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Date: **7 March 2022**

TRIAL CHAMBER IX

Before:

**Judge Bertram Schmitt, Presiding
Judge Péter Kovács
Judge Chang-ho Chung**

SITUATION IN UGANDA

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

PUBLIC

with Confidential Annexes A, B and C

Victims' response to the *amici curiae* submissions on reparations

Source: Legal Representatives of Victims

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

Acholi Religious Leaders Peace Initiative (ARLIPI); Foundation for Justice and Development Initiatives (FJDI) and the War Victims and Children Networking (WVCN); International Center For Transitional Justice (ICTJ) and Uganda Victims Foundation (UVF); Uganda Association of Women Lawyers (FIDA Uganda); African Youth Initiative Network (AYINET); Refugee Law Project (RLP); Avocats sans Frontières (ASF), Emerging Solutions Africa (ESA), Essex Transitional Justice Network at the University of Essex, Global Survivors Fund (GSF), Gulu Women's Economic Development and Globalization (GWED-G), Institute for Peace and Strategic Studies at Gulu University, International Federation for Human Rights (FIDH), Redress, Watye Ki Gen, and Women Advocacy Network (WAN); Amuria District Development Agency (ADDA); the United Nations (UN); and The Populace Foundation International (TPFI), Makmot Kibwanga & Co. Advocates, Lango War Claimants' Association (LAWCAS), and Lango Camp Host Association (LACHA).

Registrar

Mr Peter Lewis

Victims Participation and Reparations

Section

Mr Philipp Ambach

I. INTRODUCTION

1. Pursuant to the ‘Decision on the Victims’ Request for an extension of the time limit to submit their observations on reparation proceedings,’¹ Trial Chamber IX (hereafter “Trial Chamber” or “Chamber”) extended the time limit for the parties and the TFV to respond to the submissions on reparations of persons and organizations who were granted leave to submit *amicus curiae* observations.² The Legal Representatives for Victims (“LRVs”) hereby submit their observations below.
2. The LRVs also exceptionally seek leave of the Chamber to accept confidential annexes attached to these submissions detailing the current location of victims formerly resident in the IDP camps of Abok and Odek which could not be processed promptly previously in the time set by the Chamber.
3. The LRVs exceptionally seek leave of the Chamber to further submit that whilst they have collected information and data about the estimated total number of victims resident in the former IDP camps of Abok, Odek and Lukodi, this data requires sufficient time to process and disaggregate for the Chamber’s benefit which the LRVs have not been able to muster in the time set by the Chamber.

II. SUBMISSIONS

A) Preliminary matter: Defence Request for Suspension of Reparations Proceedings until final judgment on appeal

4. The Defence request a temporary stay of the reparations proceedings until the final judgment on appeal is issued for both the conviction and sentencing (“Defence Request”).³ The LRVs wholly reject any suggestions that the

¹ ICC-02/04-01/15-1910.

² Ibid.

³ ICC-02/04-01/15-1917.

reparations proceedings should be halted in line with the Defence Request. As the Chamber is aware, and has reiterated on numerous occasions, victims have waited for a long time to see justice, and one of the principles of the reparations process is the need to ensure expeditiousness and efficiency in their implementation. The Defence Request, if accepted, would be gravely prejudicial to the rights of victims as party in the reparations proceedings.

5. Therefore, we fully support the position of the Prosecution that the issuance of a reparations order is not prejudicial to the rights of a convicted person; Mr Ongwen's concerns regarding the alleged lack of resources to represent him in the appeal and reparations proceedings are unmerited; and that the expectations of victims are not unduly raised during the reparations proceedings.⁴

B) General Responses to Amici Submissions.

i. Submissions by Amuria District Development Agency.

6. In general, the Legal Representatives for Victims ("LRVs") endorse and support the views provided by the Amuria District Development Agency ('ADDA'), regarding the types and forms of harms that victims have suffered, including, but not limited to social breakdown and the loss of schooling for children who were abducted by Dominic Ongwen's Sinia Brigade.
7. In particular, LRVs agree with the ADDA that the types of physical harm suffered by victims encompass torture, beatings, mutilation, bullet wounds, chest pain and contracting Sexually Transmitted Diseases ('STDs') such as HIV. Furthermore, as the LRVs previously highlighted during the course of these proceedings,⁵ men were also victims of rape. This fact is similarly highlighted

⁴ ICC-02/04-01/15-1976.

⁵ ICC-02/04-01/15-1166.

by the ADDA, who note that men were also victims of this type of sexual violence.⁶

8. Consequently, the LRVs submit that the unique reparative needs of male victims of sexual violence must also be taken into account, as these harms form part of the harm that they suffered because of the attacks on Abok, Odek and Lukodi IDP camps or as a result of their abduction. Indeed, these harms are connected to the other physical and psychological harm that they suffered which falls directly within the scope of this case and are covered by the charges of attacks on civilian population, torture, cruel treatment, other inhumane acts and persecution.
9. In relation to the ADDA's submissions on the attack on Lwala Girls Secondary School, and the general information they state regarding abductions by the LRA and Sexual and Gender Based Crimes ("SGBC") committed by the LRA in Teso, the LRVs submit that further information is required as to whether the victims of these crimes fall into the territorial, temporal and substantive scope of the *Ongwen* case.

ii. Submissions by Avocats sans Frontières *et al.*

10. The LRVs support the submissions made by Avocats sans Frontières *et al.*, regarding the adoption of a victim-centred methodology for the design, identification and implementation of reparations orders and the importance of ensuring the promptness and effectiveness of reparations.⁷ As noted in our previous submissions, the LRVs support the meaningful participation and consultation of victims in the mapping, design, implementation, monitoring and evaluation of reparations.⁸ Furthermore, Avocats sans Frontières *et al.*, echo similar concerns raised by the LRVs with regards to the predicament and

⁶ Amuria District Development Agency (ADDA), ICC- 02/04-01/15-1980.

⁷ ICC-02/04-01/15-1971.

⁸ Victims' Preliminary Submissions on Reparations, ICC- 02/04-01/15-1921.

recognition of children born out of rape as victims who also require reparations and prioritisation within the reparations process.⁹

11. With regards to the use of samples to identify the harm suffered by victims, the LRVs support both the *amici* and the Experts' report on reparations in the *Ntaganda* case regarding the use of samples and the importance of ensuring that such samples are representative of the victim population.¹⁰ At the same time, the LRVs note that it is imperative that such samples are fully representative of all of the types of harm that was suffered by victims, including the varied forms of sexual and gender based crimes, such as sexual slavery, forced marriage, rape, and forced marriage. Further any use of sampling must also ensure a gender balance in the collection of any data or samples, as well as ensuring that information from both the young and the elderly is also captured within any such data sets. With regards to intergenerational harm, the LRVs have throughout the course of these proceedings, including in our evidence, highlighted the intergenerational harm suffered by victims as a result of the conflict in northern Uganda, and therefore we fully support any reparation efforts that aim to support this particular form of harm.¹¹

iii. Submissions by the International centre for Transitional Justice and Uganda Victims Foundation.

12. In relation to the submissions from the International Center for Transitional Justice ('ICTJ') and The Uganda Victims Foundation ('UVF'), (hereafter referred to as the 'ICTJ/UVF submissions'), the LRVs fully support the proposition that 'Victims also underwent structural harms' which 'completely decimated the economic infrastructure and social fabric in Northern Uganda.'¹² As the LRVs have previously highlighted both in their elicitation of evidence as well as their

⁹ ICC- 02/04-01/15-1921, paras. 20, 23, 42 and 68.

¹⁰ *Ntaganda* First Experts' Report, [ICC-01/04-02/06-2623-Anx1-Red2](#), para. 40, footnote 61, quoting H. Das and H. Van Houtte, *Post-War Restoration of Property Rights under International Law*, Volume II: Procedural Aspects, Cambridge University Press (2008).

¹¹ UGA-V40-0001-0010.

¹² Para. 15, ICC-02/04-01/15-1974.

oral and written submissions, victims have been beset by a lack of access to education, healthcare and other socio-economic human rights violations as a result of the lasting structural harms caused by the conflict in northern Uganda.

13. For example, evidence presented by the LRVs demonstrated the quality of health services available to the victims as well as the accessibility problems and remoteness to health service providers. As noted in the evidence, compared to the general population in Acholi and Lango, it took longer for victim participant households to reach health clinics and service providers.¹³ Furthermore, as a result of over twenty-years of armed conflict, northern Uganda is amongst the poorest and most marginalised areas of Uganda with the lowest development indicators¹⁴ and victims have less asset wealth than the general population of northern Uganda.¹⁵ Overall, the LRVs support and endorse the findings of the ICTJ/UVF submissions regarding the forms of harm that are suffered by victims, including their submissions regarding children born out of rape.

iv. Submissions by the United Nations:

14. In general, the LRVs support the *amicus curiae* submissions provided by the United Nations (“UN”), and in particular support of the proposition that reparations processes to be implemented such that they do not force people ‘to self-identify or to be identifiable by others as ‘victims of sexual violence’ or ‘child soldiers’ and rather broader categories such as those suggested by the UN should be used instead, such as ‘single mothers’ and ‘children impacted by conflict.’¹⁶ Indeed, it is submitted that this is a particularly salient point in ensuring that victims do continue to suffer further stigmatization and victimization in the implementation of reparations processes.

¹³ p. 45, UGA-V40-0001-0010.

¹⁴ p. 48, UGA-V40-0001-0010.

¹⁵ Ibid, p. 50.

¹⁶ Para. 34, ICC-02/04-01/15-1972.

15. The submissions, by the UN on the propriety of livelihoods and income generating economic activities¹⁷ for victims in the *Ongwen* case reinforces the LRVs submissions of the views expressed by victims on the importance and significance of restoration of sources of livelihoods in the proposed modalities of reparations.
16. The LRVs also agree with the submissions of the UN on the challenges related to access to land especially amongst women; children born out of the SGBC and former child soldiers due to stigmatisation.¹⁸ This submission is uniformly aligned to the submissions by the LRVs especially on the proposed modalities for reparations where due to harm sustained victims of SGBC, children born as a result of SGBC and some former child soldiers have no access to land, which is the primary source of livelihood.
17. Furthermore, the LRVs agree with the UN submissions that access to health services in the locations where victims participating live are characterised by three core factors, namely unavailability affordability and inaccessibility. As correctly observed by the UN, the health care system in Uganda is under resourced which explains the said factors.¹⁹ These factors partly inform the individual choices expressed by victims on the modalities of reparations in the LRVs submissions.
18. The LRVs submit that whilst the UN joint submissions states that reparations in a wide context could allow for the Chamber to order the construction of health centres within the victims' communities informed by its submissions, as a measure of achieving reparations that are transformative; the question of sustainability and maintenance of such health centres where there is no community and government ownership is beyond the responsibility of the Court. The LRVs propose instead that the Chamber consider as proposed by

¹⁷ICC-02/04-01/15-1972 para. 44.

¹⁸ ICC-02/04-01/15-1972 para. 9.

¹⁹ ICC-02/04-01/15-1972 para. 36-37.

Avocats sans Frontières et al, the adoption of the proposed principal of complementarity which when developed allows for the Chamber to interact with states in this case the Republic of Uganda to reinvigorate existing health facilities and systems by expanding and equipping them to regional status as the Chamber may determine; so as to respond to community health care needs.

v. Submissions by Government of the Republic of Uganda.

19. The Government of Uganda has in its submissions invited the Chamber to depart from the strict application of the definition of the term victim as set out in Rule 85 and applied in *Ntaganda* and consider adopting the definition in Principle V clause 8 & 9 of the UN Basic Principles and Guidelines on the Right to Remedy and reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles).²⁰
20. The LRVs submit that the said submission by the Government of Uganda is an interesting and significant one. The LRVs submit that the Government of Uganda as duty bearer is obliged under the said Basic Principles to provide remedy and reparations to victims of gross violations of international human rights law and serious violations of international humanitarian law in all situations irrespective of whether the perpetrator of such violations is known; been apprehended; and has been prosecuted in accordance with Principle V of the Basic Principles.
21. The LRVs submit that this duty on the state party enunciated in the Basic Principles is relevant in the context of the LRA conflict in the greater northern Uganda where numerous victims were victimised by the LRA and yet only Dominic Ongwen as a senior LRA commander has thus far been prosecuted found guilty as a direct and indirect perpetrator of crimes within the Court's

²⁰ The Government of the Republic of Uganda, The Government of the Republic of Uganda Submissions on Reparations, ICC-02/04-01/15-1978 08-02-2022, para. 7-21.

jurisdiction committed in Pajule, Odek, Abok and Lukodi and the thematic crimes of SGBC and Abduction of Children to engage in hostilities.

22. The LRVs further submit that the duty of the state party discussed above is thus instructive for the Chamber to take up with the Government of the Republic of Uganda by its demonstrated reliance and confidence in the soft law instruments; especially given that on 9 April 2014, the Parliament of the Republic of Uganda debated and adopted a resolution to establish programmes for victims of the LRA conflict.²¹ Unfortunately, this resolution has not been acted upon by the Government of Uganda.

23. The LRVs submit that such engagements with the Republic of Uganda would complement and fulfil the reparations order by the Chamber for not only the direct and indirect victims of the crimes for which Dominic Ongwen was found guilty but potentially all other victims whom the Government of Uganda makes reference to and who ordinarily in the context of the Dominic Ongwen conviction cannot demonstrate the causal link between the harm suffered and the guilty verdict. The said engagements would further be consistent submission by *Avocats sans Frontières et al.*, calling for the adoption of the principle of complementarity at the reparations phase thereby allowing for the active engagements with states.

vi. Submissions by the Populace Foundation International et al.

24. The Populace Foundation International (“TPFI”), Makmot Kibwana & Co. Advocates, Lango War Claimants’ Association (“LAWCAS”) and the Lango Camp Host Association (“LACHA”) (hereafter the “TPFI et al., submissions”) assert that environmental harm must be considered by the Trial Chamber.²² They state that the conflict in Abok resulted in land degradation and the destruction of the environment. As such, they posit that reparations should include the replanting of boundaries in Abok and the planting of seedlings, the

²¹ <https://www.unwomen.org/en/news/stories/2014/4/ugandan-parliament-adopts-resolution-to-address-needs-of-war-affected-women>

²² ICC-02/04-01/14-1973, para. 11.

provision of fertilizer, labour and machinery. The LRVs support this proposal, and state that it should be considered in areas beyond Abok, including Odek and Lukodi. The LRVs similarly support the provision of livestock as a form of reparation, and it is something that the LRVs have submitted in their previous submission on reparations.

vii. Submissions by Uganda Association of Women Lawyers.

25. Lastly, the LRVs support the Uganda Association of Women Lawyers (“FIDA Uganda”, hereafter “FIDA”) submissions regarding the forms of physical harm suffered by victims of SGBC, as well psychological harm, loss of education, loss of land, and stigma faced by returnees.²³

III. SPECIFIC MATTERS ARISING FROM THE AMICI SUBMISSIONS

a. Modalities of Reparations

26. As noted in our filing dated 7 February 2022,²⁴ our ongoing consultations indicate that there is an overwhelming preference for individualised monetary awards, which aim to repair the various forms of harm suffered by victims. As such, the LRVs cannot support the position of FIDA-Uganda, that reparations should be wholly collective.²⁵

27. The ICTJ/UVF submit that the most feasible form of reparations within the context of this case would be collective reparations with an individualised feature.²⁶ Their findings support the consultations undertaken by the LRVs that compensation in the form of cash payments is most preferable to victims as a form of reparations.²⁷

²³ ICC-02/04-01/15-1947.

²⁴ ICC-02/04-01/15-1977.

²⁵ ICC-02/04-01/15-1947, p.16.

²⁶ Para. 47, ICC-02/04-01/15-1974.

²⁷ Ibid.

28. With regards to the Standard Compensation Amount (SCA) as espoused in *Bemba*,²⁸ and *Ntaganda*,²⁹ which aimed to address the material harm suffered by victims, livelihood assistance and moral harm, the LRVs note that their consultations with victims demonstrate that this figure should vary with regards to the gravity of the harm suffered by each victim, so that those who lost a family member or close relative should be eligible for the greatest level of compensation. Therefore, the victims believe that those who lost family members or close relatives should not receive the same amount of compensation as those who did not, and furthermore, this figure would also be subject to change should such a victim suffer from multiple harms.
29. The LRVs support the ICTJ/UVF suggestions regarding specialized medical services that are closer the victim population; land and housing access for victims who are homeless and for disabled victims; education assistance; livelihood support and exhumations and burials of loved ones where possible. Furthermore, the LRVs agree with ICTJ/UVF in that collective community based reparations³⁰ will be important in order to re-build community cultural structures and networks that were impacted by the conflict, and in particular by the four attacks perpetrated by Dominic Ongwen and his Sinia Brigade.
30. The LRVs agree with the UN that owing to the seriousness of the harms borne by victims in the present case, a combination of individual, collective, material and symbolic reparations is well suited.³¹ The said submission is consistent with the LRVs submission on the proposed modalities of reparations as expressed to the LRVs by victims.

²⁸ *The Prosecutor v. Jean-Pierre Bemba Gombo*, “Expert Report on Reparation”, 20 November 2017, ICC-01/05-01/08-3575-Corr2-, para. 173.

²⁹ 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.

³⁰ Para. 60, ICC-02/04-01/15-1974.

³¹ ICC-02/04-01/15-1972, para. 23-25.

31. Furthermore, in relation to the modalities of reparations, the UN *amicus curiae* submissions raise an important point regarding the provision of legal aid as a form of reparations. As noted by the UN,³² and indeed has been the case in the LRV's interactions with victims, many victims, and especially children born in LRA captivity do not have identity documents. In addition, women disproportionately face obstacles in obtaining certain legal documents, such as updating their civil status, land deeds and titles, identity documents for their children, and birth registration certificates. For these reasons, the LRVs fully support the UN submissions with respect to the provision of legal aid as a form of reparation for victims. Indeed, the lack of official documents may lead to obstacles in the event that monetary awards are given to victims, many of whom may not have official identity documents, and consequently will not be able to open bank accounts.
32. The UN also suggests *mato oput* as a form of rehabilitation for victims. However, the LRVs strongly object to this suggestion. As we have noted in our previous oral and written submissions on sentencing, victims represented by the LRVs are in strong opposition to the suggestion of *mato oput* as a form of reparations. As the Chamber is aware *mato oput* can only happen once the perpetrator acknowledges their wrongdoing, has apologized and is willing to provide the victim in question with compensation. This is then followed by a process of drinking a 'bitter root' and the provision of compensation for any wrongdoing. The process is essentially mediated by the clans of both the perpetrator and the victim.
33. However, the violence perpetrated by the LRA affected not only the Acholi community but also several ethnic communities in northern Uganda and, therefore, the use of an Acholi traditional justice mechanism would arguably have limited application. Indeed, for victims, the use of traditional justice mechanisms supposes the return of ownership over conflict management. In

³² Para. 40, ICC-02/04-01/15-1974.

this context, the perpetrator is duty bound by their own recognition that they have wronged and caused harm and therefore must initiate the justice process through their clan or family by reaching out to the victims' family to trigger the accountability process. The victims must know the truth about the infraction and the perpetrator must take responsibility by accepting the imposed punishment. However, in this case, this simply has not happened, and instead Mr Ongwen has advocated for *mato oput* to take the place of the sentence imposed on him, which is contrary to the Statute of this Court. Nor has he accepted any wrongdoing on his part, therefore the process of *mato oput* cannot be triggered.

34. Furthermore, victims of the conflict in northern Uganda strongly contend that traditional justice processes such as *mato oput*, strictly speaking, do not have a history of application in the context of serious crimes, such as those that characterise the charges against Dominic Ongwen. Lastly, it is simply impractical to expect Mr Ongwen to engage in the process of *mato oput* with thousands of victims, and given his indigence, nor would it be possible for him to provide compensation to each and every victim.

35. In relation to the submissions put forth by TPFI *et al.*, the LRVs submit that they strongly agree with the assertion that 'there is a fine line between victims and perpetrators' and this can have an impact on family relations, groups of different ethnicities and the relationship between victims and alleged perpetrators.³³

36. Indeed, a number of former child soldiers represented by the LRVs were also forced to perpetrate acts of violence, and in some cases, the murder of neighbours and members of their communities, in front of other camp residents. Some former child soldiers now live in communities with the relatives of the deceased, which adds a layer of complexity in the reparations processes.

³³ ICC-02/04-01/15-1973, para. 16.

Therefore, the LRVs submit that this is something that must be carefully managed in the design and implementation of reparations in order to prevent possible conflict between groups of victims.

37. In addition, the TPFI *et al.*, submissions suggest that traditional justice mechanisms such as *mato oput*, *culo kwor* and *kao cuk* could be used alongside formal reparation mechanisms. The LRVs have highlighted above their reservations regarding the process of *mato oput* as it relates to Dominic Ongwen specifically. However, if there are former child soldiers who would like to engage in these processes with those that they harmed in their communities as a result of being abducted by the LRA, then the LRVs submit that this could be seen as a form of reparation. However, the LRVs submit that there are some important caveats in addition to those highlighted above.

38. Firstly, any traditional reconciliation processes must be undertaken entirely voluntarily by the two parties in question. This is especially important as certain mechanisms such as *mato oput* have monetary implications, and therefore victims may not be able to participate in such a ceremony without financial implications. Secondly, it is important to ensure that these processes are appropriate to the type of harm suffered by the victim, for example, victims of SGBC may be unlikely to be willing to participate in such a public form of compensation and reconciliation. Thirdly, it is important to ensure that women are properly represented in these processes, as there may be a tendency for such ceremonies to be entirely dominated by men, further entrenching patriarchy and the marginalisation of women. Lastly, victims of different ethnicities should have recourse to their own forms of reconciliation, should they wish to do so. Therefore, the LRVs submit that recourse to traditional justice mechanisms and forms of reconciliation should be an entirely victim led process without influence from external parties, including the LRVs or local organisations in the region. It should be presented as a possible option, but in no way should be deemed to be something that victims are forced to consider.

b. Estimated Total Number of Victims

39. The Government of Uganda has additionally and following its deliberate submission to define a victim by the situation and not the case offered an estimate total number of victims eligible for reparations placing the estimates as follows; 1) 1,470,554 for the Acholi region; 2) 2,362,569 for the Teso region; and 3) 2,131,495 for the Lango region.³⁴

40. The LRVs submit that consistent with these submission calling for engagements with the Government of Uganda, pursuant to the provisions of the Basic Principles in which the state is obliged under the Basic Principles to provide remedy and reparations notwithstanding the absence of the perpetrator being apprehended, prosecuted and being known, the Chamber should invite the Government of Uganda following its order on reparations to develop a draft reparations implementation program to complement and fulfil the reparations order the Chamber may make.

c. Succession for Deceased Victims

41. The Trust Fund for Victims in its submissions proposes that the Chamber when dealing with succession of certain types of beneficiaries, it adopts and uses nationally and locally applicable customs and documentation used in the said local communities to show that someone had died. It in the same vein proposes a mode of transmission of such documentation to be done through the Trust Fund and the LRVs.³⁵

42. The LRVs acknowledge the importance of the submission on succession and agree that the LRVs and the Trust Fund are conveniently situated to receive documentation related to succession. The LRVs additionally note that owing to the trust/client relationship established with participating victims as well as the physical presence of the LRVs and their intermediaries, this unique position

³⁴ ICC-02/04-01/15-1978 08-02-2022, para. 30.

³⁵ Trust Fund for Victims, Trust Fund for Victims' Observations relevant to Reparations, ICC-02/04-01/15-1920, 06-12-2021.

allows for prompt and seamless processing and transmission of all documentation related to succession.

43. The LRVs however respectfully differ from the TFV Submissions with respect to the proposal to adopt nationally applicable customs relating to succession. Foremost, the LRVs posit that the principle on 'do no harm' enunciated in the *Ntaganda* decision is instructive when dealing with victims as well as succession related matters. The Chamber received evidence from Ms Teddy Atim, and other witnesses pointing to the very vulnerable position of the victims socially and economically as a result of the crimes committed against them.
44. The application of national systems for procuring documentation in respect of deceased persons is bound to cause further injustice to victims; especially psychological harm due to the bureaucratic legal processes related to obtaining letters of administration or letters of probate of a deceased person in Uganda. The LRVs recall and as also noted by the TFV³⁶ and United Nations,³⁷ that the victims they represent rank among the poorest in the national household survey and lack the economic resources necessary to travel severally in order process the relevant documentation; etc., at locations where national courts charged with conducting legal processes of survivorship sit.
45. The Ugandan court system is clogged with a backlog of cases and obtaining the necessary legal documents would place insurmountable challenges as they would ordinarily have to travel back and forth for months before receiving the necessary documents. Moreover, without access to a lawyer the process is more cumbersome. The process thus is hindered by the issue of affordability for the majority of victims.
46. The LRVs further note and submit that many deaths amongst victims occur in households for lack of resources and ultimately access to health services.³⁸

³⁶ ICC-02/04-01/15-1920, Para. 113-114.

³⁷ United Nations, Joint Submissions by the United Nations on Reparations pursuant to Rule 103 of the Rules of Procedure and Evidence, ICC-02/04-01/15-1972, 07-02-2022, para. 9; 33.

³⁸ See submission on Health Services herein.

National processes instructively require a report on the cause of death which report is issued by health facilities. The fact of lack of financial resources by victims to access health services implies that post the death of an individual they are still unable to procure a post mortem report.

47. The LRVs thus submit that in the context of these daily challenges faced by victims, it is economically and socially practical for a survivor/s of a deceased victim to secure a “Short Death Certificate” issued at the Sub County Officials in the event of death. Sub-county officials are located within the reach of community members and would in any event be aware of a death and family relations for the most part unlike Courts of Judicature, which are located predominantly in urban centres and out of reach of the survivors. The LRVs therefore invite the Chamber to consider the following documents to be sufficient in any case of a survivorship claim;

- i) Short Death Certificate.
- ii) Minutes of the immediate family members of the deceased person appointing an individual/s family member(s) to act on behalf of the family.
- iii) Letter of introduction from the Area Local Council 1, Chairperson.

d. Accessibility and Consultation during Reparations

48. The LRVs agree with the submissions by the Trust Fund,³⁹ the UN and Avocats sans Frontières *et al*,⁴⁰ regarding the importance of participation and consultations with victims during the process of reparations. The LRVs additionally note, that to avoid potential for raising expectations as well as mitigate the risks of re-traumatisation the LRVs experience of working with

³⁹ ICC-02/04-01/15-1920, Para. 22.

⁴⁰ REDRESS *et al*, Amicus Curiae brief pursuant to article 75 of the Statute and Rule 103 of the Rules of Procedure and Evidence, ICC-02/04-01/15-1971, 04-02-2022, para. 20-32.

victims directly be tapped into to support the TFV and other actors as the Chamber may determine.

e. Eligibility for Reparations

49. The Trust Fund for Victims in its submissions submits that to avoid raising undue expectations amongst victims, no form of identification should be conducted prior to the approval of an implementation plan.⁴¹ The LRVs recall foremost the directions by the Chamber on the need for expeditious process of reparations for victims. The LRVs also recall their submissions on the need for the Chamber to consider making presumptions of harm arising from one or more of the crimes from which Dominic Ongwen was convicted for a number of victims.
50. The LRVs accordingly submit that considering the potential number of victims in this case and the estimated time required to process and establish eligibility for the rightful beneficiaries, the proposal by the TFV in this regard does not appear not to take into consideration the said two factors identified herein and if adopted will only make implementation of reparations for the victim beneficiaries frustrating and could potentially lead to extreme delays that make the situation for victims worse.
51. The LRVs submit therefore that a practical approach to this would be for the Trust Fund to work with the LRVs to manage eligibility and identification of all victim beneficiaries through joint coordination especially noting the limited staffing within the Trust Fund field office. Given the experiences of the LRVs in managing expectations of victims throughout the trial phase, they are better placed to conduct any eligibility and identification processes ordered by the Chamber whilst managing undue expectations as well as potential re-traumatisation at the reparations phase.

⁴¹ ICC-02/04-01/15-1920, Para. 57.

f. Identification for Children Born of Conflict

52. The LRVs agree and support the submissions by United Nations⁴² and *Avocats sans Frontières et al.*,⁴³ about the lack of legal identity and identification documents as well as the overwhelming challenges encountered and related to procurement of national identification for children born as a result of one of SGBC for which Mr. Ongwen was convicted. As noted by the *amici* these children are unable to access social services without legal identity, which impacts on their wellbeing and dignity.

53. The LRVs therefore submit that consistent with their submissions on presumptions of harm the Chamber be inclined to consider the situation of children born from SGBC and particularly the fact that most of these children were born from uncivilised areas of LRA operations and therefore lack any form of legal identity. The LRVs further agree with the proposal by *Avocats sans Frontières et al.*, that the principle on complementarity be adopted which would allow in its development for the Court to interact with state authorities in the Government of Uganda to allow for the resolution of the issue of legal identity and issuance of identification of all children born by victims of SGBC from the LRA armed conflict.⁴⁴

g. Victim Centered Approach

54. The LRVs submit that the approach of a “truly victim centred approach” proposed by *Avocats sans Frontières et al.*⁴⁵ is consistent with the submissions by the LRVs in which information about the reparations process and all related activities are made known to all victims eligible for reparations.

55. The LRVs additionally add that owing to the reality existing amongst victims in the sense that those who have been participating in the trial are more

⁴² ICC-02/04-01/15-1972, para. 18.

⁴³ ICC-02/04-01/15-1971, para.33-36.

⁴⁴ ICC-02/04-01/15-1971, para. 14-19.

⁴⁵ ICC-02/04-01/15-1971, 20-32.

empowered and knowledgeable about the progress made at the Court in terms of the trial and other proceedings than those who will access the proceedings in the reparations phase caution is called for in accordance with the principle of 'do no harm'. The LRVs propose that with their experience of working directly with participating victims, they are presently best placed to work with the Registry and TFV as the Chamber may determine to manage expectations; create awareness; manage vulnerable victims; engage the victims on their views and concerns; and attend to concerns about the trial and other developments that those who have not participated in the trial proceedings have not been previously exposed to.

h. Children and Harm

56. The LRVs are inclined to agree with UN that notwithstanding the provisions of Article 8 of the Rome Statute on the jurisdiction of the Court over the crime of conscripting or using children under the age of fifteen to engage in hostilities, during the reparations phase persons who are 18 under international human rights law suffer the same harms as those under the age of fifteen hence the need for the protection.

i. Effectiveness of the Reparations

57. The LRVs agree with submissions by the UN that flexible time frames during the registration or process of identification of eligible victims.⁴⁶ This submission by the *amici* represents the information gathered by the LRVs, which demonstrates that victims especially SGBC tend to respond slowly in coming forward and more often than not will come out after a trust relationship has been built with the interlocutor in this case the LRVs. The LRVs agree that this is attributed to a number of factors including stigmatisation by community members; ongoing disability from the SGBC itself; protection of their marriage etc.

⁴⁶ ICC-02/04-01/15-1972, para. 30

58. The LRVs submit that it is more relevant in this case where several victims have not been not participating in the trial proceedings and resultantly the LRVs are unable to speak for such victims but do acknowledge that having not participated in the trial proceedings thus far, it is anticipated that SGBC victims will be slow in responding to the reparations process.

IV. RELIEF SOUGHT:

59. The LRVs accordingly invite the Chamber to be inclined to accept the submissions by the LRVs and these submissions in response to the amici submissions.

Respectfully submitted by:



Joseph A. Manoba



Francisco Cox

Dated this 7th day of March 2022

At Kampala (Uganda), Santiago (Chile).