

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/12-01/15

Date: 20/10/2016

TRIAL CHAMBER VIII

**Before: Judge Raul C. Pangalangan, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Bertram Schmitt**

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
*THE PROSECUTOR v. AHMAD AL FAQI AL MAHDI***

Public

Application by Queen's University Belfast Human Rights Centre and the Redress Trust for leave to submit observations pursuant to Article 75(3) of the Statute and Rule 103 of the Rules

Source: Queen's University Belfast Human Rights Centre and the Redress Trust

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

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Mr James Stewart

Counsel for the Defence

Mr Mohamed Aouini
Mr Jean-Louis Gilissen

Legal Representatives of the Victims

Mr Mayombo Kassongo

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

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Isabelle Guibal

Other

1. On the 27th September 2016, Trial Chamber VIII found Mr Al Mahdi guilty of the war crime of attacking protected objects under Article 8(2)(e)(iv) of the Rome Statute in its 'Judgment and Sentence' decision.¹
2. On the 29th September 2016 Trial Chamber VIII issued its 'Reparations Phase Calendar' and invited interested organisations to request leave to make submissions by 21 October 2016, in accordance with Rule 103 of the Court's Rules.²
3. Queen's University Belfast's Human Rights Centre (HRC) and the Redress Trust (REDRESS) request leave to file a joint submission on these reparations-related issues identified by the Chamber.
4. The HRC along with the Transitional Justice Institute based in Ulster University were granted standing to file a submission in the *Katanga* case in February 2015, followed by a 50-page submission in May 2015³ and were granted standing in the *Bemba* case in August 2016.⁴ The HRC is part of a publicly funded university in Northern Ireland, which specialises in researching and teaching human rights, international criminal justice and transitional justice. The HRC has over twenty-five years of experience researching and providing expert testimony and consultation on reparations to a number of governments, regional courts, and civil society organizations, including the Extraordinary Chambers in the Courts of Cambodia, the Inter-American Court of Human Rights, the International Centre for Transitional Justice, the United Nations and in Cambodia, Northern Ireland, Sierra Leone, South Africa and Uganda.

¹ ICC-01/12-01/15-171.

² ICC-01/12-01/15-172.

³ *Prosecutor v. Germain Katanga*, Request for leave to file submission on reparations issues pursuant to Article 75 of the Statute ICC-01/04-01/07-3519, 2 February 2015; and Submission on Reparations Issues pursuant to Article 75 of the Statute, ICC-01/04-01/07-3551, 15 May 2015.

⁴ *Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on requests to make submissions pursuant to article 75(3) of the Statute and rule 103 of the Rules of Procedure and Evidence, ICC-01/05-01/08-3430, 25 August 2016; and Submission by QUB Human Rights Centre on reparations issues pursuant to Article 75 of the Statute, ICC-01/05-01/08-3444, 17 October 2016.

5. Members of the HRC have just been awarded an Arts and Humanities Research Council grant to further its research on reparations for cultural property, drawing upon its work in Cambodia and other contexts.⁵ The HRC submission will draw upon its members experience in numerous jurisdictions in effectively implementing reparations.
6. REDRESS is an international non-governmental organisation registered in the United Kingdom and with special consultative status with the UN Economic and Social Council (ECOSOC). Its mandate is to seek justice and reparation for victims of torture and related international crimes. It has over 20 years' expertise in advocating for the rights of victims to gain both access to the courts and redress for their suffering, in over 50 countries worldwide.
7. REDRESS has extensive experience in directly representing victims as well as with interventions before national and international courts and tribunals including, at the international level, the United Nations Committee against Torture, the United Nations Human Rights Committee, the European Court of Human Rights, the Inter-American Commission and Court of Human Rights, the African Commission on Human and Peoples' Rights, the Special Court for Sierra Leone, and the Extraordinary Chambers in the Courts of Cambodia. It has also been granted leave to intervene and has submitted observations in several proceedings before the International Criminal Court.⁶

⁵ AH/P007929/1.

⁶ *Prosecutor v. Jean-Pierre Bemba Gombo*, Observations by the Redress Trust pursuant to Article 75(3) of the Statute and Rule 103 of the Rules ICC-01/05-01/08-3448, 17 October 2016; *Prosecutor v. Germain Katanga*, Redress Trust observations pursuant to Article 75 of the Statute, ICC-01/04-01/07, 15 May 2015; *Prosecutor v Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, Lawyers for Justice in Libya and Redress Trust's Observations pursuant to Rule 103 of the Rules of Procedure and Evidence, ICC-01/11-01/11-172, PTC I, 8 June 2012; *Prosecutor v Laurent Gbagbo*, Redress Trust Observations to Pre-Trial Chamber I of the International Criminal Court Pursuant to Rule 103 of the Rules of Procedure and Evidence, ICC-02/11-01/11-62, PTC I, 16 March 2012; *Prosecutor v Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen*, Amicus Curiae submitted pursuant to the Pre-Trial Chamber II "Decision on application for leave to submit observations under Rule 103" dated 5 November 2008, ICC-02/04-01/05-353, PTC II, 18 November 2009.

8. REDRESS is regularly solicited for its expertise on reparations by governments, UN bodies, independent experts, civil society groups and courts. It has conducted in-depth research on reparations for victims of torture and other related international crimes,⁷ including in the African context.⁸ It has made substantive submissions relating to the right to reparation including to the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence⁹ and the Committee against Torture.¹⁰
9. It is submitted that the HRC and REDRESS have relevant experience and expertise pertaining to the issues with which Trial Chamber VIII is confronted. Our collaborative submission will draw upon the experience and knowledge of both the HRC and the REDRESS Trust to inform appropriate reparations in the *Al Mahdi* case. Our submission would address restorative measures for damaged or destroyed cultural property, the impact of the destruction of cultural property on affected communities and individual victims, and appropriate measures to address the victims' psychological, moral and economic harm as a result. We would also discuss appropriate apologies and acknowledgements of responsibility, given representations by the victims that they are not satisfied with Mr Al Mahdi's apology and expression of remorse.¹¹

⁷ Carla Ferstman, Mariana Goetz and Alan Stephens (eds), *Reparations for Genocide, War Crimes and Crimes Against Humanity: Systems in Place and Systems in the Making*, Martinus Nijhoff 2009; Carla Ferstman, *Responding to the Introduction of Cholera to Haiti: Policy Options*, REDRESS, June 2016; REDRESS, *Reparation For Torture: A Survey of Law and Practice in Thirty Selected Countries*, 2003.

⁸ *Reaching for Justice: The Right to Reparation in the African Human Rights System*, REDRESS, October 2013.

⁹ *Articulating Minimum Standards on Reparations Programmes in Response to Mass Violations*, Submission to the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, REDRESS, July 2014.

¹⁰ REDRESS submission on CAT draft General Comment on Article 14, REDRESS, September 2011.

¹¹ ICC-01/12-01/15-T-6-ENG, 24 August 2016, p30-31.



Signed by Luke Moffett,
Director of the Queen's University Belfast Human Rights Centre



Signed by Carla Ferstman
Director of the Redress Trust

20th October 2016

At Belfast and London