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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*

Public

Victims' Further Submissions on Reparations

Source: Legal Representatives of Victims

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

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I. INTRODUCTION.

1. The Legal Representatives for Victims (“LRVs”) hereby submit their further submissions on reparations pursuant to the ‘Order on Reparations’ (hereafter referred to as the “Order”),¹ the ‘Decision on requests for extension of time’,² and the ‘Decision on the Victims’ Request for an Extension of the time limit to submit their observations on reparations proceedings’³ (hereafter referred to as the “Decision on Request for an Extension of time”) and Victims’ Preliminary Submissions on Reparations.⁴

II. PROCEDURAL HISTORY

2. On 6 May 2021, the Chamber issued the Order,⁵ in which it, *inter alia*, instructed the parties to make their submissions on specific issues pertaining to reparations proceedings by 6 September 2021.⁶
3. On 9 June 2021, the Chamber was reconstituted as a result of the replacement of Judge Raul C. Pangalangan with Judge Chang-ho Chung.⁷
4. On 5 July 2021, the Registry filed its Progress Report on Mapping and Request for Extension of Time.⁸
5. On the 12 July 2021, the LRVs and Office of Public Counsel for Victims (“OPCV”) filed a Joint Request for extension of time limit to submit their observations on reparation proceedings,⁹ taking into consideration the ongoing Covid-19 pandemic restrictions in place in Uganda.
6. On the 19 July 2021, the Chamber issued its ‘Decision on requests for extension of time,’¹⁰ *inter alia*, extending the time limits for the submissions on reparations until 6 December 2021 and for responses to such submissions until 10 January 2022.

¹ Order for Submissions on Reparations, 6 May 2021, ICC-02/04-01/15-1820.

² Decision on requests for extension of time, 19 July 2021, ICC-02/04-01/15-1865.

³ Decision on the Victims’ Request for an Extension of the time limit to submit their observations on reparations proceedings, 18 November 2021, ICC-02/04-01/15-1910.

⁴ Victims’ Preliminary Submissions on Reparations, 6 December 2021, ICC-02/04-01/15-1921.

⁵ *Supra* note 1.

⁶ *Ibid*, para. 5 (i).

⁷ The Presidency, Decision replacing a judge in Trial Chamber IX, 9 June 2021, ICC-02/04-01/15-1851.

⁸ Registry Progress Report on Mapping and Request for Extension of Time, 5 July 2021, ICC-02/04-01/15-1863.

⁹ Victims’ Joint Request for extension of time limit to submit their observations on reparation proceedings, 12 July 2021, ICC-02/04-01/15-1864.

¹⁰ Decision on requests for extension of time, 19 July 2021, ICC-02/04-01/15-1865.

7. On 9 November 2021, the LRVs submitted their 'Victims' Request for an extension of the time limit to submit their observations on reparations proceedings,'¹¹ requesting a three-month extension of the 6 December deadline to submit their submissions on reparations.
8. On 18 November 2021, the Trial Chamber issued its 'Decision on the Victims' Request for an extension of the time limit to submit their observations on reparation proceedings,'¹² where it partially granted the parties, Registry and the TFV an extension of the time limit to make their submissions on reparations exclusively on issues which require further consultations, as referred to in paragraph 5(i) of the Order, until 7 February 2022.

III. REGISTRY IN COLLABORATION WITH THE LRVs TO IDENTIFY POTENTIAL BENEFICIARIES:

Main categories of victims:

9. The LRVs have worked with the same leaders and their intermediaries to recreate the original lists of victims in the IDP camps. From these lists the main categories of victims include;
 - i) Victims who lost loved ones;
 - ii) Victims of physical injuries and Chronic illnesses;
 - iii) Victims of loss of properties.

Current Location of Victims:

10. The LRVs submit that since the IDP camps have been disbanded by the Government of Uganda, the majority of victims have relocated to their home villages in the greater locations of ODEK, LUKODI and ABOK. The LRVs have additionally established that owing to attacks on the respective IDP camps on the one hand and the harm they sustained post the attack specifically the experiences of stigmatisation by community members, some victims have relocated to other sub counties outside the said greater locations .

Data regarding the victims:

¹¹ ICC-02/04-01/15-1890.

¹² ICC-02/04-01/15-1910.

11. The LRVs will be processing data on the disaggregated items listed by the Chamber to rule out duplication and to verify the information provided. This information will be shared with the Chamber within the next month.

IV. ESTIMATED TOTAL NUMBER OF THE DIRECT AND INDIRECT VICTIMS:

12. The LRVs submit that pursuant to the order of the Chamber, they have worked with their intermediaries in the communities in the three locations of Abok, Lukodi and Odek together with the former IDP camp leaderships to generate an estimate of the number of victims resident in the said camps at the time of the LRA attack respectively.
13. The LRVs further submit that whilst they have collected this information on the numbers of persons formerly resident in the three IDP camps, they are unable at the present time to provide the Chamber with the estimate total number of direct and indirect victims. The LRVs submit that the task requires additional time to conclude and therefore the LRVs will submit this information within a period of a month.

V. SPECIFICATION OF THE TYPES AND EXTENT OF THE HARM SUFFERED

14. The LRVs submit that identification of harm suffered is informed foremost by data generated from victims' applications for participation in proceedings forms submitted prior to the start of the trial and data generated through direct engagement and consultations with victims participating in the present proceedings.
15. The LRVs note that the identification of harm in these submissions is further informed by the findings in the trial Judgement which found Dominic Ongwen guilty of crimes against humanity and war crimes.
16. The LRVs draw the Chambers attention to the fact that whilst victims not directly participating in the proceedings may have benefited from the TFV assistance mandate activities implemented in the country, the LRVs have since established that a number of victims with status in these proceedings particularly victims of SGBC and other physical injuries for their safety and personal protection, were during the application process unable to fully disclose the extent of the harm they sustained. Victims explain that they were

not comfortable disclosing the details of the harm they suffered since they were just meeting the court officials processing the applications for the first time and moreover there wasn't sufficient time allowed for the application process.

i. Types of Harm

17. The LRVs submit that victims suffered multiple forms of harm or a combination of harms including personal, non-personal and harm to property at any one time during the attack on the respective IDP camps. The type of harm suffered by victims is disaggregated by the following general three categories.

Personal Harm

- i) Disability from fractures to limbs arising from accidents following a fall/s whilst try to escaping the attack.
- ii) Disability due to loss of a limb/s.
- iii) Disability due to shrapnel or devices lodged in the body.
- iv) Disability to male genitalia arising from violent tying of victims testicles.
- v) Disability from stabbings with sharp objects.
- vi) Chronic chest pains from carrying heavy loads.
- vii) Rape
- viii) Disability and or health complications due to injury to abdominal organs arising from rape by blunt objects and male gang rape.
- ix) Forced pregnancy.
- x) Injuries from first to third degree burns arising from fire when houses were torched by the LRA fighters.
- xi) Mental and Psychological illness arising from the trauma of the attack on the camp and possibly experience of abduction and life in the LRA.
- xii) Abduction and violent initiation in the LRA.
- xiii) Abduction and subjection to inhuman and degrading treatment.
- xiv) Abduction and associated community stigma upon return from LRA captivity.
- xv) Mental and psychological trauma from abduction and being taken away from family.
- xvi) Loss of education opportunities by reason of being in the LRA captivity.

Non Personal Harm

- i) Loss of life of a spouse
- ii) Loss of life of a dependant relative.
- iii) Loss of life of a child.
- iv) Missing person/Unaccounted for person.

Harms to Property

- i) Loss of housing.
- ii) Loss of academic documents.
- iii) Loss of money in cash form kept in the houses later burnt by the LRA.
- iv) Loss of personal clothing in the burnt houses.
- v) Loss of beddings.
- vi) Loss of household furniture.
- vii) Loss of cooking utensils.
- viii) Loss of food stocks including sacks of beans, maize, apena beans, etc kept in the burnt houses and or looted.
- ix) Loss of a bicycles by individual victims.
- x) Loss of cattle by households.
- xi) Loss of goats by households.
- xii) Loss of chicken by households.
- xiii) Destruction of school property.

ii. Extent of Harm

18. The LRVs submit that whilst the consultations and engagements they have undertaken have not allowed for the possibility to meet with all participating victims, the LRVs have non the less been able to meet with a number of victims whose views on harms suffered would fairly be presumed to be representative of the larger group of victims.

19. The LRVs thus submit that the extent of harm outlined above amongst victims is dire and severe especially amongst victims identified for priority consideration. The harm is additionally dire and severe amongst elderly survivors, widows and widowers, victims of SGBC and Child Soldiers.

20. The LRVs submit that the direness and severity of the harm is assessed from the multiplicity of crimes or he combination of various harms as occasioned to an individual victim; the impact and continuing nature of the harms on an individual victim; the physical and economic disempowerment to the individual victims; the lack of resources to mitigate the direness and severity of the harms suffered due to the destruction of livelihoods and sources of

livelihoods occasioned by the LRA conflict itself; the absence of accessible public and social infrastructure including referral hospitals and medical professionals near the locations of the attacks.

VI. TYPES AND MODALITIES OF REPARATIONS

21. The LRVs submit that in their consultations and engagements with victims participating in these proceedings, victims noted that the harm they suffered is significantly and overwhelmingly great. For many victims the effect of the harm is continuous. The harm has only made the lives of victims worse than what it was prior to the attack on the IDP camps by Dominic Ongwen and his LRA Sinia Brigade.
22. The victims acknowledge that indeed no amount of reparations can repair the harm they have suffered. Victims non the less presented the LRVs with diverging views of their expectations for reparations. The views expressed by victims are individualised and respond to particular harms that the victims suffered at the time the IDP camps at Abok, Odek and Lukodi were respectively attacked and for which Dominic Ongwen was tried and convicted. The views also relate to their station in life at the present.
23. The individual views expressed by victims on their expectations of reparations as noted above cannot all be included in this filing however the following discussion provides in summary the views presented to the LRVs.

Loss of Life:

- i. Consistent with the Acholi/Lango cultures in the three locations respectively, where life has been unlawfully taken, the perpetrator, his or her family, will, culturally be required to pay 7 heads of cattle or the monetary equivalent for every life lost to the victim's family. Victims who suffered loss of a loved one accordingly request an award consistent with Acholi/Lango cultures where 7 heads of cattle are paid to the victim's family for every life lost. Victims note that the monetary value per head of cattle is **USD 286** equivalent to **U. Shs. 1,000,000/-**.

Missing Persons / Unaccounted for Person:

- ii. Households that have a child/person who was abducted and no information has been received over the years from the time of abduction, this child/person has been presumed dead by the respective households.

In accordance with the Acholi/Lango cultures such a person who is presumed dead and has not been given a decent burial, culture dictates that certain rituals are performed. The rituals include organising prayers and holding last funeral rites which process entails the use of animals similar to the where life has been unlawfully taken. Victims under this category request an award similar to where a person has lost their life as noted above.

iii. Amongst victims of SGBC;

- a. some contracted HIV as a result of being raped by LRA fighters and members of Sinia Brigade and upon escape from the bush and reuniting with their spouses transmitted the HIV to their spouses leading to death. This group of victims is frail and unable to get daily livelihood support;
- b. some upon being raped in the course of the attack on the camp or being abducted were raped *enroute* to the bush. These suffer severally from fistula, permanent damage to their uterus as a result of being raped and chronic abdominal pains. These have additionally suffered loss of their marriages. They cannot undertake livelihood activities on their own because of the disability they nurse.
- c. Upon being abducted and assigned to an LRA fighter, these were raped and sustained forced pregnancy/pregnancies. These managed escaped and returned with a child/children. The child/children are not accepted by their own families or in their new relationships. These children do not have opportunity to go to school; suffer ill treatment and are traumatised for being fathered by an LRA fighter; a making which is not their own;
- d. Some upon escaping and returning from LRA captivity have been rejected by their spouses and forced to return to their maiden home where they are doubly denied access to family land rendering them destitute.

These groups of SGBC victims severally request a monetary award to support themselves in rebuilding their lives. The victims individually explained that with a monetary award, they intend to construct a three-four roomed permanent house and also purchase two bulls and ox plough for ploughing land to support and sustain their livelihoods including medical needs. These victims request an award in the sum of **USD.5,714** equivalent to **U.shs.20,000,000/-**.

- iv. For child victims who were abducted and recruited into the LRA ranks as fighters and lost out on education; these request a monetary award to enable them undergo skilling or support their children at school in the sums between **USD 857** and **USD 5,714** equivalent to **Ushs.3,000,000/-** and **Ushs.20,000,000/-**
- v. Several victims resident in the three camps above suffered a host of other harms including;
 - a. Loss of dependant relative/s especially amongst the very elderly and child supported families who are unable any longer to engage in livelihood activities such as tilling the land and engaging in gainful employment respectively.
 - b. Disability from gun shots/ fractures/ accidental falls in the course running for safety on the day of the attack on the IDP camp;
 - c. Chronic chest pains due to carrying heavy loads over long distance;
 - d. Disability from first to third degree burns due to fire from the burning houses torched by the LRA fighters;
 - e. Total destruction of houses and household properties including beddings; clothing; cooking utensils; hard cash; food; bicycles; academic documents; arising as it were from torching the houses in the camp by LRA fighters;
 - f. Loss of livestock including herds of cattle; goats and chicken kept at the periphery of the camp and tied around the poles of the houses respectively.
 - g. Trauma and mental illness arising from the attack on the camp itself and the effects of the LRA attack on residents of the camp.
 - h. Stigma against former LRA abductees by community members.

These categories of victims request monetary compensation in the sums between **USD 571** and **USD 14,286** equivalent to **Ushs.2,000,000/-** and **Ushs.50,000,000/-**. The victims explained that they would use this money to construct three roomed permanent housing and purchase two or more bulls and ox plough to aid their livelihoods through tilling land.

24. The LRVs additionally note that through the same consultations with victims they represent, they received views from a small group of victims which proposed a collective approach with respect to a particular category of victims on the one hand and to the general victims' community where the individual requests cannot be met on the other. With respect to the particular category

group of victims, the group is identified for its vulnerable station in life and lack of protection from the public.

25. The categories of victims identified above are the following;

- a. Children born out of the crime of forced pregnancy.
- b. General community in the three locations of Abok, Odek and Lukodi.

26. The LRVs submit that for children born out of out of the crime of forced pregnancy, it was stated that land upto an acre be procured and housing be constructed for their resettlement and protection. It was also proposed that these children be supported to attend school. These children are majorly not supported by the families they live with and on their own cannot and do not have a livelihood where to derive an income or afford to raise the costs of purchasing school uniforms; exercise books and pencils; and **USD 3** equivalent to **U. shs. 10,000/-** contribution to the school.

27. The LRVs submit that with respect to victims who suffered harm but are not individuals, specifically Lukodi Primary School the victim suffered indirect harm deriving as it did from the destruction to its property following the attack on Lukodi IDP camp.

Proposed Modalities of Reparations.

28. The LRVs having presented the views above as expressed by victims they represent and bearing in mind the principles on reparations established by the Court in the Ntaganda case and additional ones proposed by the LRVs on the one hand and the legal and factual presumptions further proposed by the LRVs in this filing invite the Chamber to consider the following modalities;

a. Housing, Livelihood Support and Symbolic Award:

29. The LRVs submit that whilst most victims expressed their desire to receive a reparations award in which a monetary award approach is considered, the LRVs recognise the prevalence of numerous challenges related to this approach.

30. The LRVs thus submit that under this modality a standard three roomed house would be constructed for victims. The housing is intended to provide safety and protection in light of their present vulnerabilities.

31. The LRVs also submit that the said housing would be complemented by provision of two bulls and an ox plough for each victim household as well as **USD 1,429 equivalent to U.shs. 5million** as a symbolic award. The bulls and ox plough would support the household to earn a livelihood considering that animals are predominantly used in the three locations to till land to grow food.
32. The beneficiaries under this modality would be victims who suffered personal, non-personal harm and harm to property. The modality would however target victims who are presently of advanced age; persons with disabilities; households who suffered loss of loved ones and are presently taking care of orphans; households having a person/s still missing or are unaccounted for; victims of SGBC; former child soldiers; and children born out of forced pregnancy.

b. Livelihood Support and Symbolic Award:

33. The LRVs submit that under this modality two bulls and an ox plough are given to victims' households to support their livelihoods. In the same vein animals are predominantly used in the three locations to till land and grow food. Additionally, a symbolic monetary a symbolic award of **USD 1,429 equivalent to U.shs. 5million** per victim in recognition of the victimisation and harm suffered would accompany oxen and ox plough.
34. The beneficiaries under this modality would be persons who have suffered both personal harm, non-personal harm and harm to property however do not fall in the first beneficiary category.

c. Rehabilitation.

35. The LRVs submit that consistent with their submissions in respect to victims who need prioritisation, the Chamber is invited to consider the need for rehabilitation of victims nursing both health complications including physical, psychological and mental illnesses.

VII. CONCRETE ESTIMATES AS TO THE COSTS TO REPAIR THE HARMS SUFFERED.

36. The LRVs have not been in a vantage position to collect information to respond to this issue. The LRVs thus will revert to the submissions of the TFV given their experience in executing its assistance mandate.

VIII. INFORMATION AS TO WHETHER THE VICTIMS OF THE CRIMES FOR WHICH MR ONGWEN WAS CONVICTED HAVE RECEIVED ANY FORM OF COMPENSATION OR REPARATIONS

37. The LRVs submit that they have consulted with the victims they represent to establish if they have received any compensation or reparations for crimes for which Dominic Ongwen was convicted and they have been advised that no compensation or form of reparations has been made to the said victims.

Respectfully submitted,



Joseph A. Manoba



Francisco Cox

Dated this 7th day of February 2022
At Kampala, Uganda and at Santiago, Chile