

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **13 June 2025**

TRIAL CHAMBER X

Before:

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

SITUATION IN THE REPUBLIC OF MALI

IN THE CASE OF

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

Confidential

**Observations of One of the Legal Representatives of Victims on the Reparations for
Victims in Burkina Faso, Niger and Mali**

Source: Mr Mayombo Kassongo, Legal Representative of Victims

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

- | | |
|---|--|
| ☒ Office of the Prosecutor | ☒ Counsel for the Defence
D28 |
| ☒ Legal Representatives of Victims
V43 | ☐ Legal Representatives of Applicants |
| ☐ Unrepresented Victims | ☐ Unrepresented Applicants for
Participation/Reparations |
| ☐ Office of Public Counsel for Victims | ☐ Office of Public Counsel for the
Defence |
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| ☐ Victims and Witnesses Section | ☐ Detention Section |
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Reparations Section | ☐ Other |

I. INTRODUCTION

1. These observations are based on the statements of the victims met on each mission throughout the trial and during the reparations phase. They constitute a summary.
2. The Legal Representative had to gather the views and concerns of the victims at the end of the trial, well before the reparations stage.
3. Now that all the victims have expressed the harm that each of them has suffered, it is prudent to set out (1) the victim typology specific to them, so as to arrive at (2) the specific nature of the corresponding reparations criteria.

II. PRESENTATION OF THE FREQUENTLY REPORTED TYPES OF HARM: EMOTIONAL INJURY CAUSED BY DISRUPTION OF THE PRACTICE OF ANCESTOR WORSHIP

4. The victims from Timbuktu or having one or both parents from Timbuktu have referred to compensation owed for pain and suffering of a unique kind. Pilgrimage is a common denominator among all these victims.
5. The victims of war crimes and destruction of protected buildings are immensely disappointed. They are confused and feel revictimized because their status was the basis of the persecution perpetrated by Mr Al Hassan and his group. They wonder how they can return home and resume the worship of their ancestors! Most of them belong to extended families and were expecting to receive justice.

A. *Disconnectedness – current, actual harm*

6. “[TRANSLATION] *I am a descendent of Saint El Moctar and I have to go to Timbuktu to reconnect with my extended family around the mausoleum.*”
7. The victims from Timbuktu who are living scattered around the tri-border area have expressed a great deal of concern [children born in the tri-border area – overlapping three countries: Burkina Faso, Niger and Mali – make the

journey to Timbuktu at least once a year, and anyone who does not do so makes arrangements to go there to meet with the extended family around the mausoleums; not to go is becoming a sacrilege, particularly since the jihadi occupation, which is hostile to the worship of the mausoleums]. These younger generations are reconnecting with the tradition of the ancestors by adhering to the practice of ancestor worship, and so the jihadi occupation is at the root of the disruption.

8. They are afraid that the persecution, expressed in terms of emotional, economic and material harm, may resume with Mr Al Hassan's release, which is looming on the horizon.
9. Many victims in the *Al Hassan* case have been moving between Timbuktu, Mali and the Sahel countries, *viz.* Burkina Faso/Niger, because of the jihadi occupation. Sometimes they are refugees from the situation, but this in no way detracts from the traditions and worship of the ancestors; as natives of Timbuktu, they maintain their tradition and transmit the culture to their offspring or descendants, although meanwhile some have acquired the nationality of their country of birth, in which case the jihadi occupation has broken the chain of transmission.

B. Loss of occupation due to continuing displacement

10. The victims of persecution and other inhumane acts have high expectations for the nature of the reparations: for some, loss of occupation has been a burden since the jihadis invaded and they went into exile. Vegetable farming and the raising of sheep and cattle have stopped; the mausoleums are inaccessible and trading associated with tourism at them has ceased; small businesses and trades working with woven goods and other traditional clothing have fallen idle; all these activities once supported the movement of goods and services in the tri-border area, with the result that it is no longer possible for anyone to import or export items used as traditional gifts. This harm is economic and constitutes a loss of monetary value for these

traditional craftspeople; it needs to be taken into account for these victims to receive reparation.

11. They hope for a reparations plan that is commensurate to their suffering.

III. RELAXATION OF THE REPARATIONS CRITERIA

12. The Legal Representative respectfully moves the Chamber to take these specific types of harm into consideration in their applications for reparations for proof on the balance of probabilities.

13. This is because it is very difficult for these victims to prove the existence of evidence of such harm on legal grounds.

14. This applies to both the emotional and economic harm referred to above.

15. The emotional distress inflicted by the fact that they can no longer practice the worship of their ancestors does not readily admit of documentary proof.

16. The same applies to the informal activities conducted according to customs and traditions which are difficult to establish on the basis of records kept by businesses or craftspeople.

IV. TYPES OF REPARATIONS WHICH ARE APPROPRIATE

17. Following his missions and meetings with these victims located in the tri-border area, the Legal Representative respectfully moves the Chamber to take into account the following chronology of the forms of reparation communicated by the victims with whom he has met:

- Financial compensation for all those who have suffered from the disruption of the practice of ancestor worship or from emotional harm;
- An award of reparations to be assessed by the Fund in respect of loss of occupation: here the Fund would, together with the victim assisted

by his or her counsel, assess the size of the award of reparations to be made in respect of the loss incurred.

Respectfully,

Without prejudice,

[signed]

Mr Mayombo Kassongo

Legal Representative of Victims

Dated this 13 June 2025

At Kinshasa