

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15

Date: **7 February 2022**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang'ho Chung

SITUATION IN UGANDA

**IN THE CASE OF
THE PROSECUTOR v. DOMINIC ONGWEN**

**Level of Confidentiality
Public**

*Amicus Curiae observations by the International Center for Transitional Justice and the
Uganda Victims Foundation, pursuant to article 75 of the Statute
and Rule 103 of the Procedure and Evidence*

Source: The International Center for Transitional Justice (ICTJ)
The Uganda Victims Foundation (UVF)

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

The Office of the Prosecutor

Mr. Karim A. A. Khan
Mr. James Stewart

Counsel for the Defence

Mr Krispus Ayena Odongo
Mr Charles Achaleke Taku
Ms Beth Lyons

Legal Representatives of the Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox

Legal Representatives of the Applicants

[1 name per team maximum]

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

Ms Paolina Massidda

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

[2 names maximum]

States' Representatives

Competent authorities of the Republic of
Uganda

Amicus Curiae

REGISTRY

Registrar

M. Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

The Trust Fund of Victims

Mr Pieter de Baan

I. INTRODUCTION

1. Pursuant to Trial Chamber IX's "Order for Submissions on Reparations" (respectively "Chamber" and "Order") issued on 6 May 2021, and the Chamber's decision granting the International Center for Transitional Justice "ICTJ" and the Uganda Victims Foundation "UVF" leave to file amicus observations on reparations issued on 17th June 2021,¹ we hereby submit amicus observations on the issues related to the Chamber's Order.
2. These submissions contain the following four sections. The first section deals with the types of victims or groups of victims who may require prioritization in the reparations process.² The second section addresses the scope and extent of the harm resulting from the crimes for which Mr. Ongwen was convicted. The third section focuses on the types and modalities of reparations. Finally, the fourth section addresses the estimated costs for repair.
3. As an introductory note, for this submission we rely on the Court's well-established case law regarding the types of harms (individual and collective), and the types of reparations. For the former, we submit that the crimes for which Mr. Ongwen was convicted caused individual and collective harms simultaneously, and that is the basis for the types of harms identified hereinafter. Regarding the types of reparations, considering that the Court requested the identification of "the suitability of collective reparations with individualized components, the appropriate modalities to be included therein"³ we submit that the Court should order both types of collective reparations which it has previously acknowledged, i.e., (I) *collective with individualized components*, which acknowledge the great scope of victimization by focusing on the individual members of the group" resulting "in individual benefits, to respond to the needs and current situation of the individual victims in the group,"⁴ and (II) *community based reparations*, which are "intended to benefit the community as a whole and does not specifically address individual members thereof."⁵

II. PROCEDURAL HISTORY

4. On 6 May 2021, Trial Chamber IX sentenced Dominic Ongwen to 25 years of imprisonment. On the same day, the Trial Chamber issued an Order for Submissions on Reparations in the Ongwen case ("The Order"). In this Order, the Chamber, inter alia, invited "any persons or organizations, particularly with local expertise, interested in making

¹ See the "Decision on the requests for leave to submit amicus curiae observations" (Trial Chamber IX), ICC-02/04-01/15-1860, 17 June 2021.

² In *Ntaganda's Order of Reparation*, the Court addressed the principle of prioritization as means to give an equal and fair treatment to victims while acknowledging the differentiated impact of the crimes in their lives, especially in regards of their urgent and immediate needs. See: *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, "Reparations Order", 8 March 2021, [English], ICC-01/04-02/06-2659, paras. 92 & 03. In this submission, we will address paragraph 5(i)(d) direction contained in the call for submissions, in which the Court requires clarification on "any victims or groups of victims who may require prioritization in the reparations process"

³ "Order for Submissions on Reparations" (Trial Chamber IX), ICC-02/04-01/15-1820 06-05-2021, 6 May 2021, para. 5(i)(g)

⁴ *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, "Reparations Order", 8 March 2021, [English], ICC-01/04-02/06-2659, para. 81.

⁵ Ibid.

submissions on the specific reparations-related issues listed by the Chamber, to request leave from the Chamber, pursuant to article 75 of the Statute and rule 103 of the Rules.”⁶

5. The Chamber invited submissions on the reparation issues contained in paragraph 5 of the Order on Reparations.⁷ On 17th June 2021, the Chamber granted all requests for leave to submit amicus observations on reparations.⁸

III. SUBMISSIONS AND OBSERVATIONS

6. We respectfully submit that the Court’s relevant principles relating to reparations issued in the Ntaganda and Lubanga cases⁹ should apply in the present case, consistently with the 2005 UN Basic Principles and Guidelines on the Right to a Remedy.
7. We further submit that victims should be consulted and adequately informed about the design and implementation of the reparation’s framework.

A. Any victims or groups of victims who may require prioritization in the reparations process

8. Based on its case law, the Court should grant priority to those victims who are in a particularly vulnerable situation or require urgent assistance.¹⁰ In line with article 21(3) of the Statute, reparations must be applied without any prejudice and should be available to all victims equally. However, the court may adopt affirmative action measures to guarantee equal, effective, and safe access to reparations for particularly vulnerable victims to materially repair the harm inflicted upon them in order to transform the social and economic circumstances of their community or society, and thereby ensure both their livelihood and wellbeing.¹¹
9. In the current case, we submit that priority should be given to victims who need urgent physical and psychological medical care, including those who still have shrapnel and bullet wounds in their bodies; persons who sustained disability resulting from Mr. Ongwen’s crimes; victims of sexual and gender based crimes; elderly victims who are unable to fend for themselves; victims who are homeless and are facing financial hardship; children born out of wartime sexual violence; and former child soldiers. These are all victims who should be considered as in need of urgent assistance.

⁶*The Prosecutor vs Dominic Ongwen* ICC-02/04-01/15-1820 Order for Submissions on Reparations Para 5 (iii) 6 May 2021

⁷ *Ibid*

⁸ *The Prosecutor vs Dominic Ongwen* ICC-02/04-01/15-1820 Decision on the requests for leave to submit amicus curiae observation, Para 12, 17th June 2021

⁹ *The Prosecutor vs Thomas Lubanga*, Amended Reparations Order, ICC-01/04-01/06-3129-AnxA, paras 1-49; *The Prosecutor vs Bosco Ntaganda*, ICC-01/04-02/06, Reparations Order Para 28-61,

¹⁰ *Lubanga Decision*, ICC-01/04-01/06-2904, para. 200; *Lubanga Amended Reparations Order*, ICC-01/04-01/06-3129-AnxA, para. 19; *Katanga Reparations Order*, ICC-01/04-01/07-3728, para. 310; *Al Mahdi Reparations Order*, ICC-01/12-01/15-236, para. 140, *The Prosecutor v Bosco Ntaganda*, Reparations Order ICC-01/04-02/06-2659

¹¹ *The Prosecutor v. Thomas Lubanga Dyilo*, Appeals Chamber, “Order for reparations” (amended), 3 March 2015, [French] translation registered on 1 August 2016, ICC-01/04 01/06-3129-AnxA, para. 19, See *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, “Reparations Order”, 8 March 2021, [English], ICC-01/04-02/06-2659, para. 92-93

10. In particular, we submit that harms like HIV as a result of rape, are of such a nature that if not addressed urgently or in the appropriate manner, can lead to more serious or permanent harm, even death. Victims of rape who are HIV-positive, HIV-positive children born of rape, and partners of victims of rape who have also been infected with HIV/AIDS should be prioritized in reparations programs to prevent permanent damage.

B. Specification of the types and extent of the harm suffered by the victims of the crimes for which Mr. Ongwen was convicted

11. According to the Court's established case-law in its Orders for Reparations as well as in the decisions adopting reparations principles pursuant article 75(1) of the Rome Statute, the notion of harm should be understood as any "hurt, injury and damage,"¹² which might have been caused directly or indirectly due to the commission of the crimes for which the perpetrator was convicted. Such harms should be personal to the victim¹³ and can be of material, physical, or psychological nature.¹⁴ Consequently, the causal nexus between the actions of the convicted person and the identified harms should be established throughout the reparations process,¹⁵ in accordance with the standard of proof and the presumptions of fact enshrined in the reparation principles defined by the Court.
12. In addition to the traditional categories of harm, the Court has acknowledged that the suffering caused by the offenses may entail transgenerational harms, which "refers to a phenomenon, whereby social violence is passed on from ascendants to descendants with traumatic consequences for the latter."¹⁶
13. The victims of the crimes in the present case suffered multi-dimensional harms because entire communities were targeted in the perpetration of the crimes of murder, attempted murder, sexual violence, forced conscription of child soldiers, attacks against the civilian population, persecution, pillaging, and destruction of private property and protected objects.
14. Victims endured physical, material, and economic harms, such as loss of life chances/living standards due to the loss of income generating opportunities, loss of opportunities for development (including schooling children), resulting in a life of economic hardship.
15. Victims also underwent structural harms, including lack of access to education, healthcare services, and other fundamental socio-economic rights due to the destruction caused by conflict; worsened economic standard of living; lack of employment opportunities; general reduced socio-economic opportunities; and restricted possibility to provide proper livelihood for self and family. The long-running conflict completely decimated the economic infrastructure and social fabric in Northern Uganda. While a lot of progress has

¹² *The Prosecutor v. Thomas Lubanga Dyilo*, Appeals Chamber, "Order for reparations" (amended), 3 March 2015, [French] translation registered on 1 August 2016, ICC-01/04-01/06-3129-AnxA, para. 10.

¹³ *The Prosecutor v. Thomas Lubanga Dyilo*, Trial Chamber I, "Decision establishing the principles and procedures to be applied to reparations", 7 August 2012, [English] ICC-01/04-01/06-2904, para. 194.

¹⁴ *The Prosecutor v. Germain Katanga*, Trial Chamber II, "Order of Reparations", 24 March 2017 [French] translation registered on 17 August 2017, ICC-01/04-01/07-3728-tENG, para. 74.

¹⁵ *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Trial Chamber VIII, "Order of Reparations", 17 August 2017, [English] ICC-01/12-01/15-236, para. 42; *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, "Reparations Order", 8 March 2021, [English], ICC-01/04-02/06-2659, para. 75.

¹⁶ *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, "Reparations Order", 8 March 2021, [English], ICC-01/04-02/06-2659, para. 74.

been made since then, it has been harder for victims to cope. The Uganda National Household Survey and Poverty Index indicate that war affected regions in Northern Uganda continue to lag behind in a majority of the key growth and development indicators, mainly due to the untreated trauma, loss of livelihood and property, and long-term disability.¹⁷

16. According to the 2017 Secure Livelihoods Research Consortium (SLRC) study, households with members who experienced war crimes were significantly more likely to be economically worse-off, and with worse access to basic services than other households that did not experience the war.¹⁸ This has been compounded by the break down in social networks that have historically been relied on for support, and the limited livelihood and social protection systems by the State.
17. Victims suffered severe psychological harms, which "may include both, the suffering and affliction caused to direct victims and their family members and the impairment of values of great significance for the individual, as well as the alterations of a non-pecuniary character in the living conditions of the victims or their family."¹⁹ Here, the psychological harms are related to life planning, intergenerational harm, trauma, memory loss, suicidal tendencies, painful memories, anxiety, depression, loss of productive capacity, sleep deprivation, among others.
18. Specifically, we submit that persons subjected to the following category of crimes have suffered the following types of harm:
 - i. *Victims of attacks* – (murder, attempted murder, torture, enslavement, outrages upon personal dignity, pillaging, destruction of property and persecution)
19. Mr. Ongwen was convicted for crimes related to the attacks on civilian populations in the Internally Displaced Persons (IDP) camps of Pajule, Lukodi, Odek, and Abok, such as murder, attempted murder, torture, enslavement, outrages upon personal dignity, pillaging, destruction of property and persecution.²⁰ These crimes have had multidimensional harms on the direct and indirect victims, of both individual and collective nature.
20. The victims of attacks were subjected to *severe forms of physical violence*, including mutilation, deliberate burning, gunshot wounds, shrapnel injuries, and beatings. Some victims are living with fragments of bombs and bullets in their bodies. As well as the physical pain and hardship endured, disability has potentially serious impacts on victims' economic well-being and that of their families.
21. Victims of attacks experience *persistent health challenges* resulting from the physical and psychological harms that they suffered. These health needs are recurrent and require regular and specialized medical attention. For example, some victims experience chronic chest and back pain resulting from being forced to carry heavy loads or severe beatings while in captivity. Others have war related disabilities which require regular orthopedic services and

¹⁷ Uganda Bureau of Statistics, Uganda National Household Survey (UNHS) 2019/2020 Pg 96

¹⁸ Dan Maxwell, Dyan Mazurana, Michael Wagner, and Rachel Slater, 'Livelihoods, conflict and recovery: finding from the Secure Livelihoods Research Consortium', (ODI 2017), <<https://odi.org/en/publications/livelihoods-conflict-and-recovery-findings-from-the-secure-livelihoods-research-consortium/>>.

¹⁹ Ibid Par 90

²⁰ *The Prosecutor v. Dominic Ongwen* Trial Judgment. ICC-02/04-01/15-1762-Red 04-02-2021

therapy. In some cases, victims have been severely mutilated and require complex reconstructive surgery.²¹

22. Victims are compelled to spend the little resources they have to cater to their recurrent medical needs instead of meeting their other basic needs and pursuing life development opportunities. There have been interventions by nongovernmental organizations supported by several donors, including the ICC Trust Fund for Victims (TFV) under its victims assistance mandate, but statistics suggest that victims with physical and psychological injuries require further immediate and long-term support for their rehabilitation and care.²² In an assessment by ICTJ and UVF in Pajule, members of the community noted that victims with physical and psychological injuries who are unable to fend for themselves through farming, have become a burden on the community because they depend on their relatives for survival.²³
23. Individuals that *lost family members who were the main provider* of the family suffered material loss which affected their standard of living. The widows who derived their access to land and livelihood through their husband, face eviction and economic hardship. Children of the victims lost the opportunity to continue their education because they could no longer afford school fees, others were denied land rights and became homeless. In other cases, individuals that lost family members face the additional burden of providing for dependents of the murdered relative which in turn has affected their standard of living.
24. Victims of attacks suffer *psychological harm* resulting from torture, mutilation, and witnessing gruesome crimes. An assessment conducted by ICTJ established that victims experience mental trauma because they keep recalling these scenes. This has led to depression, substance abuse, and in some cases suicide.²⁴ Early studies found rates of depression in conflict-affected communities in Northern Uganda at 50% compared to 8% in other parts of Uganda not affected by conflict.²⁵ Decades after the end of the conflict, high suicide rates are still reported in the region. In 2020, eighty cases of suicide were reported in the Acholi sub-region between January and October.²⁶ Trauma has also impacted their ability to engage life development opportunities and provide for their families.
25. Victims of attacks suffered *pecuniary and non-pecuniary losses*. Victims' whose houses were burnt, shops and livestock cattle, goats, and poultry were looted during the attacks lost their livelihoods, capital and means of production. Consequently, they could not keep their children in school because they couldn't afford their school fees.²⁷ This has resulted in the

²¹ FGD discussions conducted by ICTJ in Lukodi (2020), See FGD discussions conducted by ICTJ and UVF in Abok and Odek (2021)

²² Burden of Injury during the complex political emergency in northern Uganda, Lett, Chifele- Kobusingye, Ekwaru, Canadian Journal of Surgery, 2006 February; 49(1): 51–57.

²³ FGD discussions conducted by ICTJ and UVF in Pajule (2021)

²⁴ Focus group discussions conducted by ICTJ and UVF in, Pajule (2021)

²⁵ Baingana F. & Mangen P (2011). Scaling up of mental health and trauma support among war affected communities in northern Uganda: lessons learned. Intervention 9(3): 291-303 DOI: [10.1097/WTF.0b013e32834dfcc3](https://doi.org/10.1097/WTF.0b013e32834dfcc3)

²⁶ '80 suicide cases registered in Acholi sub-region since January', (The Independent, 17 December 2020) < <https://www.independent.co.ug/80-suicide-cases-registered-in-acholi-sub-region-since-january/>>

²⁷ Focus group discussions conducted by ICTJ and UVF in Abok, Pajule and Odek (2021)

loss of life chances/living standards/opportunities for children who couldn't continue their education.

ii. *Victims of sexual violence*

26. Mr. Ongwen was convicted of nineteen counts of sexual and gender-based crimes including forced marriage, sexual slavery, rape, enslavement, and forced pregnancy. Victims of sexual and gender-based crimes continue to suffer *serious medical complications*, including physical injuries, chronic pain, and psychological trauma. Victims face an increased risk of reproductive health challenges resulting from rape and early motherhood such as obstetric fistula, incontinence, and chronic pelvic pain.²⁸ Some victims also contracted sexually transmitted diseases including HIV and syphilis, which for many women has led to infertility, mistreatment, rejection, and isolation by their families and communities. Even after their return to their communities, victims of sexual and gender-based crimes have limited access to adequate and effective medical care due to the unaffordable cost, and the absence of services tailored to respond to their medical needs.²⁹
27. Sexual violence has devastating *mental health consequences*. An assessment conducted by ICTJ, established that many victims are suffering post-traumatic stress disorder, insomnia, anxiety, headaches, low self-esteem, and thoughts of self-harm and suicide.³⁰
28. In addition, sexual violence has life long and potentially irreversible *social effects* on the lives of victims and children born of wartime rape.³¹ These include social exclusion, stigma, discrimination, and poverty, which has made it difficult for them to reintegrate into their families and communities. Victims of sexual violence are often stigmatized and abused, referred to as “Kony’s wives” by the communities, even decades after their return from captivity.³² They are often denied access to land by their families or communities, which further exacerbates the economic harm since land is a major source of livelihood for communities in Northern Uganda.³³ Victims often also face barriers in participating in public life as a result of the discrimination.³⁴

iii. *Children born from wartime sexual violence – “Children born of war”*

29. This Court has held that children born out of rape qualify as direct victims because the harm they suffered is a direct result of the commission of the sexual crime perpetrated against their mother.³⁵ Children born as a result of wartime sexual violence often endure hardship and mistreatment while in captivity with their mothers during their essential first years of

²⁸ Mariane Akumu, et.al, Uganda Country Study on Opportunities for Reparations for victims of Conflict related sexual violence, The International Center for Transitional Justice and the Global Survivors Fund, (2021)

²⁹ Ibid

³⁰ Mariane Akumu, et.al, Uganda Country Study on Opportunities for Reparations for victims of Conflict related sexual violence, The International Center for Transitional Justice and the Global Survivors Fund, (2021)

³¹ Dyan Mazurana, Teddy Atim, Ariane Brunet, Helen Kezie-Nwoha, 'Making Gender-Just Remedy and Reparation Possible: Upholding the Rights of Women in the Greater North of Uganda'. (FIC Tufts and Isis-WICCE, 2013) <<https://fic.tufts.edu/assets/Gender-Just-Remedy-and-Reparation-3-27-13-final.pdf>>

³² Virginie Ladisch, 'From Rejection to Redress: Overcoming Legacies of Conflict-Related Sexual Violence in Northern Uganda' (The ICTJ, 2015) <<https://www.ictj.org/sites/default/files/ICTJ-Report-Uganda-Children-2015.pdf>>

³³ See Teddy Atim, Dylan Mazurana and Anatasia Marshak 'Women Survivors and Their Children Born of Wartime Sexual Violence in Northern Uganda' [2018] Disasters S61.

³⁴ Ibid.

³⁵ See Ntaganda Reparations Order, Paragraph 121

life. They lack access to basic needs such as nutritious food, sleeping facilities, sanitation, and clothing.

30. Like their mothers, children born of war face *stigma, discrimination, and social rejection*, which limits their reintegration into their community.³⁶ For the children, the circumstances of their birth as a result of sexual violence places them at a disadvantage – not only of bearing the psychological burden of being evidence of the ‘*transgression of social norms and harmony*,’ and by being always associated with their father’s identity, but without the benefit of belonging to their father’s family³⁷. As a result, the children have faced multiple layers of stigma and discrimination from their family members, communities, government institutions including schools, thus depriving them of education and normal childhood and adolescent friendships, and of normal opportunities for advancement.³⁸
31. Another source of psychological trauma may stem from the child’s “lack of identity.” Fathers, despite their absence, pass on their identity as Lord’s Resistance Army (LRA) combatants obscuring the child’s possibilities for advancement and integration in the community. The child does not get any potential benefit that would come with knowing his or her father’s full identity. For many children, not knowing their father leads to a situation where they cannot access land resources, which is a key source of income, and thus cannot pay their school fees or undertake courses in skills training, leaving them with very limited opportunities for the future.³⁹
32. Furthermore, the challenges faced by children born of war regarding their identity and belonging is not confined to the cultural sphere, they extend to the legal realm. Most of the children born in LRA captivity were born in the bush, outside of a formal clinic and outside their home country. There was no provision for the registration of their birth, consequently most children born of war do not have birth certificates. For children whose parents have died, they may not know sufficient information to prove their origin.⁴⁰ Consequently, these children are undocumented, rendering it difficult if not impossible for them to prove their nationality and citizenship, thus exposing them to the risk of statelessness.
33. Civil registration and legal identity grants access to citizenship and the associated rights including the right to vote, a national identity card, passport, and social benefits. Without birth certificates or national identification cards, children born of war cannot easily access basic social services including education and health care and are locked out of nearly all social and economic spheres.⁴¹

³⁶ Sylvia Opinia and Friederike Bubenzer, 'Gender Justice and Reconciliation in Northern Uganda' (Justice and Reconciliation Project, 2011) <<http://www.ijr.org.za/home/wp-content/uploads/2019/09/JRP-IJR-Policy-Brief-Gender-Justice.pdf>> See also: Virginie Ladisch, 'From Rejection to Redress: Overcoming Legacies of Conflict-Related Sexual Violence in Northern Uganda' (The ICTJ, 2015) <https://www.ictj.org/sites/default/files/ICTJ-Report-Uganda-Children-2015.pdf>

³⁷ Dyan Mazurana, Teddy Atim, Ariane Brunet, Helen Kezie-Nwoha, 'Making Gender-Just Remedy and Reparation Possible: Upholding the Rights of Women in the Greater North of Uganda'. (FIC Tufts and Isis-WICCE, 2013) <<https://fic.tufts.edu/assets/Gender-Just-Remedy-and-Reparation-3-27-13-final.pdf>>

³⁸ See also: Virginie Ladisch, 'From Rejection to Redress: Overcoming Legacies of Conflict-Related Sexual Violence in Northern Uganda' (The ICTJ, 2015) <<https://www.ictj.org/sites/default/files/ICTJ-Report-Uganda-Children-2015.pdf>>

³⁹ Virginie Ladisch, 'From Rejection to Redress: Overcoming Legacies of Conflict-Related Sexual Violence in Northern Uganda' (The ICTJ, 2015) <<https://www.ictj.org/sites/default/files/ICTJ-Report-Uganda-Children-2015.pdf>>

⁴⁰ Margaret Ajok, Pilot study on Birth Registration of Children Born of War in the Acholi Region, Justice Law and Order Sector, (2019).

⁴¹ Ibid.

iv. *Child soldiers*

34. Mr. Ongwen was convicted for the crime of conscription of child soldiers as both crime against humanity and war crime.⁴² As it has been acknowledged, “an effort to compile all available data suggested that, by 2006, over 24,000 children and over 28,000 adults had been recruited. It was also speculated that the total number might possibly be as high as 75,000.”⁴³ Most of these recruits were children under the age of 15 as established in the judgment of this Court.⁴⁴
35. In order to address the harms inflicted upon child soldiers, it is necessary to address a significant difference among victims. On one side, there are child soldiers who did not return and who most likely died in combat or during their time of abduction. On the other side, there are child soldiers who returned to their communities after the abduction.
36. In the case of those who never returned, the Court should order reparations for the harms caused to *indirect victims*. The Court has acknowledged previously that there is a factual presumption that the “close family members of direct victims of crimes against child soldiers”⁴⁵ suffered different types of harms. Such harms mostly entail the *psychological damage* derived from both the abduction and the disappearance as separated but connected traumatic events.
37. For those victims, the Court should recognize as concrete harms “the development of psychological disorders, such as, inter alia, suicidal tendencies, depression, and dissociative behaviour.”⁴⁶ There is also potential transgenerational damage as “it is human nature for everyone to experience grief when they do not know what has happened to a child or sibling,”⁴⁷ which may endure through generations.
38. In the case of abducted children who did return, they were injured both by the LRA through torture and during their active participation in hostilities. Some of them even have projectiles lodged in the bodies. In ICTJ and UVF’s assessment with victims, reports of physical abuse and combat-related injuries signal enduring physical consequences like visual impairments, scaring, long-lasting back and chest pain, heart illness, limping, weakness, among others.⁴⁸
39. Abducting children for the purpose of forcing them to engage in war-time practices, carry guns, live in a violent environment, and commit atrocities, extracts a major toll on their

⁴² *The Prosecutor v. Dominic Ongwen*, Trial Chamber IX, “Trial Judgment”, 4 February 2021, [English], ICC-02/04-01/15-1762-Red 04-02-2021 2/1077, para. 3103

⁴³ Tim Allen, Jackline Atingo, Dorothy Atim, James Ocitti, Charlotte Brown, Costanza Torre, Cristin A Fergus, Melissa Parker. *What Happened to Children Who Returned from the Lord’s Resistance Army in Uganda?* Journal of Refugee Studies, Volume 33, Issue 4, December 2020, Pages 663–683, <https://doi.org/10.1093/jrs/fez116>, p. 666.

⁴⁴ *The Prosecutor v. Dominic Ongwen*, Trial Chamber IX, “Trial Judgment”, 4 February 2021, [English], ICC-02/04-01/15-1762-Red 04-02-2021 2/1077, para. 3103

⁴⁵ *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, “Reparations Order”, 8 March 2021, [English], ICC-01/04-02/06-2659, para. 145

⁴⁶ *Ibid.*, para. 183 (b)

⁴⁷ Inter-American Court of Human Rights. Case of the Serrano Cruz sisters vs. El Salvador. Merits, Reparations and Costs, Judgement of 1 March 2005, Series C No. 120, para. 159.

⁴⁸ Focus Group Discussion conducted by ICTJ in, Abok, (2020).

mental health, as the Court has acknowledged in previous rulings.⁴⁹ In this case, victims report suffering severe psychological consequences derived from the victimization they endured at very young age. Such consequences entail sleep deprivation, depression, anxiety for the future, substance abuse, among others.⁵⁰

40. The most common harm former child soldiers report is the loss of their educational and vocational training opportunities.⁵¹ The fact that they were abducted at such young ages implies they were not able to finish their formal studies, which represents a disadvantage when looking for a job or developing new skills to make their livelihood in an already impoverished and vulnerable environment.
41. Not only does the act of abduction inflict deep wounds on the familial and social fabric; when formerly abducted children return, they constantly face the burden of an abusive community,⁵² as well as their family's rejection.⁵³ Stigma is a reflex of the profound injuries that war has caused to communities, and it has a direct impact on the lives of former child soldiers. They are conflated with the adult leadership of the group, considered perpetrators, and carriers of a so-called 'bush mentality.'⁵⁴ Such exclusion impedes their reintegration into society and the possibility of overcoming the cycle of violence to which they were subjected.⁵⁵
42. The lack of education, the pervasive stigmatization, as well as structural economic and social disenfranchisement faced generally by the Northern Uganda communities, are all situations substantially impacting the way formerly abducted children develop their life plans. They might have wished for themselves a life without being considered "Kony's children," a "GUSCO child,"⁵⁶ a murderer and as ruthless persons. However, because of the abduction and what they were forced to do, former child soldiers are impeded from having a full realization of their life's purposes.
43. Following its jurisprudence on addressing the harms of former child soldiers, the Chamber should also acknowledge harms such as separation of families; loss of childhood; exposure to an environment of violence, fear, and threats; Difficulties in controlling aggressive impulses; and non-development of 'civilian life skills' resulting in the victim being at a disadvantage, particularly as regards to employment.

⁴⁹ *ibid.*

⁵⁰ *ibid.*

⁵¹ Focus Group Discussion, Lukodi, February 6, 2020.

⁵² "Neighbours were additionally prone to abusing or shunning them, despite attempts to make local councils monitor such things. There were complaints about name-calling, including references to where a returned child had spent time and received support (several said they were sometimes addressed aggressively as 'You! GUSCO child!' and were told to do extra labouring work)." In: Allen, Atingo, Atim, Ocitti et al. *What Happened to Children Who Returned from the Lord's Resistance Army in Uganda...* p. 170.

⁵³ As Allen et. al signal, although at the beginning some families genuinely show a welcoming attitude towards the returned children, when the time passes and the material goods, they come with from the reception centres are over - mattresses, food, money-, exclusion becomes the rule. See in: *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ Focus Discussion Group, Abok, February 5, 2020.

⁵⁶ This expression was utilized by neighbors against returning children, as a mean to highlight the fact they were former child soldiers and thus hosted into civil life by the Gulu Support and Children Organization Centre. See in: Allen, Atingo, Atim, Ocitti et al. *What Happened to Children Who Returned from the Lord's Resistance Army in Uganda...* p. 170

C. The types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Mr. Ongwen was convicted

44. Rule 97 of the Rules of Procedure and Evidence, stipulate that reparations can be collective or individual. This court has held that these types of reparations are not mutually exclusive and can be awarded concurrently and should to the extent possible, aim to complement and reinforce one another.⁵⁷
45. We submit that the court should consider that most victims have not received any form of material assistance for the harm suffered over 18 years ago, which has compounded their vulnerability. Efforts by the Government of Uganda to establish transitional justice measures have not materialized into meaningful redress and acknowledgment for victims.⁵⁸
46. Whereas it may be difficult to assess the extent of harm suffered by these victims individually, given the sheer number of victims, the court should consider the totality of harms inflicted on victims including the damage to life plan and loss of opportunities.

a. Collective reparations with individualized elements

47. Given the sheer number of victims which may have the potential of rendering the process of individual awards difficult, we submit that the most feasible approach would be to provide collective reparations that have individualized features, in the form of a Standard Reparations Package (SRP) for each victim to acknowledge the past and ongoing harm suffered by the large number of victims. This is similar to the reparations approach recommended by the experts in the Jean-Pierre Bemba Gombo case⁵⁹ and Bosco Ntaganda case.⁶⁰ The experts recommended a standard reparation package for each victim of the attacks, i.e. a Standard Compensation Amount (SCA) that includes an amount that addresses the material harms, an amount that provides livelihood assistance, and an amount that addresses the moral harms suffered by each victim.⁶¹ The SCA considers the impact of the attacks, namely, that it was detrimental to the victims' and their families' right to an adequate standard of living, including their health, education, food, clothing and need to repair pillaged houses.

i. Standard Compensation Amount

48. According to assessments conducted by ICTJ and UVF, compensation in the form of cash payments is the most preferred form of reparations.⁶² It is considered an appropriate form

⁵⁷ *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, "Reparations Order", 8 March 2021, [English], ICC-01/04-02/06-2659, para 78

⁵⁸ The Government approved the National Transitional Justice Policy in 2019 which provides for a reparations program but, it is yet to enact legislation that will establish the reparations fund,

⁵⁹ *The Prosecutor v. Jean-Pierre Bemba Gombo*, "Expert Report on Reparation", 20 November 2017, ICC-01/05-01/08-3575-Corr2-Red ("Bemba Expert Report on Reparation"), para. 173

⁶⁰ Expert Report on Reparation presented to Trial Chamber VI - Situation in the Democratic Republic of the Congo in the case of *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, "Reparations Order", 8 March 2021, [English], ICC-01/04-02/06-2659, Available: https://www.icc-cpi.int/RelatedRecords/CR2020_05969.PDF Par 174

⁶¹ *The Prosecutor v. Jean-Pierre Bemba Gombo*, "Expert Report on Reparation", 20 November 2017, ICC-01/05-01/08-3575-Corr2-Red ("Bemba Expert Report on Reparation"), para. 187

⁶² Focus Discussion Group, Abok, February 5, 2020, Focus Group Discussion with male and female victims from Acholi, Gulu, May 2021. FGD discussions conducted by ICTJ and UVF in Pajule (2021)

of recognition of the harm suffered and a contribution to improving victims' livelihoods to make up for the material harms and moral damages suffered. Having lacked assistance of any sort for over 18 years, and the economic insecurity which has been compounded by the COVID-19 pandemic, victims will welcome individual compensation awards to meet their daily needs.

49. We, therefore, recommend the payment of a standard compensation amount for the material harms and moral damages suffered by victims. As proposed by the experts in the Bemba case, the SCA can be calculated as the total sum representing the pecuniary harms which victims suffered, and a sum of money that in the Court's discretion represents the moral damage suffered by the victim.⁶³ In determining the value of the SCA, the Chamber should consider the cost of living in Uganda.⁶⁴
50. According to most community members that ICTJ and UVF consulted, the cash payments should be paid in a lumpsum. A few however recommended periodic payments.⁶⁵ Some victims do not own bank accounts because they live in areas where banks are not present and are also unable to cover bank charges or cost of transport required to go to banks. However, most of them own basic mobile phones and have MTN Uganda or Airtel mobile money accounts that allow for the transfer of money through mobile phones. Compensation could be distributed through victims' mobile money accounts.

ii. *Specialized medical services*

51. The reparations package should include the establishment or strengthening of specialized medical services at the referral hospitals or Health Center IIIs and IVs that are located at the subcounty level.⁶⁶ Several health centers that are close to victims lack specialized services required to meet the health needs of victims. Some of the health centers that have previously offered rehabilitation services to victims, such as Awach Health Center IV in the Gulu district, lack equipment, and specialists to provide specialist services.⁶⁷ The Trust Fund for Victims should seek the collaboration of the government of Uganda to rehabilitate and re-equip Awach Health Center, and other health centers that are accessible to victims.
52. The specialized services that victims need include reconstructive surgery and physical rehabilitation including the provision of artificial limbs and sexual and reproductive health services for victims of sexual violence.
53. For victims with HIV, the Court should require that reparations include access to the HIV treatment in accordance, at least, with the World Health Organization (WHO) Guidelines at the time this form of reparation is delivered.⁶⁸ These measures should include lifetime

⁶³ *The Prosecutor v. Jean-Pierre Bemba Gombo*, "Expert Report on Reparation", 20

November 2017, ICC-01/05-01/08-3575-Corr2-Red ("Bemba Expert Report on Reparation"), para. 189

⁶⁴ *Ibid*

⁶⁵ Focus group discussions conducted by ICTJ and UVF in Abok, Odek and Pajule (2021)

⁶⁶ Uganda operates a decentralized health care system at the district level, linked to the administrative and political structures. The lowest level of health centre with infrastructure is Health Centre II at the parish level followed by the Health Center III, and Health Centre IV at the subcounty and county levels and the general hospital at the district level. See The Second National Health Policy. Kampala, Uganda: Ministry of Health, Uganda; 2010.

<http://library.health.go.ug/publications/policy-documents/second-national-health-policy-2010>

⁶⁷ Interview with Gulu District Health Officer November 2021

⁶⁸ World Health Organization, Updated recommendations on first-line and second-line antiretroviral regimens and post-exposure prophylaxis and recommendations on early infant diagnosis of HIV, available at: <https://www.who.int/publications/i/item/WHO-CDS-HIV-18.51>

and free access to (I) needed medication such as antiretroviral treatments and others to deal with HIV and other opportunistic diseases; (II) regular access to diagnostic services and regular control checks; (III) social support, including food supply adequate to the treatment, emotional support, psychosocial assistance and nutritional support; (IV) condoms, lubricants, and sterilized injection materials. Medical treatment should be provided in medical facilities nearby the victim's residence.⁶⁹ Additionally, victims with recurrent health needs could be provided with a medical insurance scheme which would allow regular and repeated access to different health facilities including those with specialized services. Medical insurance should also cover the victims' children.⁷⁰

iii. *Land and housing*

54. We submit that the Court should provide housing and access to land to victims who were rendered homeless because of attacks. For certain victims, such as the disabled, this can be done through non-governmental organizations that have provided disabled-friendly housing, such as the support offered to war amputees in Sierra Leone.⁷¹ Victims should include widows and orphans who were deprived of their land after the attacks; and victims of sexual violence and children born of war who face stigma, discrimination, and rejection in their communities. Land ownership provides them with stability and a source of livelihood. Given the complications derived from the customarily owned property in Northern Uganda which historically excludes marginalized groups including victims of sexual violence and children born of war, the Court could require the TFV to coordinate actions with local civil society organizations working on land rights issues as well as relevant government institutions to establish a housing program aimed at guaranteeing these victims proper access to their right to a safe and dignified house.

iv. *Education assistance*

55. Education as a form of reparation entails acknowledgement of the unjust harm that children and youth as rights-bearers or, their communities have endured.⁷² Education has a reparative character since it plays a role in fostering the reintegration and rehabilitation of individuals whose rights have been violated into society. The most vulnerable groups, namely former child soldiers, children forced out of school because of violations perpetrated against them or their families, children with disabilities, victims of sexual violence, generally require additional assistance to overcome challenges they face in restarting their education.

56. To address the lost educational opportunities suffered by victims, we submit that the reparations package should include scholarships and education grants for children born of war and the descendants of the deceased victims.⁷³ These scholarships should cover the

⁶⁹ Case of Cuscul Pivaral y otros Vs. Guatemala. Preliminary Objection, Merits, Reparations and Expenses. Judgment from 23 August 2018. Serie C No. 359, para. 209-211).

⁷⁰ This was recommended during a Focus Group Discussion with victims of sexual violence in Acholi, May 2021.

⁷¹ Fin-Jasper Langmack, Reparations in Sierra Leone: News from the Periphery of Transitional Justice. 3 February 2018, available at: <https://www.justiceinfo.net/en/43710-reparations-in-sierra-leone-news-from-the-periphery-of-transitional-justice.html>

⁷² Ramírez-Barat, C. and Duthie, R. 2015. Education and Transitional Justice: Opportunities and Challenges for Peacebuilding. Available: <https://www.ictj.org/sites/default/files/ICTJ-UNICEF-Report-EducationTJ-2015.pdf>

⁷³ As expressed by the Inter-American Court of Human Rights (the "IACtHR") in the Aloeboetoe et al. v. Suriname in addition to compensation, education had to be guaranteed to the children heirs of the deceased.

child's entire education from primary school to university or tertiary institution. Community members and victims also recommended the construction of schools in the in the areas where massacres took place that would provide an education for the children of the affected communities. While some schools were previously built for this specific purpose, they are too expensive and unaffordable for those they are supposed to cater.⁷⁴ The Court should support the establishment of Accelerated Learning Programs (ALP), such as the Functional Adult Literacy programs, to enable adult victims to "read and write their names and cope in a fast-changing digital world."⁷⁵

v. *Livelihood and economic development.*

57. We submit that the focus of reparations awards, either individual or collective, should be to provide the victims with a sustainable and long-term livelihood and well-being rather than simply addressing their daily needs on a short-term basis. Having a source of income would help address their other needs, including being able to pay school fees for their children and healthcare.

58. This entails providing opportunities for development to address the damage to life plans that victim suffered. It could take the form of supporting business start-ups; collective farming initiatives by providing farming equipment such as tractors and ox-ploughs; and supporting microfinance initiatives such as village savings and loan associations, to create a sustainable means of guaranteeing long-term livelihood and well-being.⁷⁶ These programs could be implemented, depending on the location of victims, on a community or family-based approach or another group-based approach. These measures would be of benefit for both individual victims, their families, and communities.

vi. *Exhumations and reburials.*

59. Following the attacks on the IDP camps of Abok, Pajule, Lukodi and Odek, grief stricken, and terrified relatives hastily buried the victims in shallow mass graves and fled. In addition, the LRA often deposited bodies of civilians or soldiers in pit latrines or mass graves in schools or church yards. Other victims were simply left exposed in the bush, where their remains decayed in the open and were scavenged by animals.⁷⁷ The relatives of these victims are living with trauma and "spiritual disturbances" because they were not able to bury their family members in accordance with their local customs.⁷⁸ Most of the surviving relatives lack resources for reburials and the necessary rituals. Moreover, the owners of the land where the mass graves are situated keep threatening to exhume the mass graves so that they can use the land for farming. This has led to anguish among relatives of the victims. We submit that the Trust Fund for Victims, working with the relevant local institutions,

⁷⁴ Focus Group Discussion with male and female victims from Acholi, Gulu, May 2021.)

⁷⁵ Ibid.

⁷⁶ Focus Group Discussions conducted by ICTJ in Abok, Pajule and Odek (2021)

⁷⁷ Justice and Reconciliation Project, *The Lukodi Massacre 2004* JRP Field Note XIII, April 2011, See Hepner, Tricia Redeker, Dawnie Wolfe Steadman, and Julia R. Hanebrink. (2018) "Sowing the Dead: Massacres and the Missing in Northern Uganda." In *Massacres: Bioarchaeological Interpretations of the Human Past: Local, Regional, and Global Perspectives*. Cheryl P. Anderson and Debra L. Martin, eds. University Press of Florida. Pp. 136-154.

Sowing the Dead: Massacres and the Missing in Northern Uganda. In *Massacres: Bioarchaeology and Forensic Anthropology Approaches*. Cheryl P. Anderson and Debra L. Martin, eds. University Press of Florida. pp. 136-154..

⁷⁸ Focus Group Discussion with male and female victims from Acholi, Gulu, May 2021

should support the families of the deceased to rebury their relatives in accordance with their customs.

b. Collective community-based reparations

60. The crimes for which Mr. Ongwen has been convicted have long-term consequences for the affected communities. There is enduring collective psychosocial harm suffered by the entire community in Abok, Odek, Pajule and Lukodi due to the horrific attacks. The attacks further destroyed community cultural structures and social networks, thus causing transgenerational harm beyond the victims themselves.
61. In addition to collective reparations with individualized components, we submit that the Court should award collective reparations that benefit the entire community. Initiatives that strengthen the capacity of existing community infrastructure or build new ones which are beneficial to victims and members of the community, would contribute to reducing divisions, foster reconciliation and mitigate the stigma, resentment and jealousy of community members or other victims who fall outside the scope of this case.
62. During conversations facilitated by ICTJ and UVF in the four case locations, members of the community including victims specified their preferred community reparations. In Pajule, community members recommended the restoration and strengthening of Mary Immaculate Vocation School, which was constructed by the church mission Caritas, which stopped functioning due to lack of equipment and training instructors. In Abok and Odek, community members recommended a community center for art and sports which they believe will contribute to unifying the community and promoting reconciliation. Community reparative measures should improve the livelihoods of victims and the affected communities and offer an opportunity to harness the talents and abilities of the young people.

c. Specific reparations for former child soldiers and children born of war

63. Participation in armed conflict disrupts child development. The concept of a “life plan” is a useful tool to assess the kind and extent of damage caused by participation in conflict and it contributes to victims’ future development.⁷⁹ It is therefore necessary for reparations programs to address damage to the life plan and establish the restitution of conditions necessary for former child combatants to reconstruct their “life plan.” In the Bosco Ntaganda case, the court acknowledged the “loss of life plan” as an ongoing harm that victims, including former child soldiers experience.⁸⁰
64. The success of re-integration of former child soldiers’ balances on a set of social circumstances since child combatants represent only a small percentage of the children whose lives have been impacted by armed conflict.⁸¹ Indignation and tension may emanate

⁷⁹ Birchal E. Birchall, E. Francq & A. Pijnenburg, ‘The International Criminal Court and Reparations for Child Victims of Armed Conflict, Briefing Paper No. 4 (2011)

⁸⁰ *The Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, “Reparations Order”, 8 March 2021, [English], ICC-01/04-02/06-2659, 2021 Para 165

⁸¹ Birchal E. Birchall, E. Francq & A. Pijnenburg, ‘The International Criminal Court and Reparations for Child Victims of Armed Conflict, Briefing Paper No. 4 (2011)’, http://www.essex.ac.uk/tjn/documents/paper_4_children_in_conflict_large.pdf. Page 12

from former child soldiers receiving benefits that are unavailable to other children living in vulnerable communities, and thus undermining their re-integration. This situation can be further exacerbated by stigma and blame generally associated with those children who are connected to the armed conflict, because they participated in the hostilities or because they were subjected to sexual violence. It has been recommended that the most appropriate way to assist former child soldiers is to also address their family and community.⁸²

65. A general consideration of the best suited reparation for former child soldiers among the participants in the community dialogues we engaged in relates to the necessity to provide training in relevant skills that would allow them to access the job market and overcoming the lack of education they endured due to their early abduction.⁸³ Accordingly, one of the reparative measures that the Court could order is ensuring the access of the former child soldiers recognized as victims, to training programs sponsored the TFV.
66. Moreover, since one of the most pressing harms former child soldiers still endure today is the social stigma and the exclusion from communities sourced in the prejudices against those who endured abduction, the Court should also order as a *measure of satisfaction and non-recurrence* the strengthening of community-based initiatives that promote community acceptance and reintegration of former child soldiers. Indeed, there are several initiatives taking place as a means to welcome the presence of formerly abducted persons and heal the wounds war caused to the social fabric. These include community outreach and sensitization programs⁸⁴ to tackle stigma, and customary healing and cleansing processes that have been effective in facilitating the reintegration and acceptance of former child soldiers and combatants.⁸⁵ In that regard, the Order for Reparations should aim to support such community processes as they are fundamental for the inclusion of former child soldiers, especially in educational and other institutional context in which culture is shaped.
67. Considering the significant psychological and mental health impacts of the abductions in former child soldiers, the Court should order the reinforcement of existing rehabilitation measures, as well as the creation of new ones, crafted specially to address the long-lasting emotional and mental damages derived from the early abduction of victims. These programs should also recognize that these individuals have agency and that most of them were navigating a hostile environment which demanded their moral adaptation.⁸⁶ Such process should thus embrace a psychosocial approach in which the social and cultural drivers of victim's decisions and conduct are understood as a fundamental part of their healing and reintegration process. We respectfully submit that through the TFV the court

⁸² Ibid 21

⁸³ Focus Group, February 5, 2020

⁸⁴ For example, as the Group of Experts recommended in the reparations of *Bemba*, funding or sponsoring of radio program segments to raise awareness on the importance of tackling the community-based stigma against former child soldiers, CBWs and victims of CRSV. See: Expert Report on Reparation: PRESENTED TO TRIAL Chamber III, International Criminal Court situation in the Central African Republic In the Case of The Prosecutor v. Jean-Pierre Bemba Gombo, 20 November 2017, para. 26, pg. 94.

⁸⁵ One of the participants at an ICTJ sponsored community dialogue in Pajule observed that “*In most cases returnees and child soldiers are haunted by the spirits of the people they killed during the war. During the war, there were scenarios where children killed their own relatives - mothers, and fathers, these spirits are the ones haunting these children. For the mental trauma to be healed, mato oput and other cleansing rituals must be explored to promote healing and community acceptance of the former abductee.*” Community dialogue in Pajule 2021.

⁸⁶ Allen, Atingo, Atim, Ocitti et al. *What Happened to Children Who Returned from the Lord's Resistance Army in Uganda...*p. 667.

should assess and where appropriate, support community approaches to trauma healing as part of the psychosocial support.

68. Furthermore, given the nature and scope of forced recruitment of children in the Northern Ugandan war, specially conducted by the LRA, as a satisfaction and non-recurrence measure, there should be a mechanism of symbolic reparation acknowledging that as well as all the harms caused by the implementation of the devastating policy of abducting persons for warring purposes against their will, mainly children.⁸⁷
69. Finally, to address the challenges faced by children born of war in accessing registration documents, court could request the Government of Uganda to amend the Registration of Persons Act, to include exceptions that entitle children born of war to legal identification. In the same vein, the Court should encourage the Ugandan government to issue death certificates or appropriate legal documents to address the condition of those abducted children who never returned and whose remains have not been found as a means to acknowledge them as disappeared persons.

d. Symbolic Reparations

70. Symbolic reparations can be effective ways of acknowledging the loss and harm suffered by victims and survivors, particularly where the loss is irreparable and can never have an equivalent in compensation or other material forms of reparations. But symbolic reparations cannot be a substitute for all other forms of reparations.⁸⁸
71. Offering symbolic reparations, particularly in societies divided by conflict, should contribute to reconciliation and restoration of civic trust, i.e. the confidence that citizens have in their fellow citizens' willingness to resolve conflict peacefully and in the State's capacity to dispense justice fairly. ICTJ has assessed the context for potential symbolic reparations measures, including an assessment of existing initiatives on memory and reconciliation in the four case locations and inter community.
72. Already, victims in Lukodi and Abok separately initiated activities to memorialize the losses and suffering during the attacks. Through memorial prayers and memory dialogues, they have expressed a willingness to pursue community initiatives that foster a common sense of responsibility and healing. In addition, the different traditional rituals such as Mato Oput have played a critical role in fostering reintegration and acceptance of formerly abducted persons. We respectfully submit that community-based reconciliation activities should be explored in Northern Uganda possibly through the Trust Fund for Victims.
73. The Court may want to consider holding the reparation hearing in Uganda as a way to reach victims who have not had access to the Court. In ICTJ's experience, participation in official

⁸⁷ Colombian Constitutional Court. Judgment SU-599 of 2019, acknowledging the right to access to a proper reproductive and sexual health treatment as a form of reparation (rehabilitation) to a formerly abducted woman (Helena) who was forced to abortion while she was enrolled in the former FARC guerrilla. More on the case available here: <https://www.womenslinkworldwide.org/en/files/3099/helena-s-story.pdf>

⁸⁸ The economic and physical consequences of violations will require various means of restitution or rehabilitation. The continuing impact of certain violations – such as the deprivation of livelihood or educational opportunities – can only be adequately and effectively addressed by adopting a policy or offering a benefit that changes the victims' present situation, rather than simply acknowledging the past.

proceedings and meetings where violations and their consequences are discussed has a reparative effect on victims. A hearing in Uganda would represent an opportunity to hear victims who are not participants in this case and provide therefore an acknowledgment and symbolic reparation. Article 3(3) of the Statute states that the Court “may sit elsewhere, whenever it considers it desirable.” We respectfully suggest that the Court assess the feasibility of conducting a hearing on reparations in Uganda with due regard for security and costs.

D. Estimated Costs of Repair

74. To establish the estimated costs for the award of collective reparations, ICTJ consulted the Uganda National Planning Authority, the line Ministries of Health and Education, as well as the district local government officials to establish the estimated costs of setting up and maintaining basic services including health centers, vocational schools, and primary school in the case locations.⁸⁹ In addition, ICTJ accessed the approved district compensation rates for the districts of Oyam (host district of Abok) and Nwoya (neighboring district to Gulu where Odek and Lukodi are situated),⁹⁰ to establish the average compensation rates payable in respect to crops, buildings of a non-permanent nature, and other items that were destroyed during the attacks. These compensation rates are subject to approval by the Chief Government Valuer.⁹¹

75. We submit that district compensation rates could provide the court with an estimation of the average costs of the property and items that were destroyed during the attacks. We include some of the estimated costs in the table below.

76. Similarly, below we list the estimated cost and requirement for the relevant services as provided by district officials and the approved Nwoya and Oyam District compensation rates for 2020-2021 and 2017-2018, respectively

Nature of facility	Approximate Average cost per year	Requirements
Health Center IV with specialized services	USD 75,000	i. Orthopaedic specialist and equipment ii. Physiotherapy specialist iii. Psychotherapy specialist iv. Wheelchairs, artificial limb/legs, arms
a. Constructing a new primary school (Classroom block from primary 1-7, library, teachers houses, administration block, classroom equipment)	USD 387,714	i. Land acquisition for the school (procure, leasing/titling) ii. Approval of the designs for the building/ school etc iii. Inspection of the facilities by inspector/ schools etc iv. Apply for licensing, then later registration v. Open for learning
b. Maintaining an existing primary school	USD 28,571	

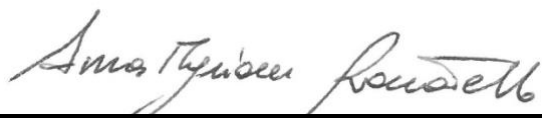
⁸⁹ Key informant interviews held in Gulu, Omoro and Oyam 8th-11th November 2021

⁹⁰ See Correspondence from Chief Government Valuer dated 28th January 2022

⁹¹ The Land Act, Cap 227, Laws of Uganda, Section 59 (1)

Vocational School (Operating an existing vocational school)	USD 142 857	i. Equipment, ii. Staff, iii. Furniture
Reburials and exhumations	USD 1500 per burial	i. Exhumation ii. Coffin iii. Transportation iv. Grave v. Conducting burial rituals vi. Forensic examinations/DNA
a. Mud and wattle hut earth floor, 38 square meters	USD 868	i. Construction materials. ii. Labor
b. Mud and wattle cement floor, plastered wall 38 square meters	USD 1628	

FOR THESE REASONS, the International Center for Transitional Justice and the Uganda Victims Foundation respectfully request the Trial Chamber to take due consideration of these submissions. The amici also express their willingness to offer technical assistance, policy advice and staff expertise on matters related to reparations or to the situation of victims in this case.



Dr. Anna Myriam Roccatello, Deputy Executive Director, ICTJ
On behalf of
The International Center for Transitional Justice



Mr. Christ Ongom, Executive Director
On behalf of
The Uganda Victims Foundation

Dated this 7th February 2022
At New York, United States of America