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TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine 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 Annex A**

**Public redacted version of “Trust Fund for Victims’ Observations on Reparations”,
ICC-02/05-01/20-1357-Conf, dated 6 July 2026**

Source: Trust Fund for Victims

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Common Legal Representative of Victims

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I. INTRODUCTION

1. The Trust Fund for Victims (‘TFV’) hereby provides its observations pursuant to Trial Chamber I’s (‘Trial Chamber’ or ‘Chamber’) order for submissions on reparations (‘Order’), issued on 9 December 2025.¹

II. BACKGROUND

2. On 6 October 2025, Trial Chamber I (‘Chamber’), delivered its judgment pursuant to Article 74 of the Rome Statute, convicting Mr Abd-Al-Rahman of 27 counts of crimes against humanity and war crimes (‘Trial Judgment’).²

3. As noted by the Chamber, at the time the Trial Judgment was issued, 1,592 victims were authorised to participate in the trial pursuant to Article 68(3) of the Rome Statute.³ These victims are represented by the Common Legal Representative of Victims (the ‘CLRV’).

4. On 4 November 2025, the Registry filed its Victim Registry Victim Mapping Report,⁴ as instructed by the Chamber in its Second decision on the admission of victims to participate in trial proceedings.⁵

5. On 6 November 2025, the Defence of Mr Abd-Al-Rahman filed its notice of appeal against the Trial Judgment.⁶

6. On 9 December 2025, the Chamber sentenced Mr Abd-Al-Rahman to 20 years of imprisonment (‘Sentencing Judgment’).⁷

7. On the same day, the Chamber opened the judicial reparations phase by issuing the Order, instructing the parties and participants, including the Registry and the Trust Fund for Victims (‘TFV’) to make the present observations on reparations, and providing the CLRV and the Defence the opportunity to respond to such observations.⁸

¹ Order for submissions on reparations, 9 December 2025, [ICC-02/05-01/20-1282](#) (‘Order’).

² Trial Judgment, 6 October 2025, [ICC-02/05-01/20-1240](#) (‘Trial Judgment’), with public Annexes A, C and D and confidential and public redacted Annex B.

³ Order for submissions on reparations, 9 December 2025, [ICC-02/05-01/20-1282](#), para 4. Sentencing Judgement, 9 December 2025, ICC-02/05-01/20-1281, para 43. A public redacted version is available: [ICC-02/05-01/20-1281-Red](#).

⁴ Registry Victim Mapping Report, 4 November 2025, ICC-02/05-01/20-1256-Conf, a public redacted version is available: ICC-02/05-01/20-1256-Corr-Red (‘Registry Victim Mapping Report’).

⁵ Second decision on the admission of victims to participate in trial proceedings, 3 October 2022, [ICC-02/05-01/20-761](#).

⁶ Defence Notice of Appeal Pursuant to Article 81(1)(b) of the Rome Statute, 6 November 2025, [ICC-02/05-01/20-1261](#).

⁷ Public redacted version of Sentencing Judgment, 9 December 2025, [ICC-02/05-01/20-1281-Red](#), with public redacted Annex (‘Sentencing Judgment’).

⁸ See Order for submissions on reparations, 9 December 2025, [ICC-02/05-01/20-1282](#), p. 5-6.

8. On 8 and 9 January 2026, the Defence and Prosecution respectively filed their notices of appeal against the Sentencing Judgment.⁹

9. On 30 March 2026, the common legal representative for victims (the ‘CLRv’), filed a request seeking an extension of time and an extension of the page limit to file her submissions.¹⁰

10. On 2 April 2026, the Trial Chamber issued a decision granting an extension of the page limit and the time limit to the parties, the Registry, and the TFV to file their respective submissions on reparations, thus amending the deadline from 4 May 2026 to 4 June 2026.¹¹ In this decision, the Trial Chamber also extended until 3 July 2026 the time period for the parties to respond to the various submissions on reparations by 3 July 2026, giving the TFV and Registry the opportunity to respond. The Trial Chamber also scheduled a hearing on reparations to be held on 8 September 2026.¹²

11. On 16 March 2026, the General Coordination Committee of the Internally Displaced Persons in Sudan (‘the GCC’) submitted their amicus curiae observations on reparations.¹³

12. On 13 May 2026, the TFV requested a variation of the time limit.¹⁴

13. On 22 May 2026, Mr Abd-Al-Rahman submitted observations on reparations.¹⁵

14. On 1 June 2026, the Trial Chamber granted the TFV’s request to file its submission on reparations on 3 July 2026, considering that it would benefit from having submissions from the TFV that build upon the parties’ and participants’ initial observations on reparations and are focused on the TFV’s areas of expertise, i.e. modalities and implementation, and noting that the parties do not object to the request.¹⁶

⁹ Defence Notice of Appeal Pursuant to Article 81(2) of the Rome Statute, 8 January 2026, [ICC-02/05-01/20-1290](#) and Prosecution notice of appeal, 9 January 2026, [ICC-02/05-01/20-1291](#).

¹⁰ CLRv Request for a limited extension of time to submit her Observations on Reparations and for a limited extension of pages, 30 March 2026, ICC-02/05-01/20-1316-Conf. A public redacted version is available: [ICC-02/05-01/20-1317-Red](#).

¹¹ Decision on the CLRv request for extension of time and extension of page limit and scheduling a hearing before the Chamber, 2 April 2026, ICC-02/05-01/20-1317-conf. A public redacted version is available: [ICC-02/05-01/20-1317-Red](#).

¹² *Ibid*, para 3.

¹³ The General Coordination Committee IDPs in Sudan (‘GCC’) Amicus Curiae Observations on Reparations, 16 March 2026, [ICC-02/05-01/20-1315](#) (‘GCC Amicus Observations’).

¹⁴ Request relevant to the Trust Fund for Victims’ Observations on Reparations, 13 May 2026, [ICC-02/05-01/20-1335](#).

¹⁵ Defence Submission on Reparations with Confidential Annex 1 and Public Annex 2, 22 May 2026, ICC-02/05-01/20-1338-Conf. A public redacted version is available: [ICC-02/05-01/20-1338-Red](#) (‘Defence Submissions on Reparations’).

¹⁶ Decision on the TFV’s request on the filing of its observations on reparations, 1 June 2026, [ICC-02/05-01/20-1340](#).

15. On 4 June 2026, the CLRV¹⁷, Registry¹⁸, Prosecution¹⁹ and two amici of [REDACTED], with Global Legal Action Network²⁰ and Redress, Rights for Peace, Darfur Women Action Group Uganda, Darfur Network for Human Rights and Queen's University Belfast Human Rights Centre all submitted their observations on reparations.²¹

III. CLASSIFICATION OF THE PRESENT OBSERVATIONS

16. Pursuant to Regulation 23 *bis* of the Regulations of the Court, the TFV has classified the present observations as confidential given they refer to information [REDACTED]. The TFV will file a public redacted version without undue delay.

IV. METHODOLOGY FOLLOWED TO INFORM THE PRESENT OBSERVATIONS

a. FOCUS ON LEGAL ASPECTS, REPARATIONS DESIGN AND IMPLEMENTATION

17. The TFV files these Observations following the submissions of the parties and other participants, building upon them and focusing on legal issues and its areas of expertise, such as the reparation design, modalities and the relevant operational aspects. To avoid duplication, these Observations do not reproduce the accounts of harm or the specific requests for reparations gathered during consultations with victims, which have been comprehensively documented in the submissions of other parties and participants. The TFV considers that those filings accurately reflect the multifaceted harm caused by the crimes committed by Mr Abd-Al-Rahman and give full expression to the plight of the victims of this case.²²

18. As of 9 December 2025, when the mandate of the TFV in the present case was activated by the Order of the Chamber, the following methodology was followed in preparing these Observations: (a) desk review; (b) coordination within the Court; (c) consultations with victims and affected communities; and (d) consultations with key international and national actors.

¹⁷ CLRV Submissions on Reparations With Public Annexes 1, 2 (A and B), 4, 5, 6 (A to G), 7, ICC-02/05-01/20-1344. A public redacted version is available: [ICC-02/05-01/20-1344-Red](#) ('CLRV Submissions on Reparations').

¹⁸ Registry Observations on Reparations With Confidential Annex, 4 June 2025, ICC-02/05-01/20-1343-Conf. Public redacted version available: [ICC-02/05-01/20-1343-Red](#) ('Registry Observations on Reparations').

¹⁹ Prosecution's Submissions on Reparations, 4 June 2026, [ICC-02/05-01/20-1342](#) ('Prosecution's Observations on Reparations').

²⁰ Amicus Curiae Observations on Reparations Issues with Confidential Annexes I, II, and III, 4 June 2026, ICC-02/05-01/20-1345-Conf. A public redacted version is available: [ICC-02/05-01/20-1345-Red](#) ('[REDACTED], with Global Legal Action Network Observations').

²¹ Amicus Curiae Observations on Reparations with Confidential Annexes I and III, Confidential Ex Parte Annex II only to Trial Chamber I and Registry and Public Annex IV, 4 June 2026, ICC-02/05-01/20-1346-Conf. A public redacted version is available: [ICC-02/05-01/20-1346-Red](#) ('Redress *et al* Observations').

²² Regulation 20 of the Regulations of the Trust Fund for Victims.

b. DESK REVIEW

19. Following the issuance of the Order, an extensive desk review process was undertaken comprising the following elements. First, the scope of the review was set out to understand the context in Sudan at the time of the crimes and as of present, to identify the various stakeholders active in the region of Darfur, and the thematic issues that needed further exploration through consultations in order to address the questions of the Chamber. Secondly, the review consisted of identification and collection of information on the case record and within an array of sources, including policy documents, literature, reports of NGOs and international organisations, among others. Thirdly, contextual analysis was conducted and further informed by consultations with the Court actors and other stakeholders active in the region to synthesise the political and security context, the social and cultural context, the institutions active in the region, and the humanitarian response and development situation. [REDACTED]. The outcome of the review enabled the identification of key themes to lead the consultation phase, including security and protection risks, impacts of the political context, perception of the ICC and other international actors, the environment in which the victims currently reside, and justice and accountability mechanisms in the region.

c. COORDINATION WITHIN THE COURT

20. Coordination with Court stakeholders constituted a key component of the methodology to prepare the present submissions. Throughout this phase, regular engagement was maintained with the various organs of the Court to facilitate information sharing, align with ongoing institutional processes and approaches, [REDACTED]. This coordination was also central to avoid the duplication of efforts in the preparation of the present submissions, and the TFV benefitted from the crucial and extensive insights of the CLRV and various sections of the Registry.

21. [REDACTED].

d. CONSULTATIONS WITH VICTIMS AND AFFECTED COMMUNITIES

22. [REDACTED].²³

23. [REDACTED].

24. [REDACTED].

25. [REDACTED].

²³ [REDACTED].

26. [REDACTED].

27. [REDACTED].

e. CONSULTATIONS WITH KEY INTERNATIONAL AND NATIONAL ACTORS:

28. Since February 2026, the TFCV has engaged in several rounds of consultations with more than fifteen entities including [REDACTED], in two phases, [REDACTED].

29. [REDACTED].

30. While the consultations were initiated in response to the Order of the Chamber on the opening of the judicial reparations phase, they continue as part of the planning for implementation of reparations that may be ordered by the Chamber in the present case.

31. The TFCV now turns to the questions of the Chamber in its Order.

V. NUMBER OF POTENTIALLY ELIGIBLE DIRECT OR INDIRECT VICTIMS

32. On the matter of the estimated number of potentially eligible direct and indirect victims,²⁴ the TFCV refers to the submissions of the Registry in its Mapping Report, as the body ordered by the Chamber to conduct a mapping exercise,²⁵ as well as to the subsequent submissions of the parties, the Registry and the *amici* on the matter.

VI. LEGAL ISSUES RELEVANT TO THE IDENTIFICATION OF ELIGIBLE VICTIMS

33. The TFCV is invited to make observations in respect of any factual or legal issues relevant to the identification of eligible victims. The TFCV addresses in this section the relevant legal issues and merges the factual issues relevant to the identification of eligible victims in the discussion of presumptions (Section IX) below.

34. In respect of the legal issues relevant to who qualifies as a victim,²⁶ the Reparations Principles²⁷ and rule 85 of the Rules define the categories of those who qualify as victims for the purposes of reparations: direct victims including children born of rape, and indirect victims falling within five categories, including children born after the commission of the crimes. The TFCV submits that these Principles have established who qualifies as a direct and indirect victim of the underlying crimes against humanity and war crimes, such as murder, pillaging, destroying the enemy's property, outrages upon personal dignity, rape, torture, cruel treatment and forcible

²⁴ Order, para. 6(a)(i).

²⁵ Registry Victim Mapping Report.

²⁶ Order, para. 6(a)(ii).

²⁷ *Lubanga* Amended Order for Reparations, para. 6; *Ntaganda* Reparations Order, paras 31 *et seq*; *Ongwen* Reparations Order, paras 97, 128, see also Annex A for a compilation of Reparations Orders and relates Appeals Chamber Judgments.

transfer of a population. The Registry Victim Mapping Report links numbers of direct and indirect victims to these crimes.

35. The TFV draws the Chamber's attention to a number of discrete issues relevant to the determination of victim status of 1) victims of the crime against humanity of persecution: the Fur community, the four communities of Kodoom, Bindisi, Mukjar, and Deleig, and the Zaghawa and Masalit; and 2) victims born after the commission of the crimes.

a. THE CRIME AGAINST HUMANITY OF PERSECUTION

i. THE FUR COMMUNITY

36. In this specific case, the Trial Chamber found that the Fur community of Darfur as a collective ethnic group was targeted as the enemy by the Government of Sudan ('GoS'), and categorised as one of the 'rebellious non-Arab tribes' under the GoS's 2003 'Emergency Plan'.²⁸ The Janjaweed, an irregular force created by the GoS from Arab tribes, attacked predominantly Fur locations with the explicit intent to 'wipe out and sweep away the Fur' and 'not to keep anyone alive,' an objective implemented through 'scorched earth' operations, accompanied by dehumanising rhetoric.²⁹ The Trial Chamber's findings demonstrate that the Fur community of Darfur suffered immense³⁰ harm, in particular because most of their leaders, umdahs and sheikhs, were systematically killed,³¹ creating a vacuum of leadership that severely undermined the community's ability to resolve disputes and maintain communal cohesion.³² This was a direct attack on the social fabric and the traditional way of organising Fur life, resulting in harm that affected not only the members of the community at the time of the commission of the crime but also 'the traditional way of organising Fur life and governance that will be felt for the generations to come'.³³ Beyond immediate violence, which fell disproportionately on the most vulnerable, women and children,³⁴ the campaign was designed to permanently sever the Fur community's ties to its ancestral lands (*hawakir*), collapse its farming economy, and dismantle the structures of identity and governance through which Fur collective life was organised. Consequently, the Registry and *amici curiae* have argued that the magnitude of this collective suffering warrants the recognition of the Fur community of Darfur, as a whole, as an eligible victim for reparations under the Court's framework.³⁵

²⁸ Trial Judgment, paras 2, 287; Sentencing Judgment, para. 2.

²⁹ *E.g.* Trial Judgment, paras 345, 352, 354.

³⁰ Sentencing Judgment, para. 132.

³¹ Sentencing Judgment, para. 129.

³² Sentencing Judgment, para. 129; Trial Judgment, para. 656.

³³ Sentencing Judgment, para. 129.

³⁴ Sentencing Judgment, paras 132 *et seq.*

³⁵ See GCC Amicus Observations, para. 20; Registry Observations on Reparations, paras 152-157.

37. The Trial Chamber's findings establish that the Fur community of Darfur suffered harm as a group. The question of whether the identifiable group or collectivity targeted by the crime of persecution under article 7(1)(h) qualifies as a victim for the purposes of reparations has not previously been addressed in the Court's jurisprudence. The TFV submits that the present case requires it to be addressed.

38. The TFV submits that there is a legal basis for recognising the Fur community of Darfur as an eligible victim for reparations. The crime of persecution is constituted by the targeting of an identifiable group on discriminatory grounds and the identifiable group under article 7(1)(h) may be regarded as the primary unit that has suffered harm due to the persecution. Consistency with the structure of the crime, and with the Reparations Principle that reparations should be adequate and proportional to the harm caused by the convicted conduct, requires that the group that is the object of the crime be recognised as a victim for the purposes of reparations. To recognise the group as the object of the crime while declining to recognise it as a victim for reparations would be inconsistent with both the logic of the crime and the purpose of the reparative framework.

39. The TFV nonetheless considers that rule 85 of the Rules, as currently framed, does not explicitly accommodate this category of victim. Rule 85(a) is addressed exclusively to natural persons. Rule 85(b), as developed through the Reparations Principles, defines eligible organisations and institutions as legal persons, a category that, while non-exhaustive, has been understood by reference to entities with a recognisable formal or quasi-formal structure. It may be possible to extend rule 85(b) to encompass identifiable ethnic groups that lack formal legal personality, and the *Al Mahdi* Reparations Order may be read as an actual step in that direction.³⁶ Whether rule 85(b) can be extended further to encompass an identifiable ethnic group targeted as a whole by the crime of persecution raises two questions the Chamber will need to address: first, whether such a group meets the threshold of an organisation or institution within the meaning of rule 85(b);³⁷ and second, whether the property-harm requirement of rule 85(b) adequately captures the nature of the harm done to a community targeted for persecution and elimination, or whether it subordinates the group-as-victim concept to a framework designed for a different purpose.

³⁶ *Al Mahdi* Reparations Order, paras 51-53; see Disposition at p. 60.

³⁷ According to Rule 85(b) 'victims may include organizations or institutions that have sustained direct harm to any property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes'. See also *Lubanga* Amended Order for Reparations, para. 8.

40. The TFV submits that an alternative way of categorising the group, or collectivity targeted as such under article 7(1)(h) of the Statute as a victim, would be through interpretation. Pursuant to articles 21(1)(a), 51(4) and (5) of the Statute, the Statute takes precedence over the Rules, and the Rules must be interpreted and applied consistently with the Statute. Where the Statute itself, through its Elements of Crimes, recognises a category of harm that the Rules do not explicitly address, the Rules cannot be read as exhaustively and conclusively excluding that category from the Court's reparative framework.

41. Element 2 of article 7(1)(h) of the Elements of Crimes identifies two distinct modes of targeting: the perpetrator may target 'persons by reason of the identity of a group or collectivity', or may target 'the group or collectivity *as such*'. These are not equivalent formulations. The first produces individual victims who are harmed because of their group membership; the group is the lens through which individuals are selected, but it is the individuals who are the bearers of the harm. The second makes the group or collectivity itself the direct object of the criminal conduct; the harm is done *to the group*, through whatever means the perpetrator employs against its members, its leaders, its institutions, and its structures. The Trial Chamber's findings, as set out above,³⁸ engage squarely with the second limb: the GoS Emergency Plan targeted the Fur community of Darfur *as such*, with the explicit objective of eliminating the community from its land and dismantling the structures through which Fur collective life was organised. Where the Statute, as interpreted through its Elements of Crimes, identifies the group as the direct object of the crime in this sense, the TFV submits that the same group qualifies as a victim in its own right for the purposes of reparations, not merely through the aggregated status of its individual members as they were constituted at the time of the crimes. The TFV submits that the Fur community of Darfur may be recognised as a victim: a continuing collective entity whose victimhood inheres in the group as such.

42. In the view of the TFV, the statutory foundation provides a sufficient basis for the Chamber to give effect to this category through a Reparations Principle to be articulated and applied in this case.

43. If the Chamber does not pursue either of these avenues, the harm suffered by the Fur community would need to be addressed, in a way similar to that in *Al Hassan*,³⁹ through the individual members of the group who were targeted by the crime of persecution and who together form a collective for the purposes of reparations: in this case, all members of the Fur

³⁸ See above section V(1)(a).

³⁹ In *Al Hassan*: 'members of the population of the city of Timbuktu', see *Al Hassan* Reparations Order, para. 61; based on 'civilian residents of, and non-residents present at, the IDP camps of Pajule, Odek, Lukodi, and Abok at the time of the attacks', *Ongwen* Reparations Order, para. 103.

community at the time the crimes were committed. As set out below in more detail, rule 98(3) of the Rules enables such an approach for the Chamber to select reparation modalities for collectives and groups consisting of the natural or legal persons with victim status pursuant to rule 85 of the Rules.⁴⁰ Unlike the situation in *Al Hassan*, where the relevant collective was defined by presence in Timbuktu during a specific period, the Fur community is not defined by temporal presence at a particular place but by membership of a continuing ethnic community that existed before the crimes, was targeted by them, and continues to exist today. Those born into the Fur community after the commission of the crimes are members of that same continuing community; their inclusion in the collective follows from the nature of the community as a living and continuing entity, not from an expansion of the victim class beyond those harmed by the crimes.

44. As a final point, the TFCV considers that the geographic scope of the victim class follows the definition of the targeted group, not the current or historic location of its members. Those members of the Fur community of Darfur who were targeted by the persecution and subsequently displaced, within Sudan or beyond, remain members of the targeted group for the purposes of reparations. Displacement being itself one of the harms inflicted, it cannot operate to exclude from recognition those whose absence from Darfur is a direct consequence of the crimes for which Abd-Al-Rahman was convicted.

45. In conclusion the TFCV submits that the Fur community constitutes the collectivity targeted by the crime of persecution and may be recognised as a victim for the specific harm arising from that crime, as discussed in the next section.

ii. THE FOUR COMMUNITIES OF KODOOM, BINDISI, MUKJAR, AND DELEIG

46. The four communities of Kodoom, Bindisi, Mukjar, and Deleig, and their surrounding areas, raise distinct questions regarding victim status. Their population at the time of the crimes consisted predominantly of Fur, alongside Masalit and Zaghawa members. A very small minority, if at all, were Arab residents. Most, if not all, members of the non-Arab communities have since been displaced. Their ancestral lands, including, in some instances, the *hawakir* central to Fur identity, have in certain areas been settled by others. No Fur, Zaghawa, or Masalit remains on the land from which they were expelled.

47. The question arising is therefore whether these four communities with their surrounding areas should be recognised as four different victims pursuant to rule 85(b) of the Rules, similar

⁴⁰ See below VIII; paras 78 *et seq.*

to the direction taken in *Al Mahdi*. However, the current situation appears different from *Al Mahdi*, where the community of Timbuktu continued to function *in situ* after the commission of the crimes. The four communities here no longer exist today as functioning communities in their original localities: they have been erased from the land that defined them and spread out to various locations. Whether the four communities nonetheless qualify as victims under rule 85(b) of the Rules, as entities that sustained direct harm to property within the enumerated categories, is an essential question to determine the scope of Reparations.

48. In addition, and independently of the Chamber's determination on victim status of the four communities under rule 85(b) of the Rules, the TFV submits that rule 98(3) of the Rules provides the appropriate vehicle for addressing the 'community of victims of the four case locations' as a collective for the purposes of reparations.⁴¹ In the view of the TFV, all those who were members of those communities at the time of the crimes, wherever they now are, and those born afterwards, constitute the relevant collective.

iii. THE ZAGHAWA AND MASALIT COMMUNITIES

49. A further question concerns the status of the Zaghawa and Masalit for purpose of reparations, both as members of the four localities and as groups targeted by the GoS's broader policy. The GoS Emergency Plan explicitly categorised all three groups as 'rebellious non-Arab tribes' and directed operations against them collectively. Witnesses confirmed that the GoS viewed the entire communities of all three groups (the Fur, the Zaghawa and the Masalit) as the enemy. Members of the Masalit and Zaghawa were present in the affected localities, subjected to detention and abuse alongside the Fur, and systematically excluded from state institutions on ethnic grounds. In displacement, all three communities have been reshaped by a shared experience of loss and dispossession. However, the evidentiary record concerning community-level destruction is strongest for the Fur community of Darfur.

50. The TFV stresses the importance of recognising also the harm suffered also by the Masalit and Zaghawa. Two positions are available. The first would recognise all Masalit and Zaghawa individuals present in the four communities at the time of the crimes as individual victims, on the same basis as Fur members, without a broader victim-status finding. The second would recognise, on the basis of the GoS' Emergency Plan, that all three groups share the status of targeted groups under article 7(1)(h), with corresponding reparative consequences. Regardless of the approach taken by the Chamber, the TFV emphasises that the shared character

⁴¹ See below para84.

of the displacement suffered by all three communities should be reflected in the design of collective reparations.

51. Underlying all of the above is a distinction the TFV considers material: victim status and the harm suffered as a result of the crimes are separate questions, to be addressed sequentially and not conflated. Recognition as a victim establishes eligibility for reparations but does not predetermine the nature, character, or scale of the harm to be redressed.⁴²

b. CHILDREN BORN AFTER THE COMMISSION OF THE CRIMES

52. The Reparations Principles have consistently treated those born after the commission of the crimes as indirect rather than direct victims. At a minimum, the TFV submits that children born after the crimes must be recognised as indirect victims in terms that go well beyond the existing transgenerational harm category.⁴³ The transgenerational harm framework as developed in *Ntaganda* and *Ongwen* was designed for individualised claims and requires proof of a direct victim parent, a parent-child relationship, a specific personal harm, and a causal link.⁴⁴ In the view of the TFV, this framework is inadequate to the present case. Those born after the crimes were committed were not born into a ‘normal’ situation merely affected by their parents’ trauma; they were born into a world already entirely shaped by the persecution, displacement, destruction of ancestral land, collapse of livelihoods and governance, and erasure of cultural identity.

53. The TFV submits that all those born into the affected communities, i.e. the Fur, Zaghawa and Masalit communities, but in particular also the community of victims of the four case locations, after the commission of the crimes qualify at minimum as indirect victims. As the *Ongwen* Reparations Order recognised, children of victims of unimaginable atrocities experience personal suffering regardless of when they were born. The TFV further notes that the reasoning of the *Al Hassan* Reparations Order, that timely reparations for the parent generation would naturally mitigate harm to subsequent generations, making a separate category unnecessary, cannot be transposed to the present case: twenty years have elapsed since the crimes without reparations being awarded, and the harm to those born afterwards has long since materialised and compounded.

VII. TYPES AND EXTENT OF THE HARM

54. The TFV is invited to make observations on the types and extent of the harm suffered by the victims identified in the Registry Victim Mapping Report. As noted by the TFV in these

⁴² See below, section VII.

⁴³ See below, 77.

⁴⁴ *Ongwen* Reparations Order, para. 206; *Ntaganda* Reparations Order, para. 182.

Observations as well as in its request for variation of time limit, types and extent of harm suffered by victims in this case have been addressed comprehensively in the Registry Victim Mapping Report and by the parties and participants, including through detailed categorisation of harm by type and victim group.⁴⁵ The following observations are confined to legal issues relevant to the harm suffered by the categories of victims referenced in the previous section, the Fur, Zaghawa and Masalit communities, the community of victims of the four case locations and the children born after the crimes were committed.

a. HARM SUFFERED BY INDIVIDUAL VICTIMS

55. For the crimes against humanity and war crimes committed against individuals, such as forced displacement, pillaging, destruction of property, rape, murder or attempted murder, torture, other inhumane acts, outrages upon personal dignity, cruel treatment and forcible transfer of the population, the categories of harm suffered by direct and indirect victims are well-established in the Court's jurisprudence and have been thoroughly documented in the submissions of the parties. Physical, moral including psychological and psychosocial, material, and economic forms of harm arising from these crimes are addressed in those submissions and the TFV supports the categorisations advanced therein.⁴⁶

56. The TFV notes that in the present case, given the scale of the crimes and the prolonged displacement that followed, the harm suffered by individual victims has in many instances

⁴⁵ See CLRV's observations on physical harm caused by the rape and SGBV in Bindisi and Kodoom, 'participating victims suffered extreme injuries to their genitalia', CLRV Submissions on Reparations, para 44; *See also* CLRV's observations on the harm suffered by victims of torture in Mukjar and Deleig 'Many of them still suffer long-term impacts from their torture and mistreatment, including serious mobility impairments, back injuries, hand injuries, persistent pain, injuries and scars' add para 45; *See also* Registry's Victim Mapping Report that details the harm caused by the crimes of murder and attempted murder: 'FGDs participants stressed that the killing of family or household members destabilised economic foundations, disrupted cultural practices, and imposed psychological trauma across generations', Registry Victim Mapping Report, 4 November 2025, ICC-02/05-01/20-1256-Conf, para.94. A public redacted version is available: [ICC-02/05-01/20-1256-Corr-Red.](#)

⁴⁶ Pursuant to Article 75 of the Rome Statute and the Reparations Principles, reparations may address various forms of harm, including physical, moral, economic, material, community, and transgenerational harm resulting from crimes within the jurisdiction of the Court (*Ntaganda* Reparations Order, para. 68 *et seq*; *Ongwen* Reparations Order, paras 167 *et seq*). Incorporating the *Ntaganda* principles on reparations, the Chamber noted in the case of *Ongwen* that physical harm encompasses physical and bodily injury, impairment of the body, pain, and illness, and that it is not limited to the infliction of physical or bodily injury but also extends to 'hurt, pain, or suffering otherwise not caused by a bodily injury' (*Ongwen* Reparations Order, paras 167 – 168; *Ntaganda* Addendum to the Reparations Order, para. 254). Moral harm is defined to include psychological harm, and to extend to psychological trauma (*Ongwen* Reparations Order, para. 168), mental pain and anguish, emotional distress (*Ongwen* Reparations Order, para. 168), and loss of life plan (*Ongwen* Reparations Order, para. 168; *Ntaganda* Reparations Order, paras 72 183(a)(ix), 183(b)(viii)). Instances of economic damage, such as loss of earnings, opportunity to work, reduced standard of living, and socio-economic opportunities, are considered as forms of material harm (*Ongwen* Reparations Order, para. 168). However, whereas material harm primarily refers to damage to tangible property – movable or immovable – economic harm encompasses disadvantages affecting a person's financial or livelihood situation (*See e.g. Al Mahdi* Reparations Order, para 83). Transgenerational harm has been defined in ICC case law as 'the phenomenon, whereby social violence is passed on from ascendants to descendants with traumatic consequences for the latter' (*Ntaganda* Reparations Order, para. 73). It is characterised by an intergenerational cycle of dysfunction which affects victims' children's emotional behaviour, attachment, and well-being (*Ntaganda* Reparations Order, para. 168).

compounded over twenty years: physical injuries have converted into chronic conditions in the absence of healthcare; economic loss has deepened into structural destitution; and moral and psychological harm has been sustained and aggravated, including by turning into physical harm, by conditions of ongoing instability. The harm suffered and the damage resulting therefrom are not historical; they are present and continuing.

b. HARM SUFFERED BY THE COMMUNITY OF VICTIMS OF THE FOUR CASE LOCATIONS

57. The TFV submits that those who were members of the four communities of Kodoom, Bindisi, Mukjar, and Deleig, and their surrounding areas, at the time of the crimes constitute a distinct victim group for the purposes of the harm assessment.⁴⁷ In the TFV's submission this group includes those born after the commission of the crimes.⁴⁸ The TFV refers to these victims as the 'community of victims of the four case locations'.

58. As set out above and by the parties and participants,⁴⁹ none of the Fur, Zaghawa, or Masalit members of those communities remain on their ancestral lands; the effect of the persecution across all four communities was identical: the entire non-Arab population was expelled from the ancestral land that had defined their communities.⁵⁰ The harm flowing from these acts of persecution must be assessed on such basis. The submissions of the Registry, the CLRV, and the amici curiae document its extent comprehensively,⁵¹ and the TFV supports those categorisations while drawing the Chamber's attention to a number of specific dimensions.

59. As regards community harm: The *Al Hassan* Reparations Order defines community harm as harm suffered by persons as members of a group, family and/or community, it includes the harm to the collective identity, structure and functioning of the community and may arise when a crime undermines the cohesion, security, cultural continuity and social structure of a group.⁵² Community harm is often structural, cultural, or social in nature and may seriously impair the group's ability to function.⁵³

⁴⁷ See *supra* sub-section VI.a.ii

⁴⁸ See *supra* sub-section VI.b.

⁴⁹ Registry Victim Mapping Report, [ICC-02/05-01/20-1256-Corr-Red](#), paras 50 – 54; *see also* CLRV Submissions on Reparations, para.246.

⁵⁰ Sentencing Decision, paras 329-331.

⁵¹ See Registry Observations on Reparations, paras 25, 124; CLRV Submissions on Reparations, para. 60; GCC Amicus Observations, para. 27; Redress *et al* Observations, para. 10.

⁵² *Al Hassan* Reparations Order, para. 72, citing *Al Hassan* TFV Submissions on Reparations, ICC-01/12-01/18-2737, para. 13.

⁵³ *Ibid.*

60. The conviction in this case underlines that the communities no longer exist as functioning entities in their original localities.⁵⁴ The cultural, linguistic, and identity ties that bound their members to those places, including the *hawakir* system through which land, identity, and customary governance were linked, have been severed.⁵⁵ The CLRV and *amici* have documented the erosion of collective identity and the loss of the traditional structures through which communal life was organised and transmitted.⁵⁶ The TFV considers this dimension of harm to be among the most severe and of structural, cultural and social impact, and, without targeted intervention, among the least reversible.

61. The social dimension of the community harm suffered is particularly visible in education. The destruction of schools deprived those who were children at the time of the crimes of access to formal education at a critical stage of their development. Two decades later, displacement has not remedied that deprivation: education remains constrained by insecurity, high fees, and the absence of qualified teachers.⁵⁷ The TFV considers that educational harm constitutes a discrete form of injury in this case, one that has permanently foreclosed the life prospects of an entire generation and cannot be adequately captured within economic or transgenerational harm alone.

62. The TFV submits that this harm be either recognised as a sub-category of community harm in this case or as a separate category of harm, given its long-term economic, cultural and societal impact on the four case locations; with the consequence of amending the relevant Reparations Principles. The TFV submits that this structural deprivation, created by the crimes and never remedied, became the condition in which children were raised and into which the next generation was born, as addressed below.⁵⁸

63. As regards economic and material harm: ancestral lands, livestock, farming livelihoods, and the economic structures through which these communities sustained themselves have been lost, in some areas permanently. The amicus submission describes the destruction of a functioning, if fragile, agrarian economy and its replacement by dependency on humanitarian aid in camp conditions.⁵⁹ The TFV submits that economic and material harm in this case is total in character: it is not the loss of specific assets but the destruction of the entire economic foundation on which these communities rested.

⁵⁴ See Trial Judgment, para. 653, 861; Sentencing Judgement paras 61, 126-127, 129, 135, 265, and 272.

⁵⁵ See Registry Observations on Reparations, para. 25

⁵⁶ See CLRV Observations on Reparations, para. 61; GCC Amicus Observations, paras 9, 18 ; Redress *et al* Observations on, para. 4.

⁵⁷ See Annex 4 on Local Compensation Benchmarks and Loss of Fur Language of Redress *et al* Observations; GCC Amicus Observations, para, 21.

⁵⁸ See below section VII(F).

⁵⁹ GCC Amicus Observations, para. 4; Redress *et al* Observations, fn. 31

64. The TFV respectfully brings to the attention of the Chamber that the demographic erasure of these localities may itself be a dimension of harm warranting specific recognition.

65. As regards moral harm, the communities of the four localities suffer moral and psychological harm not only as individuals but also as a collective whose social fabric has been profoundly damaged. The loss of a significant part of the male population through killing, detention, and displacement disrupted communal bonds and social roles, leaving women to carry increased burdens of care, economic survival, and community cohesion. The lasting impact of rape and sexual violence, combined with the absence of psychosocial support, has generated stigma, tension, and social fragmentation.⁶⁰ The TFV submits that camp conditions have not constituted recovery from this harm but have continued to aggravate it: the collective moral and psychosocial harm suffered by the community of victims of the four case locations is not a historical condition but a present and continuing one, and must be assessed and addressed as such.

66. As regards physical harm: the destruction of hospitals and healthcare infrastructure during the attacks removed the collective basis for physical care from the community of victims of the four case locations. Twenty years later, that infrastructure has not been restored: the communities of Kodoom, Bindisi, Mukjar, and Deleig, now living in displacement, lack access to basic medical care, including for chronic conditions arising from the original injuries, for maternal and pregnancy care, and for the specific physical consequences of the sexual violence committed during the crimes. The TFV submits that physical harm in this case is a collective condition of deprivation that the community, as a whole, continues to suffer as a direct consequence of the convicted crimes.

c. HARM SUFFERED BY THE FUR COMMUNITY OF DARFUR

67. The TFV submits that, based on the Trial and Sentencing Judgments, the Fur community of Darfur suffered harm as a collective entity, whether recognised as a victim or as a collective of its members. Unlike the harm suffered by the community of victims of the four case locations, which is anchored in the specific localities where the crimes were committed, the harm suffered by the Fur community extends beyond geography. It arises from the systematic targeting of Fur leadership, the destruction of institutions through which Fur collective life was organised, and the assault on the cultural and identity foundations of the community. The TFV

⁶⁰ GCC Amicus Observations, para. 15; Redress *et al* Observations, para. 10; [REDACTED], with Global Legal Action Network Observations, para. 27; Registry Observations on Reparations, para. 139; CLRV Submissions on Reparations, para. 245.

supports the submissions of parties and participants regarding this collective dimension and seeks to clarify the two principal components of harm arising from the convicted crimes.

68. As regards moral harm to the group: the dehumanising rhetoric that accompanied the attacks, the explicit characterisation of the Fur as enemies to be wiped out and the humiliation of community members in the course of the crimes, constituted an assault on the collective dignity of the Fur community as such. The TFV submits that this collective humiliation, and the enduring collective grief of a community that has lost its leaders, its land, and the foundations of its way of life, constitutes moral harm at the group level that is not reducible to the sum of individual psychological injuries.

69. As regards community harm: the crimes were committed in four specific localities, but their impact on the Fur community, as a whole, extended far beyond those places. What distinguishes Fur community harm from the harm suffered by the communities of the four case locations is its radiating character: the systematic killing of umdahs and sheikhs, the custodians of customary law, land tenure, dispute resolution, and collective memory, severed the living chain of transmission through which Fur identity and knowledge were reproduced across the entire community, not only in the localities directly affected. Knowledge lost in those localities was knowledge lost to the Fur as a people. The *hawakir* system through which Fur ancestral rights were held, transmitted, and recognised operated as a community-wide framework; its weakening in the affected areas undermined the foundations of that system for the Fur community as a whole. The broader governance and social structures of the Fur community of Darfur were heavily affected by the removal of these leaders and by the fear, displacement, and fragmentation the crimes generated well beyond the immediate localities.

70. The harm is accordingly best understood through five interconnected dimensions: the destruction of traditional leadership structures; the erosion of customary governance and dispute resolution capacity; the weakening of the *hawakir* land tenure system across the community; the erosion of collective memory; and the disruption of cultural transmission, including language, customary law, and the knowledge that was conveyed not primarily through formal schooling but through the community leaders whose systematic removal interrupted that process. The TFV submits that the harm suffered by the Fur community of Darfur must be assessed not only in terms of what was destroyed in 2003–2004, but in terms of what risks being permanently and irreversibly lost: the continuity of Fur language, culture, customary governance, and collective memory. That is the harm the reparations framework must be designed to address.

d. HARM SUFFERED BY THE MASALIT AND ZAGHAWA

71. The TFV highlights the moral harm in respect of these communities to the dimension most clearly supported by the Trial Chamber's findings: the shared experience of targeted discrimination, dehumanisation, and collective humiliation directed at all three groups as non-Arab communities categorised collectively as the enemy, constitutes moral harm suffered by the Zaghawa and Masalit in their own right, independently of the harm established in respect of the specific localities charged. The TFV considers the Chamber might recognise, in the exercise of its own assessment, whether its findings, in particular those concerning the GoS Emergency Plan and its collective targeting of all three groups, as well as the specific crimes committed against members of these two groups at the four case locations, support recognition of any potential further categories of harm in respect of the Zaghawa and Masalit as groups.

e. HARM SUFFERED BY THE CHILDREN BORN AFTER THE COMMISSION OF THE CRIMES

72. As submitted above, children born into the affected communities after the commission of the crimes qualify, insofar as they are not considered, as submitted by the TFV, part of the Fur, Zaghawa or Masalit communities or of the community of victims of the four case locations, at a minimum as indirect victims. For the purposes of harm, the TFV submits that five categories of harm are relevant to this group and addresses each in turn.

73. As regards community harm: children born after the crimes were born into communities that had already been shattered. They did not inherit an intact community diminished by harm; they inherited the harm itself, as the condition of their existence. The TFV submits that community harm accordingly extends to this generation not derivatively but directly: the collapse of communal identity, structure, and functioning that defines the harm suffered by the group as such is the world into which these children were born, and its effects on their formation, identity, and sense of belonging are no less real for having preceded their birth.

74. As regards educational harm: for the children born after the crimes the structural deprivation established by the crimes was the condition of their existence from birth. The TFV submits that educational harm for this generation is therefore not derivative of what was taken from their parents but an independent structural harm, as set out above in the context of the educational harm suffered by the community of victims of the four case locations, and must be recognised and addressed as such.

75. As regards physical harm: children born into displacement have grown up without access to adequate healthcare, in conditions of chronic insecurity and material deprivation that

have directly affected their physical development and wellbeing. The collapse of healthcare infrastructure established by the crimes has not been remedied in twenty years, and its effects on children born into that void, in terms of untreated conditions, malnutrition, and the physical consequences of poverty, are causally connected to the convicted crimes in the same way as the continuing physical harm suffered by those present at the time.

76. As regards psychological harm: children born into communities marked by collective trauma, loss, and displacement carry the psychological consequences of that environment as part of their own development. Growing up in conditions of chronic instability, grief, and social disintegration, and, in many cases, in the absence of fathers killed or permanently disabled by the crimes, has produced psychological harm that is personal to them, distinct from though related to the transgenerational harm addressed below.

77. As regards transgenerational harm: the TFV submits that transgenerational harm should be recognised as a distinct and separate category of harm for children born after the crimes, in addition to the categories addressed above. As recognised in *Ntaganda* and *Ongwen*, this harm is characterised by the intergenerational transmission of trauma from direct victims to their children, through both social and epigenetic mechanisms, with documented consequences for emotional development, attachment, and wellbeing.

VIII. TYPES AND MODALITIES OF REPARATIONS

78. The TFV hereby presents its observations on the types and modalities of reparations ‘appropriate to address the harm suffered by the victims of the crimes of which Abd-al-Rahman was convicted’.⁶¹

a. TYPES OF REPARATIONS

79. The TFV recalls that the type of reparations award, *i.e.* an individual or collective award pursuant to respectively rule 98(1) and (2) or rule 98(3) and (4) of the Rules, is an essential element of an order for reparations under Article 75 of the Statute.⁶² Given the mass scale of victimisation, the number of potentially eligible victims, and the collective character of the harm, the TFV submits that collective reparations, *i.e.* reparations ordered through the TFV pursuant to rule 98(3) of the Rules, are the type best suited to this case.⁶³

⁶¹ Order, para. 6(a)(vi).

⁶² *Ntaganda* Reparations Order, para. 23; *Lubanga* Judgment on Principles, ICC-01/04-01/06-3129, para. 32; *Katanga* Reparations Order, para. 31; *Al Mahdi* Reparations Order, para. 38; *Ongwen* Reparations Order, para. 89(iv).

⁶³ According to Rule 98(3) of the Rules, factors relevant to determining whether a collective award is more appropriate include ‘the number of victims and the scope, forms and modalities of reparations’; in *Ongwen*, the Chamber cited the ‘overwhelming number of eligible victims’ as the primary reason why collective community-

80. The TFV notes that it is not aware of an intergovernmental or national organisation that would be able or willing to carry out the reparations programme as provided for in rule 98(4) of the Rules and has accordingly not entered in any consultations to that effect.

81. Rule 98(3) of the Rules is a provision of considerable flexibility, and the Court's jurisprudence has applied it as such. It provides that an award for reparations may be made through the TFV where the number of victims and the scope, forms, and modalities of reparations make a collective award more appropriate, without prescribing the form that such an award must take or the collectives it may address. In practice, Chambers have used this provision to direct collective reparations at a wide range of collectivities: at all individuals making up a defined community of victims, as in *Al Hassan*, where the relevant collective comprised all persons present in Timbuktu during the period of the crimes;⁶⁴ at all the eligible victims as a collective as in *Ongwen*;⁶⁵ at thematic groups defined by the crime they suffered, such as all victims of sexual and gender-based violence or all former child soldiers, as in *Ntaganda*;⁶⁶ and at communities such as the community of Timbuktu, the international community or the population of Mali, as in *Al Mahdi*.⁶⁷ The provision accordingly confers significant latitude on the Chamber, and, in the implementation phase, on the TFV to identify the relevant collectives and to design measures appropriate to each. The individuals or legal persons within those collectives remain the victims for the purposes of rule 85 of the Rules; on its side rule 98(3) of the Rules provides a flexible vehicle for reaching them collectively, without requiring each to be individually identified and verified in advance of the award.⁶⁸ Rule 98(3) of the Rules addresses the form and beneficiary design of the collective award;⁶⁹ it is analytically distinct from rule 85 of the Rules, which addresses the threshold question of victim status.

82. This distinction is significant in the present case. As submitted above, the TFV has argued for the recognition of the Fur, Zaghawa and Masalit communities of Darfur as victims in their own right,⁷⁰ a question that engages rule 85 of the Rules and the Statute directly. The modalities proposed below, however, do not depend exclusively on that recognition: even

based reparations are appropriate and necessary in this case (*Ongwen* Reparations Order, para. 577); in *Al Hassan*, the Chamber found that *inter alia* the number of eligible victims in this case militate in favour of a collective community-based reparations award (*Al Hassan* Reparations Order, para. 185).

⁶⁴ *Al Hassan* Reparations Order, para. 61.

⁶⁵ *Ongwen* Reparations Order, para. 575.

⁶⁶ See *Ntaganda* Reparations Order, paras 189-190, where the Chamber alludes to these groups within the context of a collective reparations award.

⁶⁷ *Al Mahdi* Reparations Order, paras 67, 83, 90, 106-107.

⁶⁸ See *Ntaganda* Reparations Order, para 105, where the Chamber finds it appropriate to establish the eligibility criteria for reparations rather than identifying the victims eligible itself.

⁶⁹ See *Ntaganda* Reparations Order, para. 80.

⁷⁰ See above section VII(C).

absent a rule 85 of the Rules finding as to the Fur community as such, rule 98(3) of the Rules provides the Chamber with the authority to direct collective reparations at the Fur as a defined collective of victims, at the community of victims of the four case locations as a whole, at those who suffered specific crimes such as rape or torture, and at other relevant groupings, without those groupings themselves constituting legal victims in the formal sense. The TFV submits that this flexibility is essential to designing a reparations programme capable of addressing the full range of harm established above.

83. The TFV notes that the Court's jurisprudence has drawn a distinction between collective community-based reparations and collective reparations with individualised components.⁷¹ The TFV considers that this distinction describes a spectrum rather than two discrete categories: reparations directed at a collectivity, which will in practice always reach individuals within that collective in differentiated ways, whether through access to specific services, targeted measures for defined sub-groups, or individual recognition. The TFV accordingly does not find it necessary or helpful to characterise the reparations proposed in this case as falling on one side or the other of that distinction. What matters is identifying the collectives at which the award is directed and acknowledging that individuals within each collective will benefit in different ways and to different degrees according to their specific needs and circumstances.

84. In the present case, the TFV submits that collective reparations ordered under rule 98(3) of the Rules should be directed at three collectives. The primary collective is the community of victims of the four case locations – Kodoom, Bindisi, Mukjar, and Deleig, and their surrounding areas – including those born after the commission of the crimes. The second collective is, insofar as the Chamber adopts the above submission, the victim – the Fur community of Darfur – addressed through the symbolic and satisfaction measures proposed below, with the addition of the Masalit and Zaghawa communities, if recognised by the Chamber as victims in their own right. The third consists of victims who suffered specific individual crimes, such as crimes against humanity and war crimes of rape and sexual violence, torture and mistreatment, and related acts. These victims would be grouped, for the purposes of the individualised rehabilitation component, as one or more defined collectives. Reparations are directed at these collectives as such; individuals within each may benefit from the measures ordered in different ways and to different degrees, in particular in the context of rehabilitation where specific needs will vary.

⁷¹ *Ntaganda* Reparations Order, para. 81.

b. MODALITIES OF REPARATIONS

85. As set out and defined in the Reparations Principles, modalities of reparations include restitution,⁷² compensation,⁷³ rehabilitation,⁷⁴ satisfaction,⁷⁵ and guarantees of non-repetition.⁷⁶ Victims consulted in this case have requested an array of measures across each of these modalities, reflecting the multifaceted character of the harm established above. Based thereon, the TFV sets out in this section a proposal for how to structure and sequence adequate⁷⁷ reparations within reparations modalities applicable to this specific case.

c. CORE PRIORITY: RETURN TO THE ANCESTRAL LAND AND COMMUNITY RECONSTITUTION AS THE PRINCIPAL REPARATIVE OBJECTIVE

86. The core priority expressed by victims throughout consultations in the present case is return to their ancestral land and the reconstitution of community life, as also indicated in the observations of the Registry, CLRV and amici.⁷⁸ The TFV notes that during consultations this core priority was viewed by victims as a long-term objective, central to meaningful and durable redress, not just one priority among others.⁷⁹

⁷² Restitution is defined as restoring victims to their original situation or former condition before the commission of the crimes: *Ntaganda* Reparations Order, para. 83.

⁷³ A form of economic relief that is aimed at addressing, in a proportionate and appropriate manner, the harm that has been inflicted: Defence Submissions on Reparations, 22 May 2026; *Ntaganda* Reparations Order, para. 84. Compensation aims to provide economic relief as payment for damages suffered, and is defined as a substitute remedy provided as a means of redress when there is no way to undo the effects of the violation through other measures, recognising that compensation by itself cannot restore or replace rights that have been violated.

⁷⁴ Rehabilitation is defined as including not only medical and psychological rehabilitation measures but also measures ‘aimed at improving the socio-economic conditions of victims, seeking to enable the maximum possible self-sufficiency and to restore, as much as possible, victims’ independence and vocational ability, facilitating their inclusion and participation in society’: *Ongwen* Reparations Order, para. 78.

⁷⁵ Satisfaction measures have been defined as those that acknowledge the violation and aim to safeguard the dignity and reputation of the victim. They may also be appropriate to repair non-pecuniary harms, and include a wide array of measures *Ntaganda* Reparations Order, para. 88). Similarly to convictions and sentences, reparations orders themselves are also ‘likely to have significance for the victims, their families and communities’ (*Ntaganda* Reparations Order, para. 88; referring to *Lubanga* Reparations Decision, para. 237. See also *Katanga* Reparations Order, para. 15; and *Lubanga* Amended Reparations Order, para. 43). In addition, the publication of reparations orders, which contain an assessment of the types of harms and of the measures to address them, may also serve to raise awareness about the extent of the damage caused and result in a recognition thereof.

⁷⁶ Measures that acknowledge the violation and aim to safeguard the dignity and reputation of the victim, repairing in the first-place non-pecuniary harms: *Ntaganda* Reparations Order, para. 88.

⁷⁷ See *Ntaganda* Reparations Order, paras 90-91 (Principle on proportional, prompt, and adequate reparations); based on *Lubanga* Amended Reparations Order, paras 44, 46-48; see also *Ongwen* Reparations Order, para. 57(iii) lit. b; in *Ongwen*, the Chamber noted the TFV’s submission according to which ‘the principle should be tailored to the specific case of *Ongwen* to channel appropriately the expectations of victims’ (*Ongwen* Reparations Order, para. 71 Fn. 287, referring to *Ongwen* Trust Fund for Victims’ Observations relevant to Reparations, 6 December 2021, [ICC-02/04-01/15-1920](#), para. 33); additionally, the Chamber observes that it is stressed within this principle that ‘reparations should aim at reconciling victims with their families and affected communities’ and should enable victims, their families, and their communities to benefit from measures over an extended period of time, which partially should be encompassed by the do no harm principle (*Ongwen* Reparations Order, para 63(ii)).

⁷⁸ Registry Observations on Reparations, para 22; CLRV Submissions on Reparations, para. 131 *et seq* and paras 227 *et seq*; GCC Amicus Observations, para. 31; Redress *et al* Observations, fn. 38.

⁷⁹ Registry Observations on Reparations, para. 22; GCC Amicus Observations, para 31.

87. Land tenure in Darfur operated through a pluralistic system combining statutory and customary frameworks, within which customary tenure (Hawakir) has played a central role.⁸⁰ Sheikhs, umdahs, and elders preserved knowledge of boundaries, lineage-based entitlements, and accepted land-use practices, effectively functioning as a living repository of community affiliation and land rights, and constituting the principal mechanism through which Darfuris could establish, maintain, and enforce their customary rights of access.⁸¹

88. The TFV submits that although displacement and forcible transfer were only convicted with respect to the Kodoom and Bindisi operation, all the crimes at issue are inherently linked to, and experienced by the victims as, part of a single effort to remove and displace them from their ancestral land. The Chamber recognised displacement as a direct consequence, a harm, flowing from all three operations that form the underlying acts of the crime of persecution.⁸² The Chamber found that victims ‘have lost everything as a consequence of the crimes of which Abd-Al-Rahman has been convicted: their belongings; their livelihoods; and their homes’,⁸³ that the destruction of homes and livelihoods ‘severed their ties to the land’,⁸⁴ and that all of this damage was ‘inherent in the violent nature of the crimes committed in the three operations’ and ‘objectively foreseeable by Abd-Al-Rahman’.⁸⁵

89. The Court’s jurisprudence does not require that the convicted person’s crimes be the sole cause of the harm; it suffices that the crimes were its proximate cause, assessed by reference to the foreseeability of the resulting harm.⁸⁶ The TFV submits that this standard is met in this case. Mr Abd-Al-Rahman’s participation in the forced displacement substantially contributed to the victims’ inability to remain on their ancestral land, while the crimes committed in Mukjar and Deleig – directed against the already-displaced population and resulting in the execution of the very sheikhs and umdahs who constituted the principal repository of customary land rights⁸⁷ – substantially contributed to their inability to protect or reclaim it. The killing of traditional leaders was therefore not only a crime against individuals: it was an assault on the institutional foundation through which the community’s connection to its land was maintained, transmitted, and enforced, making return not only physically but institutionally impossible.

⁸⁰ Registry Observations on Reparations, para. 28.

⁸¹ *Ibid.*

⁸² Sentencing Judgment, para. 127, finding: “another harm that has had a long-term impact on the victims is the displacement caused by the three operations. Many victims have not been able to return to their village and have lived for many years in refugee and IDP camps under very harsh conditions. Moreover, this displacement has increased the vulnerability of these victims to further harm”. [footnotes omitted].

⁸³ Sentencing Judgment, ICC-02/05-01/20-1281-Red, para. 126.

⁸⁴ Trial Judgment, ICC-02/05-01/20-1240, para. 653.

⁸⁵ Sentencing Judgment, ICC-02/05-01/20-1281-Red, para. 136.

⁸⁶ *Lubanga* Reparations Order, paras 249-250; *Lubanga* Amended Order for Reparations, paras 59; *Ntaganda* Reparations Order, paras 131 – 133; *see also Al Mahdi* Reparations Order, ICC-01/12-01/15-236, para. 44.

⁸⁷ Trial Judgment, paras 539, 656; Registry Observations on Reparations, para. 25.

90. On the basis of these considerations, the TFV submits that a causal nexus between the crimes for which Mr Abd-Al-Rahman was convicted and the loss of ancestral land is established. Displacement was a direct and foreseeable consequence of the crimes for which Mr Abd-Al-Rahman was convicted, as the Trial Chamber itself recognised. It is this causal link that makes return and community reconstitution not merely the subjective priority of victims but the reparative response most directly connected to Mr Abd-Al-Rahman's liability across all three operations. Throughout consultations, the entry point to every discussion of reparations has been the question of return, reflecting the community's understanding that displacement is the harm from which, in their view, all other harms flow.

i. THE REPARATIVE PURPOSE OF RETURN AND COMMUNITY RECONSTITUTION

91. Return of victims to their land is the central and primary claim of victims. Return would not remedy all the harm caused; however, it would reconstitute the conditions necessary to rebuild what the crimes destroyed and re-establish or restore the Fur way of life and the communities across the four case locations.

92. Community harm, the destruction of collective identity, governance, and social structure, cannot be fully addressed while the community remains scattered in displacement and severed from the land and institutions through which its collective life was organised.⁸⁸ Moral harm, the collective humiliation, grief, and loss of dignity inflicted upon the Fur, Masalit, and Zaghawa, cannot be fully addressed without a form of restoration that acknowledges what was taken. Economic harm, the destruction of the *hawakir* system, the collapse of agricultural livelihoods, and the permanent dispossession from the land that formed the basis of collective economic existence,⁸⁹ is inseparable from the question of land and return. Educational and transgenerational harm, the foreclosure of an entire generation's development and the severing of the knowledge transmission chain through which Fur identity and culture were reproduced, cannot be fully addressed without restoring the community structures and governance through which that transmission occurred.⁹⁰ Return, and the reconstitution of community life that would follow it, is accordingly not one modality among others: it is the framework within which the full reparative purpose of the order would ultimately be realised.

⁸⁸ Registry Observations on Reparations, paras 29-30.

⁸⁹ Registry Observations on Reparations, para. 27.

⁹⁰ CLRV Submissions on Reparations, para 233.

ii. RESTITUTION

93. The first modality engaged by the victims' core priority is restitution, directed at the restoration of an individual's life, restoring the victim to the original situation, whenever possible, including a return to one's family, home, previous employment, providing continuing education, or the returning of lost or stolen property.⁹¹ In the case at hand, this means restoration of the community of victims of the four case locations to the original situation, including return to land, home, and livelihood. The TFV submits that *restitutio in integrum* cannot be achieved by order of this Court: the convicted person does not possess the land, and even if restitution was within the Court's power, the sustained nature of the displacement and the transformation of the affected localities over more than twenty years make full restoration of the original situation impossible. The TFV, the stakeholders consulted, and most importantly the victim population are aware of the numerous factors and conditions required for any return to the ancestral land to be possible for the affected communities. Likewise, victims have expressed the understanding that the ICC does not have the authority or enforcement mechanisms to order the restitution of land.⁹² This does not diminish the centrality of return as a reparative objective; it means that the modalities capable of advancing that objective must be found in the other modalities addressed below.

iii. MODALITIES ASSOCIATED WITH RETURN AND COMMUNITY RECONSTRUCTION

94. The TFV submits that the Reparations Order should recognise return and community reconstitution as the principal reparative objective for the community of victims of the four case locations and establish the convicted person's liability for the measures associated with it.⁹³

iv. COMMUNITY RECONSTRUCTION

95. The TFV notes that, given the current conditions in Darfur, measures addressing basic enabling infrastructure will in many cases be a prerequisite for victims to access any reparations ordered. Those measures may include: the reconstruction of community infrastructure destroyed by the crimes, such as schools, health centres, mosques, markets, and water systems; the restoration of and support to traditional governance structures – the shartays, umdahs, and sheikhs – whose systematic elimination constituted one of the gravest dimensions of the community harm established above; livelihood restoration and agricultural rehabilitation, for which victims have consistently expressed strong support; environmental remediation of land

⁹¹ *Ntaganda* Reparations Order, para. 83.

⁹² See e.g. CLRV Submissions on Reparations, para. 229; Registry Observations on Reparations, para. 31.

⁹³ See also Registry Observations on Reparations, para. 23.

degraded during the period of displacement; housing and reintegration support for returning families; and memorialisation at original sites in recognition of the community leaders murdered there, noting that the term ‘memorialisation’, as the consultations have shown, is not currently one supported by the victims themselves and that the specific form of any such measure must be determined through consultation with the communities.⁹⁴

96. The specific content, sequencing, and design of all measures in this category cannot be determined now and should be developed through the implementation planning process, in consultation with the communities of victims, as and when the conditions for return develop.

v. COMMUNITY REHABILITATION

97. While return remains the principal reparative objective, it is not presently feasible, is not within the control of the Court or the TFV, and its timing cannot be predicted, the TFV submits that rehabilitation measures addressing the persisting⁹⁵ harm suffered by the community of victims of the four case locations should begin before return becomes possible. The rehabilitation needs of the community cannot be understated: the multifaceted harm, as also reflected in the case record,⁹⁶ would require large-scale and holistic rehabilitation to address adequately. These measures are not a substitute for return and should not be designed or understood as such. They are reparations in their own right, addressing real and continuing harm; they begin now in whatever form current conditions permit and are intended to expand progressively as access and security improve, with the aim of delivering holistic rehabilitation over the longer term.

98. In designing and implementing all rehabilitation measures in this case, the *do no harm* principle requires in particular that measures preserve the possibility of return and avoid creating the perception that displacement has become permanent.

99. In the context of victims living in camps with no current opportunity to return, rehabilitation measures should be designed so as to preserve the possibility of return and avoid creating the perception that displacement has become permanent. Victims have consistently rejected extensive reconstruction or permanent infrastructure in the camp locations in which they currently reside, describing such measures as a form of re-victimisation that would entrench the very displacement the crimes caused.⁹⁷ In the submission of the TFV, this principle must inform every design choice in the rehabilitation component.

⁹⁴ *Ibid.*, para. 30.

⁹⁵ See Registry Observations on Reparations, para. 102.

⁹⁶ See Registry Observations on Reparations, paras 73-74, 88-90, 109-110; CLR V Submissions on Reparations, para. 40 *et seq.*

⁹⁷ CLR V Submissions on Reparations, paras 131-133, 228.

100. The conditions in which the communities of victims reside in IDP and refugee camps are dire, with the absence of functional basic amenities.⁹⁸ Subject to the principle stated above, and considering the current circumstances of limited physical access, the very limited number of actors on the ground, rehabilitation that could be implemented in the near future will likely be limited. Given these circumstances, any rehabilitation will require substantial preparatory work before direct reparative measures can be delivered. The TFV considers, however, that as access and security conditions improve the measures that can be implemented will expand. Accordingly, the measures identified below should be understood as the initial phase of a longer-term rehabilitation effort rather than as its ceiling.

101. The TFV nonetheless submits that rehabilitation measures addressing the following dimensions of harm may be developed and implemented in the communities where victims are currently present in significant numbers:

- a. physical harm arising from the collapse of healthcare access: while some limited facilities remain, there is a lack of maternity services, emergency and surgical services.⁹⁹ Victims report chronic illnesses and disabilities resulting from the violence and displacement they experienced. The physical harm remains ongoing, yet victims continue to lack access to the medical support services necessary to address their needs;¹⁰⁰
- b. psychological and psychosocial harm: the TFV notes in this regard that, based on Annex 5 of CLRV's observations, 90% of participating victims and, based on a sample, 99.4% of female participating victims report suffering from psychological or emotional harm,¹⁰¹ a scale that necessitates a community-based rather than solely an individualised approach; the TFV also notes that the continued insecurity is an enabling factor for re-traumatisation;¹⁰²
- c. strongly underlined by the victims,¹⁰³ educational harm and its transgenerational consequences arising from the destruction of schools and the collapse of knowledge transmission: although some basic infrastructure exists to provide schooling at

⁹⁸ See CLRV Submissions on Reparations, Annex 6.

⁹⁹ See CLRV Submissions on Reparations, para 200.

¹⁰⁰ [REDACTED], with Global Legal Action Network Observations, para. 29.

¹⁰¹ Annex 5 of CLRV Submissions on Reparations With Public Annexes 1, 2 (A and B), 4, 5, 6 (A to G), 7, ICC-02/05-01/20-1344. A public redacted version is available: [ICC-02/05-01/20-1344-Red](#).

¹⁰² [REDACTED], with Global Legal Action Network Observations, para. 30.

¹⁰³ *Ibid.*, para. 71.

certain camp locations, victims report lack of staffing, voluntary teaching, absence of materials, and difficulties to pay school fees;¹⁰⁴

- d. socioeconomic harm arising from the destruction of livelihoods and prolonged displacement.

102. These are the categories of harm to be addressed; the specific modalities within each category, and their sequencing and design, should be developed with the communities of victims through the participatory process, in line with the principle stated above and with the realities of what is operationally possible as reflected in the DIP and the amendments thereto that would reflect any improvement of conditions of access and security.

103. The TFV notes that some measures put in place for the benefit of the community of victims of the four case locations, including those born afterwards, will, in practice, carry positive effects for others living alongside them in the camp settings, i.e. for other displaced populations sharing the same limited amenities. This is an inevitable and, in the circumstances, appropriate feature of reparations implementation in Darfur. Confining benefits strictly to an identifiable victim population would expose those persons to risk and invite obstruction by hostile local actors, including armed groups that have consistently impeded activities perceived as targeting only a specific group of beneficiaries. It would also risk generating tensions within the communities themselves, between those identified as eligible and those excluded, in conditions where the line between victim and non-victim is not always visible to those living side by side. The TFV submits that this does not dilute the reparative character of the measures: they are designed for, and directed at, the community of victims; the fact that others may incidentally benefit from their implementation is a consequence of the context, not a departure from the purpose. As conditions evolve and access improves, measures can be designed and targeted with increasing precision toward the community of victims of the four case locations, for whom they are intended.

vi. SYMBOLIC AND SATISFACTION MEASURES

104. The TFV proposes symbolic and satisfaction measures addressed to the Fur, Masalit, and Zaghawa communities and to the community of victims of the four case locations. Satisfaction measures have been defined as those that acknowledge the violation and aim to safeguard the dignity and reputation of the victim. They may also be appropriate to repair non-pecuniary harms, and include a wide array of measures.¹⁰⁵ Similarly to convictions and sentences, reparations orders themselves are also ‘likely to have significance for the victims,

¹⁰⁴ See also *ibid.*, para. 79.

¹⁰⁵ *Ntaganda* Reparations Order, para. 88.

their families and communities’.¹⁰⁶ In addition, the publication of reparations orders, which contain an assessment of the types of harms and of the measures to address them, may also serve to raise awareness about the extent of the damage caused and result in a recognition thereof.¹⁰⁷ All of the measures proposed in this section are satisfaction and symbolic measures; they differ in form but share the same reparative purpose of acknowledging what was done, to whom, and by whom.

105. *Judicial recognition:* The TFV submits that the Chamber should issue declaratory findings on the following matters. While the Trial and Sentencing Judgments have already addressed these matters in the context of the determination of criminal liability, their inclusion in a Reparations Order, as specific satisfaction measures directed at the victims, gives them a distinct and additional character: they constitute the Court’s formal acknowledgement, in the context of redress, of what was inflicted on the affected communities and what they are owed.¹⁰⁸ First, recognition that the Fur, Masalit, and Zaghawa were targeted on the basis of their ethnicity, consistent with the Chamber’s findings including the explicit instruction to deliver land with ‘not a single Fur on it’,¹⁰⁹ a declaratory measure addressing the moral harm of those communities as such. Second, recognition of the displacement of the community of victims of the four case locations as a harm directly caused by the convicted crimes, and of their right to return to their ancestral land,¹¹⁰ a measure of high symbolic value to victims and a potential instrument of advocacy in any future process addressing their situation.

106. *Preservation of memory, identity, and knowledge about the land:* victims throughout consultations stressed the importance of preserving this knowledge before it is irreversibly lost with the passing of the generation that holds it. As a further satisfaction measure, the TFV proposes that the reparations programme include measures, to be developed in consultation with victims, directed at the collection and preservation of oral histories, cultural traditions, and historical records of the Fur, Masalit, and Zaghawa communities; the documentation of customary land tenure systems, including the *hawakir* boundaries, lineage-based entitlements, and traditional governance records held by surviving umdahs, sheikhs, and elders; the mapping of ancestral lands and community boundaries; and the creation of accessible repositories, digital

¹⁰⁶ *Ntaganda* Reparations Order, para. 88; referring to *Lubanga* Reparations Decision, para. 237. See also *Katanga* Reparations Order, para. 15; and *Lubanga* Amended Reparations Order, para. 43.

¹⁰⁷ *Ibid.*, para. 88.

¹⁰⁸ CLR/V Submissions on Reparations para 265; Wayamo foundation amicus, ICC-02/05-01/20-1315, para. 42, fns 11-13 referring to Trial Judgment, paras 392, 447, 449, 455, 468, 493-494, 536, 544-546, 550-555, 570, 604, 628, 811, 815, 823, 825, 828-830, 834, 839, 873-881, 902-913, 920-927, 934-939, 943-959, 960-962, 974-985, 987; Sentencing Decision, paras 143, 146, 207, 221, 224, 225, 229, 230.

¹⁰⁹ Trial Judgment, paras. 287, 824, 825, 831.

¹¹⁰ See above 86 *et seq.* Core Priority: Return to the Ancestral Land and Community Reconstitution as the Principal Reparative Objective

and where possible physical, including through a digital archive or museum, making this documentation available to members of the communities and to future generations wherever they are located.¹¹¹ The specific form and content of these measures must be determined through further consultation with the communities. The TFV notes that their design and implementation will need to be undertaken with sensitivity to the political context, to ensure they do not carry adverse risks for those involved.

107. The TFV notes that during consultations victims expressed significant hesitancy toward commemorative or memorial measures, on the basis that such measures imply that the harm is permanent and beyond remedy. Victims indicated that they wish their situation to be rectified, not memorialised. The TFV has accordingly refrained from using such terminology or measures in the present case.

108. *Advocacy support:* As a satisfaction measure that emerged from consultations with victims and stakeholders, the TFV notes the expressed desire of community representatives for support in advocating for recognition of the impact of the crimes on the Fur community and the other affected communities. This desire reflects a broader concern expressed throughout consultations: that the situation of the affected communities has been insufficiently visible at the international level. Support for advocacy would serve both to raise awareness of the harm suffered and to bring the situation of the communities back onto the international agenda, including in connection with their aspiration to return. The TFV proposes that this be included as a potential satisfaction measure, subject to confirmation through further consultations as to its specific form, scope, and the extent to which it is supported across the affected communities.

109. *Other measures:* This list is not meant to be exhaustive; upon consultation with the community of victims, measures may relate to supporting the community of victims of the four case locations in obtaining identity documents, and similar measures as appropriate.

vii. SYMBOLIC RECOGNITION OF EACH MEMBER OF THE COMMUNITY OF VICTIMS OF THE FOUR CASE LOCATIONS

110. Victims have consistently and strongly expressed a desire for direct, individual financial recognition, an acknowledgement by the Court that they personally suffered harm as a result of the crimes. Various amounts arose in consultations, as also cited on the case record, and victims called for some form of payment, whether in the form of compensation¹¹² for the harm suffered

¹¹¹ Registry Observations on Reparations, paras. 32-33; CLR V Submissions on Reparations, paras 234-235.

¹¹² *Ntaganda* Reparations Order, para. 84: Compensation aims to provide economic relief as payment for damages suffered, and is defined as a substitute remedy provided as a means of redress when there is no way to undo the effects of the violation through other measures, recognising that compensation by itself cannot restore or replace rights that have been violated.

due to the crimes themselves, the resulting displacement and loss of livelihood, or as a symbolic acknowledgement of their suffering. A symbolic payment to each member of the community of victims of the four case locations, ordered within the context of collective reparations as in previous cases before the Court,¹¹³ would constitute recognition of the harm suffered at the individual level rather than compensation in any material sense, as victims themselves have consistently acknowledged that no amount of payment could make up for their displacement from their ancestral land.¹¹⁴

111. The TFV recalls that cash is a cornerstone of survival in any economic reality, including in the most precarious ones. Cash provides immediate relief and access to needs and provides dignity and autonomy, and combined holistically with other measures, and supported by demonstrative activities can be a dignified mechanism of satisfaction. The TFV notes, however, that such payments would require the individual identification of each member of the community of victims of the four case locations, raising eligibility and documentation challenges addressed in Section IX below, and could generate significant tensions around inclusion and exclusion. The TFV submits that the timing and modalities of any such measure should be determined at a later stage of the implementation process, for example, should return not become possible within a defined period, or once a distribution mechanism can be developed with the community in a manner that minimises the risk of exclusion and tension. The specific mechanism for any such distribution should be determined with the community through the participatory process, in line with the principles governing the programme as a whole.

viii. INDIVIDUAL REHABILITATION FOR VICTIMS OF SPECIFIC CRIMES

112. A number of individual victims continue to suffer specific harm directly connected to the crimes committed against them through torture and mistreatment, rape and sexual violence, the killing of close family members, and other convicted acts. The physical harm experienced includes disability, loss of limbs, gunshot wounds, the lasting impact of beating and torture, chronic health conditions, and the physical consequences of sexual and gender-based crimes. These victims are members of the community of victims of the four case locations and benefit from the community rehabilitation measures proposed above alongside all other members of that community. For many, the psychological and socioeconomic dimensions of their harm will be addressed, at least in part, through those community-based measures: community psychosocial support, educational measures, and socioeconomic rehabilitation are relevant to

¹¹³See also *Redress et al* Observations, para. 28.

¹¹⁴ CLRV Submissions on Reparations, para. 231; Registry Observations on Reparations, fn. 16; GCC Amicus Observations, para. 10.

their recovery. The measures proposed below are additional and address specific persisting harm that requires targeted, individualised support addressing the specific harm they continue to experience, over and above what the community rehabilitation measures proposed above can provide.

113. The TFV proposes that individual rehabilitation, medical, psychological, and where relevant socioeconomic, including to restore the life plan and income lost due to permanent disability, be ordered for those presenting with specific, persisting harm connected to the convicted crimes. On the basis of experience from other contexts, the TFV anticipates that the individualised component will primarily concern two categories: victims with persisting physical harm requiring specialist medical intervention that cannot be delivered through community-based measures; and victims with severe or worsening psychological or psychiatric conditions that have deteriorated beyond what community psychosocial support can address and that require targeted clinical intervention. This determination must be made through a pre-identification process involving specialist assessment at the earliest practicable stage, both to establish the nature and severity of persisting harm and to ensure that victims have a realistic understanding of what individualised measures can offer before being asked to engage in what may be a burdensome and potentially re-traumatising process.

114. Victims of sexual and gender-based violence and children born of rape present a distinct situation. The established approach to SGBV reparations, confirmed in the *Ntaganda* and *Ongwen* Reparations Orders and reflected in the TFV's programmes under regulation 50(a) of the Regulations of the Trust Fund for Victims, most recently in the Central African Republic, the Democratic Republic of Congo, Kenya and Uganda, is holistic care combining medical, psychological, socioeconomic, and anti-stigma dimensions in an integrated response tailored to the specific needs of each victim. For SGBV victims in this case, the community-based measures are likely to address part of that need, particularly the psychosocial, socioeconomic, and community sensitisation dimensions, while persisting physical and psychological harm will require individual treatment, and their families may require additional sensitisation measures to support reintegration and reduce stigma. In relation to all individual victims, including children born of rape, the design and delivery of measures for SGBV survivors must be safe, discreet, and conducted by trained personnel in a survivor-centred manner, consistent with the Reparations Principles on sexual and gender-based violence set out in Section XII(C), para. 199.

115. The TFV draws the Chamber's attention to a significant implementation challenge specific to this category: bringing specialised services to dispersed and inaccessible displaced

populations is operationally difficult, and enabling victims to travel to where such services exist carries high logistical, security, and financial costs that cannot be reliably quantified at this stage. The TFV cannot exclude that this category of measures may prove partially or wholly impracticable in the near term in certain locations. The Reparations Order should accordingly preserve sufficient flexibility for the Draft Implementation Plan to adapt the modalities of delivery to the operational realities at the time of implementation. The TFV notes that in Chad and neighbouring countries, where some organisational capacity and international presence exists, the delivery of individual rehabilitation measures may be more immediately practicable, and should begin there as conditions permit.

d. SUMMARY

116. In summary, the TFV proposes the following modalities of reparations in the present case.

117. *Rehabilitation:* in two phases, community rehabilitation addressing physical, psychological, educational, and socioeconomic harm, beginning now in limited form and expanding as conditions permit; and community reconstruction measures upon return, including infrastructure, governance restoration, livelihoods, environmental remediation, and housing.

118. *Satisfaction and symbolic measures:* judicial recognition through declaratory findings, preservation of memory and land rights, advocacy support, and identity documentation assistance.

119. *Individual cash payments:* symbolic individual recognition of each member of the community of victims, insofar as ordered, proposed to be deferred to a later implementation stage.

120. *Individual rehabilitation:* for victims with specific persisting harm from torture, sexual violence, and related crimes, delivered through community-based and specialist pathways, with holistic care for SGBV victims and children born of rape.

IX. FACTUAL PRESUMPTIONS AND FACTUAL ISSUES RELEVANT TO THE IDENTIFICATION OF ELIGIBLE VICTIMS

121. The TFV addresses in this section two interconnected but different issues arising from the Order – factual presumptions and factual issues relevant to the identification of eligible

victims,¹¹⁵ *i.e.* issues that may arise in the course of identification of victims for the purpose of determining their eligibility for reparations.

122. One of the five essential elements of a Reparations Order is that either the Chamber determines the eligible victims itself and/or determines the criteria for finding victims eligible.¹¹⁶ Individual victims were found eligible by the Trial Chamber so far only in the *Katanga* case,¹¹⁷ while victims falling under rule 85(b) of the Rules, such as the Sayo hospital in the *Ntaganda* case,¹¹⁸ or the community of Timbuktu in the *Al Mahdi* case,¹¹⁹ together with the harm they suffered, were directly found eligible in the Reparations Order, not requiring an additional eligibility determination.

123. When the scale of the crimes affects a large number of victims and collective reparations are most appropriate, the Chamber may decide to determine the eligibility criteria for reparations rather than identifying the victims eligible itself. Where the Chamber determined the criteria for finding victims eligible, the Court's evolving reparations jurisprudence has established various models, not least based on the Regulations of the Trust Fund for Victims that determine the process for orders under rule 98(2) of the Rules.¹²⁰

124. In the TFV's experience, the administrative eligibility process should be designed to serve the reparations ordered rather than to precede or constrain them: its purpose is to enable the victim population within the scope of the conviction to access the reparative measures, and its design should therefore follow from the modalities determined by the Chamber. In the TFV's submission, the administrative eligibility process in this case (including identification, verification and notification) should accordingly be as lean, flexible, efficient, community-based, and victim-centred as possible.

125. Since 2023, a distinct practice has emerged whereby the Chamber determines the criteria for eligibility in the Reparations Order and delegates the administrative eligibility process to the Registry's Victims Participation and Reparations Section (VPRS). This approach was first adopted in the *Ntaganda* case in August 2023,¹²¹ subsequently applied in the *Ongwen*

¹¹⁵ Order, para. 6(a)(ii) and (v).

¹¹⁶ See *Lubanga*: Judgment on the appeals against the 'Decision establishing the principles and procedures to be applied to reparations', ICC-01/04-01/06-3129, paras 32 and 34.

¹¹⁷ *Katanga* Reparations Order, para. 168.

¹¹⁸ *Ntaganda*, Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2858-Red, para.227.

¹¹⁹ *Al Mahdi* Reparations Order, ICC-01/12-01/15-236, see paras 67 and 83.

¹²⁰ See in this context Common Legal Representatives of Victims of Other Crimes, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Response on behalf of Victims to the parties and participants submissions on Reparations, [ICC-01/14-01/18-2921](#), 12 June 2026, paras 38 *et seq.*

¹²¹ First Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations, 11 August 2023, ICC-01/04-02/06, paras 179-181.

Reparations Order of February 2024, and most recently followed in the *Al Hassan* Reparations Order. On the basis of this jurisprudence, the TFV has developed the following observations.

a. DIRECT DETERMINATION OF ELIGIBILITY BY THE CHAMBER

126. The TFV submits that the Chamber should itself determine, in the Reparations Order, the eligibility of certain categories of victims rather than delegating that determination to a later stage.

127. As regards the Fur community as a whole: where the Chamber recognises the Fur community as a victim in its own right or as a collective of victims, its eligibility does not require an individual administrative process and cannot meaningfully be delegated to a body designed for the identification of individual victims. A direct finding of eligibility of the Fur community as a group in the Reparations Order is the appropriate form for giving legal effect to that recognition. In addition, as stated in the *Ongwen* case, recognition of harm and victimhood in the Reparations Order can in itself constitute a satisfaction measure.¹²²

128. As regards the Zaghawa and Masalit: where the Chamber accepts that these communities are victims in their own right or collectives of victims, a similar direct finding would be appropriate in respect of community-level moral harm.

129. As regards the community of victims of the four case locations: the TFV has not submitted that this group constitutes a collective victim entity as such in the manner submitted above in respect of the Fur community. It is a collective of individual victims defined by their connection to those localities at the time of the crimes. How to determine who those victims are is addressed below. The Chamber may nonetheless consider whether, having found that the entire civilian population of those localities was targeted and harmed as such by the convicted crimes, a direct presumptive finding of eligibility is more appropriate than a delegated administrative process – with demonstration of the required connection to those localities to be established during the implementation process through the community-verification approach proposed below.

b. RECOGNITION AND PRESUMPTION OF HARM

130. For the reasons developed in the harm section above, the TFV respectfully submits that the Reparations Order may recognise the categories of harm identified for the Fur, Zaghawa and Masalit communities, as well as for the community of victims of the four case locations (i.e. direct judicial recognition of harm). The TFV submits that the harm identified for these groups does not require recourse to a presumptive framework nor does it require an eligibility

¹²² *Ongwen* Reparations Order, para. 636.

process. The Trial and Sentencing Judgments, together with the documentation placed before the Chamber in the reparations phase, provide a sufficient foundation for such findings. Direct judicial recognition of these harms is preferable to a presumptive framework in the first instance. In the alternative, should the Chamber consider that a presumptive framework is required, the TFV submits that the categories of harm developed above should be presumed for all those recognised as members of the relevant communities or groups.

131. As regards harm presumed for individual victims in established categories: the Reparations Principles contain developed presumptions for specific categories of individual harm, and the TFV submits that those presumptions, insofar as required for the purpose of the ordered reparations and the eligibility process chosen, apply in the present case without modification. Physical, psychological, and moral harm should be presumed for victims of rape and sexual and gender-based violence, including the social and economic consequences of stigmatisation;¹²³ psychological, moral, social, and legal and economic harm should be presumed for children born as a result of rape;¹²⁴ and physical and psychological harm should be presumed for victims of torture and mistreatment.¹²⁵

132. As regards harm suffered by children born after the commission of the crimes¹²⁶ and living in displacement: the TFV submits that this case warrants an extension of the existing presumptive framework to this group, which falls outside the categories addressed above. The TFV submits that community harm, socio-economic harm, educational harm, physical harm arising from the absence of healthcare and material security, psychological harm arising from growing up in conditions of chronic instability and loss, and transgenerational harm should all be presumed for children born into the affected communities after the crimes and living in displacement. The basis for this extension is the character of the harm itself: these children were not born into a situation subsequently affected by the crimes, but into a world already entirely shaped by them, such that the harms identified above are structural features of the conditions of their existence rather than consequences requiring individual proof. To require such proof would be inconsistent with the nature of the harm and with the purpose of the reparations framework in a case of this character and scale.

¹²³ In *Ntaganda*, the Chamber presumed material, physical, and psychological harm for direct victims of rape and sexual slavery as well as for indirect victims who are close family members of direct victims of the crimes of rape and sexual slavery (*Ntaganda* Reparations Order, para. 145).

¹²⁴ *Ongwen* Reparations Order, ICC-02/04-01/15-2074, paras 545 – 546.

¹²⁵ *Ibid*, para. 525.

¹²⁶ *Al Hassan* Reparations Order, ICC-01/12-01/18-2782, paras 176–179.

c. CRITERIA FOR ELIGIBILITY: SCALE AND DOCUMENTATION

133. Two structural features of this case bear directly on the design of any eligibility process and must be addressed before the process itself is determined.

134. The first is scale. The estimated number of potentially eligible victims, as set out in the Registry Mapping Report, to which the TFV defers on this question, is very large and, as the Mapping Report itself acknowledges, merely indicative. This applies both to the community of victims of the four case locations (estimated total more than 140,000 direct victims) and to those who suffered specific individual crimes during the three operations.¹²⁷ The numbers involved are of a different order from those in *Ntaganda* and *Ongwen*, and any eligibility process must be designed with that reality at its centre rather than as an afterthought.

135. The second structural feature is documentation. The destruction of homes and records during the attacks, compounded by more than two decades of displacement and renewed conflict in the region since 2023,¹²⁸ means that formal documentary proof of identity, let alone of presence at certain locations or harm is unavailable to the majority of potential victims. The submissions of the parties and participants document the absence of documentation as a primary practical obstacle to eligibility, and this reality cannot be allowed to frustrate the reparative purpose of the proceedings.¹²⁹

136. In this regard, the Chamber may wish to take into account that the displaced communities have re-established governance mechanisms,¹³⁰ [REDACTED]. The TFV's consultations have confirmed the view expressed by the CLRV where she underlined sheikhs and umdahs maintain knowledge of the persons within their localities, including their movements over time, and can provide this information irrespective of the destruction of formal records.¹³¹

137. [REDACTED].¹³²

138. Against this background, the TFV submits that the Registry's VPRS and the TFV would need to assess together how best to overcome in this specific case the challenges linked to the widespread lack of identifying documents.

¹²⁷ Registry Victim Mapping Report, paras. 110-139.

¹²⁸ Trial Judgment, ICC-02/05-01/20-1240, para. 5.

¹²⁹ CLRV Submissions on Reparations, paras 78-79; Registry Observations on Reparations, para. 159.

¹³⁰ See, Registry Victim Mapping Report, para.33; CLRV Submissions on Reparations, ICC-02/05-01/20-1344-Red, paras 75-76.

¹³¹ *Ibid*, paras 74-75.

¹³² CLRV Submissions on Reparations, ICC-02/05-01/20-1344-Red, para. 80.

**d. INTEGRATED ELIGIBILITY APPROACH FOR THE COMMUNITY OF VICTIMS
OF THE FOUR CASE LOCATIONS**

139. In respect of the eligibility approach for each of the three groups – reparations for the Fur, Zaghawa and Masalit communities, reparations for the communities of the four case locations, and reparations for those who suffered persistent harm due to specific crimes – the TFV proposes the following.

140. For the first group, the TFV proposes that the Chamber recognise the Fur, Zaghawa and Masalit communities, as the case may be, directly as victims in the Reparations Order, as developed above. No separate administrative eligibility process is required for such recognition.

141. For the second group, the communities of the victims of the four case locations, the appropriate eligibility approach depends on the modalities ordered by the Chamber. Insofar as the Chamber orders a symbolic cash award for each member of that community, the VPRS eligibility process should be integrated into the implementation steps from the outset, so that eligibility and implementation proceed together rather than sequentially.

142. Insofar as the Chamber focuses on community-based reparations, the TFV submits that a separate prior eligibility process conducted by VPRS is not required: verification would be conducted in a manner akin to the approach taken in respect of community-based measures in Al Mahdi, integrated into the reparations programme itself and accompanied by participatory mechanisms and community-based structures, with verification occurring at the point at which an individual or family unit accesses a specific measure.

143. For the third group, those who suffer from persistent harm due to specific crimes, the TFV proposes that any VPRS eligibility assessment be integrated into the implementation process. Given that the persistence and nature of the harm must be established before any individualised measure can be designed or delivered, eligibility assessment would best be undertaken together with specialists, as and when required, in order to establish both the existence and the extent of the persisting harm and its connection to the convicted crimes.

e. COMMUNITY OF VICTIMS OF THE FOUR CASE LOCATIONS

144. Those who were members of the community of victims of the four case locations at the time of the crimes are now scattered across Sudan and beyond, in IDP camps, in refugee settings, and in urban centres. Many have had children and grandchildren in displacement; family units have expanded and reconstituted. Those born to members of the community after the crimes should be included within the scope of the eligibility framework, and the approach adopted must be capable of reaching a dispersed and expanded population.

145. At the outset, the TFV submits that given the scale of the crimes committed and the collective nature of the reparations proposed for this case, a formal eligibility process of each individual victim to be conducted by the Registry's VPRS, of the kind conducted in *Ntaganda* and *Ongwen*, may be the most appropriate vehicle only if individual symbolic cash payments are ordered. Otherwise, the TFV submits that a formal eligibility process may not be the most appropriate vehicle for this group. While, in *Ongwen*, the eligibility process serves a direct practical function because individual symbolic payments are made to all eligible victims, and eligibility translates immediately into a concrete individual benefit. In the present case, if collective measures directed at the community of victims of the four case locations as a whole are the primary mode of reparation, an individualised eligibility process seeking to identify and verify each member of those communities across displacement would involve very substantial resources for an outcome whose practical utility would be limited, and the effect would be one of exclusion rather than of necessary inclusion.

146. The TFV submits that, where no individualised benefit is directly tied to the finding of eligibility, the rationale for an exhaustive *Ongwen*-style process is significantly diminished. An administrative assessment of each individual application risks being resource-intensive, time-consuming, and ultimately disproportionate to the value of the award that could be delivered.

147. The TFV proposes a programme-embedded verification approach as an alternative to a formal eligibility process for the community of victims of the four case locations. Under this approach, the Reparations Order would establish the criteria for eligibility and delegate validation to a process embedded within the reparation programme itself. Rather than proceeding from individual identification toward programme access, this approach starts from the community and works through the programme's activities toward those in need of specific support, a process that flows from the collective toward the individual rather than the reverse. For community-based measures directed at the community as a whole, no individual eligibility validation is required. Validation is only engaged where a specific individual or family unit seeks access to a measure designed for their particular benefit, with validation occurring at the point of access to that measure. The criteria for validation would include, at a minimum, a demonstrated connection to one of the four case locations at the time of the crimes, or clear ties to the land according to the relevant customary traditions, established through community attestation. This process must be designed with and carried by the affected communities, given that neither the TFV nor VPRS would be in a position to verify independently, at scale, who was present at the case locations more than twenty years ago. This approach minimises the risk

of tensions within communities, ensures the process is perceived as legitimate, and aligns with the principle that reparations should strengthen rather than undermine the agency of victims.

148. Where disputes or complaints arise in relation to validation decisions, a recourse mechanism agreed with the VPRS should be available. This approach is distinct from the eligibility process proposed below for victims with persistent harm from specific crimes, which requires specialist assessment given the individualised and clinical nature of the measures concerned.

f. INDIVIDUAL VICTIMS WHO SUFFERED SPECIFIC HARM

149. A distinct category consists of those individuals who suffered specific individual harm during the three operations, such as through rape and sexual violence, torture and mistreatment, the killing of family members, and the destruction of homes and property. Insofar as the Chamber orders reparations for the victims of such crimes, the TFV suggests that the presumptions set out in Section c) above apply directly. The practical challenge is not the applicable legal framework but the establishment of the factual link between the individual, the crime and harm that still today requires treatment.

150. The TFV submits that such victims would first have to demonstrate that they were at any of the four case locations at the time of the commission of the crimes, as this is the precondition for them to have suffered from any of the specific crimes. This factual presumption would need to be pre-verified by an attestation mechanism similar to that referenced in paragraph 137 above.

151. In addition, the TFV considers that the persistent harm of the victims would need to be established. Therefore, it may be essential to assess whether e.g. the physical and psychological harm is current and should and may be treated as part of the future reparation programme. This challenge is best addressed through a pre-identification process involving qualified experts at the earliest practicable stage. Medical and psychological experts should be engaged to assess individuals presenting with harm consistent with the convicted crimes and to document the nature and likely causal connection of that harm. The expert assessment would serve two purposes: providing the evidentiary foundation for the eligibility determination and ensuring that the victim has a clear understanding of what the eligibility process entails and what participation may yield. The TFV considers it essential that victims enter this process with a realistic understanding of what reparations can offer before they are asked to engage in what may be burdensome and potentially re-traumatising documentation.

152. Individuals pre-identified in this manner would be referred to VPRS for a formal eligibility assessment based on the pre-verification steps: The victims' connection to the relevant community should be attested through community governance structures supported by a participatory mechanism, or in case of dispute through a written account supported by witnesses, with VPRS involvement in cases of genuine uncertainty. The continued existence of harm, particularly relevant given the passage of twenty years, should be established through expert documentation specifically addressing whether and to what extent the harm presented is connected to the events of 2003–2004 rather than to subsequent conflict or other causes.

g. STANDARD OF PROOF

153. The TFV submits that the standard of proof applicable to eligibility determinations in the present case should remain that established in the Court's reparations jurisprudence: the balance of probabilities. No departure from this standard is proposed, and the TFV does not consider the specific circumstances of this case to require any modification of the applicable legal threshold.

154. What the circumstances of this case do require, however, is clarity on the forms of evidence that may satisfy that standard in a context where formal documentation is structurally unavailable to most victims. The TFV submits that, where no other means of establishing the required facts is available, a coherently written account by the victim of their presence at the relevant locations, their connection to the community, or their experience of harm may suffice to satisfy the balance of probabilities standard, provided that account is internally consistent and not contradicted by other available evidence. This is not a departure from the applicable standard of proof; it is a recognition that the standard must be applied to the evidence actually available, rather than to evidence that the crimes and their aftermath have rendered impossible to obtain.

155. The TFV nonetheless submits that this approach should be treated as the exception rather than the rule, and that its application should be calibrated to the nature of the benefit to which eligibility gives access. Where eligibility is the gateway to tangible individual financial benefits or to concrete services such as medical treatment, a higher level of evidentiary support is appropriate: a coherently written account should in such cases be only required insofar as community attestation, witness confirmation, or expert assessment, as described above, are not available. The purpose of this calibration is not to create a tiered standard of proof but to ensure that the eligibility process remains proportionate to the consequences of the determination and that the risk of inaccurate inclusions or exclusions is minimised in proportion to the significance of the individual outcome.

156. In sum, the TFV submits that the standard of proof remains the balance of probabilities, applied to the evidence available in the specific circumstances of this case, with a coherently written victim account available as a measure of last resort, subject to appropriate calibration where the eligibility determination gives access to tangible individual benefits. The overarching principle throughout is that the eligibility process should not itself become a source of harm but should be designed to advance the reparative purpose of the proceedings and to strengthen the agency of the victims it concerns.

X. PRIORITISATION OF VICTIMS OR GROUPS OF VICTIMS

157. The TFV is invited to make observations on any victims or groups of victims identified in the Registry Victim Mapping Report, or by parties and participants, who may require prioritisation in the reparations process.¹³³

158. Prioritisation of vulnerable victims, including victims of sexual and gender-based violence, the elderly, persons with disabilities, and children born of rape, is a standing principle of the Court's jurisprudence and the Chamber need not articulate a new principle in this respect, as confirmed in the *Al Hassan* Reparations Order.¹³⁴

159. The TFV submits that in the specific circumstances of this case, the *Al Hassan* Chamber's approach – affording the TFV sufficient flexibility to determine prioritisation criteria together with victims and the community, responsive to the specific context – is both appropriate and necessary. In the present case, prioritisation is in the first instance a function of operational possibility rather than of predetermined vulnerability criteria. The environment in Darfur at present remains very volatile and physically inaccessible to TFV/ICC staff. The TFV has received information that some of the camps for IDPs may be easier terrain to implement reparations in comparison to others. In addition, a large number of potentially eligible beneficiaries reside outside of Darfur and Sudan, in refugee camps situated in eastern Chad. The TFV submits that to make reparations implementable for victims of the case, a phased, flexible and dynamic approach is warranted, to implement where and when there is access and where operationally possible.¹³⁵

160. In addition, the TFV recalls the submissions of the Registry, Prosecution, and CLRV¹³⁶ whereby it is argued that due to the scale of victimisation and estimated numbers of potentially eligible beneficiaries, prioritisation based on vulnerability criteria, such as established in other

¹³³ Order, para. 6(a)(iii).

¹³⁴ *Al Hassan* Reparations Order, para. 245.

¹³⁵ See also Redress *et al* Observations paras 48 and 49.

¹³⁶ CLRV Submission on Reparations, paras 247-258; Prosecution's Submission on Reparations, paras 19-20; Registry Observations on Reparations, paras 181-184.

cases,¹³⁷ without further refinement to the scale of victimisation in the present case risks rendering any prioritisation criteria moot, as the majority of the victim population would fall within them. The TFV also notes that in the *Ongwen* case further prioritisation by the TFV was deemed permissible and considered necessary.¹³⁸

161. The TFV accordingly submits that decisions on which eligible victims will receive reparations first, and on the sequencing of measures, are best made during the implementation phase, in consultation with the communities, once the modalities ordered by the Chamber are known and operational conditions on the ground are clearer.

162. Throughout consultations, participants highlighted the necessity to do all that is possible to prevent the creation of conflict or disruption within the Fur community, in line with the *do no harm* reparations principle. To ensure that any approach towards prioritisation falls in line with this principle, the TFV notes the importance of involving the relevant community leadership structures and the community of victims of the four case locations.

163. The TFV suggests that prioritisation criteria are thus designed with the respective communities at the implementation stage, following more extensive consultations and a clearer programmatic framework. The TFV considers that flexibility is key to operationalising reparations in the current case. It accordingly requests the Trial Chamber to afford it, similar to the *Al Hassan* Reparations Order, with the flexibility necessary to design prioritisation in this manner and commits to doing so in a manner that gives effect to the Reparations Principle concerning vulnerability while remaining consistent with all other applicable Reparations Principles.

XI. OTHER REPARATIONS

164. The TFV is invited to share information as to whether the victims of the convicted crimes have received any form of compensation or reparations for the harm suffered as a result of these crimes.¹³⁹ No programme under regulation 50(a) of the TFV Regulations has been implemented by the TFV in relation to the situation in Darfur, Sudan and the TFV is not aware of any reparations to have been implemented for the victims of the case, or other victims. The submissions of the parties and participants confirm this situation, including those of the Defence.

165. The Reparations Order that the Chamber will issue in the present case is necessarily directed at Mr Abd-Al-Rahman as the convicted person. It does not prejudice or determine the

¹³⁷ See e.g. *Ongwen* Reparations Order, paras 659-662.

¹³⁸ *Ongwen* Reparations Order, para. 819.

¹³⁹ Order, para. 6(a)(viii).

responsibility for reparations by other persons or entities who may bear responsibility under other legal frameworks, whether domestic, international, or transitional.

166. In addition, in light of article 75(6) of the Statute, the Chamber may wish to acknowledge expressly in the Reparations Order that victims retain all rights available to them under national and international law.

XII. ANY OTHER MATTERS

167. The TFV is invited by the Trial Chamber to share any additional information relevant to reparations.¹⁴⁰

a. IMPORTANCE ATTACHED BY VICTIMS AND STAKEHOLDERS TO ICC REPARATIONS

168. The TFV has noted throughout its external consultations that victims and stakeholders welcomed the opening of the judicial reparations phase, consistently stressed the importance of reparations in the present case, and engaged to support the TFV as far as possible within the context of their respective mandates. Stakeholders highlighted the need for accountability initiatives in Sudan and the importance of reparations as one component in broader accountability and transitional justice efforts.

169. In parallel consultations held for fund mobilisation purposes, the TFV noted the importance attached by development cooperation donors to the positive role that accountability and reparations through the ICC can play in contributing to stabilisation and a peaceful future in Darfur and in Sudan as a whole.

b. OPERATIONAL CONSIDERATIONS

170. The following elements are especially pertinent to the context in Darfur, Sudan, and will guide the operational framework for the implementation of reparations in the present case.

171. *Access limitations - solutions and consequences:* The current implementation environment in Sudan, and in Darfur in particular, presents highly exceptional challenges. The conflict that has engulfed Sudan since April 2023 has compounded displacement, destroyed local infrastructure, weakened administrative structures, and severely limited the ability of humanitarian and development actors to operate. The victim population continues to live in conditions of profound insecurity and deprivation.

172. [REDACTED].

¹⁴⁰ Order, para. 6(a)(x).

173. As matters stand today, the territory of the four case locations, and the locations in which the large majority of victims presently reside within Darfur, are inaccessible to ICC/TFV staff.

174. [REDACTED].¹⁴¹ [REDACTED].

175. [REDACTED].¹⁴² [REDACTED].

176. [REDACTED].

177. [REDACTED].

178. [REDACTED].

179. [REDACTED].

180. [REDACTED].

181. [REDACTED].

182. [REDACTED].

183. [REDACTED].¹⁴³ [REDACTED].

184. [REDACTED].¹⁴⁴ [REDACTED].

185. [REDACTED].

186. [REDACTED].

187. [REDACTED].¹⁴⁵ [REDACTED].

188. [REDACTED].

c. IMPLEMENTATION PRINCIPLES

189. The strong support expressed by victims for reparations, together with the exceptionally challenging operational environment reinforce the need for clearly established Reparations Principles for implementation in this case. The Reparations Principles established in the Court's jurisprudence, including the principles of proportionality, promptness, and adequacy; dignity, non-discrimination, and non-stigmatisation; a victim-centred approach and meaningful participation; do no harm; gender-inclusivity and sensitivity; transformative reparations; and appropriate prioritisation of vulnerable victims, should be made applicable to the present case

¹⁴¹ [REDACTED], with Global Legal Action Network Observations, para.11.

¹⁴² See also Redress *et al* Observations, paras 17 and 38.

¹⁴³ African Security Analysis (2025) *RSF Leader Declares Parallel Government in Strategic Power Play*. 17 April. Available at: <https://www.africansecurityanalysis.org/updates/rsf-leader-declares-parallel-government-in-strategic-power-play>.

¹⁴⁴ See also Redress *et al* Observations, para.17.

¹⁴⁵ Trial Judgement, para. 367.

and should govern the design, implementation, and monitoring of all reparative measures ordered. The TFV reiterates the importance of the Reparations Principles, and submits that several carry particular weight in the specific circumstances of this case, as noted below, and that the present case requires the articulation of a small number of additional principles not yet developed in the Court's jurisprudence. Among the established Reparations Principles, the TFV draws the Chamber's attention in particular to the following.

190. *Do no harm* is, in the circumstances of Darfur, not merely a procedural safeguard but a structural requirement. The crimes at issue and the ongoing conflict have left communities displaced for prolonged periods, separated families, and inflicted severe damage on social structures, including through the systematic killing of community leaders. Any eligibility process, prioritisation, or resource allocation that is not carefully designed risks generating tensions and secondary harm within communities that have suffered immensely but nevertheless retain, in large part, a functioning leadership structure and a degree of collective cohesion. Victims have highlighted throughout consultations the need to avoid creating conflict, tensions, or ruptures within the Fur community as well as with the Masalit and Zaghawa; this concern must inform every design choice in the reparations programme.

191. In the specific circumstances of this case, the *do no harm* principle requires in particular the identification of victims to receive individualised measures should, wherever possible, be carried out within the community-based programme, to avoid publicly singling out specific beneficiaries in ways that could expose them to interference, retaliation, or security risk. In addition, in terms of delivery of reparations, individualised interventions should be camouflaged within broader community programming to prevent interference or security threats to those who require more specialised support.

192. This principle applies to both the eligibility process and the delivery of measures and represents a case-specific application of the *do no harm* principle in the security environment of Darfur.

193. In addition, given the harm suffered by the victims and their continued displacement and aspiration to return, the *do no harm* principle, as applied in this case, requires that all measures be designed to preserve the possibility of return and that no measure undermine, in the short or long term, the victims' aspiration to return or signal that displacement has become permanent.

194. *Participation*: The victim-centred approach and meaningful participation are equally essential in this case. Given the dispersed character of the victim population, the absence of reliable communication infrastructure, [REDACTED], reparations cannot be designed from the

outside and implemented top-down. They must be shaped by the communities themselves through a robust participatory process. [REDACTED]. Consultations with victims should take place for the purposes of designing and implementing reparations, and in accordance with the Reparations Principles and its past practice, the TFV will take into account victims' views and proposals when developing the corresponding implementation plan to be proposed to the Chamber.

195. *Gender-sensitivity*: Gender sensitive approaches are key across all contexts to ensure that reparations are implemented as inclusively and respectfully as possible. Gender-sensitive and inclusive approaches are guiding implementation from the design over monitoring to the completion and evaluation of the programme. Gender-responsive approaches must be applied across the reparations life-cycle to ensure measures are sensitive to the specific harms of different groups and do not replicate or reinforce pre-existing discriminatory patterns, which is of particular importance in the context of Sudan.¹⁴⁶ The TFV has already organised specific consultations with women and will maintain this engagement throughout.

196. *Principles in relation to victims of sexual and gender-based violence*: The principles established in the *Ntaganda* and *Ongwen* Reparations Orders¹⁴⁷ governing the approach to victims of rape and sexual and gender-based violence, including the requirement of holistic reparations combining medical, psychological, and socioeconomic as well as educational rehabilitation; safe and discreet identification by trained personnel; anti-stigma and community sensitisation measures; equal access for male survivors; and recognition of children born of rape as direct victims in their own right requiring tailored and non-stigmatising support, apply in the present case. The TFV submits that their application must be informed by the specific context of Darfur, in particular the absence of services and the security and access constraints described in these Observations.

197. One element specific to this case requires particular attention: the absence of identity documentation for children born of rape as a structural consequence of the circumstances of

¹⁴⁶ “With respect to gender equity issues, Sudan ranks 147th out of 148 countries, reflecting extreme disparities across the country. With an overall parity score of 57.0%, Sudan is the second-least gender-equal country in the index, sitting just ahead of Pakistan and behind Chad. This is a severe drop from the 128th position referenced in 2013. The primary driver behind Sudan's plummeting rank is the catastrophic conflict that erupted in April 2023. The war has completely disrupted formal employment, displaced millions of women, exposed them to massive surges of gender-based violence, and stripped away access to basic education and maternal healthcare. Women and children are among the most vulnerable groups in Darfur and protection concerns, particularly for female IDPs, are considerable”. World Economic Forum, [Global Gender Gap Report 2025](#) (2025).

¹⁴⁷ *Ntaganda* Reparations Order paras 63-67; *Ongwen* Reparations Order, para. 71.

their birth, which forecloses access to education, healthcare, and freedom of movement and must be addressed as a component of the reparative measures directed at this group.¹⁴⁸

198. *Principle in relation to displaced victims:* The TFV respectfully requests the Trial Chamber to consider whether to articulate, as a new Reparations Principle applicable in the present case, which takes into account the specific circumstances of victims displaced from their homes, lands or places of habitual residence as a direct consequence of the crimes for which Mr Abd-Al-Rahman was convicted. Such Principle would guide how victims must be approached and treated, throughout the design and implementation of reparations, as persons who retain a legitimate aspiration and entitlement to return to their ancestral land, and whose displacement must not be treated as permanent.

199. This principle, analogous in structure to the principles the Court has developed for the treatment of specific groups of victims, such as victims of sexual and gender-based violence, or as specific population groups, such as children, does not seek to resolve questions of property rights or to assert claims requiring determination by other mechanisms. It however establishes how the reparations framework must approach a specific category of victim, i.e. those whose defining harm is the loss of their land, their community.

200. In practical terms, such a principle requires that reparations preserve the possibility of return and give expression to the aspiration to return, including through the satisfaction measures proposed above. Any return taking place as part of reparation implementation should be safe, voluntary, and dignified. The TFV underlines that at issue in this case is foremost a community-level entitlement relating to the ancestral lands of the Fur and the community of victims of the four case locations collectively. Individualised property claims and determinations of the rights of current occupants fall outside the scope of reparations ordered against the convicted person.

201. *Effective reparations and do no harm:* Consistent with the requirement of effective reparations established in the 2005 Basic Principles,¹⁴⁹ *rehabilitation* measures in this case should be designed to address the harm of displacement rather than to perpetuate it. Reparations that entrench displacement would not be effective reparations: they would address the symptom, the conditions of camp life, rather than the harm, which is the forcible removal of the community from its ancestral land. The *do no harm* principle, as applied in this case,

¹⁴⁸ [REDACTED], with Global Legal Action Network Observations, para. 21; Redress *et al* amici Observations para. 32.

¹⁴⁹ United Nations: [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#), 16 December 2005.

accordingly requires that all rehabilitation measures be designed to preserve the possibility of return and not to signal that displacement has become permanent.

d. NEED FOR A FLEXIBLE REPARATIONS ORDER

202. The TFV submits that the operational constraints described in section (b) together with the principle of a victim-centred approach, including participation, require that the Reparations Order preserve sufficient flexibility in the modalities ordered, the allocation of costs, and the sequencing and design of measures, so as to enable implementation in an evolving context and to allow victims to contribute meaningfully to the further development of the reparations programme at the implementation stage. The legal framework established by articles 75 and 79 of the Statute, rule 98 of the Rules and the Regulations of the Trust Fund for Victims was designed precisely to address situations characterised by the indigence of the convicted person and large victim populations and feasibility challenges that the legal system sought to overcome by the creation of the TFV. In addition, the system is designed to address implementation challenges arising in conflict and post-conflict environments in that it provides the Chamber with discretion and flexibility in the design of a reparations order, including through the determination of Reparations Principles pursuant to article 75(1) of the Statute, tailored to the circumstances of each case. Furthermore, the legal framework provides the TFV with flexibility in the preparation, implementation, amendment and adaptation of implementation plans pursuant to regulations 54 to 58 of the Regulations of the Trust Fund for Victims.

203. Accordingly, upon the Chamber's determination of adequate reparation modalities and of the liability of the convicted person, the concrete measures, sequencing, and timing of implementation become distinct questions that will need to be addressed through the TFV's implementation planning process, and in light of evolving circumstances on the ground. Such flexibility will be essential to ensure that reparations remain responsive both to changing conditions on the ground and to the evolving circumstances of victims.

204. The current challenges underscore the need for adaptability in implementation rather than a reduction in the scope of reparations.

XIII. ESTIMATED COSTS TO REPAIR

205. The TFV is invited to provide an estimate of the costs to repair the harm suffered by the victims in light of the appropriate modalities for repairing them.¹⁵⁰ In view of these Observations, which propose that reparations in this case may be implemented through the TFV pursuant to rule 98(3) of the Rules, the TFV hereby provides the following observations.

¹⁵⁰ Order, para. 6(a)(vii).

206. The TFV recalls that the determination of liability is a matter for the Chamber and that the role of the TFV is to provide relevant information to the Chamber on the costs of running a programme for reparations, in particular by identifying the cost factors, the limitations affecting any attempt to provide precise cost estimates at this stage and, insofar as cost estimates are possible, to provide ranges of costs of specific categories of services. The observations below are intended to provide reference points that may assist the Chamber in determining a liability amount commensurate with the harm established in the present case.

207. The TFV further notes that the current circumstances of Darfur and Sudan render precise cost estimation particularly difficult. The affected localities remain inaccessible to the TFV and the Court; return to ancestral land is not presently feasible; no implementation timeline can be projected; and the future condition of the affected communities and localities cannot be reliably assessed. Any figures provided at this stage must therefore be understood as indicative only. The TFV respectfully submits that the lack of precise cost ranges should not, however, prevent the Chamber from determining a just and adequate liability amount.

a. OVERVIEW OF COST-CATEGORIES AND RATIONALE

208. The TFV's cost estimates for reparations implementation take into account all types of expenditures required to deliver meaningful and participatory reparations in the specific context of Darfur, Sudan as well as in refugee camps in neighbouring countries. These costs include:

- (A) Resources for awards that are individual or individualised with a focus on cash payments;
- (B) Resources for reparations ordered by the Trial Chamber and provided as services, benefits, or activities;
- (C) Indirect costs where necessary and regularly incurred in relation to the provision of A and/or B. When incurred by implementing partners, these are typically approved within a range of 7 to 20% of the overall cost of providing reparations. For any cash transfer, whether carried out by the TFV or implementing partners, transfer fees can be as low as 3%, but will depend on the provider of the financial services, if such are used. In the case of Darfur, due to limited cash availability, costs will likely be significantly higher, with a minimum around 20% of direct costs.
- (D) Programme costs incurred by the TFV that are associated with the implementation of awards and that ensure quality assurance and the realisation of features that align with the Reparations Principles. For instance, victim notification, liaising with victims, methodology design, communications with stakeholders, gender integration and monitoring and evaluation.

209. The TFV submits that costs falling within categories A to C should form part of the reparations liability amount awarded by a Chamber against the convicted person, where the TFV is requested to implement the awards pursuant to Rule 98(3) of the Rules. The term ‘total costs’ as used below refers to the combined costs of categories A, B and C.

b. RELEVANT FACTORS TO ASSESS COSTS

210. For purposes of assisting the Chamber, the TFV addresses below the main factors that inform an assessment of costs based on the reparative modalities discussed in these Observations.

211. *Category A: individual awards and individualised reparations with a focus on cash payments:* The parties and participants have made submissions on individual and/or symbolic payments, including on amounts. The TFV notes those submissions and does not consider itself in a position to add to them at this stage. The TFV respectfully submits that it is for the Chamber to determine whether and in what form such individualised payments should be ordered and at what level.

212. *Category B-1: services benefits and activities – community reconstitution and community rehabilitation*

213. The principal reparative objective would be to contribute to enabling the return of the community of victims of the four case locations to the ancestral land and reconstitution of community life and the rehabilitation of the harm suffered by the community of victims. This is in line with the core priority of the victims which is to return to their ancestral land. The modalities associated with that objective include both community rehabilitation measures capable of commencing during displacement and future measures supporting return and community reconstitution once conditions permit. The costs associated with that objective represent the largest component of the convicted person’s liability. However, the costs cannot be reliably estimated at this stage. The measures concerned lie in the future at an undetermined time and under conditions that cannot be predicted. Their scope and cost will depend on the evolution of the conflict, the condition in which communities will eventually return, and the extent of further deterioration of the affected localities in the intervening period. Beyond the practical impossibility of costing future reconstruction and rehabilitation measures, the harm suffered by the community of victims of the four case locations cannot itself be quantified: victims have consistently expressed in consultations and in submissions on the case record that no sum of money can capture the loss suffered due to over twenty years of displacement and their separation from their land. The TFV respectfully submits that the Reparations Order include a just and adequate liability amount in respect of this category.

214. As regards community rehabilitation, an important factor in informing costs could be what is currently possible. However, rehabilitation measures in the current situation in the camps can only have limited impact and their feasibility is subject to various constraints set out in these Observations. The TFV refers to its submissions in the *Yekatom and Ngaïssona*¹⁵¹ case as a point of reference for scale. In that case, a rehabilitation programme providing socio-economic support, with a particular focus on education, physical rehabilitation, and psychological rehabilitation for an estimated 750 to 1,050 households returning from displacement, was costed at approximately EUR 5.5 million in category B costs. Including category C indirect costs, the estimated total cost ranged between EUR 6.5 to EUR 9 million.¹⁵² In that case, the TFV also highlighted the additional complexities associated with establishing and implementing rehabilitation programmes for victims residing in refugee or returnee camps.¹⁵³ These additional operational, administrative, legal and security challenges would, in turn, substantially increase the category C costs of such a programme. In the present case, the number of affected households is substantially larger (more than 140,000 members of the community of victims as per the Registry Victim Mapping Report) and in addition the children born since the commission of the crimes, the operating environment in Darfur is significantly more constrained, and no programme start date can be presently projected.¹⁵⁴ Accordingly, the TFV submits that the Reparations Order should establish a liability amount for rehabilitation that reflects the full scope of a holistic rehabilitation programme, rather than the current ceiling of what can realistically be delivered under existing constraints, and that any liability amount should be calibrated significantly above the *Yekatom and Ngaïssona* reference to reflect the specific scale and circumstances of the present case.

215. As regards satisfaction measures, the costs involved vary considerably depending on the character of the measure. Some satisfaction measures, such as support for community advocacy, require comparatively limited funding and can be delivered through existing community structures and networks. Others, in particular measures directed at the preservation of memory, identity, and land rights, are long-term in nature, intended to remain accessible to the affected communities and to future generations, and involve both initial development costs of computer programmes and ongoing maintenance and accessibility costs that are more substantial and more difficult to estimate at this stage. The indicative cost of satisfaction measures as a whole is accordingly difficult to establish with precision, and price indications

¹⁵¹ *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Observations Relevant to Reparations, 15 April 2026, ICC-01/14-01/18-2907-Conf.

¹⁵² *Ibid.*, paras 158-162, 165, 169.

¹⁵³ *Ibid.*, para. 161.

¹⁵⁴ Registry Victim Mapping Report, paras. 110-139.

for specific measures within this modality are still being gathered. The TFV aims at providing further elaboration on the costs associated with satisfaction measures at the oral hearing.

216. *Category B-2: individual rehabilitation for victims of specific crimes:* Medical, psychological, and psychiatric services range considerably in cost depending on needs and location. In DRC-related programmes, costs in exceptional circumstances amounted to USD 5,000 per victim where severe persisting harm required treatment, while average rehabilitation costs per beneficiary across all measures were substantially lower. In the present case, very few medical, psychological, or psychiatric services of the kind required for victims of torture, sexual violence, and other specific crimes are currently available in Darfur. [REDACTED].

217. *Category C: indirect costs:* The indirect cost rate applicable in this case is substantially higher than the range presented above applicable to current and past TFV programmes. This range does not apply to the environment of Darfur for four main reasons.

218. *Implementation issues:* First, [REDACTED]. Both carry substantially higher operational costs to reduce the higher risks present than in standard partner-based delivery.

219. *Currency issues:* Second, the currency situation in Darfur creates a structural cost burden with no precedent in any previous ICC reparation context. The Central Bank of Sudan initiated the use of new currency bills since December 2024. This currency exchange is reportedly phased and was initiated by prioritising ‘secure’ states of Sudan. To date, this currency exchange has excluded the Darfur states, resulting in the use of different, older currency notes in the Darfur region, often not accepted elsewhere, impacting drastically the financial foundations of the region in which the majority of the victim population resides.¹⁵⁵ While the currency change is planned for the remaining states of Sudan, including Darfur, no dates have been specified for when the change process will be launched, creating two parallel monetary systems within the country, and limiting access to banking services on the territory of Darfur to only those with activities outside of Darfur. In addition to the issue of use of outdated currency in Darfur, the TFV notes the limited availability of cash in Darfur, which significantly elevates the costs and security of every transaction. Currently any transaction in the country carries a 20 percent administrative fee. This reduces the value reaching the

¹⁵⁵ Al-Tijani, M. (2025, November 17). *Old notes, new pressures: How rural Sudan navigates a fractured currency swap*. Atar Network. <https://atarnetwork.com/?p=17684>. Sudan Tribune (2026) ‘Sudan central bank to start second phase of currency exchange in three states’, *Sudan Tribune*, 12 April. Available at: <https://sudantribune.com/article/312725> (Accessed: 2 July 2026). Shamam, N. (2025) ‘Delay in completing currency change in Sudan: Economic challenges and negative impacts’, *Sudan Horizon*, 3 October. Available at: <https://sudanhorizon.com/delay-in-completing-currency-change-in-sudan-economic-challenges-and-negative-impacts/>.

beneficiaries by a fifth before any implementation cost is counted under category A or B. As stated above, costs in this category should be part of the liability amount. The Chamber is invited to take these costs into account when determining the liability amount.

220. [REDACTED].

221. *Communication issues:* Fourth, the absence of communication infrastructure in the affected localities and the dispersed character of the victim population create a cost burden that has no equivalent in previous ICC reparations programmes. As an example, and as set out above, consultations in the current phase were hampered by fluctuating connectivity issues due to the use of remote methodologies needed in the evolving context of the ongoing conflict. Darfur more broadly lacks internet access, [REDACTED].

222. Accordingly, any reparations programme in this case will require investment in measures to enable communication among community members and between the communities, the TFV, and the Court, [REDACTED], as a prerequisite for the effective design, implementation, and monitoring of reparations and for the functioning of the participatory mechanism. These costs form part of the indirect costs of the programme and should be reflected in the liability amount.

223. As stated above, costs in this category should be part of the liability amount. The Chamber is invited to take these costs into account when determining the liability amount.

224. To conclude the section on cost factors, in line with section XII(d) above, the TFV underlines in the context of costs the need for flexibility in the implementation of any programme, given the evolving and unpredictable circumstances in which reparations in this case will have to be carried out. It should be possible to adapt measures to future developments and to allocate resources flexibly across different components without being constrained by rigid ex ante allocations. The TFV underlines that in any case, the programme will have to be structured sequentially, therefore funding needs can mirror the gradual implementation phases.

c. RESOURCES REQUIRED TO REALISE A REPARATIONS ORDER

225. The TFV underscores that the crimes for which Mr Abd-Al-Rahman has been convicted caused profound and enduring harm to thousands of victims and affected communities in Darfur. Financial investigations and asset recovery efforts should continue to be pursued through the appropriate organs of the Court. Nevertheless, the scale and gravity of that harm substantially exceed the resources that may realistically be recovered from the convicted person.

226. In this regard, given the magnitude of victim harm and the historical significance of this case as the first ICC conviction arising from the Darfur situation referred by the United Nations Security Council, the TFV respectfully requests that the Reparations Order acknowledge that the effective implementation of reparations constitutes a matter of shared international concern. The Reparations Order could call upon States, international organizations, and relevant United Nations bodies to provide feasible support, including financial support to TFV, to facilitate the prompt implementation of the Reparations Order.

227. Meaningful reparations are indispensable not only for redressing the harm suffered by victims, but also for advancing dignity, acknowledgment, reconciliation, and the long-term prospects for peace and stability in affected communities, and strengthen other accountability efforts in Sudan. Such objectives will be central to measure the impact of the reparations.

228. Failure to resource adequately reparative measures risks undermining the practical realisation of victims' rights recognized under the Statute and the aspirations of peace and security in Darfur. Therefore, the TFV submits that it would considerably assist the TFV's efforts if the Reparations Order were to invite States Parties to consider that resources available to pursue relief, peace and stabilisation in Darfur are adequate to also finance reparations for the victims of Mr Abd-Al-Rahman.

229. In this regard, the TFV underscores that one of the most important roadblocks to resource mobilisation for reparations is that States Parties do not have existing policies or corresponding dedicated budget lines to fund reparations ordered by the ICC, when the convicted person is indigent, at the volume required and in a predictable and sustainable manner. It would therefore considerably assist its efforts if the Reparations Order were to invite States Parties to consider developing policies providing them with the possibility to fund reparations in a predictable and sustainable manner as well as at the scale required. Such contributions to reparations would be a means through which States realise their commitment to the rule of law and the ICC and to their policies of investing in development and future peaceful and prosperous societies.

230. Finally, the TFV notes the reference made by the Defence to their engagement with embassies of States Parties and Non-States Parties and informs the Chamber that such initiatives were not endorsed by the TFV and that the TFV maintains a structured dialogue and a tailored strategy to engage with States Parties and other entities. Accordingly, to avoid hampering the TFV's efforts, it had kindly requested that the Defence specify in its interactions that their initiatives are not endorsed by the TFV.

XIV. CONSIDERATIONS FOR LIABILITY AMOUNT

231. The TFV is invited to share any considerations that the Chamber should take into account when assessing Abd-Al-Rahman's liability for reparations.¹⁵⁶ The TFV has addressed the question of the liability amount above in the section on costs and does not repeat those observations here. However, other considerations are relevant.

232. *Importance of Full Recognition:* Due to the severe challenging context in Darfur, it is necessary to consider the feasibility of operationalising any decision related to reparations. However, at the outset, the TFV recalls that reparations orders issued by the Court, a permanent judicial institution, are enduring legal determinations that remain on record and establish the framework within which reparations may be implemented to address the harm caused by the crimes for which the convicted person was found responsible. Their content should not be determined solely by what is feasible in the current context of ongoing conflict.¹⁵⁷ Conditions that render implementation difficult or impossible today may not persist in the future, and an exclusive focus on current feasibility for purpose of the Reparations Order would risk failing to reflect adequately the harm suffered by victims, their experiences, and their views as to how the consequences of the crimes should be addressed through reparations.

XV. CONCLUSION

233. In conclusion, the TFV respectfully requests the Trial Chamber to take these Observations into account when considering the Reparations Order in this case and affirms its commitment to provide further observations as requested.



Franziska Eckelmans, Legal Adviser,
on behalf of
Deborah Ruiz Verduzco, Executive Director, Trust Fund for Victims

Dated this 1st of August 2026

At The Hague, The Netherlands

¹⁵⁶ Order, para. 6(a)(ix).

¹⁵⁷ See CLR V Submissions on Reparations, para. 13.