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**International
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Court**

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Date: **6 July 2026**

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

***IN THE CASE OF THE PROSECUTOR v. ALI MUHAMMAD ALI ABD-AL-RAHMAN
(‘ALI KUSHAYB’)***

Public

With Public Annexes 1, 3, 4 and Public Redacted Annex 2

**Public redacted version of “CLRv Response to Observations on Reparations”, ICC-
02/05-01/20-1356-Conf, 3 July 2026**

Source: Common Legal Representative of Victims

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

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☒ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

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

☐ **The Office of Public Counsel for
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I. INTRODUCTION

1. The CLRV welcomes the submissions of the parties, participants and *amici curiae* and considers them to largely align and to be complementary to one another. This can only be beneficial to her clients as it completes the picture of the specific situation of victims of the 2003/2004 Darfur conflict, as well as their current situation. Undoubtedly, it also reflects the variety of views within the victims community and the need for a creative, meaningful and transparent reparations process, continuously monitored by the Chamber.
2. This convergence of views is of particular significance, as it assists the Chamber in achieving a comprehensive and balanced understanding of the key considerations that should guide the determination of reparations in the present case. The CLRV submits that this will facilitate the Chamber's holistic assessment of the central elements on the record with regards to reparations and contribute to the formulation of a reparations order that is effective and responsive to the rights and interests of victims in the circumstances. The CLRV also seizes this opportunity to clarify some of her positions.
3. The CLRV placed particular emphasis on the issue of land restitution, given that it constitutes the essential basis for the restoration of the affected communities and did so in order to put into correlation her submissions within the broader framework of those presented by the other parties, participants and *amici curiae*.
4. Regarding the Defence submissions, the CLRV acknowledges the constructive intention behind several of the arguments advanced and will address the arguments that she in principle agrees with, while noting that her position is grounded in distinct legal and factual considerations.
5. As indicated in its Reparations submissions, the CLRV will continue updating the Chamber on the progress of collecting questionnaires completed by participating victims, as she considers this best conveys their views. Given that the CLRV has received 265 additional questionnaires from her clients in Darfur and 2 additional questionnaires from her clients in Chad, as well as 43 additional women questionnaires in Darfur, updated versions of the original annexes ICC-02/05-01/20-1344-Anx 2B and 3B are attached to this response.¹

II. CONFIDENTIALITY

6. Subject to the provisions of Regulation 23 *bis*(1) and (2) of the Regulations of the Court, the CLRV files this response as Confidential as it refers to confidential submissions. A public redacted version will be submitted in due course.

¹ ICC-02/05-01/20-1344-Anx 2B and ICC-02/05-01/20-1344-Anx 3B are now Annex 2 and Annex 3 respectively.

III. SUBMISSIONS

7. The CLRV will address first the points of agreement between parties,² participants³ and *amici curiae*,⁴ notably (i) the importance of the feasibility of the implementation of the Reparations Order and need for a continued monitoring by the Chamber; (ii) the issue of land; (iii) the types and modalities of reparations; (iv) the direct/indirect eligible victims; (v) the extent of the harm suffered; (vi) the applicable presumptions; (vii) the priorities; (viii) the burden of proof and causal link; and (ix) the eligibility process. Second, the CLRV will address certain matters raised by the Defence.

A- Points of agreement between parties, participants and amici curiae

i. Flexible reparations order and feasibility of the implementation

8. The reparations order should be actionable and fair while also considering the available resources. This is what the participating victims have asked for, and it is well reflected in different ways in the parties' and participants' observations. Concrete suggestions were proposed by parties and participants to ensure that the reparations order reflects the most pressing short- and long-term needs and preferences of participating victims, as well as the broader affected communities.

9. The VPRS stresses that the participants they have been engaging with have been voicing a need for "broad and inclusive redress, the restoration of systems and institutions and the preservation of community cohesion, while also reflecting concerns regarding feasibility, fairness, and the uncertainty of available resources. Similarities, but also distinctions were noted between the views of IDPs and the refugees in Chad on the matter."⁵

10. The Defence argues for a reparations order that will adopt measures "which are straightforward and easy to implement"⁶ and the Prosecution suggests that "modalities should retain sufficient flexibility to accommodate the victims' particular needs."⁷

11. More broadly, emphasis was placed on the need to adopt a reparations order that will not cause additional tensions within the affected communities, as well between cohabiting groups, and will not create security risks with the armed groups present in the areas in Darfur.⁸

² CLRV Submissions on Reparations, 4 June 2026, ICC-02/05-01/20-1344 ("[CLRV submissions](#)"); Prosecution's Submissions on Reparations, 4 June 2026, ICC-02/05-01/20-1342 ("[Prosecution submissions](#)"); Defence Submission on Reparations, 22 May 2026, ICC-02/05-01/20-1338 ("[Defence submissions](#)").

³ Registry Observations on Reparations, 4 June 2026, ICC-02/05-01/20-1343-Conf ("[VPRS submissions](#)").

⁴ *Amicus Curiae* Observations on Reparations, 4 June 2026, ICC-02/05-01/20-1346-Conf ("[REDRESS submissions](#)"); *Amicus Curiae* Observations on Reparations Issues, 4 June 2026, ICC-02/05-01/20-1345-Conf ("[GLAN submissions](#)"); *Amicus Curiae* Observations on Reparations Issues, 4 May 2026, ICC-02/05-01/20-1326 ("[i-ACT submissions](#)"); The General Coordination Committee of the IDPs in Sudan ("GCC") *Amicus Curiae* Observations on Reparations, 16 March 2026, ICC-02/05-01/20-1315 ("[GCC submissions](#)").

⁵ [VPRS submissions](#), para. 20.

⁶ [Defence submissions](#), para. 21.

⁷ [Prosecution submissions](#), para. 34.

⁸ [CLRV submissions](#), paras 21, 117; [Prosecution submissions](#), paras 28, 31; [VPRS submissions](#), paras 45-46.

In this respect, the implementation of the reparations order should combine confidentiality, transparent criteria, and inclusivity.⁹ This might include relying on secure and trusted persons and organisations within the communities to assist in implementation.¹⁰

12. Regarding the suggestion by GLAN to entrust delivery of reparations to UNHCR and/or other actors,¹¹ the CLRV recognises that recourse to established international agencies may be resource efficient. However, the participating victims consulted by the CLRV have consistently, across locations, expressed a preference that reparations be delivered through local organisations, for reasons of trust, sustainability and the building of local capacity.¹² The CLRV therefore does not propose excluding international actors, but submits that delivery should be locally led, with international agencies engaged where appropriate in a supporting, logistical capacity.

13. Importantly, the parties and certain *amici* have emphasised the need for a flexible approach and reparations order that will allow the Court, and victims, to adapt to the changing circumstances in the situation.¹³

ii. Land

14. As stressed in the CLRV's submissions, displacement of the affected communities from their land is the gravest and most enduring harm suffered by the participating victims, and territorial return is the reparative outcome they most wish for. Therefore, the CLRV submitted that the return to ancestral land is "the most significant reparation that could be afforded."¹⁴ Similarly, the VPRS identifies the restoration and preservation of land rights as "the central long-term objective," to be addressed principally through community-based reparations for the structural harm inflicted on land, identity and social order.¹⁵ The Defence equally accepts that the crimes "deprived victims of land, houses, cattle and possessions" and that this harm "can hardly be repaired other than by actual restitution where feasible," alternatives offering only "limited relief."¹⁶ The Prosecution, defers on the corresponding questions to the CLRV, the TFCV and the Registry.¹⁷ There is therefore no contested issue as to whether land lies at the centre of reparations in this case; the only live questions merely concerns the legal characterisation and the measures the Chamber can order now. The CLRV therefore takes the opportunity to highlight her position with respect to both, and in light of the responses received.

⁹ [VPRS submissions](#), paras 54, 66, 121; [CLRV submissions](#), para. 126; [REDRESS submissions](#), paras 14-17, 21.

¹⁰ [GCC submissions](#), paras 33, 38, 41; [VPRS submissions](#), paras 121, 161; [REDRESS submissions](#), paras 14-17, 21; [CLRV submissions](#), paras 75-76, 238; [GLAN submissions](#), para. 37.

¹¹ [GLAN submissions](#), para. 36.

¹² CLRV mission, May 2026; Annex 2, p. 18, section 17; [CLRV submissions](#), paras 71, 238-241.

¹³ [REDRESS submissions](#), para. 23; [Prosecution submissions](#), para. 34; [VPRS submissions](#), paras 26, 53, 62, 82, 113.

¹⁴ [CLRV submissions](#), para. 19. See also paras 227-235.

¹⁵ [VPRS submissions](#), paras 22-23.

¹⁶ [Defence submissions](#), para. 15.

¹⁷ [Prosecution submissions](#), paras 1, 3.

15. Land dispossession was not an incidental consequence of the crimes committed by Mr Abd-Al-Rahman. Rather, it formed an integral part of the broader pattern of forced displacement and constitutes a distinct and continuing harm recognized within the conviction. As such, it should not be treated as a sub-category of material loss and moral harm. The Trial Chamber found that the inhabitants of Kodoom and Bindisi “did not have a genuine choice to remain and were thus forced to leave with no hope of return,”¹⁸ that the destruction of homes and livelihoods “severed ties to the land,”¹⁹ and that victims lost farming as their primary livelihood.²⁰ The causal nexus between the crimes for which Mr Abd-Al-Rahman was convicted of and the loss of land is thus established on the face of the Judgment; the displacement is a direct and continuing consequence of the persecution and forcible transfer for which Mr Abd-Al-Rahman was convicted. The VPRS similarly suggests that land is “inextricably linked” to community organisation, and physical return is “inseparable from rebuilding governance, security, and community structures.”²¹ This characterisation has important implications for the Chamber’s determination of appropriate reparations. Where the harm is ongoing and inseparable from victims’ identity, community life and relationship to their ancestral land, monetary compensation cannot serve as an adequate restitution measure sought by victims.

16. Further, the CLRV’s consultations establish that the targeting and killing of traditional leaders was not “random”, but rather a deliberate technique of dispossession, in that their elimination simultaneously destroyed the community’s capacity to prove its relationship to land, the institutional channels through which disputes could be mediated, and the representational structures through which collective claims could be articulated.²² Trial Chamber’s own finding that the execution of *Sheikhs* and *Umdahs* “had a significant impact on the Fur communities [...] given their symbolic and substantive role” corroborates this collective dimension.²³ The destruction of the custodians of a community’s heritage, and the persecution of the victim community in Mukjar and Deleig provides a parallel and independent basis for community-wide reparations. In this respect, displacement and dispossession were not merely consequences of the persecutory conduct. They were among its central manifestations, giving rise to collective harms that extend well beyond the loss of physical property.

¹⁸ *Abd-al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), para. 861.

¹⁹ *Abd-al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), para. 653.

²⁰ *Abd-al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), para. 277.

²¹ [VPRS submissions](#), paras 24, 27.

²² a/10546/22, CLRV mission, December 2025; [CLRV submissions](#), para. 233.

²³ *Abd-al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), para. 656; *Abd-al-Rahman* Sentencing Judgment, [ICC-02/05-01/20-1281-Red](#), para. 129.

17. The Court is not powerless in the absence of cooperation from the current Government of Sudan. A sequence of restitution-enabling measures lies directly within the Chamber's authority and mandate. The Defence is correct that full physical restitution of confiscated land may ultimately require action by the Sudanese State.²⁴ That does not deprive the Chamber of its authority to order measures that preserve, facilitate or progressively realise restitution. Nor does it justify treating compensation as the default substitute where restitution remains the primary remedy sought by victims. However, the State currently has no access to Darfur and future developments are wholly uncertain.²⁵ The CLRV's response to this is phased restitution: the Chamber orders the restitution-enabling and restitution-preserving measures it can deliver now, while reserving fuller restitution for when conditions permit.²⁶ This is not deferral; it is the design the participating victims have proposed.²⁷

18. Consequently, the CLRV invites the Chamber to recognise, in the reparations order, the unlawful displacement and dispossession of the affected communities and their right of return; to find Mr Abd-Al-Rahman liable to repair that harm; to order a community-led documentation and mapping of villages and *hawakeer* holdings, drawing on the customary administration's records and living memory to preserve and reconstruct the evidence of land entitlement; documentation, archiving and grave-preservation; governance-restoration and land-entitlement-documentation measures; to provide a framework to secure land rights and enable return as a guarantee of non-repetition; and to retain active oversight so that fuller restitution can be implemented as conditions in Darfur permit. To award the victims compensation while not legally addressing the central harm suffered, the loss of their land, would, in the participating victims' own words, render any reparation "symbolically hollow": "*if there is no land, there is no compensation.*"²⁸

iii. Types and modalities of reparations

19. The parties and participants have advanced numerous types and modalities of reparations, which the CLRV considers overlapping and reinforcing those presented in her submissions, and further highlights the multidimensional and interrelated harm suffered by each and every victim.

20. The CLRV agrees with the Prosecution that collective measures must be central,²⁹ however she does not accept that they should be the only modality, nor the Defence's submission that appropriate reparation "primarily calls for compensation provided on an

²⁴ [Defence submissions](#), para. 15.

²⁵ Annex 2, p. 15 ("Security Obstacles and Access Challenges (Darfur)"). See also [Defence submissions](#), para. 24.

²⁶ [VPRS submissions](#), paras 33-39; [CLRv submissions](#), paras 234-235.

²⁷ See also Annex 2, pp. 10-11, section 8.

²⁸ a/25040/21, CLRv mission, December 2025.

²⁹ [Prosecution submissions](#), paras 30-32.

individual basis”.³⁰ Given that the harm suffered by the victims is of both individual and collective nature, the reparations order should take this into consideration. The CLRV therefore submits that the order should combine: (i) a standardised symbolic payment, recognising individual harm and affording a measure of immediate relief; and (ii) collective reparations for the victims and wider affected community.³¹ The Defence’s suggestion, taken at face value, would require individualised quantification of every victim’s loss,³² resulting in precisely the delay that the Defence warns against,³³ and leaving community harms unrepaired. A standardised, equal payment, by contrast, requires no such quantification, can be delivered quickly, and treats all recognised victims without discrimination.³⁴

21. The VPRS suggests a combination of individual and collective measures “encompassing: (i) direct recognition and support for persons who suffered acute personal harm; (ii) restoration of services and opportunities from which broad groups of victims should benefit; and (iii) repair of harms affecting the community as a whole, including land, identity, social cohesion, and collective memory.”³⁵ It also emphasises, in the same way the CLRV did, that the affected communities first wish to return to their land before receiving support of a more permanent nature.³⁶ However, victims simultaneously recognise the benefit of improving their current situation, as immediate return is not a realistic option in the present circumstances.³⁷ For now, collective measures could provide immediate access to education, health, water, roads and livelihood/economic support.³⁸ Similar considerations were expressed by certain *amici curiae*.³⁹

22. With regards to financial compensation, the CLRV explained that views relating to individual financial reparations differed across the locations, with some preferring one modality over another.⁴⁰ The VPRS, in turn, submits that financial compensation is a central component of reparations requested by members of the affected communities consulted⁴¹ and explains how financial compensation would assist victims with urgent needs, such as “basic needs, access

³⁰ [Defence submissions](#), paras 16, 21.

³¹ Annex 2, p. 14, section 12.

³² [Defence submissions](#), para. 16.

³³ [Defence submissions](#), para. 21.

³⁴ *Lubanga* Order for Reparations (amended), [ICC-01/04-01/06-3129-AnxA](#), paras 38-40; *Katanga* Reparations Order, [ICC-01/04-01/07-3728](#), paras 285-306.

³⁵ [VPRS submissions](#), para. 19.

³⁶ [VPRS submissions](#), para. 38, fn. 30; [CLRv submissions](#), paras 19, 131-133.

³⁷ [VPRS submissions](#), paras 22, 42. *See also* [GCC submissions](#), para. 31.

³⁸ [CLRv submissions](#), paras 168-174 (access to water), paras 175-189 (support for education), paras 190-219 (Medical support); [VPRS submissions](#), paras 78-85 (educational support); paras 96-106 (medical and psychosocial support), paras 114-121 (socio-economic support).

³⁹ [i-ACT submissions](#), paras 41-48 (rehabilitation measures).

⁴⁰ [CLRv submissions](#), paras 20, 109.

⁴¹ [VPRS submissions](#), para. 47.

[to] healthcare, and restore a minimum of level of dignity.”⁴² In addition, there were consistent submissions from *amici* regarding the need for measures to address urgent and immediate needs, including cash payments.⁴³ The CLRV recognises that immediate financial compensation may alleviate certain acute needs of the victims and also reflect the timely provision of reparations.

23. Further, the VPRS submits that an appropriate way to address requests for compensation would be to distribute a standardised amount to all eligible victims, which would subsequently be complemented by “targeted top-ups or phased differentiation measures directed at individuals or groups with heightened vulnerability or more severe harm.”⁴⁴ Under such an approach, an initial distribution could be made, with the possibility of additional payments at a later stage, should further resources become available.⁴⁵ The CLRV does not oppose this approach in principle if such resources became available. However, considering the current limited funds and unforeseeable fundraising results in the medium term, the CLRV considers that the payment of a symbolic amount to affected individuals may represent the most equitable and practical course of action. It would be one component of acknowledging of the individual harm suffered by victims in a way that collective reparations may not necessarily achieve, providing a measure of immediate relief, yet ensuring that funds remain available for collective reparations.

24. The CLRV submits that the approach suggested by the VPRS should not be applied in a way that would prevent funding for collective reparations, which are more likely to generate broader and more sustainable benefits for the affected communities as a whole.⁴⁶ The CLRV considers that an approach whereby an initial sum is provided to victims, in parallel with the implementation of collective reparations, is the most appropriate reparations framework in the circumstances. As additional funding becomes available, further distributions could be made to eligible victims. A phased approach, while consistently ensuring the necessary coexistence of individual compensation and collective reparative measures, represents the most suitable and balanced solution. It responds to victims’ immediate needs while remaining realistic and sustainable from an implementation perspective.

25. The individual payment the CLRV proposes is a standardised recognition payment: its purpose is to acknowledge the individual harm each victim suffered and to afford immediate relief, and it is accordingly not calibrated to the full economic value of any victim’s loss.

⁴² [VPRS submissions](#), para. 52. *See also* paras 51, 53, 54.

⁴³ [i-ACT submissions](#), para. 50; [REDRESS submissions](#), paras 12-13, 42.

⁴⁴ [VPRS submissions](#), para. 70.

⁴⁵ [VPRS submissions](#), para. 70.

⁴⁶ [VPRS submissions](#), para. 70. *See also* [GLAN submissions](#), para. 40 (“On individual recognition and victim-led allocation”).

26. With regard to quantum, the CLRV recalls that REDRESS likewise framed its proposal in symbolic terms, recommending an amount of no less than USD\$1,500 per victim.⁴⁷ As the CLRV set out in her submissions, the participating victims consulted, principally in Chad, voiced widely varying individual figures, from sums equivalent to several thousand euros to figures of a far higher order, while a number of victims in Darfur preferred compensation calculated by reference to their actual losses.⁴⁸ The CLRV cannot adopt any of these figures as the measure of an individual award. As her own consultations made clear, the available funds could not realistically match the losses suffered, and a loss-based individual scheme would both reintroduce the individualised quantification the CLRV cautions against and risk generating frustration and intra-community tension.⁴⁹ The gap between those loss-based figures and any payment the TFV could sustain is itself instructive. It confirms that an individual award in this case can realistically operate only as a symbolic and equal recognition of harm, with the fuller economic dimension of the loss addressed, so far as feasible, through restitution and collective measures.

27. However, to assist the Court in assessing the reasonableness of the amounts claimed, and to supplement the information already contained in the CLRV submissions, the CLRV has attached, as Annex 1,⁵⁰ data concerning, by way of example, the cost of building a house in Chad and Darfur, as well as prices for education, medication, food and livestock. These figures are submitted as comparative benchmarks to provide context for the assessment of the amounts discussed.

28. Regarding education, the CLRV supports the VPRS' submissions. Investing in education has a long-term positive effect on affected populations. There is no need to wait for the return of the victims to their lands,⁵¹ given that support for education is consistently categorised as a high-priority concern.⁵² This is reflected in the measures sought by the CLRV⁵³ and could be delivered in a collective manner.⁵⁴ Such measures must also be adapted to the different needs and infrastructures already available in the various locations, and again, given the current situation, flexibility is required.⁵⁵ The CLRV also reiterates the interrelationship and need to integrate psycho-social resources into educational support, such as, for instance, on-site trained social workers, providing trainings on dealing with mass trauma for teachers, and

⁴⁷ [REDRESS submissions](#), para. 28, fn. 66-71.

⁴⁸ [CLR submissions](#), paras 110-119. *See also* Annex 2, p. 6, section 3.

⁴⁹ [CLR submissions](#), paras 117, 123-124.

⁵⁰ Annex 1.

⁵¹ [CLR submissions](#), paras 19, 175; [VPRS submissions](#), paras 77-78. *See also* [GCC submissions](#), paras 18, 40-41; [REDRESS submissions](#), paras 45-47; [GLAN submissions](#), paras 25-28; [i-ACT submissions](#), para. 46.

⁵² [CLR submissions](#), para. 175; [GLAN submissions](#), para. 25. *See also* Annex 2, p. 5, section 2, and Annex 3, p. 3, section 2.1.

⁵³ [CLR submissions](#), paras 188-189; [VPRS submissions](#), para. 79.

⁵⁴ [CLR submissions](#), paras 188-189, 223; [VPRS submissions](#), para. 81.

⁵⁵ [CLR submissions](#), para. 188; [VPRS submissions](#), para. 82.

extracurricular activities for the children supervised by teachers who would have received such trainings,⁵⁶ in order to foster a broader positive impact of ensuring long-term economic opportunities for children.⁵⁷

29. Regarding medical and psychological support, the VPRS submits that collective reparations with an individual component is the appropriate modality,⁵⁸ as certain participants highlighted the need for access to specialised care.⁵⁹ The CLRV notes that some participating victims in Darfur have expressed reluctance, for instance, to receive prosthetic limbs or other medical-assist devices, noting that possession of such expensive and uncommon items could leave them targets for theft or armed groups, and lead others to suspect that they have received international funding.⁶⁰ However, in light of the fact that specialised care is not currently available and will remain inaccessible in the near future,⁶¹ and that many participating victims require urgent access to specialised treatments, the CLRV agrees that it should be afforded on an individual basis.⁶² The CLRV also agrees with the VPRS that psychological support should be delivered using collective service provider mechanisms, such as health centres and community-based services.⁶³ Considering the widely spread trauma shared by the victims,⁶⁴ support should be broadly accessible and should not be linked to participation nor eligibility, in order to ensure confidentiality and avoid stigmatisation. Indeed, specialised trauma and war-effects treatment, as well as group healing and community discussions, are pressing needs.⁶⁵

30. In relation to the children born out of sexual violence, the CLRV wishes to reiterate that any programs specifically designed for them as a distinct group was not necessarily welcomed by the participating victims.⁶⁶ This is due to the ongoing stigma of being associated with sexual violence, and the difficulties in implementing specific measures while also preserving the confidentiality of those individuals. Indeed, the CLRV is unable to provide any statistics on how many of her clients would actually benefit from such measures, as very few have shared this type of information, which, in itself, speaks volumes. That said, participating victims have expressed the importance of access to specialised psychological support and ensuring access to

⁵⁶ [CLR submissions](#), paras 189, 221, 223; [VPRS submissions](#), para. 80. See also [GCC submissions](#), para. 18.

⁵⁷ [CLR submissions](#), para. 175 and Annex 6 A (Public), [ICC-02/05-01/20-1344-Anx6-Red](#), p. 3-4; [VPRS submissions](#), paras 94-95. See also [GLAN submissions](#), paras 26-28.

⁵⁸ [VPRS submissions](#), para. 87.

⁵⁹ [VPRS submissions](#), paras 92, 102. See also Annex 2, p. 7, section 4.

⁶⁰ For instance, a/10032/22, CLRV mission, May 2026.

⁶¹ [CLR submissions](#), para. 202.

⁶² [CLR submissions](#), Annex 3B (Public), [ICC-02/05-01/20-1344-Anx3B](#), p. 4 and Annex 2B (Public), [ICC-02/05-01/20-1344-Anx2B-Red](#); [VPRS submissions](#), para. 92.

⁶³ [CLR submissions](#), paras 221-226; [VPRS submissions](#), paras 105-106. See also Annex 2, p. 8, section 5, and Annex 3, pp. 6-7, section 4.2.

⁶⁴ [GCC submissions](#), paras 9, 12, 18, 20, 27, 34; [GLAN submissions](#), paras 17, 30; [REDRESS submissions](#), para. 4.

⁶⁵ Annex 2, p. 8, section 5.

⁶⁶ See [REDRESS submissions](#), para. 40; [GLAN submissions](#), paras 26-27. See Annex 3, p. 12, section 6.3.

official documentation for children born out of sexual violence, as reparations measures, with due regard to the conflict context, cultural sensitivities and the protection of affected individuals.⁶⁷ Those specific measures could also be part of collective reparation programs.

31. With regards to socio-economic support, the VPRS proposes to adopt collective reparations with individualised and community wide components,⁶⁸ measures that align with those submitted by the CLRV.⁶⁹ Considering that participating victims have indeed “suffered extensive economic harm, including loss of land, livestock, and productive assets, destruction of homes and infrastructure, and disruption of agricultural, commercial, and artisanal activities”,⁷⁰ compounded by “the loss of breadwinners, combined with injury, disability, and prolonged displacement, has significantly reduced households’ capacity to generate income”,⁷¹ the CLRV considers that collective measures are most appropriate to reactivate economic activities and ensure long term sustainable solutions for the victims. Such measures will likely have an impact on every aspect of a victim’s life, such as ideally ensuring the financial capacity for children to attend school, the ability for families to pay for food, improving mental health, creating safe working environments, and restoring communal economic systems.⁷²

32. The CLRV equally supports the measures proposed by the VPRS to promote vocational training to enable the participating victims to develop or refresh professional skills.⁷³ She also welcomes the additional measures suggested by the VPRS in the form of creating employment opportunities linked to local markets,⁷⁴ whenever it is a realistic possibility to do so. She notes that not all local markets are currently accessible and functional, or economic activities are largely informal.⁷⁵ The participating victims have further outlined what they consider necessary to stimulate income-generating activities,⁷⁶ and to support a livelihood.⁷⁷

33. The VPRS also correctly raises the issue of constraints to economic development and opportunities, including “limited access to land and resources, destruction of infrastructure, insecurity restricting movement, and lack of employment opportunities”.⁷⁸ More particularly, in Chad, where “legal restrictions on work and limited access to labour markets leave many households without stable income,” and in Darfur where “similar constraints, including

⁶⁷ See Annex 3, p.12, section 6.3.

⁶⁸ [VPRS submissions](#), para. 108.

⁶⁹ [VPRS submissions](#), para. 114; [CLRV submissions](#), paras 134-155. See also Annex 2, p.11, section 9, and Annex 3, p.3, section 2.1.

⁷⁰ [VPRS submissions](#), para. 109. See also [CLRV submissions](#), paras 53-55.

⁷¹ [VPRS submissions](#), para. 110.

⁷² [CLRV submissions](#), paras 134-155 ; [VPRS submissions](#), paras 111-113.

⁷³ [CLRV submissions](#), paras 143, 148-150, 154, 185, 189, 221, 226; [VPRS submissions](#), para. 113.

⁷⁴ [VPRS submissions](#), para. 114.

⁷⁵ [CLRV submissions](#), paras 93, 107, 138-140, 145.

⁷⁶ Annex 2, p. 11, section 9.

⁷⁷ Annex 2, p. 9, section 7.

⁷⁸ [VPRS submissions](#), para. 116.

restricted access to land and reliance on informal and precarious informal activities”, are significant obstacles to economic rehabilitation that require urgent assistance.⁷⁹ The CLRV has received similar information from numerous participating victims,⁸⁰ and agrees with the VPRS that these factors should be taken into account when adopting the reparations order. While the CLRV agrees with the staggered approach suggested by the VPRS,⁸¹ she nonetheless observes that skills and vocational training, small enterprise development, and restoration of local economic structures (for example, through the establishment of a local market) should also be treated as immediate measures and implemented from the outset. She otherwise agrees that any socio-economic measure should be closely coordinated with other reparative modalities.⁸²

34. Regarding satisfaction and symbolic measures suggested by the VPRS, the CLRV generally supports these proposals.⁸³ However, while commemorations and memorials may be considered as a cost-effective and achievable reparation that represent a certain importance for preservation of the Fur identity,⁸⁴ not all participating victims voiced a need for such symbolic measures, especially not in their current locations, and not before an eventual return to their home villages.⁸⁵ At least, such specific modalities have not been expressed to the CLRV as a priority by the participating victims.⁸⁶ This notwithstanding, they have consistently raised the extreme importance of preserving their identity and culture, especially through land and governance mapping.⁸⁷

35. The Prosecution suggests that given the victims’ immediate needs, symbolic and satisfaction measures that can be implemented as soon as possible should be preferred, including but not limited to symbolic cash payments.⁸⁸ The Prosecution further suggests that a satisfaction measure may include a genuine, voluntary apology from Mr Abd-Al-Rahman.⁸⁹ The CLRV received similar nuanced views from her clients to that of VPRS’ participants,⁹⁰ in that while an apology could be a welcome acknowledgment of wrongdoing, it is not sufficient at this stage of the proceedings and especially in light of Mr Abd-Al-Rahman’s persistent denial of committing any crime.⁹¹

⁷⁹ [VPRS submissions](#), para. 117.

⁸⁰ [CLRv submissions](#), paras 54-55.

⁸¹ [VPRS submissions](#), para. 119.

⁸² [VPRS submissions](#), para. 120.

⁸³ [VPRS submissions](#), paras 122-123.

⁸⁴ *Contra* [VPRS submissions](#), paras 133-134; [REDRESS submissions](#), para. 30; [GCC submissions](#), para. 36.

⁸⁵ Annex 2, p. 12, section 10; Annex 3, p. 3, section 2.1.

⁸⁶ [CLRv submissions](#), Annex 2B (Public), [ICC-02/05-01/20-1344-Anx2B-Red](#), Part 2 (“Reparations Priorities”); *See also* Annex 2, p. 5, section 2, and Annex 3, p. 3, section 2.1.

⁸⁷ [VPRS submissions](#), paras 135-136; [CLRv submissions](#), paras 233-234.

⁸⁸ [Prosecution submissions](#), para. 33.

⁸⁹ [Prosecution submissions](#), para. 33.

⁹⁰ [VPRS submissions](#), para. 132.

⁹¹ *See also* [GCC submissions](#), para. 37.

36. Lastly, and in relation to available satisfaction measures pursuant to the UN Basic Principles on Reparations, the CLRV finds the Defence arguments unconvincing.⁹² The Appeals Chamber has indicated that “[m]easures of satisfaction should aim at remedying moral or non-physical harm suffered by victims of human rights violations” and that, with such measures, “victims of atrocious crimes receive social recognition that the crimes occurred, that the crimes harmed them, and that they are victims and survivors of such crimes”.⁹³ As such, any/all appropriate satisfaction measures that may remedy the moral or non-physical harm caused can be articulated by the participating victims, even if not directly reflected in the UN Basic Principles on Reparations.

iv. Direct and indirect eligible victims

37. The CLRV accepts the categories of direct and indirect victims identified by the VPRS,⁹⁴ which she considers to largely align with her previous views on the matter.⁹⁵ She notes that with respect to Deleig, direct victims identified by the VPRS [REDACTED].⁹⁶

38. Parties and participants have also expressed support to include individuals who suffered and continue to suffer transgenerational harm.⁹⁷ This is encouraged by the CLRV, given the specific harm reported by the participating victims.⁹⁸

39. The CLRV further agrees with the VPRS’ proposition that the harm suffered has been expressed by the affected communities in collective terms and that it has affected in particular the Fur community as a whole.⁹⁹ However, the CLRV wishes to note that, although her clients are predominantly Fur, not all are. Their suffering resulting from the crimes committed by Mr Abd-al-Rahman was and remains the same.

v. Extent of the harm

40. Regarding the extent of the harm suffered, the CLRV is in agreement with the Prosecution and the VPRS.¹⁰⁰ As previously pointed out by the CLRV, the majority of the participating victims were victims of persecution, and as a result, were displaced.¹⁰¹ The Prosecution raised in its submissions that the crime of persecution was not part of the VPRS mapping report.¹⁰² However, in the CLRV’s view, and as reflected throughout her submissions,

⁹² [Defence submissions](#), para. 19.

⁹³ *Ntaganda* Appeal Judgment on Reparations, [ICC-01/04-02/06-2782](#), para. 659.

⁹⁴ [VPRS submissions](#), paras 142-146.

⁹⁵ [ICC-02/05-01/20-1076-Corr-Red](#), paras 19-32.

⁹⁶ See [VPRS submissions](#), para. 146 (iii) and (iv); VPRS Mapping Report, [ICC-02/05-01/20-1256-Conf-Corr](#), para. 136 (iv).

⁹⁷ [VPRS submissions](#), paras 147-148; [Prosecution submissions](#), paras 21-22; [GCC submissions](#), para. 17; [i-ACT submissions](#), para. 17, fn. 31; [GLAN submissions](#), para. 26 (ii); [REDRESS submissions](#), paras 7, 46.

⁹⁸ [CLR submissions](#), paras 56-58.

⁹⁹ [CLR submissions](#), paras 59-61; [VPRS submissions](#), para. 153.

¹⁰⁰ [Prosecution submissions](#), para. 23; [VPRS submissions](#), paras 24-26, 49-50, 73-74, 88-90, 109-110, 124-126.

¹⁰¹ [CLR submissions](#), para. 227.

¹⁰² In response to the [Prosecution submissions](#), para 25.

most of the harms suffered by the participating victims are inextricably linked to persecution. Undoubtedly, they arise directly from, and are a manifestation of, the persecutory conduct that her clients were subjected to, as they form part of the same course of conduct.¹⁰³

vi. Presumptions

41. The CLRV notes that the parties and participants propose a number of different approaches to the presumption of victimhood and harm.¹⁰⁴ These range from a presumption of victimhood for all members of the Fur community¹⁰⁵ to all members of the displaced communities;¹⁰⁶ as well as presumptions of moral, material, and physical harm for varying victim groups;¹⁰⁷ and community/collective and transgenerational harm for all victims.¹⁰⁸ The CLRV understands the intention behind such proposals, in that it can assist the participating victims, and the wider victim community, to benefit from reparations, ideally in a timely and effective manner.

42. Nonetheless, the CLRV also maintains that any presumptions that the Chamber may consider adopting should be reasonable and suit the specific circumstances of the case.¹⁰⁹ As such, she makes no substantive comments on the presumptions presented by all parties and participants, and more particularly does not oppose the suggestions from the Prosecution and the VPRS.¹¹⁰ However, the CLRV notes the VPRS submission assuming a presumption of “community harm for the Fur community of the Affected Localities”¹¹¹ and underscores that the recognition of harm to the Fur in particular, which would have considerable positive significance for the CLRV’s clients from that community, operates without excluding the non-Fur victims who suffered alongside them. While the CLRV recognises the harm inflicted on the Fur community as a result of a persecutory policy directly directed against them, the CLRV notes that not all community members in the affected localities are Fur.¹¹² This should be considered by the Chamber if and when a presumption of community or collective harm is adopted.

vii. Priorities

¹⁰³ *Abd-al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), paras 928-939.

¹⁰⁴ See [CLRv submissions](#), paras 243-246; [VPRS submissions](#), paras 163-167; [Prosecution submissions](#), paras 26-27; [GLAN submissions](#), para. 9; [REDRESS submissions](#), paras 8-10; [GCC submissions](#), paras 25-29; [i-ACT submissions](#), paras 25-28.

¹⁰⁵ [VPRS submissions](#), para. 164. See also [GCC submissions](#), paras 25-29; [REDRESS submissions](#), para. 10.

¹⁰⁶ [GLAN submissions](#), para. 9.

¹⁰⁷ [CLRv submissions](#), paras 243-245; [VPRS submissions](#), paras 165-166; [REDRESS submissions](#), paras 9-10; [i-ACT submissions](#), para. 27.

¹⁰⁸ [CLRv submissions](#), para. 246; [VPRS submissions](#), paras 165, 167; [REDRESS submissions](#), para. 10; [i-ACT submissions](#), para. 27.

¹⁰⁹ [CLRv submissions](#), para. 242.

¹¹⁰ [Prosecution submissions](#), para. 27; [VPRS submissions](#), paras 164, 166.

¹¹¹ [VPRS submissions](#), para. 165.

¹¹² i.e. *Abd-al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), para. 287.

43. The parties and participants highlight particular victim groups that should take priority in order to respond to differences in the severity and urgency of harm suffered.

44. Here, the CLRV aligns with the Prosecution's observation that, given the large number of potential beneficiaries, the application of broad priority categories may be of limited practical value.¹¹³ Considering the multifaceted and overlapping forms of victimisation suffered by the affected population, such categories would likely encompass the vast majority, if not all, potential beneficiaries. As a result, the proposed prioritisation framework may risk failing to meaningfully distinguish between beneficiaries, as virtually all individuals would fall within one or more priority categories by virtue of the layered nature of the harm they have endured. Thus, the CLRV considers that the Prosecution's proposition that victims with more dire needs should be prioritised, is reasonable.

45. The CLRV therefore supports the Prosecution's proposed priority categories, which largely align with those presented in her submissions,¹¹⁴ namely: "i) victims who are elderly; ii) victims with a condition which can be qualified as life-threatening in light of their individual situation; iii) victims of sexual violence and their children born out of sexual violence [consistent with the position taken above (see *Medical and psychological support*), that the priority attaches to these victims should materialise through broad and non-identifying measures, rather than stigmatising group-specific programmes]; and iv) victims who were children at the time of the commission of the crimes."¹¹⁵ These categories are also generally reflected in the writings of other parties and participants.¹¹⁶ The CLRV adds to this list victims with disabilities and severe illnesses.¹¹⁷ She is also in agreement with the VPRS views on general prioritisation,¹¹⁸ however, she notes the VPRS's distinction between victims located in Chad and Darfur therein. In the CLRV's view, location affects how and what is delivered, but not who is prioritised. The differences in infrastructure, needs and requested modalities between Chad and Darfur bear on the *form* and *delivery* of reparations, not on the "*ranking*" of vulnerable groups. Meaning that an elderly victim or a survivor of sexual violence warrants priority equally in Chad and in Darfur, even though the modality that reaches them will differ by location. The CLRV therefore does not consider these geographic differences a basis for differentiated group prioritisation.

¹¹³ [Prosecution submissions](#), para. 20.

¹¹⁴ [CLRV submissions](#), paras 252-258. See also Annex 2, p. 16, section 16, and pp. 19-20, section 19.

¹¹⁵ [Prosecution submissions](#), para. 20.

¹¹⁶ See [VPRS submissions](#), para. 181; [Prosecution submissions](#), para. 20; [i-ACT submissions](#), paras 21-24; [REDRESS submissions](#), para. 49; [GLAN submissions](#), para. 40 ("On prioritisation").

¹¹⁷ [CLRV submissions](#), paras 191, 254, 258.

¹¹⁸ [VPRS submissions](#), paras 181-182.

46. The CLRV considers that many of the suggested groups to receive priority overlap with those outlined by VPRS with respect to medical and psychosocial support,¹¹⁹ highlighting the immediate need for such assistance. Further, the CLRV wishes to stress the specific medical and psychosocial support needed for women and survivors of sexual violence.¹²⁰

47. In addition, vulnerable direct participating victims are uniquely placed to receive expeditious relief. As already assessed as eligible victims (see below in *Eligibility process*), they require no further eligibility determination, and the CLRV submits they could form the first tranche for prompt distribution of the standardised individual payment.¹²¹

viii. Burden of proof and causal link

48. In agreement with the Prosecution and the VPRS, the CLRV considers that the appropriate standard of proof at the reparations stage is the “balance of probabilities”,¹²² as has been consistently applied to factual determinations in reparations proceedings before the Court.¹²³ Further, the CLRV agrees with the Prosecution that this “standard of proof applied must be ‘flexible’ and ‘sufficient’ for an applicant to meet the burden of proof”¹²⁴ and must be based on the specific circumstances of the case.¹²⁵

49. The CLRV also agrees with the Prosecution that regarding the causal link, this Chamber should adopt the “but/for” standard of causation, “requiring that the crimes for which a person was convicted were the ‘proximate cause’ of the harm for which reparations are sought, as established in previous cases before the Court”.¹²⁶ However, the CLRV notes that, although this Court has consistently held that the causal link between the harm suffered by victims and the crimes for which the convicted person has been found guilty must be established, indirect victims are required to demonstrate that “they suffered a personal, but not necessarily direct, harm”.¹²⁷

50. In the present case, there is strong evidence to suggest the existence of transgenerational harm, stemming from the nature of the crimes at issue in this case.¹²⁸ In particular, the CLRV considers that forced displacement and the children born out of sexual violence have caused

¹¹⁹ [VPRS submissions](#), para. 104.

¹²⁰ [CLRv submissions](#), para. 253; [GLAN submissions](#), paras 29-30.

¹²¹ [CLRv submissions](#), paras 247-258. See also *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), para. 660.

¹²² [ICC-02/05-01/20-1076-Corr-Red](#), para. 16; [Prosecution submissions](#), para. 12; VPRS submissions, para. 158.

¹²³ See e.g., *Ongwen* Appeals Judgment on Reparations, [ICC-02/04-01/15-2108](#), para. 28; *Al Hassan* Reparations Order, [ICC-01/12-01/18-2782](#), para. 20; *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), para. 136.

¹²⁴ [Prosecution submissions](#), para. 12.

¹²⁵ [Prosecution submissions](#), para. 12. See also *Lubanga* Amended Reparations Order, [ICC-01/04-01/06-3129-AnxA](#), para. 22; *Al Hassan* Reparations Order, [ICC-01/12-01/18-2782](#), para. 20.

¹²⁶ [CLRv submissions](#), para. 41; [Prosecution submissions](#), para. 13.

¹²⁷ See e.g., *Ntaganda* Reparations order, [ICC-01/04-02/06-2659](#), para. 33. See also [Prosecution submissions](#), para. 21.

¹²⁸ [CLRv submissions](#), paras 56-58; [VPRS submissions](#), paras 147-148; [REDRESS submissions](#), para. 7; [GLAN submissions](#), para. 26 ii); [i-ACT submissions](#), para. 17, fn. 31; [GCC submissions](#), para. 17.

transgenerational harm,¹²⁹ the nature of which has previously been recognized in expert reports submitted to the Court in prior cases.¹³⁰ However, given that transgenerational harm is a distinct, multi-layered form of harm that endures and compounds over time,¹³¹ the CLRV suggests that it requires an adapted standard of causation appropriate to its specific characteristics. Although the jurisprudence of this Court has generally applied the “but/for” test in establishing causation, it has held that neither the Rome Statute or the Rules, nor international law at large, confines causation to a single uniform standard,¹³² thereby allowing, in theory, for an adaptive and flexible approach that is sensitive to the nature of the crimes and may evolve within the Court’s jurisprudence over time. Consequently, she submits that the Chamber should find that the causal link to transgenerational harm to be demonstrated on the basis of the “balance of probabilities” as it previously held in *Katanga*¹³³, and not on the “proximate cause” standard, as recently applied by this Court in relation to the same harm.¹³⁴

51. Domestic tort law jurisprudence¹³⁵ and public international law,¹³⁶ which the Court has previously relied upon,¹³⁷ has in fact applied the causal link flexibly where the harm suffered is scientifically uncertain or difficult to establish under the “but/for” test, particularly in cases involving latent, diffused, and temporally evolving harm. Guided by a flexible approach that respects the fairness and rights of both the Defence and the victims, the CLRV submits that potential victims claiming reparations for transgenerational harm should be required to

¹²⁹ [CLRv submissions](#), paras 56-58.

¹³⁰ See e.g., *Ntaganda* Experts Report on Reparation, [ICC-01/04-02/06-2623-Anx1-Red2](#), paras 80, 113 (“Displacement”) “The long-term consequences of the victims’ situation are going beyond negative economic impacts, causing psycho-social harm and grief over the loss of their homes and means of life, cultural infrastructure and social and community-related networks. These consequences also caused transgenerational harm beyond the victims themselves”; *Ntaganda* Experts Report on Reparation, [ICC-01/04-02/06-2623-Anx2-Red2](#), para. 55.

¹³¹ See *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), para. 71; *Ntaganda* Experts Report on Reparation, [ICC-01/04-02/06-2623-Anx1-Red2](#), paras 47, 80, 142; *Bemba* Witness P-0925, [ICC-01/05-01/08-T-369-Red-ENG WT](#), pp. 3, 27.

¹³² See *Lubanga* Decision establishing the principles and procedures to be applied to reparations, [ICC-01/04-01/06-2904](#), para. 248 (“neither the Statute nor the Rules define the precise requirements of the causal link between the crime and the relevant harm for the purposes of reparations” [...] “there is no settled view in international law on the approach to be taken to causation”).

¹³³ *Katanga* Reparations Order, [ICC-01/04-01/07-3728-tENG](#), para. 134.

¹³⁴ *Katanga* Decision on the Matter of the Transgenerational Harm, [ICC-01/04-01/07-3804-Red-tENG](#), paras 17-18; *Ntaganda* Reparations Order Appeal Judgment, [ICC-01/04-02/06-2782](#), paras 569, 573-578; *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), para. 205.

¹³⁵ See e.g., *March v. E & MH Stramare Pty Ltd* [1991] HCA 12; [1991] 171 CLR 506, para. 22 (Mason C.J.) (“The cases demonstrate the lesson of experience, namely, that the test, applied as an exclusive criterion of causation, yields unacceptable results and that the results which it yields must be tempered by the making of value judgments and the infusion of policy considerations”); *Kuwait Airways Corp v. Iraqi Airways Co & Anor* [2002] UKHL 19, para. 128 (“There is therefore no uniform causal requirement for liability in tort”).

¹³⁶ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Reparations Judgment, [ICJ Reports 2022](#), para. 93 (“However, it should be noted that the causal nexus required may vary depending on the primary rule violated and the nature and extent of the injury”); *Obligations of States in Respect of Climate Change*, Advisory Opinion, [187-20250723-ADV-01-00-EN](#), para. 436 (“the ‘causal nexus’ between the wrongful act and the damage in question is not static in nature”). See also J. Crawford, *Third Report on State responsibility*, [UN Doc. A/CN.4/507](#), paras 28-29.

¹³⁷ *Katanga* Decision on the Matter of the Transgenerational Harm, [ICC-01/04-01/07-3804-Red-tENG](#), para. 17, fn. 36.

¹³⁷ [CLRv submissions](#), paras 71, 74-76.

demonstrate: i) the existence of the harm suffered; and ii) that it is more likely than not that such harm was caused by one of the crimes for which the accused was convicted.

ix. Eligibility process and documentation

52. The CLRV welcomes the suggestions made by other parties and participants to assist in the efficient and timely identification of eligible victims. This includes a flexible and creative approach, as well as involvement of local leadership to help identify relevant members of the community.¹³⁸ Participating victims, as also suggested by the Prosecution,¹³⁹ are already eligible without any additional eligibility assessment. This said, the CLRV has made extensive submissions on the matter in her submissions.¹⁴⁰

53. Regarding the administrative phase of the eligibility, the CLRV supports VPRS's constructive suggestion that, in the present case, the notification stage within the eligibility determination process should be streamlined. Such an approach, based on lessons learned in other cases, would help avoid unnecessary delays and prevent inefficient exchanges between the various sections of the Court, thereby promoting procedural economy, administrative efficiency, and the expeditious handling of the matter.¹⁴¹

54. In relation to the resumption of action for deceased participating victims, the CLRV agrees with the VPRS that "the death of a victim should not bar consideration of their views, concerns, or reparation rights" and that the next of kin of eligible victims should be allowed "to resume the action and receive reparations on behalf of a deceased victim, irrespective of whether he/she was already assessed as a beneficiary at the time of death."¹⁴² This is also per the criteria already established by the Chamber in its Decision on the resumption of actions.¹⁴³ Further, the CLRV is currently in the process of gathering updated information on clients who are now deceased and will communicate this updated information to VPRS, as per the above-mentioned decision.

B- Specific responses to the Defence submissions

i. Customary international law for victim compensation

55. The Defence has made extensive submissions regarding State practice of victims reparations. While the CLRV gives the Defence the benefit of a good intention and victims friendliness behind its submissions, the CLRV agrees with the Prosecution.¹⁴⁴ This Defence argument must be rejected.

¹³⁸ [CLRV submissions](#), paras 71, 74-76.

¹³⁹ [Prosecution submissions](#), para. 8.

¹⁴⁰ [CLRV submissions](#), paras 62-84.

¹⁴¹ [VPRS submissions](#), paras 178-180.

¹⁴² [VPRS submissions](#), paras 149-151.

¹⁴³ [ICC-02/05-01/20-1238-Conf](#), para. 6.

¹⁴⁴ [Prosecution submissions](#), paras 4-5.

56. The CLRV reiterates her understanding of the current legal framework governing the reparations proceedings at the Court. She remains convinced, as per her oral submissions in a previous hearing,¹⁴⁵ that contrary to the Defence submissions,¹⁴⁶ and as has been demonstrated in other cases before the Court,¹⁴⁷ an acquittal or termination of proceedings for other reasons during the trial or appeals phase results in no reparations for the participating victims, and more largely, the affected communities. This position is supported by the Appeals Chamber, which clearly rejected the Defence's previous arguments that a reparations order does not have to be directed at a convicted person.¹⁴⁸ Judge Ibáñez further highlighted in her separate opinion that: "the reparations proceeding at the Court commences only after a person is convicted, and reparations principles under article 75(1) of the Statute must only be issued thereafter by the trial chamber."¹⁴⁹ The Defence has unfortunately misquoted or misconstrued the Appeals Decision/Ibáñez's Separate opinion. There is thus no ambiguity that, under the Court's governing framework, a reparations order can only arise following a conviction. Accordingly, there is no need to recourse to applicable treaties and the principles and rules of international law as the Defence suggests,¹⁵⁰ given the Court can and has applied, in the first place, its legal framework pursuant to Article 21(1)(a) of the Statute.¹⁵¹

57. Otherwise, the CLRV agrees that the legal framework for reparations would benefit from a clear articulation of principles, rooted in applicable and complementary sources of law, which could be applied in a consistent manner in order to promote efficient and timely reparations proceedings.¹⁵² As a consequence, and in the CLRV's view, the current legal framework for reparations must be revisited.

ii. State of Sudan's positive obligation to contribute

¹⁴⁵ [ICC-02/05-01/20-T-166-Red-ENG](#), p.13, line 19-p.14, line 6.

¹⁴⁶ [Defence submissions](#), paras 28, 119-121.

¹⁴⁷ See *Bemba* Final Decision on Reparations Proceedings, [ICC-01/05-01/08-3653](#); *Gbagbo and Blé Goudé* Judgment in the appeal of the Prosecutor against Trial Chamber I's decision on the no case to answer motions, [ICC-02/11-01/15-1400](#).

¹⁴⁸ *Abd-Al-Rahman* Judgment on the appeal of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Pre-Trial Chamber II of 18 August 2020 entitled 'Decision on the Defence request and observations on reparations pursuant to article 75(1) of the Rome Statute', [ICC-02/05-01/20-237](#), paras 20-21.

¹⁴⁹ *Abd-Al-Rahman* Judgment on the appeal of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Pre-Trial Chamber II of 18 August 2020 entitled 'Decision on the Defence request and observations on reparations pursuant to article 75(1) of the Rome Statute', [ICC-02/05-01/20-237](#), para. 16.

¹⁵⁰ [Defence submissions](#), para. 40.

¹⁵¹ *Abd-Al-Rahman* Judgment on the appeal of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Pre-Trial Chamber II of 18 August 2020 entitled 'Decision on the Defence request and observations on reparations pursuant to article 75(1) of the Rome Statute', [ICC-02/05-01/20-237](#), para. 20.

¹⁵² See e.g. T. Hamilton & G. Sluiter, "[Principles of Reparations at the International Criminal Court: Assessing Alternative Approaches](#)" (2022), Part 4.2, pp. 298-305.

58. The CLRV welcomes the Defence's call for the State of Sudan to cooperate and contribute to the reparations scheme,¹⁵³ which is also advocated for by the Wayamo Foundation,¹⁵⁴ and as the CLRV has herself expressed.¹⁵⁵

59. However, the CLRV notes that victim restitution is not solely dependent upon action by the Government of Sudan.¹⁵⁶ The Chamber has a range of measures it may order through which meaningful restitution may be facilitated and implemented, as indicated by the CLRV and VPRS, and other participants, in their submissions, and as the CLRV has set out above, for instance, in relation to phased restitution (see *Land*).¹⁵⁷

60. While the Chamber may and should invite, encourage, or otherwise call upon the State to contribute and give effect to a reparations order, it lacks jurisdiction and therefore authority to order a State to compensate victims in the context of reparations proceedings even if the convicted person is indigent.¹⁵⁸ Thus, any such contribution must emanate from the State's own initiative and consent. Mr Abd-Al-Rahman cannot evade or transfer his personal liability for reparations to the State of Sudan.¹⁵⁹ He remains personally liable for the harm caused by the crimes for which he was convicted, irrespective of any potential assistance or contribution that may be provided by the State of Sudan. As such, the CLRV remains unconvinced that the Chamber can rule that Sudan bears liability for and order it contribute to reparations to victims in this case,¹⁶⁰ and thus joins the Prosecution to reject this proposed principle.¹⁶¹

iii. Implementation of the reparations order

61. The implementation phase of the reparations order is a key issue that the CLRV has raised in her submissions.¹⁶² Therefore, she agrees with the Defence that the Chamber should retain an oversight on the implementation of the reparations order, however not for the same reasons. While the Defence argues that "the Chamber should continue to exercise a judicial review of the eligibility assessment of victims for reparation throughout the process",¹⁶³ the CLRV emphasises that such oversight would be time and resource intensive and unlikely to be helpful to the victims. Rather, oversight by the Chamber is required given the volatile nature of the ongoing armed conflict in Sudan and Darfur in particular. This makes it vital that the

¹⁵³ [Defence submissions](#), para. 141.

¹⁵⁴ [GCC submissions](#), paras 35, 45.

¹⁵⁵ [CLRv submissions](#), para. 265.

¹⁵⁶ *Contra* [Defence submissions](#), para. 15.

¹⁵⁷ [CLRv submissions](#), paras 227, 234-235; [VPRS submissions](#), paras 31-35. *See also* [i-ACT submissions](#), paras 38-40; [REDRESS submissions](#), para. 31.

¹⁵⁸ *Lubanga*, Appeal Judgment on Reparations, [ICC-01/04-01/06-3129](#), para. 105.

¹⁵⁹ *Ongwen* Reparations Order, [ICC-02/04-01/15-2074](#), para. 72(iii).

¹⁶⁰ *Contra* [Defence submissions](#), para. 141.

¹⁶¹ [Prosecution submissions](#), paras 4-5.

¹⁶² [CLRv submissions](#), paras 13, 269, 275.

¹⁶³ [Defence submissions](#), para. 12.

Chamber stays closely involved in the process and uses its authority to ensure that the delivery of fruitful reparations, if any, remains timely, adequate, and meaningful, to meet the victims' needs that may evolve over time.¹⁶⁴

62. The Chamber may draw on the oversight experience of Trial Chamber VIII in the *Al Mahdi* case, including the involvement of the LRV during the implementation phase of the reparations proceedings, which the Chamber considered necessary given the LRV's relationship and familiarity with the victims concerned.¹⁶⁵

63. For these reasons, the CLRV reiterates her observations regarding the need for the Chamber to remain engaged and continue to monitor the implementation of the Reparations Order. Parties and participants also indicated that they favour an ongoing monitoring of any reparations order, given the fluid and ongoing armed conflict in Sudan,¹⁶⁶ as well as judicial creativity and flexibility in designing and implementing any reparations order.¹⁶⁷

IV. CONCLUSION

64. The present CLRV's response aims at highlighting the significant areas of intersection among the parties, participants and *amici curiae*. By identifying common positions, the CLRV hopes to provide the Chamber with a clear overview of the issues on which there is broad agreement. In turn, this Response, read together with her previous submissions, seeks to assist the Chamber in its consideration of the principal issues arising in the reparations proceedings and the key factors that should inform the reparations order in this particularly complex case.

RELIEF SOUGHT

For the reasons above, the CLRV respectfully requests that the Trial Chamber takes into consideration this response in its determination of the appropriate amount of liability to be imposed on Mr Abd-al-Rahman.

Respectfully submitted,



Natalie v. Wistinghausen
Common Legal Representative of Victims

Dated this 6 July 2026
At Berlin, Germany

¹⁶⁴ [CLRv submissions](#), para. 269.

¹⁶⁵ *Al Mahdi* Decision on Draft Implementation Plan, [ICC-01/12-01/15-273-Red](#), para. 21; *Al Mahdi* Decision on Updated Implementation Plan, [ICC-01/12-01/15-324-Red](#), para. 14.

¹⁶⁶ [CLRv submissions](#), paras 7, 13, 269-271.

¹⁶⁷ [VPRS submissions](#), paras 7, 13, 64, 82; [REDRESS submissions](#), para. 23; [Prosecution submissions](#), para. 34; [GLAN submissions](#), paras 10, 37.