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Internationale**



**International  
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*Date: 16/06/2025*

**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 Document**

**Amicus Curiae Observations on Reparations from Dr Jean-Benoît Falisse and  
Dr Simeon Koroma, The University of Edinburgh**

**Source:** Dr Jean-Benoît Falisse and Dr Simeon Koroma, The University of  
Edinburgh

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(Participation/Reparation)

☒ The Office of Public Counsel for Victims

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## REGISTRY

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## I. INTRODUCTION

1. The following *amicus curiae* observations are submitted by Dr Jean-Benoît Falisse and Dr Simeon Koroma from the Centre of African Studies at the University of Edinburgh. Based on the applicants' social science research on the consequences of reparation measures, they aim to provide evidence-based and contextually attuned reflections on the types and modalities of reparations suitable to address the harm suffered by the victims of the crimes for which Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (*Al Hassan*) was convicted, as well as the victims or groups of victims who may require prioritisation in the reparations process.

## II. PROCEDURAL HISTORY

2. On 13 December 2024, Chamber X issued its 'Order for Submissions on Reparations' (the 'Order'),<sup>1</sup> in which it, *inter alia*, invited any persons or organisations, particularly those with local expertise, interested in making observations related to the issues identified by the Chamber in the Order, to request leave to file a submission pursuant to article 75(3) of the Statute and rule 103 of the Rules.<sup>2</sup>
3. On 14 February 2025, the Registry transmitted requests for leave submitted, *inter alia*, by Dr Jean-Benoît Falisse and Dr Simeon Koroma from the Centre of African Studies (the 'CAS') at the University of Edinburgh.<sup>3</sup>
4. On 11 March 2025, Dr Jean-Benoît Falisse and Dr Simeon Koroma were granted leave to submit *amicus curiae* observations by Trial Chamber X on the types and modalities of reparations and victims' prioritisation.<sup>4</sup>

## III. SOCIO-POLITICAL CONTEXT OF THE AL HASSAN REPARATIONS

5. In recent years, the Malian socio-political landscape has undergone significant changes, marked, among other developments, by a deteriorated security situation, a change in government, the withdrawal of the United Nations Peacekeeping mission,<sup>5</sup> the dissolution of political parties,<sup>6</sup> and revelations of potential human rights abuses by

<sup>1</sup> Order for submissions on reparations, ICC-01/12-01/18-2666.

<sup>2</sup> Order for submissions on reparations, ICC-01/12-01/18-2666, para. 10.

<sup>3</sup> Registry Transmission of 'Application by Dr Jean-Benoît Falisse and Dr Simeon Koroma for leave to submit observations pursuant to Article 75(3) of the Statute and Rule 103 of the Rules', ICC-01/12-01/18-2682, with Annex ICC-01/12-01/18-2682-Anx (the 'University of Edinburgh CAS application').

<sup>4</sup> Decision on the requests for leave to submit *amicus curiae* observations, ICC-01/12-01/18-2689

<sup>5</sup> UN Security Council, 05.01.2024. Security Council Press Statement on Closure of United Nations Multidimensional Integrated Stabilization Mission in Mali UN Security, SC/15557

<sup>6</sup> UNOHR, 08/05/2025. *Mali: UN Experts say Mali should not hinder or suspend the activities of political parties*

paramilitary forces.<sup>7</sup> The *Al Hassan* reparations will, therefore, take place in a context expected to be even more challenging than the context of the Ahmad Al Faqi Al Mahdi (*Al Mahdi*) reparations, which concern part of the same population in the city of Timbuktu and constitute the ICC's main experience with reparations in the country. Some of the logistical challenges encountered in the *Al Mahdi* reparations,<sup>8</sup> in particular in terms of the political and security conditions necessary for ICC staff to directly access victims, are likely to be exacerbated in the *Al Hassan* case.

6. With the individual reparations now completed and collective measures well advanced in the *Al Mahdi* case, the population of Timbuktu has experienced a first example of reparations implemented by the Trust Fund for Victims (TFV) and its partners.<sup>9</sup> Although the *Al Hassan* case involves a different perpetrator and distinct crimes, the reparations process in the *Al Mahdi* case is likely to serve as a reference point for victims and the broader Timbuktu community as they approach reparations.
7. Research in socio-legal studies,<sup>10</sup> as well as our independent evaluation of reparations in the Germain Katanga (*Katanga*) case,<sup>11</sup> conducted on behalf of the TFV, suggest that earlier reparations processes can create an 'anchoring effect'. That is, previous experiences of reparation tend to shape community expectations, influence perceptions of what justice entails, and inform how victims engage with subsequent proceedings. In *Katanga*, which became the first ICC case to complete implementation of reparations, we heard that beneficiaries' experiences later informed how victims in the Thomas Lubanga Dyilo case understood and engaged with the reparations process, even though the victims, crimes, and profiles of harm differed substantially. Similarly, in Timbuktu, it is likely that the visibility and community-centred nature of reparations in *Al Mahdi*

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<sup>7</sup> Le Monde (Thomas Eydoux and Benjamin Roger), 12/06/2025. *Au Mali, les détentions et tortures secrètes de civils par le groupe russe Wagner*

<sup>8</sup> TFV Final Submissions on Reparations Proceedings, ICC-01/12-01/15-187

<sup>9</sup> Thirty-fourth update report on the updated implementation plan, with confidential, ex parte, Annex 1, available to the Trust Fund for Victims only, ICC-01/12-01/15

<sup>10</sup> Among many: K. McEvoy and L. Mallinder, 'Amnesties, transitional justice and governing through mercy' (2013) *The Sage Handbook of Punishment and Society*, Londres: SAGE 434–62; R. Shaw, L. Waldorf, and P. Hazan, *Localizing transitional justice: interventions and priorities after mass violence* (Stanford University Press, 2010). More generally: D. Kahneman, P. Slovic, and A. Tversky, *Judgment under uncertainty: Heuristics and biases* (Cambridge university press, 1982)

<sup>11</sup> We have also been involved in evaluations in the Al Mahdi and Lubanga cases, but these reports are not yet final. For Katanga: J. B. Falisse, S. Koroma, G. B. Nyembo, and D. A. Baba, *Evaluation of the effects of the reparations ordered by the International Criminal Court and implemented by the Trust Fund for Victims in the case of the Prosecutor against Germain Katanga* (2024). Final report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims Annex C, ICC-01/04-01/07-3934-AnxC, 3 December 2024.

will have established a precedent with both symbolic and practical implications for how reparations in the *Al Hassan* case may be received.

8. The likelihood of an anchoring effect in Timbuktu is further reinforced by the geographic and social continuity between the *Al Mahdi* and *Al Hassan* cases. As a result, the *Al Mahdi* reparations may not only influence victims' expectations about the timing, content, and delivery mechanisms of reparations in *Al Hassan*, but may also affect how trust is placed in the Court and the TFV. While each case must be treated on its own merits, the legacy of *Al Mahdi* reparations will likely shape local perceptions of fairness, responsiveness, and inclusivity in *Al Hassan*, underscoring the importance of transparent communication and context-sensitive engagement.

#### IV. TYPES AND MODALITIES OF REPARATIONS

9. The ICC jurisprudence recognises that reparations must be proportionate to the scope and gravity of harm and tailored to the needs and rights of victims.<sup>12</sup> In *Al Hassan*, the crime of persecution and the imposition of a repressive regime constitute paradigmatic instances of communal suffering.<sup>13</sup> The judgment suggests, as in most other reparation cases at the ICC, that a combination of collective reparation measures –primarily to the benefit of the inhabitants of Timbuktu– and individual reparation measures, addressing specific crimes, torture, mutilation, and cruel treatments towards individuals who have been identified or remain to be identified.
10. Reparations programmes, whether ordered by the ICC or by any institution, invariably generate high expectations from victims, not only for financial or symbolic redress, but also for recognition, participation, and justice in its broadest sense.<sup>14</sup> As numerous scholars have emphasised, such expectations must be effectively calibrated through early and meaningful engagement with victims.<sup>15</sup> Without participatory dialogue at the outset, reparations processes risk appearing technocratic, misaligned, or even alienating

<sup>12</sup> Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable', ICC-01/04-01/06-3466-Red, para 305.

<sup>13</sup> K. McEvoy and K. McConnachie, 'Victimology in transitional justice: Victimhood, innocence and hierarchy' (2012) 9 *European Journal of Criminology* 527–38; L. Moffett, 'Reparations for victims at the International Criminal Court: a new way forward?' (2017) 21 *The International Journal of Human Rights* 1204–22.

<sup>14</sup> C. H. Chung, 'Victims' Participation at the International Criminal Court: Are Concessions of the Court Clouding Promise?' (2007) 6 *Nw. UJ Int'l Hum. Rts.* 459. Also see many useful contributions on expectations in reparations more broadly in de Greiff, *The Handbook of Reparations* (Oxford University Press, 2006).

<sup>15</sup> L. J. Laplante and K. Theidon, 'Truth with Consequences: Justice and Reparations in Post-Truth Commission Peru' (2007) 29 *Human rights quarterly* 228–50; S. Robins, 'Towards victim-centred transitional justice: Understanding the needs of families of the disappeared in postconflict Nepal' (2011) 5 *International Journal of Transitional Justice* 75–98; L. Moffett, 'Reparations for "Guilty Victims": Navigating Complex Identities of Victim-Perpetrators in Reparation Mechanisms' (2016) 10 *International Journal of Transitional Justice* 146–67.

to the very communities they seek to address. In the context of Timbuktu, it will be crucial to communicate how the *Al Hassan* reparations differ from those in *Al Mahdi*, in order to appropriately manage expectations regarding both the process and the modalities that reparations may take.

11. To support reparations delivery in *Al Mahdi*, the TFV has developed a network of trusted partners, including civil society and aid organisations.<sup>16</sup> Given the challenges of high expectations mentioned above, these trusted partners could be instrumental for the implementation of the *Al Hassan* reparations. However, relying on third parties, particularly civil society and aid organisations, increases the risk that reparations measures are perceived as simply another development project,<sup>17</sup> thereby weakening their reparative value. Where reparations include financial awards, mobile payments directly handled by the TFV, as in *Al Mahdi*, could help maintain a more direct and visible link between the ICC and victims, reinforcing the distinctiveness of reparations as a form of justice rather than charity or development aid.
12. Building on the need to manage expectations through early and participatory engagement, we argue that, in line with the ICC's approach,<sup>18</sup> victims must be granted the opportunity to meaningfully influence or choose the form their reparations take. Modalities should be modular and adaptive, allowing the flexibility to change over time as circumstances or preferences evolve. Reparations under Article 75 of the Rome Statute are not merely compensatory, but must strive to restore, as far as possible, the dignity, agency, and social position of victims.
13. Genuine victim engagement extends beyond consultation. It entails participation in the design, delivery, monitoring, and evaluation of reparations, with particular attention to marginalised groups. Participatory approaches have long been documented as exposed to dynamics of power and capture.<sup>19</sup> To mitigate these risks, multiple channels must remain available, such as community assemblies, direct contact, and representative structures, so that vulnerable groups have dedicated spaces for input.<sup>20</sup> Such measures

<sup>16</sup> Thirty-fourth update report on the updated implementation plan, ICC-01/12-01/15; ICC-ASP/21/14

<sup>17</sup> See in particular chapter 8 in C. Sperfeldt, *Practices of reparations in international criminal justice* (Cambridge University Press, 2022).

<sup>18</sup> See for e.g., Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06-3338; Prosecutor v. Germain Katanga, ICC-01/04-01/07-3934-AnxA

<sup>19</sup> A. Cornwall, 'Unpacking "Participation": models, meanings and practices' (2008) 43 *Community Development Journal* 269–83; Robins, 'Towards victim-centred transitional justice'; S. Weber, *Gender and citizenship in transitional justice: everyday experiences of reparation and reintegration in Colombia* (University Press, 2023).

<sup>20</sup> A. Cornwall, 'The participation reader' (2011); Laplante and Theidon, 'Truth with Consequences'.

strengthen the legitimacy and inclusiveness of reparations processes, ensuring that participation is not only symbolic but also substantively empowering.

14. It is essential that the rationale linking each form of reparation to a specific harm is made explicit, especially when a single modality, such as cash payment, is used to address multiple types of harm with potentially distinct symbolic and compensatory logics.<sup>21</sup> The Court should also acknowledge the limits of what reparations can achieve and situate them within a broader justice journey that includes truth and accountability.
15. Continuing to acknowledge the existence of victims of crimes whose perpetrators have not yet been tried remains essential to maintaining trust and inclusion in the reparations process. In contexts like Timbuktu, where victims and perpetrators may come from the same close-knit communities, and where insecurity and economic hardship are ongoing, selective recognition may exacerbate interpersonal tensions. If there is acknowledgement of only a subset of harm or victims group through the reparations process, it may not only fuel perceptions of injustice but also disrupt fragile social relations. These dynamics underline the importance of adopting an expansive and transparent communication strategy and of involving communities in decisions about how harms are acknowledged and addressed. The ICC's reparations mandate under Article 75(1) allows for reparations "to, or in respect of, victims," a phrasing that can be used creatively to extend symbolic or community-wide measures. Doing so can mitigate social fragmentation and reinforce the legitimacy of reparations as a restorative, rather than merely judicial, exercise.<sup>22</sup>
16. Across reparation cases,<sup>23</sup> including in our own research, victims consistently express a desire not only for redress of past harm but for safety and guarantees that such violations will not recur. The principle of non-repetition is a cornerstone of reparations, grounded in the Rome Statute's broader aims of prevention and consistent with the mandate to interpret provisions in line with internationally recognised human rights<sup>24</sup>, such as the UN Basic Principles on the Right to a Remedy and Reparation.<sup>25</sup> While non-repetition is often addressed through state reform or institutional guarantees, the Court can also consider reparative measures explicitly aimed at limiting the risk of repetition by

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<sup>21</sup> de Greiff, *The Handbook of Reparations*; Robins, 'Towards victim-centred transitional justice'.

<sup>22</sup> de Greiff, *The Handbook of Reparations*; C. Collins, 'Truth-justice-reparations interaction effects in transitional justice practice: The case of the 'Valech Commission' in Chile' (2017) 49 *Journal of Latin American Studies* 55–82; Weber, *Gender and citizenship in transitional justice*.

<sup>23</sup> L. Moffett, *Justice for victims before the International Criminal Court* (Routledge, 2014).

<sup>24</sup> Article 21(3), Rome Statute of the International Criminal Court.

<sup>25</sup> UN General Assembly (2005) Resolution 60/147

preventing conflict. In the context of Mali, where cycles of violence and insecurity persist, such measures might include support for local peacebuilding initiatives, community-led dialogue platforms, or investments in social infrastructure that promote cohesion and trust. Reparations aimed at reducing future harm not only fulfil the Court’s mandate but also reflect victims’ expressed priorities and contribute to the broader goals of restorative justice.<sup>26</sup>

17. The Court has repeatedly recognised that reparations must be adaptable to changing conditions and grounded in the lived realities of victims.<sup>27</sup> In the *Al Mahdi* case, Trial Chamber VIII stated that reparations need to be “responsive to local conditions while being consistent with the Court’s reparations principle”.<sup>28</sup> This approach is particularly important in *Al Hassan*, as factors such as regional instability, shifting political dynamics, and developments in national accountability mechanisms could significantly shape the reparations landscape. The design and implementation of reparations in *Al Hassan* must therefore remain open to adjustment over time.
18. One potentially relevant development is the conclusion of the Malian *Truth, Justice, and Reconciliation Commission* (TJRC) in 2022. Although its final report has not yet been published, the Commission carried out substantial work in and around Timbuktu. In March 2025, the UN Special Rapporteur on the situation of human rights in Mali noted that “with regard to the right to reparation, significant progress has been made with the development of a national policy and the establishment of the Authority for the Management of Reparations for Victims of Crises in Mali. However, there is little information on the actual operationalization of the Authority”.<sup>29</sup> Should this mechanism become operational, synergies between national reparations and the *Al Hassan* reparations should be explored –especially where such collaboration could strengthen symbolic or community-level measures aimed at reducing the risk of repetition and improving social cohesion.
19. In its sentencing judgement, “the Chamber considers that no weight can be afforded to Mr Al Hassan’s general request for forgiveness”<sup>30</sup>, which was only expressed in writing

<sup>26</sup> M. U. Walker, ‘Restorative Justice and Reparations’ (2006) 37 *Journal of social philosophy* 377–95.

<sup>27</sup> Al Mahdi reparations draft implementation plan. ICC-01/12-01/15-291 and reparation order ICC-01/12-01/15-236

<sup>28</sup> Al Mahdi reparation order ICC-01/12-01/15-236. para 148.

<sup>29</sup> Human Rights Council, 06/03/2025, Situation of human rights in Mali: Report of the Independent Expert on the situation of human rights in Mali, Eduardo Gonzalez, A/HRC/58/79, para 74.

<sup>30</sup> Al Hassan Sentencing Judgment, ICC-01/12-01/18-2662, p. 48, para. 98.

and was not a formal apology.<sup>31</sup> The Legal Representative for Victims also argued that many victims desired justice before forgiveness,<sup>32</sup> which is consistent with a large body of research in socio-legal studies,<sup>33</sup> law,<sup>34</sup> and experimental psychology.<sup>35</sup> While apologies cannot be forced and often take time to emerge and be accepted as genuine, they can, when sincere, become key in reparation processes, enhancing victims' satisfaction and recognition.<sup>36</sup> Apologies occupy a central place in Muslim culture<sup>37</sup> and appear to have contributed to the victims' satisfaction in the Al Mahdi case.<sup>38</sup> In contexts such as Timbuktu, where apology and moral accountability are highly valued, the Court may wish to remain attentive to any future expressions of contrition and consider whether they can be meaningfully integrated into the reparative process.

#### IV. PRIORITISATION OF GROUPS OF VICTIMS AND MEASURES

20. The Chamber recognised the deep psychological costs of the crimes for which Mr Al Hassan was convicted, including trauma, stigma, and mental suffering more widely.<sup>39</sup> Trauma-informed programming approaches,<sup>40</sup> already implemented in a wide range of international and domestic reparations and care settings,<sup>41</sup> will be helpful in the *Al Hassan* case. Such approaches require investment in the training of staff and potential partners involved in implementing reparations.

21. The mental health issues triggered by Mr Al Hassan's crimes are likely to negatively affect the victims' ability to participate in the reparation process. If participation is to be truly inclusive, then mental health screening and psychosocial support services should be considered from the outset of the reparation programmes. This is critical to ensure that victims are not inadvertently excluded or disempowered in influencing the nature and implementation of the reparations they will receive. This approach finds precedent in *Lubanga*, where Trial Chamber II recognised the importance of mental

<sup>31</sup> Al Hassan Sentencing Judgment, ICC-01/12-01/18-2662, section IV.C.2.a, pp. 46–48.

<sup>32</sup> Al Hassan Sentencing Judgment, ICC-01/12-01/18-2662, p. 47, para. 95.

<sup>33</sup> T. M. Tripp, R. J. Bies, and K. Aquino, 'A vigilante model of justice: Revenge, reconciliation, forgiveness, and avoidance' (2007) 20 *Social Justice Research* 10–34.

<sup>34</sup> M. Minow, 'Forgiveness, law, and justice' (2015) 103 *Calif. L. Rev.* 1615.

<sup>35</sup> J. C. Karremans and P. A. Van Lange, 'Does activating justice help or hurt in promoting forgiveness?' (2005) 41 *Journal of Experimental Social Psychology* 290–97.

<sup>36</sup> T. Van Boven, 'Victims' rights to a remedy and reparation (Brill Nijhoff, 2009).

<sup>37</sup> M. Abu-Nimer and I. Nasser, 'Forgiveness in The Arab and Islamic Contexts: Between Theology and Practice' (2013) 41 *Journal of Religious Ethics* 474–94.

<sup>38</sup> Coalition for the ICC, 03.10.2016. 'Al Mahdi sentenced to nine years at ICC: Explanation and reaction to Timbuktu destruction trial'

<sup>39</sup> Al Hassan Sentencing Judgment, ICC-01/12-01/18-2662

<sup>40</sup> J. Levenson, 'Trauma-informed social work practice' (2017) 62 *Social work* 105–13.

<sup>41</sup> Global Survivors Fund, 'Victim/Survivor Support Services Protocol' (2024).

health screening early in the reparations programme.<sup>42</sup> Applying similar principles in *Al Hassan* will support a reparations process that is not only participatory in name but accessible and enabling in practice.

22. The Chamber recognised the scale of harm inflicted on victims, stating 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”.<sup>43</sup> It further agreed with the Legal Representatives of Victims that this collective experience constituted “deep-seated trauma”.<sup>44</sup> In addition, the Chamber recognised the suffering of specific individuals who were victims of crimes: forced marriage, sexual slavery, rape and persecution on gender grounds, for which Mr Al Hassan was not found guilty due to evidentiary thresholds. These harms, while not judicially attributable to Mr Al Hassan, were nonetheless recognised by the Court as having occurred and as bearing heavy psychological costs on victims and communities alike.
23. As with any international criminal court judgment, sentencing has been met with a mix of responses. The media<sup>45</sup> has reported frustration among some victims who suggested their experiences were recognised by the Court but not reflected in the conviction. Such reactions reflect a broader challenge in transitional justice: when judicial outcomes do not fully align with victims’ narratives or expectations.<sup>46</sup> To address this, a precise and sustained outreach strategy should be directed not only at beneficiaries of reparations but also at non-beneficiaries of any individual or collective reparations, who may not be eligible, either because their harms fall outside the scope of the conviction or because of the limitations of available reparative measures. Explaining the legal rationale, the limitations, and the broader aims of the reparations programme will be essential to reduce resentment and avoid perceptions of exclusion or injustice.<sup>47</sup> Ultimately, whether reparations are appropriate and successful in the *Al Hassan* case hinges in part on them not inadvertently creating further tensions or fostering social divides.
24. Considering the points made in the preceding four paragraphs, and the additional work required to identify all individual victims<sup>48</sup>, it may be helpful to consider promptly

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<sup>42</sup> ICC-01/04-01/06-3495

<sup>43</sup> Al Hassan Sentencing Judgment, ICC-01/12-01/18-2662, p. 38, para. 71.

<sup>44</sup> Al Hassan Sentencing Judgment, ICC-01/12-01/18-2662, p. 40, para. 73.

<sup>45</sup> Justice Info (Boubacar Sidiki Haidara), 27/06/2024, ICC/Mali : Al Hassan verdict leaves bitter taste

<sup>46</sup> P. Clark, *Distant justice: The impact of the International Criminal Court on African politics* (Cambridge University Press, 2018).

<sup>47</sup> L. Moffett and C. Sandoval, ‘Tilting at windmills: Reparations and the International Criminal Court’ (2021) 34 *Leiden Journal of International Law* 749–69.

<sup>48</sup> Order for submissions on reparations, ICC-01/12-01/18-2666.

starting the collective reparations, even as individual victim identification continues. Early delivery of collective reparations can provide symbolic recognition and help demonstrate the Court's responsiveness to victims' needs.

25. The importance of early symbolic reparation was found to be key in the *Katanga* case, where Trial Chamber II ordered the release of a symbolic USD 250 for each victim. Evaluation reports found that this visible benefit implemented at the beginning of the reparation process helped sustain victims' engagement with the longer-term reparation process.<sup>49</sup> Given the logistical and social challenges anticipated in the *Al Hassan* reparation process, early symbolic or collective measures may be even more important to foster trust, mitigate frustration, and maintain momentum.
26. The selection and prioritisation of beneficiaries for individual reparations are, by definition, exclusionary processes,<sup>50</sup> and have been contentious in a wide range of settings.<sup>51</sup> We are not in a position to further define priorities, but a genuinely victim-centric, gender- and age-sensitive approach suggests that the choice of such criteria—based for instance on degree of harm, compounded vulnerability, or centrality to group recovery—must be subjected to consultations with victims, and remain open to revision. Moreover, as in any social intervention, it should be noted that victims who are identified first and are the most visible are likely to exhibit certain characteristics—what social scientists call a (self-)selection bias.<sup>52</sup> In other contexts, and without speculating about the situation in Timbuktu, gender, ethnicity, and social class have been key factors explaining why some victims are more visible than others.<sup>53</sup>
27. Reparations programmes are *de facto* social interventions that are shaped by and affect not only their intended beneficiaries, the victims recognised by the Chamber, but also those who live around them. A genuinely victim-centric approach must recognise this complexity and, therefore, the need for reparation programmes to engage with victims but also local communities, authorities, and civil society that are not directly the beneficiaries of reparation programmes. Doing so can reduce tensions, build local ownership, and strengthen the reparative value of the programme beyond the legal confines of the judgment.

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<sup>49</sup> Falisse, Koroma, Nyembo, and Baba, *Evaluation of the effects of the reparations...*

<sup>50</sup> E. Dwertmann, *The reparation system of the International Criminal Court its implementation, possibilities and limitations*, 1st ed. ed. (Martinus Nijhoff Publishers, 2010).

<sup>51</sup> See, among others, contributions in de Greiff, *The Handbook of Reparations*.

<sup>52</sup> R. Rubio-Marín, *What happened to the women?: gender and reparations for human rights violations* (Social Science Research Council, 2006); Robins, 'Towards victim-centred transitional justice'.

<sup>53</sup> L. McGregor and K. McEvoy, 'Transitional justice from below' (2008).

28. In the *Al Mahdi* case, Trial Chamber VIII provided that victims may receive reparations whilst maintaining their anonymity to Mr Mahdi (and, therefore, more broadly, the public).<sup>54</sup> This principle can be upheld in the *Al Hassan* case without contradicting the idea mentioned in the previous paragraph that the broader population should be made aware that reparations are being provided to individual victims, explaining their rationale rooted in the harm suffered and legal responsibility.

#### IV. FURTHER SUBMISSION

29. We submit that the appropriateness of reparations is not only determined *ex ante* when reparation measures are initiated, but also *ex post*, after the measures have been implemented.<sup>55</sup> The victims' experience of the reparation process is key to understanding whether the measures were ultimately appropriate. Documenting the experiences of direct and indirect victims, as well as the communities in which they live, is therefore crucial. It requires setting up adequate monitoring, learning, and evaluation mechanisms from the very onset of reparation programmes.<sup>56</sup> Reparation orders can, and some in the past, have clarified the expected (broad) outcomes of reparation programmes,<sup>57</sup> which can help monitoring and evaluation efforts.




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Jean-Benoît Falisse and Simeon Koroma

Dated this 16/06/2025

At Edinburgh, United Kingdom

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<sup>54</sup> *Judgment on the appeal of the victims against the Reparations Order*, ICC-01/12-01/15-259-Red2

<sup>55</sup> J. Torpey, *Making whole what has been smashed: On reparations politics* (Harvard University Press, 2006).

<sup>56</sup> The Evaluation Policy of the International Criminal Court, ICC-2025-01-24-Evaluation-Policy

<sup>57</sup> Order for Reparations pursuant to Article 75 of the Statute (Katanga case), ICC-01/04-01/07-3728