

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/12-01/18**

Date: **11 June 2025**

TRIAL CHAMBER X

Before:

**Judge Kimberly Prost, Presiding Judge
Judge María del Socorro Flores Liera
Judge Keebong Paek**

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
*THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG
MAHMOUD***

**Public
With Public Annexes A to J**

Defence Observations on Reparations

Source: Defence for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud

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

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☒ **Counsel for the Defence**

Al Hassan Defence Team

☒ **Legal Representatives of the Victims**
V43

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

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(Participation/Reparation)

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I. Introduction

1. Mr Al Hassan Ag Abdoul Aziz fully supports the Court's efforts to achieve restorative justice and repair the harm suffered due to the crimes for which he was convicted. He has apologised for his actions, both on 16 December 2024 and, more recently, on 9 April 2025.¹ Through his Defence, Mr Al Hassan has further assisted the Court to identify several individuals believed to be direct victims (or their relatives) to aid in their ability to access an effective right to a remedy.
2. As presaged in earlier submissions, Mr Al Hassan also supports a holistic approach to harm, which achieves transformational restoration by addressing the structural causes of the harm and specific facets concerning the way it was experienced. Collective reparations for persecution, which give full weight to the suffering endured by the population of Timbuktu as the targeted group and which tend to specific needs of vulnerable elements of the population, may be the best approach through which to repair the collective harm caused by incidents for which Mr Al Hassan was convicted.
3. The Defence further supports processes and presumptions that ensure the equitable and expeditious conclusion of the reparations phase. It notes, however, that the reparation order and terminology used by the Trial Chamber should respect Mr Al Hassan's presumption of innocence for crimes for which he was acquitted, and remain within the four corners of his convictions, which are final.

II. Submissions

4. On 13 December 2024, Trial Chamber X ("the Chamber") ordered the defence to present its observations on:²
 - a. estimated total number of direct victims of the crime of persecution and the indirect victims of all crimes for which Mr Al Hassan was convicted;
 - b. specification of the types and extent of the harm suffered by the victims of the crimes for which Mr Al Hassan was convicted, citing to specific evidence;
 - c. whether recourse to factual presumptions should be considered;
 - d. types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Mr Al Hassan was convicted;

¹ 16/12/2024 Mr Al Hassan's Apology [ICC-01/12-01/18-2667-AnxA](#); 09/04/2025 Mr Al Hassan's Apology [ICC-01/12-01/18-2710-AnxB](#).

² [ICC-01/12-01/18-2666](#), para. 6.

e. concrete estimates as to the costs to repair the harms suffered by the victims in light of the proposed modalities for repairing them. The TFV [Trust Fund for Victims] should clearly indicate in its submission the total amount within its cost estimate that would be dedicated to administrative costs;

f. any legal and factual issues relevant to the identification of eligible victims;

g. any victims or groups of victims who may require prioritisation in the reparations process; and

h. information as to whether the victims of the crimes for which Mr Al Hassan was convicted have received any form of compensation or reparations for the harm suffered as a result of these crimes.

5. Further to the Trial Chamber's encouragement to pursue a collaborative approach,³ the Defence and Legal Representative for Victims (LRV) engaged in constructive discussions. As a result, the Defence agreed to file its submissions ahead of the deadline in facilitation of any potential points of agreement. The Defence has equally had productive discussions with the TFV.

A. Direct victims of the crimes for which Mr Al Hassan was convicted

6. Whereas the Defence anticipates a certain degree of disagreement between the terminology employed by the parties and the LRV concerning the individuals who should receive reparations for the crime of persecution, the result is likely to be similar; namely, support for a broad approach to harm that restores the harm suffered by the targeted group, including particularly vulnerable groups such as women, children, and the elderly. To achieve restorative justice for persecution in a manner consistent with Mr Al Hassan's statutory rights, the Defence proposes the Chamber to adopt terminology for recipients/beneficiaries that does not impute or imply individual criminal liability to Mr Al Hassan for the quantity of recipients/beneficiaries but instead focusses on the effects of suffering or the unique position of the targeted group *as such*.
7. As concerns the terminology related to victims, the Trial Chamber established that there are 49 direct victims of the incidents underpinning Mr Al Hassan's convictions under Counts 1-6, and 14 (excluding persecution).⁴ The Trial Chamber employed the term 'direct victim' to denote individuals who suffered harm as a result of acts entailing Mr Al Hassan's individual criminal responsibility for these counts. The use of the term 'direct victim' for any persons outside the scope of Mr Al Hassan's conviction would

³ [ICC-01/12-01/18-2666](#), p. 6.

⁴ [ICC-01/12-01/18-2662](#), para. 71, referring to the Sentencing Judgment, paras 42, 59.

thus generate a public appearance of criminal culpability for acts for which he was either never charged or expressly acquitted.

8. In order to respect the dispositive findings of the Trial Judgment and the Sentencing Judgment concerning the crime of persecution, the term ‘direct victim’ can only be used in connection with the 49 individuals who were found to be direct victims of other counts. While the Sentencing Judgment stated that “the number of victims of the crime of persecution is therefore very high: the entire population of the city of Timbuktu was targeted and was the subject of the deprivation of fundamental rights,”⁵ this statement reflects the number of victims, whose right to religious freedom was undermined by virtue of the persecutory policy executed by the groups. It does not reflect the number of victims of the incidents entailing criminal liability on the part of Mr Al Hassan. Indeed, while the Sentencing Judgment cites “Trial Judgment, section V.B.10, paras 1728, 1736, footnote 5231” in the context of its general findings concerning persecution, Judge Akane dissented from these paragraphs,⁶ while Judge Mindua found that Mr Al Hassan did not bear personal liability for such acts.
9. Since the Sentencing Judgment cannot expand the ambit of criminal responsibility, the Trial Judgment, and not the Sentencing Judgment, is the controlling text. This Chamber, constituted of two new judges, also cannot make new findings entailing implications of criminal culpability. While it is not necessary to name all victims in a judgment, some degree of certainty must be established at this point to give effect to the right to a reasoned opinion. Critical findings concerning the scope of individual criminal responsibility cannot be left open to subsequent interpretation by different judges, sitting at first instance.
10. Although the Trial Chamber reached agreement as concerns specific typologies of violations of human rights, these violations do not provide a sufficiently certain or fair basis for determining additional ‘direct victims’ of persecution as a crime against humanity.
11. *First*, Judge Akane’s separate opinion explains that her findings are restricted to the acts/incidents, which sustained the convictions under counts 1-5, and 14 (the connection element). For Judge Akane, the acts/incidents were comprised of those expressly

⁵ [ICC-01/12-01/18-2662](#), para. 71.

⁶ [ICC-01/12-01/18-2594-Red](#), para. 1727, noting Judge Akane’s dissent from para. 1728, and fn 5231, noting her limited agreement to para. 1736.

enunciated and charged in these counts,⁷ which were then reviewed by Judge Akane for the purpose of confirming that Mr Al Hassan's right to adequate notice was fulfilled.⁸ Any acts/incidents that were not pleaded and found to satisfy the threshold of beyond reasonable doubt in these counts fall outside the scope of her opinion. When the Prosecution filed its notice of appeal against the Trial Judgment, it recognised that Judge Mindua's full acquittal of Mr Al Hassan for all persecutory acts and incidents resulted in Judge Akane's approach to the connection element being the controlling opinion.⁹

12. *Second*, the Sentencing Judgment acknowledged that victims of sexual violence and forced marriage cannot be considered as 'direct victims' in relation to Mr Al Hassan's personal criminal responsibility for the crime of persecution.¹⁰ This exclusion arose from the joint finding of Judge Akane and Judge Mindua that Mr Al Hassan did not have the requisite knowledge of rape in detention,¹¹ while Judge Akane found Mr Al Hassan also made no contribution to such acts, which also fell outside the common plan.¹² Judge Akane concluded that the allegations of forced marriage, rape and sexual slavery did not satisfy the chapeau elements of crimes against humanity,¹³ and otherwise fell outside the common purpose.¹⁴ Judge Akane concluded that rules regarding the dress code were not "committed 'in connection with' a crime of an Article 7(1) act for which Mr Al Hassan is responsible,"¹⁵ and further, that crimes committed by *Hesbah*, whether they be acts of violence towards and the ill-treatment of women or the passing of sentenced without judgment, failed to form the common purpose of Ansar Dine/AQIM and was thus outside the scope of responsibility for Mr Al Hassan.¹⁶ Referring to any victims of these crimes as 'direct victims' of Mr Al Hassan under the chapeau of persecution for the purposes of reparations would exceed the scope of the

⁷ [ICC-01/12-01/18-2594-OPI](#), para. 100.

⁸ [ICC-01/12-01/18-2594-OPI](#), para. 99.

⁹ [ICC-01/12-01/18-2649](#), fn 6 citing "See e.g. Judgment, Disposition; Judge Akane's Opinion, paras 1-3, 8, 69, 82, 88, 95, 104-105; Judge Prost's Opinion, paras 1, 3."

¹⁰ The Trial Chamber clarified in footnote 201 of the Sentencing Judgment that, in line with Annex III to the Trial Judgment, Mr Al Hassan's conviction does not encompass any acts of sexual violence, forced marriage, or rape.

¹¹ [ICC-01/12-01/18-2594-Red](#), para. 1721.

¹² [ICC-01/12-01/18-2594-Red](#), para. 1721.

¹³ [ICC-01/12-01/18-2594-Red](#), fn. 411.

¹⁴ [ICC-01/12-01/18-2594-OPI](#), para. 34.

¹⁵ [ICC-01/12-01/18-2594-OPI](#), para. 101.

¹⁶ [ICC-01/12-01/18-2594-OPI](#), para. 12.

Trial Judgment and violate Mr Al Hassan’s innocence protections.¹⁷ The fact that such individuals also suffered violations of their rights does not suffice to bring them within the ambit of the definition of ‘direct victims’ of persecution due to the above connection element requirement along with the fact that Judge Akane found that such acts fell outside the scope of the common purpose, meaning that the violations in question cannot be attributed to the persecutory policy of the groups.

13. *Third*, since ambiguities in findings must be resolved in favour of the defendant, Judge Akane’s opinion should not be retrospectively interpreted to refer to ‘types’ of conduct, rather than specific incidents pleaded in the charges. Such an interpretation could also lead to arbitrary results and inequality vis-à-vis direct victims who satisfied the threshold of beyond reasonable doubt as compared to those satisfying the much lower threshold for reparations. The legitimacy of the reparations process could be undermined if individuals obtain the status of direct victim based purely on *similarity* of facts rather than quality of evidence or the degree of suffering as members of the targeted group, while individuals who have satisfied the beyond reasonable doubt threshold as concerns crime base victimhood are excluded due to the *dissimilarity* of facts. This discrepancy would undermine ICC reparation principles that reparations should not generate inequality or discrimination among the community.
14. *Fourth*, since any deprivation of rights must also be sufficiently severe to fall within the scope of Article 7(1)(h), an assessment of eligibility based on proof that the victim’s suffered a deprivation of rights during the relevant time period is likely to give rise to complex factual adjudications concerning the existence and hierarchy of such rights violations. Where many people are eligible for reparations, implementing individual forms of reparations based on the specific harm suffered has the potential to create a “hierarchy of victimhood” and create tensions and jealousy within the community.¹⁸ As such, individual reparations based on typology of rights violations would be “contrary to the principle that all victims are to be treated equally”.¹⁹

¹⁷ [ICC-01/05-100](#), para. 8 (in the context of reparations, finding that any references to victims as being victims of a specific acquitted accused or case was inappropriate); ECHR cases, *Böhrer v. Germany*, [37568/97](#), para. 67; *Sekanina v. Austria*, [13126/87](#), para. 48: “the criminal courts’ judicial authority would be severely undermined if after an acquittal a suspicion could be maintained that the accused had committed the offences dealt with at the trial. The role of the courts, as conceived in Article 6 (Art. 6) in general and which also finds its expression in the principle of the presumption of innocence laid down in Article 6 para. 2 (Art. 6-2) excludes such a suspicion in the case of a person whose record has been cleared by a final acquittal.” See also [13126/87](#), paras 29-30; *Geerings v. Netherlands*, [30810/03](#), para. 49; *Minelli v. Switzerland*, [8660/79](#), paras 37-41.

¹⁸ *The Prosecutor v. Ongwen*, Reparations Order, [ICC-02/04-01/15-2074](#), para. 584.

¹⁹ *The Prosecutor v. Ongwen*, Reparations Order, [ICC-02/04-01/15-2074](#), para. 584.

15. *Fifth*, designating individuals as ‘direct victims’ of a particular crime implies that their right to an effective judicial remedy has been satisfied. Applying this label to victims, who did not obtain judicial accountability vis-à-vis a specific defendant could disincentivize national or international authorities from carrying out further steps to identify the actual perpetrators of the crimes in question. It may also undermine or reduce the victims’ ability to obtain reparations as direct victims in future proceedings directed against such perpetrators. Conversely, awarding collective reparations to the community of Timbuktu leaves intact the right of such individuals to obtain individual reparations as direct victims in future proceedings or through the TFV’s other assistance program.
16. *Sixth*, persecution is a special crime in that victims are targeted by virtue of their membership in a group. Group identity and harm to that identity are thus key elements of the offence. An effective attempt to recognise and cure the harm caused by the commission of persecution vis-à-vis the 49 direct victims named in the Judgment thus requires a larger collective effort related to the group itself, considering specific vulnerabilities in that group. Since the Chamber defined the group as the population of Timbuktu, there is a presumption of ‘connected’ harm as concerns all such members.
17. Based on the above considerations, the Defence proposes that rather than expanding the number of direct victims, it may be appropriate to focus on the effects of the harm experienced by the community of Timbuktu, as such. This approach is consistent with the *Ntaganda* jurisprudence, where the Appeals Chamber found that “in reparation proceedings it is the harm suffered and not the crimes of which the person has been convicted that is further defined or elaborated upon.”²⁰ Judge Ibáñez stated in her Separate Opinion in the *Lubanga* case that where the community itself suffered harm as a result of the experiences of direct victims, it may be possible to designate the community itself as a collective victim.²¹
18. If this approach is adopted, prioritisation could then be afforded to specifically vulnerable categories within this larger population group. Thus, while victims of forced marriages and rapes in detention by Ansar Dine/AQIM cannot be referred to as direct victims of the crimes for which Mr Al Hassan was convicted, as members of the local population, they presumptively suffered harm because of the attack on the identity of

²⁰ *The Prosecutor v. Ntaganda*, Judgment on the Appeals, [ICC-01/04-02/06-2908-Red](#), para. 4.

²¹ *The Prosecutor v. Lubanga*, Separate Opinion of Judge Luz Del Carmen Ibáñez Carranza, [ICC-01/04-01/06-3466-AnxII](#), paras 143-144.

the group, as such. This position preserves the right of victims of SGBV crimes to be recognised as direct victims if and when the perpetrators of these crimes are convicted, thus maintaining the impetus on national and international authorities to take steps to ensure their right an effective remedy. The Defence defers to the LRV, the TFV, and the VPRS as concerns the identification of vulnerable categories.

19. Collective reparations have also been found to be warranted where necessary to repair a shared or connected harm caused to a group of people.²² Considering the potential large number of impacted persons, the fact that the harm suffered by the community is a shared harm, the potentially high cost of individual reparations, and the length of the proceedings, the most appropriate type of reparations, pursuant to Rule 98(3) of the Rules of procedure and evidence, may be collective community-based reparations. As in the *Ongwen* case,²³ the collective community-based reparations should refer to both the group that will receive the reparations – the community of Timbuktu – and the mode of reparations, which refers to programs that should be designed in a manner to reach a large number of people. Collective reparations will serve to achieve both restorative and transformative outcomes for the community, such as by enabling the community to understand the “underlying causes of the crimes” to achieve reconciliation and prevent the occurrence of future crimes.²⁴ Reparations in this form will provide maximum benefit and improvements on a systemic level to recover the community of Timbuktu as a whole. A collective approach may also help address issues of stigma that may disincentivise individuals from self-identifying as victims of specific type of harm.²⁵
20. The Defence takes no position on the criteria for indirect victims.

B. Specification of the types and extent of the harm suffered by the victims of the crimes

21. Whenever possible, the Court should strive for reparations to be transformative.²⁶ Transformative reparations are those that have a restorative and corrective effect,

²² *The Prosecutor v. Ntaganda*, Reparations Order, [ICC-01/04-02/06-2659](#), para. 80; *The Prosecutor v. Katanga*, Reparations Order, [ICC-01/04-01/07-3728-tENG](#), para. 275; *The Prosecutor v. Lubanga*, Decision on the Size of the Reparations Award, [ICC-01/04-01/06-3379-RedCorr-tENG](#), para. 193; see also *The Prosecutor v. Al Mahdi*, Reparations Order, [ICC-01/12-01/15-236](#), paras 59, 67.

²³ *The Prosecutor v. Ongwen*, Reparations Order, [ICC-02/04-01/15-2074](#), para. 575.

²⁴ *The Prosecutor v. Lubanga*, Separate Opinion of Judge Luz Del Carmen Ibáñez Carranza, [ICC-01/04-01/06-3466-AnxII](#), para. 210.

²⁵ *The Prosecutor v. Ntaganda*, Reparations Order, [ICC-01/04-02/06-2659](#), para. 195.

²⁶ UNSG, Guidance Note, [ST/SG\(02\)/R425](#), principle 4.

invoking the concept of *restitutio in integrum*.²⁷ In the context of the current case, the Trial Chamber found that Northern Mali was “isolated” before the start of any confrontations,²⁸ and further, that groups, such as Ansar Dine were able to exert influence and authority over the local population due to the need to fill an existing vacuum caused by State desertion/absence.²⁹ The rapid collapse of State authority and governance structures was also linked to local perceptions that such structures lacked legitimacy, which in turn stemmed from prior grievances related to systemic discrimination, marginalisation of northern ethnic communities, lack of access to State resources and employment, and corruption.³⁰ Such grievances created a fertile ground for a religious ideology that preached against corruption and discrimination and further gave impetus to the establishment of parallel security and governance structures.³¹

22. In situations like the one in the North of Mali, it is not appropriate to simply restore the *status quo ante*, as this was the root cause for crimes to rise as well as the vulnerability of the local communities.³² In the *Cotton Fields case*, the IACtHR emphasised the structural discrimination in the context of the facts which meant that reparations had to be designed to change that situation.³³ Programmes that give the population the feeling of taking an active stance on reparations are seen as having a more restorative and transformative effect.³⁴ It follows that transformative reparations will need to address and eliminate structural inequities and deficiencies in Timbuktu and its environs. The jurisprudence of the Court demonstrates that State contributions play a critical role in ensuring that reparations achieve substantial social impact and restorative qualities.³⁵

²⁷ IACtHR, *Cotton Field case*, [Series C No. 205](#), para. 450; *The Prosecutor v. Ntaganda*, Reparations Order, [ICC-01/04-02/06-2659](#), paras 94-95.

²⁸ [ICC-01/12-01/18-2594-Red](#), para. 410, citing P-1052’s report MLI-OTP-0031-0496 at 0504.

²⁹ [ICC-01/12-01/18-2594-Red](#), paras 470-473, 596, 598, 1502; D-0240: T-191, p. 15, lns 19-25, p. 16, lns 1-4; P-0065: T-039, p.26, lns 1-6 (Conf); T-046, p. 50, lns 8-12 (Conf).

³⁰ [ICC-01/12-01/18-2594-Red](#) fn 976.

³¹ Perception that Islamic Court less corrupt/discriminatory than Malian courts: P-0643: T-083, p. 52, ln 18 – p. 53, ln 10 (Red); [MLI-D28-0004-3482](#) at 3486. See P-0654: T-133, p. 42, ln 18 – p. 43, lns 1 (Conf); D-0553: [MLI-D28-0005-9325-R01](#) at 9327, para. 11; D-0240: [MLI-D28-0006-4222-R01](#) at 4225, ln 25 – 4226, ln 14; [MLI-D28-0006-3166](#); P-0065: T-044, p. 66, lns 22-24 (Conf). See D-0211: T-190, p. 29, lns 4-15 (Conf); P-1086: T-122, p. 7, ln 24 – p. 8, ln 11 (Red); P-0065: T-044, p. 63, lns 17-22; p. 64, lns 15-18; p. 66, lns 19-22 (Conf). See also P-0643: T-083, p. 48, lines 14-18; p. 48, line 23 – p. 49, line 17 (Red); [MLI-OTP-0078-3678](#); P-0152: T-032, p. 47, lines 1-15 (Red); P-0654: T-133, p. 36, ln 20 – p. 37, ln 14; P-0608: T-154, p. 86, lns 8-14; D-0511: Original: [MLI-D28-0005-9310-R01](#), Translation (ENG): [MLI-D28-0006-2629-R01](#) at 2632, 2634, paras 14-15, 22.

³² *The Prosecutor v. Lubanga*, Observations on Reparations in Response to the Scheduling Order of 14 March 2012, [ICC-01/04-01/06-2872](#), para. 73.

³³ IACtHR, *Cotton Field case*, [Series C No. 205](#), paras 450-451; see also, IACtHR, *Case of Atala Riffo and daughters v. Chile*, [Series C No. 239](#), para. 267.

³⁴ *The Prosecutor v. Ntaganda*, First Expert Report, [ICC-01/04-02/06-2623-Anx1-Red2](#), para. 131.

³⁵ *The Prosecutor v. Ntaganda*, Second Expert Report, [ICC-01/04-02/06-2623-Anx2-Red2](#), para. 14.

Given the circumstances of the structural inequalities that left much of the North of Mali in a vulnerable position, the action required for truly transformative reparations would require state action to set up programmes for the betterment of the people in North Mali. The reparations order should thus act as both a catalyst and complementary partner for effective and non-discriminatory State policies and actions, which target root causes of conflict and violence in Northern Mali, with a view to preventing their recurrence.³⁶

23. In terms of specific structural factors that contributed to crimes for which Mr Al Hassan was convicted, the evidence centred on the main following issues:
- a. Historic and continued state discrimination towards minority groups, particularly the Tuareg minority group;³⁷
 - b. A lack of security and violence towards minority groups from the military;³⁸
 - c. The state and military not providing civilians protections during wartime;³⁹
 - d. A lack of rule of law, including no active courts and prohibitive costs, which led to civilians “taking the law into your own hands” and the application of *Sharia*;⁴⁰
 - e. Lack of public services provided by the state, such as hospitals, roads and education;⁴¹
 - f. Water insecurity, leading to disputes concerning land and access to wells and land, and the need for a fair and accessible mechanism for resolving such disputes.⁴²
24. Notwithstanding Mr Al Hassan’s liability for the harm, for long term “transformative” change to succeed, the Malian State will also need to address and remedy State acts and omissions, which contributed to the harm. Cooperation and funding from the Malian State is essential to achieve a more holistic reparations order, which focuses on

³⁶ *The Prosecutor v. Lubanga*, Reparations Decision, [ICC-01/04-01/06-2904](#), para. 240.

³⁷ P-1086: T-122, p. 5, ln 4 – p. 6, ln 21; P-0065: T-044, p. 60, lns 10-18; T-050, p. 10, lns 1-11, p. 20, ln 20 – p. 22, ln 23 (Conf).

³⁸ P-0065: T-037, p. 34, ln 15 – p. 35, ln 6 (Conf); P-0540: T-183, p. 9, lns 2-8; D-0511: [MLI-D28-0006-2629-R01](#), at 2632-2633, para. 18; D-0511: T-185, p. 8, lns 6-20; p. 10, lns 8-20; p. 11, lns 3-23.

³⁹ P-1086: T-122, p. 60, lns 2-19.

⁴⁰ [MLI-D28-0004-3341](#) at 3389: A first key resource gap is a shortage of competent professionals, in particular judges and lawyers. For example, in 2008 Mali had 630 judges for a population of about 13 million. This equates to 4.8 judges per 100,000 inhabitants, which is well below both the North Africa average of 9.8 per 100,000 and the global average of 11.5 per 100,000. It contributes to the slow progress of many cases. Also, those accused of a crime are likely to need the help of an attorney. However, they are in desperate supply. According to a 2014 report by the Ministry of Justice, there were lawyers in Mali at that time, for a population of about 16 million. This can be contrasted with a 2011 study done by the American Bar Association, which found that there were only 270 lawyers at that time for a population of then 15 million people, and most were located in Bamako. As of 2014, Mopti, which has a population of 2 million, had fewer than 10 lawyers. Most rural areas have no lawyers at all, as there is very little monetary incentive to set up a legal practice in such place.

⁴¹ P-0211: T-190, p. 44, ln 20 – p. 46, ln 2 (Conf); D-0243: [MLI-D28-0006-9053-R01](#) at 9055.

⁴² P-0152, T-032, p. 64, ln 15 – p. 66, ln 8.

developing a greater institutional state presence and dismantling the various existing forms of structural discrimination. This type of meaningful reparations order can prevent the same conditions which led to Mr Al Hassan's crimes from re-surfacing. The financial involvement of the Malian state is also consistent with the *Al Mahdi* case, where the Malian State funded reparations for almost 2 billion FCFA.⁴³

25. At the same time, effective State engagement does not imply remote control from Bamako, but rather an inclusive approach which ensures that local voices and concerns are incorporated and empowered within State mechanisms and structures. Given that the harm was experienced by the community of Timbuktu itself (rather than the Malian State), State support should be directed towards enhancing the capacity of local structures and empowering local voices, in a manner that recognises and is consistent with community values and community self-determination.⁴⁴

C. Specific types of harm

i. *Specific submissions on stigma*

26. The Defence interacted with a significant number of individuals during its investigations at trial, who expressed concerns regarding their ability to freely discuss the events of 2012. This reluctance is attributable to a range of factors, including:
- a. fear that any past association with groups (including the MNLA) or 'jihadists' could attract domestic prosecution or reprisals;
 - b. fear that any past association with individuals/groups involved in illegal activity (such as selling weapons or trafficking goods) could attract domestic prosecution or reprisals;
 - c. cultural stigma that attaches to certain conduct; and
 - d. fear of both reprisals/prosecution from national authorities and stigma related to conduct punished by the Islamic Tribunal, which could also be characterised as an offence or crime under domestic law.
27. The above concerns are particularly apposite concerning victims of Count 6 since the Islamic police records and Islamic judgments contain details of conduct including dates,

⁴³ Présidence de la République du Mali, [*Un programme de près de 2 milliards de francs CFA en guise de réparation des victimes de la crise de 2012 à Tombouctou*](#), 30 Mars 2021.

⁴⁴ *The Prosecutor v. Al Mahdi*, Expert Report – Reparations Phase, [ICC-01/12-01/15-214-AnxII-Red2](#), para. 121.

locations and potential witnesses of the alleged criminal activity, which could be used to initiate proceedings under domestic law.

28. It is vital for reparations to be collective and not exclude those who have felt shame and stigma due to their associations with jihadist groups or have been punished for crimes in which they would feel shame to reach out and seek reparations.⁴⁵ For reparations to be truly transformative, they must foster social cohesion, requiring proactive measures to prevent exclusion of those who have felt stigma or shame.⁴⁶
29. The Defence therefore raises the above as factors to consider when deciding on matters related to:
 - a. Disclosure of information concerning beneficiaries of reparations and names of victims both to the public and local intermediaries or reparations partners;
 - b. Whether the provision of specific types of reparation for specific crimes could reveal details that could identify the reasons for which the victims were detained or punished by the Islamic Tribunal, which could in turn, generate collateral consequences for victims; and
 - c. The involvement of national or local authorities in interactions with these individuals.

ii. Displaced individuals still living in exile

30. The Defence agrees that due to the events of 2012, there was a significant degree of displacement, both to the south and north of Mali and to surrounding countries. Both Prosecution and Defence witnesses gave evidence that they were forced to flee Timbuktu to avoid joining the groups, following their new rules or experiencing exactions.⁴⁷ The Defence also agrees that a significant component of the population remains in exile due to the ongoing security situation and the absence of any structural system to ensure security and protection in Timbuktu.
31. It is imperative that efforts to address and restore the harm to such populations are carried out in a non-discriminatory manner, taking full account of the ongoing harm experienced by refugee populations, who lack access to adequate housing, education and health services (including for neo-natal care). While some of the surrounding countries are non-State parties, UN agencies and Malian NGOs play an active role in

⁴⁵ *The Prosecutor v. Ntaganda*, First Experts Report, [ICC-01/04-02/06-2623-Anx1-Red2](#), para. 131.

⁴⁶ UNSG, Guidance Note, [ST/SG\(02\)/R425](#), principle 4.

⁴⁷ [ICC-01/12-01/18-2594-Red](#), fn. 2716.

assisting such populations. According to reports, women and children in such camps are especially vulnerable, with priorities including nutrition, access to vaccinations, and health care (including for delivery of children).⁴⁸ The use of funds to aid such programmes would be consistent with the jurisprudence from the *Katanga* case.⁴⁹

D. Types and modalities: Concrete propositions of collective and transformative reparations

32. Mr Al Hassan has expressed his apology to all victims of the crimes for which he was convicted and expressed his wish to work towards restorative and transitional justice in Mali, in a way that is respectful of everyone's rights – and more particularly for women, children, elderly and minorities – and dignity to avoid repetitions in the future.⁵⁰
33. To reach these goals, the Defence proposes that the following areas should be addressed to achieve a truly transformative reparations process: addressing security concerns, addressing the lack of legal representation in Northern Mali, implementing training and monitoring for law enforcement officials in human rights compliance concerning detention and interrogation conditions, investing in access to health care, particularly for women's health, and promoting education and income generating activities. The Defence has set out these proposals to facilitate discussion and the Chamber's ultimate adjudication: it is not, however, opposed to other methods or proposals to eliminate the harm caused by Mr Al Hassan's actions.

i. Addressing security concerns in the region

34. Mr Al Hassan, in his apology, identified freedom of choice as the crux of his convictions,⁵¹ and acknowledged that lack of security and fear, especially for vulnerable groups, facilitated the absence of choice for the population of Timbuktu.⁵² Throughout the trial, multiple witnesses testified in relation to the nexus between insecurity and the intervention and role of different groups.⁵³ Security is also intrinsically linked to the ability of people to exercise a multitude of freedoms. This is illustrated, for example,

⁴⁸ See, for example, Alima, '[Humanitarian emergency in Mauritania: "Without support, we will no longer be able to save lives"](#)', 28 April 2025; UNHCR, [Country Operations Mauritania](#).

⁴⁹ *The Prosecutor v. Katanga*, Reparations Order, [ICC-01/04-01/07-3728-tENG](#), para. 286.

⁵⁰ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 16; 16/12/2024 Mr Al Hassan's Apology ([ICC-01/12-01/18-2667-AnxA](#)), p.3, para. 12.

⁵¹ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 7.

⁵² 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 9.

⁵³ D-0146: MLI-D28-0006-3335 at 3339; D-0512: MLI-D28-0006-2611-R02 at 2614; P-0099: T-147, p.10, lns 9-15.

by evidence that the absence of security caused resulted in teachers fleeing Northern Mali, creating an education vacuum,⁵⁴ and subsequently restricting their freedom to access education. This instil contributed to the fact that by April of 2012, there were no lawyers, judges, or police left in Timbuktu as a result of the *coup d'état* in Bamako and concerns over the MNLA.⁵⁵

35. Since security concerns inhibits choice and freedom so profoundly, the Defence proposes that security concerns should be identified and addressed within the context of subsequent concrete reparations suggestions. Without non-discriminatory security assurances, women and children will be prevented from accessing education and healthcare regardless of investments in these sectors.
36. Although the problem of security in the North of Mali is very complex and will require the State to take positive actions, there are discrete forms of assistance that could ameliorate security concerns. This includes improving road infrastructure to reduce attacks and setting up of local monitoring and warning mechanism to address to issue of anti-personnel mines that impede the capacity for civilian population and humanitarian aid safe circulation.⁵⁶
37. Since the ICC has ongoing jurisdiction over Mali, the Prosecution itself also plays an important deterrence role. Ongoing exactions in Northern Mali by State forces and militia⁵⁷ impede the ability of the Timbuktu community to access basic human rights and further fosters distrust and ongoing opposition and conflict. The Prosecution's continued engagement in investigating crimes committed by all parties in Mali is thus necessary to end the culture of impunity, which played a role in the 2012 events.

ii. Addressing the lack of legal representation in Northern Mali and law enforcement trained in human rights

38. Mr Al Hassan acknowledged in his apology that, due to his role in the Islamic Police, he contributed to the proceedings and judgments of the Islamic Court.⁵⁸ There were no

⁵⁴ [ICC-01/12-01/18-2594-Red](#), para. 727, fn. 2176. D-0833: [MLI-D28-0008-0052-R01](#) at 0054, para. 11.

⁵⁵ P-0245: [MLI-D28-0006-4141-R01](#) at 4144, paras 17-22; P-0540: T-184, p. 11, lns 17-24 (Red); P-0315: T-185, p. 37, lns 6-12; D-0553: [MLI-D28-0005-9325-R01](#) at 9329, para. 24.

⁵⁶ [Civil Society White Book on Peace and Security in Mali \(2019\) English Summary](#), 2019 at p.7; Global protection Cluster, [MALI – Ber, Région de Tombouctou Analyse de Protection](#), Août 2023, at p. 3.

⁵⁷ Blick, *«J'ai vu la mort partout »: les mercenaires de Wagner sèment la terreur au Mali*, 12 March 2025; Annex I, *Charlie Werb X Post*; Association Kal Akal, *Une énième violence à Zarho, dans la région de Tombouctou*, 11 April 2025; Annex J, *Salah Mohammed Ahmed X Post*.

⁵⁸ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 2.

lawyers present at the Islamic Court,⁵⁹ many of whom fled due to the security concerns discussed above. The presence of lawyers – especially defence lawyers – in Timbuktu would have helped to combat the circumstances which led to a conviction of the war crime of passing sentences without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable. As such, the Defence suggests that reparations should address the lack of legal representation in the North of Mali, more specifically defence lawyers, and particularly in Timbuktu.

39. Even after the events of 2012, members of communities in Northern Mali remain unrepresented among legal professionals, including both lawyers and magistrates.⁶⁰ This structural under-representation hinders their ability to effectively defend the rights of local populations,⁶¹ and safeguard against infringements from irregularly constituted courts. According to data from the Register of the Malian Bar Association for the 2020-2021 fiscal year, the country had 305 registered lawyers,⁶² but none were present in the northern regions,⁶³ revealing a clear imbalance in the geographical distribution of legal professionals.⁶⁴
40. To effectively address this issue, it is necessary to implement training and capacity-building programmes for law graduates,⁶⁵ in particular those holding at least a bachelor's degree, which is a prerequisite for accessing the competitive examinations for admission to the judicial professions. These initiatives could be carried out by national or international non-governmental organizations⁶⁶ with recognized expertise in legal training, and target as a priority people from communities from Northern Mali aspiring to careers as lawyers or magistrates.⁶⁷

⁵⁹ [ICC-01/12-01/18-2594-Red](#), para. 637.

⁶⁰ P-1086: T-122, p. 7, lns 15-23; P-0150: T-105, p. 63, lns 13-14 (Conf); P-0654: T-133, p. 36, lns 22-23 (Conf). See also P-0654: T-135, p. 79, lns 11-14 (Conf); P-0065: T-044, p. 64, lns 11-18 (Conf); P-0114: T-060, p. 45, lns 1-2 (Conf); P-0643: T-083, p. 49, lines 1-5 (Red).

⁶¹ IMRAP, [État des lieux, défis et opportunités de l'accès à la justice et de la lutte contre l'impunité au Centre du Mali](#), *Interpeace* (2023), p.31.

⁶² MaliJet, [Tableau de l'Ordre des Avocats du Mali, année judiciaire 2020-2021](#), 19 October 2021.

⁶³ P-0554: T-065, p. 9, lns 9-10 (Red).

⁶⁴ Avocat Sans Frontières Canada (ASFC), [Vers un accès à la justice au Mali ? Avancées et défis](#), 2020, p.34.

⁶⁵ Such trainings had been initiated by MINUSMA: MINUSMA, [Tombouctou : 40 Jeunes formés à la prévention et la résolution pacifique des conflits](#), 13 January 2020.

⁶⁶ Nyeleni Magazine, [Formation sur le monitoring des droits de l'Homme](#), 29 October 2019; MINUSMA, [Formations Droits de l'homme : l'appui de la MINUSMA](#), 24 February 2015.

⁶⁷ This center is also known for the quality of its training for lawyers who wish to follow preparatory courses for the Judiciary and Bar exams: Centre KOFA-Law, [Formation Juridique au MaliML](#).

41. Such action to equip lawyers with professional skills to effectively represent communities in Northern Mali, and in particular Timbuktu,⁶⁸ strengthen the judicial presence in marginalised regions, and promote inclusive local justice which will serve to uplift the community. Investing to address the lack of legal representation in Northern Mali will reduce the human resource deficit within the courts,⁶⁹ promote equitable access to justice for all communities, and strengthen empowerment mechanisms for historically excluded populations.
42. It may also be appropriate to address gender dimensions within the legal profession and the role that female lawyers and law clinics staffed by females may play in providing advice to local women concerning their right to choice in matters concerning marriage and sexual relations and to assist in asserting their rights in case of divorce vis-à-vis custody and property issues.

iii. *Training for law enforcement officials and detention authorities in human rights standards*

43. The Trial Judgment made findings concerning “squalid”⁷⁰ detention conditions at the BMS and the use of torture by the Islamic police as part of interrogation in detention.⁷¹ The Trial Chamber also received evidence that such practices pre-dated 2012.⁷² Such evidence points to the need for a systemic and transformative approach to the underlying issues to prevent their recurrence and promote the rule of law in Timbuktu.
44. In light of these findings, it is necessary to implement improvements of detention conditions, and simultaneously to implement training programmes for law enforcement agents, including prison officers and police officers, to ensure the standards in detention in keeping with human rights standards.
45. Both international and regional human rights instruments have established a clear approach to prison conditions. *UN Standard Minimum rules for the Treatment of Prisoners* (“Mandela Rules”), Rule 1, sets out that all prisoners should be treated with

⁶⁸ NGO ASRAD, *Atelier de Formation sur les Droits de l’Homme et la bonne gouvernance (DH-BG) : 65 jeunes venus des 19 régions du Mali plus Bamako*, 11, 12 et 13 December 2023.

⁶⁹ IMRAP, *État des lieux, défis et opportunités de l’accès à la justice et de la lutte contre l’impunité au Centre du Mali*, Interpeace (2023), p.21.

⁷⁰ ICC-01/12-01/18-2594-Red, para. 579

⁷¹ ICC-01/12-01/18-2594-Red, para. 582, para. 775, paras 767-768.

⁷² See, for example, D-0551: T-200, p. 12 lns 16-17 (clarifying time period), p. 21, ln 13 - p. 23, ln 3 (Conf).

“inherent dignity” and be protected from “torture.”⁷³ Article 5 and 6 of the African Charter on Human and Peoples’ Rights also sets out state obligations to provide all people with the rights of dignity, and freedom from torture and arbitrary detention.⁷⁴

46. Implementing this declaration in the specific context of arrest, police custody and detention, has been further particularised. In relation to physical prison conditions, the *Mandela Rules*, Rules 12 to 17, set out the specific requirements for detention conditions.⁷⁵ A focus on conditions that are compatible with “human dignity” is emphasised within the *Kampala declaration*⁷⁶, the *Luanda Guidelines*⁷⁷ and *Robben Island Guidelines*.⁷⁸ Therefore, to comply with these international human rights standards, the physical conditions of Malian detention centres and prisons must be improved to meet these requirements.
47. It is imperative that law enforcement officials are also trained about their duties, the rights of detainees and how to apply the law fairly, to ensure that detainees are being treated is compliant with human rights. This is set out clearly within the *Ouagadougou Declaration*, which sets out that “*there should be a comprehensive law governing prisons and the implementation of punishment. Such law should be clear and unambiguous about the rights and duties of prisoners and prison officials. Officials should be trained to follow proper administrative procedures and to apply this law fairly.*”⁷⁹
48. This emphasis on proper training of law enforcement officials is reiterated within the ACHPR *Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*,⁸⁰ the *Robben Island Guidelines*⁸¹ and the *Luanda Guidelines*.⁸² These training programmes will prevent the further use of torture as a tactic in interrogation.
49. Though these measures cannot directly compensate the victims of the detention conditions that the Trial Judgment addresses, these measures are crucial, as

⁷³ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), [General Assembly resolution 70/175](#), annex, adopted on 17 December 2015, Rule 1.

⁷⁴ [African Charter on Human and Peoples' Rights](#), organisation of African Unity, 27 June 1981, Articles 5 and 6.

⁷⁵ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), [General Assembly resolution 70/175](#), annex, adopted on 17 December 2015, Rule 12 to 17.

⁷⁶ [Kampala Declaration on prison conditions in Africa](#), p.1, para. 3.

⁷⁷ ACHPR, [Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa](#), para. 24.

⁷⁸ [Robben Island Guidelines for the Prohibition and Prevention of torture in Africa](#), p. 80, paras 23 and 34.

⁷⁹ ACHPR, [Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa](#), para. 4.

⁸⁰ ACHPR, [Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003](#), sec M(d).

⁸¹ [Robben Island Guidelines for the Prohibition and Prevention of torture in Africa](#), p. 83, para. 46.

⁸² ACHPR, [Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa](#), para. 46.

transformative reparations, to protect against future victims who are held in detention, and to promote long term change within the Malian criminal justice system.

iv. *Investments in access to adequate health care*

50. Access to adequate healthcare, and in particular improvements to women's health, is one of the issues Mr Al Hassan specifically suggested to be the subject of community-based reparations in Timbuktu.⁸³ Mr Al Hassan himself committed to training women in the healthcare field in order to equip them with the skills to help other women and particularly to facilitate more effective and accurate reporting of rape.⁸⁴ Addressing this issue is essential as the regional hospital in Timbuktu is in a critical situation,⁸⁵ marked by the advanced deterioration of its infrastructure and unstable access to electricity. This lack of energy seriously compromises the conservation of medicines,⁸⁶ which is essential to ensure appropriate care for local populations, especially women.
51. Those in the community of Timbuktu themselves have repeatedly expressed the urgent need for health capacity building, including through the improvement of the hospital's energy supply⁸⁷ and the recruitment of qualified health personnel.⁸⁸ To address this, the Defence suggests the establishment of a specific fund for:
 - The installation of reliable energy systems such as solar panels or generators to adequately respond to the needs expressed;
 - The specialized training of health personnel including women⁸⁹ at the Timbuktu regional hospital to strengthen professional skills and fill the gap in qualified resources and ensure optimal patient care.⁹⁰
52. This would ensure the continued operation of essential medical equipment (including ventilators), significantly improve the storage conditions of pharmaceutical products,

⁸³ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 17; 16/12/2024 Mr Al Hassan's Apology ([ICC-01/12-01/18-2667-AnxA](#)), para. 8.

⁸⁴ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 17; 16/12/2024 Mr Al Hassan's Apology ([ICC-01/12-01/18-2667-AnxA](#)), para. 8.

⁸⁵ Abdoulahi Baba DARFA, *À Tombouctou, l'Hôpital manque de spécialistes et de matériels*, Benbere, 12 September 2020.

⁸⁶ Annex A, *Djittaye Boubacar*; Ministère de la Santé et du Développement Social du Mali, *Etats généraux de la Santé: Les phases régionales de Tombouctou et Taoudéni se sont clôturées sur une note d'espoir*, 9 December 2024.

⁸⁷ Ministère de la Santé et du Développement Social du Mali, *Etats généraux de la Santé : Les phases régionales de Tombouctou et Taoudéni se sont clôturées sur une note d'espoir*, 9 December 2024.

⁸⁸ Abdoulahi Baba DARFA, *À Tombouctou, l'Hôpital manque de spécialistes et de matériels*, Benbere, 12 September 2020.

⁸⁹ Annex B, *formation des agents de santé à Kidal !*.

⁹⁰ Annex C, *Formation dans le domaine de la Santé*.

and work to improve patient care. This constitutes a form of a transformative collective reparation, meeting the expectations of the affected populations while sustainably strengthening the local health system.

v. *The promotion of education and income-generating activities*

53. In his apology, Mr Al Hassan strongly expressed his support and intention to advocate for access to education, particularly for women and girls.⁹¹ He acknowledged that investments in education is vital for the empowerment of women and the progression of society at large.⁹² As mentioned above, during the events of 2012 and before, the insecurity in the region led to a lack of teachers in Timbuktu.⁹³ This resulted in the closure of many schools and those that remained open had their curriculum changed to reflect the ideals of the groups.⁹⁴ As such, the Defence suggests that reparations include investments in education. Examples of this include supporting NGOs that strengthen the capacity of schools and train educators on promoting active participation of pupils in daily learning and extracurricular activities,⁹⁵ as well as individualizing curriculum to the level of the students being taught.⁹⁶ Additionally, investments in school infrastructure and to ensure the reliable access to electricity will also help to achieve this goal.
54. Improvements in education is not only important to contribute to the transformation of society, but is of foundational importance in enabling and facilitating those in Timbuktu to have the freedom of choice and ability to make their own decisions (which Mr Al Hassan identified as being extremely important in his apology⁹⁷) without any societal barriers.
55. It was also identified in the Trial Judgment that one impact of the groups being in Timbuktu was that it negatively impacted the city's economy⁹⁸ and impeded on the ability of women to access the market.⁹⁹ As such, the implementation of income-

⁹¹ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 19; 16/12/2024 Mr Al Hassan's Apology ([ICC-01/12-01/18-2667-AnxA](#)), para. 7.

⁹² 09/04/2025 Mr Al Hassan's Apology ([MLI-D28-0008-0072](#)), para. 19; 16/12/2024 Mr Al Hassan's Apology ([ICC-01/12-01/18-2667-AnxA](#)), para. 7.

⁹³ [ICC-01/12-01/18-2594-Red](#), para. 727, fn. 2176.

⁹⁴ [ICC-01/12-01/18-2594-Red](#), para. 727.

⁹⁵ Annex D, *Formation des acteurs de l'éducation sur le Safe School dans le cercle de Gao*.

⁹⁶ Annex E, *Renforcement des capacités pédagogiques*.

⁹⁷ 09/04/2025 Mr Al Hassan's Apology ([ICC-01/12-01/18-2710-AnxB](#)), para. 10.

⁹⁸ [ICC-01/12-01/18-2594-Red](#), para. 735.

⁹⁹ [ICC-01/12-01/18-2594-Red](#), para. 753, fn. 2295.

generating activities is an essential modality of collective reparation, and particularly benefits women who suffered the most harm as a result of the group's presence in the community. The Defence has identified that investments in the following activities would be beneficial for the community, including;

- Marketing tamarind juice, ginger juice, and other juices;¹⁰⁰
- Food processing;¹⁰¹
- Specialised training in market gardening techniques;¹⁰²
- Providing metal kiosks for vendors selling doughnuts, milk, fish, condiments, etc., to protect them from the sun and optimise their commercial activities and as a result their profits ;
- The creation of craft workshops (cutting and sewing, leather goods, bakeries, pastry shops,¹⁰³ wood and metal carpentry, repair of electronic devices,¹⁰⁴ motorcycles and cars)¹⁰⁵ and the development of microfinance programmes aim to promote the economic empowerment of populations affected by armed conflict and forced displacement.

56. Promoting both education and income-generating activities in this way will facilitate transformative societal change and uphold freedom of choice for members of the community.

E. Cost of projects and prior compensations

57. The Defence takes no position on this other than to note that first, the reparations programs should be designed in a way that allow a large number of people to benefit from it, while being as cost effective as possible to serve as many people as possible, and second, in case assistance schemes are already in existence, it might be effective to work through such schemes to avoid duplication.

58. Since Mali established a truth and reconciliation committee for this purpose, it may be helpful to involve them in reparations processes. Specifically, the Commission Verité,

¹⁰⁰ Swiss contact, *Des femmes du cercle de Tombouctou accompagnées vers l'insertion*, 7 February 2022.

¹⁰¹ Annex F, *formation et à la réinsertion de 10 jeunes filles dans la filière transformation agro-alimentaire*.

¹⁰² Ministère de l'Entreprenariat National, de l'Emploi et de la Formation Professionnelle, *Launch of three development projects in the Timbuktu region*; THE NGO AZHAR, *Lancement de trois projets de développement dans la région de Tombouctou* !, 3 December 2023.

¹⁰³ Annex G, *Formation, passion & ambition : quand la pâtisserie devient un levier d'autonomisation*.

¹⁰⁴ Annex H, *Atelier de Formation*.

¹⁰⁵ MINUSMA, *Support the training and installation of 80 young people in Timbuktu to help reduce community violence*, 03 April 2019.

Justice et Reconciliation (CVJR, Commission for Truth, Justice and Reconciliation) was created in 2014 and became operational in 2015. The CVJR was created for the purpose of collecting testimony with regard to the crisis in the North of Mali. The CVJR was replaced by the Autorité de Gestions des Réparations en faveur des Victimes des crises au Mali in 2023 (AGRV). This Fund was created to manage reparations for compensating human rights violation in the North Mali since 1960, both pecuniary and symbolic reparations.¹⁰⁶ The AGRV authorities have announced that they should be operational over the course of 2015 and start granting reparations, with a budget of around 7 billion of FCFA.¹⁰⁷

59. In 2022, Mali had also adopted a general law governing the reparations for prejudice caused as a result of human rights violations in Mali, envisaging reparations for different harms, such as: loss of life, material or economic loss, physical and psychological prejudice, social prejudice and collective prejudice, and in the form and modalities of : financial compensation, readaptation, symbolic reparations, restitution, non-repetition guarantees and collective reparations.¹⁰⁸ A decree accompanied that law to fix concrete modalities for every type of harm.¹⁰⁹ Since 2021, a budget had been adopted on the recommendation of the former CVJR of 65 billion of FCFA.¹¹⁰
60. As part of the collective measures to address transformational and structural change for the harm suffered by Timbuktu as a community, it may be appropriate to engage these domestic mechanisms to remain seized of the need to provide reparations to victims who fall outside the scope of direct victims in this case, thus ensuring a holistic and equitable approach to addressing the harm suffered in 2012.

III. RELIEF SOUGHT

61. For the reasons set out above, the Defence for Mr Al Hassan respectfully requests the Trial Chamber to take into consideration these Defence Observations on Reparations.

¹⁰⁶ [Ordonnance n°2023- 016 /PT-RM](#) du 28 mars 2023 portant création de l'Autorité de Gestion des Réparations en faveur des Victimes des crises au Mali, JO, p.291, Article 2, [mali-jo-2023-08.pdf](#); [Décret n°2023-0218/PT-RM](#) du 31 mars 2023 fixant l'organisation et les modalités de fonctionnement de l'Autorité de Gestion des Réparations en faveur des Victimes des crises au mali « AGRV », JO, p.394, [mali-jo-2023-10.pdf](#).

¹⁰⁷ Mali Web, [Victimes des crises au Mali : "Les réparations débiteront cette année"](#), 22 Février 2025 .

¹⁰⁸ [Loi n°2022-041](#) du 15 novembre 2022 fixant les règles générales relatives à la Réparation des Préjudices causés par les violations graves des droits de l'homme, p.1432, articles 14 and 20.

¹⁰⁹ [Décret n°2022-0730/PT-RM](#) du 23 novembre 2022 fixant les modalités d'application de la loi fixant les règles générales relatives à la réparation des préjudices causés par les violations graves des droits de l'homme, JO, p.1511.

¹¹⁰ JusticeInfo.Net, [Réparations au Mali, espoir ou mirage ?](#), 11 November 2021.



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Dated this 11th day of June 2025
At The Hague, The Netherlands