

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 13 June 2025

TRIAL CHAMBER X

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

SITUATION IN MALI

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

Public Document

Submission on Reparations

Source: Queen's University Belfast Human Rights Centre

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☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

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(Participation/Reparation)

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Reparations Section

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1. We focus our submission around four areas highlighted by the Chamber in its Order.¹

Considerations of Harm for the Purposes of Reparations

2. Our analysis concentrates on direct and indirect victims of the crimes of which Mr Al Hassan was convicted. We follow the Court's approach to a causal link between the crime and the harm suffered by a direct victim, and personal harm suffered by indirect victims due to their 'close personal relationship' with the direct victim.² More recently the Court has recognised those who have witnessed the commission of international crimes or tried to intervene in stopping such crimes can also be indirect victims.³ This reflects domestic practice in recognising those who intervene to stop a crime, provide emergency assistance or witness violence can suffer psychological harm as indirect victims.⁴ Our submission considers both the harm suffered by individuals, as well as the collective harm, due to the public nature in which many floggings and extrajudicial punishments that caused social harm. This follows Malian law, which recognises collective and social harm should be included for the purposes of reparations, and more broadly as the harm caused to victims' social situation through stigma, social rejection or ostracism, difficulty or impossibility of having a civil identity or access to school education that is relevant to persecution.⁵ We now turn to the harm caused by these crimes.

Torture and outrages upon person dignity

3. Torture was found to have occurred in incidents where victims were subjected to intentional infliction of severe physical and mental pain while under the control of Ansar Dine/AQIM, and for purposes such as punishment or coercion. Out of the 49 direct victims in this case, the court convicted Al Hassan of torture, and having contributed to the torture of 11 victims, and having contributed to outrages upon human dignity in relation to 12 victims.⁶ Victims like P-0565 and P-0557 were flogged publicly with extreme force using implements such as a camel-whipping rope, causing intense physical pain, psychological trauma, and lasting injuries.⁷ Others were flogged after being unlawfully detained, interrogated, and sentenced without due process, such as in the Islamic Police headquarters, or in the Banque Malienne de Solidarité ('BMS') building ATM room, where women were also raped by guards.⁸ Such harms have had long-term and continuing everyday consequences.⁹

¹ Namely paras. 6(i)(b-d and f-g), ICC-01/12-01/18-2666. This submission was prepared by Luke Moffett, Lydia Millar, Daniela Suarez Vargas, Ciara O'Connor Pozo, Eva Richards, and Elviya Saeid Ghafel Pour.

² *Lubanga*, Judgment on Principles, ICC-01/04-01/06-3129, para.80; *Katanga*, Judgment on Reparations Order, ICC-01/04-01/07-3778-Red, paras.115-116; *Al Mahdi*, Reparations Order, ICC-01/12-01/15-236, para.44; *Ntaganda*, Reparations Order, ICC-01/04-02/06-2659, para.125

³ *Ntaganda*, ICC-01/04-02/06-2659, para.128; and *Ongwen*, Reparations Order, ICC-02/04-01/15-2074, para.128.

⁴ See for instance in France - Cour de cassation, chambre criminelle, 15 février 2022, n°21-80.264 ; and section 3(2), The Victims and Survivors (Northern Ireland) Order 2006.

⁵ Article 17, Loi 2022-041 – fixant les règles générales relatives à la réparation des préjudices causés par les violations graves des Droits de l'Homme.

⁶ *The Prosecutor v Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Sentencing Judgment, para 41a, 42d and 63.

⁷ Trial Judgment, para.1332, see ft.4270.

⁸ See *ibid* para 747. See para 856 – 861 case of Azhara Abdou, para 862-868 case of P-0636, para 873 –888 case of P-0570, and case of Fadimata Mint Lilli para 889-901. Azhara Abdou, P-0636, P-0570 and Fadimata Mint Lilli were raped by one or more guards while in custody in the BMS or Islamic Police headquarters, ostensibly held in custody because they were not complying with the militia's rules on dress for women.

⁹ See P-0642, ICC-01/12-01/18-2476-Corr-Red, paras.279-284.

4. The charge of outrages upon personal dignity was grounded in conduct by Ansar Dine/AQIM that intentionally humiliated, degraded, or violated the dignity of the victims in a manner of sufficient gravity. This included public floggings in crowded squares—such as Sankoré Square or the market square—often in front of children, where victims were tied up, insulted, and shamed. Victims of such punishments suffered physical and psychological harm, which has had repercussions on their family and social life. P-0642 described the physical and long-term health consequences suffered by P-0580 after torture in that he ‘could not walk because he was ill, he was throwing up blood because of the internal injuries... had bruises, and bumps on his skin and body down to his back, and still had the scars on his body to this day.’¹⁰ Sallaka Bent Al-Khair, a woman who was publicly flogged for alleged adultery, experienced deep social and psychological consequences: ‘she was very ashamed due to the flogging and still suffers socially. She felt that since this event, everyone speaks badly behind her back and she cannot go out, talk to her friends in public or go to public ceremonies.’ The stigma extended to her children, and she said the ongoing gossip causes her pain.¹¹ P-0538, another female victim, stated: ‘that day I became ill. I was disturbed in my sleep. I would have nightmares. I had the impression that I had lost my mind. I was very disturbed.’¹²
5. Punishments were mostly proclaimed in advance and carried out in front of large crowds of people, including children. Carrying out punishments in this humiliating manner in the forum of a public spectacle not only heightened the distress and suffering experienced by the victims, but also exposed members of the population of Timbuktu, including children, to violent scenes.¹³ Public floggings had profound long-term effects on individuals, including physical scarring and chronic pain,¹⁴ severe psychological trauma,¹⁵ and caused enduring social ostracism and humiliation.¹⁶ Victims repeatedly emphasized that the public nature of the punishment, or its performative degradation, was a source of ongoing mental anguish.

Mutilation, cruel treatment and passing sentences without previous judgment

6. These crimes caused individual and collective harm. Six of the victims had also been arrested and imprisoned before their public punishments, some in dire conditions. The public punishments were carried out by members of Ansar Dine/AQIM with significant violence: the flogging victims received between 10 and 100 lashes each and Dédéou Maiga was tied to a chair, chained by the ankles and had his head covered before members of Ansar Dine/AQIM

¹⁰ Ibid. para.806 see ft.2558.

¹¹ Ibid. para.852.

¹² Ibid. para.972.

¹³ Ibid. paras.828, 1313, and 1321.

¹⁴ P-0557 ibid. para 791, 798. P-0565 experienced such intense inflammation and bruising that she had to sleep on her chest, even without permanent scarring, the pain was lasting and debilitating (para.799).

¹⁵ Both P-0565 and P-0557 described fear, shame, and humiliation, particularly due to the public nature of their flogging, which occurred in front of large crowds, including children. Judgment, paras.1312-1314. Sallaka Bent Al-Khair reported being unable to go out or speak to friends in public due to the social stigma. She felt people constantly spoke about the flogging—even to her children—which compounded her trauma and isolation. Judgement para.852.

¹⁶ Public floggings were not only physical punishments but also tools of public degradation. For example, during Sallaka Bent Al-Khair's flogging her breasts were exposed, adding another layer of trauma and shame, which left her feeling socially stigmatised and that “everyone speaks badly behind her back” and she avoided social events. In the case of P-0565 and P-0557, the imposition of a forced marriage immediately following the flogging created enduring public speculation and further embarrassment, compounding their social and psychological suffering. Judgment, paras.852-853, 1312-1314.

cut off his hand with a saw/machete.¹⁷ The impact on the victims was significant and often had long-term consequences. Many of the victims of flogging suffered physical injuries and permanent scarring, in addition to enduring social stigma and ostracisation due to their public humiliations.¹⁸ Some of the victims were vulnerable and will require measures to be made appropriate to their age, i.e. prioritisation for elderly victims and a child-sensitive approach.¹⁹ The public floggings and the amputation also impacted members of the population of Timbuktu, by exposing them to violent scenes.²⁰

Religious persecution

7. Mr Al Hassan was found by the Majority to be guilty of religious persecution. He personally wrote police reports in relation to allegations of use of magic, including reports on Al-Khayr Bin-Sidi and Muhammed Bin Musa, both convicted of using 'magic' and sentenced to prison.²¹ The destruction of the UNESCO heritage site and other mausoleums of religious and historical significance in Timbuktu in June and July 2012 was carried out with the knowledge and approval of Mr Al Hassan.²² The Court recognised the trauma and emotional impact of this destruction on the whole population of Timbuktu.²³
8. Religious-based persecution disproportionately affected women and girls, both in terms of the numbers affected and the chilling effect on their lives in society. While the Chamber did not find Mr Al Hassan responsible for gender persecution, the commission of religious persecution had an aggravated impact on women and girls where the extremist religious laws of Ansar Dine/AQIM controlled their everyday lives and dignity. This included coercive control over their personal dress and hygiene habits, freedom of movement, their ability to earn money and to socialise.²⁴ Women were ordered to stay at home, were effectively prevented from working or studying, and could be imprisoned for violating religious rules for dress.²⁵ This resulted in psychological and material suffering for women.²⁶
9. The Court's judgment clearly established that Ansar Dine/AQIM used their extremist religious propaganda to promote forced marriages as a façade for sexual violence.²⁷ 'Most' members of Ansar Dine "married" local women in what were commonly known as "*jihadi* marriages", often facilitated by local intermediaries.²⁸ Mr Al Hassan had a significant role in arranging these religious "marriages."²⁹ The Majority found that Mr Al Hassan 'made a contribution not only to '*jihadi* marriages', but also directly to forced marriages',³⁰ yet ultimately found him not guilty

¹⁷ Sentencing Judgment, ICC-01/12-01/18-2662, para.45.

¹⁸ Following the amputation of his hand, Maiga was socially rejected, suffered mentally and was unable to work, and the amputation affected his family.

¹⁹ Two of the victims of public floggings were particularly vulnerable as a result of their age: female victim P-0565 was a child of 14 years old at the time of her arrest, detention and public flogging and Foma, who was flogged on the street for smoking, was a thin elderly man - Judgment para.48.

²⁰ Sentencing judgment, para.47.

²¹ Trial judgment. paras.721, 983-984, 991-992.

²² Ibid. para.1050 and 1052.

²³ Ibid. para.1046.

²⁴ Judgment, paras 529-537, 693-703.

²⁵ Judgment paras.697, 1532-1533, 1542.

²⁶ Judgment para 1541.

²⁷ Judgment para.1418

²⁸ Judgment paras.491 and 501.

²⁹ Judgment para.502 and 505.

³⁰ Judgment para.1713.

of the crime of forced marriage. The “marriages” had significant psychological and social impact on the victims.³¹ This continued after Ansar Dine’s departure: social stigma meant that women were ashamed to go outside with children born out of “*jihadi* marriages.”³² These children are therefore also direct victims who will equally require reparations, although this might take the form of considerations for their health and educational needs.³³

Factual Presumptions

10. There should be no need for victims of torture or cruel treatment to show physical scars.³⁴ The public nature of such punishments should be sufficient to establish that a victim suffered such harm. The judgment establishes that several victims were flogged, and suffered cruel treatment in detention sites. As well as the poor conditions of the cell where people were detained with no access to basic hygiene facilities, such as a toilet and little or no food,³⁵ the judgment also found several cases of rape by Islamic Police guards while in custody.³⁶ These rapes appear to follow a pattern, in how they were carried out with impunity by one or more guards, how the women were detained for allegedly not complying with religious dress codes imposed by Ansar Dine, and how the shame and stigma in the aftermath affected the victim’s relationships with their families. These factors could suggest that the true number of sexual assaults of women in Islamic Police custody is unknown, due to a victim’s fears of coming forward or difficulty in collecting sufficient evidence.³⁷ Those held in BMS detention should be assumed to be victims for the purposes of reparations, with women held there assumed to have been raped. It is good practice to ensure that those held in state custody or suffered sexual violence that evidential presumptions of harm are used to reduce the evidential burden on these victims.³⁸ The experience in Iraq with the 2021 Yazidi Survivor Law of victims of sexual violence having to submit evidence, investigative papers and witness reports, in certain circumstances, before a local court has been a barrier for victims claiming compensation and other measures.

³¹ The Court acknowledged the suffering caused to victims P-0520, P-0602, P-0610, P-0538 and P-1162. P-0602 continues to feel “sadness in her heart,” and P-0538, who was flogged and raped by her “husband” and continues to experience nightmares. P-0610, who was 13-15 years old at the time, experienced social ostracism, as did P-0520. See Trial Judgment paras.1424-1427.

³² Trial Judgment para.515.

³³ See Gilmore et al (2020), p56.

³⁴ P-0565 was flogged, but is left with no physical scars.

³⁵ Judgment, paras.864 and 894 “everybody relieved themselves on the mat... The group of detainees were not given anything to eat or drink”.

³⁶ These include the case of Azhara Abdou, P-0636, P-0570 and Fadimata Mint Lilli - Judgment, paras.856-861, 862-868, 873-888, and 889-901.

³⁷ These victims testified to the social, physical and psychological consequences of their ordeals, with P-0570 testifying that she became pregnant as a result of being raped and had an abortion, and her husband left her because of what happened to her. P-0570 testified that she “suffered in her body and her heart because of what happened.” P-0636 was also suffered rejection from her family because of what she endured and after she became pregnant after being raped. She testified that she “felt that her life was over” and “will never be able to forget what happened to her until her dying day”. Judgment, paras.867-686 and 887-888.

³⁸ Principle 12(3), Belfast Guidelines on Reparations in Post-Conflict Societies. See Article 5, Colombian Victims and Land Restitution Law, Law 1448 of 2011. In Peru a victim’s testimony that fit with a pattern of sexual violence in a location was taken as sufficient if it is convincing to the victim registry – see Sunneva Gilmore, Julie Guillerot and Clara Sandoval, *Beyond Silence and Stigma: Crafting a Gender-Sensitive Approach for Victims of Sexual Violence in Domestic Reparation Programmes*, RRV (2020), p39.

11. Other reparation programmes have allowed victims of torture or cruel treatment to be eligible based on passing of illegal sentences or the location of the detention facilities.³⁹ We would distinguish this from the Court's approach in attack cases, such as in *Katanga*, *Ntaganda* and *Ongwen*,⁴⁰ where geographical areas were not automatically a factual presumption for victim eligibility. Detention facilities and public punishments are narrow and defined enough within the crimes of which Mr Al Hassan was convicted, to be controlled by the perpetrator(s). It would be difficult for the victims themselves to evidence their harm to be otherwise prove their eligibility. Having a flexible approach to factual presumptions based on the circumstances of the case and crimes would be in line with the Court's jurisprudence and that of regional human rights courts.⁴¹

Appropriate Types and Modalities of Reparations

Torture and outrages upon person dignity

12. Like all international crimes, a range of reparations are required to remedy the complex harm caused by such crimes.⁴² With torture there is a long-experience and literature on appropriate reparation measures for torture. The African Commission's General Comment No.4 outlines that 'ultimate goal of redress is transformation...[which] envisages processes with long-term and sustainable perspectives that are responsive to the multiple justice needs of victims and therefore restore human dignity.'⁴³ With torture efforts should be made to address the 'psychosocial effects of collective and/or historical trauma on political, social and religious leaders and other role-models in society'.⁴⁴ Compensation should also be awarded. Many reparations schemes award torture compensation on a slightly lower amount than rape or extrajudicial killings, but at the top end of awards.⁴⁵
13. Rehabilitation is a key reparative measure for torture. As the UN Committee on Torture has stated rehabilitation is about the 'restoration of function or the acquisition of new skills required by the changed circumstances of a victim in the aftermath of torture or ill-treatment. It seeks to enable the maximum possible self-sufficiency and function for the individual concerned, and may involve adjustments to the person's physical and social environment. Rehabilitation for victims should aim to restore, as far as possible, their independence, physical, mental, social and vocational ability; and full inclusion and participation in society.'⁴⁶

³⁹ For instance in Argentina - Régimen Reparatario para ex Presos Políticos de la República Argentina LEY 26.913; Germany - Section 11(1), The Law on the Creation of a Foundation "Remembrance, Responsibility and Future".

⁴⁰ *Katanga*, ICC-01/04-01/07-3778, para.76; *Ntaganda*, ICC-01/04-02/06-2659 paras.141-147; *Ongwen*, ICC-02/04-01/15-2074, paras.153-159.

⁴¹ *Katanga*, ICC-01/04-01/07-3778, para.76. See, *Nachova and others v. Bulgaria*, ECtHR Judgment, 6 July 2005, Application nos. 43577/98 and 43579/98, para. 147; and, *Members and Militants of the Patriotic Union v Colombia*, IACtHR Judgment, Series C No.455, 27 July 2022, para.271.

⁴² Concepto en respuesta al concepto solicitado mediante el Auto TP No.041-2024 del 16 de diciembre de 2024 (Jurisdicción Especial para la Paz) 4; *González y otras ("Campo Algodonero") v México*, IACtHR Series C No. 205, 16 noviembre 2009, para.467-549; and *Bedoya Lima v Colombia*, Serie C No.431, 26 Agosto 2021, para 175.

⁴³ General Comment No. 4: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5), 4 March 2017, para.8.

⁴⁴ General Comment No.4, para.48.

⁴⁵ In Guatemala torture under the PNR the amount was Q 20,000.00 (\$2,666), whereas extrajudicial killing was Q 24,000 (\$3,200) and series injury Q 12,000 (\$1,600). In Colombia extrajudicial killing attracts an award of around \$10,500 (same for disabling injury),and torture \$7,900 (same for sexual violence)

⁴⁶ General Comment No. 3 of the Committee against Torture, 19 November 2012, CAT/C/GC/3, para.11.

14. For victims of torture, they often need a long-term package of services as their physical and psychological needs can change through old age and deteriorating health. The African Commission recommends that medical rehabilitation should include ‘unimpeded and regular access to comprehensive healthcare’,⁴⁷ and requires States to ‘adopt a holistic, long-term and integrated approach to rehabilitation and ensure that domestic legislation provides for specialised services to victims of torture and other ill-treatment that are available, appropriate and promptly accessible’, ensuring that victims can participate in the selection of appropriate local providers.⁴⁸ The Inter-American Court has regularly ordered specialist treatment to be provided as long as necessary or permanently for the life of the victim,⁴⁹ essential costs (such as transport and interpretation) are covered,⁵⁰ priority access to treatments,⁵¹ and where the State is unable to provide specialist services to meet the costs through the use of private or civil society institutions.⁵² Rehabilitation should be freely provided to victims,⁵³ including those living outside the country or exiled,⁵⁴ so as to ensure that victims’ resources or compensation is not absorbed in meeting their health, social and legal needs.
15. Victims must have access to prompt, adequate, accessible and good quality healthcare for physical and psychological harm from suffering and witnessing torture. In addition to a health assessment to identify long-term needs in order to treat ongoing health issues, victims should receive a social needs assessment designed to come up with financial solutions to loss of earnings from not being able to work because of mental or physical injuries and/or identify pathways for a return to work. Direct and indirect victims may also benefit from a local support group where they can share their experiences, meet others affected by torture, and to partake in therapeutic activities in the company of others. Such provision of remedial services to torture victims through non-state actors includes the Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT), which provides psychosocial and medical rehabilitation, re-socialisation of torture victims and vocational training.⁵⁵ There are a number of trainers and online sources on how to conduct group support.⁵⁶

Mutilation, cruel treatment and passing sentences without previous judgment

⁴⁷ ACommHPR General Comment No.4, para.61.

⁴⁸ General Comment No.4, para.41-43.

⁴⁹ *Véliz Franco et al. v. Guatemala*, Judgment, Preliminary Objections, Merits, Reparations and Costs, Series C No. 277, 19 May 2014, para.280; *Rosendo Cantú and Another v. Mexico*, Preliminary Objection, Merits, Reparations and Costs, Judgment 31 August 2010, Series C No.216, para.252; and *The Massacres of El Mozote and Nearby Places v El Salvador*, Judgment, Series C No. 252, 25 October 2012, para.352; *Unión Patriótica v Colombia*, para.574; and *Colectivo Abogados Jose Alvear Restrepo v Colombia*, Series C No.506, 18 October 2023, paras.1018–1019.

⁵⁰ *Fernández Ortega et al. v Mexico*, Judgment, Preliminary Objection, Merits, Reparations, and Costs, Series C No.215, 30 August 30 2010, para.251.

⁵¹ *Women Victims of Sexual Torture in Atenco v. Mexico*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, 28 November 2018, Series C No.371, para.341.

⁵² *Rosendo Cantú*, para.253.

⁵³ *Castro Castro v Peru*, para.449. See state practice - Law on Principles of Social Protection, Protection of Civil Victims of War, and Protection of Families with Children (“Official Gazette of the Federation of Bosnia and Herzegovina”, no. 36/99); and Law on Civilian Invalids of War (“Official Gazette of RS”, No. 52/96).

⁵⁴ *Castro Castro v Peru*, para. 450; and *García Lucero et al. v. Chile*, Judgment, 28 August 2013, para.233.

⁵⁵ In Northern Ireland there are a number of victim groups that received government (formerly EU) funding to operate a range of services to injured, torture and bereaved victims, including befriending, counselling, CBT and complementary therapies, such as WAVE, Relatives for Justice and SEFF.

⁵⁶ Such as the Center for Victims of Torture’s Manual for Group Counseling.

16. The means of punishment were used to dehumanise the victims, by treating them as less than humans, causing them further psychological suffering, such as P-0557 being flogged with a folded rope, normally used for beating camels.⁵⁷ Symbolic measures of acknowledgement should aim at affirming the dignity of such victims, such as official letter of victim recognition by the Court, public statements by local officials or appropriate traditional practices that have such effect. Such measures for persecution in other courts have included days of commemoration, plaques, renaming streets or sports clubs after victims. Importantly victims must be included in the design, location and unveiling of such measures.⁵⁸
17. The IACtHR has established a set of reparative measures for torture and cruel treatment, going beyond traditional remedies..⁵⁹ In cases involving corporal punishment, the Inter-American Court calculates compensation for non-pecuniary damage by accounting for aggravating factors, such as the victim's prolonged anguish, fear, and humiliation during the abuse, as well as lasting health consequences like chronic pain, depression, anxiety, and other psychological disorders.⁶⁰ Under Colombia's Law 1448 of 2011 and its reparations programme offer specific measures for victims and family members who lost limbs to landmines. The Victims Unit has implemented international agreements with the Japan Cooperation Agency and the Polus Center, which has provided them with prosthetics, housing, guaranteed their medical treatment, facilitated access to higher education and promoted the training of leaders to influence public policy on disability and productive projects for income generation.⁶¹
18. Compensation should be adequate to effectively remedy the harm of losing a limb or bodily or limb function. In Sierra Leone only \$100 was provided to 1,285 amputees and 4,675 war-wounded, which did not have a transformative impact on their lives.⁶² In the present case, compensation for mutilation could be individualised to the degree of disablement or fixed categories of loss and damage that reflects the everyday and permanent harm suffered by the victim. Physical and psychological harm manifesting as permanent disablement should be taken together as well as the impact of multiple incidents to provide a total combined quantification of disablement.⁶³ For instance, the amputation of a hand in some compensation schemes is distinguished between loss of a dominant or non-dominant one, or partial damage to the functioning of the hand.⁶⁴ Physical scarring should also be included as a heading for

⁵⁷ Witness P-0150 - Judgment, para.791.

⁵⁸ *Valle Jaramillo v Colombia*, Series C No.192, 27 November 2008, para.227(c); and *Unión Patriótica v Colombia*, paras.587-592.

⁵⁹ These include: truth-recovery; comprehensive rehabilitation, ensuring free medical and psychological treatment for victims; and legal reforms, requiring states to align their criminal codes with the UN Convention against Torture. See *Goiburú et al v Paraguay*, paras.164, 169-170, 176; *Gomes Lund et al v. Brazil*, para 297; *Caesar v Trinidad and Tobago*, paras.127 and 131.

⁶⁰ *Caesar v Trinidad and Tobago*, para 127.

⁶¹ Unidad de Víctimas, 'Atención y reparación a víctimas de minas antipersonal, una prioridad de la Unidad para las Víctimas' (*Unidad de Víctimas*, June 2023) <<https://www.unidadvictimas.gov.co/es/atencion-y-reparacion-a-victimas-de-minas-antipersonal-una-prioridad-de-la-unidad-para-las-victimas/>> accessed 10 June 2025; Unidad de Víctimas, 'Así avanza la reparación a víctimas de minas antipersonal en Antioquia' (*Unidad de Víctimas*, 2019) <<https://www.unidadvictimas.gov.co/es/noticias/56345-2/>> accessed 10 June 2025.

⁶² Edward Conteh and Maria Berghs, 'Mi At Don Poil': *A Report on Reparations in Sierra Leone for Amputee and War Wounded People*, Amputee and War-Wounded Association (2014), p7.

⁶³ See Schedule 2, The Victims' Payments Regulations 2020.

⁶⁴ For instance criminal injury compensation schemes have a graded award system based on the degree of loss of function, such as loss of a non-dominant hand would be awarded £33,000, a dominant hand £55,000, and £110,000 for loss of both hands. See the Northern Ireland Criminal Injuries Compensation Scheme 2009.

compensation calculation, such as oil burns or flogging, and depend on its visibility on the person.⁶⁵ On death of direct victim of amputation or torture, their next of kin should be able to benefit from compensation. In Northern Ireland the scheme for disabled injured victims of the conflict can nominate a person to benefit from their compensation payment in case of their death, this includes a spouse, partner or civil partner, as well as a carer.⁶⁶

19. Amputation causes serious life-long disability that requires comprehensive redress.⁶⁷ Compensation alone cannot adequately ensure the lifelong support of amputee victims to redress their harm. Any provision of support in the form of prosthetics needs to have long-term planning (decades) to ensure victims can have some functional mobility and use of their injured limbs. In previous research with amputee victims their long-term health needs often require prosthetic replacement every few years, having to make do with combining two old ones together to walk; another victim required regular surgery twenty-thirty years after losing a limb to shorten their stump and bones so that new prosthetics could fit, due to wear and tear of the contact point, or wheelchairs due to age and arthritis.⁶⁸ Planning for rehabilitative care for amputees should consider the long-term delivery of support and improving local capacity.
20. With regards to sentences being passed by Ansar Dine there may be space for measures of satisfaction to publicly renounce the sentences and punishments passed against civilians in Timbuktu by local authorities.⁶⁹ The Inter-American Court has regularly expunged illegal criminal records or cancelled fines imposed on victims.⁷⁰ The crafting of the wording of the public renouncements should be co-designed with victims and with their consent, as some may not want any further publicity to their harm. Alternative measures may include an official letter of recognition renouncing the victim's sentence and punishment. Such satisfaction measures by themselves are not enough to remedy the harm caused for torture, mutilation or cruel treatment. It may be useful to set up or fund existing group support to different groups of those who witnessed such public punishments, allowing people to drop in to receive peer support or be referred to more extensive psychosocial support.⁷¹

⁶⁵ For instance under many criminal injury compensation scheme and civil compensation tables the position of the scarring and the extent of its disfigurement. By way of example in the UK criminal injuries compensation scheme scarring causing significant disfigurement on the back attracts a £1,000 award, £3,500 for serious disfigurement, whereas significant disfigurement on the face attracts a £2,400 award and £11,000 for serious disfigurement. See The Criminal Injuries Compensation Scheme 2012, p49 and 60.

⁶⁶ Section 9, The Victims' Payments Regulations 2020.

⁶⁷ In the case of amputee victims in the war of Sierra Leone, one association demanded a life pension, medical rehabilitation, education, food, micro-credit, employment support, provision of national identification and housing assistance. See Alhaji Jusu Jaka (Chairman), Recommendation for reparation for all war affected amputated victims throughout the country in Sierra Leone, Amputee War affected Association.

⁶⁸ Luke Moffett, *Reparations and War*, OUP (2023), p262.

⁶⁹ We recognise that this is difficult given the ongoing insecurity around Timbuktu at present.

⁷⁰ *Case of Loayza Tamayo v. Peru* Reparations and Costs, Judgment 27 November 1998. Series C No. 42, para.142; *Case of Lori Berenson Mejía v. Peru*, Merits, Reparations and Costs. Judgment of November 25, 2004. Series C No. 119, para.239; *Case of Acosta-Calderon v. Ecuador*, 24 June 2005, Series C No. 129, para.165; *Case of Rosadio Villavicencio v. Peru*, Preliminary Objections, Merits, Reparations and Costs. Judgment 14 October 2019. Series C No. 388., para.224.

⁷¹ In Colombia the Group Emotional Recovery Strategy (EREG) offers psychosocial and mental health support both individually and collectively. It provides professional accompaniment through group sessions that foster trust, safety, and solidarity, promoting recovery by helping participants process their experiences, regulate their emotions, and symbolically express their suffering. Additionally, in these two programmes, there is an emphasis on specialised and confidential care -an essential aspect considering victims' ongoing concerns about stigma and marginalisation within their communities- applying an intersectional approach that takes into account ethnicity, gender, age, and territory to address the multiple forms of discrimination women victims face. Article 181 of Law 1448 has also been pioneering in recognising children born of conflict-related rape as victims, granting them access

Religious Persecution

21. Whereas Mr Al Mahdi expressed remorse and apologised to the community of Timbuktu and the people of Mali for his role in the destruction of the mausoleums and other objects of religious and cultural significance, Mr Al Hassan has not expressed an apology or remorse.⁷² A public admission of personal responsibility for persecuting the people of Timbuktu may still be useful in symbolically countering the suppression of their religious beliefs.⁷³
22. It may be appropriate to have individual measures for those who suffered serious personal harm, such as "jihadī marriages" or flogging for failing to adhere to the Hesbah's dress code for women. Reparations for harm that has been inflicted on a community and population level cannot be administered simply to certain individuals who were scapegoated by Ansar Dine. In dealing with similar circumstances, some reparation programmes have adopted "camouflaged" measures for women and girls who have suffered gender-based violence, such as forced marriages.⁷⁴ Such "camouflaged" services can help victims' recovery within cultural norms, minimising stigma and re-traumatisation.⁷⁵ Livelihoods projects can similarly enable women to receive compensation discreetly. Community centres could establish spaces for women and their children born out of "jihadī marriages" to participate in society.⁷⁶ The Inter-American Court has ordered the creation of women schools with shelter facilitates for victims of sexual and gender-based violence to educate and counter such violence.⁷⁷

Legal Issues in Identifying Victims and Prioritisation

23. Identifying women and girls who suffered individual religious persecution will be difficult, but not unique to this case. The TFV should work out a methodology for women and girls to inconspicuously apply for reparations as victims, given the cultural pressures on them to avoid their family, social and public exposure.⁷⁸ Using camouflage or referrals from local NGOs or community leaders may be a way to discreetly identify such victims. In the past this has included camouflaged activities by civil society organisations as health screening, a religious gathering or one-to-one mother and child meetings. Attention should be paid to mitigating any further harm and taken a gender and child centred approach to challenge and transform prevailing gender stereotypes around such violence.⁷⁹

to reparations and care within this system. Unidad de Víctimas, 'Estrategia de Recuperación Emocional a Nivel Grupal' <<https://www.unidadvictimas.gov.co/sites/default/files/documentosbiblioteca/3912-estrategia-de-recuperacion-emocional-nivel-grupal-con-adultos-ereg-v1.pdf>>.

⁷² The defence submitted paraphrased statements of Mr Al Hassan in a confidential submission for its sentencing brief, but the Chamber rejected these as apologies, which were made confidentially. Sentencing Judgment, ICC-01/12-01/18-2662, 20 November 2024, para.97.

⁷³ This would not be appropriate for consideration for sentence reduction given that it has not come voluntary from the convicted person.

⁷⁴ "Camouflaged services have been proposed in Uganda to provide birth certification for children born during captivity of the Lord's Resistance Army. Carol Natukunda, Gov't to register children born during LRA war, *New Vision*, 12 May 2019.

⁷⁵ Gilmore, Guillerot and Sandoval, 2020, 57.

⁷⁶ Judgment para.515.

⁷⁷ *Ortega Fernández et al v Mexico*, Series C No.215, 30 August 2010, paras.267-270; and *Carrión González et al v. Nicaragua*, Series C No.550, 4 March 2025., paras.269-270.

⁷⁸ P-0152: T-032, p.42. Judgment para.492; and Conclusions finales des Représentants légaux des victimes, 9 mars 2023, ICC-01/12-01/18-2476-Conf, paras.200-201.

⁷⁹ See *V.R.P., V.P.C. et al v. Nicaragua*, IACtHR, Series C No.350, 8 March 2018, paras.378-384.

24. Prioritising women and girls as suffering religious persecution that has had an aggravated harm on them could counteract the perception that such violence did not occur, due to Mr Al Hassan's acquittal of the charge of gender persecution. Such a perception, deepens the barriers that victims of SGBV often face, including stigma, fear, shame, guilt, and institutional distrust, further discouraging them from reporting or participating in judicial processes.⁸⁰ In this sense, collective and symbolic reparations can play a vital role in recognising the harm suffered by the women victims of SGBV in Timbuktu, restoring their dignity, giving visibility to their experiences, empowering their meaningful participation in the process, and challenging the gender stereotypes that underpinned their victimisation, regardless of the outcome of the criminal trial. Moreover, collective and symbolic reparations can have a transformative and preventive impact. The Court's acknowledgement that such violence occurred in Mali, despite Al Hassan's acquittal on these specific charges, creates the opportunity to order symbolic and collective measures aimed at promoting memory, empowerment, re-dignifying victims of SGBV, and contributing to the prevention and non-repetition of such violence in the future.
25. The Trial Chamber found that Mr Al Hassan personally flogged two victims with 34-37 lashes each. It is unlikely that Mr Al Hassan will apologise to these individual victims or if they would find it helpful. Given Mr Al Hassan's indigence, it may be more useful for him atoning for the direct harm he caused by any remittance he earns from work in prison is provided to these victims. It seems incongruent to notions of justice that convicted persons in other cases, such as Mr Ongwen, who are able to earn a small wage to provide to their family, when his victims have been left disabled, displaced and bereaved without any means of income.
26. In all there are complex needs that arise from this case that need careful design and delivery alongside long-term engagement with victims to redress their harm.



[Professor Luke Moffett
on behalf of
Queen's University Belfast Human Rights Centre

Dated this 13th June 2025

At Belfast, Northern Ireland

⁸⁰ SU-599/19 (Constitutional Court of Colombia), 2.6; and Gilmore, Guillerot and Sandoval (2020), p31.