED

98. It is submitted that The Accused had the required subjective element or *mens rea* since **(i)** the general intent requirement under Article 30 is met, and **(ii)** the specific intent requirement under Article 25(3)(c) is met.

(i) The General Intent Requirement Under Article 30 is Met

99. Article 25(3)(c)[144] details one subjective limitation to individual criminal responsibility under it, namely, that the accomplice must assist to facilitate the commission.[145]

100. The requirement is two-fold.[146] The Accused must have had the *specific intent* to facilitate the commission of the crime, and assistance must be given with that intention.[147] One must read this requirement along with the general mental element under Article 30.[148] This mental element includes actions as well as omissions.[149]

101. Article 25(3)(c)[150] relates to the accessory's participation and not the perpetrator's crime.[151] Article 30(2)(b)[152] provides for *dolus directus* of the second degree, where the person is aware that the crime will occur in the ordinary course of events because of their conduct.[153] This

[144] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[145] Kai Ambos, Principles of Criminal Law in the Rome Statute 10 (Bloomsbury 1999).

[146] Triffter and Kai Ambos, Rome Statute of the International Criminal Court: Article by Article Commentary 1225 (4th edn, Beck Hart Nomos 2022).

[147] Bemba, ¶ 97,98.

[148] Rome Statute of the International Criminal Court, 1998, 30, 2187 U.N.T.S. 90.

[149] Lubanga, p. 119, ¶ 352(i); Volume 1, ESER, A., Mental Elements–Mistakes of Fact and Law in The Rome Statute of the International Criminal Court: A Commentary 898-899 (Oxford, Oxford University Press, 2002).

[150] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[151] Prosecutor v Seromba, ICTR-2001-66-A, Judgement, AC, ¶ 56 (12 March 2008).

[152] Rome Statute of the International Criminal Court, 1998, 30(2)(b), 2187 U.N.T.S. 90.

[153] Rome Statute of the International Criminal Court, 1998, 30(2)(b), 2187 U.N.T.S. 90; Ambos and Otto Triffterer, The Rome Statute of the International Criminal Court: A Commentary 1120 (Hart Publishing 2016).

element is assessed on what a reasonable person would have expected in each circumstance.[154] To prove criminal liability, a general awareness of the essential elements of the crime is enough.[155]

102. In the present case, The Accused had been sent a legal notice requesting him to take steps to curb the violence spreading through his technology.[156] The investigation of the Titan Police Department revealed that The Accused had opportunities to reduce the damage being caused by TSC.[157]

103. The Accused was thus aware of the damage being caused by his technology. He knew that the crime was being facilitated by his actions, or, rather, his wilful inaction in not dismantling the network provided by his technology to the Scorpions. A reasonable person would easily have assessed the gravity of the situation after the legal notice.

104. As a man of technology, The Accused could have assessed the role his technology was playing and taken steps accordingly, saving innocent lives, and saving the Valours cultural and psychological shock. Hence, the general intent requirement under Article 30 is met.

[154] Katanga ¶ 770-779; Prosecutor v Zlatko Alekovski, IT-95-14/1-AR77, Judgement on Appeal by Anto Nobilo Against Finding of Contempt, AC, ¶ 162,164, (30 May 2001); Prosecutor v Krnojelac, IT-97-25-A, Judgement, AC, ¶ 51,52 (17 September 2003); Blaškić, ¶ 50; Prosecutor v. Blagojevic, IT-02-60-A, Judgement, AC, ¶ 22 (9 May 2007); Prosecutor v Naser Orić, IT-03-68-A, Judgement AC, ¶ 43 (3 July 2008); Prosecutor v Mrksić, IT-9513/1-A, Judgement, AC, ¶ 159 (5 May 2009); Prosecutor v Momčilo Perišić, IT-04-81-A, Judgement, AC, ¶ 48 (28 February 2013); Prosecutor v. Khieu Samphân and Nuon Chea, 002/19-09-2007/ECCC/TC, Trial, ¶ 704 (16 November 2018).

[155] Prosecutor v Karera, ICTR-01-74-A, Judgement, AC, ¶ 321 (2 February 2009).

[156] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[157] *Id.*

(ii) The Specific Intent Requirement Under Article 25(3)(c) is Met

105. The aider and abettor must act with specific intent to be liable under Article 25(3)(c).[158] The aiding and/or abetting must be to facilitate the crime.[159] The required intent can be gleaned from examining the facts and circumstances.[160]

106. In the case of *Zyklon B*,[161] The Accused supplied poison gas originally intended for pests, knowing that it would be used for the systematic extermination of a community. This was held enough to establish The Accused's role in aiding and abetting.[162]

107. Where there is knowledge of someone else's crimes and that knowledge is combined with further aiding, abetting, or assistance for the perpetration of those crimes, relevant intent required for responsibility under Article 25(3)(c)[163] may be imputed.[164]

108. In the present case, The Accused was well aware of the criminal activities. During the conflict, the very identity that the Valours were proud of was turned into a weapon against them.[165] A legal notice was sent to him requesting his cooperation in stopping the horrors aggravated by TSC.[166] He also sent an email to his employees urging them to continue work.[167]

109. Moreover, when the hapless victims attempted to somehow stop the bloodshed, they found that seeking help from administrators was not feasible,[168] although alternatives to reduce the violence did exist, such as implementing safeguards or disabling services in zones of

[158] Prosecutor v Mrkšić, IT-95-13/1-A, Judgement, AC, ¶ 159 (5 May 2009); Prosecutor v Blagojevic, IT-02-60-A, Judgement, AC, ¶ 188-189 (9 May 2007); Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[159] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90; Mbarushimana, ¶ 274 and 281; Bemba, ¶ 97.

[160] Elements of Crime, 2010, General Introduction, 3, Intl. Crim. Ct. (2011).

[161] Furundzija**,** ¶ 222.

[162] *Id.*

[163] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[164] Prosecutor v. Momčilo Krajišnik, IT-00-39-A, Judgement, AC, ¶ 697-698 (17 March 2009).

[165] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 36.

[166] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[167] Compromis, Annexures, Annexure 1, p. 43.

[168] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 37.

conflict.[169] Yet, The Accused looked the other way and attributed it to the company's inherent goal of making a profit.[170] He was also bitter about the Valours and accused them of a 'political hunt'.[171]

110. It is thus evident that The Accused knew about the crimes being committed through his platform. Instead of stopping the crimes by disabling the platform, he sent an email to his employees encouraging them that they were workers first and to not stop providing services under any circumstances.

111. His motives were twofold, firstly, the inherent motive of profit, for which he sacrificed innocent lives, and secondly, the bitterness he held against the Valours.

112. There was knowledge of the crimes and this knowledge was combined with further facilitation. This had an extremely adverse effect on the Valours, with their lives and property brutalised. Hence, the specific intent requirement under Article 25(3)(c) of the RS[172] is fulfilled.

[169] Compromis, Witness Testimonials, Victim Witness-2, General Communication, p. 41.

[170] Compromis, Witness Testimonials, Defence Witness-1, General Communication, p. 28.

[171] Id.

[172] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

IV. WHETHER JULES VERNE CAN BE HELD CRIMINALLY LIABLE UNDER ARTICLE 25(3)(D) OF THE ROME STATUTE FOR HIS ROLE TOWARDS THE AID EXTENDED BY HIM TOWARDS THE COMMISSION OF THE CRIME?

113. It is submitted that The Accused must be held criminally liable under Article 25(3)(d) of the RS since **[A]** The objective elements are fulfilled, and **[B]** The subjective elements are fulfilled.

[A]. THE OBJECTIVE ELEMENTS ARE FULFILLED

114. Liability under Article 25(3)(d) of the Statute entails three objective requirements, namely, a crime within the jurisdiction of the Court was attempted or committed, the commission or attempted commission of such a crime was carried out by a group of persons acting with a common purpose, and that the individual contributed to the crime in any way other than those set out in Articles 25(3)(a)[173], (b)[174] and (c)[175] of the Statute.[176] Logistical support has been held to be covered under this Article.[177]

115. For establishing a common purpose, the purpose must be to commit the crime or its execution. It is not a requirement that the group must be inherently criminal or the purpose must only be criminal.[178] People involved must desire the consequence of the crime or must know that the crime would occur in the ordinary course of events. This includes acts or omissions.[179]

116. In the present case, the Scorpions stand accused of carrying out persecution against the Caverns.[180] Groups of Scorpions carried out organised violence against the Caverns after the conflict commenced.[181]

[173] Rome Statute of the International Criminal Court, 1998, 25(3)(a), 2187 U.N.T.S. 90.

[174] Rome Statute of the International Criminal Court, 1998, 25(3)(b), 2187 U.N.T.S. 90.

[175] Rome Statute of the International Criminal Court, 1998, 25(3)(c), 2187 U.N.T.S. 90.

[176] Mbarushimana ¶ 283; Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[177] Katanga ¶ 1671-1681.

[178] Katanga ¶ 1627.

[179] *Id.*

[180] Compromis, p. 15, ¶ 6(c).

[181] Compromis, p. 12, ¶ 5(c)(i).

117. Twenty-seven persons stand formally arrested.[182] The Accused, despite knowing of the crimes being carried out through TSC through the legal notice, did nothing to stop them.[183] The Valours were forced to stand helpless while being plundered and looted, with the Scorpions using TSC as a weapon of choice.[184]

118. Proceeds from various crimes such as theft, extortion and smuggling were converted into cryptocurrency tokens by members of the Scorpion Community and its supporters. These tokens were traded on AlphaBeacon, creating a shadow economy. It provided funding for armed groups of the Scorpions, helping the violence.[185]

119. The Accused served as the co-founder and CEO of AlphaBeacon during the relevant time[186] and oversaw the management of the company.[187] Reports prepared indicated the role of the tools offered by AlphaBeacon in assisting the criminals belonging to the Scorpion community to convert and trade fiat currency, and other tangible valuables into tokens which were listed and later traded.[188] This became one of the primary causes of the grave intensity of the casualties that occurred.[189]

120. Some commentators noted that the violence could have stopped far earlier if AlphaBeacon had withdrawn the services it was offering.[190] Tokens high in monetary value were traded by the Scorpions with complete security and zero hindrances.[191] The use of these tokens made it difficult to trace and disrupt these illicit financial networks.[192]

121. The crime of persecution is clearly under the jurisdiction of the Court.[193] Moreover, this persecution was carried out by a group of individuals acting with a common purpose, namely,

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[182] Compromis, p. 15, ¶ 6(c).

[183] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[184] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 37.

[185] Compromis, p. 13, ¶ 5(e)(ii).

[186] Compromis, Witness Testimonials, Defence Witness-1, General Description at p. 28.

[187] Compromis, p. 9, ¶ 4(c).

[188] Compromis, p. 13, ¶ 5(e)(ii).

[189] *Id.*

[190] *Id.*

[191] *Id.*

[192] *Id.*

[193] Rome Statute of the International Criminal Court, 1998, 7(1)(h), 2187 U.N.T.S. 90.

attacking the Cavern Clan, especially the Valours. This is apparent through the way the violence was organised.

122. The Accused, through logistical support, contributed in a manner different to Articles 25(3)(a), (b) and (c) of the Statute. Had AlphaBeacon withdrawn its services, the Scorpions would have lost funding and the violence would not have continued.

123. Hence, the objective elements of liability under Article 25(3)(d) of the RS stand fulfilled and The Accused should be held individually responsible for the crimes committed under the same.

[B]. THE SUBJECTIVE ELEMENTS ARE FULFILLED

124. Article 25(3)(d) as well as its jurisprudence highlights two subjective requirements for individual criminal responsibility under this Article. These two requirements are that, *firstly*, the contribution should be *intentional*, and *secondly*, should either be made to further the criminal activity or criminal purpose of the group, and/or in the *knowledge of the intention of the group* to commit the crime.[194]

125. In the present case, there was trading of illegal tokens on AlphaBeacon,[195] a platform co-founded by The Accused.[196] It was noted that had AlphaBeacon withdrawn its services, this illicit funding could have stopped.[197] These systematic attacks caused great pain and suffering to the Valours, with TSC becoming the enabler of violence[198], allowing the Scorpions to commit heinous acts.[199]

126. After investigation of the role that TSC had played in the massacre, The Accused was sent a legal notice by the Titan Police Department requesting cooperation in the investigation, which

[194] Mbarushimana ¶ 283; Katanga, ¶ 1620.; Rome Statute of the International Criminal Court, 1998, 25(3)(d), 2187 U.N.T.S. 90.

[195] Compromis, p. 13, ¶ 5(e)(ii).

[196] Compromis, Witness Testimonials, Defence Witness-1, General Description, p. 28.

[197] Compromis, p. 13, ¶ 5(e)(ii).

[198] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 37.

[199] Compromis, Witness Testimonials, Victim Witness-1, General Communication, p. 38.

was ignored.[200] About two months later, he sent an email to his employees encouraging them to keep working.[201]

127. The Accused thus contributed intentionally to the crimes, since he did nothing to stop them and encouraged his company to keep working the way it had been. He had knowledge of the intention of the Scorpions to commit these crimes, especially after the legal notice. He therefore furthered criminal activity while being perfectly aware of the intention of the group to do what it did. Both the subjective elements are thus fulfilled and The Accused is guilty of contributing to persecution under Article 25(3)(d) of the RS.

[200] Compromis, Witness Testimonials, Prosecution Witness-2, General Communication, p. 25.

[201] Compromis, Annexures, Annexure 1, p. 43.

V. WHETHER THE VALOURS CLAIM FOR PRIORITY OF REPARATION AND THE DEMAND OF THE SAME FROM THE ACCUSED IS JUSTIFIED?

128. The demands of reparation from The Accused are justified as The Accused has committed the crimes as charged. Moreover, the demands for the reparations and their modalities are justified on the grounds of **[A]** The indigence of The Accused is not relevant, **[B]** The Accused individually owns remaining assets or estate, **[C]** The reparations must be made on an individual basis, and **[D]** The conflict does warrant the establishment of any priority of distribution of reparation(s) in favour of the Valours.

[A]. THE INDIGENCE OF THE ACCUSED IS NOT RELEVANT

129. The Chamber has previously held that indigence of The Accused is not a valid factor while deciding upon the reparations to the victims.[202] Further, as per the principle of 'accountability for the offender,' an order for reparations should be issued in all cases against the convicted person, irrespective of their financial status.[203]

130. The convicted person's indigence and any potential resources available to the Trust Fund for Victims to supplement a reparations award are irrelevant in determining the extent of their liability for reparations.[204]

131. Moreover, the order imposing liability may be enforced when a review of the convicted person's financial situation indicates they have the means to comply.[205] The convicted person's

[202] The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06 A7 A8, Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable', AC, ¶ 102-105 (18 July 2019) ["**Lubanga Appeal on Reparations**"].

[203] The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06, Reparations Order, TC, ¶ 97 (8 March 2021) ["**Ntaganda**"]; The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06 A A 2 A 3, Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2, AC, ¶ 68-70, 76, 102-105 (3 March 2015) ["**Lubanga Judgement on Principles**"]; The Prosecutor v. Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15, Reparations Order, TC, ¶ 112-114 (17 August 2017) ["**Al Mahidi**"].

[204] Ntaganda, ¶ 223.

[205] Lubanga Judgment on Principles, ¶ 104; The Prosecutor v. Germain Katanga, ICC-01/04-01/07 A3 A4 A5, Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled "Order for Reparations

financial circumstances may influence the manner of implementing reparations, which remains the responsibility of the Presidency.[206]

132. In the present factual matrix, The Accused has in his previous written submissions attempted to claim indigence to deny the victims their rightful reparations.[207] However, The Accused still has equity in Bed, Bath & Beyond which amounts to 4,500,000 USD as well as shares in FlagPole LLP amounting to 300,000 USD.[208]

133. From the above facts, it is evident that The Accused has sufficient resources to provide the required amount of reparations that can be made immediately available to the victims. *In arguendo*, even if The Accused lacks adequate resources to fully pay the reparations, this is not a relevant consideration for this Chamber when determining a fair reparation.

134. Therefore, the Chamber must impose reparation upon The Accused to restore the victims regardless of The Accused's baseless claims of indigence.

[B]. ACCUSED INDIVIDUALLY OWNS REMAINING ASSETS OR ESTATE

135. As per Rule 99(1) of the RPE, the Chamber may cooperate with the State to seize the proceeds and assets of the convicted person for reparations.[209]

136. The Accused, in his written response to the victim's contentions, considers his remaining assets to be a community resource.[210] However, as shown above, The Accused is far from being indigent.

137. Furthermore, The Accused's assertion that the remaining resources represent a community resource is misleading. His shares in FlagPole LLP are controlled exclusively by him and his octogenarian mother.[211] Although these assets seemingly are jointly held by him and his mother, it is evident that he exercises complete control over them, classifying them as

pursuant to Article 75 of the Statute", AC, ¶ 189 (8 March 2018) ["**Katanga AC**"].

[206] Ntaganda, ¶ 223.

[207] Compromis, p. 16, ¶ 8(c).

[208] Compromis, Annexures, Annexure 2, p. 45.

[209] International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 and Corr.1 (September 3-10, 2002), rule 99, 2002; Rome Statute of the International Criminal Court, 1998, 75(4), 2187 U.N.T.S. 90; Rome Statute of the International Criminal Court, 1998, 93(1)(k), 2187 U.N.T.S. 90.

[210] Compromis, p. 16, ¶ 8(c).

[211] Compromis, p. 10, ¶ 4(c).

individual property. The Accused wields complete control over FlagPole LLP, as further evidenced by his regular receipt of substantial payments from AlphaBeacon, amounting to at least ten million.[212]

138. Therefore, it is evident that The Accused individually owns the assets for which the victims are seeking reparation.

[C]. THE REPARATIONS MUST BE MADE ON AN INDIVIDUAL BASIS

139. Rule 85 of RPE defines victims as any who have been harmed by any crime committed in the jurisdiction of the Court.[213] Additionally, as per Rule 97(1) the Chamber may grant reparations on either an individual or collective basis.[214]

140. Individual reparations are those in which the benefit is awarded directly to a person, compensating them for the harm they suffered as a result of The Accused's actions or inactions.[215] In other words, the compensation is tailored to that specific individual, for example, a payment deposited directly into the victim's bank account.[216]

141. Article 75 of the RS gives out a list of modalities, including but not limited to restitution, compensation, and rehabilitation.[217] Moreover, reparations must be effective and should aim to fulfil the victims' expectations, especially when the victims have expressed a preference for measures that are meaningful, transformative, and self-sustaining, rather than merely symbolic or charitable.[218]

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[212] Compromis, Annexures, Annexure 2, p. 46.

[213] International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 and Corr.1 (September 3-10, 2002), rule 85, 2002.

[214] International Criminal Court, Rules of Procedure and Evidence, ICC-ASP/1/3 and Corr.1 (September 3-10, 2002), rule 97(1), 2002.

[215] Katanga, ¶ 271; Ntaganda, ¶ 79.

[216] Katanga, ¶ 271.

[217] Rome Statute of the International Criminal Court, 1998, 75, 2187 U.N.T.S. 90.

[218] Ntaganda, ¶ 91; Lubanga Amended Reparations Order, ¶ 48; The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06, Observations on the Appointed Experts' Reports and further submissions on reparations on behalf of the Former Child Soldiers, TC, ¶ 15 (18 December 2020); The Prosecutor v. Bosco Ntaganda, : ICC-01/04-02/06, Public Redacted Version of the "Final Observations on Reparations of the Common Legal Representative of the Victims of the Attacks" (ICC-01/04-02/06- 2633-Conf), TC, ¶ 57 (21 December 2020).

142. In the present factual matrix, the Cavern Clan is the victim of the attacks undertaken by the Scorpion community which were contributed to by The Accused.[219]

143. Further, these attacks have caused immense loss to the various members of the Cavern Clan. The Scorpion community has especially targeted people leading to displacement as well as destruction of property.[220]

144. Moreover, the Scorpions specifically raided the shops and businesses of the Caverns, resulting in losses of up to 10,000 USD.[221] Ultimately, the Cavern Clan suffered an economic loss of 3,000,000 USD and immeasurable cultural and humanitarian injury.[222]

145. Considering the specific harms suffered by various members of the Cavern Clan, ranging from social and cultural to humanitarian and economic, it is evident that the Chamber must grant reparations on an individual basis, as this is the only remedy that is adequate, proportionate, and in line with the victims' requests.

146. Therefore, the Court must grant individual reparation to the Cavern Clan to allow the victims to again become self-sustainable and benefit from the measures over an extended time.

[D]. THE CONFLICT DOES WARRANT THE ESTABLISHMENT OF ANY PRIORITY OF DISTRIBUTION OF REPARATION(S) IN FAVOUR OF THE VALOURS.

147. The Chamber has to treat all victims equally.[223] However, the Chamber has previously recognised that priority may need to be given to certain victims who are in a particularly vulnerable situation or who require urgent assistance.[224]

148. When determining priorities, particular attention should be given to individuals who require immediate physical or psychological medical care, victims with disabilities and the elderly,

[219] Compromis, p. 8, ¶ 3(b)(iv); Compromis, Witness Testimonials, Victim Witness-1, Communication, p. 37.

[220] Compromis, p. 8, ¶ 3(b)(iv); Compromis, p. 9, ¶ 3(b)(v).

[221] Compromis, p. 12, ¶ 5(c)(i).

[222] Compromis, p. 13, ¶ 5(e)(i).

[223] Natangada, ¶ 92; Lubanga Amended Reparations Order ¶ 12, 19; Al Mahidi ¶ 140; The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, Decision establishing the principles and procedures to be applied to reparations, TC, ¶ 200 (7 August 2012).

[224] Lubanga Appeal on Reparations, ¶ 200.

survivors of sexual or gender-based violence, and those experiencing homelessness or financial hardship.[225]

149. Further, to promote justice for victims, reparations must be appropriate, adequate, and provided promptly. The awards should be proportionate to the harm, injury, loss, and damage as determined by the Chamber.[226]

150. In the present factual matrix, it is evident that the Valours were specifically targeted by the Scorpions, and deliberate efforts were made to harm them to weaken the morale of the Cavern Clan.[227]

151. The Valour's properties and households were specially targeted and burnt down by the Scorpions leading to mass displacement and homelessness.[228] Moreover, the Scorpions had targeted and killed the eldest patriarch of the Valours and had stalked and sexually assaulted schoolgirls belonging to the Valour community.[229]

152. In the aftermath of the situation, the Valours have become an exceptionally vulnerable group. Most of their families were attacked and killed by the Scorpions, leaving only two households remaining in the valley.[230] Additionally, they have lost all of their traditional workshops and means of livelihood, rendering them nearly destitute with very little hope of recovery.[231]

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[225] Natangada, ¶ 93; The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06, Public Redacted Version of the "Response of the Common Legal Representative of the Victims of the Attacks to the "Request on behalf of Mr Ntaganda for disclosure of material relied upon in the Gilmore Expert Report", TC, ¶ 4, 9 (13 February 2023); The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06-2623-Anx1-Red2, Public With Two Confidential Lesser Redacted Annexes and Two Public Lesser Redacted Annexes, TC, ¶ 215 (21 December 2022); The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06-2633-Red,

Public Redacted Version of the "Final Observations on Reparations of the Common Legal Representative of the Victims of the Attacks", ¶ 81 (21 December 2020).

[226] Natangada, ¶ 89; Al Mahidi**,** ¶ 33; Katanga, ¶ 267; The Registry's Observations on Reparations in the Ntaganda Case, ICC-01/04-02/06-2475-AnxI, ¶ 11 (28 February 2020); U.N. GAOR, Basic Principles on Reparations, 2006, G.A. Res. 60/147, ¶ 15, U.N. Doc. A/RES/60/147; Lubanga Amended Reparations, ¶ 44.

[227] Compromis, p. 9, ¶ 3(b)(v).

[228] Compromis, Witness Testimonials, Victim Witness-1, Communication, p. 37.

[229] Compromis, p. 8, ¶ 3(b)(iv); Compromis, Witness Testimonials, Victim Witness-1, Communication, p. 37; Compromis, p. 12, ¶ 5(c)(i).

[230] Compromis, p. 8, ¶ 3(b)(iv).

[231] Compromis, Witness Testimonials, Victim Witness-1, General Description, p. 37.

153. Thus, in light of these facts and the laws applicable, the Chamber must acknowledge the vulnerable position of the Valours and the harm they suffered during the attacks, and accordingly prioritize their distribution of reparations.

PRAYER

Wherefore, in light of the issues raised, arguments on merit, evidence supplied and authorities cited, the Victims most humbly and respectfully request the Court to adjudge and declare that:

I. The Valours **form** a distinct community.

II. The facts as described by the pre-trial chamber **constitute a crime against humanity of persecution** under Article 7(1)(h) of the Rome Statute.

III. The Accused **should be held criminally liable under Article 25(3)(c) of the Rome statute** for his role towards the aid extended by him towards the commission of the crime.

IV. The Accused **should be held criminally liable under Article 25(3)(d) of the Rome statute** for his role towards the aid extended by him towards the commission of the crime.

V. The Valours claim for priority of reparation and demand for the same from the accused is **justified**.

All of which is respectfully submitted,

ON BEHALF of THE

VICTIMS COUNSELS

FOR THE VICTIMS