

**Public**

***Annex A***

| Amicus Curiae Observations: <i>Queen's University Belfast Human Rights Center</i> - ICC-01/12-01/18-2730 |                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| Crime referenced/topic                                                                                   | Statement made in filing (citing Trial Judgment)                                                                                                                                                                                                                                                                                           | Part of Trial Judgment (TJ) referenced in AC (corresponding footnote to statement)                                                                                                                                                                                                                                                                                                                                                          | Trial Chamber or Judge Akane's Dissent                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Women raped in detention                                                                                 | Others were flogged after being unlawfully detained, interrogated, and sentenced without due process, such as in the Islamic Police headquarters, or in the Banque Malienne de Solidarité ('BMS') building ATM room, where women were also raped by guards. <sup>8</sup>                                                                   | Fn 8- Trial Judgment para 747. See para 856 – 861 case of Azahara Abdou, para 862-868 case of P-0636, para 873 –888 case of P0570, and case of Fadimata Mint Lilli para 889-901. Azahara Abdou, P-0636, P-0570 and Fadimata Mint Lilli were raped by one or more guards while in custody in the BMS or Islamic Police headquarters, ostensibly held in custody because they were not complying with the militia's rules on dress for women. | Azahara Abdou – (fn 2790) "Judge Akane dissents in that she does not consider there to be a sufficient evidentiary basis to find that Azahara Abdou was raped while detained at the BMS, for the reasons below."<br><br>Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                                                                                                             |
| Torture (flogging)                                                                                       | P-0642 described the physical and long-term health consequences suffered by P-0580 after torture in that he 'could not walk because he was ill, he was throwing up blood because of the internal injuries... had bruises, and bumps on his skin and body down to his back, and still had the scars on his body to this day.' <sup>10</sup> | Fn 10 –Trial Judgment. para.806 see ft. 2558.                                                                                                                                                                                                                                                                                                                                                                                               | Trial Judgment, fn 4125: "While the Chamber found that members of Ansar Dine/AQIM whipped Mohamed Oye Ag Inhinane (P-0580), the Chamber found that there was insufficient evidence to link the physical and mental injuries experienced by the victim to this whipping (see paragraph 806 above). Accordingly, the Chamber considers that the exact degree of suffering inflicted upon the victim during this whipping is unknown and that there is insufficient evidence to draw any conclusions under the elements of Counts 1 to 5." |
| Detention/rape/forced marriage                                                                           | P-0538, another female victim, stated: 'that day I became ill. I                                                                                                                                                                                                                                                                           | Fn 12 –Trial Judgment para.972.                                                                                                                                                                                                                                                                                                                                                                                                             | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|                       | was disturbed in my sleep. I would have nightmares. I had the impression that I had lost my mind. I was very disturbed.’ <sup>12</sup>                                             |                                              | crime (TJ para 1473), forced marriage (TJ para 1439 and 1458)                                                                                                                       |
| Religious persecution | This included coercive control over their personal dress and hygiene habits, freedom of movement, their ability to earn money and to socialise. <sup>24</sup>                      | Fn 24 - Judgment, paras 529-537, 693-703.    | Judge Akane noted “I agree with my colleagues in their findings at paragraphs 1530-1532, 1562- 1565 and 1567-1570 of the Trial Judgment” (ICC-01/12-01/18-2594-OPI, para 100).      |
| Religious persecution | Women were ordered to stay at home, were effectively prevented from working or studying, and could be imprisoned for violating religious rules for dress. <sup>25</sup>            | Fn 25 - Judgment paras. 697, 1532-1533, 1542 | Mr Al Hassan was not convicted of findings in paras 1533 and 1542 (ICC-01/12-01/18-2594-OPI, para 100).                                                                             |
| Religious persecution | This resulted in psychological and material suffering for women. <sup>26</sup>                                                                                                     | Fn 26 - judgment para 1541.                  | Mr Al Hassan was not convicted of findings in para 1541 (ICC-01/12-01/18-2594-OPI, para 100).                                                                                       |
| Forced marriages      | The Court’s judgment clearly established that Ansar Dine/AQIM used their extremist religious propaganda to promote forced marriages as a façade for sexual violence. <sup>27</sup> | Fn 27 - Judgment para.1418                   | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458) |
| Forced marriages      | ‘Most’ members of Ansar Dine ”married” local women in what were commonly known as ”jihadi marriages”, often facilitated by local intermediaries. <sup>28</sup>                     | Fn 28 - Judgment paras.491 and 501.          | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458) |

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| Forced marriages | Mr Al Hassan had a significant role in arranging these religious "marriages." <sup>29</sup>                                                                                                               | Fn 29 - Judgment para.502 and 505                                                                                                                                                                                                                                                                                                                                                       | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                                                                                                                                                                                                                                                                                                                                                                  |
| Forced marriages | The Majority found that Mr Al Hassan 'made a contribution not only to 'jihadi marriages', but also directly to forced marriages', 30 yet ultimately found him not guilty of the crime of forced marriage. | Fn 30 - Judgment para.1713.                                                                                                                                                                                                                                                                                                                                                             | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                                                                                                                                                                                                                                                                                                                                                                  |
| Forced marriages | The "marriages" had significant psychological and social impact on the victims. <sup>31</sup>                                                                                                             | Fn 31 - The Court acknowledged the suffering caused to victims P-0520, P-0602, P-0610, P-0538 and P-1162. P-0602 continues to feel "sadness in her heart," and P-0538, who was flogged and raped by her "husband" and continues to experience nightmares. P-0610, who was 13-15 years old at the time, experienced social ostracism, as did P-0520. See Trial Judgment paras.1424-1427. | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                                                                                                                                                                                                                                                                                                                                                                  |
| Forced marriages | This continued after Ansar Dine's departure: social stigma meant that women were ashamed to go outside with children born out of "jihadi marriages." <sup>32</sup>                                        | Fn 32 - Trial Judgment para.515.                                                                                                                                                                                                                                                                                                                                                        | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458) <a href="#">Akane Separate Opinion</a> , para 12 – "I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM's common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms</b> |

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|                               |                                                                                                                                                                                                                                                                                                                                                                                                  |                                      | <p><b>of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6;</b> (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Poor conditions in detainment | <p>The judgment establishes that several victims were flogged, and suffered cruel treatment in detention sites. As well as the poor conditions of the cell where people were detained with no access to basic hygiene facilities, such as a toilet and little or no food,<sup>35</sup> the judgment also found several cases of rape by Islamic Police guards while in custody.<sup>36</sup></p> | Fn 35 - judgment, paras. 864 and 894 | <p><b>No findings that Islamic Police raped anyone</b> (apart from rape committed by Bocar which did not occur at the BMS and which was investigated and punished by the groups)</p> <p>Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)</p> <p><a href="#">Akane Separate Opinion</a>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous</b></p> |

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|                         |                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                    | judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Rape and sexual assault | The judgment establishes that several victims were flogged, and suffered cruel treatment in detention sites. As well as the poor conditions of the cell where people were detained with no access to basic hygiene facilities, such as a toilet and little or no food, <sup>35</sup> the judgment also found several cases of rape by Islamic Police guards while in custody. <sup>36</sup> | Fn 36 - These include the case of Azahara Abdou, P-0636, P-0570 and Fadimata Mint Lilli - Judgment, paras.856-861, 862- 868, 873-888, and 889-901. | <p>Azahara Abdou – (Trial Judgment, fn 2790) “Judge Akane dissents in that she does not consider there to be a sufficient evidentiary basis to find that Azahara Abdou was raped while detained at the BMS, for the reasons below.”</p> <p>Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (TJ para 1473), forced marriage (TJ para 1439 and 1458)</p> <p><u>Akane Separate Opinion</u>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii)</b> other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes</p> |

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|                                                     |                                                                                                                                                                                                                             |                                              | charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Sexual assaults against women by the Islamic police | These factors could suggest that the true number of sexual assaults of women in Islamic Police custody is unknown, due to a victim’s fears of coming forward or difficulty in collecting sufficient evidence. <sup>37</sup> | Fn 37 - Judgment, paras.867-686 and 887-888. | <p>These paragraphs describe events carried out by the Hesbah and Mohammed Mousa (not the Islamic Police)</p> <p>Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)</p> <p><a href="#">Akane Separate Opinion</a>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”</b></p> |

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| Forced marriages                                     | Community centres could establish spaces for women and their children born out of "jihadi marriages" to participate in society. <sup>76</sup>                                                                        | Fn 76 - Judgment para.515.                     | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)) |
| Religious persecution (particularly women and girls) | The TFV should work out a methodology for women and girls to inconspicuously apply for reparations as victims, given the cultural pressures on them to avoid their family, social and public exposure. <sup>78</sup> | Fn 78 - P-0152: T-032, p.42. Judgment para.492 | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)  |

| Amici Curiae Observations: <i>Mama Koité Doumbia</i> ; <i>Association des Femmes pour les Initiatives de Paix (AFIP)</i> ; <i>Groupe de Recherche, d'Etude, de Formation Femme-Action (GREFFA)</i> ; <i>Women's Initiatives for Gender Justice (WIGJ)</i> ; <i>International Federation for Human Rights (FIDH)</i> ; <i>REDRESS</i> ; <i>Lawyers Without Borders Canada (LWB Canada)</i> ; <i>Alexandra Lily Kather</i> ; <i>Sareta Ashraph</i> - ICC-01/12-01/18-2735 |                                                                                                                                                                                                                                                                                                                               |                                                                               |                                                                                                                                                                                                                                                                                                  |
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| Crime referenced/topic                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Statement made in AC (citing Trial Judgment)                                                                                                                                                                                                                                                                                  | Part of Trial Judgment referenced in AC (corresponding footnote to statement) | Details                                                                                                                                                                                                                                                                                          |
| Women and girls particularly harmed                                                                                                                                                                                                                                                                                                                                                                                                                                     | In the present case, the crimes were committed in the context of a campaign aimed at imposing the Ansar Dine/AQIM interpretation of Sharia on the Timbuktu population and particularly targeted women and girls, whose behaviour was "particularly controlled" and repressed with "especially harsh punishment". <sup>4</sup> | Fn 4 –Trial Judgment para 1568                                                | Trial Judgment, para 1574 – Judge Akane dissents on majority finding that there was persecution on gender grounds; "Considering the above, the Chamber, Judge Akane dissenting in part, is satisfied that the perpetrators targeted the population of Timbuktu on religious and gender grounds." |
| Gender-based crimes                                                                                                                                                                                                                                                                                                                                                                                                                                                     | The Trial Chamber found by majority that Ansar Dine/AQIM                                                                                                                                                                                                                                                                      | Fn 5 –Trial Judgment 1574                                                     | Trial Judgment, para 1574 notes that Judge Akane dissented on gender persecution;                                                                                                                                                                                                                |



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|                                                               | committed gender-based crimes, particularly targeting women and girls, and that all underlying acts of persecution were part of Ansar Dine/AQIM's discriminatory campaign. <sup>5</sup>                                                                                                                                                 |                                                        | "Considering the above, the Chamber, Judge Akane dissenting in part, is satisfied that the perpetrators targeted the population of Timbuktu on religious and gender grounds."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Persecution (religious and gender-based)                      | The Chamber similarly established that the persecution, which it determined to be on both religious and gender grounds, "did not take place in isolation" but "[r]ather it formed part of a series of crimes against humanity involving different acts under Article 7(1) perpetrated against the population of Timbuktu". <sup>6</sup> | Fn 6 –Trial Judgment paras 1574, 1576                  | Trial Judgment, para 1574 says that Judge Akane dissented on gender persecution: "Considering the above, the Chamber, Judge Akane dissenting in part, is satisfied that the perpetrators targeted the population of Timbuktu on religious and gender grounds."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Mr Al Hassan's intent and knowledge (criminal responsibility) | It was further concluded by majority that Mr Al Hassan participated in the commission of these crimes with intent and knowledge. <sup>7</sup>                                                                                                                                                                                           | Fn 7 –Trial Judgment paras 1674-1692, 1717, 1734-1736. | <p>Trial Judgment, para. 1686 Judge Akane dissented to the finding that Mr Al Hassan's contribution at a senior level within the Islamic Police allowed other institutions to work effectively (Akane not agreeing that Hesbah's actions are under his responsibility).</p> <p>Trial Judgment, para 1692 – Judge Akane dissented to finding that Mr Al Hassan criminally responsible pursuant to Article 25(3)(d) of the Statute for other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) (Count 2), cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) (Count 4), and outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) (Count 5), all committed against Azahara Abdou (P-1134),</p> |

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|                                        |                                                                  |                                | <p>P-0636, P-0570, and Fadimata Mint Lilli (P-0547).</p> <p>Trial Judgment, para 1692 – Judge Akane dissented to the fact that “Mr Al Hassan is also charged in the alternative pursuant to Article 25(3)(d) of the Statute under Counts 1, 3 and 5 in relation to the two men, P-0565 and P-0557, and Khudi Bint brahim, ‘Abdallah Bin Mukha, Bint Bint Ibrahim, Ikhmad Bin Muhammad, AlHusayn Bin ‘Umar and Halimah Bint Muhammad. Based on the same reasoning set out above, including on the inclusion of these crimes in the common purpose, the Majority, in the alternative to its findings above under Article 25(3)(a) of the Statute in relation to the two men and Article 25(3)(c) for the other aforementioned victims, would have found Mr Al Hassan criminally responsible in respect of those victims pursuant to Article 25(3)(d) of the Statute for torture as a crime against humanity, under Article 7(1)(f) (Count 1), and as a war crime, under Article 8(2)(c)(i) (Count 3); and outrages upon personal dignity as a war crime, under Article 8(2)(c)(ii) (Count 5).”</p> <p>Trial Judgment, para 1718 notes that Judge Akane dissents to the Majority’s finding that Mr Al Hassan made a contribution to the crimes of rape and sexual slavery in the context of forced marriage.</p> |
| Mr Al Hassan’s role in Ansar Dine/AQIM | The Chamber found that he “had a vital and important role in the | Fn 8 –Trial Judgment para 1674 | Trial Judgment, fn 5093 cites to Akane’s separate and dissenting opinion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|                                        | Islamic Police and in Ansar Dine/AQIM in general”, “was a key player”, “chose to participate in this system in an active manner”, and “personally collaborated with all the relevant institutions and partners in order to contribute to the efficacy of the repression system”. <sup>8</sup> |                                 | <p>Trial Judgment, para. 1686; Judge Akane dissented to the finding that Mr Al Hassan’s contribution at a senior level within the Islamic Police allowed other institutions to work effectively (Akane not agreeing that Hesbah’s actions are under his responsibility)</p> <p><a href="#">Akane Separate Opinion</a>, para 12 – “12. I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”</b></p> |
| Mr Al Hassan’s role in Ansar Dine/AQIM | In light of these and other findings, the Chamber concluded “Mr Al Hassan had a leading role in the implementation of the repression system put into place                                                                                                                                    | Fn 11 –Trial Judgment para 1684 | Trial Judgment, para. 1686 - Judge Akane dissented to the finding that Mr Al Hassan’s contribution at a senior level within the Islamic Police allowed other institutions to work                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|             | by Ansar Dine/AQIM in Timbuktu”. <sup>11</sup>                                                                                                                                                                                                             |                         | <p>effectively (Akane not agreeing that Hesbah’s actions are under his responsibility)</p> <p><u>Akane Separate Opinion</u>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”</b></p> |
| Convictions | The Chamber found that Mr Al Hassan contributed to a broad range of crimes, including persecution, torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation, under both Article 7 and 8 of the Statute. <sup>12</sup> | Fn 12 – paras 1682-1692 | <p>Trial Judgment, para. 1686 - Judge Akane dissented to the finding that Mr Al Hassan’s contribution at a senior level within the Islamic Police allowed other institutions to work effectively (Akane not agreeing that Hesbah’s actions are under his responsibility)</p> <p>Trial Judgment, para 1692 - Judge Akane dissented to finding that Mr Al Hassan criminally responsible pursuant to Article</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|  |  |  | <p>25(3)(d) of the Statute for other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) (Count 2), cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) (Count 4), and outrages upon personal dignity as a war crime, pursuant to Article 8(2)(c)(ii) (Count 5), all committed against Azahara Abdou (P-1134), P-0636, P-0570, and Fadimata Mint Lilli (P-0547).</p> <p>Trial Judgment, para 1692 - Judge Akane also dissented to the fact that “Mr Al Hassan is also charged in the alternative pursuant to Article 25(3)(d) of the Statute under Counts 1, 3 and 5 in relation to the two men, P-0565 and P-0557, and Khudi Bint brahim, ‘Abdallah Bin Mukha, Bint Bint Ibrahim, Ikhmad Bin Muhammad, AlHusayn Bin ‘Umar and Halimah Bint Muhammad. Based on the same reasoning set out above, including on the inclusion of these crimes in the common purpose, the Majority, in the alternative to its findings above under Article 25(3)(a) of the Statute in relation to the two men and Article 25(3)(c) for the other aforementioned victims, would have found Mr Al Hassan criminally responsible in respect of those victims pursuant to Article 25(3)(d) of the Statute for torture as a crime against humanity, under Article 7(1)(f) (Count 1), and as a war crime, under Article 8(2)(c)(i) (Count 3); and outrages upon personal dignity as a war crime, under Article 8(2)(c)(ii) (Count 5).”</p> |
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| Gender based impact | The Chamber found that “women and girls were specifically targeted by reason of their gender, depriving them of some of their fundamental rights because of the particular roles, expectations and conduct Ansar Dine/AQIM assigned to their gender,” <sup>13</sup> with “specific rules and prohibitions [...] aimed at women and girls, and their violation [...] repressed with especially harsh punishment and detention conditions, involving gender-specific violence”. <sup>14</sup> | Fn 13 – para 1566                | Trial Judgment, para 1566 - “The Majority, <b>Judge Akane dissenting</b> , considers that, in addition, Ansar Dine/AQIM members specifically targeted local women and girls by reason of their gender, depriving them of some of their fundamental rights because of the particular roles, expectations and conduct Ansar Dine/AQIM assigned to their gender.”  |
| Gender based impact | The Chamber found that “women and girls were specifically targeted by reason of their gender, depriving them of some of their fundamental rights because of the particular roles, expectations and conduct Ansar Dine/AQIM assigned to their gender,” <sup>13</sup> with “specific rules and prohibitions [...] aimed at women and girls, and their violation [...] repressed with especially harsh punishment and detention conditions, involving gender-specific violence”. <sup>14</sup> | Fn 14 – Trial Judgment para 1568 | Trial Judgment, para. 1566 - “The Majority, <b>Judge Akane dissenting</b> , considers that, in addition, Ansar Dine/AQIM members specifically targeted local women and girls by reason of their gender, depriving them of some of their fundamental rights because of the particular roles, expectations and conduct Ansar Dine/AQIM assigned to their gender.” |
| Gender based impact | An environment of fear loomed, Ansar Dine/AQIM members “patroll[ing] the city daily to                                                                                                                                                                                                                                                                                                                                                                                                      | Fn 16 – Trial Judgment para 1570 | Trial Judgment, para 1574 – “Considering the above, the Chamber, <b>Judge Akane dissenting in part, is satisfied that the perpetrators</b>                                                                                                                                                                                                                      |

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|                                     | control the correct implementation of the dress code of women, [...] and chas[ing] women inside their houses for not being sufficiently well covered,” <sup>15</sup> leading to women feeling “they could be punished ‘whatever [they] did’ to respect the rules and prohibitions, and some women no longer left their home”. <sup>16</sup> |                                       | <b>targeted the population of Timbuktu on religious and gender grounds.</b> The Chamber further finds that the perpetrators, who were all members of Ansar Dine/AQIM, committed the underlying acts of persecution deliberately, with the awareness that members of the targeted group would - as a result - be deprived of one or more of their fundamental rights, and, as demonstrated above, by reason of their perception of the group as ‘bad Muslims’, who in their view lacked the ‘correct’ form of religious belief. Certain persecutory acts were, additionally and as discussed above, gender-based and, in these cases, the Majority is satisfied that the perpetrators also meant to target women and girls as such. In its view, and contrary to the Defence arguments, <sup>4834</sup> the Chamber, <b>Judge Akane dissenting in part, considers it established that all underlying acts were part of Ansar Dine/AQIM’s discriminatory campaign and that its members knew that and intended for their respective acts</b> and conduct to contribute to the organisation’s project to impose its vision and interpretation of Sharia on the local population of Timbuktu, particularly on women and girls.” |
| Forced marriage                     | and marriage with local women were a “means for Ansar Dine/AQIM members to have sexual intercourse in a ‘permissible’ manner”, <sup>21</sup>                                                                                                                                                                                                | Fn 21 –Trial Judgment paras 510, 1572 | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Forced marriages and sexual slavery | with women having “no right to refuse sexual relations with their                                                                                                                                                                                                                                                                           | Fn 22 –Trial Judgment para 510        | Trial Judgment, para 1718 says that Judge Akane dissents to a conviction of “other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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|                       | 'husband' who had control over everything". <sup>22</sup>                                                                                                                                                                                                    |                                 | inhuman acts in the form of forced marriage as a crime against humanity"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Religious persecution | Consequently, Ansar Dine/AQIM sought to impose what they deemed the "correct" form of religious belief, <sup>23</sup> namely their interpretation of Sharia, <sup>24</sup> by institutionalising forced marriages as a tool of religious and gender control. | Fn 23 –Trial Judgment para 1574 | Trial Judgment, para 1574 - "Considering the above, the Chamber, <b>Judge Akane dissenting in part, is satisfied that the perpetrators targeted the population of Timbuktu on religious and gender grounds.</b> The Chamber further finds that the perpetrators, who were all members of Ansar Dine/AQIM, committed the underlying acts of persecution deliberately, with the awareness that members of the targeted group would - as a result - be deprived of one or more of their fundamental rights, and, as demonstrated above, by reason of their perception of the group as 'bad Muslims', who in their view lacked the 'correct' form of religious belief. Certain persecutory acts were, additionally and as discussed above, gender-based and, in these cases, the Majority is satisfied that the perpetrators also meant to target women and girls as such. In its view, and contrary to the Defence arguments, <sup>4834</sup> the Chamber, <b>Judge Akane dissenting in part, considers it established that all underlying acts were part of Ansar Dine/AQIM's discriminatory campaign and that its members knew that and intended for their respective acts</b> and conduct to contribute to the organisation's project to impose its vision and interpretation of Sharia on the local population of Timbuktu, particularly on women and girls." |



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| Forced marriage                    | Consequently, Ansar Dine/AQIM sought to impose what they deemed the “correct” form of religious belief, <sup>23</sup> namely their interpretation of Sharia, <sup>24</sup> by institutionalising forced marriages as a tool of religious and gender control.                      | Fn 24 –Trial Judgment para 1562                               | Trial Judgment, para 1718 says that Judge Akane dissents to a conviction of “other inhuman acts in the form of forced marriage as a crime against humanity”                                                                                                                                                                                                                                                                                                                                                                                                  |
| Forced marriage and sexual slavery | The Chamber also noted that sexual slavery victims were subjected to this form of abuse following their forced marriages to members of Ansar Dine/AQIM <sup>25</sup>                                                                                                              | Fn 25 –Trial Judgment para 1442                               | <p>Trial Judgment, para 1718 says that Judge Akane dissents to a conviction of “other inhuman acts in the form of forced marriage as a crime against humanity pursuant to Article 7(1)(k) (Count 8); sexual slavery as a crime against humanity”</p> <p>Trial Judgment, para 1442 - “In relation to all the victims under consideration, the Chamber, and in relation to P-1162, the Majority, <b>Judge Akane dissenting</b>, notes that, as elaborated below, the events they experienced follow their forced marriages to members of Ansar Dine/AQIM.”</p> |
| Gender based impact                | While the Chamber acknowledged the differential application of rules to men and women – resulting in the specific targeting of women and girls <sup>27</sup> – it is important to emphasise the broader ideological system that punished both religious and gender nonconformity. | Fn 27 –Trial Judgment para 1571                               | Trial Judgment, para 1574 - “Considering the above, the Chamber, Judge Akane dissenting in part, is satisfied that the perpetrators targeted the population of Timbuktu on religious and gender grounds.”                                                                                                                                                                                                                                                                                                                                                    |
| Crime of torture                   | The convicted crimes resulted in severe physical harm. For the                                                                                                                                                                                                                    | Fn 29 –Trial Judgment paras 1310, 1312, 1316-1318, 1320-1322. | Trial Judgment, para 1310 (fn 4139) – “The Majority, <b>Judge Akane dissenting</b> , found that                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|               | crime of torture (Counts 1 and 3), this included public floggings, <sup>29</sup> a public amputation, <sup>30</sup> and in one case, forced nudity, <sup>31</sup>                                                                                                                                                                                                                                                                                                                      |                         | the men were sentenced by the Islamic Court, whereas Judge Akane considered that the floggings of the two men was a ta'zir imposed directly by the Islamic Police without an Islamic Court judgment (see footnote 2333 above)".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Inhumane acts | In its discussion on the crime of other inhumane acts (Count 2), the Chamber found by majority that the inhumane acts which "taken as a whole caused great suffering" included denial of water or food, detention in unsanitary and degrading conditions, rape – including while blindfolded, held at gunpoint, and threatened with death - by multiple Hesbah members, resulting in vaginal bleeding, loss of consciousness, prolonged hospitalisation and an abortion. <sup>33</sup> | Fn 33 – paras 1346-1349 | <p>Trial Judgment, para 1346; "The Majority, Judge Akane dissenting, additionally takes into account the additional severe suffering arising from the fact that during her detention, five members of the Hesbah took turns raping the victim, putting a gun to her head and threatening to kill her unless she stayed quiet.<sup>4297</sup>" (regarding rape of Azahara Abdou)</p> <p>Additionally – Trial Judgment, para 1686 says that Judge Akane dissented to the finding that Mr Al Hassan's contribution at a senior level within the Islamic Police allowed other institutions to work effectively</p> <p><a href="#">Akane Separate Opinion</a>, para 12 – "12. I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM's common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without</b></p> |

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|                 |                                                                                                                                                                                              |                                 | previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Cruel treatment | For the crime of cruel treatment (Count 4), the physical harms resulted from public floggings, <sup>34</sup> violent arrest, <sup>35</sup> detention in unsanitary conditions, <sup>36</sup> | Fn 35 –Trial Judgment para 1346 | <p>Trial Judgment, para 1346; “The Majority, Judge Akane dissenting, additionally takes into account the additional severe suffering arising from the fact that during her detention, five members of the Hesbah took turns raping the victim, putting a gun to her head and threatening to kill her unless she stayed quiet.<sup>4297</sup>” (regarding rape of Azahara Abdou)</p> <p>Additionally – actions of Hesbah excluded from liability:<br/> Trial Judgment, para. 1686; “Judge Akane dissented to the finding that Mr Al Hassan’s contribution at a senior level within the Islamic Police allowed other institutions to work effectively”</p> <p><u>Akane Separate Opinion</u>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common</b></p> |

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|                 |                                                                                                                                                                                                  |                                        | <p><b>purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”</b></p>                                                                                                                                                                                                                                                                                                        |
| Cruel treatment | <p>For the crime of cruel treatment (Count 4), the physical harms resulted from public floggings,<sup>34</sup> violent arrest,<sup>35</sup> detention in unsanitary conditions,<sup>36</sup></p> | <p>Fn 36 –Trial Judgment para 1347</p> | <p>Actions of Hesbah excluded from liability due to Judge Akane’s dissent:<br/>Trial Judgment, para. 1686 - “Judge Akane dissented to the finding that Mr Al Hassan’s contribution at a senior level within the Islamic Police allowed other institutions to work effectively”</p> <p><a href="#">Akane Separate Opinion</a>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous</b></p> |

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|  |                                                                                   |                                       | judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|  | multiple rapes at gunpoint, bleeding, unconsciousness and abortion. <sup>37</sup> | Fn 37 –Trial Judgment paras 1369-1371 | <p>Trial Judgment, para 1369 – Judge Akane dissents on Azahara Abdou’s rape (Trial Judgment, fn 2790 “Judge Akane dissents in that she does not consider there to be a sufficient evidentiary basis to find that Azahara Abdou was raped while detained at the BMS, for the reasons below.”)</p> <p>Additionally, gender and sexual violence was subject and acquittal and primary responsibility of Hesbah (Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458))</p> <p>Trial Judgment, para 1718 says that Judge Akane dissents to a conviction of “other inhuman acts in the form of forced marriage as a crime against humanity”</p> <p><a href="#">Akane Separate Opinion</a>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged</p> |

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|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                       | <p>formed part of Ansar Dine/AQIM's common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12."</b></p> |
| Outrages upon personal dignity | <p>In what concerns outrages upon personal dignity (Count 5), the physical harms included violent public floggings (ranging from 10 to 200 lashes), a public amputation, degrading detention conditions, violent arrests involving beatings and forced exposure, and for some victims, rape accompanied by threats of and actual physical violence resulting in injuries such as bleeding and loss of consciousness.<sup>38</sup></p> | Fn 38 –Trial Judgment paras 1382-1406 | <p>Trial Judgment, para 1369; Judge Akane dissents on Azahara Abdou's rape (Trial Judgment, fn 2790; "Judge Akane dissents in that she does not consider there to be a sufficient evidentiary basis to find that Azahara Abdou was raped while detained at the BMS, for the reasons below.")</p> <p>Additionally, gender and sexual violence was subject and acquittal and primary responsibility of Hesbah</p> <p>Trial Judgment, para 1718 says that Judge Akane dissents to a conviction of "other inhuman acts in the form of forced marriage as a crime against humanity."</p>                                                                                                                    |

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|                                |                                                                                                                                                                                                                                                                                                                                                 |                                       | <p><a href="#">Akane Separate Opinion</a>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii) other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.”</b></p> |
| Sentencing without due process | The crime of sentencing without due process (Count 6) involved public floggings, detentions in unsanitary and humiliating conditions, and in one case, a public amputation, all imposed without a prior judgment by a regularly constituted court or through judgments rendered by a court lacking independence and impartiality. <sup>40</sup> | Fn 40 –Trial Judgment paras 1477-1522 | <p>Trial Judgment, para1486 - “The Majority, <b>Judge Akane dissenting</b>, finds that the punishments carried out by members of the Islamic Police and the Hesbah were in line with the purpose of their institutions’ role to enforce Ansar Dine/AQIM’s rules on public conduct. In such circumstances, the Chamber concludes that members of the Islamic Police and the Hesbah were acting within their authority, derived from their positions, to carry out the punishments, and accordingly passed sentences without previous judgment in those cases.”</p>                                                                                                                                                                                                                                                                                                |

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|                       |                                                                                                                                                                                                                            |                                                    | Trial Judgment, para1497 – Judge Akane dissents on finding that the judgments in various cases listed satisfied the first element of the war crime of sentencing without due process                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Religious persecution | Finally, for the crime of persecution on religious grounds (Count 13), physical harm was inflicted through public floggings, beatings, inhumane detention, public amputation, violent arrests using weapons, <sup>41</sup> | Fn 41 –Trial Judgment paras 1537, 1540-1541, 1551. | <p>Trial Judgment, para 1486 - “The Majority, <b>Judge Akane dissenting</b>, finds that the punishments carried out by members of the Islamic Police and the Hesbah were in line with the purpose of their institutions’ role to enforce Ansar Dine/AQIM’s rules on public conduct. In such circumstances, the Chamber concludes that members of the Islamic Police and the Hesbah were acting within their authority, derived from their positions, to carry out the punishments, and accordingly passed sentences without previous judgment in those cases</p> <p><u><a href="#">Akane Separate Opinion</a></u>, para 12 – “I am also in agreement with my colleagues that several of the crimes for which Mr Al Hassan is charged formed part of Ansar Dine/AQIM’s common purpose. <b>However, for reasons developed below, I am of the view that the following crimes do not form part of the common purpose: (i) acts of violence and other forms of ill-treatment of women by the Hesbah under Mohammed Moussa constituting crimes charged under Counts 2 and 4-6; (ii)</b> other passing of sentences without previous judgment by members of the Hesbah under Mohammed Moussa constituting crimes</p> |



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|                                          |                                                                                                                                                                                                                                                                   |                                            | charged under Count 6; (iii) acts of rape in detention constituting crimes charged under Counts 11 and 12; and (iv) forced marriage and associated acts of sexual violence constituting crimes charged under Counts 8-12.” |
| Gendered impact of religious persecution | and in certain contexts – particularly when enforcing religious rules like the dress code or punishing perceived “moral” offenses – rape and sexual violence. <sup>42</sup>                                                                                       | Fn 42 –Trial Judgment para 1552            | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                        |
| Gendered psychological impact            | Victims of sexual violence, particularly women and girls detained for dress code violations, reported feelings of worthlessness, suicidal ideation, and the belief that their lives were over – exacerbated by rejection from family and community. <sup>46</sup> | Fn 46-Trial Judgment paras 1370-1371, 1392 | Judge Akane dissented in finding a conviction of rape as a crime against humanity and a war crime (Trial Judgment, para 1473), forced marriage (Trial Judgment, para 1439 and 1458)                                        |