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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

**Public redacted version of "Corrected version of 'The OPCV's Submissions on
Reparations' (ICC-01/12-01/18-2747-Conf, 22 August 2025)" (ICC-01/12-01/18-2747-
Conf-Corr, 27 August 2025)**

Source: Office of Public Counsel for Victims

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Al Hassan Defence

☒ **Legal Representatives of the Victims**

Al Hassan Case

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☒ **The Office of Public Counsel for Victims**

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Reparations Section**

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Trust Fund for Victims

I. INTRODUCTION

1. Counsel at the Office of Public Counsel for Victims representing four victims (the “OPCV/LRV”)¹ hereby submits his observations on reparations.

II. PROCEDURAL BACKGROUND

2. On 26 June 2024, Trial Chamber X (the “Chamber”) convicted Mr Al Hassan for the crimes of:

- **Torture** as a crime against humanity (Count 1) and war crime (Count 3) as a direct perpetrator (article 25(3)(a)) for one flogging event and as an accomplice (article 25(3)(c) and (d));
- **Other inhumane acts** as a crime against humanity (Count 2) as an accomplice (article 25(3)(d));
- **Cruel treatment** as a war crime (Count 4) as an accomplice (article 25(3)(d));
- **Outrages upon personal dignity** as a war crime (Count 5) as a direct perpetrator for one flogging event and as an accomplice (article 25(3)(c) and (d));
- **Passing of sentences without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable** as a war crime (Count 6) as an accomplice (article 25(3)(d));
- **Persecution on religious grounds** as a war crime (Count 13) as an accomplice (article 25(3)(d)); and
- **Mutilation** (Count 14) as a war crime as an accomplice (article 25(3)(d)).²

¹ The concerned victims are: a/65000/00, a/65000/01, a/65002/24 and a/65004/25: See the “Decision on the LRV’s submission on a potential conflict of interest”, [No. ICC-01/12-01/18-2728-Conf](#) and [No. ICC-01/12-01/18-2728-Red](#), disposition, 5 June 2025.

² See the “Trial Judgment” (Trial Chamber X), with three public annexes, [No. ICC-01/12-01/18-2594-Conf](#) and [No. ICC-01/12-01/18-2594-Red](#), 26 June 2024, pp. 818-821 (the “Trial Judgment”).

3. On 20 November 2024, the Chamber sentenced Mr Al Hassan to a joint sentence of 10 years of imprisonment.³
4. On 13 December 2024, the Chamber issued an order for submission on reparations.⁴
5. On 5 June 2025, the Chamber appointed the OPCV to represent certain victims and directed counsel from the OPCV to make submissions on reparations by 22 August 2025.⁵
6. On 11 June 2025, 13 June 2025 and 16 June 2025, respectively, the parties and participants and *amici curiae* filed their submissions on reparations.⁶
7. On 16 July 2025, the legal representatives of the main group of victims (the “LRV”) and the Defence filed further reparations submissions.⁷

³ See the “Sentencing Decision” (Trial Chamber X), [No. ICC-01/12-01/18-2662](#), 20 November 2024 (the “Sentencing Decision”).

⁴ See the “Order for Submission on Reparations” (Trial Chamber X), [No. ICC-01/12-01/18-2666](#), 13 December 2024, para. 3 (the “Order for Submission on Reparations”).

⁵ See the “Decision on the LRV’s submission on a potential conflict of interest” (Trial Chamber X), [No. ICC-01/12-01/18-2728-Conf](#) and [No. ICC-01/12-01/18-2728-Red](#), disposition, 5 June 2025.

⁶ See the “Defence Observations on Reparations”, with public annexes A to J, [No. ICC-01/12-01/18-2729](#), 11 June 2025 (the “Defence Observations on Reparations”); the Queen’s University Belfast Human Rights Centre Submission on Reparations”, [No. ICC-01/12-01/18-2730](#), 13 June 2025; the “*Observations de l’un des Représentant légal des victimes sur les reparations relatives aux victimes du Burkina Faso, du Niger et du Mali*”, [No. ICC-01/12-01/18-2731-Conf](#), 13 June 2025; the “*Observations des Représentants légaux des victimes en exécution de l’Ordonnance aux fins de présentation d’observations relatives aux réparations*” (ICC-01/12-01/18-2666)” with one public annex, [No. ICC-01/12-01/18-2732-Conf](#) and [No. ICC-01/12-01/18-2732-Red](#), 16 June 2025 (the “LRV Observations on Reparations”); the “Registry Submissions on Reparations”, [No. ICC-01/12-01/18-2733-Conf](#) and [No. ICC-01/12-01/18-2733-Red](#), 16 June 2025; the “Prosecution Submission on Reparations”, [No. ICC-01/12-01/18-2734-Conf](#) and [No. ICC-01/12-01/18-2734-Red](#), 16 June 2025; the Mama Koité Doumbia *et al.* “Amici Curiae Observations pursuant to Article 75 of the Statute and Rule 103 of the Rules of Procedure and Evidence”, [No. ICC-01/12-01/18-2735](#), 16 June 2025; the “Amicus Curiae Observations on Reparations from Dr Jean-Benoît Falisse and Dr Simeon Koroma, The University of Edinburgh”, [No. ICC-01/12-01/18-2736](#), 16 June 2025, the “Trust Fund for Victims’ Observations relevant to Reparations with Annexes A, D and E and Confidential Annexes B and C”, [No. ICC-01/12-01/15-2737](#), 16 June 2025 (notified on 17 June 2025) (the “TFV Submissions on Reparations”).

⁷ See the “*Réponse des Représentants légaux des victimes aux observations des parties et des participants en exécution de l’ « Ordonnance aux fins de présentation d’observations relatives aux réparations »*” (ICC-01/12-01/18-2666)”, [No. ICC-01/12-01/18-2740](#), 16 July 2025; the “Defence Response to Observations on Reparations”, [No. ICC-01/12-01/18-2741-Conf](#) and [No. ICC-01/12-01/18-2741-Red](#), 16 July 2025.

III. CONFIDENTIALITY

8. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this submission is filed confidential since it contains sensitive information about the OPCV/LRV's clients that can lead to their identification. A public redacted version will be filed in due course.

IV. SUBMISSIONS

9. The present submissions are informed by: (i) in the first place, the OPCV/LRV's consultations with his four clients; (ii) the OPCV's expertise on reparations proceedings and implementation of reparations measures; and (iii) a review of the submissions made so far by the parties, participants and *amici curiae*.

10. These submissions are guided by the Reparations Principles, as adopted in the *Ntaganda* case⁸ and expanded upon in the *Ongwen* case.⁹

11. They are also made against the background that the security situation in Timbuktu, in Mali and in the sub-region in general is volatile.¹⁰ Bearing in mind that the expeditiousness of the reparations is paramount to their success and is a consideration raised by all OPCV/LRV's clients, this has an impact on the modalities of reparations that can be proposed and implemented.

12. These submissions are also made bearing in mind that all four OPCV/LRV's clients are [REDACTED]. While distinct, these [REDACTED] groups share in common that they are a "minority" group of the social fabric of Timbuktu and that they encountered specific challenges.¹¹ The occupation of Timbuktu and the crimes committed in this context, including by Mr Al Hassan, have exacerbated tensions and

⁸ See the "Reparations Order" (Trial Chamber VI), [No. ICC-01/04-02/06-2659](#), 8 March 2021, paras. 30-103 (the "*Ntaganda* Reparations Order").

⁹ See the "Reparations Order" (Trial Chamber IX), [No. ICC-02/04-01/15-2074](#), 28 February 2024, paras. 57 and 78-86 (the "*Ongwen* Reparations Order").

¹⁰ See e.g. the TFV Submissions on Reparations, *supra* note 6, para. 60.

¹¹ *Idem*, para. 34.

discriminatory patterns against these groups, marginalising them even further and requiring specific measures.¹²

13. In light of his specific mandate in this case, the OPCV/LRV has limited himself to making submissions on some of the issues listed by the Chamber in its Order for Submissions on Reparations, namely issues (b)-(e) and (f)-(h).¹³

A. TYPES AND EXTENT OF THE HARM SUFFERED AND WHETHER RECOURSE TO FACTUAL PRESUMPTIONS SHOULD BE CONSIDERED (ISSUES (b) AND (c))

14. The OPCV/LRV represents four victims who primarily suffered from the crime of sentencing without due process (Count 6).¹⁴ The OPCV/LRV recognises that the extent and types of harms suffered by the general victim population in this case is a lot larger than what is set out in the present submissions and based on the specific case of his four clients.

1) Type and extent of harms

15. The OPCV/LRV agrees with the reparations principles and legal definitions of harm as established in the case-law of the Court.¹⁵ In sum, harms can take various forms physical, moral and material, with each of these encompassing a multitude of other forms of prejudice such as, loss of incomes, interruption of education, etc. (material), various chronic illnesses, ailments, injuries (physical) and different level of traumas, fear, losses, social harm and transgenerational traumas (moral).

16. Particularly relevant to this case is the fact that the Court also recognised the existence of community harm as the harm suffered by persons as members of a group, family and/or community. The Court also recognised transgenerational harm and defined it as the phenomenon in which traumatised parents set in motion an intergenerational cycle of dysfunction, handing down trauma to their children, who

¹² *Idem*, para 62.

¹³ See the Order for Submissions on Reparations, *supra* note 4, para.6.

¹⁴ See the Trial Judgment, *supra* note 2, paras. 1521 (u) and (kk).

¹⁵ See the *Ongwen* Reparations Order, *supra* note 9, para. 168 and footnotes contained therein.

themselves did not directly experience the atrocities their parents endured, affecting their children's emotional behaviour, attachment, and well-being as a result.¹⁶

17. The OPCV/LRV also agrees with the application of the relatively flexible standards of causation (but/for) and proof (balance of probabilities) as established in the Court's case-law.¹⁷

18. In the present case, all victims, including the OPCV/LRV's clients, suffered multiple types of harms, which can be identified by reference to the Sentencing Decision, the application forms of participating victims and the results of consultation with victims. In formulating the types of harms to be recognised, the OPCV/LRV is guided by the approach taken in the *Ntaganda* case, the *Ongwen* case, and to a certain extent, the *Al Mahdi* case.

a) Harms suffered by the victims of the crime under Count 6

19. Direct victims of the crime under Count 6 suffered various forms of physical harm, moral and psychological harm, as well as material harm.

20. **Physical harm** - as defined by Trial Chamber IX, physical harm encompasses physical and bodily injury, impairment of the body, pain, and illness. It is not restricted to the infliction of a physical or bodily injury; hurt, pain or suffering otherwise not caused by a bodily injury can also amount to physical harm.¹⁸

21. All four victims represented by the OPCV/LRV suffered physical harm in the form of: (i) flogging for two of them; and/or (ii) pain associated with the detention conditions, notably the crowded cells, the lack of hygiene, and the poor quality and quantity of the food.

¹⁶ *Ibid.*

¹⁷ *Idem*, paras. 57 (ii) and 168 and footnotes contained therein.

¹⁸ *Idem*, para. 168.

22. All of them also reported long-lasting physical impacts such as for two of them (a/65000/24 and a/65001/24) rashes and itches coming back yearly; for two others (a/65002/24 and a/65004/24) hypertension, diagnosed after their detention.

23. **Moral harm** - as defined by Trial Chamber IX, moral harm encompasses psychological harm or trauma, mental pain and anguish, emotional distress, psychosocial harm, and loss of life plan.¹⁹

24. In this regard, the OPCV/LRV defers to the Chamber to evaluate the appropriateness of clarifying the definitions of moral harm, as opposed to psychological or psychosocial harm, as suggested by the TFV.²⁰ He underlines however that this distinction is consonant with the accounts of all of his clients who, in their words, did report on the one hand “being traumatised, still thinking about what happened” (psychological or mental harm), and on the other hand a form of anguish connected with the shame of being accused or publicly sentenced, the humiliation of being punished to Sharia lessons while already defining themselves as observant faithful Muslims, the feeling of being arrested and punished as a result of discriminatory patterns and more generally the feeling that their dignity was greatly affected (moral harm).

25. All four victims suffered extreme psychological harm, experiencing extremely severe anxiety at the time of the arrest and during their detention. All insisted that at the time of their detention they did not know what their faith would be and they knew that very severe punishments were being inflicted. Victims a/65000/24 and a/65001/24 thought they may ultimately be killed.

26. All of them were also struggling with anxiety related to the fate of their family for whom they would usually provide and who would be left without resources in their absence (a/65000/24 and a/65001/24 were detained for many weeks).

¹⁹ *Ibid.*

²⁰ See the TFV Submissions on Reparations, *supra* note 6, para. 11.

27. All of them also reported feeling extremely humiliated, not only by the wrongful accusation but also by the public nature of the punishment and the indignity of the punishment and the accusation of not being a good Muslim.

28. All these effects still persist to date: all four victims reported feeling sad and stressed when they think of what happened to them. Two of them (a/65000/24 and a/65001/24) reported that immediately after the event they had to leave the city to escape the trauma and stigmatisation. They cannot return because they are traumatised.

29. In this respect, the OPCV/LRV notes as particularly relevant the notion of damage to the life plan or project of life *“which [...], differs from loss of earnings, and refers to the lack of self-realisation of a person who, in light of their vocations, aptitudes, circumstances, potential, and aspirations, may have reasonably expected to achieve certain things in their life. The life project is therefore expressed in the expectations of personal, professional, and familial development that are possible under normal circumstances”*.²¹

30. Two of the victims represented by the OPCV/LRV (a/65000/24 and a/65001/24) reported with a lot of details how this experience has completely set their life off course and how they are unable to recover from it to date. Indeed, traumatised by their experience, both immediately left Timbuktu right after their liberation to go abroad. This had many consequences, the first one being to lose all their income sources which had been comfortable till then. They then became dependent on the humanitarian support [REDACTED] and were in no position to restart their economic activity having been displaced from their land. Additionally, they both left with part of their families, which led to some family ties being cut (for instance one victim had to leave one of their children behind as they were [REDACTED] and receiving some sort of treatment in Timbuktu). Their children had to stop school for [REDACTED] years and could not resume education as normal after so long.

²¹ *Idem*, para. 72.

31. In short, all four direct victims represented by the OPCV/LRV suffered long lasting moral harm, psychological and psychosocial harm and some of them suffered serious damage to their life plan.

32. **Material harm** – As defined by Trial Chamber IX, material harm refers to loss of or damage to property, loss of earnings, opportunity to work, reduced standard of living and socio-economic opportunities, and loss of schooling and vocational training.²²

33. Victims a/65000/24 and a/65001/24 have suffered material harm. Indeed, the trauma of their arrest, detention and public punishment was such that they left Timbuktu and all possible sources of earnings. They became dependent and are still traumatised to come back and resume their activity. Instead they live off small jobs here and there, some humanitarian support and donations from relatives. They never recovered from their economic demise. Additionally, their houses were damaged and pillaged in connection with their arrest and the subsequent acts falling under Count 6.

34. In short, two of direct victims represented by the OPCV/LRV suffered long lasting material harm.

35. **Harms suffered by indirect victims of the crime under Count 6** – The OPCV/LRV does not currently represent indirect victims of the crime under Count 6. However, he underlines that consultations with his clients show that family members and dependents of the direct victims also suffered personal harm as a result of the crime under Count 6, including severe moral and psychological harm and damage to life plan. The OPCV/LRV sees no reason to depart from the principles and case-law related to establishing the quality of indirect victims.²³

²² *Idem*, para. 168.

²³ *Idem*, para. 57(i)(a) and footnotes contained therein.

b) Community harm

36. The OPCV/LRV posits that the community of Timbuktu as a whole, including his four clients, has suffered various types of harms notably moral and economic. This stems from a review of the Trial Judgment and Sentencing Decision, of the *Al Mahdi* Reparations Order²⁴ and from consultations with his clients.

37. Victims a/65000/24 and a/65001/24 shared with the OPCV/LRV the fact that the events that they suffered and the imposition of a set of rules by individuals who were not members of the Timbuktu community caused a general sense of trauma, shame and frustration.

38. This is also apparent from a review of the Trial Judgment, in which the Chamber ruled that the control of Timbuktu by Ansar Dine/AQIM as of April 2012 *“had significant consequences on the local population, both economically and psychologically. The city’s economy was impacted: some jobs as well as activities related to tourism disappeared, and the activities around the Monument de la Paix stopped, including the ones around the gardens which were completely neglected and which could not supply the markets of the city with fruits and vegetables”*.²⁵ The Chamber further noted the *“broad and systematic”* manner in which these rules were applied and Mr Al Hassan’s awareness.²⁶

39. The Chamber also found that it had a profound psychological impact: *“people saw foreigners imposing their terms on them: they could only accommodate their life and their system of living to the interpretation of Islamic Sharia which was imposed with a force of arms in the city”* and *“[a] lot of people from Timbuktu left the city because of the violence, or because they did not want to submit themselves to the new rules and prohibitions imposed by Ansar Dine/AQIM”*.²⁷

²⁴ See the Trial Judgment, *supra* note 2, paras 735-740; the Sentencing Decision, *supra* note 3, paras. 45-50; the “Reparations Order” (Trial Chamber VIII), [No. ICC-01/12-01/15-236](#), 17 August 2017, paras. 67, 82-83, 88-89 and 104 (the “*Al Mahdi* Reparations Order”).

²⁵ See the Trial Judgment, *supra* note 2, para. 735.

²⁶ See the Sentencing Decision, *supra* note 3, para. 50.

²⁷ *Idem*, para. 740.

c) Transgenerational harm

40. The OPCV/LRV notes that even based on consultations with his four clients, the transgenerational harm caused to the children of direct victims of the crime under Count 6 is evident: a/65000/24 and a/65001/24 had to leave the country and their children had to stop school. They could not resume for years and when the time came they were so behind that they never caught up. Their entire life trajectory has thus been affected by the experience of their father. Additionally, they never could come back to live in Timbuktu, the place they are from and where their entire family lived.

41. One victim reported being so traumatised that they left Timbuktu immediately thereafter leaving behind one child [REDACTED].

2) Presumptions

42. Presumptions can be used to establish the harm suffered by certain victims as well as the quality of victim. The OPCV/LRV posits that the Chamber should adopt a number of factual presumptions to ensure that access to reparations remains practicable for victims, in the current context where obtaining relevant evidence might be difficult if not impossible. In formulating these observations, the OPCV/LRV is guided by rulings of other Chambers concerning presumptions, in particular Trial Chamber VI in the *Ntaganda* case,²⁸ Trial Chamber IX in the *Ongwen* case²⁹ and Trial Chamber VIII in the *Al Mahdi* case.³⁰

43. First, the OPCV/LRV posits that moral, economic, community, and transgenerational harm should be presumed for the Timbuktu community as a whole. This is so because: (i) in the Trial Judgment, the Chamber already recognised the psychological and economic impact of the occupation of Timbuktu;³¹ and (ii) in the *Al*

²⁸ See the *Ntaganda* Reparations Order, *supra* note 8, paras. 136-147.

²⁹ See the *Ongwen* Reparations Order, *supra* note 9, paras. 136-165 and 518-557.

³⁰ See the *Al Mahdi* Reparations Order, *supra* note 24, paras 82-83 and 88-90: Trial Chamber VIII considered that entire category of victims could be deemed to have suffered certain type of harms on the sole basis of them demonstrating that they belong to the group of eligible victims.

³¹ See *e.g.* the Trial Judgment, *supra* note 2, paras 735-740.

Mahdi case, Trial Chamber VIII found that the whole community had suffered economic and moral and economic harm for the sole commission of the crimes of destroying protected buildings.³²

44. Second, for direct victims of the crime under Count 6, the OPCV/LRV submits that both moral and physical harm should be presumed. All four clients represented by the OPCV/LRV experienced either immediate physical effects—such as flogging—or subsequent health issues like hypertension and skin irritation. Additionally, this is consonant with the extensive evidence on record regarding the conditions of arrest, detention, and sentencing, making it highly improbable that any victim escaped physical or moral harm as a consequence. Moral and psychological harm should also be presumed for indirect victims of this crime.

45. Victims a/65000/24 and a/65001/24 reported having suffered economic harm: they were unable to support their families during detention, fled shortly afterward and lost their income sources, or withdrew from economic activities due to shame and humiliation. Thus, the OPCV/LRV acknowledges that economic harm is not presumed and accordingly victims will have to bring any available evidence to establish it. He recalls however that according to the evidentiary standards a credible and coherent narrative is sufficient to establish the harm.³³

B. APPROPRIATE TYPES AND MODALITIES OF REPARATIONS (ISSUE (d))

46. The OPCV/LRV agrees with the reparations principles related to types and modalities of reparations as established in the case-law of the Court.³⁴ In sum the Chamber can order individual or collective reparations. There are two types of collective reparations: community-based reparations intended to benefit a community of victims without addressing individual members thereof and collective reparations

³² See the *Al Mahdi* Reparations Order, *supra* note 24, paras. 67, 82-83, 88-90 and 104.

³³ See the “Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’” (Appeals Chamber), [No. ICC-01/04-01/06-3466-Red](#), 18 July 2019, para. 204 (in practice, this standard has been applied to all reparations cases).

³⁴ See the *Ongwen* Reparations Order, *supra* note 9, paras. 57(iii), 78, 569-575, 612-638.

with individualised components which do focus on the individual of the groups and respond to their harm. Modalities of reparations may include restitution, compensation, rehabilitation, symbolic and satisfaction measures and they must respond to the harms suffered.

47. The present submissions are made on the basis of the consultations with the OPCV/LRV's clients, while bearing in mind that appropriate reparations are those which on the one hand, respond to the victims' harms and needs, and on the other hand ensure a maximum reparative effects for themselves, and possibly their community.

1) Views shared by the victims

48. The group represented by the OPCV/LRV is heterogeneous, though all are direct victims of the crime under Count 6.

49. Victims a/65000/24 and a/65001/24 [REDACTED] have not returned to Timbuktu due to discomfort and insecurity. To date, they commute between their family (based outside Mali since they fled following the crimes), Bamako, and other regions. This must be considered when determining appropriate reparations. They have been unable to resume any productive activity and remain dependent on humanitarian assistance, despite having had a relatively high level of education and socio-economic status prior to the crimes.

50. Victims a/65002/24 and a/65004/24 [REDACTED] continue to live in Timbuktu, facing ongoing stigmatisation and trauma. They maintain modest socio-economic conditions and education levels, and continue their economic activities as [REDACTED].

51. All victims agreed that reparations must include some form of economic support—either through assistance with their income-generating activities or direct financial compensation. Specifically, [REDACTED] mentioned their interest in returning to or developing a farming activity (with one noting that his previous work

[REDACTED] is no longer viable [REDACTED]). The [REDACTED] mentioned that any form of socio-economic support must take into account that the sole activity they can carry out is that of [REDACTED].

52. While all victims clearly acknowledged the psychological harm they suffered, only two—[REDACTED] – expressed openness to receiving support to cope with the negative thoughts and emotions linked to the events. The other two indicated that they do not require psychological support. The OPCV/LRV notes that this reluctance to accept psychological assistance is relatively common in certain segments of Timbuktu society and leaves the matter to the Chamber’s discretion.

53. The consultations also highlight very clearly that the events of 2012 have created distrust and social, religious and ethnic fragmentation. Two victims clearly articulated having developed more intense distrust in general. Yet, community-based reparations were not spontaneously suggested other than by one victim who did mention the potential value of a project uniting Timbuktu’s ethnic and religious groups.

54. Further, two of the victims spontaneously shared that they would accept Mr Al Hassan’s apology.

55. All victims unanimously stressed the importance of discretion in receiving reparations to avoid being identified with the Court or becoming subjects of mockery.

2) OPCV/LRV’s proposals

56. Taking into account the views shared by his clients and having reviewed the other parties and participants’ submissions, the OPCV/LRV proposes the following reparations measures:

- (i) A symbolic cash payment for all direct victims of the crimes under Counts 1-6 and 14;
- (ii) Collective reparations with individualised components in the form of physical and psychological support for direct or indirect victims still

suffering from lasting injuries or pain or moral or psychological harm as a result of the crimes under Counts 1-6 and 14; and support for their income-generating activities for those establishing socio-economic harm;

- (iii) Collective community-based reparations measures for the community of Timbuktu and victims of persecution, aimed at restoring the social fabric of Timbuktu;
- (iv) Symbolic and satisfaction measures to be rolled out as part of the reparations programme in general.

a) Symbolic cash-payment

57. Taking into account the views shared by his clients and having reviewed the other parties and participants' submissions, the OPCV/LRV proposes a standardised symbolic cash payment for all direct victims of the crimes other than the crime of persecution.

58. **Terminology** – As a preliminary matter, some semantic clarifications are in order.

59. *Individual/collective reparations* – First, the OPCV/LRV posits that the Chamber could choose to label this measure as individual (as it will benefit individuals) or as collective reparation (in that collective reparations can have reference to either the nature of the service distributed or their recipients) and takes no position on the appropriate qualification.³⁵

60. *Compensation/Symbolic measures* - The OPCV/LRV insists on the fact that this payment should be labelled as symbolic in line with the Court's jurisprudence that when payments do not fully redress the harm caused, they must be considered symbolic in nature.³⁶ This qualification as "symbolic" is important in the way the

³⁵ See the *Ongwen* Reparations Order, *supra* note 9, para. 571.

³⁶ *Idem*, para. 78.

information is communicated to victims. The OPCV/LRV notes that in the *Ongwen* case, such a symbolic cash payment has been labelled as a symbolic and satisfaction measure.³⁷ While the OPCV/LRV takes no issue with this qualification, he does note that labelling it as symbolic *compensation* could prove more directly understanding for the victims and could ease communication by the TFV and all stakeholders involved in reparations.

61. **Appropriateness of the proposal** – This proposal accounts for the fact that all consulted victims placed a strong emphasis on redressing their socio-economic situation as part of the reparations measures.³⁸

62. The OPCV/LRV, drawing guidance from the *Ongwen* Reparations Order,³⁹ posits that awarding a single, standardised amount of symbolic compensation, is the most appropriate approach, as assessing individual harm for each victim would prove nearly impossible: it would be impracticable as it would require a lengthy, costly and potentially retraumatising screening process.

63. The OPCV/LRV further posits that such measure will facilitate the expeditious conduct of the reparations and would ensure that victims' basic needs are addressed and that they are in a better position to contribute and engage in consultations required for the design and implementation of other modalities.⁴⁰

64. Accordingly, the OPCV/LRV proposes that a fixed amount of symbolic compensation be awarded *per capita*.

65. The OPCV/LRV proposes that this amount be awarded to all direct victims of all crimes **except the crime of persecution**. This is so because victims of the crime of persecution are virtually the population of Timbuktu as a whole and accordingly the

³⁷ *Idem*, paras. 621-634.

³⁸ *Idem*, para. 622.

³⁹ *Idem*, para. 623.

⁴⁰ *Idem*, paras. 624-625.

harms suffered by the victims of the crime of persecution should be better addressed through collective community-based reparations.

66. **Appropriate amount** - Turning to the appropriate amount, the OPCV/LRV is guided by the local and national context, the specific circumstances of this case, the *Al Mahdi* Reparations Order and to a lesser extent the *Ongwen* Reparations Order and the *Katanga* Reparations Orders.

67. The OPCV/LRV emphasizes that the current reparations process is taking place within a broader national framework, as the Malian state has initiated steps toward reparative justice through the adoption of a National Reparations Policy in 2022.⁴¹ This policy, developed as part of Mali's transitional justice efforts, aims to address human rights violations committed between 1960 and 2019.

68. The National Reparations Policy provides some guidance of appropriate cash payment amount depending on the harm suffered. In particular, amounts are proposed for victims who have sustained physical, psychological, economic or material harms, determined in accordance with the degree of disability resulting from the harm suffered.

69. For a minimal loss of physical function (ranging from 1 to 25% of loss of function), the amount of **XOF 600 000** (approximately EUR 915) is proposed. The same amount is proposed for minimal loss of psychological function (also ranging from 1 to 25 % of loss of function). The greater the loss of functions, the higher the amount, up to XOF 3.6 million for a loss of function ranging from 76 to 100%. Based on his consultations and on the review of the other parties and participants' submissions, the OPCV/LRV proposes to use the most conservative amount of **XOF 600 000** as a starting point for calculation.

70. In the present case, consultations with the OPCV/LRV's clients as well as a review of the submissions of the other parties and participants show that aside from

⁴¹ See Annex D to the TFV Submissions on Reparations, *supra* note 6.

the victims of persecution, three main types of harm have been identified for direct victims:

- Physical harm;
- Moral and psychological harm; and
- Socio-economic harm.

Among these harms, **physical and moral/psychological harm** can be presumed.

71. Taking into account that: (i) this amount is meant as a symbolic measure; (ii) the number of direct victims is likely to be higher than [REDACTED]; (iii) this proposed symbolic cash payment is to be awarded concurrently with other measures, the OPCV/LRV accepts that an amount **of XOF 600 000** to be paid to each direct victim would be appropriate. This is only so if other measures are ordered, notably physical and psychological support for those still suffering from long-lasting physical and psychological injuries.

72. This amount is symbolic by nature: it does not account for all the complexity of the harms suffered and does not exactly reflect the level of victimisation of each individual victims. However, it is in the interest of victims to set a reasonable amount across the board, thereby ensuring that it can be delivered promptly without having to take multiple screening steps to determine the harms.

73. Even if the Court ruled that the symbolic amount set in the *Katanga* case (and that also served as a point of reference for the calculation made in the *Ongwen* case) “should not be viewed as a precedent or indication of quantum when it comes to the determination of awards in future cases”,⁴² the OPCV/LRV notes that the proposed amount is reasonable taking into account the amounts awarded in other cases at the Court.

⁴² See the “Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled “Order for Reparations pursuant to Article 75 of the Statute” (Appeals Chamber) (the “*Katanga* Appeals Judgment on Reparations Order”), 8 March 2018, [No. ICC-01/04-01/07-3778-Red](#), para. 149

74. The OPCV/LRV also notes that in the *Al Mahdi* case Trial Chamber IX approved the payment of compensation for the sole moral harm caused by the destructions of the tombs of the ancestors of certain victims.⁴³ These amounts are not accessible to the OPCV/LRV but he trusts that the Chamber will take them into account in ensuring that a higher amount is set in the present case in order to reflect the many various additional harms suffered by the victims in this case.

75. **Indirect victims** - The OPCV/LRV does not currently represent indirect victims. However, his consultations show that relatives of the victims of the crime under Count 6 surely qualify as indirect victims and have suffered moral and psychological harm as well as socio-economic harm. This measure is not proposed for indirect victims whose harms would be better addressed through other reparations measures of a collective nature. Besides, the consultations with victims show that the benefits of this symbolic cash-payment would most likely have a positive ripple effect on the indirect victims, who were and still are often dependent of these direct victims.

76. **Implementation** - The OPCV/LRV understands that the TFV already carried out a similar cash payment programmes in the *Al Mahdi* case⁴⁴ and defers to their expertise to conduct this programme. He underlines however that victims all insisted on the absolute need for discretion. Should this measure be ordered, limited focused consultations could take place to determine how victims should best receive money (via mobile money or cash, in one or many instalments etc).

77. **Identification of the beneficiaries** – The OPCV/LRV posits that some potential beneficiaries of this measure are already identified (as they form part of the group of [REDACTED] victims, including 4 victims represented by the OPCV/LRV). Others might be identified in the course of the implementation of the reparations programme.

⁴³ See the “Decision on the Updated Implementation Plan from the Trust Fund for Victims” (Trial Chamber VIII), [No. ICC-01/12-01/15-324-Red](#), 4 March 2019, paras. 39-60.

⁴⁴ *Ibid.*, and subsequent update reports by the TFV.

b) Collective reparations with individualised components and community-based reparations

78. *Collective reparations with individualised components* – In addition to a symbolic cash-payment, the OPCV/LRV posits that direct victims of Count 1-6 and 14 should be entitled to specific measures in the form of collective reparations with individualised components.

79. In making this suggestion, the OPCV/LRV is guided by the *Ntaganda* Reparations Order in which the number of victims as well as the shared nature of the harms suffered were taken into account to order collective reparations with individualised components.⁴⁵

80. In particular, the victims who still suffer from physical and psychological effects from the crime should be provided with specific tailored support. Additionally, the victims should also benefit from support for their income-generating activities.

81. *Collective community-based reparations* – The OPCV/LRV is guided by the *Ongwen* Reparations Order and *Al Mahdi* Reparations Order in which the overwhelming number of eligible victims was a preponderant factor in determining the appropriateness of collective community-based reparations.⁴⁶ The OPCV/LRV is also guided by his clients' views according to which initiatives to restore the social fabric of Timbuktu are required. The OPCV/LRV differs to the Chamber and the TFV to determine the exact contours of such project but underlines the need to account for specific vulnerable groups normally marginalised, notably [REDACTED]. Accordingly, the OPCV/LRV suggests that the community of Timbuktu and the victims of the crime of persecution should benefit from community-based reparations.

⁴⁵ See the *Ntaganda* Reparations Order, *supra* note 8, paras 184-194.

⁴⁶ See the *Ongwen* Reparations Order, *supra* note 9, para. 577; the *Al Mahdi* Reparations Order, *supra* note 24, paras. 83 and 141.

c) Symbolic and satisfaction measure

82. Symbolic measures are intended to help contribute to the process of rehabilitation while satisfaction measures are aimed at acknowledging the violations and safeguarding the dignity and reputation of the victims.⁴⁷

83. No such measure was spontaneously mentioned by the OPCV/LRV's clients as a possible remedy in the course of the consultations.

84. The OPCV/LRV's clients did share however that they either support, or at least do not oppose, that the apology of Mr Al Hassan is embedded in a reparations programme. The exact way in which it would be incorporated into the reparations requires further consultations and would also depend on when the rest of the reparations measures are rolled out.

85. One victim mentioned that a symbolic project involving representatives from all communities would be appropriate.

86. In general, having reviewed the parties and participants' submissions, the OPCV/LRV recognises that the dignity of the victims was particularly affected and that satisfaction measures can be particularly appropriate in this case and that, if ordered, they should be treated as a cross-cutting issue of all measures implemented as part of the collective reparations. Such measure should be collective in nature and should be designed in a participatory way which will equally ensure that victims requiring specific support will be identified.

C. PRIORITISATION (ISSUE (g))

87. The OPCV/LRV agrees with the principle of prioritisation according to which while all victims are to be treated equally, some more vulnerable individuals may need to be given priority.⁴⁸ The OPCV/LRV also agrees with how Trial Chamber IX elaborated on the principle to enshrine the notion according to which once the most

⁴⁷ See the *Ongwen* Reparations Order, *supra* note 9, para. 620.

⁴⁸ See the *Ntaganda* Reparations Order, *supra* note 8, para. 214.

vulnerable victims are identified, the vulnerable *participating* victims ought to be given priority.⁴⁹

88. More generally, the OPCV/LRV leaves it to the Chamber and the TFV to determine the appropriate sequencing of the reparations programme. However, and as set out below, the OPCV/LRV notes that the scarce resources available, the passage of time since the crimes were committed, the inherent length of setting up meaningful and conflict-sensitive reparations through a participatory approach are elements that need to be factored in thinking about the sequencing. Taking them into account, the OPCV/LRV posits that the symbolic cash payment should be delivered first owing to the relative ease to implement it. Identified victims could already benefit from it.

89. In addition, delivering the cash-payment could serve as one of the way to identify those victims entitled to psychological, physical and socio-economic support.

D. WHETHER THE VICTIMS ALREADY RECEIVED ANY FORM OF REPARATIONS FOR THE HARM SUFFERED AS A RESULT OF THESE CRIMES (ISSUE h))

90. None of the OPCV/LRV's clients have received any form of reparations for any harm suffered as a result of, or in connection with, the crimes for which Mr Al Hassan has been convicted. In general, the OPCV/LRV underlines that it is extremely unlikely that any of the victims has received anything considering that even if, on paper, Mali has developed some reparations mechanisms, in practice the number of individuals or organisations having benefitted from anything is inconsequential.

E. CONCLUSION

91. For the foregoing reasons, the OPCV/LRV respectfully requests the Chamber to take into consideration the present submissions.

⁴⁹ See the *Ongwen* Reparations Order, *supra* note 9, para. 660.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'Dmytro Suprun', followed by a period.

Dmytro Suprun
Counsel at the Office of Public Counsel for Victims

Dated this 29th day of August 2025
At The Hague, The Netherlands