

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **28 April 2026**

**TRIAL CHAMBER X**

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

**SITUATION IN THE REPUBLIC OF MALI**

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

**Reparations Order**

**with a public Annex**

**Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*,  
to:**

**The Office of the Prosecutor**

**Counsel for the Defence**

Al Hassan Defence

**Legal Representatives of the Victims**

Al Hassan Victims

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

Republic of Mali

**Trust Fund for Victims**

**Amicus Curiae**

**The Presidency**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Public Information and Outreach  
Section**

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**TRIAL CHAMBER X** (the ‘Chamber’) of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (the ‘Al Hassan case’ or the ‘case’), having regard to articles 75 and 79 of the Rome Statute (the ‘Statute’), rules 85, 86, 96 to 98, and 144 of the Rules of Procedure and Evidence (the ‘Rules’), regulation 117 of the Regulations of the Court (the ‘Regulations’), regulation 118 of the Regulations of the Registry, and regulations 50, 54 to 58, 69 to 72 of the Regulations of the Trust Fund for Victims (the ‘Regulations of the TFV’), issues the following ‘Reparations Order’.<sup>1</sup>

## I. Procedural history

1. On 26 June 2024, the Chamber, in a previous composition, issued its Trial Judgment convicting Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (hereinafter: ‘Mr Al Hassan’), for the commission of three counts of crimes against humanity and five counts of war crimes.<sup>2</sup>
2. On 20 November 2024, the Chamber, in a previous composition, issued the Sentencing Judgment (the ‘Sentencing Decision’), imposing a joint sentence of 10 years of imprisonment on Mr Al Hassan.<sup>3</sup>
3. On 13 December 2024, the Chamber issued an ‘Order for Submissions on Reparations’ (the ‘Order for Submissions’), in which it, *inter alia*: (i) instructed the parties,<sup>4</sup> the Trust Fund for Victims (the ‘TFV’) and the Office of the Prosecutor (the ‘Prosecution’) to make submissions on a series of issues relevant to reparations; (ii) invited the Registry and the Republic of Mali (hereinafter: ‘Mali’) to make submissions on the

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<sup>1</sup> To the extent that the public version of the present Reparations Order refers to information contained in confidential documents, the Chamber considers that the information referenced does not require a confidential classification.

<sup>2</sup> Trial Judgment (with three public Annexes), 26 June 2024, ICC-01/12-01/18-2594-Conf ([public redacted version](#) issued on the same day, ICC-01/12-01/18-2594-Red), pp. 818-821 (the ‘Trial Judgment’). The Chamber notes that Judge Tomoko Akane, Judge Kimberly Prost and Judge Antoine Kesia-Mbe Mindua issued separate and partly dissenting opinions (*see*, respectively, Separate and Partly Dissenting Opinion of Judge Tomoko Akane, 26 June 2024, ICC-01/12-01/18-2594-OPI (the ‘[Separate and Partly Dissenting Opinion of Judge Tomoko Akane](#)’), Separate and Partly Dissenting Opinion of Judge Kimberly Prost, 26 June 2024, ICC-01/12-01/18-2594-OPI2 (the ‘[Separate and Partly Dissenting Opinion of Judge Kimberly Prost](#)’) and Separate and Partly Dissenting Opinion of Judge Antoine Kesia-Mbe Mindua, 28 June 2024, ICC-01/12-01/18-2594-OPI3-tENG (the ‘[Separate and Partly Dissenting Opinion of Judge Antoine Kesia-Mbe Mindua](#)’)).

<sup>3</sup> [Sentencing Decision](#) (with public Annex A), 20 November 2024, ICC-01/12-01/18-2662, p. 134.

<sup>4</sup> For the purposes of reparations proceedings, the term ‘parties’ refers to the LRVs and the OPCV, representing the victims, and to the Defence. All other participants in the proceedings, including the Trust Fund for Victims, the Prosecution, the Registry, the Republic of Mali, and the *amici curiae* are referred to hereinafter as the ‘participants’.

aforementioned issues; (iii) invited persons or organisations, particularly with local expertise, to request leave, and, if granted, to make submissions on those issues; (iv) invited the Legal Representative of Victims (the ‘LRVs’) and the Defence to provide responses, if any, to the submissions of the parties and participants.<sup>5</sup>

4. On 11 March 2025, the Chamber granted several organisations, groups of organisations and persons<sup>6</sup> leave to submit observations on the issues identified in the Order for Submissions.<sup>7</sup>
5. On 14 March 2025, the Registry filed its report on the financial situation of Mr Al Hassan, informing the Chamber that in the absence of any new information indicating any change in Mr Al Hassan’s financial situation, it concluded that there was no change in his financial situation and that he continues to be assessed as indigent.<sup>8</sup>
6. On 23 April 2025, the Chamber issued its ‘Order scheduling a reparations hearing’ in which it, *inter alia*, ordered that a reparations hearing would be held during the week of 15 September 2025.<sup>9</sup>
7. On 16 May 2025, the Registry, the Prosecution and the LRVs filed a joint report on the identification of victims submitting, *inter alia*, that out of the 49 victims of crimes other than persecution, 27 had been identified, 10 had been pre-identified and 12 had not yet been identified.<sup>10</sup>

<sup>5</sup> [Order for Submissions](#), ICC-01/12-01/18-2666, paras 4-12, pp. 5-6.

<sup>6</sup> The following organisations were granted leave to make submissions: (i) the Queen’s University Belfast Human Rights Centre (the ‘Queen’s University Belfast’); (ii) Dr Jean-Benoît Falisse and Dr Simeon Koroma from the Centre of African Studies at the University of Edinburgh (hereinafter: ‘University of Edinburgh’); and (iii) Mama Koité Doumbia, Association des Femmes pour les Initiatives de Paix, Groupe de Recherche, d’Étude, de Formation Femme-Action, Women’s Initiatives for Gender Justice, the International Federation of Human Rights, Lawyers Without Borders Canada, REDRESS, Akila Radhakrishnan, Alexandra Lily Kather, and Sareta Ashraph (collectively hereinafter: ‘Mama Koité Doumbia *et al.*’).

<sup>7</sup> [Decision on the request for leave to submit \*amicus curiae\* observations](#), 11 March 2025, ICC-01/12-01/18-2689, p. 5.

<sup>8</sup> Registry’s Report on the Financial Situation of Mr Al Hassan (with confidential Annex I), 14 March 2025, ICC-01/12-01/18-2694-Conf (the ‘Registry’s Report on Mr Al Hassan’s Financial Situation’), paras 8-9.

<sup>9</sup> [Order scheduling a reparations hearing](#), 23 April 2025, ICC-01/12-01/18-2714, p. 4.

<sup>10</sup> Second Joint Report pursuant to Trial Chamber X’s “Order for Submissions on Reparations (ICC-01/12-01/18-2666)”, 16 May 2025, ICC-01/12-01/18-2725-Conf-Exp, confidential *ex parte*, only available to the Registry, the Prosecution and the LRVs (confidential redacted version and [public redacted version](#) issued on the same day, ICC-01/12-01/18-2725-Conf-Red and ICC-01/12-01/18-2725-Red, respectively), paras 16, 18-19, 21. The Chamber notes that initially, the Registry, the Prosecution and the LRVs filed a first joint report indicating that out of the 49 victims, 28 had been identified or pre-identified and 21 had not yet been identified, and requesting an extension of time to face the challenges encountered in the identification process (*see* Joint Report pursuant to

8. On 5 June 2025, the Chamber, *inter alia*, instructed the Office of Public Counsel for Victims (the ‘OPCV’) to undertake the legal representation of any of the relevant victims choosing to be represented by the OPCV, and to make submissions on reparations on behalf of the relevant victims, in line with the instructions given to the LRVs in the Order for Submissions.<sup>11</sup>
9. Subsequently, the LRVs,<sup>12</sup> the Defence,<sup>13</sup> the Prosecution,<sup>14</sup> the Registry,<sup>15</sup> the TFV,<sup>16</sup> Queen’s University Belfast,<sup>17</sup> the University of Edinburgh,<sup>18</sup> and Mama Koité Doumbia *et al.*,<sup>19</sup> filed their submissions on reparations.
10. On 16 July 2025, the LRVs<sup>20</sup> and the Defence,<sup>21</sup> submitted their responses to the submissions on reparations and *amici curiae* observations.

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Trial Chamber X’s Order for Submissions on Reparations (ICC-01/12-01/18-2666) and request for extension of time, 13 March 2025, ICC-01/12-01/18-2692-Conf-Exp, confidential *ex parte*, only available to the Registry, the Prosecution and the LRVs (confidential redacted version and [public redacted version](#) notified respectively on 14 March 2025, ICC-01/12-01/18-2692-Conf-Red and on 19 March 2025, ICC-01/12-01/18-2692-Red), paras 8, 14, 22-23). The Chamber further notes that it granted the request (*see* Decision on procedural matters related to the joint report (with confidential Annex I), 8 April 2025, ICC-01/12-01/18-2703-Conf-Exp ([public redacted version](#) issued on the same day, ICC-01/12-01/18-2703-Red).

<sup>11</sup> Decision on the LRV’s submissions on a potential conflict of interest, 5 June 2025, ICC-01/12-01/18-2728-Conf ([public redacted version](#) issued on the same day, ICC-01/12-01/18-2728-Red), p. 9.

<sup>12</sup> The LRV representing victims in Burkina Faso, Niger and Mali, filed his observations on reparations for victims: Observations of One of the Legal Representatives of Victims on the Reparations for Victims in Burkina Faso, Niger and Mali, 13 June 2025, ICC-01/12-01/18-2731-tENG (the ‘[LRVs First Submissions](#)’). The LRVs also filed the: *Observations des Représentants légaux des victimes en exécution de l’Ordonnance aux fins de présentation d’observations relatives aux réparations*”, (ICC-01/12-01/18-2666), 16 June 2025, ICC-01/12-01/18-2732-Conf (public redacted version issued on 18 June 2025, ICC-01/12-01/18-2732-Red) (the ‘[LRVs Second Submissions](#)’).

<sup>13</sup> Defence Observations on Reparations (with public Annexes A to J), 11 June 2025, ICC-01/12-01/18-2729 (the ‘[Defence Submissions](#)’).

<sup>14</sup> Prosecution Submissions on Reparations, 16 June 2025, ICC-01/12-01/18-2734-Conf (public redacted version issued on 9 July 2025, ICC-01/12-01/18-2734-Red) (the ‘[Prosecution Submissions](#)’).

<sup>15</sup> Registry Submissions on Reparations, 16 June 2025, ICC-01/12-01/18-2733-Conf-Exp, confidential *ex parte*, only available to the Registry (confidential redacted version and public redacted version issued on the same day, ICC-01/12-01/18-2733-Conf-Red and ICC-01/12-01/18-2733-Red, respectively) (the ‘[Registry Submissions](#)’).

<sup>16</sup> Trust Fund for Victims’ Observations relevant to Reparations (with public Annexes A, D and E and Confidential Annexes B and C), 16 June 2025, ICC-01/12-01/18-2737 (the ‘[TFV Submissions](#)’).

<sup>17</sup> Submissions on Reparations, 13 June 2025, ICC-01/12-01/18-2730 (the ‘[Queen’s University Belfast Submissions](#)’).

<sup>18</sup> *Amicus Curiae* Observations on Reparations from Dr Jean Benoît Falisse and Dr Simeon Koroma, The University of Edinburgh, 16 June 2025, ICC-01/12-01/18-2736 (the ‘[University of Edinburgh Submissions](#)’).

<sup>19</sup> *Amici Curiae* Observations pursuant to Article 75 of the Statute and Rule 103 of the Rules of Procedure and Evidence (with one public Annex), 16 June 2025, ICC-01/12-01/18-2735 (the ‘[Mama Koité Doumbia et al. Submissions](#)’).

<sup>20</sup> *Réponse des Représentants légaux des victimes aux observations des parties et des participants en exécution de l’« Ordonnance aux fins de présentation d’observations relatives aux réparations »* (ICC-01/12-01/18-2666), 16 July 2025, ICC-01/12-01/18-2740 (the ‘[LRVs Response to Submissions](#)’).

<sup>21</sup> Defence Response to Observations on Reparations (with public Annex A), 16 July 2025, ICC-01/12-01/18-2741-Conf (public redacted version issued on 17 July 2025, ICC-01/12-01/18-2741-Red) (the ‘[Defence Response to Submissions](#)’).

11. On 16 July 2025, the Chamber issued an ‘Order on the conduct of the reparations hearing’ in which it: (i) scheduled a hearing on reparations on 17 September 2025; (ii) invited the parties, the OPCV and the Prosecution to make final submissions on reparations during the hearing; and (iii) granted the TFV’s request for leave to provide further information relating to cost projections and other matters.<sup>22</sup>
12. On 22 August 2025, the OPCV filed its submissions on reparations.<sup>23</sup>
13. On 17 September 2025, the hearing on reparations was held (the ‘Reparations Hearing’).<sup>24</sup>

## II. Mr Al Hassan’s conviction

14. Mr Al Hassan was found guilty of three counts of crimes against humanity under the Statute, namely: torture under article 7(1)(f); other inhumane acts under article 7(1)(k); and persecution on religious grounds, under article 7(1)(h).<sup>25</sup> Mr Al Hassan was also found guilty of five counts of war crimes under the Statute, namely: torture under article 8(2)(c)(i); cruel treatment under article 8(2)(c)(i); outrages upon personal dignity under article 8(2)(c)(ii); passing of sentences without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognised as indispensable under article 8(2)(c)(iv); and mutilation under article 8(2)(c)(i).<sup>26</sup>
15. The Chamber notes that the crimes of which Mr Al Hassan was convicted were committed in the context of, and in association with, a non-international armed conflict in Northern Mali.<sup>27</sup> The Chamber further notes that throughout the period of the charges, spanning from April 2012 to January 2013,<sup>28</sup> Ansar Dine/AQIM conducted a systematic attack against the civilian population.<sup>29</sup> During this period, Ansar Dine/AQIM imposed

<sup>22</sup> [Order on the conduct of the reparations hearing](#), 16 July 2025, ICC-01/12-01/18-2742, p. 5.

<sup>23</sup> Corrected version of “The OPCV’s Submissions on Reparations” (ICC-01/12-01/18-2747-Conf, 22 August 2025), 27 August 2025, ICC-01/12-01/18-2747-Conf-Corr (public redacted version issued on 29 August 2025, ICC-01/12-01/18-2747-Corr-Red) (the ‘[OPCV Submissions](#)’).

<sup>24</sup> Transcript of hearing, 17 September 2025, ICC-01/12-01/18-T-219-CONF-ENG (public redacted version issued on 7 October 2025, ICC-01/12-01/18-T-219-Red-ENG) (‘[T-219](#)’).

<sup>25</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 819-821.

<sup>26</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 819-821.

<sup>27</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1095-1097.

<sup>28</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 451, 454, 1269, 1279, 1590, 1617.

<sup>29</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1292, 1296.

its interpretation of *Sharia* on the residents of Timbuktu.<sup>30</sup> Mr Al Hassan's responsibility for the crimes of which he was convicted arise primarily out of Mr Al Hassan's role within the Islamic Police and the role of the Islamic Police in the repressive system created by Ansar Dine/AQIM.<sup>31</sup>

### III. The legal framework of reparations

#### A. Elements of a reparations order

16. Pursuant to article 75(1) of the Statute, the Court may 'determine the scope and extent of any damage, loss and injury to, or in respect of, victims'. In making this determination, a trial chamber should, generally speaking, 'establish the types or categories of harm caused by the crimes of which the [...] person was convicted,' having regard to all relevant information before it.<sup>32</sup> Article 75(2) of the Statute further stipulates that the Court may make an order directly against a convicted person, or through the TFV, 'specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation'.
17. The Court's jurisprudence has held that, appropriate modalities of reparations can only be determined, based on the specific circumstances of the case, by reference to the harm that was caused to victims as a result of the crimes of which the person was convicted.<sup>33</sup> When determining the extent of the harm, 'rather than attempting to determine the "sum-total" of the monetary value of the harm caused',<sup>34</sup> the Chamber should seek to define the harm and the appropriate modalities for repairing them, 'with a view to, ultimately, assessing the costs of the identified remedy'.<sup>35</sup>
18. As determined by the Appeals Chamber,<sup>36</sup> a reparations order must contain, at a minimum, five essential elements:

<sup>30</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1620.

<sup>31</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 35.

<sup>32</sup> [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 70; *see also* [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 78-79.

<sup>33</sup> [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 200.

<sup>34</sup> [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 72.

<sup>35</sup> [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 72.

<sup>36</sup> [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 32; *See also* [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 31; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 38. The Chamber notes that, for clarity purposes, the order of the elements has been amended in the present Reparations Order.

- (i) it must be directed against the convicted person (the ‘Personal Liability’);
  - (ii) it must identify the victims eligible to benefit from the awards of reparations or set out the criteria of eligibility based on the link between the harm suffered by the victims and the crimes of which the person was convicted (the ‘Victims’);
  - (iii) it must define the harm caused to direct and indirect victims as a result of the crimes of which the person was convicted (the ‘Harm’);
  - (iv) it must specify and provide reasons for the types of reparations ordered, be they collective, individual, or both, and identify the modalities of reparations that the Chamber considers appropriate in the circumstances of the specific case before it (the ‘Types and Modalities’); and
  - (v) it must establish and inform the convicted person of the amount of his or her liability with respect to the reparations awarded in the order (the ‘Amount of Liability’).
19. The inclusion of these elements in an order for reparations ensures that the critical elements of the order are subject to judicial control, in light of rule 97(3) of the Rules, and is also of significance with respect to the right to appeal, provided for in article 82(4) of the Statute.<sup>37</sup>

### **B. Standard of proof**

20. In reparations proceedings, there must be sufficient proof of the causal link between the crime and the harm suffered, based on the specific circumstances of the case.<sup>38</sup> Given the fundamentally different nature of reparations proceedings, a standard less exacting than that used at trial, where the prosecution must establish the relevant facts to the standard of ‘beyond reasonable doubt’, should apply.<sup>39</sup> Consistent with previous decisions of the

<sup>37</sup> [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 34.

<sup>38</sup> [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 22.

<sup>39</sup> [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 22.

Court,<sup>40</sup> the Chamber determines that the standard of proof of a ‘balance of probabilities’ shall apply.<sup>41</sup>

### C. Principles on reparations

21. Article 75(1) of the Statute provides that:

[t]he Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.

22. Principles on reparations are to be distinguished from the order for reparations. They are general concepts that, while formulated in the light of the circumstances of a specific case, can nonetheless be applied, adapted, expanded upon, or added to by future trial chambers.<sup>42</sup> The Chamber adopts the consistent jurisprudence of the Court on the principles on reparations, as defined in the *Ntaganda* and *Ongwen* reparations orders,<sup>43</sup> to the extent that they are applicable to this Reparations Order.

### D. Judicial and administrative nature of the reparations proceedings

23. Consistent with the approach taken in the *Ntaganda*<sup>44</sup> and *Ongwen*<sup>45</sup> cases, the Chamber considers that reparations proceedings before the Court are unique in nature and ‘are not

<sup>40</sup> [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 65. See also [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 44; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG paras 49-51, 59, 84; [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, paras 42, 47-49, 116; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 136, 139, 143-144, 146-147; [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 31, 714; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 144, 193, 422, 425, 433, 435, 439; [Ongwen Appeals Judgment on Reparations](#), ICC-02/04-01/15-2108, para. 28.

<sup>41</sup> See [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 65, n. 37, where the Chamber noted that “[t]he term ‘balance of probabilities’ is also described as a ‘preponderance of proof’ or ‘balance of probability’”.

<sup>42</sup> [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 55; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 5.

<sup>43</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 57-58, 77-87; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 30-103. See also [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, paras 23-50; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, paras 29-31; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 1-49.

<sup>44</sup> [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, paras 10-11.

<sup>45</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 37-41.

to be treated as criminal, civil, or human rights proceedings, directly applying the relevant rules of these areas of law'.<sup>46</sup>

24. The Chamber also considers that, consistent with the conclusions in the *Ntaganda* and *Ongwen* cases, there is a distinction between the judicial and administrative stages of reparations proceedings.<sup>47</sup> In the judicial stage of reparations proceedings, the chamber play a preponderant role, issuing the reparations order and providing the necessary framework for the reparations to be awarded.<sup>48</sup> In the administrative stage of the reparations proceedings, other organs of the Court are tasked with the execution, implementation, and enforcement of the reparations orders;<sup>49</sup> these tasks are administrative in nature and no longer judicial.<sup>50</sup> The administrative stage of reparations will generally commence when the reparations order becomes final, but it may also run in parallel with any possible appeals.<sup>51</sup> During the administrative stage of reparations, the trial chamber remains seized for the purposes of supervision, cooperation, and any other measures required for the correct implementation of the reparations order.<sup>52</sup>
25. In the case at hand, the Chamber considers that its judicial role should conclude once this Reparations Order becomes final, at the conclusion of the judicial proceedings. Consistent with Trial Chamber IX's approach in the *Ongwen* case,<sup>53</sup> the Chamber will, during the administrative stage of the implementation and execution of the Reparations Order, retain limited oversight to rule on the TFV's Draft Implementation Plan (the 'DIP'), consider the TFV's periodic reports, and rule on exceptional matters. As part of

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<sup>46</sup> [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 11, referring to [Lubanga Decision on the Size of Reparations Award](#), ICC-01/04-01/06-3379-Red-Corr-tENG, para. 55; [Lubanga Decision on the admissibility of appeals against Trial Chamber I's "Decision establishing the principles and procedures to be applied to reparations" and directions on the further conduct of proceedings](#), ICC-01/04-01/06-2953, para. 70; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 16.

<sup>47</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 38-40; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, paras 11-12.

<sup>48</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 38-39; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, paras 11-12.

<sup>49</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 38-40; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, paras 15-16.

<sup>50</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 39; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 14.

<sup>51</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 39; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, paras 12-14.

<sup>52</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 39; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 14.

<sup>53</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 41.

its oversight role, the Chamber may invite submissions or intervene *proprio motu* whenever warranted.

#### **IV. The Chamber's approach to evidentiary matters and the interpretation of the Trial Judgment and Sentencing Decision**

##### **A. General considerations**

26. As a preliminary matter, and in accordance with the Court's past decisions, the Chamber will state in a clear and concrete manner how and why it arrived at its conclusions, including on the monetary figures and amounts to be awarded as reparations.<sup>54</sup>
27. In line with the approach taken in previous decisions of the Court, the Chamber has remained within the confines of the Trial Judgment and Sentencing Decision when awarding reparations in the present case.<sup>55</sup> Consequently, at this stage of the proceedings, the Chamber will not consider challenges to findings made in the Trial Judgment and Sentencing Decision,<sup>56</sup> nor will the Chamber consider reparations for crimes beyond those of which Mr Al Hassan was found guilty in the Trial Judgment.<sup>57</sup>
28. The Chamber relies on findings made in the Trial Judgment and the Sentencing Decision,<sup>58</sup> given that these findings are the basis on which Mr Al Hassan was convicted and sentenced. In this regard, the Chamber considers that the parties already had an opportunity to provide their observations in relation to the relevance and probative value of the items of evidence submitted during the course of the trial proceedings.<sup>59</sup> The Chamber also notes that the Trial Chamber, in its previous composition, already assessed the relevant submissions and evidence in the course of their pronouncement of the Trial Judgment and Sentencing Decision.<sup>60</sup> The Chamber, therefore, relies on this assessment for the purpose of evaluating evidence in the reparations phase of the proceedings.

<sup>54</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 18. See also [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, para. 249; [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 90, 108.

<sup>55</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 20; [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, para. 482; [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 311.

<sup>56</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 20.

<sup>57</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 20.

<sup>58</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 21.

<sup>59</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 23-32.

<sup>60</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 23-26.

29. In addition to relying on the findings made in the Trial Judgment and Sentencing Decision and on the Trial Chamber's assessment of the evidence adduced at trial, the Chamber, to the extent appropriate, makes findings for the purposes of reparations on the basis of 'evidence or other factual findings that were not considered for the purposes of the conviction and sentencing decisions',<sup>61</sup> excluding any evidence the Trial Chamber considered unreliable or non-credible.<sup>62</sup>
30. Lastly, the Chamber has given due consideration to all the submissions received and the evidence introduced during the reparations proceedings and, when necessary, makes reference within this order to specific submissions and evidence to provide its full and reasoned findings and conclusions.<sup>63</sup> The Chamber notes that, in certain cases, it explicitly sets out the considerations underlying its assessment of the evidence and submissions. In other cases, despite having carefully scrutinised the evidence to ascertain its credibility and reliability to form the basis of a specific finding, it does not necessarily refer to every detail of its assessment in writing.<sup>64</sup>

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<sup>61</sup> [Ntaganda Judgment on the appeals against Reparations Addendum](#), ICC-01/04-02/06-2908-Red, para. 351.

<sup>62</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 21; [Ntaganda Judgment on the appeals against Reparations Addendum](#), ICC-01/04-02/06-2908-Red, para. 352, where the Appeals Chamber held that in awarding reparations, a chamber is not precluded from introducing evidence or other factual findings that were not considered for the purposes of the conviction and sentencing decisions.

<sup>63</sup> See, *inter alia*, [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 23; [Ntaganda Reparations Addendum](#) ICC-01/04-02/06-2858-Red, para. 23.

<sup>64</sup> See, *inter alia*, [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 23, referring to [Ntaganda Reparations Addendum](#) ICC-01/04-02/06-2858-Red, para. 23; [Ntaganda Judgment](#), ICC-01/04-02/06-2359, para. 52; [Bemba Conviction Judgment](#), ICC-01/05-01/08-3343, para. 227, noting that the *Bemba* Conviction Judgment's approach has been upheld by the Appeals Chamber provided that 'it indicates with sufficient clarity the basis of the decision', see [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, para. 239; [Bemba Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled "Judgment pursuant to Article 74 of the Statute"](#), ICC-01/05-01/13-2275-Red, paras 105-106; [Bemba Judgment on the appeal of Mr Jean-Jacques Mangenda Kabongo against the decision of Pre-Trial Chamber II of 17 March 2014 entitled "Decision on the 'Requête de mise en liberté' submitted by the Defence for Jean-Jacques Mangenda"](#), ICC-01/05-01/13-560, para. 116; [Lubanga Judgment on the appeal of Mr Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled "First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81"](#), ICC-01/04-01/06-773, para. 20.

## B. Specific considerations

31. Below, the Chamber addresses three specific issues: (i) the Victims' Voices Study; (ii) *amici curiae's* failure to comply with regulations 36(3) and 38(2) of the Regulations;<sup>65</sup> and (iii) *amici curiae* observations beyond the scope of the charges.<sup>66</sup>

### 1. The Victims' Voices Study

32. In its submissions, the TFV explains that, with the support of the VPRS and partnered with the 'Voices That Count' expert network, it conducted a participatory study using the 'SenseMaker' narrative inquiry tool to 'capture the nature and impact of the harm suffered by the entire Timbuktu community, as well as to provide an indicative assessment of the number of affected individuals' (the 'Victims' Voices Study').<sup>67</sup> This study gathered 805 micro-stories from victims in Timbuktu and Mopti between April and May 2025.<sup>68</sup> For its submissions on harm, the TFV relied on the preliminary results of a first report of the study.<sup>69</sup>

33. Regarding the use of the Victims' Voices Study, the Defence asserts that, while the results of the study may be of assistance in better understanding the different viewpoints and experiences of the victims, it cautions against relying on the results 'for the purposes of drawing judicial conclusions as concerns prioritization of victims or quantifying particular types of harm'.<sup>70</sup> In particular, the Defence argues that the Chamber should be 'cautious' as to how the Victims' Voices Study is used, since the samples of victims consulted 'do not appear to be fully reflective of the different ethnic groups that were present in 2012',<sup>71</sup> and 'the survey results may conflate the Islamic Police with the *Hesbah*', which would exceed the responsibility ultimately attributed to Mr Al Hassan in his conviction.<sup>72</sup>

<sup>65</sup> See [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 44; [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735.

<sup>66</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 6, 29-44.

<sup>67</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 8; Confidential Annex C to TFV Submissions, 17 June 2025, ICC-01/12-01/18-2737-Conf-AnxC (the 'Victims' Voices Study').

<sup>68</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 8.

<sup>69</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 8-9.

<sup>70</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 21.

<sup>71</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 4.

<sup>72</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 4, 22.

34. The Chamber notes the Defence's submissions in relation to the survey, particularly its concerns that the study reflects the experiences of only certain victims and may not reflect a true representative sample of the persons present in Timbuktu in 2012. The Chamber observes that the study took samples of victims from all eight sectors of Timbuktu, and is clear as to the types of persons who responded to the survey.<sup>73</sup> Thus, the Chamber considers that the Victims' Voices Study, which it finds credible and reliable, can be relied upon to illustrate the nature of the harm suffered by members of the population of the city of Timbuktu. Additionally, the Chamber is not convinced by the Defence's concerns as to the impact of any potential confusion between the Islamic Police and the *Hesbah* on one of the questions included in the TFV's questionnaire,<sup>74</sup> since this has a very limited effect on the results of the survey.
35. In this regard, the Chamber will assess all the evidence holistically and will only rely on the Victims' Voices Study when appropriate.

2. *Amici curiae*' failure to comply with regulations 36(3) and 38(2) of the Regulations

36. Citing alleged irregularities in the filing made by Mama Koité Doumbia *et al.*, the Defence proposes that paragraphs 35 to 39 of this *amicus curiae* submission should be disregarded as it exceeds the page limit.<sup>75</sup>
37. The Chamber notes that the submission filed by Mama Koité Doumbia *et al.*<sup>76</sup> indeed exceeds the 10-page limit set in the Order for Submissions, pursuant to regulation 38(2) of the Regulations,<sup>77</sup> and does not comply with the format requirements set in regulation 36(3) of the Regulations regarding the format of court filings. Similarly, the Chamber notes that the submission of the *amicus curiae* Queen's University Belfast<sup>78</sup> also does not comply with the format requirements pursuant to regulation 36(3) of the Regulations.
38. However, the Chamber underscores the importance of the *amici curiae* submissions in ensuring that a broad variety of views are duly considered during the reparations

<sup>73</sup> Victims' Voices Study, ICC-01/12-01/18-2737-Conf-AnxC, pp 5-7.

<sup>74</sup> Confidential Annex B to TFV Submissions, 17 June 2025, ICC-01/12-01/18-2737-Conf-AnxB, p. 4.

<sup>75</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 44.

<sup>76</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735.

<sup>77</sup> [Order for Submissions](#), ICC-01/12-01/18-2666, para. 10.

<sup>78</sup> [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730.

proceedings. Moreover, the Chamber considers that the breaches of the regulations do not result in an undue prejudice to Mr Al Hassan. Therefore, in the interest of justice, pursuant to regulation 29(1) of the Regulations, the Chamber finds that the *amici curiae*'s failure to comply with these regulations does not warrant the dismissal of their observations, in whole or in part. Nonetheless, the Chamber reminds the *amici curiae* to follow the Court's regulations and a chamber's orders when making future filings before the Court.

### 3. *Amici curiae* observations beyond the scope of the charges

39. The Defence contests the observations made by Queen's University Belfast and Mama Koité Doumbia *et al.* that include references to sexual and gender based crimes and the destruction of mausoleums and protected sites,<sup>79</sup> and states that 'the reparations order cannot be predicated on findings of responsibility or acts and conduct that were not established in the Trial Judgment to the standard of beyond reasonable doubt'.<sup>80</sup>
40. The Chamber reiterates that the only crimes for which reparations will be granted in the present case are those of which Mr Al Hassan was convicted. The Chamber will apply this principle at all times in its analysis including while reviewing the observations of the *amici curiae*; therefore, the Chamber will not rely on submissions that exceed the scope of Mr Al Hassan's conviction.

## C. The interpretation of the majority findings in the Trial Judgment

41. At the outset, the Chamber notes that, pursuant to article 74(5) of the Statute, when there is no unanimity formed, a Trial Chamber shall issue a judgment that contains the views of the majority and the minority.<sup>81</sup> In the present case, the Chamber notes that several factual and legal findings in the Trial Judgment were adopted by a majority and that the

<sup>79</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 31-35, 43-44.

<sup>80</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 29. *See also* [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 6, 29.

<sup>81</sup> The Court's jurisprudence on this matter has held that 'for the Trial Chamber to "issue one decision", requires the production of a single document clearly reflecting what the judges decided. That document should be signed by all three judges – to confirm that they participated in the decision-making process. The production of a single document of this nature, in addition to any separate, concurring or dissenting opinions, ensures that what the judges decided is clear to the parties, the Appeals Chamber and the general public, which is in line with the wording, object and purpose of article 74(5) [of the Statute]', *see* [Gbagbo and Blé Goudé Judgment in the appeal of the Prosecutor against Trial Chamber I's decision on the no case to answer motions](#), ICC-02/11-01/15-1400, paras 161, 205, 210.

Trial Judgment was complemented by three separate and partly dissenting opinions from Judge Akane, Judge Prost and Judge Mindua.<sup>82</sup>

42. The Chamber also notes that the existence of separate and dissenting opinions on different factual and legal findings ultimately led to different majorities being formed within the Trial Judgment.
43. The Chamber considers the Defence's argument that 'even when the Trial Judgment refers to the "Majority", if the Majority is comprised of Judge Prost and Judge Mindua, this is in fact a minority'<sup>83</sup> to be a misreading of the Trial Judgment and of the principle noted above. Judge Mindua's dissent on the criminal responsibility of Mr Al Hassan,<sup>84</sup> which is centred on positive defences, does not negate the other findings within the Trial Judgment. Indeed, the controlling legal precedent set in some sections of the Trial Judgment remains that of the majority comprised of Judge Mindua and Judge Prost.
44. The Chamber will rely on the findings adopted unanimously or by majority in the Trial Judgment and the Sentencing Decision and will consider reparations only for crimes of which Mr Al Hassan was convicted.<sup>85</sup>

## V. Order for reparations against Mr Al Hassan

45. As discussed above, a reparations order must contain, at a minimum, five essential elements: (1) Personal Liability; (2) Victims; (3) Harm; (4) Types and Modalities; and (5) Amount of Liability.<sup>86</sup> Below, the Chamber details its findings in relation to each of these elements.

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<sup>82</sup> [Separate and Partly Dissenting Opinion of Judge Tomoko Akane](#), ICC-01/12-01/18-2594-OPI; [Separate and Partly Dissenting Opinion of Judge Kimberly Prost](#), ICC-01/12-01/18-2594-OPI2; [Separate and Partly Dissenting Opinion of Judge Antoine Kesia-Mbe Mindua](#), ICC-01/12-01/18-2594-OPI3.

<sup>83</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 29. *See also* [Defence Submissions](#), ICC-01/12-01/18-2729, paras 8-13; [T-219](#), p. 57, line 7 to p. 58 line 12.

<sup>84</sup> [Separate and Partly Dissenting Opinion of Judge Antoine Kesia-Mbe Mindua](#), ICC-01/12-01/18-2594-OPI3, paras 99-101.

<sup>85</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 819-821.

<sup>86</sup> *See* section III.A 'Elements of a reparations order' above.

### A. Personal liability

46. In the present case, the Registry has assessed Mr Al Hassan as indigent.<sup>87</sup> In light of the principle of ‘accountability for the offender’,<sup>88</sup> the order for reparations is to be issued against Mr Al Hassan,<sup>89</sup> regardless of his current financial situation.<sup>90</sup> His financial situation,<sup>91</sup> as well as any ‘other resources’ available to the TFV to complement payments for a reparations award, are irrelevant to the determination of the scope of his liability for reparations.<sup>92</sup> Indeed, the Appeals Chamber has made clear that issuing an order for reparations ‘against’ the convicted person and acting ‘through’ the TFV are not mutually exclusive concepts.<sup>93</sup>
47. The Chamber recalls that the obligation to repair harm arises from the individual criminal responsibility for the crimes which caused the harm and, accordingly, the person found to be criminally responsible for those crimes is the person to be held liable for reparations.<sup>94</sup> Therefore, Mr Al Hassan, as the person found responsible for the crimes which caused the harm to the victims, is the person financially liable for the cost of repairing the harm.
48. The Chamber notes that, in relation to the complementary nature of reparations and the ‘no-overcompensation’ principle, the TFV indicates that, while the community of Timbuktu benefited from collective reparations in the framework of the *Al Mahdi* reparations programme, those reparations addressed the harm resulting from a crime under article 8(2)(e)(iv) of the Statute and concern the destruction of buildings with protected status, which does not form part of the conviction in the *Al Hassan* case.<sup>95</sup> The Chamber accepts the TFV’s submissions and finds that the harm remedied in the context

<sup>87</sup> Registry’s Report on Mr Al Hassan’s Financial Situation’, ICC-01/12-01/18-2694-Conf, paras 8-9.

<sup>88</sup> See [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, paras 68-69.

<sup>89</sup> See [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, paras 69,76.

<sup>90</sup> See [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 114; [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 70.

<sup>91</sup> [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 114; [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, paras 102-105.

<sup>92</sup> [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 112; [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 102.

<sup>93</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 93, citing [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 70.

<sup>94</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 93, citing [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 99.

<sup>95</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 130-132.

of the reparations implemented in the *Al Mahdi* case are distinct from the harm caused by the crimes of which Mr Al Hassan was convicted.<sup>96</sup>

49. Regarding the submissions of the parties, participants and *amici curiae*<sup>97</sup> on national reparations processes arising from the Malian State, the Chamber reiterates that this Reparations Order is limited in reach and scope to the crimes committed by Mr Al Hassan and the terms of the Trial Judgment, and therefore, is not meant to redress the needs of individuals beyond the victims of the crimes of which Mr Al Hassan was convicted.
50. In this context, the Chamber wishes to briefly address those individuals who have experienced harm as a result of the Ansar Dine/AQIM's control of Timbuktu, but who do not qualify as victims of the crimes other than persecution. Although, the Chamber recognises these individuals and acknowledges their suffering, as discussed above, the Court's reparations proceedings are tied to the specific harm which arises from the crimes for which Mr Al Hassan was convicted.<sup>98</sup>
51. The Chamber therefore considers it paramount that clear communication and outreach is undertaken by the Public Information and Outreach Section of the Court (the 'PIOS'), in conjunction with the Victims Participation and Reparations Section (the 'VPRS') and the TFV, in order to ensure that the communities and other victims understand the limited scope of reparations in this case.<sup>99</sup>

## B. Victims

### 1. Direct victims

52. Pursuant to rule 85 of the Rules, natural and legal persons are eligible for reparations as direct victims if they can demonstrate, to the relevant standard of proof, that they suffered harm as a result of at least one of the crimes of which Mr Al Hassan was convicted.<sup>100</sup>

<sup>96</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 130, 132. *See also*, [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras. 141-146; [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 90.

<sup>97</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, paras 22, 24-25; [TFV Submissions](#), ICC-01/12-01/18-2737, paras 69-71, 133; [University of Edinburgh Submissions](#), ICC-01/12-01/18-2736, para. 18.

<sup>98</sup> *See* [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 51.

<sup>99</sup> *See also* paragraph 257.1.a below.

<sup>100</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 97; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 31. *See* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 819-821; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59, 69.

Thus, for direct victims, a causal link must exist between the crimes charged and the victims' harm.<sup>101</sup>

53. Below, the Chamber first identifies the direct victims of Count 13, that is, persecution on religious grounds, for which Mr Al Hassan was convicted.<sup>102</sup> The Chamber then identifies the direct victims of Counts 1 to 6 and 14, that is, torture, other inhumane acts, cruel treatment, outrages upon personal dignity, sentencing without due process, and mutilation, for which Mr Al Hassan was also convicted.<sup>103</sup>

*i. The crime of persecution*

- a. The members of the population of the city of Timbuktu

54. Mr Al Hassan was found guilty of having contributed to the crime of persecution on religious grounds under article 25(3)(d) of the Statute.<sup>104</sup>
55. The Chamber notes that the Defence submits:

To achieve restorative justice for persecution in a manner consistent with Mr Al Hassan's statutory rights, [the Chamber should] adopt terminology for recipients/beneficiaries that does not impute or imply individual criminal liability to Mr Al Hassan for the quantity of recipients/beneficiaries but instead focusses [*sic*] on the effects of suffering or the unique position of the targeted group as such.<sup>105</sup>

56. The Defence argues that the 'use of the term "direct victim" for any persons outside the scope of Mr Al Hassan's conviction would [...] generate a public appearance of criminal culpability for acts for which he was either never charged or expressly acquitted'.<sup>106</sup> The Defence contends that the Sentencing Decision's statement that '[t]he number of victims of the crime of persecution is therefore very high: the entire population of the city of Timbuktu was targeted and was the subject of the deprivation of fundamental rights'<sup>107</sup>

<sup>101</sup> [Lubanga Decision on Indirect Victims](#), ICC-01/04-01/06-1813, paras 45-47; [Lubanga Appeals Judgment on Victims' Participation](#), ICC-01/04-01/06-1432, paras 62-64.

<sup>102</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, p. 821; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 69.

<sup>103</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 819-821; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59.

<sup>104</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, p. 821.

<sup>105</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 6 (emphasis omitted); [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 5.

<sup>106</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 7; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 11.

<sup>107</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 7, referring to the [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 71.

actually ‘reflects the number of victims, whose right to religious freedom was undermined by virtue of the persecutory policy executed by the groups’<sup>108</sup> and does not ‘reflect the number of victims of the incidents entailing criminal liability on the part of Mr Al Hassan’.<sup>109</sup> With respect to the crime of persecution, the Defence maintains that ‘the term “direct victims” can only be used in connection with the 49 individuals who were found to have been direct victims of other counts’.<sup>110</sup> The Defence submits that although the Trial Judgment ‘reached agreement as concerns specific typologies of violations of human rights, these violations do not provide a sufficiently certain or fair basis’ to determine that there are additional direct victims of persecution.<sup>111</sup> The LRVs respond that the Trial Judgment is clear, and that Mr Al Hassan cannot be considered to be held responsible for the crime of persecution in connection to only 49 victims.<sup>112</sup>

57. In support of its arguments, the Defence states that the Sentencing Decision cites certain paragraphs in ‘the context of its general findings concerning persecution, Judge Akane dissented from these paragraphs, while Judge Mindua found that Mr Al Hassan did not bear personal liability for such acts’.<sup>113</sup> The Chamber clarifies that while Judge Akane disagreed with the Majority on the scope of persecution, she writes in footnote 5231 of the Trial Judgment that ‘[t]o the extent related to acts which in her view comprise the crime of persecution, Judge Akane agrees with the analysis in the present section and finds Mr Al Hassan criminally responsible pursuant to Article 25(3)(d) of the Statute

<sup>108</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 8.

<sup>109</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 8.

<sup>110</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 8. *See also* [Defence Submissions](#), ICC-01/12-01/18-2729, para. 9.

<sup>111</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 10. Specifically, the Defence argues that: (i) ‘Judge Akane’s separate opinion explains that her findings are restricted to the acts/incidents, which sustained the convictions under [C]ounts 1-5, and 14; (ii) ‘victims of sexual violence and forced marriage cannot be considered “direct victims” in relation to Mr Al Hassan’s personal criminal responsibility for the crime of persecution’; (iii) the ambiguous findings regarding the crime of persecution must be interpreted in favour of the defendant and Judge Akane’s separate opinion should not be interpreted as types of conduct, rather than specific incidents pleaded in the charges; (iv) assessing the eligibility of a victim based on proof that the victim suffered ‘a deprivation of rights during the relevant time period is likely to give rise to complex factual adjudications concerning the existence and hierarchy of such rights’; (v) designating individuals as direct victims of a particular crime while they have not obtained judicial accountability vis-à-vis a specific defendant will disincentivize national or international authorities from carrying out further steps to identify the actual perpetrators of the crime and award victims’ reparations; and (vi) the crime of persecution involves group identity and harm to that identity and thus, rather than expanding the number of direct victims of persecution, it may be appropriate to focus on the effects of the harm experienced by the community of Timbuktu, as such ([Defence Submissions](#), ICC-01/12-01/18-2729, paras 11-16). *See also* [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 11; [T-219](#), p. 57, line 4 to p. 60, line 16.

<sup>112</sup> [LRV’s Response to Submissions](#), ICC-01/12-01/18-2740, paras 37-39.

<sup>113</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 8, n. 6 (emphasis in the original), *referring to* [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 69, n. 191 and [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1728, 1736, n. 5231).

limited to the scope of religious grounds'.<sup>114</sup> In this footnote, Judge Akane is not merely expressing a limited agreement to paragraph 1736 as the Defence contends, but rather expressing a limited agreement to paragraphs 1727 to 1736. Thus, the citation of these paragraphs in the Sentencing Decision, issued unanimously by a Chamber whose composition included Judge Akane,<sup>115</sup> demonstrates Judge Akane's agreement to these findings on the scope of the crime of persecution on religious grounds.

58. While noting the Defence's arguments described above, the Chamber recalls that Mr Al Hassan's criminal responsibility had already been adjudicated before the commencement of the reparations phase of proceedings.<sup>116</sup> What is now at issue is the scope of the population of victims who were harmed by the crimes of which Mr Al Hassan was found guilty. In undertaking this analysis as it pertains to direct victims, the Chamber is guided by approach consistently adopted by the Court in previous cases,<sup>117</sup> and considers that direct victims are those who have suffered harm as a result of at least one of the crimes of which Mr Al Hassan was convicted.
59. The Chamber notes that the Trial Judgment and Sentencing Decision found that Ansar Dine/AQIM targeted the population of Timbuktu in its entirety.<sup>118</sup> In identifying the group targeted by the persecution, the Chamber unanimously held in the Trial Judgment that:

while the members of the population of Timbuktu deemed by Ansar Dine/AQIM as not adhering to their rules and prohibitions were particularly affected, the targeted group in this case goes beyond and consists of the population of Timbuktu in its entirety. Indeed, [...] Ansar Dine/AQIM committed the underlying acts of persecution against that group as a whole, which they perceived as 'ignorant' and not 'real Muslims', targeting not only those who opposed them but also every member of the population who saw themselves forced to abide by discriminatory rules and prohibitions, which for many had a substantial impact on their individual rights and liberties [...].<sup>119</sup>

<sup>114</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1728, 1736, n. 5231).

<sup>115</sup> See [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 69, n. 191.

<sup>116</sup> See section IV.C 'The interpretation of the majority findings in the Trial Judgment' above.

<sup>117</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 97; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 31. See [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 819-821; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59, 69.

<sup>118</sup> See [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1560, 1565; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 69, 71.

<sup>119</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1559. See paragraph 57 above.

60. Further, in the Sentencing Decision, the Chamber found that:

members of Ansar Dine/AQIM, including Mr Al Hassan, imposed and promoted a set of rules and prohibitions and set up and enforced a system of repression which regulated the way of living and religious practices of the people of Timbuktu, performing daily numerous acts which severely deprived civilians of certain fundamental rights and targeted them on religious grounds.<sup>120</sup>

61. Consequently, the Chamber finds that it is clear and unambiguous that the members of the population of the city of Timbuktu were the targets of the crime of persecution on religious grounds. Having also found that the members of the population of the city suffered harm as a result of their persecution on religious grounds,<sup>121</sup> the Chamber concludes that they are direct victims within the meaning of rule 85 of the Rules.

62. As for individuals who fled the city before the arrival of Ansar Dine/AQIM or current members of the community who were not present at the moment of the commission of the crime, including persons born after the temporal scope of the crime,<sup>122</sup> the Chamber does not consider these persons as direct victims; contrary to persons who were present in Timbuktu at the time of the crimes, these persons did not suffer personal harm directly as a result of the persecution perpetuated by Ansar Dine/AQIM and Mr Al Hassan.

b. Presumption of victimhood

63. The Chamber notes the submissions of the LRVs,<sup>123</sup> the Registry,<sup>124</sup> the TFV,<sup>125</sup> and Mama Koité Doumbia *et al.*,<sup>126</sup> as to the necessity of establishing a presumption of victimhood for the victims of the crime of persecution. The Chamber recalls that Ansar Dine/AQIM's imposition of its rules and prohibitions targeted the entirety of the local population on religious grounds.<sup>127</sup> Given that the various types of harm arising from this crime affected the entirety of the local population,<sup>128</sup> the Chamber finds it appropriate to presume that persons who can demonstrate, to the required standard of proof, that they

<sup>120</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 69.

<sup>121</sup> See paragraphs 107, 127 below.

<sup>122</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 43-44.

<sup>123</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 60-61.

<sup>124</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 20.

<sup>125</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 44.

<sup>126</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, paras 44-45.

<sup>127</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1284, 1288, 1294-1295, 1559, 1568; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 69, 71.

<sup>128</sup> See paragraphs 107, 127 below.

were present or residing in the city of Timbuktu during the temporal scope of the crime of persecution committed by Mr Al Hassan, that is, from early May 2012 to 29 January 2013,<sup>129</sup> are direct victims of the crime of persecution on religious grounds. This presumption equally applies to individuals who, having been present in Timbuktu at the time of the crimes, fled the city during the same temporal scope (*i.e.* early May 2012 to 29 January 2013).<sup>130</sup>

*ii. The crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, sentencing without due process, and mutilation*

64. The Chamber notes the LRVs' submissions that victims of crimes other than the crime of persecution who are not part of the identified 49 victims should be deemed eligible for reparations.<sup>131</sup> The Chamber is also mindful of the LRVs' submissions that many victims consider the incidents set out in the Trial Judgment to be just some of many, and that certain victims experienced other incidents more serious than those represented in the judgment.<sup>132</sup> The Chamber further notes the LRVs' submissions that some of the participating victims consider that the nature of their harm goes beyond a description of persecution as a result of being present in the city.<sup>133</sup> The LRVs also submit that it would be frustrating and disconcerting for the 2,196 participating victims not to be considered as victims of Counts 1 to 5 and 14, while they experienced similar facts and harm.<sup>134</sup> Similarly, the Chamber also takes note of the OPCV's submissions that 'the number of direct victims is likely to be higher than 49'<sup>135</sup> and that the number of direct victims of these crimes for the purposes of reparations should not be limited to victims specifically cited in the judgment.<sup>136</sup>

<sup>129</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1736; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 69.

<sup>130</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 48.

<sup>131</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 127-133. The Chamber notes that while it did not initially request submissions on the number of direct victims other than the victims of persecution, it later clarified that the parties and participants may make submissions on the number of direct victims of all crimes ([Decision on the Legal Representative of Victim's and Registry's requests for clarification](#), 21 March 2025, ICC-01/12-01/18-2699, para. 11, p. 8).

<sup>132</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 127-129, 131.

<sup>133</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 131.

<sup>134</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 133.

<sup>135</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 71.

<sup>136</sup> [T-219](#), p. 30, line 17 to p. 32 line 11, p. 33 lines 16-25. Specifically, the OPCV argues that the Prosecution advanced only a certain number of incidents in order to demonstrate Mr Al Hassan's criminal responsibility and that the Chamber determined the status of the individuals as victims on the basis of the beyond reasonable double

65. In addressing these arguments, the Chamber recalls that the Court has consistently held that, under rule 85 of the Rules, a victim's status derives from the causal link between the harm they suffered and a crime for which the defendant was convicted.<sup>137</sup> While the Chamber understands that many participating victims, and others yet to be identified as victims of persecution, experienced similar facts and harm to the specifically identified victims, the Chamber must not expand the scope of Mr Al Hassan's conviction.<sup>138</sup> In this context, the Chamber recalls that in relation to the crimes other than persecution, the Trial Judgment and Sentencing Decision made specific findings in relation to crimes committed against a limited number of individuals and were not expansive or open ended in the description of the victim population.<sup>139</sup> However, the persecutory measures imposed by Ansar Dine/AQIM on religious grounds included arrests, detentions and the imposition of physical punishments.<sup>140</sup> Accordingly, when such harm was experienced by individuals within the population of the city of Timbuktu (beyond the 49 specified victims of crimes other than persecution), this harm is also recognised as arising from the persecution on religious grounds.
66. On this basis, the Chamber determines that the direct victims of Mr Al Hassan's convictions for crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, sentencing without due process, and mutilation were the 49 individuals identified in the Trial Judgment and Sentencing Decision.<sup>141</sup>

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standard of evidence ([T-219](#), p. 31, lines 1-9). The OPCV argues that the standard of proof for the determination of the eligibility of victims for reparations is 'the preponderance of probability', which is lower than the beyond the reasonable doubt standard ([T-219](#), p. 31, lines 10-15). The OPCV concludes that according to this standard, it is only required to demonstrate that it is more probable than not that the persons concerned had suffered harm caused by one of the crimes of which Mr Al Hassan was found guilty ([T-219](#), p. 31, lines 15-18). The OPCV further argues that, should the Chamber find that only the 49 victims are the direct victims of the crimes other than persecution, the rights of victims for reparations set out in the Rome Statute must entirely depend on the discretion of or the strategic choice of the Prosecution to only present certain incidents ([T-219](#), p. 31, line 23-p. 32, line 3). The OPCV contends that this would mean that the reparations 'should be determined within the framework of the judgment and, 'according to the [...] standard of proof of the highest level, beyond reasonable doubt ([T-219](#), p. 32, lines 4-7).

<sup>137</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 93; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 31.

<sup>138</sup> See section V.A 'Personal liability' above.

<sup>139</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1586, 1596, 1602, 1690, 1704, 1785; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59.

<sup>140</sup> See paragraph 81 below.

<sup>141</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1586, 1596, 1690, 1602, 1704, 1785; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59. See also [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1706, footnote 5168 and para. 1615.

## 2. Indirect victims

67. Indirect victims are those who suffered harm as a result of the harm experienced by the direct victims.<sup>142</sup> The key consideration to determine if a person qualifies as an indirect victim is whether they have suffered personal harm as a result of the commission of a crime against another person, and for which the defendant was convicted.<sup>143</sup> Indirect victims must establish that, ‘as a result of their relationship with the direct victim, the loss, injury, or damage suffered by the latter gives rise to harm to them’.<sup>144</sup>
68. In line with the Court’s previous decisions, the Chamber considers that, provided that they can demonstrate that they have suffered personal harm as a result of the commission of a crime against the direct victim and therefore there is a causal link between their harm and the crimes, indirect victims include the following individuals:
- (i) family members of direct victims;<sup>145</sup>
  - (ii) anyone who attempted to prevent the commission of one or more of the crimes;
  - (iii) individuals who suffered harm when helping or intervening on behalf of direct victims;
  - (iv) individuals who witnessed the commission of the crimes; and
  - (v) other individuals who suffered personal harm as a result of these crimes.<sup>146</sup>

<sup>142</sup> [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 35; [Lubanga Decision on Indirect Victims](#), ICC-01/04-01/06-1813, para. 44.

<sup>143</sup> [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 38.

<sup>144</sup> [Lubanga Decision on Indirect Victims](#), ICC-01/04-01/06-1813, para. 49.

<sup>145</sup> The Chamber underlines that the definition of victims under rule 85(a) of the Rules requires the existence of a harm, rather than how close or distant the family member is from the direct victim ([Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 115. *See also* [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 132-133). To receive reparations, family members must always have suffered personal harm ([Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 125; *see also* [Lubanga Appeals Judgment on Victims’ Participation](#), ICC-01/04-01/06-1432, para. 32).

<sup>146</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 128; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 6(b); [Ntaganda Decision on issues raised in the Registry’s First Report on Reparations](#), ICC-01/04-02/06-2630, paras 52-56. *See also* [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 124-128; [Lubanga Decision on Indirect Victims](#), ICC-01/04-01/06-1813, para. 49. The Chamber notes that individuals who suffered personal harm as a result of the commission of a crime against a person with whom they did not have a close personal relationship, but which nevertheless was of significant importance in their lives, may be entitled to reparations ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 134; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 127). The indirect victim must nevertheless demonstrate having suffered harm because of the commission of a crime against the direct victim ([Lubanga Decision on Indirect Victims](#), ICC-01/04-01/06-1813, para. 49).

69. The Chamber finds that any individual who has suffered harm as a result of the harm suffered by the direct victims, is an indirect victim of the crimes, provided that they can demonstrate their personal harm and the causal link with the crimes to the required standard of proof.<sup>147</sup>

### C. Harm

#### 1. General considerations

##### *i. Definitions of the types of harm*

70. The Chamber adopts the definitions of the types of harm as relevant to the present case.
71. The Chamber notes that physical harm encompasses physical and bodily injury, impairment of the body, pain, and/or illness.<sup>148</sup> The Chamber emphasises that ‘the concept of physical harm is not restricted to the infliction of a physical or bodily injury’, and notes that ‘hurt, pain or suffering otherwise not caused by a bodily injury can also amount to physical harm’.<sup>149</sup> Moral harm<sup>150</sup> may include psychological harm or trauma, mental pain and anguish, emotional distress,<sup>151</sup> psychosocial harm,<sup>152</sup> and loss of life plan.<sup>153</sup> Material harm refers to loss of or damage to property, loss of earnings, opportunity to work,<sup>154</sup> reduced standard of living and socio-economic opportunities, and loss of schooling and vocational training.<sup>155</sup>
72. The TFV suggests that the Chamber modify the definitions of some types of harm, namely moral, community, and material harm.<sup>156</sup> The Chamber finds that, in relation to

<sup>147</sup> See paragraphs 20, 68 above.

<sup>148</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Addendum](#), ICC-01/04-02/06-2858-Red, para. 254.

<sup>149</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Addendum](#), ICC-01/04-02/06-2858-Red, para. 254.

<sup>150</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 70.

<sup>151</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 85.

<sup>152</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 183(a)(iv), 183(b)(iv), 183(c), 183(d)(v).

<sup>153</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 72, 183(a)(ix), 183(b)(viii).

<sup>154</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Lubanga Reparations Decision](#), ICC-01/04-01/06-2904, para. 230(c).

<sup>155</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 183(a)(v-vi), 183(b)(v), 183(c), 183(d)(v).

<sup>156</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 11-14, referring to [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168.

moral and material harm, the current definitions as noted above, are sufficiently clear and encompassing. In relation to community harm, the Chamber is persuaded of the TFV's proposal<sup>157</sup> and adopts the following definition: Community harm refers to harm suffered by persons as members of a group, family and/or community,<sup>158</sup> 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.<sup>159</sup> Community harm is often structural, cultural, or social in nature and may seriously impair the group's ability to function.<sup>160</sup>

73. The Chamber notes that some of the parties and participants encourage the application of a holistic approach to harm and the adoption of a 'disaggregated' and intersectional approach when assessing the different types of harm experienced by the victims, which takes into account, amongst others, an age-related and gender-inclusive approach.<sup>161</sup> The Chamber finds merit in these submissions and adopts a holistic approach to harm, which considers an intersectional analysis of the harm suffered by the victims as a core component.<sup>162</sup>
74. Having considered the parties' and participants' submissions, the findings in the Trial Judgment and the Sentencing Decision, as well as the evidence in the case record, the Chamber assesses below the different types of harm suffered by the victims of the crimes committed by Mr Al Hassan. The Chamber notes that, as explained below, its detailed

<sup>157</sup> The Chamber notes that the TFV proposes to amend the definition of community harm provided in the *Ongwen* reparations order, which defined community harm as the 'harm suffered by individuals in their capacity as members of a group, family, or community', see [TFV Submissions](#), ICC-01/12-01/18-2737, para. 13, referring to [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168.

<sup>158</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 71, 74, 75, 183(a)(x). In *Ntaganda*, Trial Chamber VI noted that: 'More often than not, the inherent features of the crimes under the jurisdiction of the Court also result in mass victimisation, affecting victims as members of families and entire communities. Members of families and communities may be affected by traumatic events suffered collectively by the individual members of the group, by reasons of the group's disintegration, breaking up, or scattering.' See [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 74. There must be a sufficient causal link between the harm suffered by members of that community and the crimes of which the convicted person was found guilty. [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 212.

<sup>159</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 13.

<sup>160</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 13.

<sup>161</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 2; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 2, 7, 30; [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, paras 16-17; [TFV Submissions](#), ICC-01/12-01/18-2737, paras 34-37; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, paras 2, 12-13.

<sup>162</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 663; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 60.

recounting of the harm suffered by the individuals affected by Mr Al Hassan's crimes is also a satisfaction measure.<sup>163</sup>

*ii. The use of presumptions of harm*

75. Regarding the use of factual presumptions, the Appeals Chamber held that 'the reasonableness of a factual presumption drawn by a trial chamber in reparation proceedings will depend upon the circumstances of the case'.<sup>164</sup> In line with this, the Chamber notes that the Defence supported the application of presumptions 'that ensure the equitable and expeditious conclusion of the reparations phase',<sup>165</sup> while noting that the reparations order and the terminology used should respect the scope of Mr Al Hassan's criminal responsibility.<sup>166</sup>
76. In accordance with the jurisprudence, the Chamber will use factual presumptions as appropriate, as discussed below.<sup>167</sup>

2. Harm suffered by direct victims of persecution

*i. Presumption of harm caused in connection with persecution*

77. The LRVs request that the Chamber consider a more flexible approach to the reparations criteria<sup>168</sup> because of the difficulty the victims would encounter to obtain evidence to prove the harm they suffered by legal means.<sup>169</sup> According to the LRVs, this approach should be applied specifically to the emotional and economic harm suffered by the victims in relation to the crime of persecution.<sup>170</sup> The Defence suggests that '[s]ince the

<sup>163</sup> See section V.D.2.ii.d 'Symbolic and satisfaction measures ordered' below. See also [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 664.

<sup>164</sup> [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 76.

<sup>165</sup> [Defence's Submissions](#), ICC-01/12-01/18-2729, para. 3.

<sup>166</sup> [Defence's Submissions](#), ICC-01/12-01/18-2729, para. 3.

<sup>167</sup> For a similar approach, see [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 519; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 141-143, referring, *inter alia*, to [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, paras 4, 75; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 61; [Lubanga Decision on the Size of Reparations Award](#), ICC-01/04-01/06-3379-Red-Corr-tENG, paras 179-185.

<sup>168</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, paras 12-16; [LRVs Response to Submissions](#), ICC-01/12-01/18-2740, para. 36.

<sup>169</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, para. 13.

<sup>170</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, paras 12-16.

Chamber defined the group as the population of Timbuktu, there is a presumption of “connected” harm as concerns all such members’.<sup>171</sup>

78. Considering the Chamber’s analysis and conclusions reached in relation to moral and community harm arising from the crime of persecution as detailed below, the Chamber finds it unnecessary to make a factual presumption in relation to this harm.<sup>172</sup> In relation to a potential presumption of material harm, the Chamber notes that it does not have sufficient information to reach such a conclusion for all the victims of persecution. Therefore, the Chamber does not make any presumptions in relation to the crime of persecution and will proceed to analyse the harm linked to the crime of persecution below.

*ii. Analysis of the harm experienced by the victims*

*a. Physical harm*

79. The OPCV submits that the victims it represents suffered physical harm in the form of: (i) flogging; and/or (ii) pain associated with the detention conditions, notably the crowded cells, the lack of hygiene, and the poor quality and quantity of the food.<sup>173</sup> In line with this submission, Mama Koité Doumbia *et al.* state that physical harm was inflicted on members of the population through ‘public floggings, beatings, inhumane detention, public amputation, and violent arrests using weapons’.<sup>174</sup> The OPCV further submits that the victims reported long lasting physical impacts, including rashes, itches and hypertension diagnosed after detention.<sup>175</sup>

80. Additionally, the Registry submits that 23% of the 714 individuals who have submitted applications for reparations as victims of persecution claim to have experienced physical harm in the form of health issues and/or related to an injury sustained as a result of a persecutory measure.<sup>176</sup> In addition, the TFV, based on its Victims’ Voices Study,

<sup>171</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 16. The Chamber notes that the Defence further submitted that a ‘presumption of economic, moral, psychological and physical harm are appropriate in this case’, see [T-219](#), p. 66, lines 22-23.

<sup>172</sup> See paragraphs 107, 127 below.

<sup>173</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 21; [T-219](#), p. 27, lines 3-4.

<sup>174</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 14.

<sup>175</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 22.

<sup>176</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19. The Chamber notes that the Registry also refers, in general terms, to ‘health problems related to [the] difficult living conditions (poverty, displacement/resettlement)’. However, in the absence of any supporting evidence in this regard, the Chamber is unable to make any findings.

submits that individuals subjected to arbitrary detention and public flogging suffered chronic pain, hypersensitivity of the skin, and improperly healed fractures.<sup>177</sup>

81. The Chamber notes that Ansar Dine/AQIM's rules and prohibitions were imposed through the implementation of a system of surveillance and punishment, which relied on acts of violence, force, intimidation, and threat.<sup>178</sup> People identified as having contravened the rules and prohibitions could be punished directly, or brought to the Islamic Police headquarters, where they could be detained under dire conditions to eventually be sentenced by the Islamic Court and punished pursuant to the sentence.<sup>179</sup>
82. The Chamber recalls that the Trial Judgment particularly emphasised the dire conditions in which victims were held.<sup>180</sup> The Trial Judgment found that the detention conditions 'were squalid, with detainees placed in very small rooms without a fan or electricity'.<sup>181</sup> The ATM room, which was used as a cell, was an extremely small room, without a toilet,<sup>182</sup> and was very hot as it was walled with glass and was constantly exposed to the sun.<sup>183</sup> Similarly, the Trial Judgment found that at the *Gouvernorat* building, there was a room used as a prison which was locked.<sup>184</sup> In fact, due to the number of detainees, Ansar Dine/AQIM had to create a public prison as the police station was no longer large enough.<sup>185</sup>
83. The Chamber further notes its findings below on the physical harm experienced by the 14 victims<sup>186</sup> who were publicly mutilated or flogged for violating Ansar Dine/AQIM's rules, and whose harm was recognised in the Trial Judgment as amounting to the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and/or mutilation, which were recognised as underlying acts of persecution.<sup>187</sup> The Chamber notes that, aside from these 14 direct victims, it is clear from the Trial Judgment that Ansar Dine/AQIM's rules and prohibitions, as well as associated punishments, were

<sup>177</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 32.

<sup>178</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 576, 1535. *See also* [Separate and Partly Dissenting Opinion of Judge Tomoko Akane](#), ICC-01/12-01/18-2594-OPI, para. 100.

<sup>179</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 578-581, 583-586.

<sup>180</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 578-579.

<sup>181</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 579.

<sup>182</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 537.

<sup>183</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 904, 1319.

<sup>184</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 562, 580.

<sup>185</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 621.

<sup>186</sup> *See* section V.C.4.ii 'Analysis of the harm experienced by the victims' below.

<sup>187</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1577-1579, 1690-1692; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 76.

imposed ‘on the population of Timbuktu as a whole’.<sup>188</sup> The Chamber finds that, in the context of the crime of persecution, other members of the population, beyond those named in the Trial Judgment, were physically punished, by the imposition of a *hadd* or a *ta’zir* punishment, for having allegedly breached Ansar Dine/AQIM’s rules and prohibitions.<sup>189</sup>

84. The Chamber considers that, persons who suffered from these physical punishments, on a balance of probabilities, experienced physical harm in a similar form as the physical harm experienced by the 14 direct victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and mutilation. Therefore, the Chamber finds that victims who experienced physical punishments in connection with the crime of persecution that were comparable to those suffered by the direct victims of the abovementioned crimes, suffered physical harm that may include: health issues, long-lasting physical injuries, chronic pain, hypersensitivity of the skin, and improperly healed fractures.<sup>190</sup> The Chamber also finds that, in some cases, the physical harm suffered by the victims may have had long-lasting consequences.<sup>191</sup>

b. Moral harm

85. The Chamber notes that the parties and participants made submissions on the moral harm suffered by the members of the community of Timbuktu, in particular, in relation to: (i) the imposition of a system of repression that instilled fear in the population;<sup>192</sup> (ii) the humiliation and loss of dignity due to the imposition of a ‘proper Islam’;<sup>193</sup> (iii) the moral impact caused as a result of the destruction of monuments of religious importance;<sup>194</sup> (iv) the fear and shame experienced by victims of public punishments in the context of

<sup>188</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 576, 1564. *see also* [Separate and Partly Dissenting Opinion of Judge Tomoko Akane](#), ICC-01/12-01/18-2594-OPI, para. 100.

<sup>189</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 576, 657, 1079, 1563-1564. *See also* P-0160: [T-067](#), p. 7, lines 10-19. The Chamber recalls that ‘[v]iolations to Ansar Dine/AQIM’s rules and prohibitions were sanctioned by punishments, either a *hadd* (*hudud* in plural), which referred to what was considered as a prescribed penalty by the *Quran* and the *Hadiths*, or a *ta’zir*, a discretionary punishment on issues for which punishments were not expressly regulated’, *see* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 657.

<sup>190</sup> *See* section V.C.4.ii ‘Analysis of the harm experienced by the victims’ below.

<sup>191</sup> *See* paragraphs 150, 157, 161 below.

<sup>192</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 21.

<sup>193</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 16-17.

<sup>194</sup> [Queen’s University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 7; [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, paras 4-9.

persecution;<sup>195</sup> (v) the loss of schooling and education due to measures imposed on public schools;<sup>196</sup> and (vi) the long-lasting psychological impact of persecution.<sup>197</sup>

- (i) The fear instilled in the population by the imposition of a system of repression

86. The Chamber notes the LRVs submission that the victims they represent suffered from psychological harm in relation to their permanent sense of fear of violent sanctions from Ansar Dine/AQIM.<sup>198</sup> Similarly, the Chamber notes the TFV's submission that, based on its Victims' Voices Study, arbitrary arrests, detentions, mutilations, and public floggings instilled a deep collective fear and contributed to mass trauma for the members of the population of Timbuktu.<sup>199</sup>
87. The Chamber recalls the Trial Judgment's finding as to the psychological impact the 'organised system of repression'<sup>200</sup> had on Timbuktu's population, 'which lived in an atmosphere of fear, violence, oppression and humiliation'.<sup>201</sup> Moreover, when assessing the gravity of the crime of persecution, the Sentencing Decision recalled that '[m]embers of the population felt that "everything changed" and described the atmosphere of the city as "terror everywhere", "confinement", and Timbuktu as a "dead city" and a "ghost town"'.<sup>202</sup>
88. The Chamber further recalls that the Sentencing Decision also found that the population of Timbuktu experienced fear of being reprimanded or brutalised,<sup>203</sup> which eventually forced members of the community to conform their lives and systems of living to the interpretation of *Sharia* that was being imposed in the city through force.<sup>204</sup> The Chamber

<sup>195</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 18.

<sup>196</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 18, referring to [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 670, 726-731; [T-219](#), p. 38, lines 11-16; [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19; [TFV Submissions](#), ICC-01/12-01/18-2737, paras 29, 31.

<sup>197</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 21.

<sup>198</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47.

<sup>199</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 21. See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 33.

<sup>200</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1537; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 69.

<sup>201</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73.

<sup>202</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73, referring to [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1540. See also P-0639: [T-136](#), p. 22, line 25, p. 23, lines 1-2.

<sup>203</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73, referring to [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1541.

<sup>204</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 576, 663, 738, 1563-1564.

notes that the sense of fear was particularly acute for women and girls, who were afraid to go outside of their homes.<sup>205</sup> Because of this fear, women drastically reduced how frequently they went outside and attended social gatherings; some women no longer left their home.<sup>206</sup> Women described how they did not go out much to avoid ‘problems’, fearing they might be arrested and sanctioned, and testifying that ‘whatever you did, the way that you covered your body, they always found something to say that you hadn’t totally covered your body’.<sup>207</sup>

89. Furthermore, the Chamber notes that the Sentencing Decision emphasised that ‘[s]ome of the victims of the crime of persecution were also particularly vulnerable as a result of their young or old age’, referring by way of example to the cases of victim P-0565, who was 14 years old when she was publicly flogged, and of the old man called Foma, who was violently flogged in a public street.<sup>208</sup>
90. The Chamber finds that Timbuktu’s entire population experienced moral harm through the permanent fear of being punished by Ansar Dine/AQIM’s system of repression, and that vulnerable groups such as women, girls, younger and older persons, were particularly impacted.

(ii) The humiliation and loss of dignity due to the imposition of a ‘proper Islam’

91. The TFV submits that Ansar Dine/AQIM’s imposition of a restrictive and punitive interpretation of *Sharia*, as well as the global portrayal of Timbuktu as a population that required ‘correction’ for failing to adhere to ‘proper Islam’, inflicted collective humiliation and a loss of dignity on the members of the population of the city.<sup>209</sup>
92. The Chamber recalls that the Trial Judgment held that Ansar Dine/AQIM perceived the Timbuktu community as ‘ignorant’ and not ‘real Muslims’, targeting the population who found themselves forced to abide by discriminatory rules and prohibitions.<sup>210</sup> P-0065, a

<sup>205</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 703, 1570. *See also* [Queen’s University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 8; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 26.

<sup>206</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 703, 1570.

<sup>207</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 703, 1570.

<sup>208</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 75.

<sup>209</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 16-17.

<sup>210</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 712, 737, 1562; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 71-72.

Tuareg man who lived in Timbuktu at the time of the crimes, described how the imposition of a variant of the community's own religion affected him psychologically; he stated that 'all you could do is to [...] accommodate your life and your system of living to that person's interpretation of Islamic *Sharia*, while you are a Muslim and hold a different interpretation which you think is right, but that other person with a force of arms can impose their interpretation'.<sup>211</sup> Likewise, P-0554, who was a victim of torture, outrages upon personal dignity and sentencing without due process, explained that the population felt '[their] dignity was disregarded. They talk about Islam. Islam does not tolerate the humiliations that they inflicted upon people'.<sup>212</sup>

93. The Chamber considers that the imposition of Ansar Dine/AQIM's own interpretation of *Sharia* and the disregard of other Islamic belief caused Timbuktu's Muslim population moral harm in the form of humiliation and violation of their dignity.

(iii) The moral impact caused as a result of the destruction of monuments of religious importance

94. The Chamber notes that the LRVs submit that the destruction of religious monuments caused long-lasting emotional impact on Timbuktu's population as it disrupted their ancestral worship practices and hindered the transmission of their religious traditions.<sup>213</sup> It also notes the *amicus curiae* observations presented by Queen's University Belfast on the trauma and emotional impact caused by the destruction of mausoleums on the whole population of Timbuktu.<sup>214</sup>
95. The Chamber recalls that one of the aspects considered in the Trial Judgment to support the commission of the crime of persecution was Ansar Dine/AQIM's damage and destruction of monuments of historical and religious value to the population of Timbuktu.<sup>215</sup> The imposition of Ansar Dine/AQIM's interpretation of the *Sharia* meant putting an end to all anti-monotheistic manifestations and, therefore, the destruction of

<sup>211</sup> P-0065: [T-050](#), p. 35, lines 20-23.

<sup>212</sup> P-0554: [T-064](#), p. 11, lines 14-15.

<sup>213</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, paras 4-9.

<sup>214</sup> [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 7.

<sup>215</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1531. The Chamber considers this persecutory measure as a conduct independent from the findings in the Trial Judgment on the war crime of attacking protected buildings under article 8(2)(e)(iv) of the Statute, for which Mr Al Hassan was acquitted (*see* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1053-1055, p. 820). *See also* [Separate and Partly Dissenting Opinion of Judge Tomoko Akane](#), ICC-01/12-01/18-2594-OPI, para. 100, *referring to* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1531.

monuments of religious importance for the Timbuktu community.<sup>216</sup> Further, the Chamber notes that the Trial Judgment recognised that ‘[t]he demolition of the monuments was traumatic for the people of Timbuktu, and had an emotional impact on them’.<sup>217</sup> The Chamber also recalls the Trial Judgment’s findings as to the particular impact that the demolition of mausoleums had on believers of Sufism, who hold the saints in very high regard.<sup>218</sup>

96. The Chamber, therefore, finds that the destruction of monuments of religious importance had an emotional and moral impact on Timbuktu’s religious communities.

(iv) The fear and shame experienced by victims of public punishments in the context of persecution and the psychological impact on the witnesses of the punishments

97. The Chamber notes that the Registry underlines the prevalence of moral harm suffered by victims of public punishments and submits that 92% of the current 714 applicants for reparations for the crime of persecution indicated having suffered psychological harm as a result, among others, of having been victimised in front of family members or the public.<sup>219</sup> The TFV also submits that those who were publicly punished experienced fear and trauma.<sup>220</sup>
98. The Chamber recalls that when a rule was infringed, the sentences issued by the Islamic Court, in particular the *hudud* punishments, were executed publicly in front of crowds purportedly gathered to observe the punishments.<sup>221</sup> The Trial Judgment found that acts of violence and beatings, involving weapons and whips, were frequent during 2012 and acknowledged the population’s perception that Ansar Dine/AQIM’s members could do whatever they wanted to show their power.<sup>222</sup>
99. The Trial Judgment further found that members of the population subjected to public punishments described feeling afraid and ashamed, and that the events affected their

<sup>216</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1032, 1531.

<sup>217</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1046. *See also* [Queen’s University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 7.

<sup>218</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 737; P-0065: [T-050](#), p. 35, line 24 to p. 36 line 4.

<sup>219</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19.

<sup>220</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 21.

<sup>221</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 659.

<sup>222</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 739.

relationships with their community, friends and family.<sup>223</sup> The Trial Judgment further emphasised the degrading nature of the floggings and the humiliation suffered by the victims because of their public nature and the violence employed.<sup>224</sup> The severe moral impact of the public punishments was recognised by Mr Al Hassan who acknowledged in his statement that ‘a person who is publicly punished is a person whose “dignity has been humiliated”’.<sup>225</sup>

100. In turn, the Chamber recalls that the Sentencing Decision found that the carrying out of punishments in the forum of a public spectacle exposed members of the population of Timbuktu to violent scenes.<sup>226</sup> Moreover, the Trial Judgment found that the execution of public punishments, such as the floggings and amputation, had a ‘strong impact on the morale of the local population’.<sup>227</sup> The evidence in the case record also provides a clear account of the psychological harm experienced by witnesses of public punishments. For instance, the Chamber recalls the testimony provided by P-0603, who witnessed the arrest and/or flogging of several people for smoking cigarettes,<sup>228</sup> and testified that ‘[w]hen they flogged people, we suffered, we cried, we were saddened, we screamed, we took upon ourselves especially since we did not know where to go’.<sup>229</sup>
101. Considering the abovementioned findings, the Chamber considers that victims of persecution that were publicly flogged experienced moral harm in the form of fear, humiliation and shame, and witnesses of public punishments suffered psychological harm by being exposed to violent scenes against other members of the population.

(v) The loss of schooling and education due to measures imposed on public schools

102. The Prosecution suggests that ‘there were about 153 schools in Timbuktu city in 2012 that were closed because conditions were imposed that could not be met, including that the Arabic language and Islam had to be included in the curriculum, girls and boys should

<sup>223</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 786, 798, 833, 852.

<sup>224</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1313, 1321-1322, 1384-1389, 1397.

<sup>225</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 661; Mr Al Hassan’s statement MLI-OTP-0062-1257, at 1266.

<sup>226</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45. *See also* LRVs: [T-219](#), p. 9, line 10 to p. 10, line 14.

<sup>227</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1541; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73. *See also* [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19.

<sup>228</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 704; P-0603: [T-125](#), p. 23, lines 6-14.

<sup>229</sup> P-603: [T-126](#), p. 23, lines 2-3.

not [be] mixed and girls had to be covered'.<sup>230</sup> According to the LRVs,<sup>231</sup> the Prosecution,<sup>232</sup> the Registry,<sup>233</sup> and the TFV,<sup>234</sup> the schooling interruption caused long-term moral impact on the life of school-aged children.

103. In this context, the Chamber recalls that one of Ansar Dine/AQIM's persecutory measures was the imposition of rules on education, as the group did not accept the form of education taught in public schools, which remained generally closed during Ansar Dine/AQIM's control of the city.<sup>235</sup> Moreover, because of the closure of public schools, some local residents decided to send their children to other regions so that they could continue their education.<sup>236</sup>
104. The Chamber finds that the personal and professional impact caused to children by the loss of schooling can constitute moral harm.<sup>237</sup>

(vi) The long-lasting psychological impact of persecution

105. The Chamber notes that the Defence and the TFV submit that the psychological impact experienced by the victims continues to this day and remains particularly severe among women, young people, and those who experienced physical abuse.<sup>238</sup> According to the TFV, many members of the community currently 'live under palpable constraints, avoiding open expression due to fears of abduction, violence, or reprisals'.<sup>239</sup> The TFV reports, on the basis of the Victims' Voices Study, that victims currently experience long-lasting psychological consequences such as stress, anxiety, persistent fear, nightmares, panic attacks and severe mental health conditions.<sup>240</sup>
106. In this regard, the Chamber recalls that the Sentencing Decision recognised the long-lasting effects of Ansar Dine/AQIM's persecutory measures when finding that 'the

<sup>230</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 18, referring to [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 670, 726-731; [T-219](#), p. 38, lines 11-16.

<sup>231</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47.

<sup>232</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 18.

<sup>233</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19.

<sup>234</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 29, 31.

<sup>235</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 727, 731, 1532.

<sup>236</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 729.

<sup>237</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 366.

<sup>238</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 9; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 21.

<sup>239</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 23.

<sup>240</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 21. See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 33.

regime that was imposed remains present in the mind of victims as a deep-seated trauma'.<sup>241</sup> Thus, the Chamber concludes that the crime of persecution had a long-lasting psychological effect on Timbuktu's population.

(vii) The Chamber's conclusion on moral harm

107. Considering the above, the Chamber is satisfied that it has been established on a balance of probabilities that the direct victims of the crime of persecution, for which Mr Al Hassan was convicted, suffered moral harm, including psychological and emotional impacts, terror, isolation, fear of being reprimanded or brutalised, trauma, discrimination, the tarnishing of the victims' dignity, humiliation, feelings of shame, stigma and impact on morale. The Chamber also finds that, in some cases, the moral harm suffered by some of the victims may have had long-lasting consequences.

c. Material harm

108. The LRVs, the Defence and the TFV outline the material harm associated with the loss of earnings due to the discontinuance of many professions, such as tailoring due to the prohibition of men and women sharing the same space; farming and livestock farming for women; trading associated with tourism; selling of woven goods and traditional clothing; services related to cultural or sporting activities; and imports and exports of objects used as traditional gifts.<sup>242</sup> The TFV affirms that the local economy experienced a profound breakdown which 'gave rise to substantial income losses, high unemployment, widespread poverty, and the destruction of property'.<sup>243</sup> Moreover, the Registry submits that 76% of the 714 persons who have submitted victim applications as victims of persecution state that they suffered material harm, including loss of property, loss of sources of income, lack of financial means to support their family, economic problems related to living conditions and loss of economic opportunities due to the interruption of their studies or work.<sup>244</sup> The Prosecution refers to the material harm caused to legal entities such as schools that were forced to close,<sup>245</sup> businesses that were

<sup>241</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73, referring to [LRVs Sentencing Brief](#), ICC-01/12-01/18-2641, paras 51, 54. See also LRVs : [T-219](#), pp. 44, 47, 53.

<sup>242</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, para. 10; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 35, 47; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 8; [TFV Submissions](#), ICC-01/12-01/18-2737, paras 19-20, 25-26, 47.

<sup>243</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 20.

<sup>244</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19.

<sup>245</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 18; [T-219](#), p. 38, lines 11-15.

closed for undefined periods of time, and stores that were damaged or destroyed and had their stock damaged and/or destroyed.<sup>246</sup>

109. The Chamber recalls that the Trial Judgment found that, because of Ansar Dine/AQIM's persecution of the population, Timbuktu's 'local economy was impacted, with some jobs and activities [being] unable to continue'.<sup>247</sup> People working as musicians, tourist guides, clergymen, sheiks, either stopped their activities or left the city.<sup>248</sup> In this context, the Chamber notes the evidence in the case record as to the economic hardship Timbuktu's society experienced during Ansar Dine/AQIM's presence. When asked about the economic impact that Ansar Dine/AQIM's presence had on the population, P-0065 testified: 'I could say that Timbuktu's economy relies primarily on commerce and tourism. With the coming of Islamist groups, there was no tourism. [...] As to commerce, commerce depends on people's purchasing power, and [...] people no longer had wages'.<sup>249</sup>
110. The Chamber further recalls that, as part of the rules imposed by Ansar Dine/AQIM, shops were forbidden to sell certain products that were deemed in violation of the group's interpretation of *Sharia*.<sup>250</sup> Members of Ansar Dine/AQIM confiscated and destroyed items regarded as contrary to the group's vision of *Sharia* and closed or destroyed places that sold alcohol and/or their content.<sup>251</sup> In cases of infringement of this rules, products could be confiscated or destroyed, creating an economic loss for the shop owners.<sup>252</sup> Ansar Dine/AQIM also forced all stores to close during prayers.<sup>253</sup>
111. The Chamber recalls that the persecution of the population of Timbuktu caused many residents to flee, many to Mopti or Bamako, fleeing by car, on camels or by foot, often leaving everything behind.<sup>254</sup>

<sup>246</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 19, referring to [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 685-686, 704-705, 707-709. See also [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 8.

<sup>247</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 735; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73.

<sup>248</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 713, 721, 725, 729, 740; P-0065: [T-050](#), p. 34, lines 23-25.

<sup>249</sup> P-0065: [T-050](#), p. 34, line 23 to p. 35, line 5.

<sup>250</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 705-707, 720.

<sup>251</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 686, 705, 709, 1539.

<sup>252</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1535; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 72.

<sup>253</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 686, 719-720, 1531-1532.

<sup>254</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 740, 939, n. 3133 (citing P-0602's testimony that houses were abandoned by people who fled the 'Islamists', P-0602: [T-085](#), p. 21).

112. The Chamber finds that women particularly suffered economic damage from the crime of persecution. The Chamber recalls that although Ansar Dine/AQIM did not explicitly forbid women from going to the market or working, women feared going outside,<sup>255</sup> which particularly affected their ability to earn money.<sup>256</sup> Due to Ansar Dine/AQIM's rules and prohibitions, women found it difficult to continue their regular trade, drastically reducing their activities outside of the home for fear of being arrested and punished, with some women no longer leaving their homes.<sup>257</sup> Women working at the *Jardin de la Paix* were particularly affected.<sup>258</sup> The Chamber notes the TFV's and Queen's University Belfast's observations in this regard, and recognises the disproportionate economic impact the crime of persecution had on women, whose livelihoods were particularly impacted as their public presence was restricted and some were forced to abandon their jobs.<sup>259</sup>
113. Considering the above, the Chamber is satisfied that it has been established on a balance of probabilities that many of the victims of the crime of persecution, of which Mr Al Hassan was convicted, suffered material harm. The material harm suffered by these victims include: loss of income, destruction or loss of property, poverty in connection with displacement or resettlement; and loss of economic opportunities. The Chamber further recognises that the material harm suffered by the population of Timbuktu city had long-lasting effects due to the general impact on the city's economy. The Chamber also recognises the particular material impact that the crime of persecution had on women.

d. Community harm

114. The Chamber notes that the LRVs,<sup>260</sup> the OPCV,<sup>261</sup> the Defence,<sup>262</sup> the TFV,<sup>263</sup> and Mama Koité Doumbia *et al.*<sup>264</sup> made submissions on the community harm suffered by

<sup>255</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 703.

<sup>256</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 703; V-0002: [T-169](#), pp. 90, 93-94.

<sup>257</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1570; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 74.

<sup>258</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 735.

<sup>259</sup> [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 8, *citing* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 529-537, 693-703, 1532-1533, 1542; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 26.

<sup>260</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 35, 47.

<sup>261</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 36-39; [T-219](#), p. 28, lines 2-5.

<sup>262</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, paras 2, 17, 19; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 2, 8; [T-219](#), p. 56, lines 1-3.

<sup>263</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 16-17.

<sup>264</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 18.

Timbuktu's population. The Chamber also notes that the Defence acknowledges 'the suffering endured by the population of Timbuktu as the targeted group'.<sup>265</sup>

115. The Chamber further notes that the evidence in the case file contains a wealth of information related to the harm caused to the community of Timbuktu as a whole, which saw its collective identity, structure and functioning impacted.

(i) Alteration of the social structure of the city of Timbuktu

116. The Chamber recalls that Ansar Dine/AQIM's rules and prohibitions altered the social structure of the city of Timbuktu<sup>266</sup> as they regulated social relationships and the behaviour of individuals in public and private spaces.<sup>267</sup> Ansar Dine/AQIM notably prohibited the local population from practising or taking part in certain religious and traditional customs.<sup>268</sup> In this regard, the LRVs emphasize the impact the persecutory measures had on the social organisation and familial structures.<sup>269</sup> As the TFV notes, the prohibition on the celebration of Maouloud, the Muslim celebration of the Prophet's birth, was condemned and deeply affronted the local population.<sup>270</sup> Other social activities such as dancing in clubs, playing or listening to music were also forbidden.<sup>271</sup>

117. The Chamber, therefore, finds that the rules and prohibitions imposed on the population impacted the community and its cultural, religious and social traditions.

(ii) Social impact of the closing of public schools

118. The Chamber also recalls its findings above on the moral harm experienced by children whose schooling was impacted due to the closing of schools,<sup>272</sup> and recognises the social impact and the community harm associated to it. The Chamber is also convinced by the TFV's submissions on the collapse of the educational system, which 'severely

<sup>265</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 2.

<sup>266</sup> See [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 414-415.

<sup>267</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1282; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 72. See also [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47.

<sup>268</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1530.

<sup>269</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47.

<sup>270</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 714, 1530. See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 17.

<sup>271</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 724-725, 1531.

<sup>272</sup> See section V.C.2.ii.b.v 'The loss of schooling and education due to measures imposed on public schools' above. See also [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 727, 731, 1532; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 72.

undermined livelihoods and communal identity’,<sup>273</sup> noting that ‘not a single child passed the national exams’ during Ansar Dine/AQIM’s presence in Timbuktu.<sup>274</sup>

(iii) Separation of families and disruption of the transmission of traditions caused by the fleeing of the population

119. The LRVs and the Defence describe the challenges experienced by the people who fled from Timbuktu due to the presence of Ansar Dine/AQIM in the city, causing the separation of families and creating difficulties in maintaining their traditions and transmitting their culture to their descendants.<sup>275</sup> Moreover, the LRVs submit that those who decided to leave Timbuktu felt isolated and separated from their families.<sup>276</sup> Similarly, Mama Koité Doumbia *et al.* submit that the population’s displacement resulted in ‘fracturing families, disrupting traditional knowledge systems and severing traditional lines of care and authority’.<sup>277</sup>
120. In this context, the Chamber notes the displacement caused by the crime of persecution and recalls that ‘many inhabitants of Timbuktu left the city because of the violence or because they did not want to submit themselves to Ansar Dine/AQIM’s rules and prohibitions’.<sup>278</sup> Beyond the moral and/or material harm associated with the fleeing of the population, the Chamber finds that, as noted by the parties and participants, this displacement necessarily resulted in the separation of family and community members, fracturing bonds of community, care and tradition.

(iv) Destruction of cultural and religious heritage

121. The Chamber notes Mama Koité Doumbia *et al.*’s submission that ‘the destruction of Timbuktu’s cultural and religious heritage deepened [the] communal disintegration’,<sup>279</sup> which had a long-lasting impact on the spiritual and cultural cohesion of the society.<sup>280</sup> The Chamber recalls its previous finding that Ansar Dine/AQIM damaged and destroyed monuments of historical value to the population of Timbuktu, which they considered to

<sup>273</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 20.

<sup>274</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 29.

<sup>275</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-ENG, paras 6-9; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47; [Defence Submissions](#), ICC-01/12-01/18-2729, paras 30-31.

<sup>276</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 47.

<sup>277</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 18.

<sup>278</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 73.

<sup>279</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 19.

<sup>280</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 19.

be against their vision of the religion,<sup>281</sup> and finds that this harm caused an impairment of the community's cultural and religious heritage which had a profound detrimental impact on the collective identity.

(v) Social impact of the gender aspect of religious persecution

122. In relation to the disproportionate impact that the crime of persecution had on women and girls, the LRVs state that the reparations order should take into account the fact that there is a general and common perception within the community that women were particularly impacted and discriminated.<sup>282</sup>
123. The Chamber recalls the 'significant impact'<sup>283</sup> that the measures had on the lives of Timbuktu's female population.<sup>284</sup> The Trial Judgment stressed that 'the behaviour of women and girls was particularly controlled' by Ansar Dine/AQIM's rules and prohibitions.<sup>285</sup> Women and girls were the subject of strict gender-specific rules on clothing, they could not leave their homes without wearing a veil and covering their body in specific clothing, and they could not go outside their homes alone after a certain time at night.<sup>286</sup> Women feared going outdoors, drastically reducing their activities outside of the home for fear of being arrested and punished, with some women no longer leaving their homes.<sup>287</sup> Furthermore, any violation to Ansar Dine/AQIM's rules 'was repressed with especially harsh punishments and detention conditions, involving gender-specific violence'.<sup>288</sup> The Chamber further recalls the findings in the Trial Judgment and elsewhere above as to the consequences that Ansar Dine/AQIM's rules and prohibition

<sup>281</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 722, 1531; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 72.

<sup>282</sup> [LRVs Response to Submissions](#), ICC-01/12-01/18-2740, paras 13-17; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 80. *See also* [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 10, 19.

<sup>283</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1570.

<sup>284</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1570; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 74.

<sup>285</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1568.

<sup>286</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 694-702, 1569; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 74.

<sup>287</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1570; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 74.

<sup>288</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1568.

had on women's ability to continue their regular trade and earn money,<sup>289</sup> which caused them material harm.<sup>290</sup>

124. The Chamber also recalls that men and boys had to conform with the clothing rules imposed by Ansar Dine/AQIM.<sup>291</sup> Women and men who were not married to each other were also prevented from mixing and being seen together in public, and girls and boys were prevented from attending the same courses at school.<sup>292</sup> The Chamber considers that the gender aspect of the religious persecution impacted the entire community.

(vi) Religious groups specially impacted

125. The Chamber recalls that 'during their control of the city, Ansar Dine/AQIM did not allow for any faith other than the Muslim faith and forbade the showing of any sign of another faith'.<sup>293</sup> Religious practices that they considered as sorcery, polytheism and/or heresy were forbidden, including non-monotheistic 'manifestations' practised around graves, Sufi celebrations of saints, the use of protective amulets, the role of marabouts as religious intermediaries, and any form of magic.<sup>294</sup>
126. The Chamber also recalls the specific impact experienced by Timbuktu's Christian community, who were not directly detained or monitored but were indirectly asked to hide in their homes.<sup>295</sup> Christian clergymen left the city or hid in their homes and did not engage in any activity.<sup>296</sup> The Chamber also notes that Christian women were particularly affected as part of this group as they had to conform to the strict rules regarding dress code imposed by Ansar Dine/AQIM and could not wear any clothing pointing to the Christian faith.<sup>297</sup> Therefore, the Chamber finds that the prohibition of other forms of Islam different from the one imposed by Ansar Dine/AQIM and of other types of religions affected the community's religious identity and freedom, and hindered Timbuktu's cultural continuity.

<sup>289</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 703, 753. *See also* P-0603: [T-125](#), p. 35, lines 15-16; P-0608: [T-154](#), p. 51, lines 13-22.

<sup>290</sup> *See* para. 112 above.

<sup>291</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1532.

<sup>292</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1532.

<sup>293</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 713.

<sup>294</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 712, 716.

<sup>295</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 713. *See also* [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 81-82; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 27.

<sup>296</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 713.

<sup>297</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 694.

## (vii) The Chamber's conclusion on community harm

127. Considering the above, the Chamber is satisfied that it has been established on a balance of probabilities that the crime of persecution, for which Mr Al Hassan was convicted, eroded the city's historical foundation of religious tolerance and pluralism; undermined the community's long-standing bonds and traditional mutual aid systems; fostered deep suspicion and mistrust within and between ethnic and social groups; contributed to the widespread fragmentation of Timbuktu's social fabric, negatively impacting the spiritual, cultural, social cohesion and collective identity of the population as a whole; and, thus, caused community harm to the members of the population of Timbuktu city.

## 3. Harm suffered by direct victims of sentencing without due process

*i. Presumption of harm as a result of the lack of essential guarantees of independence and impartiality of the Islamic Court proceedings*

128. The Chamber notes that the LRVs submit that victims of the crime of sentencing without due process experienced physical, psychological and material harm similar to the harm experienced by victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and mutilation, 'based on the way in which the crime was committed in the present case (flogging without a trial, or execution of punishments without a trial affording the requisite guarantees)'.<sup>298</sup>

129. Similarly, the OPCV submits that the victims it represents suffered physical, psychological, moral and material harm.<sup>299</sup> According to the OPCV, the victims it represents suffered physical harm due to the floggings and detention conditions and also subsequent health issues, including rashes, itches and hypertension.<sup>300</sup> They also experienced psychological and moral harm in the form of trauma, anguish, shame, humiliation, impact to the victims' dignity, stigmatisation and loss of life plan.<sup>301</sup> Moreover, the OPCV states that the victims it represents suffered anxiety, due to the ambiguity of the punishment they could receive, the possibility of very severe punishments, and their concern for the fate of their families, who they provided for and

<sup>298</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 55. See also [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 56.

<sup>299</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 19.

<sup>300</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 21-22, 44.

<sup>301</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 24, 27-31; [T-219](#), p. 27, line 5.

who would be left without any resources in their absence.<sup>302</sup> Moreover, the OPCV refers to the long-lasting material harm experienced by the victims it represents following their public punishment, after which they had to leave Timbuktu and lost all possible sources of earnings.<sup>303</sup> According to the OPCV, these victims are too traumatised to return to Timbuktu and resume their economic activity, and instead they live off small jobs, some humanitarian support and donations from relatives.<sup>304</sup> Lastly, the OPCV submits that both moral and physical harm should be presumed for the direct victims of the crime of passing of sentence without due process.<sup>305</sup>

130. Moreover, the Registry states that, of the direct victims consulted, five indicated that they had experienced psychological issues such as fear, anxiety, sleep disorders and shame, as well as impairment of their fundamental rights in connection with the crimes of sentencing without due process.<sup>306</sup> The Registry also states that three direct victims indicated to have suffered physical harm; however, no further details are given as to the kind of harm experienced by these victims.<sup>307</sup>
131. The Chamber recalls that in the Trial Judgment, the Chamber found that 49 victims were direct victims of the crime of sentencing without due process,<sup>308</sup> 14 of whom were also victims of other crimes such as torture, other inhumane acts, cruel treatment, outrages upon personal dignity or mutilation in relation to the dire detention conditions experienced and/or the violent punishments imposed on them.<sup>309</sup> The harm linked to those detentions and punishments will be analysed later in this order.
132. The Trial Judgment noted that one of the ways in which the crime of sentencing without due process occurs is when sentences are passed on the basis of judgments pronounced

<sup>302</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 25-26.

<sup>303</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 30, 33-34; [T-219](#), p. 27, lines 6-8.

<sup>304</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 33.

<sup>305</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 44.

<sup>306</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 16.

<sup>307</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 16.

<sup>308</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 59. *See also* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1615, 1704, 1706 (n. 5168), 1785.

<sup>309</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 42; [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1586, 1596, 1602, 1690, 1785. *See* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 762 (Young man 1 and Young man 2), 773, 777 (P-0565), 773-775 (P-0557), 813 (Khudi Bint Ibrahim and ‘Abdallah Bin Mukha); 812 (n. 2574) (Bint Bint Ibrahim and Ikhmad Bin Muhammad); 817 (Al-Husayn Bin ‘Umar and Halima Bint Muhammad); 820, 823 (Dédéou Maiga); 841-842 (P-0554 and Madou Traoré).

by a court that lacks the essential guarantees of independence and impartiality.<sup>310</sup> The Trial Judgment determined that this form of the crime of sentencing without due process was committed against 48 direct victims.<sup>311</sup> The Chamber notes that the Trial Judgment and the Sentencing Decision made no specific findings on the harm derived from the lack of the essential guarantees of independence and impartiality of the trial proceedings before the Islamic Court. In analysing the harm, the Chamber notes the consistent jurisprudence of regional human right tribunals that have assessed the harm generated by proceedings conducted without the essential guarantees of independence and impartiality.<sup>312</sup>

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<sup>310</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 642, 646, 1169-1175, 1475, 1501, 1514; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 62. The Chamber notes that the second way this crime occurs is through the passing of sentence without previous judgment pronounced by a court. To define this mode of the crime, the Trial Judgment relied on the ICRC Commentary on the Third Geneva Convention, which defines ‘sentence’ as ‘the judgment that a court formally pronounces after finding a criminal defendant guilty; the punishment imposed on a criminal wrongdoer’. Accordingly, the crime of passing of sentence without previous judgment pronounced by a court may include a punitive process, the passing of a sentences that takes place outside of a courtroom, and the use of physical force as a punishment imposed on a wrongdoer. The passing of sentences does not necessarily need to take place in a court setting, but rather can be meted out elsewhere, such as on the streets. See [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1160-1168; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 61.

<sup>311</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1496; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 59. The Chamber notes that in the case of the old man known as Foma, the Trial Judgment found he was a victim of the crime the passing of sentence without previous judgment pronounced by a court. According to the Trial Judgment, an old man known as Foma was caught smoking in a public street and flogged with ten lashes on the same spot. The Chamber recalls that the lashes imposed on the old man known as Foma were also legally assessed as amounting to the crimes of other inhumane acts, cruel treatment, and outrages upon personal dignity. The Chamber further recalls the findings made in the Trial Judgment, the Sentencing Decision, and elsewhere in this Reparations Order, as to the physical and moral harm experienced by the old man known as Foma due to the lashes meted out as part of the sentence imposed on him by the Islamic Police. In light of these findings, the Chamber considers that there is no need to establish any presumption in relation to this victim. See [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 854, 1343, 1360, 1379, 1389, 1406, 1477, 1480, 1639, 1693, 1704; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 61.

<sup>312</sup> See ACHPR, *Mhina Zuberi v. Tanzania*, [Judgment](#), 26 February 2021, Application No. 054/2016, para. 106; ACHPR, *Mussa Zanzibar v. Tanzania*, [Judgment](#), 26 February 2021, Application No. 022/2016, para. 80 (in which the African Court on Human and People’s Rights has consistently indicated that the violation to the right to a fair trial protected in article 7 of the African Charter on Human and People’s Rights, may cause moral prejudice to the victim). See also ECHR, *Sanchez Cardenas v. Norway*, [Judgment](#), 4 October 2007, paras 38, 55; ECHR, *Sidabras and Džiautas v. Lithuania*, [Judgment](#), 27 July 2004, para. 49 (in which the European Court of Human Rights has recognised that the portrayal of a criminal conduct in an authoritative judicial ruling without a legal basis can cause stigmatisation and impact the honour and reputation of the person mentioned, in violation of their right to a private life protected under article 8 of the European Convention on Human Rights); IACtHR, *Case of Apitz Barbera et al. ("First Court of Administrative Disputes") v. Venezuela*, [Judgment](#), 5 August 2008, Series C No. 182, paras 66-68, 242, 251, 267(3) (in which the Inter-American court of Human Rights recognised the moral harm derived from being subject to a non-impartial judgment); IACtHR, *Case of Acosta et al. v. Nicaragua*, Preliminary Objections, Merits, Reparations and Costs, [Judgment](#) of 25 March 2017, Series C No. 334., paras. 175, 235 (in which the Inter-American Court of Human Rights has recognised that the violation of the right to be heard by a competent, independent and impartial tribunal, protected under article 8(1) of the American Convention on Human Rights, causes an immaterial harm to the victims of such proceedings, which can manifest a feeling of frustration generated by the lack of judicial guarantees).

133. Further, the Chamber recalls that Ansar Dine/AQIM influenced the Islamic Court judges' decisions, which created an unacceptable appearance of bias.<sup>313</sup> Therefore, the Chamber considers that the Islamic Court's lack of the essential guarantees of independence and impartiality created an environment that, on a balance of probabilities, inflicted moral harm upon victims in the form of, *inter alia*, stigmatisation, impact to the honour and reputation of the victim, anxiety, frustration, and a feeling of powerlessness and of injustice. The Chamber considers that the impact of this crime may have been greater in cases involving victims who were particularly vulnerable, such as children sentenced by the Islamic Court.<sup>314</sup>
134. Accordingly, the Chamber presumes that, for all victims of the crime of sentencing without due process, standing trial before a court that lacked the essential guarantees of independence and impartiality caused moral harm through the violation of their right to a fair trial, the injustice they faced, as well as stigmatisation and reputational harm.
135. Consequently, the Chamber does not consider it necessary to scrutinise the specific moral harm alleged by each direct victim of the crime of passing of sentence in relation to the passing of a sentence without due process, once their victimhood is established on a balance of probabilities.

*ii. Analysis of the harm experienced by the victims*

136. The Chamber recalls that, pursuant to the Trial Judgment and the Sentencing Decision, the 49 individuals identified in the Trial Judgment and Sentencing Decision are victims of the war crime of sentencing without due process.<sup>315</sup> Mr Al Hassan was held criminally responsible for this crime.<sup>316</sup>
137. The Chamber recalls that the Islamic Court issued several judgments in cases of alleged trade of prohibited goods,<sup>317</sup> robbery,<sup>318</sup> use of magic,<sup>319</sup> possession of worship

<sup>313</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1505, 1514.

<sup>314</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 63.

<sup>315</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 59. *See also* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1521.

<sup>316</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785.

<sup>317</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 766, 987.

<sup>318</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 985, 989, 995, 997, 1000, 1009, 1011, 1019, 1028.

<sup>319</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 983, 991, 1015-1016.

objects,<sup>320</sup> destruction of property,<sup>321</sup> mingling with men and use of obscene language,<sup>322</sup> matrimonial issues,<sup>323</sup> extra-marital sexual intercourse,<sup>324</sup> non-payment of debts,<sup>325</sup> possession of stolen goods,<sup>326</sup> selling of stolen goods.<sup>327</sup> The sentenced imposed in the Islamic Court's judgments ranged from forcing the accused to repent,<sup>328</sup> imprisonment,<sup>329</sup> floggings,<sup>330</sup> fines,<sup>331</sup> closing of shops,<sup>332</sup> mandatory courses,<sup>333</sup> admonishments,<sup>334</sup> and the return of stolen items.<sup>335</sup> In certain cases, the Trial Judgment noted that the Islamic Police report that served as the basis of the judgment or the Islamic Court judgment explicitly recognised the use of torture to elicit information from the accused.<sup>336</sup> In other instances, the Trial Judgment underlined the young age of some of the victims.<sup>337</sup>

138. The Chamber notes the presumption of moral harm made above in relation to the crime of sentencing without due process and recalls the presumption of moral harm established in relation to their non-impartial and non-independent judgment.<sup>338</sup>

4. Harm suffered by direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation

*i. Presumption of harm in connection with torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation*

139. The LRVs submit that, for all the victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and mutilation, the Chamber should

<sup>320</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1005-1006.

<sup>321</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1000.

<sup>322</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1018.

<sup>323</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1001.

<sup>324</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1004.

<sup>325</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1013.

<sup>326</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 993.

<sup>327</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1023.

<sup>328</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 984, 992, 994.

<sup>329</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 984, 990, 992, 994, 999, 1002, 1009, 1012, 1013 (n. 3394), 1016, 1020, 1023.

<sup>330</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 768, 986, 998, 1002, 1004, 1006, 1018, 1020, 1029.

<sup>331</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 768, 988, 996, 1020.

<sup>332</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 768.

<sup>333</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 990, 1016.

<sup>334</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1006, 1009.

<sup>335</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1023.

<sup>336</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 767, 996.

<sup>337</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 986.

<sup>338</sup> See paragraph 134 above.

recognise a presumption of physical and material harm.<sup>339</sup> Similarly, the TFV states that, for victims who were flogged, arbitrarily detained, tortured, and subjected to similar forms of abuse as a consequence of acts underlying the crime of religious persecution, the Chamber may consider a presumption of physical, moral and material harm.<sup>340</sup> Queen’s University Belfast submits that any victim of the crimes of torture and cruel treatment should be presumed to have suffered physical harm.<sup>341</sup>

140. However, the Chamber notes that the harm suffered by the victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and mutilation, as assessed below, is specific to each particular victim and cannot be extrapolated so as to make a presumption of harm for the victims of those crimes. Any additional harm experienced by the 14 direct victims not considered by the Chamber here, may be raised by the victims in its reparations application form, for later assessment at the implementation stage of the reparations.

*ii. Analysis of the harm experienced by the victims*

141. The Chamber recalls that, as each of these victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity or mutilation, were also victims of the crime of sentencing without due process, they are entitled to the presumption of moral harm made above in relation to the crime of sentencing without due process.

142. Further, the LRVs, Queen’s University Belfast and Mama Koité Doumbia *et al.* submit that direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation suffered physical harm, resulting from injuries, including physical scarring and sometimes entailing long-term after-effects.<sup>342</sup>

<sup>339</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 72.

<sup>340</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 54.

<sup>341</sup> [Queen’s University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 10.

<sup>342</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 53, where the LRVs specifically recall the case of Dédéou Maiga, who had his hand amputated in a public square, which caused him acute physical and mental suffering until his death in December 2017; [Queen’s University Belfast Submissions](#), ICC-01/12-01/18-2730, paras 3-6, stating, *inter alia*, that ‘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.” P-0554, a woman who was publicly flogged for alleged adultery, experienced deep social and psychological consequences as “she was very ashamed due to the flogging and still suffers socially. She felt that since this event, everyone speaks badly behind her back and she cannot go out, talk to her friends in public or go to public ceremonies.” The stigma extended to her children, and she said the ongoing gossip causes her pain. P-0538, another female victim, stated: “that day I became ill. I was disturbed in my sleep. I would have nightmares.

Additionally, they submit that victims suffered psychological pain, psychological trauma, profound mental harm, fear, ostracization, humiliation, social stigmatization, a sense of shame, emotional harm, and/or long-lasting psychological consequences, which, according to the LRVs, resulted from the nature of the accusations and the public execution of the punishment as well as from ‘the objective pursued by the occupiers to psychologically damage the inhabitants of Timbuktu [...] at the very core of their dignity’.<sup>343</sup> Moreover, the LRVs submit that victims also suffered various forms of economic harm resulting from difficulties in, or the impossibility of, resuming an economic activity because of physical or mental after-effects of the crimes they experienced.<sup>344</sup>

143. The Chamber recalls the Sentencing Decision’s findings that the impact of the harm on the victims ‘was significant, and often had long-term consequences’, and that ‘[m]any of the victims of flogging suffered physical injuries and lasting scarring, in addition to enduring social stigma and ostracization due to their public humiliations’.<sup>345</sup> The Chamber recalls that members of the population subjected to public punishments described feeling afraid and ashamed and the events affected their relationships with their community, friends and family.<sup>346</sup>
144. Below, the Chamber identifies the harm caused to each of the 14 direct victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation of which Mr Al Hassan was convicted. The Chamber emphasizes that acknowledging the harm experienced by the direct victims in the case is also a satisfaction measure.

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I had the impression that I had lost my mind. I was very disturbed”’; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 14.

<sup>343</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 53; [Queen’s University Belfast Submissions](#), ICC-01/12-01/18-2730, paras 3-6; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 15.

<sup>344</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 53. *See also* [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 16, where they indicate that victims ‘also faced systemic exclusion and deprivation, resulting in social and economic harm’.

<sup>345</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 47, *referring* in particular to the cases of P-0577, Madou Traoré, P-0554 and Foma (*see* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 798, 849, 852, 8550).

<sup>346</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 786, 790, 798, 828, 833, 851, 852.

a. Two young men flogged on or around 8 July 2012<sup>347</sup>

145. The Chamber recalls that the Trial Judgment found that the two young men were arrested by members of the Islamic Police in Timbuktu for consuming alcohol.<sup>348</sup> They were handcuffed together and taken by the Islamic Police to a square near the Banque Malienne de Solidarité (the ‘BMS’) and flogged.<sup>349</sup> The Chamber notes that the Trial Judgment found that ‘Mr Al Hassan and the other Ansar Dine/AQIM members inflicted severe physical pain and suffering on the two men through the floggings’,<sup>350</sup> considering the total number of lashes administered to each victim,<sup>351</sup> and the fact that the victims showed ‘visible signs of being in pain as they were being whipped’.<sup>352</sup> The floggings were carried out in front of a crowd of people, including children, which ‘served to humiliate and disgrace the two men’.<sup>353</sup> In these circumstances, members of Ansar Dine/AQIM ‘humiliated, degraded and otherwise violated the dignity of the two men’,<sup>354</sup> causing them a ‘severe degree of mental pain and suffering’.<sup>355</sup> In addition, the Sentencing Decision described the moral harm the two men experienced and found that ‘[t]he carrying out of the punishments in this humiliating manner in the forum of a public spectacle [...] heightened the distress and suffering experienced by the victims’.<sup>356</sup>
146. Considering the above, the Chamber is satisfied that it is established, on a balance of probabilities, that the two men flogged on or around 8 July 2012 suffered physical and moral harm as a result of the crimes of which Mr Al Hassan was convicted.

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<sup>347</sup> The Chamber recalls that the two young men are victims of the crimes of torture as a crime against humanity (Count 1), torture as a war crime (Count 3), outrages upon personal dignity as a war crime (Count 5), and sentencing without due process (Count 6), for which Mr Al Hassan was convicted ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1586, 1704; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59). Mr Al Hassan was held criminally responsible for these crimes ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59).

<sup>348</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 762.

<sup>349</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 762, 764, 1310.

<sup>350</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1310.

<sup>351</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1310; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 52.

<sup>352</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 764, 1310.

<sup>353</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1310.

<sup>354</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1384.

<sup>355</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1310.

<sup>356</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45.

b. P-0565 and P-0557<sup>357</sup>

147. The Chamber recalls that the Trial Judgment found that the Islamic Police arrested P-0565 and P-0557 for having a child out of wedlock, and took them to the BMS.<sup>358</sup> A few days later, they were taken to the Islamic Court, where they were sentenced.<sup>359</sup> On the same day of the judgments, P-0565 and P-0557 were taken to a public square and flogged in public for 100 lashes each.<sup>360</sup> P-0565 and P-0557 were also ordered to participate in a religious marriage ceremony.<sup>361</sup>
148. The Chamber notes that the Trial Judgment found that Ansar Dine/AQIM members inflicted severe physical pain and suffering through the floggings imposed on P-0565 and P-0557 as punishment,<sup>362</sup> considering the extremely high number of lashes inflicted on each victim; the particularly violent manner of some of the lashes; and that P-0557 was flogged with a rope usually used for beating camels and that both victims suffered physical injuries.<sup>363</sup> As a consequence of the floggings, P-0565 had inflammation on her back, bruising, and her back was very red.<sup>364</sup> Similarly, P-0557 sustained marks all over his body, including his shoulders, back and thighs,<sup>365</sup> and has scars on his shoulders, back and neck from the flogging.<sup>366</sup> In addition, the Chamber notes that the Trial Judgment found that P-0565 and P-0557 suffered severe mental pain and suffering due to the circumstances of their detention,<sup>367</sup> the public nature of the floggings, which intensified the humiliation and disgrace suffered by the victims,<sup>368</sup> and the forced participation in a religious marriage ceremony.<sup>369</sup> In this context, the Chamber recalls that P-0557 testified

<sup>357</sup> The Chamber recalls that P-0565 and P-0557 are victims of the crimes of torture as a crime against humanity (Count 1), torture as a war crime (Count 3), outrages upon personal dignity as a war crime (Count 5), and sentencing without due process as a war crime (Count 6), for which Mr Al Hassan was convicted ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1336, 1406, 1521). Mr Al Hassan was held criminally responsible for these crimes ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785).

<sup>358</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 770, 773-774, 779.

<sup>359</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 779-783.

<sup>360</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 784, 790-791.

<sup>361</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 782, 794

<sup>362</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1312.

<sup>363</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1312. The Chamber notes that P-0565 testified that, while being flogged, she 'felt pain on [her] back' and later that day she was at home and her back and ehile body were hurtung, *see* P-0565: [T-052](#), p. 11, lines 5-9; [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 790, 799.

<sup>364</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 799.

<sup>365</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 798. The Chamber notes that P-0557 was flogged 100 times by four members of Ansar Dine/AQIM with a rope folded in two, a tool usually used for beating camels, *see* [Trial Judgment](#), ICC-01/12-01/18-2594-Red para. 791.

<sup>366</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 798.

<sup>367</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 775, 777, 1311.

<sup>368</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 786, 1313.

<sup>369</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 794, 1313-1315.

that when he saw the people, including children, standing all around to watch the flogging, he felt afraid and ashamed.<sup>370</sup> P-0565 and P-0557 also suffered social stigma and embarrassment coming from the public speculation about the circumstances surrounding their punishment and forced religious marriage ceremony.<sup>371</sup> Lastly, the Chamber notes the Trial Judgment findings on P-0565, who at the time of her arrest, detention and flogging was ‘a child of 14 years old’, and was found to be ‘particularly vulnerable’ on account of her young age.<sup>372</sup> The Chamber indeed considers that P-0565’s age made her more vulnerable and susceptible to mental suffering.<sup>373</sup>

149. The Chamber recalls that during his testimony, P-0557 was shown an excerpt of a video where he stated that he had to take loans to pay for his prescriptions for the wounds that resulted directly from the floggings.<sup>374</sup> The Chamber, thus, finds that P-0557 incurred in medical costs due to the floggings.
150. Considering the above, the Chamber is satisfied that it is established, on a balance of probabilities, that P-0565 and P-0557 suffered physical and moral harm as a result of the crimes of which Mr Al Hassan was convicted. The Chamber further finds that P-0557 experienced long-lasting physical harm after being flogged. The Chamber is also satisfied that it has been established, on a balance of probabilities, that P-0557 suffered material harm as a result of the crimes of which Mr Al Hassan was convicted.

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<sup>370</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 786; P-0557: [T-055](#), pp. 17-18. 1. P-0557 described the moral impact of the public flogging on his later life, and the stigma and rejection he experienced as a consequence and recalled ‘It’s really difficult to describe, because it hurt me so much. I’ve never experienced that and I try not to talk about that. It’s really something which hurt me deep down inside. When I want to be with my friends, I find it difficult sometimes to be with them. And sometimes they reject me’, *see* P-0557: [T-055](#), p. 53, lines 12-15.

<sup>371</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1314.

<sup>372</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 48.

<sup>373</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 799, 1311.

<sup>374</sup> P-0557: [T-056](#), pp. 63-65, *referring to* video MLI-D28-0004-3798, transcript MLI-D28-0004-3810. *See also* p. 67, lines 1-4, where the witness confirmed that the details he mentioned in the video were based on his memory of what happened to him at the time.

- c. Khudi Bint Ibrahim and ‘Abdallah Bin Mukha; Bint Bint Ibrahim and Ikhmad Bin Muhammad; and Al-Husayn Bin ‘Umar and Halimah Bint Muhammad (the ‘three couples’)<sup>375</sup>

151. Khudi Bint Ibrahim, ‘Abdallah Bin Mukha, Bint Bint Ibrahim, Ikhmad Bin Muhammad, Al-Husayn Bin ‘Umar and Halimah Bint Muhammad were arrested by Islamic Police officers for having extra-marital intercourse.<sup>376</sup> Al-Husayn Bin ‘Umar and Halima Bint Muhammad were sentenced to a *hadd* of 100 lashes and later to spent three days in prison after being arrested.<sup>377</sup> Khudi Bint Ibrahim and ‘Abdallah Bin Mukha were also detained at the public prison before being sent to the Islamic Court.<sup>378</sup> Afterwards, the three couples were sentenced by the Islamic Court to around 100 lashes each at the *Sankoré* square.<sup>379</sup> The Chamber notes that Al-Husayn Bin ‘Umar and Halimah Bint Muhammad were sentenced to a total of 200 lashes.<sup>380</sup>
152. The Chamber notes that the Trial Judgment found that Ansar Dine/AQIM members inflicted severe physical pain and suffering on all six individuals through the floggings,<sup>381</sup> in view of the number of lashes administered to each victim, which the Trial Judgment considered to be ‘extremely high’.<sup>382</sup> Additionally, in relation to Khudi Bint Ibrahim and ‘Abdallah Bin Mukha, the Trial Judgment took into account that both victims were detained prior to their appearance before the Islamic Court.<sup>383</sup> The Trial Judgment further found that Ansar Dine/AQIM members inflicted severe mental pain and suffering through the floggings, considering the very public nature of the floggings which served to humiliate and degrade the victims.<sup>384</sup> Moreover, the Sentencing Decision found that ‘the carrying out of the punishments in this humiliating manner in the forum of a public

<sup>375</sup> The Chamber recalls that all six individuals are victims of the crime of torture as a crime against humanity (Count 1), torture as a war crime (Count 3), outrages upon personal dignity as a war crime (Count 5), and the crime of sentencing without due process as a war crime (Count 6) ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1602, 1704; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59, 62). Mr Al Hassan was held criminally responsible for these crimes ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59). Mr Al Hassan was held criminally responsible for these crimes.

<sup>376</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 811-815, n. 2571.

<sup>377</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 817.

<sup>378</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 813, 1316.

<sup>379</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 813, 815-818; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45.

<sup>380</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 813, 1316.

<sup>381</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1316; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 43.

<sup>382</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1316.

<sup>383</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1316.

<sup>384</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1316, 1386.

spectacle [...] heightened the distress and suffering experienced by the victims’, and further highlighted that these public punishments were carried out ‘with significant violence’.<sup>385</sup>

153. Considering the above, the Chamber is satisfied that it is established, on a balance of probabilities, that Khudi Bint Ibrahim, ‘Abdallah Bin Mukha, Bint Bint Ibrahim, Ikhmad Bin Muhammad, Al-Husayn Bin ‘Umar and Halimah Bint Muhammad suffered physical and moral harm as a result of the crimes of which Mr Al Hassan was convicted.

d. Dédéou Muhammad Maiga (‘Dédéou Maiga’)<sup>386</sup>

154. In early August 2012, Islamic Police members, including Mr Al Hassan, arrested Dédéou Maiga in Timbuktu for alleged theft.<sup>387</sup> He was first detained at the BMS for around three days, and then at the Central Prison for between four to five weeks.<sup>388</sup> On 12 September 2012, the Islamic Court sentenced Dédéou Maiga to have his hand cut off,<sup>389</sup> and he was brought back to the prison after his judgment.<sup>390</sup> On 16 September 2012, members of Ansar Dine/AQIM publicly amputated Dédéou Maiga’s hand.<sup>391</sup> Ansar Dine/AQIM made public announcements before the event and invited the population to come to the square for the amputation.<sup>392</sup>

155. The Chamber recalls that the Trial Judgment found that ‘the Ansar Dine/AQIM members inflicted severe physical and mental pain and suffering on Dédéou Maiga through his amputation’,<sup>393</sup> considering the suffering arising from the act of amputation itself, Dédéou Maiga’s continued physical and mental suffering following the event, as well as the public nature of his amputation, which was particularly humiliating and degrading.<sup>394</sup>

<sup>385</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45. See also [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1386.

<sup>386</sup> The Chamber recalls that Dédéou Maiga is a victim of the crimes of torture as a crime against humanity (Count 1), torture as a war crime (Count 3), outrages upon personal dignity as a war crime (Count 5), sentencing without due process as a war crime (Count 6), and mutilation as a war crime (Count 14) ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1616; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 42; [Annex 3 to the Trial Judgment](#), pp. 3, 9, 15, 18. Mr Al Hassan was held criminally responsible for these crimes ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785).

<sup>387</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 820.

<sup>388</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 820.

<sup>389</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 822.

<sup>390</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 822.

<sup>391</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 824.

<sup>392</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 823.

<sup>393</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1318.

<sup>394</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1318, 1329, 1387

Even though Dédéou Maiga received medical treatment following the amputation,<sup>395</sup> the Trial Judgment found that the provision of any *post factum* medical care would have been unable to alleviate the suffering caused to him.<sup>396</sup>

156. The Chamber also notes the Trial Judgment finding that, before the events, Dédéou Maiga had a job, and was learning to be a driver and a plumber.<sup>397</sup> However, as a consequence of the amputation of his dominant hand, Dédéou Maiga became partially and permanently incapacitated and could no longer work.<sup>398</sup> The Chamber recalls the testimony of Dr Ludes, who explained that ‘for a person who worked manually as a plumber, such amputation would not allow him to carry out this professional occupation and he would require professional retraining’.<sup>399</sup> The Chamber therefore finds that the amputation caused Dédéou Maiga material harm in the form of loss of opportunity to work.
157. Considering the above, the Chamber is satisfied that it is established, on a balance of probabilities, that Dédéou Maiga suffered physical, moral and material harm as a result of the crimes of which Mr Al Hassan was convicted. The Chamber further finds that Dédéou Maiga experienced long-lasting physical and moral harm after his hand was amputated.

e. P-0554<sup>400</sup>

158. At the end of December 2012, P-0554 was arrested by armed members of Ansar Dine/AQIM at her partner’s house for the alleged crime of extra-marital sexual intercourse.<sup>401</sup> After her arrest, members of Ansar Dine/AQIM detained P-0554 in the

<sup>395</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 831, 833, 1317.

<sup>396</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1318.

<sup>397</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 835.

<sup>398</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 835; P-0595: [T-070](#), p. 29.

<sup>399</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 837; P-0598’s first expert report MLI-OTP-0060-9465-R01, at 9468.

<sup>400</sup> The Chamber recalls that P-0554 is a victim of the crimes of torture as a crime against humanity (Count 1), torture as a war crime (Count 3), outrages upon personal dignity as a war crime (Count 5), and sentencing without due process as a war crime (Count 6) ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1336, 1406, 1521, 1616). Mr Al Hassan was held criminally responsible for these crimes (*see* [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785).

<sup>401</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 840.

ATM room at the BMS.<sup>402</sup> Following her detention, the Islamic Court sentenced P-0554 to 95 lashes by way of *ta'zir*.<sup>403</sup>

159. The Chamber recalls that the Trial Judgment found that Ansar Dine/AQIM members inflicted severe physical harm on P-0554 through the flogging.<sup>404</sup> Following the issuance of the judgment, Ansar Dine/AQIM members took P-0554 to the public square at the Timbuktu market where she was violently flogged by different members of Ansar Dine/AQIM in front of a crowd people, including children.<sup>405</sup> The Trial Judgment found that, while being whipped, she was ‘visibly in significant pain’, ‘writhing around and crying out and collapsing on the ground’.<sup>406</sup> As a result of the flogging, P-0554 suffered from injuries and still has painful scars on her back and shoulders.<sup>407</sup> Moreover, the Chamber notes that P-0554 testified about the health consequences of the floggings, and stated that she has blood pressure issues, still suffers pain and cannot sit down comfortably.<sup>408</sup> The Chamber also recalls the Trial Judgment’s finding as to the severe mental pain and suffering experienced by P-0054 during her arrest, detention and punishment.<sup>409</sup> The Chamber further considers the long-term consequences of the moral harm experienced by P-0554, who had no psychological support and endured social ostracism following the event.<sup>410</sup> In this regard, the Chamber recalls that during her testimony, the victim stated that she feels everyone speaks badly behind her back and she cannot go out, talk to friends in public or go to public ceremonies.<sup>411</sup>
160. The Chamber notes that in P-0554’s testimony, the victim mentioned that before the events she had a small business and, due to her arrest, she lost her business.<sup>412</sup> The Chamber recalls the findings related to the social stigma and ostracism she experienced,

<sup>402</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 841. The Chamber recalls that in the Trial Judgment, the Trial Chamber described the ‘ATM room’ as a very small room located at the eastern side of the main building of the BMS which was referred to by some as the ‘women’s prison’ (see [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 536).

<sup>403</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 844.

<sup>404</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1319.

<sup>405</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 844, 846, 1321. The Chamber further notes that P-0554 testified that during her flogging ‘a lot of people filmed [her]’, and that she was aware that ‘some people still have these videos’, see P-0554: [T-065](#), p. 20, line 20.

<sup>406</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 851.

<sup>407</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 852.

<sup>408</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 852. See also P-0554: [T-64](#), p. 42, line 25 to p. 43, line 3.

<sup>409</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 840, 841, n. 2722, 851, 1323. See also P-0554: [T-064](#), p. 22.

<sup>410</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1321; P-0554: [T-064](#), p. 37, lines 9-10.

<sup>411</sup> P-0554: [T-064](#), p. 42, lines 20-23.

<sup>412</sup> P-0554: [T-064](#), p. 8.

and finds that this, most likely than not, was the cause of the loss of her income-generating activities.

161. Considering the above, the Chamber is satisfied that it has been established, on a balance of probabilities, that P-0554 suffered physical, moral and material harm as a result of the crimes of which Mr Al Hassan was convicted. The Chamber further finds that P-0554 suffered long-lasting physical and moral harm.

f. Madou Traoré<sup>413</sup>

162. On 1 January 2013, the Islamic Court sentenced Madou Traoré to a *ta'zir* of 50 lashes and 'a fine of 20,000 CFA riyals' for the crime of extra-marital sexual intercourse.<sup>414</sup> That same day, members of Ansar Dine/AQIM took him, together with his partner P-0554,<sup>415</sup> to the public square at the Timbuktu market, where the floggings took place in front of a crowd of people.<sup>416</sup>
163. The Chamber recalls that the Trial Judgment found that Ansar Dine/AQIM members, including members of the Islamic Police, 'inflicted severe physical pain and suffering on Madou Traoré through the flogging'.<sup>417</sup> In addition, the Chamber recalls that while being flogged, despite evidently attempting to maintain his composure, Madou Traoré showed visible signs of being in pain<sup>418</sup> and was bleeding following the flogging.<sup>419</sup> P-0554 testified that 'they whipped [Madou Traoré] until his back was full of wounds'.<sup>420</sup> Moreover, the Trial Judgment found that Ansar Dine/AQIM members inflicted severe mental pain and suffering through the flogging, considering that it was carried out in front of a crowd, including children.<sup>421</sup> The Trial Chamber found that 'the very public nature of the flogging intensified the associated humiliation and disgrace inflicted upon

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<sup>413</sup> The Chamber recalls that Madou Traoré is a victim of torture as a crime against humanity (Count 1), torture as a war crime (Count 3), outrages upon personal dignity as a war crime (Count 5), and sentencing without due process as a war crime (Count 6) ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1616; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 42; [Annex 3 to the Trial Judgment](#), ICC-01/12-01/18-2594-Anx3, pp 3, 9, 15, 18). Mr Al Hassan was held criminally responsible for these crimes ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785).

<sup>414</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 845.

<sup>415</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 846.

<sup>416</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 846.

<sup>417</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 849, 1322, 1329.

<sup>418</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 849.

<sup>419</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 849.

<sup>420</sup> P-0554: [T-064](#), p. 33.

<sup>421</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 848, 1322, 1323.

the victim by members of Ansar Dine/AQIM'.<sup>422</sup> The Chamber further notes that Madou Traoré's floggings were recorded by some members of the public present.<sup>423</sup>

164. The Chamber recalls that Madou Traoré was sentenced to pay 'a fine of 20,000 CFA riyals' as part of the punishment imposed by the Islamic Court.<sup>424</sup> The Trial Judgment held that 'the Islamic Court judgments, including the one issued against Madou Traoré, are reliable evidence'.<sup>425</sup> In this context, the Chamber finds, on a balance of probabilities, that the payment of the fine took place.
165. Considering the above, the Chamber is satisfied that it is established, on a balance of probabilities, that Madou Traoré suffered physical, moral and material harm as a result of the crimes of which Mr Al Hassan was convicted.

g. Elderly man known as Foma<sup>426</sup>

166. One afternoon in 2012, a thin and short elderly man known as Foma was smoking in a public street when a member of Ansar Dine/AQIM tried to take him away by force.<sup>427</sup> When Foma refused, he fell to the ground and the Ansar Dine/AQIM member flogged him with ten lashes in front of the people present.<sup>428</sup> The Trial Judgment found that the Ansar Dine/AQIM member inflicted great suffering on Foma through the flogging, considering the public nature of the flogging and the attendant humiliation and public shame.<sup>429</sup> It further found that Foma's flogging humiliated, degraded and otherwise violated his dignity.<sup>430</sup> The Chamber notes that after the floggings, the victim was 'crying in the middle of the market' and was 'unwell and uneasy'.<sup>431</sup> Moreover, the Chamber

<sup>422</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1322, 1388.

<sup>423</sup> In the Trial Judgment, the Trial Chamber relied on several videos purportedly depicting the event of the floggings of both Madou Traoré and P-0554, see [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 838, n. 2693.

<sup>424</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 845.

<sup>425</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 845, n. 2744.

<sup>426</sup> The Chamber recalls that the Trial Judgment found that Foma is a victim of the crimes of other inhumane acts as crimes against humanity (Count 2), cruel treatment as a war crime (Count 4), outrages upon personal dignity as a war crime (Count 5), and sentencing without due process as a war crime (Count 6) ([Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1360, 1379, 1406, 1521; [Sentencing Decision](#), ICC-01/12-01/18-2662, paras 42, 59). Mr Al Hassan was held criminally responsible for these crimes (see [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1785).

<sup>427</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 854, 1343.

<sup>428</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 854.

<sup>429</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1343.

<sup>430</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1389.

<sup>431</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 855, 1343.

recalls P-0603's testimony, who witnessed the events and testified that 'since it happened, he is not - he is not calm, or his spirits are not well since then'.<sup>432</sup>

167. Considering the above, the Chamber is satisfied that it has been established, on a balance of probabilities, that Foma suffered physical and moral harm as a result of the crimes of which Mr Al Hassan was convicted.

#### 5. Harm suffered by indirect victims

168. The Chamber recalls that any individual who has suffered harm as a result of the harm suffered by a direct victim, and who has not already been found to be a direct victim of the same crime, may qualify as an indirect victim. In particular, the Chamber notes the harm experienced by family members of direct victims and the witnesses of crimes committed against direct victims.

##### a. Harm experienced by family members of direct victims

169. In regard to family members of direct victims, the Chamber notes the LRVs'<sup>433</sup> and Queen's University Belfast's'<sup>434</sup> submissions regarding the repercussion of the physical and psychological harm experienced by direct victims on those victims' families, who suffered trauma and disruption of their family dynamics. The LRVs,<sup>435</sup> the OPCV,<sup>436</sup> the Prosecution<sup>437</sup> and the Registry<sup>438</sup> underline that direct victims of the crime of sentencing without due process indicated that their family members and dependents suffered multiple forms of harm in the form of moral and psychological harm, and damage to their life plan. In particular, the Registry refers to the case of a deceased direct victim's family member, who indicated that she experienced psychological harm, including anxiety, sleeping disorders and shame, as well as material harm.<sup>439</sup> The TFV further submits that individuals who witnessed a family member being 'directly assaulted' suffered psychological harm and reported being traumatised.<sup>440</sup>

<sup>432</sup> P-0603: [T-125](#), p. 25, line 8.

<sup>433</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 48, 54.

<sup>434</sup> [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 4.

<sup>435</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 54.

<sup>436</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 35; [T-219](#), p. 27, lines 10-12.

<sup>437</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para 22.

<sup>438</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 17.

<sup>439</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 17.

<sup>440</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para 50 *citing* Victims' Voices Study, ICC-01/12-01/18-2737-Conf-AnxC.

170. The Chamber recalls that the harm experienced by family members was addressed in the Trial Judgment in relation to some of the direct victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation. For instance, the Trial Judgment, when referring to P-0557's floggings, established that P-0557's parents and friends 'had never seen something like that' and that their relationship was not the same after the event.<sup>441</sup> P-0565's family thought that she had been killed as a result of the violent nature of her flogging.<sup>442</sup> Similarly, the Trial Judgment noted that P-0554 testified that people continue to discuss the event of her flogging with her children.<sup>443</sup> Likewise, P-0595 testified that 'it hurt' Dédéou Maiga's family to see his hand amputated.<sup>444</sup>
171. Therefore, the Chamber finds that, on a balance of probabilities, family members of the direct victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation suffered moral harm in the form of psychological impact. Regarding the parties' and participants' submissions on family members suffering of material harm and loss of their life plans, the Chamber finds that there is insufficient information in the Trial Judgment, the Sentencing Decision, and the case record to establish, on a balance of probabilities, that family members suffered material harm derived from the harm experienced by the direct victims.

b. Harm experienced by witnesses of crimes

172. In regard to individuals who witnessed the commission of a crime, the Chamber notes the LRVs',<sup>445</sup> the Prosecution's,<sup>446</sup> and the TFV's<sup>447</sup> submissions on the psychological impact and trauma experienced by those who witnessed the commission of public punishments.
173. The Chamber recalls the harm experienced by those who witnessed the punishments executed against the 14 direct victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation. In particular, the Chamber

<sup>441</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para 798; P-0557: [T-055](#), pp. 53-54.

<sup>442</sup> P-0565: [T-051](#), p. 46.

<sup>443</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 852.

<sup>444</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 833; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 47.

<sup>445</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 48.

<sup>446</sup> [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 22.

<sup>447</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 50.

considers Ansar Dine/AQIM's violent punishments of P-0565, P-0557, Dédéou Maiga, P-0554 and Madou Traoré, which were proclaimed in advance and carried out in front of large assembled crowds.<sup>448</sup> In the case of P-0565 and P-0557, they were the first victims to be publicly flogged in Timbuktu since the arrival of Ansar Dine/AQIM, and their punishment was proclaimed to the public in advance and carried out in front of a large crowd of people, including children.<sup>449</sup> P-0639, who was in the crowd at the moment of the floggings, testified that the flogging were unbearable to watch.<sup>450</sup> Similarly, P-0654, who witnessed Dédéou Maiga's amputation, testified that this punishment had a strong psychological impact on the population whose 'morale was broken'.<sup>451</sup> The moral ramifications of Dédéou Maiga's public amputation were described by a member of the population as a 'cold shower thrown at the city' which became 'silent as a cemetery'.<sup>452</sup> Likewise, the Chamber recalls the testimony provided by P-0641, who testified that P-0554's flogging 'really disgusted everyone' and 'really broke his heart'.<sup>453</sup>

174. In addition, the Chamber recognises the severe psychological impact experienced by children who witnessed the execution of punishments.<sup>454</sup>
175. Considering the above, the Chamber is satisfied that it has been established on a balance of probabilities that the witnesses of the punishments imposed against the 14 direct victims suffered moral harm, which may include psychological or emotional harm, trauma resulting from seeing people being publicly flogged or amputated, shock, and fear. The Chamber acknowledges that the moral harm suffered by these indirect victims may have had long-lasting consequences.

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<sup>448</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1402.

<sup>449</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 786, 1313.

<sup>450</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 790; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45; P-0639's statement, MLI-OTP-0072-0290-R03, at 0308, para. 59.

<sup>451</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 828. *See also* [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45; P-0654: [T-128](#), pp.73-74.

<sup>452</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 828; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45. *See also* P-0654: [T-128](#), pp.73-74.

<sup>453</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 851; [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 45.

<sup>454</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 786, 1538. *See also* [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 22; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 31.

c. Transgenerational harm

(i) Presumption of transgenerational harm

176. The OPCV and the TFV submit that transgenerational harm should be presumed for the Timbuktu community as a whole.<sup>455</sup> In addition, the TFV submits that, ‘[c]onsidering, among other facts, documented miscarriages, birth complications, trauma-induced disabilities, and disruption to education among children during and after the period of control by Ansar Dine/AQIM, it can be presumed that the next-generation members of the community of Timbuktu have suffered transgenerational harm’.<sup>456</sup>
177. The Chamber takes note of these submissions; however, it finds that there is insufficient information in the Trial Judgment, the Sentencing Decision, and the case record to determine, on a balance of probabilities, that all or most of the next-generation members of the case may be presumed to have suffered transgenerational harm.

(ii) Analysis of transgenerational harm

178. The LRVs,<sup>457</sup> the Defence,<sup>458</sup> the Prosecution<sup>459</sup> and the TFV<sup>460</sup> refer to children born after the crimes who have suffered from transgenerational harm. The LRVs submit that what happened in Timbuktu between 2012 and 2013 clearly led to the emergence of the phenomenon of transgenerational transmission of harm.<sup>461</sup> They further submit that victims who suffer from post-traumatic stress disorder described the upbringing of their children and ‘clearly revealed the transmission of harm between generations’.<sup>462</sup> The LRVs state that the passing down of trauma from parents and the community to children cannot be explained by any other cause in light of the specificities of the case.<sup>463</sup> The

<sup>455</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 40, 43; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 52. *See also* The LRVs also argue that this presumption should definitely apply for the children of the direct victims, *see* [LRV’s Response to Submissions](#), ICC-01/12-01/18-2740, paras 46-48, 71.

<sup>456</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 52.

<sup>457</sup> [T-219](#), p. 8, lines 10-20; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 51.

<sup>458</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 3; [T-219](#), p. 57, lines 1-4, p. 68, lines 2-3.

<sup>459</sup> [T-219](#), p. 38, lines 3-9.

<sup>460</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 22, 26, 44.

<sup>461</sup> [T-219](#), p. 8, lines 10-14; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 51.

<sup>462</sup> [T-219](#), p. 8, lines 15-20.

<sup>463</sup> [LRV’s Response to Submissions](#), ICC-01/12-01/18-2740, para. 49.

TFV also submits that the psychological impact of persecution has extended to children born after the crime occurred, manifesting as a form of transgenerational harm.<sup>464</sup>

179. The Chamber takes note of the established jurisprudence on the existence of the phenomenon of transgenerational harm.<sup>465</sup> In the present case, the Chamber has recognised the moral and psychological impact that the crime of persecution had on Timbuktu's entire population present at the time of the commission of the crime,<sup>466</sup> providing a comprehensive reach in terms of the recognition of harm and, to the extent that the Reparations Order addresses the harm of the current population in a timely manner, it thereby mitigates the harm of the next generations. Therefore, the Chamber considers it unnecessary to include transgenerational harm.

#### D. Types and modalities

##### 1. Types of reparations

180. Pursuant to rules 97(1), 98(2) and 98(3) of the Rules, the Chamber may award reparations on an individualised basis, a collective basis, or both.<sup>467</sup> The Chamber recalls the definitions of individual and collective reparations as articulated Court's jurisprudence,<sup>468</sup> and that while several permutations of collective reparations are

<sup>464</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 22.

<sup>465</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 193-197, 409; [Ntaganda Reparations Addendum](#), ICC-01/04-02/06-2858-Red, paras 188-193. The Chamber notes that transgenerational harm relates to the phenomenon in which traumatised parents set in motion an intergenerational cycle of dysfunction, handing-down trauma to their children, who themselves did not directly experience the atrocities their parents endured, affecting their children's emotional behaviour, attachment, and well-being as a result, *see* [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 168; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 73, 182, 183(d)(vi).

<sup>466</sup> *See* paragraph 107 above.

<sup>467</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 569; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 265; [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 32.

<sup>468</sup> Individual reparations are those where the ensuing benefit is afforded directly to an individual to repair the harm the person suffered as a consequence of the crimes of which the defendant was convicted, conferring upon a victim a benefit to which they are exclusively entitled ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 570; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 79; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 271). Collective reparations refer to the nature of the reparations (the type of goods or services distributed or mode of their distribution) or the recipients (the communities or groups) ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 571; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 79; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 273). This form of reparations differs from individual reparations in that it benefits a group or category of persons who have suffered a shared harm and the group need not be vested with prior legal personality or a collective right, and the shared harm does not necessarily presuppose the violation of a collective right ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 571; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 80; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, paras 59, 67, 83, 90; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, paras 275, 276).

possible, there are primarily two forms: (i) collective community-based reparations and (ii) collective reparations with individualised components.<sup>469</sup>

181. The Chamber notes that victims expressed a desire for financial compensation and individualised reparations.<sup>470</sup> In particular, the Chamber notes the LRVs' arguments against a 'globalised approach' to reparations and on the importance of collective reparations not overriding the individual claims submitted by victims in relation to the harm suffered.<sup>471</sup> The Chamber also notes that the LRVs submit that, in addition to requesting individual reparations, victims support collective reparations particularly targeted to facilitate income-generating activities, educational support and psychological support, stating that 'there are local resources in the city capable of designing convincing projects aimed at revitalising specific sectors of activity with a broad beneficiary impact'.<sup>472</sup> The OPCV submits that victims of crimes other than persecution, seek reparations that include some form of economic support, either through assistance with their income-generating activities, or through direct financial compensation.<sup>473</sup> The OPCV supports collective community-based reparations measures for the community of Timbuktu and the victims of persecution (the population of Timbuktu), aimed at restoring the social fabric of Timbuktu, as well as symbolic and satisfaction measures.<sup>474</sup> While the Registry did not take a position regarding which types or modalities of reparations are most appropriate, it set out the views

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<sup>469</sup> Community-based reparations benefit a community of victims as a whole and do not specifically address individual members thereof. In contrast, with collective reparations with individualised components although the reparations are collective in nature, they result in individual benefits, to respond to the needs and current situation of the individual victims in the group ([Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, paras 279, 280. See also [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 572; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 81).

<sup>470</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, paras 4, 17; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 75, 84, 89, 97 (submitting that the victims seek reparations in relation to: (i) financial compensation for all those who have suffered from the disruption of the practice of ancestor worship or emotional harm; (ii) a monetary award to repair the loss of occupation or to resume income-generating activities and improve their livelihoods; (iii) payment of children school fees; and (iii) covering medical expenses. The LRVs also submit that the *Katanga* case is a useful reference for these reparations, with its granting of collective reparations designed to benefit each victim, in the form of housing support, income-generating activity support, educational support, and psychological support, as sought by the victims); [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 51, 56(i), 57-77; [T-219](#), p. 27, lines 13-15, p. 28, lines 9-17 (submitting that victims seek reparations that include some form of economic support, either through assistance with their income-generating activities, or direct financial compensation). See also [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, para. 10 (stating that much of the damage the victims suffered is economic); [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 92; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 50.

<sup>471</sup> [LRVs Response to Submissions](#), ICC-01/12-01/18-2740, paras 18, 40. The LRVs specifically submit that it is important that the reparations are not an extension or adaptation of the *Al Mahdi* reparations, see [LRVs Response to Submissions](#), ICC-01/12-01/18-2740, paras 20-21.

<sup>472</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Conf, paras 90, 105-123; [LRVs Response to Submissions](#), ICC-01/12-01/18-2740, para. 52.

<sup>473</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 56.

<sup>474</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 56, 81.

of those victims it consulted with, many of whom also expressed a desire for individual reparations.<sup>475</sup>

182. The Defence submits that collective community-based reparations may be the most appropriate type of reparations given, *inter alia*, the potential large number of impacted persons, the fact that the harm suffered by the community is a shared harm, the potentially high cost of individual reparations and the length of the proceedings.<sup>476</sup>
183. In determining the type of reparative measures to be awarded to victims of the crimes of which Mr Al Hassan was convicted, the Chamber has considered the submissions of the parties, participants and *amici curiae*, as well as the factors set out under rule 98(3) of the Rules, that is, the number of victims and the scope, forms and modalities of reparations.<sup>477</sup> Further, in its assessment of what type of reparations are ‘appropriate’, the Chamber notes that the present Reparations Order does not award reparations for harm beyond that related to the crimes of which Mr Al Hassan was convicted.<sup>478</sup>
184. The Chamber finds that the most appropriate type of reparations to address the harm suffered by the victims of the crimes of which Mr Al Hassan was convicted are collective community-based reparations with a limited individualised component.
185. The Chamber finds that several considerations militate in favour of this award of collective community-based reparations with a limited individualised component, including: (i) the nature and scope of the harm suffered as a result of the crimes of which Mr Al Hassan was convicted; (ii) the number of eligible victims in this case; (iii) the need

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<sup>475</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, paras 24, 25 (submitting that five direct victims of crimes outside of persecution expressed that financial compensation would be appropriate to address the harm they suffered. Additionally, of the 714 applications received from victims of the crime of persecution: 616 victims provided information on the types of reparations requested, with 39% seeking financial compensation, 27% seeking ‘other’ individually focused type of reparations, 24% seeking rehabilitation, 8% seeking ‘other’ community focused type of reparations and 2% seeking restitution).

<sup>476</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, paras 2, 19, 21-22; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 12, 15; [T-219](#), p. 50, lines 13-14, p. 62, line 11 to p. 65, line 23. The LRV responds that it rejects the Defence’s reasoning and its proposal of a system of collective reparations that would blur Mr Al Hassan’s responsibility and appears to introduce a notion of shared responsibility. See [LRV’s Response to Submissions](#), ICC-01/12-01/18-2740, para. 42.

<sup>477</sup> See [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 148(d) and (e).

<sup>478</sup> See [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 90. In this context, the Chamber notes that the Defence supports the award of collective community-based reparations. [Defence Submissions](#), ICC-01/12-01/18-2729, paras 2, 19; [T-219](#), p. 60, lines 17-21; p. 62, lines 11-14; p. 63, lines 7-23.

for efficient and effective delivery of reparations; and (iv) the need to ‘do no harm’ to the population of the city of Timbuktu.

*i. The nature and scope of the harm suffered as a result of the crimes of which Mr Al Hassan was convicted*

186. The Chamber recalls that Mr Al Hassan was convicted for the crimes of persecution, torture, other inhumane acts, cruel treatment, outrages against personal dignity, sentencing without due process, and mutilation. As discussed in detail above, the crime of persecution was committed through the imposition of a system of surveillance and punishment, which relied on acts of violence, force, intimidation, and threats.<sup>479</sup> Ansar Dine/AQIM’s implementation of its rules and regulations resulted in members of the population of Timbuktu suffering physical, moral, material and community harm.<sup>480</sup> The communal ‘multi-layered’<sup>481</sup> and systematic nature of the harm suffered by the population of Timbuktu is thus best addressed by a communal scheme for reparations.

187. For victims of the crimes other than persecution, the Chamber considers that a collective response is also the appropriate remedy to adequately address much of the harm suffered. At the same time, the Chamber recognises that these victims, as well as other victims of persecution whose persecution included acts consistent with torture, other inhumane acts, cruel treatment, outrages upon personal dignity, or mutilation,<sup>482</sup> may have experienced specific harm, that is, physical and psychological harm, that warrant a more individualised component of the reparations award to address these harm.<sup>483</sup> It is for these victims that the Chamber awards a limited individualised component, discussed further below.

*ii. The number of eligible victims in this case*

188. Regarding the crime of persecution, the Chamber has determined that members of the population of Timbuktu present at the time of the crimes are recognised as victims eligible for reparations.<sup>484</sup> As discussed below, the Chamber estimates that the number

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<sup>479</sup> See paragraph 81 above.

<sup>480</sup> See paragraphs 84, 107, 113, 127 below.

<sup>481</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 618.

<sup>482</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1550-1551, 1578.

<sup>483</sup> The nature of these individualised reparations is discussed in more detail below in the Chamber’s discussion of the modalities of reparations.

<sup>484</sup> See paragraphs 61-62 above.

of people living in Timbuktu at the time when the crimes were committed, and thus eligible for reparations as victims of the crime of persecution, is approximately 65,202.<sup>485</sup> Regarding the crimes other than persecution, the Chamber has identified 49 direct victims. In relation to possible indirect victims, the Chamber recalls the Appeals Chamber's holding that when a Trial Chamber resorts to estimates as to the number of victims, such estimates must be based on a sufficiently strong evidential basis.<sup>486</sup> Considering the evidence before it, the Chamber is unable to estimate the number of indirect victims arising out of crimes other than persecution. For the reasons that follow, the Chamber considers that in the particular circumstances of this case, the harm suffered by any possible indirect victims can be appropriately addressed in the collective reparations scheme.

189. Quantifying the individual harm to such a large victim population would be a herculean task which, in the Chamber's view, and given the Court's previous experience in reparations cases, would take an inordinate amount of time to complete. In the *Katanga* case, Trial Chamber II awarded individual and collective reparations to 297 victims in March 2017 and the implementation of reparations concluded in October 2023.<sup>487</sup> In the *Lubanga* case, the decision setting the convicted person's amount of liability was issued in December 2017,<sup>488</sup> a total of 2,471 victims were found eligible for reparations,<sup>489</sup> and by October 2025, 1,875 of those beneficiaries have been enrolled in the reparations programme.<sup>490</sup> While the Chamber acknowledges that the facts of those cases warranted the approach to the award for reparations ordered, the Chamber considers that these cases illustrate that a similar individualised approach to reparations in the present case would be exorbitantly time consuming and resource intensive.<sup>491</sup> The Chamber considers that

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<sup>485</sup> See paragraph 226 below.

<sup>486</sup> [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Conf, paras 3, 90.

<sup>487</sup> See [Katanga Decision on the conclusion of the reparations proceedings](#), ICC-01/04-01/07-3935, paras 3, 4.

<sup>488</sup> [Lubanga Decision on the Size of Reparations Award](#), ICC-01/04-01/06-3379-Red-Corr-tENG, paras 279-281.

<sup>489</sup> [Lubanga Twelfth Decision on the TFV's administrative decisions on applications for reparations and additional matters](#), ICC-01/04-01/06-3558-Red, para. 11.

<sup>490</sup> [Lubanga Trust Fund for Victims Fifth Update Report on the implementation of reparations in the Lubanga and Ntaganda cases](#), ICC-01/04-01/06-3573-Red, paras 43, 44.

<sup>491</sup> The Chamber notes that reparations orders have also been issued in the *Ntaganda* and *Ongwen* cases, in 2023 and 2024 respectively, but considers that not enough time has passed for the Chamber to draw conclusions from the implementation of these reparations programmes.

such a long, prolonged reparations process would be a source of confusion and frustration to the victims.<sup>492</sup>

190. In comparison, in the *Al Mahdi* case, which dealt with crimes committed during the same conflict as that which underlies these proceedings, Trial Chamber VIII also determined in August 2017 that the potentially eligible victims included the entire population of Timbuktu,<sup>493</sup> and held, *inter alia*, that collective reparations were appropriate to address the harm suffered by the community of Timbuktu as a whole.<sup>494</sup> By the end of 2025, the delivery of collective reparations to the entire population of Timbuktu was largely completed.<sup>495</sup>
191. The Chamber considers that the example of previous cases demonstrates how collective reparations can best reach a large universe of victims in comparison to individual or very individualised reparations,<sup>496</sup> thus providing a compelling rationale for the Chamber to award collective community-based reparations in the present proceedings.

*iii. The need for efficient and effective delivery of reparations*

192. The Chamber considers that an approach which would result in the efficient and effective delivery of reparations is the most appropriate. In this context, the Chamber recalls the Appeals Chamber's holding that in the exercise of its discretion to decide the best approach to take in reparations proceedings, the Chamber should organise the proceedings in a manner that is as expeditious and cost effective as possible.<sup>497</sup>

<sup>492</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 579, referring to [Sallet Reparations Appeal](#), N°13-2023, para. 99.

<sup>493</sup> The Chamber notes that Trial Chamber VIII arrived at a different calculation on the number of eligible victims, finding that Timbuktu had approximately 70,000 residents around the time of the charges, see [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, paras 83, 141.

<sup>494</sup> [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, paras 83, 141.

<sup>495</sup> See [Al Mahdi Thirty-seventh Update Report on the Updated Implementation Plan](#), ICC-01/12-01/15-482-Red, paras 95-96. The Chamber notes that in that same case, a total of 1,691 beneficiaries were found eligible for individual reparations, and reparations for this group was generally completed in June 2024 ([Al Mahdi Thirty-seventh Update Report on the Updated Implementation Plan](#), ICC-01/12-01/15-482-Red, para. 5; [Al Mahdi Thirty-fourth Update Report on the Updated Implementation Plan](#), ICC-01/12-01/15-478, para. 4). The Chamber considers that the time comparison between the delivery of individual reparations to 1,691 persons versus the delivery of collective reparations to the entire community of Timbuktu cautions in favour of collective reparations.

<sup>496</sup> The Chamber also notes that in the *Ongwen* case, Trial Chamber IX estimated that there were approximately 49,772 potential beneficiaries of reparations, and awarded collective community-based reparations, citing the 'overwhelming number of eligible victims' as the primary consideration ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 577, 748).

<sup>497</sup> [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 64.

193. The Chamber considers that the particular circumstances of this case, notably the community-wide nature of the crimes, the large victim population, the security and safety concerns in the region,<sup>498</sup> the need for discretion, confidentiality and accessibility<sup>499</sup> are such that awarding individual reparations would be neither expeditious nor cost-effective. Rather, the Chamber considers that collective community-based reparations, with a limited individualised component, would be the most effective award with a real probability for successful implementation within a reasonable time-frame.<sup>500</sup> This form of reparations is the most appropriate type to create the possibility of a robust reparative effect and be feasible to deliver.

*iv. The need to ‘do no harm’ to the population of the city of Timbuktu*

194. Regarding reparations for the direct victims of crimes other than persecution, the Chamber is concerned that, as noted in the *Ongwen* case, ‘individual reparations for one group of victims – based either on the type of crime experienced or a common direct perpetrator – is contrary to the principle that all victims are to be treated equally and that reparations awards must avoid creating tensions, jealousy, or animosity’.<sup>501</sup> As the nature of the harm suffered by victims of crimes other than persecution is generally comparable to that suffered by some victims of persecution, the Chamber considers that these similarly situated victims must be treated equally. In this context, the Chamber recalls the LRVs and the TFV’s submissions that awarding individualised reparations to just the 49 specified victims may result in tensions within the community.<sup>502</sup> The Chamber also recalls the LRVs’ submissions that many victims consider the incidents set out in the Trial Judgment to be just some of many, and that some victims experienced other

<sup>498</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, paras 60-61.

<sup>499</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, paras 63-64.

<sup>500</sup> See [Al Mahdi Appeals Judgment on Reparations Order](#), ICC-01/12-01/15-259-Red2, para. 66.

<sup>501</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 584. See also [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 41-44; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 94.

<sup>502</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 133 (submitting that ‘[w]hile being aware of the limits set by the conviction decision, the LRVs would nevertheless point out that if the Group of 49 alone – and, more specifically, those within that Group who can be identified – were found to be recognized as victims eligible for reparations for acts of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and mutilation or sentencing without a trial, despite the fact that the 2196 participating victims all reported similar experiences, this would create a situation of deep frustration and total disbelief for the victims’ (non-official translation); [T-219](#), p. 44, line 19 to p. 45 line 3 (the TFV submits that if only the 49 direct victims of crimes other than persecution receive compensation or individualised measures, while other victims within the community who suffered similar crimes do not receive any recognition from the Court ‘equiprobable’ to the 49 victims, there is a risk of creating enormous tensions within the community, and the legitimacy of the reparation programme itself would be questioned).

incidents more serious than those represented in the judgment.<sup>503</sup> The Chamber considers the ‘do no harm’ principle of paramount importance in the reparations proceedings and finds that in these particular circumstances, there is too great of a risk that providing reparations solely for the direct victims of crimes other than persecution would create significant tensions during the reparations phase contrary to this important principle.<sup>504</sup>

195. At the same time, the Chamber recalls the Tfv’s submission that ‘should individual specific measures be ordered for the individual 49 direct victims, these measures can be included in collective reparations programmes guided by a blended approach’.<sup>505</sup> In this context, the Chamber considers that such a ‘blended approach’, including an individualised component of collective reparations for the 49 direct victims, as well as for similarly situated victims of persecution, is warranted.<sup>506</sup>

## 2. Modalities of reparations

196. The Chamber notes that, in addition to identifying the type of reparations to be awarded, it must also, based on the specific circumstances of the case, identify the most appropriate modalities of the reparations.<sup>507</sup> The modalities of reparations may include restitution,<sup>508</sup> compensation,<sup>509</sup> rehabilitation,<sup>510</sup> as well as symbolic and satisfaction measures.<sup>511</sup>

<sup>503</sup> See [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 127-129, 131.

<sup>504</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 579; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 50-52.

<sup>505</sup> [T-219](#), p. 45, lines 4-7, referring to [TFV Submissions](#), ICC-01/12-01/18-2737, para. 105.

<sup>506</sup> See paragraph 187 above.

<sup>507</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 612.

<sup>508</sup> Restitution aims, to the extent possible, at restoring the victims to their circumstances before the crime was committed, even if full restitution will often be unachievable for victims of the crimes in this case ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 612, 614; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 83; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 35, 36).

<sup>509</sup> Compensation is a form of economic relief consisting of the award of monetary funds for an economically assessable damage ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 71(v); [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 84, 85, 86; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 47; [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 40; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 37, 39, 40).

<sup>510</sup> Rehabilitation measures are directed at facilitating victims’ reintegration into society, after their circumstances changed due to the crimes of which the accused was convicted, and aim to restore a function or the acquisition of new skills ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 71(v), 78, 616; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 87, 203; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 48; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 42, 67(iii)).

<sup>511</sup> Symbolic measures, such as commemorations and tributes, may also contribute to the process of rehabilitation ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 71(v), 78; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 85). Satisfaction measures are those aimed at acknowledging the violations suffered by victims and safeguarding their dignity and reputation ([Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 620; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 88; [Lubanga Amended Reparations Order](#), ICC-

197. The Chamber is confident that the modalities it orders to address the multi-layered types of harm that the victims suffered can be distributed collectively to the community of victims in this case. In this context, the Chamber considers that the collective reparations programmes should be designed with close input from the victims, for their benefit, and to address the harm they suffered.
198. The Chamber has considered the modalities of reparations proposed by the LRVs,<sup>512</sup> the OPCV,<sup>513</sup> the Defence,<sup>514</sup> the Prosecution,<sup>515</sup> the Registry,<sup>516</sup> the TFV,<sup>517</sup> and the *amici curiae*.<sup>518</sup>
199. The Chamber recalls that the Appeals Chamber's has held that '[t]he determination of whether a given modality of reparations is appropriate must be decided on a case-by-case basis' and that 'a trial chamber "must identify the most appropriate modalities of reparations, based on the specific circumstances of the case at hand"'.<sup>519</sup> The Appeals Chamber held that identifying the harm caused to victims is inter-linked with identifying the appropriate modalities of reparations in a specific case, and that the appropriateness of a modality of reparations can only be determined in reference to the harm that was caused and which the reparations seek to remedy.<sup>520</sup>
200. The Chamber considers that in the particular circumstances of this case, noting the nature of the crimes and the harm suffered by victims, the victim population, the 'do no harm' principle, and the security situation, it is more appropriate to focus reparations on other modalities that are more feasible than restitution and compensation. Thus, the Chamber

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01/04-01/06-3129-AnxA, paras 4, 43; [Lubanga Reparations Decision](#), ICC-01/04-01/06-2904, paras 237, 238; [Katanga Reparations Order](#), ICC-01/04-01/07-3728-tENG, para. 15).

<sup>512</sup> [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, para. 17; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 88-123; [T-219](#), p. 10, line 21 to p. 13, line 15, p. 18, line 24 to p. 20, line 4, p. 77, line 6 to p. 78, line 9, p. 86, line 3 to p. 88, line 24.

<sup>513</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 46-86; [T-219](#), p. 27, line 13 to p. 30, line 15, p. 45, lines 6 to 16, p. 87, line 9 to p. 88, line 24.

<sup>514</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, paras 32-56; [T-219](#), p. 49, line 12 to p. 56, line 5; p. 82, line 23 to p. 85, line 20, p. 89, line 20 to p. 92, line 7.

<sup>515</sup> [T-219](#), p. 36, lines 14-20; p. 37, lines 17-22.

<sup>516</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, paras 25-26.

<sup>517</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 56, 72-78, 83-107; [T-219](#), p. 40, line 16 to p. 45, line 15, p. 47, lines 16 to 25; p. 72, line 7 to p. 72, line 21, p. 81, line 8 to p. 82, line 1.

<sup>518</sup> [Mama Koité Doumbia et al. Submissions](#), ICC-01/18-01/12-2735, paras 54-56; [University of Edinburgh Submissions](#), ICC-01/12-01/18-2736, paras 12, 14, 16, 21; [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730, paras 12-18.

<sup>519</sup> [Ongwen Appeals Judgment on Reparations](#), ICC-02/04-01/15-2108, para. 152, referring to [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 200. See also [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 612.

<sup>520</sup> [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 200.

considers that the most fitting manner to address the harm in an efficient and effective way is through collective reparations focused on rehabilitation, symbolic, and satisfaction measures.

*i. Rehabilitation measures*

201. The Chamber notes that rehabilitation measures are directed at facilitating victims' reintegration into society, taking into account the different impacts crimes have on victims of different gender.<sup>521</sup>
202. Considering the above, for the victims of all the crimes of which Mr Al Hassan was convicted, the Chamber awards rehabilitation programmes directed to address the harm the Chamber has identified, *i.e.* material, community, and moral harm. Rehabilitation measures in this regard may include: the funding of projects and initiatives directed at providing socio-economic support, especially support for income generating activities,<sup>522</sup> educational support,<sup>523</sup> and psychological rehabilitation.<sup>524</sup> For the individual victims of the crimes other than persecution, as well as for similarly situated victims of persecution,<sup>525</sup> the Chamber considers that an individualised component should be added to the above rehabilitation programmes to address the physical and psychological harm they have suffered.
203. While the Chamber makes no ruling on the specific projects and initiatives to be implemented as rehabilitation measures, it notes that the parties and participants have identified many projects and initiatives that appear reasonable and feasible.<sup>526</sup> The Chamber finds that the specific projects and initiatives should endeavour to restore, as

<sup>521</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 71(v), 78, 616; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 87, 203; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 48; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 42, 67(iii)).

<sup>522</sup> See [LRVs First Submission](#), ICC-01/12-01/18-2731-tENG, para. 17; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 104-120; LRVs: [T-219](#), p. 11, lines 6-14; OPCV: [T-219](#), p. 27, lines 13-17, p. 28, lines 19, 23-25, p. 29, lines 6-16; [Defence Submissions](#), ICC-01/12-01/18-2729, para. 55; [TFV Submissions](#), ICC-01/12-01/18-2737, paras 92, 97; [Mama Koité Doumbia et al. Submissions](#), ICC-01/18-01/12-2735, para. 54.

<sup>523</sup> See [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 85, 121-122; OPCV: [T-219](#), p. 29, lines 6-10; [TFV Submissions](#), ICC-01/12-01/18-2737, para. 134; TFV: [T-219](#), p. 41, lines 20-22; [Defence Submissions](#), ICC-01/12-01/18-2729, para. 53; [Mama Koité Doumbia et al. Submissions](#), ICC-01/18-01/12-2735, para. 16.

<sup>524</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 85-86, 123; TFV: [T-219](#), p. 42, lines 10-17; [University of Edinburgh Submissions](#), ICC-01/12-01/18-2736, para. 21.

<sup>525</sup> See paragraph 187 above.

<sup>526</sup> See [LRVs First Submissions](#), ICC-01/12-01/18-2731-tENG, para. 17; [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 102-123; LRV: [T-219](#), p. 11, lines 9-18; [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 51-53, 56; OPCV: [T-219](#), p. 27, lines 13-17, p. 29, lines 11-24, p. 29, lines 6-16. [Defence Submissions](#), ICC-01/12-01/18-2729, para. 55; [TFV Submissions](#), ICC-01/12-01/18-2737, paras 92, 97.

far as possible, the societal structures of the Timbuktu community, including economic structures.<sup>527</sup> It should aim to encourage collective healing, support community initiatives and rebuild fractured trust.

204. Regarding the selection of projects and initiatives, the Chamber finds that it is most appropriate for the TFV to design these programmes in close consultation with the victims. In this regard, the Chamber endorses the use of participatory processes that involve the community of Timbuktu to determine which projects and initiatives are the most appropriate and acceptable to the victims. The mechanisms through which the community participates should be rooted in the principles of reparations, ensure inclusivity, victims' involvement in the process, and the application of a gender-sensitive approach to safeguard guarantees that women and girls are duly included, their gender specific harm is addressed, and the specific risks and challenges they face gaining access to reparative measures are considered.<sup>528</sup> The mechanisms should privilege the voice of victims, including the victims of crimes other than persecution as well as for similarly situated victims of persecution,<sup>529</sup> address their expressed needs and ensure that the measures implemented are actually meaningful to their lives.
205. The Chamber instructs the TFV to design rehabilitation programmes that can reach the large number of victims. The Chamber encourages the TFV to be nimble, flexible, and creative in designing the particular projects and initiatives, in consultation with the victims, to ensure the design of collective community-based reparative measures that meaningfully address the needs of the community of victims as a result of the harm they have suffered.
206. The Chamber acknowledges the LRVs' concern about the reported failure of 'numerous support and assistance projects',<sup>530</sup> and notes that the Chamber expects the TFV to collaborate with victims, including with victims' representatives, in the design of the projects and initiatives. The Chamber also notes that, as discussed below, the LRVs will have an opportunity to submit their observations on the TFV's implementation plan. The

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<sup>527</sup> See OPCV: [T-219](#), p. 29, lines 8-10.

<sup>528</sup> See [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 34. See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 65.

<sup>529</sup> See paragraph 187 above.

<sup>530</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Conf, paras 89-90.

Chamber shall also maintain limited oversight over the implementation of reparations in this case.

- a. Socio-economic support, especially support for income generating activities

207. Regarding socio-economic rehabilitation, the Chamber recalls the victims' strong desire for this modality of reparations,<sup>531</sup> and finds that this rehabilitation may be achieved, for example, through the implementation of measures that are inclusive and takes the particularly affected communities into account.<sup>532</sup> In this context, the Chamber notes that women and girls suffered particular moral, material and community harm as a result of the crime of persecution<sup>533</sup> and this should be reflected in the planning, design and implementation of all socio-economic rehabilitation projects and initiatives.
208. Regarding the specific projects and initiatives, the Chamber recalls that the TFV stated that, in the *Al Mahdi* case, it utilised the Economic Resilience Facility (the 'ERF') – a facility that enabled a wide range of initiatives designed to benefit the community as a whole.<sup>534</sup> The TFV states that a similar model of macro and micro projects would be critical in the *Al Hassan* case to foster sustainable economic empowerment.<sup>535</sup> The Chamber considers this ERF model to be a sound socio-economic rehabilitation scheme to address the material harm suffered by people who were negatively impacted economically as a result of the crimes as well as the community harm suffered by victims as a result of the crimes. The TFV suggests the implementation of four macro projects and 80 micro projects, which could include support for farming, victims' socio-economic activities, income generating activities, crafts, or recognition of formerly prohibited celebrations like the *Mawlid*.<sup>536</sup> The Chamber considers the number of projects and micro-projects proposed reasonable; however, the Chamber notes the importance of flexibility given the circumstances of the case and the region, and understands that the

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<sup>531</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 84, 102, 105-120; [LRVs First Submission](#), ICC-01/12-01/18-2731-tENG, para. 17; [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 51; OPCV: [T-219](#), p. 27, lines 13-15, p. 29, lines 14-16.

<sup>532</sup> See [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 81; [Defence Submissions](#), ICC-01/12-01/18-2729, para. 6; Defence: [T-219](#), p. 66, lines 6-10, p.67, lines 13-21.

<sup>533</sup> See paragraphs 88, 112, 123 above

<sup>534</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 114. According to the TFV, the ERF for the *Al Mahdi* case included three macro-projects and 60 micro-projects.

<sup>535</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 114.

<sup>536</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 92, 97.

number, design and implementation of the particular projects may be amended by the TFV in consultation with the victims in light of the needs of the community and the circumstances on the ground.

209. The Chamber notes that some victims expressed a clear desire for cash payments and some form of financial support, which would enable them to restart their activities or substantially support them.<sup>537</sup> The Chamber finds that this is entirely compatible with a collective community-based reparations approach. While the reparations will be community-based, as noted by the TFV, it is possible to include projects and initiatives that support individuals through income-generating activities and tailored interventions,<sup>538</sup> which can be delivered ‘through various means including cash based support, where appropriate, [and] may also serve to address individual harm and can be incorporated into collective reparations schemes in accordance with rule 98(3) of the Rules’.<sup>539</sup> In this context, the Chamber recalls, in line with Trial Chamber VIII’s finding in *Al Mahdi*, that the socio-economic rehabilitation aspect of the rehabilitation modality of collective community-based reparations may include such measures as a “microcredit system” that would assist the population to generate income, or other cash assistance programmes to restore some of Timbuktu’s lost economic activity’.<sup>540</sup> Indeed, the Chamber considers that community-based measures could include cash-based support aimed at assisting victims in restarting an economic activity.

#### b. Educational support

210. In relation to educational support, the Chamber recalls the LRVs submission that this support requires a detailed assessment of the nature and form of support sought.<sup>541</sup> The Chamber considers that educational support may come in the form of educational programmes or training that address the harm suffered by the population, in particular women and girls, as a result of the closing of schools and the loss of educational

<sup>537</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 88, 91-93, 95-96; [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 56(i), 57; [T-219](#), p. 28, lines 9-25; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, para. 50.

<sup>538</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 114.

<sup>539</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 104.

<sup>540</sup> [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 83. See [Al Mahdi Appeals Judgment on Reparations Order](#), ICC-01/12-01/15-259-Red2, para. 39.

<sup>541</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 122.

opportunity. The Chamber considers that the educational support addresses material and community harm suffered by the victims as a result of the crimes.

c. Psychological rehabilitation

211. Regarding collective community-based psychological rehabilitation measures, the Chamber considers that this modality of reparations addresses moral harm suffered by victims as a result of the crimes. The Chamber acknowledges the TFV's indication that there will be a low uptake of individual psychological counselling due to the expected reluctance to participate in one-on-one sessions.<sup>542</sup> The Chamber finds merit in the TFV's submission that participatory mechanisms and flexible approaches will be critical in implementing these measures, and that more targeted responses to address specific groups that experienced distinct harm should also be considered.<sup>543</sup> In this context, the Chamber recalls that it is necessary to seek the informed consent of victims regarding their participation in these rehabilitative measures.<sup>544</sup>

d. Physical and psychological rehabilitation for individuals

212. The Chamber notes that the OPCV and the TFV make proposals for the physical and psychological rehabilitation of individuals, which the Chamber understands as a collective reparations measure with an individualised component.<sup>545</sup> In the circumstances of the present case, the Chamber considers it more appropriate to focus such individualised rehabilitation for the direct victims of crimes other than persecution, as well as for similarly situated victims of persecution.<sup>546</sup> In this context, the Chamber finds merit in the OPCV suggestion that such victims should be offered specific support,<sup>547</sup> and finds that clinical care and therapy sessions may be offered where feasible and accepted by victims,<sup>548</sup> with their informed consent.<sup>549</sup> These measures represent the

<sup>542</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 115. *See also* [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 52. *See also* [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 85-86.

<sup>543</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 93-95.

<sup>544</sup> *See* [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 160.

<sup>545</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 56(ii); [TFV Submissions](#), ICC-01/12-01/18-2737, para. 99.

<sup>546</sup> *See* paragraph 187 above.

<sup>547</sup> *See* [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 78-80.

<sup>548</sup> *See* [TFV Submissions](#), ICC-01/12-01/18-2737, para. 99.

<sup>549</sup> *See* [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 160.

limited individualised component of the collective reparations award discussed above and address the particular physical and psychological harm suffered by these victims.

*ii. Symbolic and satisfaction measures*

213. Symbolic and satisfaction measures in this case are directed at addressing all harm, particularly moral and community harm suffered by victims.

a. Request for symbolic payment

214. The LRVs propose that both direct and indirect victims of all crimes receive a symbolic payment, in line with the award given in the *Ongwen* case, as part of a collective community-based reparations programme.<sup>550</sup> The OPCV proposes a single, standardised amount of symbolic compensation for direct victims of crimes other than persecution<sup>551</sup> and submits that the victims it consulted placed a strong emphasis on redressing their socio-economic situation as part of the possible reparations measures.<sup>552</sup> While the Defence initially submitted that it did not support individual reparations,<sup>553</sup> it has since indicated that it does not oppose individual reparations to victims of the crimes other than persecution in the form of a payment, in addition to collective reparations.<sup>554</sup>

215. The Chamber has considered the parties' submissions on a symbolic award, or a monetary award of some nature. As described above, the Chamber has found that in the particular circumstances of this case, collective community based reparations are most fitting to address the different types of harm suffered by the victims while ensuring the efficiency and integrity of the process. Further, the Chamber is convinced that an appropriate and meaningful symbolic award<sup>555</sup> is not feasible in the present case. The

<sup>550</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 95-100 (the LRVs proposes an individual amount of €750 per victim); [T-219](#), p. 12, lines 17-25 (the LRVs proposes a minimal amount of €400 per victim), p. 69, line 20 to p. 70, line 6.

<sup>551</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 57-65.

<sup>552</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 61.

<sup>553</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 14.

<sup>554</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 3.

<sup>555</sup> See [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Conf, paras 96, 98; LRVs: [T-219](#), p.12, lines 21-25. (The LRVs submitted that the nature of the crimes found in this case, their long-term consequences and the victims' claims justifies the granting of compensation similar to what was retained in *Ongwen* as a symbolic reparation measure of €750 euros and no less than €400); [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 69; OPCV: [T-219](#), p. 28, lines 6-17. (The OPCV proposed that, based on consultations and the review of the other parties' and participants' submissions, the most conservative amount of 600,000 Francs CFA (approximately €915 be the starting point for calculation of a symbolic reparation and that this reparation must be complemented by additional reparations measures).

Chamber also notes that the socio-economic measures ordered have taken into account the need for socio-economic rehabilitation and includes the potential for cash payments to victims through a collective reparations scheme.

b. Mr Al Hassan's financial contribution

216. The Chamber notes Mr Al Hassan's submissions regarding making a financial contribution to the TFV.<sup>556</sup> The Defence submits that Mr Al Hassan seeks to set aside a total of 164,000 Francs CFA (about €250), part of his 'personal funds' at the detention centre and the 'equivalent of about 17 weeks income', in order to transfer funds to the TFV in satisfaction of the reparations order.<sup>557</sup> The Defence submits that the financial contribution could form part of a symbolic ceremony.<sup>558</sup> In response, the LRVs submit that 'it would be shocking, if not offensive, to present Mr Al Hassan's financial contribution as a voluntary gesture on his part, given that a reparations order should be issued against him'.<sup>559</sup> The OPCV submits that, if Mr Al Hassan wishes to contribute to the reparations, the contribution should be significant, as the victims do not need a symbolic contribution because they suffered, and continue to suffer, from extreme harm.<sup>560</sup> The OPCV further states that a financial symbolic contribution by Mr Al Hassan could perhaps be considered insulting to the victims.<sup>561</sup> The Chamber further notes the TFV's submission in which it informed the Chamber of a series of monetary transfers Mr Al Hassan has made to the TFV on 23 October, 4, 10, and 31 December 2025 and on 9 January 2025.<sup>562</sup> The TFV seeks guidance from the Chamber as to the legal nature of the transfers.<sup>563</sup>

217. The Chamber recalls its previous finding that Mr Al Hassan, as the person responsible for the crimes which caused harm to the victims, is the person financially liable for the cost of repairing the harm.<sup>564</sup> While Mr Al Hassan is not in a financial position to satisfy

<sup>556</sup> See [T-219](#), p. 55, lines 2-7.

<sup>557</sup> [T-219](#), p. 49, lines 12-13, 17-18, p. 55, lines 2-23; [Defence Request to File Corrections to Reparations Submissions](#), ICC-01/12-01/18-2752-Red, para. 10.

<sup>558</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 18; [T-219](#), p. 55, lines 14-23.

<sup>559</sup> [LRVs Response to Defence Request to File Corrections to Reparations Submissions](#), ICC-01/12/01/18-2754, para. 19.

<sup>560</sup> [T-219](#), p. 91, line 22 to p. 92, line 2.

<sup>561</sup> [T-219](#), p. 92, lines 1-7.

<sup>562</sup> See [Trust Fund for Victims' Notification of Transfers from Mr Al Hassan](#), ICC-01/12-01/18-2770-Red, paras 2, 9. The TFV submits that Mr Al Hassan transfers €50 each time, for a cumulative total €250 EUR at the time of the TFV's submission.

<sup>563</sup> Trust Fund for Victims' Notification of Transfers from Mr Al Hassan, ICC-01/12-01/18-2770-Red, para. 12.

<sup>564</sup> See section V.A. 'Personal liability' above.

the reparations award to be granted, any contribution made by Mr Al Hassan must be counted towards the reparations order against him, and shall not be classified as a voluntary contribution, nor a symbolic form of reparation. Thus, any payments Mr Al Hassan makes to the TFV must be considered to be payments against the reparations order, and the amount the TFV may complement from its ‘other resources’ shall be reduced by the corresponding amount.

c. Mr Al Hassan’s apology to the community

218. The Chamber notes that Mr Al Hassan has filed an apology to the community of Timbuktu in the case record<sup>565</sup> and that victims had divergent views on receiving Mr Al Hassan’s apology.<sup>566</sup> Although the apology is already publicly available, the Chamber considers that it is for the victims to decide whether to accept it. As far as taking any steps to include the apology in the reparations programme, the Chamber finds that the victims must first be consulted in order to determine whether such a measure should be considered, and, if so, its possible modalities. In this context, the Chamber instructs the TFV to consult with the victims, and if necessary, the Defence, on this issue during the design of the DIP.<sup>567</sup>

d. Symbolic and satisfaction measures ordered

219. The Chamber considers it appropriate to include other community-based satisfaction or symbolic measures in the design of the collective reparations in the present case. Such measures should aim to acknowledge the violations of the victims’ rights, safeguard their dignity, and promote cohesion, reconciliation, reduction of tension in the community and

<sup>565</sup> See [Annex C to Defence Request to File Corrections to Reparations Submissions](#), ICC-01/12-01/18-2752-AnxC (official English translation issued on 30 October 2025, ICC-01/12-01/18-2752-AnxC-tENG). See also [Defence Submissions](#), ICC-01/12-01/18-2729, paras 32, 53; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 18, 37-39; [T-219](#), p. 49, line 14- p. 53, line 21, p. 82, line 23, p. 8, line 20.

<sup>566</sup> LRVs: [T-219](#), p. 19, lines 1-16 (stating that the victims have expressed that they do not want to hear a light apology); [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras, 54, 84; OPCV: [T-219](#), p. 89, line 10 -p. 92, line 6 (submitting that victims either supported or did not oppose an apology from Mr Al Hassan being embedded in a reparations programme and expressing concern at the generic nature of Mr Al Hassan’s apologies, stating that they did not contain an expression of remorse or compassion towards the victims. The OPCV further states that the apologies appear to be an attempt by Mr Al Hassan to justify himself by referring to the circumstances that resulted in him committing certain acts).

<sup>567</sup> The Chamber notes the Defence’s submissions on the recognition of Mr Al Hassan’s contribution to the reparation process by supporting the identification of direct victims as a satisfaction measure, and finds such acknowledgment inappropriate in the present case, see [T-219](#), p. 53 lines 22- to p. 55, line 1.

commemoration.<sup>568</sup> The Chamber instructs the TFV to design these specific projects and initiatives, based on a close consultation with the victims.<sup>569</sup>

220. The Chamber recognises the harm suffered by victims in the present Reparations Order, and considers that the public acknowledgement of harm in the Trial Judgment and the Sentencing Decision serves as a satisfaction measure for victims.<sup>570</sup> In addressing the different types of harm suffered by victims in this case, the Chamber seeks to ensure that reparations are not awarded to remedy harm beyond the crimes of which Mr Al Hassan was convicted,<sup>571</sup> and also to publicly acknowledge and recount the harm victims experienced as a result of Mr Al Hassan's crimes.

### **E. Amount of liability**

221. The Chamber recalls that Mr Al Hassan was convicted under several modes of liability, *i.e.* specifically as a direct perpetrator, a facilitator of and a contributor to the crimes under article 25(3)(a), (c) and (d) of the Statute.<sup>572</sup> The Chamber considers that the participation of other persons in the commission of the crimes does not diminish Mr Al Hassan's liability to repair, in full, the harm caused to all the victims of the crimes of which he was convicted.<sup>573</sup>

222. Accordingly, in line with the Court's previous decisions,<sup>574</sup> the Chamber notes that in its determination of the total amount of Mr Al Hassan's financial liability for reparations, it has taken four key considerations into account, namely: (i) the type and extent of the harm suffered by the victims; (ii) the estimated number of potential beneficiaries to be repaired by the award; (iii) the types and modalities of reparations considered to be the

<sup>568</sup> See [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 82 and 86.

<sup>569</sup> See [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 86; [T-219](#), p. 29, line 25-p. 30, line 15.

<sup>570</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 636; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 88. The Chamber in the *Ntaganda* Reparations Order held that convictions, sentences, and reparations orders, which contain an assessment of the types of harm, serve to raise awareness about the extent of the damage caused and result in a recognition thereof.

<sup>571</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 636; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 130, referring to [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 184.

<sup>572</sup> [Trial Judgment](#), ICC-01/12-01/18-2594-Red, pp. 818-821.

<sup>573</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 667; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 221. See also [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, para. 178; [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 308.

<sup>574</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 769; [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 2, 10, 152, 246-247; [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 89-90, 107-108, 224; [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, paras 2, 72.

most appropriate in the circumstances of the present case; and (iv) the costs to repair the harm of the victims in this case in light of the reparations awarded.

1. The type and extent of the harm suffered by the victims of the crimes of which Mr Al Hassan was convicted

223. As to the harm suffered by the victims, the Chamber recalls that, as detailed above<sup>575</sup> and consistent with the Court's previous rulings,<sup>576</sup> it has conducted an in-depth analysis of all the relevant information before it, including the submissions of the parties and participants, the Trial Judgment and the Sentencing Decision and the evidence in the case record. The Chamber references its above discussion of the type and extent of harm suffered by the victims and its conclusion that the victims suffered serious, multiple and diverse forms of harm as a consequence of the crimes of which Mr Al Hassan was convicted.<sup>577</sup> The entire population of Timbuktu was persecuted on religious grounds and had Ansar Dine/AQIM's rules and prohibitions imposed upon them through the implementation of a system of surveillance and punishment, which relied on acts of violence, force, intimidation, and threats.<sup>578</sup> The members of the population suffered a varied array of harm, including physical, moral, material and community harm.<sup>579</sup> Similarly, victims of the crimes other than persecution, were punished as a result of alleged violations of Ansar Dine/AQIM's rules and prohibitions, suffering the crimes of torture, cruel treatment, outrages upon personal dignity, sentencing without due process, and mutilation.<sup>580</sup> As a result of the crimes, these 49 victims suffered various types of harm, including physical, moral and material harm,<sup>581</sup> and any indirect victims would have suffered harm as a result of the harm to direct victims.<sup>582</sup>

<sup>575</sup> See section V.C 'Harm' above.

<sup>576</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 771; [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 334-337, 341; [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 80, 89; [Katanga Appeals Judgment on Reparations Order](#), ICC-01/04-01/07-3778-Red, paras 70-71.

<sup>577</sup> See section V.C 'Harm' above.

<sup>578</sup> See paragraph 81 above.

<sup>579</sup> See paragraphs 84, 107, 113, 127 above.

<sup>580</sup> See section V.C.3 'Harm suffered by direct victims of sentencing without due process'; section 69.4 'Harm suffered by direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation' above.

<sup>581</sup> See section V.C.3 'Harm suffered by direct victims of sentencing without due process'; section 69.4 'Harm suffered by direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation' above.

<sup>582</sup> See section V.B.2 'Indirect victims' above.

## 2. Estimated number of potential beneficiaries

224. The Appeals Chamber has held that in making an order for reparations to, or in respect of, victims pursuant to article 75 of the Statute, a trial chamber does not have to set out the precise number of beneficiaries.<sup>583</sup> It is permissible for the reparations order to set out eligibility criteria from which victims can be identified.<sup>584</sup> Nevertheless, establishing the number of beneficiaries whose harm is to be repaired by the award, even where collective reparations are ordered, will often be a fundamental parameter in determining what reparations are appropriate and the amount of the award.<sup>585</sup> Indeed, in the *Lubanga* case, the Appeals Chamber emphasised that one of the factors that a trial chamber must consider in determining what reparations are appropriate for the purposes of article 75(2) of the Statute, is how many victims are likely to come forward and benefit from collective reparations programmes during the implementation phase.<sup>586</sup> Similarly, in the *Ntaganda* case, the Appeals Chamber ruled that, in the circumstances of the case – where collective reparations with individualised components were awarded – the Trial Chamber had a duty to establish an actual, or estimated number of victims of the award.<sup>587</sup> The Appeals Chamber underscored that, if the Trial Chamber resorts to estimates as to the number of victims, such estimates must be as concrete as possible, based on a sufficiently strong evidential basis, and provide reasoning in the event of any uncertainties,<sup>588</sup> considering that uncertainties must be resolved in favour of the convicted person.<sup>589</sup> Where there is

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<sup>583</sup> [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 150-151, referring to [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 92; [Lubanga Reparations Decision](#), ICC-01/04-01/06-2904, para. 219. See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 701.

<sup>584</sup> [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 150-151. See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 701.

<sup>585</sup> [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 152, 155, 157. See [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 89, 223. See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 701.

<sup>586</sup> [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 89, 223. See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 701.

<sup>587</sup> [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 157-159, 168, 172. See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 701.

<sup>588</sup> [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 172, 235.

<sup>589</sup> For instance, by assuming a lower number of victims, or by discounting the amount of liability. [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, paras 3, 90, 223-224; [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 153, 165, 168, 171.

uncertainty as to the number of victims, the Court should ensure a collective approach so that reparations reach those victims who are currently unidentified.<sup>590</sup>

225. As to the number of victims, the Chamber recalls that the Sentencing Decision found that ‘[t]he number of victims of the crime of persecution is [...] very high: the entire population of the city of Timbuktu was targeted and was the subject of the deprivation of fundamental rights’.<sup>591</sup>
226. The Chamber notes that the parties and participants give different approximations as to the number of inhabitants of Timbuktu during the temporal period of Mr Al Hassan’s conviction.<sup>592</sup> The Chamber notes that a Government of Mali report based on the 2009 census data recorded 54,629 inhabitants of ‘*Tombouctou urbain*’, which the Chamber understands to reference the city of Timbuktu.<sup>593</sup> Regarding the population in 2012, the Chamber notes the Registry’s submission that, according to local authorities and based on the data gathered by the ‘*Direction régionale de la planification and statistique of Timbuktu*’, the population of the ‘*Tombouctou commune*’ in 2012 was approximately 65,202.<sup>594</sup> While this number is higher than the population listed in the census of 2009, the Chamber considers that it is reasonable that the population grew in the subsequent three years. As this number of 65,202 inhabitants was provided by local authorities based on information coming from a regional entity, the Chamber relies on it as an estimate of the population of the city of Timbuktu in 2012.

<sup>590</sup> [Lubanga Reparations Decision](#), ICC-01/04-01/06-2904, para. 219. See [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 92, stressing that ‘[t]his finding was not overturned by the Appeals Chamber’.

<sup>591</sup> [Sentencing Decision](#), ICC-01/12-01/18-2662, para. 71.

<sup>592</sup> The Chamber notes that the parties and participants give different approximations as to the number of inhabitants of Timbuktu during the temporal period of Mr Al Hassan’s conviction: (i) The LRVs submit, without any supporting citation, that some estimates provided by the victims indicate a population of around 55,000 persons during the relevant time period (see [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 137; See also [T-219](#), p. 6); (ii) The Prosecution submits that the last census of the population of Timbuktu city, which took place in 2009, reported 87,552 persons living in ‘*Tombouctou urbain*’, which may refer to different urban areas within the Timbuktu region, rather than Timbuktu city alone which lists 54,629 inhabitants (see [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, paras 10-12; citing the Republic of Mali’s *Institut National de la Statistique*, [Annuaire Statistique du Mali 2012](#), Table 1.2, pp. 37-38; [Tombouctou \(Urban Commune, Mali\), Population Statistiques, Charts, Map and Location](#)). The Prosecution considers the 50,000 number estimated by the LRVs to be ‘not unreasonable’ and ‘likely, in fact, to be a conservative figure’. See also [Registry Submissions](#), ICC-01/12-01/18-2733-Conf-Exp, para. 6; (iii) Similarly, the TFV estimates that at time of the events in 2012, the population was approximately 65,202 persons (see [TFV Submissions](#), ICC-01/12-01/18-2737, para. 42).

<sup>593</sup> The Chamber notes that this report of the census lists neighbourhoods of Timbuktu and the population, supporting the Chamber’s conclusion that these figures refer to the population of Timbuktu city. (See [Prosecution Submissions](#), ICC-01/12-01/18-2734-Red, para. 12; [Registry Submissions](#), ICC-01/12-01/18-2733-Conf-Exp, para. 6).

<sup>594</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 8.

227. Regarding direct victims of crimes other than persecution, the Chamber recalls its finding that there are 49 such victims.<sup>595</sup> As for the indirect victims of these crimes, the Chamber recalls its above finding that it is unable to estimate the number of these victims.<sup>596</sup> However, the Chamber notes that given the facts of the case, it is likely that most of these indirect victims were direct victims of the crime of persecution and, as such, are already factored in that number of victims.

### 3. Types and modalities of reparations

228. As discussed above, the Chamber awards community-based collective reparations for all victims of the crimes committed by Mr Al Hassan, in the form of socio-economic support, educational support and psychological rehabilitation.<sup>597</sup> In addition, for the direct victims of crimes other than persecution, as well as for similarly situated victims of persecution, the Chamber awards a limited individualised component in the form of physical and psychological rehabilitation.<sup>598</sup>

### 4. Cost of reparations

229. The Chamber notes that, in determining the amount of Mr Al Hassan's liability, it has elected to focus on the global costs for establishing and running rehabilitation programmes and the cost to implement symbolic and satisfaction measures,<sup>599</sup> as discussed below.

230. The LRVs submit that, based on the information collected from the victims they represent, they do not have sufficiently precise information to give specific estimates of costs to repair the harm suffered by the victims in light of the modalities the LRVs proposed.<sup>600</sup> The Defence indicates that it takes no position on the cost to repair the harm suffered by the victims of the case.<sup>601</sup>

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<sup>595</sup> See paragraphs 66 above.

<sup>596</sup> See paragraph 188 above.

<sup>597</sup> See paragraph 184 above.

<sup>598</sup> See paragraph 187, 212 above.

<sup>599</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 775.

<sup>600</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 31.

<sup>601</sup> [Defence Submissions](#), ICC-01/12-01/18-2729, para. 57.

231. The Chamber finds the TFV's detailed submissions on the cost of reparations illustrative,<sup>602</sup> recalling that the Trial Chamber 'may have to rely on estimates as to the cost of reparations programmes'.<sup>603</sup> The Chamber notes that the TFV has extensive experience implementing reparations in Timbuktu and their estimates of the costs of programmes in this case, using the *Al Mahdi* case as a reference, are well-reasoned, sound and reliable.

*i. Rehabilitation measures*

232. The Chamber recalls that it considered that the projects and initiatives that form the rehabilitation measures should address socio-economic support, especially support for income generating activities; educational support; psychological rehabilitation for the collective, and physical and psychological rehabilitation for certain individuals.<sup>604</sup>

233. In relation to socio-economic support, the TFV indicates that, in the *Al Mahdi* case, the total costs for the ERF, which covered three macro projects and sixty micro projects amounted to €1,570,000.<sup>605</sup> The TFV states that the proposed four macro projects and eighty micro projects for the socio-economic measures, estimated at €300,000 and €30,000 respectively, with an estimated total cost at the community level valued at around €4,000,000.<sup>606</sup> The Chamber considers the estimated cost of the measures reasonable and orders an award of €4,000,000 for socio-economic measures for all victims. While it has used the proposed number of macro and micro projects to ascertain the amount of the award, the Chamber considers that, given the circumstances of the situation in the region, particularly the security and safety concerns, events may necessitate a change in the configuration of the projects and considers that the utmost flexibility must be afforded to the TFV, in close consultation with the victims, to configure the projects, including the ratio of macro and micro projects.

234. In relation to educational support, the Chamber recalls its above finding that the education support should address the material and community harm suffered by the

<sup>602</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, paras 56, 72-78, 108-117; [T-219](#), p. 40, line 16 to p. 45, line 15, p. 47, lines 16 to 25; [Annex E to TFV Submissions](#), ICC-01/12-01/18-2737-Conf-AnxE.

<sup>603</sup> [Lubanga Appeals Judgment on the Size of Reparations Award](#), ICC-01/04-01/06-3466-Red, para. 108.

<sup>604</sup> See section V.D.2 'Modalities of reparations' above.

<sup>605</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 114.

<sup>606</sup> [T-219](#), p. 41, line 25 to p. 42, line 9.

victims as a result of the crimes.<sup>607</sup> Considering the socio-economic impact of the harm arising out of this aspect of persecution, the Chamber considers that the measures related to educational support should be factored into the above award for socio-economic measures. In designing the socio-economic projects, the TFV should, in close consultation with victims, also consider projects aimed at providing educational support, to facilitate the economic rehabilitation of those members of the population whose education were disrupted as a result of the crime of persecution.

235. Regarding collective community-based psychological rehabilitation measures, the TFV references the costs in the *Al Mahdi* programme where it implemented community-level psychosocial interventions.<sup>608</sup> The TFV submits that, if the interventions reach around 10,300 individuals in the *Al Hassan* case, the cost of these measures would be €1,200,000.<sup>609</sup> While the Chamber recalls that it has ordered these rehabilitation measures for the whole community of Timbuktu, the Chamber notes the TFV's experience in the region, as well as the OPCV's submissions on the beneficiaries' reluctance to engage in psychological support.<sup>610</sup> The Chamber considers the TFV's estimates of the number of potential beneficiaries and the cost of such measures reasonable and orders an award of €1,200,000 for psychological support.

236. As to the physical and psychological rehabilitation of victims of crimes other than persecution as well as for similarly-situated victims of persecution,<sup>611</sup> the Chamber recalls that it orders psychological support as a collective measure, thus providing a means to redress that harm. The Chamber considers that the limited individualised component relates specifically to victims who suffered physical harm as a result of the crime as well as any psychological harm. The Chamber notes that, after having assessed 3,088 victims' application forms, the Registry pre-identified 714 victim applications as falling within the scope of the crime of persecution.<sup>612</sup> Of the applicants that the Registry assessed as victims of persecution, 23% purport to have suffered from physical harm.<sup>613</sup> The Registry defines physical harm as '(persistent) physical health issues related to the

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<sup>607</sup> See paragraph 210 above

<sup>608</sup> [T-219](#), p. 42, lines 11-17.

<sup>609</sup> [T-219](#), p. 42, lines 11-17.

<sup>610</sup> [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 52. See also [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 85.

<sup>611</sup> See paragraph 187 above.

<sup>612</sup> See [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 10.

<sup>613</sup> See [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19.

crimes suffered and/or related to injury sustained during the commission of the crime; health problems related to difficult living conditions (poverty, displacement, resettlement)'.<sup>614</sup> The Chamber recalls that the physical harm experienced by the population of Timbuktu as a result of the crimes is linked to the physical punishments carried out by Ansar Dine/AQIM and the conditions of detention.<sup>615</sup> The Chamber further recalls that for some victims this caused physical harm in the form of health issues, long-lasting physical injuries, chronic pain, hypersensitivity of the skin, and improperly healed fractures.<sup>616</sup>

237. To determine what percentage of the victims of persecution can be estimated to have suffered physical harm as a result of the crimes, the Chamber considers the estimate provided by Registry illustrative but not determinative. The Chamber notes that the Registry includes in its assessment victims who suffered from the difficult living conditions attendant to the crimes. Given the facts of the case and the nature of the physical harm suffered, the Chamber considers that the number of victims who continue to suffer persistent physical harm that impacts them today would be a more moderate numbers of persons. Having considered the evidence on record, the Chamber considers that accepting the 23% estimate would over-estimate the victims of the crimes who suffered this harm. The Chamber considers that 15% would be a more reasonable estimate. Given the victim population of 65,202, this results in an estimate of persons. The Chamber notes that this estimate is in line with the TFV's estimate of 9,677 persons in Timbuktu who suffered physical harm as a result of the crimes.<sup>617</sup>

238. As to the cost to implement this measure, the TFV submits that the cost for individual medical or psychological support would range from between €150 for basic care to €6,000 for major care per individual.<sup>618</sup> Given the nature of the harm suffered<sup>619</sup> and the time that has elapsed since the crimes, the Chamber considers that the overwhelming majority of the victims eligible would require basic care, at a cost of €1,467,000. The Chamber considers that some victims may require more substantial care and assess that

<sup>614</sup> See [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 19.

<sup>615</sup> See section V.C.2.iii 'Physical harm'; section V.C.4, 'Harm suffered by direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation' above.

<sup>616</sup> See paragraph 84; section V.C.4.ii 'Analysis of the harm experienced by the victims'.

<sup>617</sup> Victims' Voices Study, ICC-01/12-01/18-2737-Conf-AnxC, slide 11.

<sup>618</sup> [T-219](#), p. 42, line 24 to p. 43, line 1.

<sup>619</sup> See section V.C.4 'Harm suffered by direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation' above.

increasing the award to a total of €1,500,000 will ensure that these victims also receive the care they require. Thus, the Chamber awards €1,500,000 for physical and psychological rehabilitation as an individualised component of reparation. The Chamber considers that any funds not utilised for this measure should be redirected towards socio-economic measures.

*ii. Symbolic and satisfaction measure*

239. The Chamber also ordered symbolic and satisfaction measures. Here, the TFV submits that, for the *Al Mahdi* case, €1,300,000 was allocated to measures of this kind, including commemorative activities, a symbolic ceremony and the maintenance of the protected buildings.<sup>620</sup> The TFV submits that in the present case, the amount would have to consider the broader moral and psychological impact, and the implementation of a participatory mechanism and community-focused interventions.<sup>621</sup> The Chamber considers that the particular circumstances of the *Al Mahdi* case, where the crime at issue was the destruction of protected buildings, warranted a higher amount allotted to symbolic and satisfaction measures than in this case. Thus, the Chamber considers the TFV's recommendation of six symbolic measures, valued between €90,000 and €200,000, at a total cost of €1,100,000,<sup>622</sup> overbroad. The Chamber considers that three symbolic measures aimed at commemorative activities, the implementation of a participatory mechanism and community-focused interventions, valued at €550,000, are more appropriate given the present circumstances and the facts of the case.
240. While it has used the proposed number of measures to ascertain the amount of the award, the Chamber considers that, given the circumstances of the situation in the region, particularly the security and safety concerns, events may necessitate a change in the configuration of the measures and considers that the utmost flexibility must be afforded to the TFV, in close consultation with the victims, to configure the measures.
241. In light of the above, the Chamber considers Mr Al Hassan's total liability for the harm to victims of the crimes of which he was convicted to be a total of €7,250,000, equivalent to 4,755,688,250 Francs CFA as of 24 April 2026.

<sup>620</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 113.

<sup>621</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 113.

<sup>622</sup> [T-219](#), p. 41, lines 19-24.

242. The Chamber considers that the costs of implementation of this award is not included in the amount awarded.<sup>623</sup>

## VI. Implementation

### A. Prioritisation

243. The Chamber has considered the parties,<sup>624</sup> participants,<sup>625</sup> and *amici curiae*'s<sup>626</sup> submissions on prioritisation. The Chamber notes the broad agreement that vulnerable persons, or persons in need of urgent assistance, should be prioritised. The Chamber also takes note of the LRVs' and Queen's University Belfast's submissions that women and girls were particularly affected by the religious persecution and should thus be prioritised.<sup>627</sup>

244. The Chamber notes the TFV's submission that:

[R]ather than ordering a fixed sequence of implementation, the Chamber may consider articulating a guiding Reparations Principle. In particular, the Chamber could establish as a Reparations Principle that, insofar as feasible, in implementing reparations the needs of the most vulnerable victims be addressed first, with due regard to gender sensitivity, child sensitivity, and the principle of intersectionality, thus assigning to the implementor the task of operationalising this Reparations Principle.<sup>628</sup>

245. The Chamber recalls that there is already a principle on reparations in relation to prioritisation which states that while all victims are to be treated fairly and equally, priority may need to be given to certain victims who are in a particularly vulnerable situation or require urgent assistance.<sup>629</sup> The Chamber thus declines to articulate a new reparations principle in this respect.

<sup>623</sup> *Contra* [TFV Submissions](#), ICC-01/12-01/18-2737, para. 112. See [TFV Submissions](#), ICC-01/12-01/18-2737, paras 110-112.

<sup>624</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Conf, paras 135-136; LRVs: [T-219](#), p. 13, lines 4-6; [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, paras 87-89; [Defence Submissions](#), ICC-01/12-01/18-2729, para. 18; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 20.

<sup>625</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 127-129.

<sup>626</sup> [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 24; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, paras 47-48; [University of Edinburgh Submissions](#), ICC-01/12-01/18-2736, paras 24, 26.

<sup>627</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Conf, paras 135, 136; LRVs: [T-219](#), p. 13, lines 4-6; [Queen's University Belfast Submissions](#), ICC-01/12-01/18-2730, para. 24.

<sup>628</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 129. See also [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 19-20.

<sup>629</sup> [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 92-93.

246. However, given the large victim population and the TFV's extensive experience as a result of its implementation of collective measures in Timbuktu within the *Al Mahdi* reparations programme, the Chamber finds merit in the TFV's argument that it should be afforded 'sufficient flexibility to design and implement the programme in a manner that is responsive to the specific context'.<sup>630</sup> Thus, the Chamber finds that in the particular circumstances of this case, the TFV, together with the victims and the community, shall determine the criteria for prioritisation.

### **B. Eligibility criteria**

247. The Chamber recalls that it is not obliged to conduct an assessment of individual applications for reparations, yet it must clearly set out the eligibility criteria for reparations.<sup>631</sup> In addition, the Chamber recalls that it has adopted the 'balance of probabilities' test as the appropriate standard of proof in the present Order.<sup>632</sup> Consequently, the Chamber considers that, in order to be found eligible to benefit from reparations, a victim must establish the following four requirements upon the balance of probabilities:

- i. Their identity.
- ii. Their victimhood:
  - a. For direct victims: their status as a direct victim of at least one of the crimes of which Mr Al Hassan was convicted.
  - b. For indirect victims:
    1. The victim status of the direct victim; and
    2. The indirect victim belonging to at least one of the five categories of indirect victims recognised by the Chamber.
- iii. The existence of harm; and
- iv. The causal link between the alleged harm and the crimes of which Mr Al Hassan was convicted.

<sup>630</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 128.

<sup>631</sup> [Al Mahdi Appeals Judgment on Reparations Order](#), ICC-01/12-01/15-259-Red2, para. 64.

<sup>632</sup> See paragraph 20 above.

248. The Chamber notes the Registry's submissions on the challenges in identifying and assessing new potential beneficiaries due to the difficulties individuals have in obtaining documentation to establish their identity.<sup>633</sup> The Chamber recalls that rule 94(1)(g) of the Rules requires victims to provide documentation supporting their applications for reparations '[t]o the extent possible', making an allowance for the difficulties victims may encounter in gathering evidence.<sup>634</sup> Although it is of less relevance in relation to collective reparations, the Chamber finds that the rule is applicable to the eligibility screening to be carried out at the implementation stage for accessing collective community-based reparations with an individualised component.<sup>635</sup>
249. In relation to the means to prove identity, the Chamber considers that individuals may use official or unofficial identification documents, or any other mean to credit their identity.<sup>636</sup> In the absence of formal documentation, the Chamber finds that a statement signed by two credible witnesses establishing the identity of the victim and describing the relationship between the victim and any individual acting on their behalf is an acceptable proof of identity.<sup>637</sup>
250. Regarding the proof of residency, the Chamber finds merit in the Registry's suggestion of the various documents that victims may present to demonstrate their residency.<sup>638</sup> The Chamber also finds merit in the Registry's proposal that the Chamber relies 'on circumstantial evidence to demonstrate a sufficient link between the victims and the city of Timbuktu'.<sup>639</sup> The Chamber notes that the demonstration of a sufficient link must still be by the balance of probabilities.

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<sup>633</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 27.

<sup>634</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 424-426.

<sup>635</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 424-426.

<sup>636</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 423; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 137; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 57, referring to [Lubanga Decision on victims' participation](#), ICC-01/04-01/06-1119, para. 87 (defining 'any other means' as 'other documents, such as a certificate or attestation of loss of specified official documents, school documents, a church membership card, an association or political party membership card, documents issued in rehabilitation centres for children associated with armed groups, certificates of nationality or a pension booklet').

<sup>637</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 423; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 137; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, para. 57.

<sup>638</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 22. See also [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, paras 16, 24 (where the Defence agrees with the Registry's proposal).

<sup>639</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 23. See also [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 62-64.

251. As to the victimhood criteria, the Registry proposes to adopt a factual presumption for ‘victims who have a sufficient link with the city of Timbuktu, particularly through residence, [so they] may be presumed to have been present at the time of the crimes for which Mr Al Hassan was convicted’.<sup>640</sup> The TFV also proposes the adoption of a factual presumption of ‘membership to the community of Timbuktu’ to ‘ease the evidentiary burden placed on victims to meet the standard of proof for eligibility’.<sup>641</sup> According to the TFV, any person should be factually presumed to be a member of the community if he or she:

a) [was] born before the end of Ansar Dine/AQIM’s control and resided in any of the eight sectors of Timbuktu during the period of control by Ansar Dine/AQIM as determined in the Conviction Decision; or

b) currently reside in Timbuktu, provided that their residence is not clearly temporary in nature (e.g. a short-term foreign visitor).<sup>642</sup>

252. The Chamber recalls that any person who can demonstrate that he or she was present or residing in the city of Timbuktu during the temporal scope of the crime of persecution is considered to be a direct victim of the crime of persecution.<sup>643</sup> Thus, the Chamber considers that creating a presumption of residency based on the place of birth or current residency of the individual without a connection to the temporal scope of the conviction, as proposed by the Registry and the TFV, is insufficient to reach the required standard of proof to establish victimhood. Nevertheless, the Chamber notes that potential beneficiaries are allowed to prove their presence or residency in Timbuktu during the temporal scope of the crimes through any means available to them.<sup>644</sup>

253. Lastly, in relation to the proof of the harm experienced, the Registry states that potential beneficiaries face difficulties in proving the harm they have suffered, considering that ‘more than 13 years have passed since the period of the crimes for which Mr Al Hassan was convicted, and many victims no longer possess medical certificates, prescriptions, or official records to substantiate their injuries or property losses’.<sup>645</sup> In this regard, the

<sup>640</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 20. *See also* Defence [T-219](#), p. 67, lines 4-7.

<sup>641</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, paras 51, 53.

<sup>642</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 53.

<sup>643</sup> *See* paragraph 63 above. *See also* [LRV’s Response to Submissions](#), ICC-01/12-01/18-2740, paras 26-36.

<sup>644</sup> The Chamber considers that the documents listed by the Registry are a good example of the type of documents that are useful to prove residency, *see* [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 21.

<sup>645</sup> [Registry Submissions](#), ICC-01/12-01/18-2733-Red, para. 27 (n. 64).

Chamber recalls that, when there is a presumption of harm in place, it is not necessary to scrutinise the specific harm alleged by each potential victim at the moment of determining their eligibility for reparations. Concretely, for the crime of persecution, once a person has demonstrated their identity as well as their residency in Timbuktu city during the temporal scope of the conviction, their victimhood for the crime of persecution shall be presumed,<sup>646</sup> and their moral and community harm should be established.<sup>647</sup> In the case of the 49 direct victims of the crime of sentencing without due process, once their identity is determined, their moral harm shall be presumed.<sup>648</sup> In the case of the 14 direct victims that suffered from the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and/or mutilation, the assessment of harm above shall be sufficient proof of their harm and, thus, no presumption of harm is needed.<sup>649</sup> When a victim claims to have suffered a type of harm not covered by any of the presumptions or assessments of harm established in this Reparations Order, the Chamber considers that the victim's coherent and credible account can be accepted as sufficient evidence to assess their harm to the required standard of proof.<sup>650</sup> The Chamber considers that the TFV's proposed means to demonstrate harm through attestations issued by 'neighbourhood chiefs, religious leaders (men and women), medical professionals, members of the crisis committee, and other respected local figures' is also a valid method for the victims to prove their harm in connection with the crime of persecution.<sup>651</sup>

254. Finally, the Chamber notes that the requirements of victimhood, harm and casual link has already been established in relation to the 49 direct victims identified in the Trial Judgment;<sup>652</sup> therefore, to be found eligible for reparations, these victims need only prove their identity following the criteria set above.

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<sup>646</sup> See paragraph 63 above.

<sup>647</sup> See paragraphs 107, 127 above.

<sup>648</sup> See paragraphs 134-135 above.

<sup>649</sup> See section V.C.4.ii 'Analysis of the harm experienced by the victims' above.

<sup>650</sup> See [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 425; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 139; [Lubanga Decision on the Size of Reparations Award](#), ICC-01/04-01/06-3379, para. 204; [Katanga Judgment pursuant to article 74 of the Statute](#), ICC-01/04-01/07-3436-tENG, para. 110. See also [OPCV Submissions](#), ICC-01/12-01/18-2747-Corr-Red, para. 45.

<sup>651</sup> See [TFV Submissions](#), ICC-01/12-01/18-2737, para. 124.

<sup>652</sup> See paragraph 66; section V.C.3 'Harm suffered by direct victims of sentencing without due process'; section V.C.4 'Harm suffered by direct victims of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation' above.

### C. Administrative eligibility assessment

255. The Chamber notes the TFV's submission on the eligibility assessment for reparations process and its enquiry whether an eligibility process for victims of persecution is necessary, considering that the TFV estimates that the whole community of Timbuktu is a victim of this crime.<sup>653</sup> In this regard, the TFV proposes that the eligibility determination process could be done either through a formal eligibility process based on criteria established by the Chamber, or alternatively, during the implementation process, similar to how it was done in the *Al Mahdi* case.<sup>654</sup>
256. The Defence<sup>655</sup> and *amicus curiae* Mama Koité Doumbia *et al.*<sup>656</sup> support the use of participatory and community-based eligibility mechanisms for collective or symbolic reparation measures.
257. The Chamber takes note of the parties' and participants' submissions and adopts the approach taken in the *Ntaganda* and *Ongwen* Reparations Orders.<sup>657</sup> As such, the Chamber decides that the eligibility process shall be divided into two stages: (i) the identification of potential beneficiaries; and (ii) the eligibility assessment.

#### 1. The identification of potential beneficiaries

- a. Outreach. An outreach campaign should be designed and conducted by the Registry, through the PIOS. The communication materials to be provided to victims and the activities that will form part of the campaign shall be designed by the PIOS after engaging in consultations with the parties, the TFV, the VPRS, and the OPCV. Outreach activities shall be conducted throughout the duration of the administrative eligibility process.

The Chamber instructs the PIOS to inform victims of the limited scope of reparations within the criminal proceedings' context, of the role of complementarity and of the fact that the PIOS and the VPRS require time to design and implement the outreach, identification, and eligibility processes to be conducted in order for the reparations

<sup>653</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 122.

<sup>654</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 123.

<sup>655</sup> [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 17.

<sup>656</sup> [Mama Koité Doumbia \*et al.\* Submissions](#), ICC-01/12-01/18-2735, para. 42.

<sup>657</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 808-810; [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, paras 183-186.

measures to be later executed. At the same time, the Chamber instructs the PIOS to adequately apprise the victims and the community of Timbuktu of the differences between the present reparations order and the *Al Mahdi* reparations programme.<sup>658</sup>

- b. Identification. The Registry, through the VPRS, will be responsible for the identification of victims. The identification of potential beneficiaries should commence prior to the approval of the DIP in order to expedite the implementation of reparations. Therefore, the Chamber instructs the VPRS to commence the identification of victims as soon as practicable.
- c. Collection of information. The Registry, through the VPRS, will be responsible for collecting information from potential beneficiaries. The Chamber notes that, as decided in the present Reparation Order, having awarded collective community-based reparations with a limited individualised component, there is no need for the Chamber to rule on the merits of individual applications for reparations. Accordingly, the VPRS shall apply a simplified system that allows it to collect the information necessary to make determinations of victims' eligibility.

## 2. The eligibility assessment

- a. Parties' involvement during the implementation of reparations. The Chamber considers that, since it has already set Mr Al Hassan's monetary liability, the results of the eligibility process will have no impact on Mr Al Hassan's rights. The involvement of the Defence is therefore not required during the administrative stage of the proceedings.<sup>659</sup>

With respect to the victims' representatives' involvement, the Chamber notes that no legal representation of potential beneficiaries is required outside the context of judicial proceedings, apart from in relation to the DIP.<sup>660</sup> Nevertheless, pursuant to regulation

<sup>658</sup> See [LRV's Response to Submissions](#), ICC-01/12-01/18-2740, paras 22-25.

<sup>659</sup> For a similar approach, see [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 186; [Ntaganda Appeals Judgment on Reparations Order](#), ICC-01/04-02/06-2782, paras 367-368; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 812.

<sup>660</sup> For a similar approach see [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 182; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 812. The Chamber acknowledges that the Legal Aid Policy of the Court, which was adopted at the Assembly of States Parties in November 2023, contemplates funding for defence counsel and victims' counsel during the implementation phase of reparations proceedings. See International Criminal Court Assembly of States Parties, [Draft Legal Aid Policy of the International Criminal Court](#), ICC-ASP/22/9, paras 41, 60, 62. While the Chamber in this case has ruled that no representation of victims or the convicted person is required outside the context of judicial proceedings, the Chamber may request the

81(4)(a) of the Regulations, the OPCV may provide general support and assistance to any potential beneficiary during the administrative eligibility assessment, particularly regarding those assessed as non-eligible.<sup>661</sup>

- b. VPRS eligibility determinations. The Registry, through the VPRS, will be responsible for carrying out the administrative eligibility assessment, using the eligibility requirements set out in the present Reparations Order, as described above.<sup>662</sup> Every potential beneficiary, including those who participated at trial, are subject to the administrative eligibility assessment.

When a person is found to be eligible for reparations, the VPRS shall inform the person that the TFV will contact them within 30 days to provide the beneficiary with sufficient information as to the steps to follow and the expected timeline for the implementation of reparations.

If a potential beneficiary is found not to be eligible, the VPRS will notify the potential beneficiary and the OPCV to explain that the person has 30 days from the date the person was contacted to provide supplementary information. Within 30 days after having received additional information, the VPRS will review the eligibility determination based on the supplementary information received.

The Chamber notes the LRVs' and Defence's submissions as to the Chamber's jurisdiction over contentious eligibility issues.<sup>663</sup> Considering the Chamber has ordered collective community-based reparations with a limited individualised component, and taking into account the administrative nature of the implementation phase of reparations proceedings<sup>664</sup> in which the VPRS has a preponderant role in the collection and

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intervention of the Office of Public Counsel for the Defence or the OPCV during the administrative implementation phase, whenever required in the interests of justice. *Contra* [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 126.

<sup>661</sup> [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 182.

<sup>662</sup> See section VI.B 'Eligibility criteria' above.

<sup>663</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, para. 126; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 17.

<sup>664</sup> See [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, paras 7, 164, in which the Appeals Chamber held that 'when only collective reparations are awarded pursuant to rule 98(3) of the Rules of Procedure and Evidence, a Trial Chamber is not required to rule on the merits of the individual requests for reparations.' See also [Lubanga Decision on the Size of Reparations Award](#), ICC-01/04-01/06-3379, paras 86-88, 138; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, paras 145-146, in which the Chamber created an administrative eligibility screening mechanism only for individual reparations when collective and individual reparations were awarded by the Chamber; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 811.

assessment of victims' applications for reparations, the Chamber finds that the VPRS is better placed to make any determination on the victims' eligibility for reparations.

The Chamber instructs the VPRS to start the identification and eligibility determination process from the notification of this Reparations Order. The Chamber encourages the VPRS to continue its ongoing efforts to gain efficiency in the administrative eligibility process for reparations and expressly supports the use of innovative tools and technologies such as the automation of processes, the use of electronic house-hold forms, and the use of the A-B-C approach.<sup>665</sup>

- c. Timeframe. The Chamber considers it paramount for the protection of the victims' rights and interests that the administrative eligibility process – including outreach, identification, and eligibility assessment – be carried out within a reasonable timeframe. At the same time, the Chamber considers that VPRS's application of a simplified system and the flexibilities allowed in this Reparations Order so victims can more easily prove their identity, residency and harm, should allow for an expedited and efficient eligibility administrative assessment. Having set out the eligibility assessment process, the Chamber instructs the VPRS to file submissions on the time frame needed to conduct the eligibility assessment process. The VPRS submissions should be filed by 23 June 2026 and shall include concrete time estimates distinguishing between the time needed to conduct outreach activities to identify new victims, to process information and to notify victims of their eligibility. The parties are instructed to respond to the VPRS's submissions by 21 July 2026.

Finally, the Chamber instructs the VPRS and the PIOS to work together to ensure that the outreach and identification activities remain coordinated. The Chamber further instructs the VPRS and the TFV to work collaboratively so that beneficiaries found eligible are duly notified within the 30 days established above.

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<sup>665</sup> See [Ntaganda Decision on the VPRS' request for extension of time and proposal on the reporting of eligibility determinations](#), ICC-01/04-02/06-2933, paras 18-19.

#### **D. Mr Al Hassan's financial status and monitoring of his financial situation**

258. The Chamber recalls that Mr Al Hassan is the person liable for the costs to repair the harm experienced by the victims of the crimes he was found responsible.<sup>666</sup>
259. The Chamber notes that Mr Al Hassan was found indigent for the purposes of the proceedings instituted against him and that, according to the latest information provided by the Registry, there has been no change in Mr Al Hassan's financial situation.<sup>667</sup> Considering that Mr Al Hassan's indigence status was assessed in the context of his financial ability to cover his legal aid assistance,<sup>668</sup> and that the regulations which underpin that assessment do not apply to the present reparations proceedings, the Chamber finds that his financial status needs to be continuously assessed.
260. The Chamber recalls that, pursuant to regulation 117 of the Regulations, the Presidency, with the assistance of the Registry as appropriate, is responsible for monitoring Mr Al Hassan's financial situation on an ongoing basis, including following completion of a sentence of imprisonment, in order to enforce the present Reparations Order. Hence, the Chamber requests that the Presidency regularly monitors Mr Al Hassan's financial capacity and inform the Chamber of any changes in Mr Al Hassan's financial situation.
261. The Chamber recalls that the Presidency may consider whether to seek the assistance of States Parties to give effect to this Reparations Order, pursuant to article 75(4) of the Statute, and stresses that, pursuant to Parts IX and X of the Statute, States Parties have a duty to cooperate fully with the Court.

#### **E. TFV's complement of the resources to fulfil the reparations award**

262. In accordance with rule 98(5) of the Rules, the Chamber requests that the TFV's Board of Directors determine whether to complement the resources to fulfil the reparations

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<sup>666</sup> See section V.A 'Personal liability' above.

<sup>667</sup> Registry's Report on Mr Al Hassan's Financial Situation, ICC-01/12-01/18-2694-Conf, paras 8-9.

<sup>668</sup> Registry's Report on Mr Al Hassan's Financial Situation, ICC-01/12-01/18-2694-Conf, para. 9; [Draft Legal Aid Policy of the International Criminal Court](#), ICC-ASP/22/9, paras 11-13.

award as stipulated in the Regulations of the TFV<sup>669</sup> and in accordance with the Court's previous decisions thereon.<sup>670</sup>

263. The Chamber urges the TFV to complement the resources to fulfil the reparations award to the maximum extent possible and to engage in additional fundraising efforts to that end. The Chamber acknowledges that substantial fundraising efforts will be needed and, thus, encourages the States, organisations, corporations, and private individuals to support the TFV's mission and reinforce their efforts to contribute to the TFV's fundraising activities.
264. In this context, the Chamber emphasises that the TFV's Board of Directors is entitled to set the timing of the delivery of the different components of the reparations awarded according to the results of its fundraising activities and the resources collected, which could have an impact on the implementation of the reparations awarded.
265. Lastly, the Chamber acknowledges that there will be a delay between the issuance of this Reparations Order and the commencement of the implementation of the rehabilitation and symbolic measures awarded, as the reparation programmes are contingent upon the TFV's capacity to complement the award depending on the availability of resources. As such, the Chamber underlines that the implementation of the present Reparations Order may take a considerable amount of time to be executed due to Mr Al Hassan's lack of resources. Furthermore, there is a concrete risk that reparations may not reach all victims if the TFV does not manage to raise sufficient funds to complement the award. For these reasons, the Chamber instructs the PIOS to adequately inform the victims of the fact that, given Mr Al Hassan's lack of resources, the implementation of reparations is subject to the availability of resources that the TFV may raise and assign to complement the award.

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<sup>669</sup> [Regulations of the Trust Fund for Victims](#), ICC-ASP/4/Res.3, paras 47-48, 56.

<sup>670</sup> See [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 4, stating: 'The determination, pursuant to regulation 56 of the Regulations of the Trust Fund, of whether to allocate the Trust Fund's "other resources" for purposes of complementing the resources collected through awards for reparations falls solely within the discretion of the Trust Fund's Board of Directors'.

266. Finally, the Chamber recalls that the TFV's complement to the reparations award constitutes, in law, merely an 'advance' and must be reimbursed by the convicted person.<sup>671</sup>

#### **F. Procedure for the adoption of the implementation plan**

267. In its submissions, the TFV indicates that to prepare its DIP, it needs to plan and conduct consultations with victims, coordinate stakeholder inputs, assess all the collected information, devise an implementation strategy, and validate the plan with the TFV's Board of Directors and the parties.<sup>672</sup> The TFV further indicates that, to undertake such assignments, it will need at least nine months.<sup>673</sup> According to the TFV, this timeframe accounts for potential challenges emerging from the current security situation in Mali.<sup>674</sup> In addition, the TFV requests guidance from the Chamber on the format of the draft implementation plan and whether it should follow the format designed for the *Ongwen* case.<sup>675</sup>

268. Pursuant to rule 98(3) of the Rules and regulations 54, 57 and 69 of the Regulations of the TFV, the Chamber instructs the TFV to prepare a DIP with the details of the rehabilitation, symbolic and satisfaction measures to be included within the collective community-based reparations with limited individualised components that were awarded.

269. The Chamber instructs the TFV to include the following three elements in the DIP: (i) the reparation projects and measures that the TFV intends to develop under each modality; (ii) the corresponding harm that each project intends to remedy (physical, moral, material, and community harm); and (iii) a brief overview of the steps required for the implementation of each project, including an estimated timeline for the implementation of each project.

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<sup>671</sup> See [Lubanga Appeals Judgment on Principles](#), ICC-01/04-01/06-3129, para. 5, stating: 'In cases where the convicted person is unable to immediately comply with an order for reparations for reasons of indigence, the Trust Fund may advance its "other resources" pursuant to regulation 56 of the Regulations of the Trust Fund, but such intervention does not exonerate the convicted person from liability. The convicted person remains liable and must reimburse the Trust Fund'.

<sup>672</sup> [T-219](#), p. 80, lines 16-21.

<sup>673</sup> [T-219](#), p. 81, line. 1.

<sup>674</sup> [T-219](#), p. 80, line 24 to p. 81, line 3.

<sup>675</sup> [T-219](#), p. 80, line 21 to p. 81, line 3.

270. Having considered the parties,<sup>676</sup> participants,<sup>677</sup> and *amici curiae*<sup>678</sup> submissions and the principle of the application of a victim-centred approach to reparations,<sup>679</sup> and pursuant to regulation 70 of the Regulations of the TFV, the Chamber instructs the TFV to consult with the victims on the nature of the rehabilitation, symbolic and satisfaction measures and the methods of implementation. The TFV shall ensure that consultations are conducted in compliance with the Principles on Reparations, as adopted in this Reparations Order,<sup>680</sup> including the ‘do no harm’ principle, guarantee accessibility and meaningful participation of victims, respect their diversity as to their particular needs and interests, including gender-specific considerations, and take into account any obstacles victims may face in coming forward and expressing their views. The TFV shall take into account the victims’ views and proposals when designing the DIP projects. The Chamber further instructs the TFV to take the necessary measures to ensure the victims privacy and safety at all times, in accordance with the reparations principles of ‘Victim-centred approach: accessibility and consultations with victims’<sup>681</sup> and ‘Dignity, non-discrimination, and non-stigmatisation’.<sup>682</sup>
271. In light of the current security situation in Mali, and noting the importance of conducting substantive consultations with victims and relevant stakeholders to prepare the DIP as well as the TFV’s time projections, the Chamber instructs the TFV to submit its DIP for the Chamber’s approval within nine months of the issuance of this Reparations Order, *i.e.* by 25 January 2027, at the latest.
272. For clarity and efficiency purposes, the Chamber considers that the DIP shall be completed following the same format as the DIP chart submitted in the *Ongwen* case.<sup>683</sup> Moreover, all information relevant to the three elements of the DIP shall be contained in

<sup>676</sup> [LRVs Second Submissions](#), ICC-01/12-01/18-2732-Red, paras 74-76; [Defence Response to Submissions](#), ICC-01/12-01/18-2741-Red, para. 41.

<sup>677</sup> [TFV Submissions](#), ICC-01/12-01/18-2737, para. 107.

<sup>678</sup> [University of Edinburgh Submissions](#), ICC-01/12-01/18-2736, paras 12-13; [Mama Koité Doumbia et al. Submissions](#), ICC-01/12-01/18-2735, paras 23-24, 49.

<sup>679</sup> See [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, para. 4; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 57.

<sup>680</sup> See paragraph 22 above.

<sup>681</sup> See [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 29-32; [Al Mahdi Reparations Order](#), ICC-01/12-01/15-236, para. 30; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 4, 45-51; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 57, 64(i)-64(ii). See also [T-219](#), p. 75, line 12 to p. 76, line 11.

<sup>682</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, para. 512; [Ntaganda Reparations Order](#), ICC-01/04-02/06-2659, paras 40-44; [Lubanga Amended Reparations Order](#), ICC-01/04-01/06-3129-AnxA, paras 12-15.

<sup>683</sup> [Ongwen Reparations Order](#), ICC-02/04-01/15-2074, paras 800-804.

the chart. The TFV may also submit a cover filing of no more than 20 pages pursuant to regulation 37 of the Regulations.

273. The Chamber reiterates that, as part of its limited oversight role during the implementation and execution of the Reparations Order, the Chamber will apply a general approach when ruling upon the TFV's DIP.<sup>684</sup> In order to inform its decision on the matter, the Chamber invites the parties and the Registry to provide observations on the DIP by 22 February 2027, the latest.
274. Lastly, the Chamber stresses that, depending on the information to be provided by the TFV in its DIP, it may need to allow for phased and flexible approaches to the implementation of the reparations awarded, including by allowing prioritisation and adjustments according to the availability of funds.

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<sup>684</sup> [Ntaganda First DIP Decision](#), ICC-01/04-02/06-2860-Red, para. 20; [Ongwen Reparations Order](#), ICC-02/04-01/15-2074; [Ongwen Decision on the Draft Implementation Plan](#), ICC-02/04-01/15-2106, para. 7.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY, UNANIMOUSLY**

**ISSUES** an Order for Reparations against Mr Al Hassan;

**AWARDS** collective community-based reparations with limited individualised components focused on rehabilitation, symbolic and satisfaction measures, to the direct and indirect eligible victims in the case;

**ESTIMATES** the total number of potentially eligible direct and indirect victims in the case to be 65,202 victims;

**ASSESSSES** Mr Al Hassan's liability for reparations at €7,250,000, approximately equivalent to 4,755,688,250 Francs CFA as of 24 April 2026;

**DECIDES** that any payments made by Mr Al Hassan must be counted towards the reparations award made against him, and shall not be classified as voluntary contributions or a symbolic form of reparation;

**INVITES** the TFV to complement the resources to fulfil the reparation awards and to engage in additional fundraising efforts to the extent necessary to meet the totality of the award;

**INSTRUCTS** the TFV to prepare a DIP pursuant to the requirements outlined in the present Order and to submit it for the Chamber's approval by 25 January 2027, at the latest;

**INVITES** the parties and the Registry to provide observations on the TFV's DIP in no more than 20 pages, by 22 February 2027;

**INSTRUCTS** the Registry to design and conduct, throughout the duration of the administrative eligibility process, the required outreach campaign for the purposes of this reparations proceedings, after engaging in consultations with the parties, the TFV, the VPRS, and the OPCV;

**INSTRUCTS** the Registry, through the VPRS, to commence with the identification of potential beneficiaries as soon as possible, and before the approval of the DIP;

**INSTRUCTS** the Registry to submit its observations on the time needed to conduct the eligibility assessment process by 23 June 2026;

**INSTRUCTS** the parties and the TFV to file responses to the Registry's submissions on the time needed to conduct the eligibility assessment process by 21 July 2026;

**INSTRUCTS** the TFV to file a public redacted version of the Victims' Voices Study, ICC-01/12-01/18-2737-Conf-AnxC, once the final version is available;

**INSTRUCTS** the VPRS and the PIOS to work together during the administrative eligibility process;

**REQUESTS** that the Presidency, with the support of the Registry, continues to explore whether Mr Al Hassan possesses any undiscovered assets and to monitor Mr Al Hassan's financial situation on an ongoing basis; and

**ENCOURAGES** the States, organisations, corporations, and private individuals to support the TFV's mission and efforts, and to contribute to its fundraising activities.

Done in both English and French, the English version being authoritative.



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**Judge Kimberly Prost, Presiding Judge**



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**Judge María del Socorro Flores Liera**



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**Judge Keebong Paek**

Dated this 28 April 2026

At The Hague, The Netherlands