

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: **23 May 2023**

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
with Public Annex A**

Public Redacted Version of “Corrected Version of ‘Defence Submissions on the Victim Sample Pool’, filed on 19 May 2023”

Source: Defence for Dominic Ongwen

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

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I. INTRODUCTION

1. The Defence for Dominic Ongwen (‘Defence’) hereby submits its observations on the Victim Sample Pool (‘VSP’) created pursuant to Trial Chamber IX’s (‘Chamber’) *Decision on the Registry Additional Information on Victims*¹ and Article 75 of the Rome Statute.

II. CONFIDENTIALITY

2. Pursuant to Regulation 23 *bis*(1) of the Regulations of the Court, the Defence files this request as confidential as it mentions information not known to the public. A public redacted version shall be filed in due course.

III. PROCEDURAL HISTORY

3. On 4 February 2021, the Chamber passed judgment on Dominic Ongwen, convicting him of 61 counts of crimes against humanity and war crimes.²
4. On 15 December 2022, the Appeals Chamber pronounced its judgments on the appeals against the convictions³ and sentence,⁴ upholding all the convictions and the sentence.
5. On 16 December 2022, the Chamber ordered the Victim Participation and Reparations Section (‘VPRS’) to create the VSP, consisting of 205 participating victims from the four (4) crime sites and thematic crimes based on percentages of estimated potential beneficiaries.⁵ The Common Legal Representative for Victims (‘CLRV’) and Legal Representatives for Victims (‘LRV’) were then ordered to contact their respective clients chosen for the VSP to seek permission to disclose their identities.⁶

¹ Trial Chamber IX, *Decision on the Registry Additional Information on Victims*, [ICC-02/04-01/15-2024](#), para. 27(a)-(e).

² Trial Chamber IX, *Trial Judgment*, ICC-02/04-01/15-1762-Conf.

³ Appeals Chamber, *Judgment on the appeal of Mr Ongwen against the Decision of Trial Chamber IX of 4 February 2021 entitled “Trial Judgment”*, ICC-02/04-01/15-2022-Conf.

⁴ Appeal Chamber, *Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled “Sentence”*, [ICC-02/04-01/15-2023](#) (with partially dissenting opinion in [Annex I](#)).

⁵ Trial Chamber IX, *Decision on the Registry Additional Information on Victims*, [ICC-02/04-01/15-2024](#), paras 27(a)-(b).

⁶ *Ibid* and Trial Chamber IX, *Decision on the Registry Transmission of List of Individuals and Relevant Information for Reparations Sample*, [ICC-02/04-01/15-2027](#), para. 13(a).

6. On 16 January 2023, the Chamber ordered the CLRV and LRV to disclose to the Defence those consenting to disclosure on a rolling basis, and at the latest, 30 days from the 16 January 2023 order.⁷
7. On 15 March 2023, the Registry filed 63 lesser-redacted victim applications from the VSP.⁸
8. On 16 April 2023, the Defence requested VPRS to lift redactions on 13 victim applications.⁹
9. On 17 April 2023, the CLRV and LRV filed a joint submission¹⁰ and the CLRV filed a separate submission on the VSP.¹¹
10. On 2 May 2023, VPRS responded to the Defence's request and refused to lift any redactions to the 13 applications.¹²
11. On 5 May 2023, the Defence filed a request with the Chamber requesting an order to VPRS to disclose lesser redacted version of 13 victim applications.¹³
12. On 10 May 2023, the LRV responded to the Defence's request to disclose lesser redacted version of the 13 victim applications.¹⁴
13. On 15 May 2023, the CLRV responded to the Defence's request to disclose lesser redacted version of the 13 victim applications.¹⁵

⁷ *Ibid* (noting that the CLRV and LRV were to disclose updates and possibly application numbers, not the actual names).

⁸ Trial Chamber IX, *Transmission to the Defence of 63 Redacted Victim Dossiers pursuant to Trial Chamber IX Decision ICC-02/04-01/15-2027*, [ICC-02/04-01/15-2034](#).

⁹ Email from Defence to Dr Philipp Ambach of VPRS, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET.

¹⁰ Trial Chamber IX, *Legal Representatives of Victims Joint Submissions on the Sample Application Forms for Reparations*, [ICC-02/04-01/15-2040](#).

¹¹ Trial Chamber IX, *CLRV submission of information related to the Sample Applications for reparations*, [ICC-02/04-01/15-2041](#).

¹² Email from VPRS to Defence, *RE: Ongwen Defence – Further request for the lifting of redactions to victim applications*, received on 2 May 2023 at 13h52 CET.

¹³ Trial Chamber IX, *Defence Request for an Order to Disclose Specific Material of Persons in the Victim Sample Pool of Participating Victims*, ICC-02/04-01/15-2045-Conf (noting that the Defence requested the lifting of redactions to the following victim applications: a/01996/16, a/02006/16, a/06890/15, a/0326/07, a/01421/16, a/06710/15, a/07031/15, a/07032/15, a/07041/15, a/07042/15, a/07053/15, a/07090/15 and a/07093/15).

¹⁴ Trial Chamber IX, *Victims' Response to the Defence Request for an Order to Disclose Specific Material of Persons in the Victim Sample Pool of Participating Victims*, ICC-02/04-01/15-2047-Conf-Corr.

¹⁵ Trial Chamber IX, *Response to the "Defence Request for an Order to Disclose Specific Material of Persons in the Victim Sample Pool of Participating Victims"*, ICC-02/04-01/15-2048-Conf.

14. On 17 May 2023, the Chamber dismissed *in limine* the Defence's request for 12 lesser redacted victim applications.¹⁶

IV. INDIRECT VICTIMS

15. The Appeals Chamber defined indirect victims in *Lubanga case*. The Appeals Chamber stated:

Pursuant to rule 85 of the Rules of Procedure Evidence, reparations may be granted to:

- a. direct victims, and*
- b. indirect victims, including*
 - i. the family members of direct victims, ii. anyone who attempted to prevent the commission of one or more of the crimes under consideration, iii. individuals who suffered harm when helping or intervening on behalf of direct victims, and iv. other persons who suffered personal harm as a result of these offences.*

It is to be recognised that the concept of "family" may have many cultural variations, and the Court ought to have regard to the applicable social and familial structures. In this context, the Court should take into account the widely accepted presumption that an individual is succeeded by his or her spouse and children.

*The key consideration in order to determine if a person qualifies as an indirect victim is whether they have suffered personal harm as a result of the commission of a crime against another person, and for which the defendant was convicted.*¹⁷

16. In response to the final category of indirect victims of 'other persons who suffered personal harm as a result of these offences,' the Appeals Chamber provided guidance in *Ntaganda* by stating, "*the Trial Chamber and TFV shall be guided by the criterion of special bonds of affection or dependence connecting the applicant with the direct victim, which captures the essence of inter-personal relations, the destruction of which is conducive to an injury on the part of indirect victims.*"¹⁸ The Appeals Chamber later agreed with the Victim Group 2 and stated that,

*[T]he Trial Chamber did not create a presumption of harm by finding that persons for whom a direct victim is of significant importance may receive reparations as indirect victims. Applicants who claim that a direct victim was of significant importance in their life **still need to submit proof of their harm to the appropriate standard of proof***

¹⁶ Trial Chamber IX, *Omnibus Decision on the Defence's Filings ICC-02/04-01/15-2044 and ICC-02/04-01/15-2045-Conf*, ICC-02/04-01/15-2049-Conf.

¹⁷ Appeals Chamber, *Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2*, [ICC-01/04-01/06-3129-AnxA](#), paras 6-7 (cited in Appeals Chamber, *Judgment on the appeals against the decision of Trial Chamber IV of 8 March 2021 entitled "Reparation Order"*, [ICC-01/04-02/06-2782](#), para. 619).

¹⁸ Appeals Chamber, *Judgment on the appeals against the decision of Trial Chamber IV of 8 March 2021 entitled "Reparation Order"*, [ICC-01/04-02/06-2782](#), para. 628.

and demonstrate the causal link with the crimes of which Mr Ntaganda was convicted. It is a matter of evidence.¹⁹

17. Regarding close family relationships, the Defence admits that a member of the nuclear family is generally accepted jurisprudence as an indirect victim if he or she can prove that he or she suffered harm because of a crime committed on the family member for which Mr Ongwen was convicted. Taking into account that families in northern Uganda generally live in the same or very close compounds with cousins, nephews, aunts and uncles, these relationships **could** be considered close family members. The Chamber should remember that it is incumbent upon the applicant to prove the close family relationship and that the family member suffered harm because of the crime committed against the relative. The applicant must present more than a document stating that he or she was related to the victim and that they missed their family member; the applicant must prove that he or she also had a very close relationship with the victim and that the applicant suffered some type of measurable harm.
18. When considering each application which the Defence argues, the Defence respectfully requests the Chamber to question whether there is a strong relationship of significant importance between the direct victim and the alleged indirect victim, and whether true harm was suffered by the alleged indirect victim.

V. SUBMISSIONS ON VICTIM APPLICATIONS IN THE VSP

A. Applications listing Mr Ongwen as the person most responsible.

19. The Defence notes that the victim applications ask who the victim alleges is the most responsible for his or her victimhood. It is only logical that as the person on trial at the ICC, some applicants would put Mr Ongwen as the person most responsible.
20. The Defence takes this exercise seriously. The Chamber should not create a causal link between the alleged victim and Mr Ongwen purely based on Mr Ongwen's name appearing on this line. For the case of SGBC and child soldiers, the Chamber should require that the applicant list something that can identify Mr Ongwen as the alleged leader of the group, the location, date/timeframe, rituals performed, or distribution to a household as a *ting-ting* or wife. It should not be enough to state that she was distributed as a wife.

¹⁹ Appeals Chamber, *Judgment on the appeals against the decision of Trial Chamber IV of 8 March 2021 entitled "Reparation Order"*, [ICC-01/04-02/06-2782](#), para. 630 [emphasis added].

B. Uncontested Victim Applications in the VSP.

21. The Defence attaches as Public Annex A its list of 178 victim applications which it does not contest. While the Defence asserts that applicants must meet the standards outlined by the Defence in its previous filings,²⁰ these applicants meet the lower threshold of presenting a causal link to the crimes for which Mr Ongwen was convicted.

C. Contested Victim Applications in the VSP - IDP Camps.

i. Pajule IDP Camp

22. **Application a/01521/16** (ICC-02/04-01/15-556-Conf-Anx563-Red) - The applicant does not allege that any member of her family was murdered, enslaved, pillaged, persecuted or tortured. Furthermore, while she lived at Pajule/Lapul IDP Camp ('Pajule IDP Camp'), she does not contend that she or her family were in anyway remotely attacked. Her only allegations were that she hid for the day, that her best friend was killed during the attack and that she misses her friend. While Mr Ongwen was convicted of the crime of murder in Pajule IDP Camp, the applicant is not an indirect victim. She has failed to prove that she suffered actual harm from the attack and because of the loss of her best friend.
23. Relating to the death of her best friend, there is no family relation between the [REDACTED] applicant and the person who died. While regrettable, the Chamber should not consider the applicant as an indirect victim. Considering the applicant as an indirect victim would open the floodgates to anyone who knew someone who was a direct victim to any of the attacks and thematic crimes, causing a limitless number of applications to be filed in this, and other, cases.
24. Finally, with the numerous times that Pajule IDP Camp was attacked, including the much worse attack of 23 January 2003 by Charles Tabuley, it is highly speculative to state that she has psychological trauma solely because of this one attack, which happened after the attack led by Charles Tabuley on Pajule IDP Camp.

²⁰ See Trial Chamber IX, *Defence Submissions on Reparations*, [ICC-02/04-01/15-1917](#); Trial Chamber IX, *Correct Version of 'Defence Omnibus Response to the Submissions on Reparations'*, filed on 7 March 2022, ICC-02/04-01/15-1991-Conf-Exp-Corr; Trial Chamber IX, *Defence Additional Submissions on Beneficiaries and Transgenerational Harm*, [ICC-02/04-01/15-2030](#); and Trial Chamber IX, *Defence Response to the Additional Submissions on Beneficiaries and Transgenerational Harm*, [ICC-02/04-01/15-2035](#)

25. The applicant has failed to show proof of a causal link between her alleged victimhood and a crime for which Mr Ongwen was convicted. As such, the Defence requests the Chamber to dismiss the application.
26. **Application a/01639/16** (ICC-02/04-01/15-556-Conf-Anx679-Red) - The applicant does not allege that any member of his family was murdered, enslaved, pillaged, persecuted or tortured. Furthermore, while he lived at Pajule IDP Camp, he does not contend that he or his family were in anyway remotely attacked. His only allegation is that he hid [REDACTED] that morning and he has unproven mental trauma. As stated earlier, with the numerous times that Pajule IDP Camp was attacked, including the much worse attack of 23 January 2003 by Charles Tabuley, it is highly speculative to state that he has psychological trauma solely because of this one attack.
27. The applicant has failed to demonstrate a “*special bond[] of affection or dependence connecting the applicant with the direct victim[s]*” of the attack. The applicant has failed to show proof of a causal link between his alleged victimhood and a crime for which Mr Ongwen was convicted. As such, the Defence requests the Chamber to dismiss the application.
28. **Application a/01996/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx20) - The applicant does not allege that any member of his family was murdered, enslaved, pillaged, persecuted or tortured. Furthermore, while he lived at Pajule IDP Camp, he does not contend that he or his family were in anyway remotely attacked. His unsupported allegation is that he fell while running from the attack and became [REDACTED] he allegedly suffered that day.²¹
29. The applicant has failed to provide medical – or any – proof of this alleged [REDACTED], his disability and the proximate time of the injury. There is no information, other than from the applicant, as to the proximate date of injury; it could have happened on any date and not on the date of the Pajule IDP Camp attack. Moreover, if the applicant [REDACTED], one would think that he would have provided some type of report – any type of report – which states that [REDACTED]. There is nothing. The applicant has failed to show proof of a causal link between his alleged victimhood and a crime for which Mr Ongwen was convicted, and thus his application should be dismissed.

²¹ ICC-02/04-01/15-2034-Conf-Exp-Anx20, p. 1, questions 1-2.

30. **Application a/02006/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx21) - The applicant does not allege that any member of his family was murdered, enslaved, pillaged, persecuted or tortured. Furthermore, while he lived at Pajule IDP Camp, he does not contend that he or his family were in anyway remotely attacked. His unsupported allegation is that he broke [REDACTED].²²
31. The applicant admits that he was taken to [REDACTED] when he was found after the attack.²³ The Defence expects that the applicant, after seven (7) years, would have retrieved some type of record from [REDACTED] for his injury and given it to his legal team. Furthermore, considering that he claims it has become a chronic issue, the Defence would have expected some other medical records more contemporaneous to the incident. While the Defence understands that the applicant was treated at home with local herbs, persons with chronic issues like this would have visited a medical facility sometime between 2003 and 2016, which was a 13-year-period. The applicant has not supplied his legal team with any of this, and the Defence must question the timing of the injury.
32. The applicant has failed to show proof of a causal link between his alleged victimhood and a crime for which Mr Ongwen was convicted. As such, the Defence requests the Chamber to dismiss this application in its entirety.

ii. Odek IDP Camp

33. **Application a/01380/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx57) - The applicant lists the loss of [REDACTED]. The applicant states that at the time of the attack, he lived in [REDACTED] IDP Camp. He did not live in and was not present during the attack on Odek IDP Camp.
34. The applicant gives no supporting documentation for the [REDACTED], and the Defence must question whether [REDACTED].²⁴ [REDACTED]. The Chamber should not expand the meaning of an indirect victim this far and disqualify the applicant as a victim of a crime for which Mr Ongwen was convicted. If the Chamber were to expand indirect victimhood here, it would give rise to meaningless claims for reparations from persons who lost some small piece of property in order to receive reparations.

²² ICC-02/04-01/15-2034-Conf-Exp-Anx21, p. 1, questions 1-2.

²³ ICC-02/04-01/15-2034-Conf-Exp-Anx21, p. 1, question 1.

²⁴ Some applicants gave letters from the Local Council to help show close family relation. There is nothing in this two-page application to show that [REDACTED].

D. Contested Victims Applications in the VSP - Thematic Crimes.

35. The Defence informs the Chamber that in its determination of victim applications for thematic crimes, it shall present two (2) different categories of persons below.
36. First, the Defence shall list victim applications which it has determined do not qualify as victims of thematic crimes, but *prima facie* material contained in the victim application shows a possible causal link to non-thematic crimes for which Mr Ongwen has been convicted. An example of this is a person who was abducted from one of the four crime sites, but his or her description does not qualify as a thematic crime victim for which Mr Ongwen was convicted.
37. Second, the Defence shall list victim applications which it has determined do not qualify as victims of thematic crimes or non-thematic crimes for which Mr Ongwen has been convicted, and thus should be removed as victims.
38. The Defence puts forth these two different categories because it presents a fair and impartial look at the difference between the two (2) types of applicants.
39. The Chamber convicted Mr Ongwen of the thematic crimes in counts 50-70. Pre-Trial Chamber II limited the SGBC for which Mr Ongwen was convicted by including the common plan of enslaving women for the purpose of becoming wives and/or household slaves called *ting-tings*.²⁵ It is the Defence's position that persons who experienced random acts of sexual violence, especially ones committed by persons not under Mr Ongwen's command, do not qualify as victims of crimes for which Mr Ongwen was convicted under Counts 50-68.²⁶ The Chamber also limited Counts 69-70 to persons in Sinia Brigade under Mr Ongwen's command.²⁷

i. Applicants who are not victims of thematic crimes but have a causal link with other crime(s) for which Mr Ongwen was convicted.

40. **Application a/00252/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx35) - The victim is not a victim of a thematic crime for which Mr Ongwen was convicted.²⁸ The SGBV the victim

²⁵ See Pre-Trial Chamber II, *Decision on the confirmation of charges against Dominic Ongwen*, [ICC-02/04-01/15-422-Red](#), paras 118-124. See also Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2098-2113.

²⁶ See Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2094-2095 (limiting the acts of SGBC to Sinia Brigade).

²⁷ See Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2310-2311 (limiting the conscription and use of child soldiers to Sinia Brigade).

²⁸ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2094-2309.

described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducted women for the purpose of enslaving them sexually or for labour.

41. **Application a/00405/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx40) - The victim is not a victim of a thematic crime for which Mr Ongwen was convicted.²⁹ The SGBV the victim described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
42. **Application a/00597/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx50) - The victim is not a victim of a thematic crime for which Mr Ongwen was convicted.³⁰ The SGBV the victim described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
43. **Application a/00654/16** (ICC-02/04-01/15-544-Conf-Anx347-Red) - The victim is not a victim of a thematic crime for which Mr Ongwen was convicted. The victim does not allege to have been a child soldier as defined in the *Trial Judgment* or Rome Statue, and the victim does not allege to have been subjected to any of the crimes in Counts 61-68.
44. The victim also does not qualify pursuant to the convictions in Counts 69-70 because her cousin allegedly was a child soldier.³¹ The victim fails to show both a close family relationship with the alleged child soldier and that the victim suffered any measurable harm because of the crime for which Mr Ongwen was convicted. By considering her a victim of Counts 60-70, it would open the floodgates to anyone who had any relative who served as a child soldier and would cause almost limitless liability. The Chamber should dismiss this application under the thematic crimes.

²⁹ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2094-2309.

³⁰ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2094-2309.

³¹ ICC-02/04-01/15-544-Conf-Exp-347-Red, pp 1-2, question 1.

45. **Application a/00861/16** (ICC-02/04-01/15-2034-Conf-Exp-Anx55) - The victim is not a direct victim of a thematic crime for which Mr Ongwen was convicted as she does not allege to have been subjected to any of the crimes in Counts 61-68. As the victim did not disclose the ages of her children, it is impossible for the Defence to determine if her daughter or son were under the age of 15 at the time of their abduction, or whether he son was actually forcibly conscripted to serve in the LRA. As such, she is not an indirect victim of Counts 69-70.
46. Unlike other victim applications, the victim here does not allege that her daughter was given as a wife. The mother wrote that, “[REDACTED]”.³² While being raped is SGBV, there is no information to demonstrate that she was given as a wife instead of being raped as one (1) or a few isolated incidents. There is also little information to demonstrate that the daughter was under the control of Mr Ongwen.
47. The application lacks the causal link between the daughters alleged SGBV and crimes for which Mr Ongwen was convicted. As such, the Defence requests the Chamber to dismiss this application as a victim application of thematic crimes for which Mr Ongwen was convicted.
48. **Application a/00866/16** (ICC-02/04-01/15-544-Conf-Anx548-Red) - The victim is not a victim of a SGBC for which Mr Ongwen was convicted. The SGBV the victim described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
49. **Application a/01013/16** (ICC-02/04-01/15-556-Conf-Anx92-Red) - The victim is not a victim of a SGBC for which Mr Ongwen was convicted. Her daughter was a victim of rape not found in the *Decision on the confirmation of charges against Dominic Ongwen* or the *Trial Judgment*. Furthermore, as stated above, because her adult daughter was a victim of a random act of violence not common in the LRA, and a random act of violence not part of the common plan decided by Pre-Trial Chamber II, she does not qualify as an indirect victim of Counts 61-68.
50. Regarding her nephew, the victim is not a victim of Counts 69-70 because her nephew was abducted by the LRA and possibly forced to serve as a child soldier. The Defence uses the qualifier “possibly” because there is no information in the application about the nephew being

³² ICC-02/04-01/15-2034-Conf-Exp-Anx55, p. 1, question 2.

a child soldier. The victim has failed to demonstrate a “*special bond[] of affection or dependence connecting the applicant with the direct victim*” of the attack.

51. The application lacks the causal link between the daughters alleged SGBV and crimes for which Mr Ongwen was convicted. The application also lacks a causal link and close family relationship between the victim’s nephew and Counts 69-70. As such, the Defence requests the Chamber to dismiss this application as a victim application of thematic crimes for which Mr Ongwen was convicted.
52. **Application a/01095/16** (ICC-02/04-01/15-556-Conf-Anx164-Red) - The victim is not a victim of a SGBC for which Mr Ongwen was convicted. The SGBV the victim described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
53. **Application a/01421/16** (ICC-02/04-01/15-556-Conf-Anx476-Red) - The victim states, among other things, that she was abducted from Pajule IDP Camp on 10 October 2003, spent [REDACTED] months in the LRA and was given as a wife while in the LRA.³³
54. Mr Ongwen was convicted for SGBC in Counts 61-68. With the information given on the victim application, the Defence cannot properly determine whether she was under Mr Ongwen’s command when she was given as a wife. While her victim application lists Mr Ongwen as the person most responsible, it is only logical that Mr Ongwen’s name would be placed on the bottom of victim applications simply because he was the person on trial at the ICC. This is not conclusive proof to create a causal link between her alleged harm and the crimes for which Mr Ongwen was convicted.³⁴
55. The victim gives the name of her person to whom she was given, and the name of the reception centre she attended [REDACTED].³⁵ This information, along with her name, was redacted. The failure to disclose this necessary and vital information after being requested and justified by the Defence³⁶ creates an unfair and prejudicial circumstance against Mr Ongwen to determine

³³ ICC-02/04-01/15-556-Conf-Anx476-Red, p. 1, questions 1-2.

³⁴ See paragraphs 19-20 above.

³⁵ ICC-02/04-01/15-556-Conf-Anx476-Red, pp 1-2, question 1.

³⁶ Email from Defence to Dr Philipp Ambach of VPRS, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET; Email from VPRS to Defence, *RE: Ongwen Defence – Further request*

properly whether the applicant alleges crimes for which Mr Ongwen was convicted. As the information is redacted, the Chamber must give a presumption that the person to whom she was given was not under the command of Mr Ongwen.

56. As such, the Defence request the Chamber to remove her from the list of victim applications qualifying as a thematic crime victim of crimes for which Mr Ongwen was convicted.
57. **Application a/01490/16** (ICC-02/04-01/15-556-Conf-Anx544-Red) - The victim is not an indirect victim of a SGBC for which Mr Ongwen was convicted. His daughter appears to be a victim of rape not found in the *Decision on the confirmation of charges against Dominic Ongwen* or the *Trial Judgment*. It is unclear from the victim application whether his daughter was given as a wife during her [REDACTED] in captivity, which cannot be inferred into the application. The Defence request the Chamber to remove her from the list of victim applications qualifying as a thematic crime victim of crimes for which Mr Ongwen was convicted.
58. **Application a/01545/16** (ICC-02/04-01/15-556-Conf-Anx587-Red) - The victim is not an indirect victim of a SGBC for which Mr Ongwen was convicted. He gives a narrative of his daughter's time in the LRA which shows her to be a victim of SGBV not found in the *Decision on the confirmation of charges against Dominic Ongwen* or the *Trial Judgment*. It is unclear from the victim application whether his daughter was given as a wife during her [REDACTED] in captivity, and that cannot be inferred into the application. Equally so, no information was proffered which detailed if either daughter was used as a child soldier, thus he does not qualify as an indirect victim of Counts 69-70.
59. As such, the Defence requests the Chamber to decide that the applicant is not an indirect victim of SGBC for which Mr Ongwen was convicted.
60. **Application a/01566/16** (ICC-02/04-01/15-556-Conf-Anx607-Red) - The victim is not a direct victim of a SGBC for which Mr Ongwen was convicted. Her daughter appears to be a victim of crimes for which Mr Ongwen was convicted, but it is unclear from the narrative given whether the daughter served under Mr Ongwen's command. While her victim application lists Mr Ongwen as the person most responsible, it is only logical that Mr Ongwen's name would be placed on the bottom of victim applications simply because he was the person on trial at the

for the lifting of redactions to victim applications, received on 2 May 2023 at 13h52 CET; and Trial Chamber IX, *Omnibus Decision on the Defence's Filings ICC-02/04-01/15-2044 and ICC-02/04-01/15-2045-Conf*, ICC-02/04-01/15-2049-Conf.

ICC. This is not conclusive proof to create a causal link between her alleged harm and the crimes for which Mr Ongwen was convicted. As such, the Defence requests the Chamber to decide that the applicant is not an indirect victim of SGBC for which Mr Ongwen was convicted.

ii. Applicants who are not victims of thematic or non-thematic crimes for which Mr Ongwen was convicted.

61. Before delving into the second category of victim applications, the Defence has serious concerns with the number of applications from [REDACTED] in the VSP.³⁷ Victim applications from [REDACTED] represents 13% of all the thematic crimes in the VSP. The close proximity of the allegations – April 2004 to 3 May 2004 – lends one to assume that these abductions could have been conducted by different groups or one group which remained in that area for an extended period of time.
62. It is highly suspect that three of the four supplemental statements came from this pool of people from [REDACTED].³⁸ The Chamber must question whether these persons may have spoken to each other or spoken to persons outside the ICC and found out that they need to link their alleged victimhood to Mr Ongwen and the crimes for which he was convicted. Considering that three of the four applicants come from the same area, and the fourth comes from a village a few kilometres away [REDACTED],³⁹ it creates a strong suspicion that something or someone from outside the ICC may have tainted the victim pool. The Defence has no evidence about this, and it is only speculative, but must it express this anomaly to the Chamber.
63. **Application a/0326/07** (ICC-02/04-01/15-2034-Conf-Exp-Anx2) - The applicant is not a former child soldier who worked with or was deployed with Mr Ongwen. The heavily redacted victim application makes no mention of Mr Ongwen, and from a careful reading of the application, Mr Ongwen was not in charge of Sinia Brigade proximate to the timeline where the applicant mentions that brigade. From a reading of it, it appears that the applicant served under [REDACTED], and then under [REDACTED] until he turned 15 years old.
64. The applicant states that “Joseph Kony, Vincent Otti, Charlse [sic] Tabu, Okot Odiambo, Raska Lukwiya [...] are the most responsible for my injuries, abduction, ruining my studies and my

³⁷ Victim applications a/07031/15, a/07032/15, a/07041/15 and a/07042/15.

³⁸ The Defence has no reason to suspect or allege that the CLRV and her Team did anything wrong in relation to these victim applications complained about in this section.

³⁹ The fourth person was from [REDACTED], which is about [REDACTED], and [REDACTED].

suffering because they were the one group the order for all these things”.⁴⁰ While these representations cannot be taken at face value for reasons stated above, the applicant supports his claim in his narrative.

65. The applicant stated that in [REDACTED], he was in a group led by [REDACTED].⁴¹ From the unredacted portions of the victim application, the applicant was still under the command of [REDACTED] in [REDACTED] 2002 after [REDACTED] was transferred to [REDACTED].⁴² He further states that he was under his command in [REDACTED] 2003. Further still, he was under his command in [REDACTED] 2003 around the time of [REDACTED].⁴³ After [REDACTED], the applicant was transferred to the command of [REDACTED], which was after the 10 October 2003 Pajule attack.⁴⁴ Sometime in 2004, he was transferred to [REDACTED].⁴⁵ The applicant’s group met with Sinia Brigade before March 2004 and [REDACTED] took soldiers from Sinia Brigade to fight, *i.e.* the Sinia Brigade soldiers were not under the command of Sinia Brigade commanders.⁴⁶ His account is indicative of [REDACTED].⁴⁷
66. The applicant was then shot and remained in sickbay until [REDACTED].⁴⁸ By the end of 2004, the applicant would have definitely reached the age of 15, never having served under Mr Ongwen.
67. The Defence respectfully requests the Chamber to remove applicant a/0326/07 from the list of victims of crimes for which Mr Ongwen has been convicted.
68. **Application a/06710/15** ([ICC-02/04-01/15-2034-Conf-Exp-Anx26](#)) - The applicant alleges that she was abducted from [REDACTED] IDP Camp sometime in 2004. Mr Ongwen was not convicted of attacking and/or abducting persons from [REDACTED] IDP Camp.
69. There is no information contained within the victim application to connect the crimes for which Mr Ongwen was convicted to the applicant. It states that she was abducted,⁴⁹ trained as a

⁴⁰ ICC-02/04-01/15-2034-Conf-Exp-Anx2, p. 8, question 2.

⁴¹ ICC-02/04-01/15-2034-Conf-Exp-Anx2, p. 17.

⁴² ICC-02/04-01/15-2034-Conf-Exp-Anx2, p. 18.

⁴³ ICC-02/04-01/15-2034-Conf-Exp-Anx2, p. 19.

⁴⁴ ICC-02/04-01/15-2034-Conf-Exp-Anx2, pp 19-20.

⁴⁵ ICC-02/04-01/15-2034-Conf-Exp-Anx2, p. 20.

⁴⁶ ICC-02/04-01/15-2034-Conf-Exp-Anx2, pp 20-21 (*noting* [REDACTED]).

⁴⁷ *See* [REDACTED].

⁴⁸ ICC-02/04-01/15-2034-Conf-Exp-Anx2, p. 21.

⁴⁹ ICC-02/04-01/15-2034-Conf-Exp-Anx26, p. 1, question 1.

fighter⁵⁰ and given as a wife,⁵¹ but the thematic crimes for which Mr Ongwen was convicted are strictly limited to persons under Mr Ongwen's command in Sinia Brigade.⁵² The applicant has failed to show a causal link between her victimhood and any crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application in its entirety.

70. **Application a/07031/15** (ICC-02/04-01/15-365-Conf-Anx788-Red and ICC-02/04-01/15-2041-Conf-Exp-Anx5-Red) - The applicant alleges that she was abducted from [REDACTED] IDP Camp ([REDACTED]) sometime in April 2004.⁵³ Mr Ongwen was not convicted of attacking and/or abducting persons from [REDACTED] IDP Camp. Towards the end of April 2004, the Trial Chamber found that Mr Ongwen and Sinia Brigade were preparing for the attack on Odek IDP Camp.⁵⁴
71. [REDACTED]. Witness P-0264 stated that the LRA came from the east to meet at the RV for the Odek attack.⁵⁵ Witness P-0054 stated that the RV was located at Orapwoyo, which is 14 km NW of Odek and [REDACTED].⁵⁶
72. The applicant claims in her amended statement that she knows it was LRA from Sinia Brigade because her attacker allegedly stated that they were meeting up with the larger Sinia Brigade in [REDACTED], but that she escaped near [REDACTED] ([REDACTED]).⁵⁷ None of this is consistent with the Chamber's determination of Mr Ongwen's location and the location of Sinia Brigade proximate to the time she was abducted and raped.
73. Finally, the applicant is not a victim of a SGBV for which Mr Ongwen was convicted. The SGBV the applicant described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.

⁵⁰ ICC-02/04-01/15-2034-Conf-Exp-Anx26, p. 2, question 2.

⁵¹ ICC-02/04-01/15-2034-Conf-Exp-Anx26, pp 1-2, questions 1-2.

⁵² Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 2094-2095 and 2310-2311.

⁵³ ICC-02/04-01/15-2041-Conf-Exp-Anx5-Red, p. 2.

⁵⁴ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 1387-1413.

⁵⁵ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1398.

⁵⁶ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1397.

⁵⁷ ICC-02/04-01/15-2041-Conf-Exp-Anx5-Red, p. 2.

74. The applicant has failed to show a causal link between her alleged victimhood and crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application in its entirety.
75. **Application a/07032/15** (ICC-02/04-01/15-2034-Conf-Exp-Anx30) - The applicant alleges that she was abducted from her home in [REDACTED] April 2004.⁵⁸ Mr Ongwen was not convicted of attacking and/or abducting persons from [REDACTED] or its IDP Camp. Towards the end of April 2004, the Trial Chamber found that Mr Ongwen and Sinia Brigade were preparing for the attack on Odek IDP Camp.⁵⁹
76. [REDACTED]. Witness P-0264 stated that the LRA came from the east to meet at the RV for the Odek attack.⁶⁰ Witness P-0054 stated that the RV was located at Orapwoyo, which is 14 km NW of Odek.⁶¹ This is inconsistent with the Chamber's determination of Mr Ongwen's location and the location of Sinia Brigade proximate to the time she was abducted and raped. Because of how close the date of her abduction, [REDACTED] days before the attack on Odek IDP Camp, it rules out any reasonable assumption that Sinia Brigade was involved in her abduction. Moreover, she stated that she was in captivity for [REDACTED], which directly overlaps with the attack on Odek IDP Camp. If these were soldiers under Mr Ongwen's command, they would have been around Orapwoyo and attacking Odek IDP Camp at this time.
77. The applicant is not a victim of a SGBC for which Mr Ongwen was convicted. The SGBV encounters the applicant described are not ones which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBVs she encountered were: 1) random acts of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
78. The applicant also does not list the age of her daughter, and there is no information that her daughter was ever under the command of Mr Ongwen, ever used as a child soldier, used as a *ting-ting* or given as a wife. There is no information or link between her daughter and Counts 61-70.

⁵⁸ ICC-02/04-01/15-2034-Conf-Exp-Anx30, p. 1, questions 1-2.

⁵⁹ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), paras 1387-1413.

⁶⁰ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1398.

⁶¹ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1397.

79. The applicant has failed to show a causal link between her alleged victimhood and crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application.
80. **Application a/07041/15** (ICC-02/04-01/15-2034-Conf-Exp-Anx31 and ICC-02/04-01/15-2041-Conf-Exp-Anx6-Red) - The applicant alleges that she was [REDACTED] raped [REDACTED] the evening of her abduction from [REDACTED].⁶² The alleged SGBV happened on [REDACTED] 2004.⁶³
81. As with other applicants above, [REDACTED]. Witness P-0264 stated that the LRA came from the east to meet at the RV for the Odek attack.⁶⁴ Witness P-0054 stated that the RV was located at Orapwoyo, which is 14 km NW of Odek.⁶⁵ This is inconsistent with the Chamber's determination of Mr Ongwen's location and the location of Sinia Brigade proximate to the time she was abducted and raped. Because of how close the date of her abduction, [REDACTED] days after the attack on Odek IDP Camp, it rules out any reasonable assumption that Sinia Brigade was involved in her abduction.
82. The applicant is not a victim of a SGBC for which Mr Ongwen was convicted. The SGBV the applicant described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered were: 1) random acts of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
83. Nearly eight (8) years after filling out her victim participation application, the applicant remembered that [REDACTED] had returned told her that they were taken to Sinia Brigade at [REDACTED]. This is speculative to say the least. It has the appearance that this is only being said to attempt to create a causal link between her SGBV and Mr Ongwen. In an attempt to identify them and their brigade, the Defence requested the names [REDACTED] Sinia Brigade, but was denied.⁶⁶ This information was necessary and vital information to determine properly whether the applicant alleges crimes for which Mr Ongwen was convicted.

⁶² ICC-02/04-01/15-2041-Conf-Exp-Anx6-Red, p. 2. See also ICC-02/04-01/15-2034-Conf-Exp-Anx31, p. 1.

⁶³ ICC-02/04-01/15-2034-Conf-Exp-Anx31, p. 1, question 2.

⁶⁴ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1398.

⁶⁵ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1397.

⁶⁶ Email from Defence to Dr Philipp Ambach of VPRS, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET; Email from VPRS to Defence, *RE: Ongwen Defence – Further request for the lifting of redactions to victim applications*, received on 2 May 2023 at 13h52 CET; and Trial Chamber IX, *Omnibus Decision on the Defence's Filings ICC-02/04-01/15-2044 and ICC-02/04-01/15-2045-Conf*, ICC-02/04-01/15-2049-Conf.

84. The applicant has failed to show a real causal link between her victimhood and crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application in its entirety.
85. **Application a/07042/15** (ICC-02/04-01/15-365-Conf-Anx797-Red and ICC-02/04-01/15-2041-Conf-Exp-Anx7-Red) - The applicant alleges that she was abducted from [REDACTED] April 2004.⁶⁷ Firstly, the applicant's second allegation of SGBV has no causal link to Mr Ongwen stated.⁶⁸ From a plain reading of the text, it was a random group of LRA not associated with Mr Ongwen.
86. Regarding the applicant's first allegation of SGBV, her initial victim application lists no causal link between her SGBV and Mr Ongwen.⁶⁹ It is not until her supplemental statement [REDACTED] that she attempts to create some kind of causal link between her first SGBV and Mr Ongwen. It has the appearance that this is only being said to try to create a causal link between her SGBV and Mr Ongwen.
87. The Defence again notes that at the end of April 2004, the Chamber found that Mr Ongwen was in the vicinity of Odek, not [REDACTED]. [REDACTED]. Witness P-0264 stated that the LRA came from the east to meet at the RV for the Odek attack.⁷⁰ Witness P-0054 stated that the RV was located at Orapwoyo, which is 14 km NW of Odek.⁷¹ This is inconsistent with the Chamber's determination of Mr Ongwen's location and the location of Sinia Brigade proximate to the time she was abducted and raped. Because of how close the date of her abduction, it rules out a reasonable inference that Sinia Brigade was involved in her abduction.
88. Even if the applicant truly heard the name "Odomi", the SGBV the applicant described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered were: 1) random acts of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.

⁶⁷ ICC-02/04-01/15-2041-Conf-Exp-Anx7-Red, p. 2. See also ICC-02/04-01/15-365-Conf-Anx797-Red, questions 1-2.

⁶⁸ ICC-02/04-01/15-2041-Conf-Exp-Anx7-Red, p. 2. See also ICC-02/04-01/15-365-Conf-Anx797-Red, question 1.

⁶⁹ See ICC-02/04-01/15-365-Conf-Anx797-Red.

⁷⁰ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1398.

⁷¹ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 1397.

89. The applicant has failed to show a real causal link between her victimhood and crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application in its entirety.
90. **Application a/07049/15** (ICC-02/04-01/15-2034-Conf-Exp-Anx32 and ICC-02/04-01/15-2041-Conf-Exp-Anx8-Red) - The applicant states that he was born in [REDACTED].⁷² As such, he was never a child soldier during the jurisdiction of the case. Furthermore, the applicant is male.⁷³ Mr Ongwen was not charged with rape in relation to males as stated by the Chamber.⁷⁴ Finally, this applicant was not abducted during one of the four attacks on the IDP camps described in the *Decision on the confirmation of charges against Dominic Ongwen* or the *Trial Judgment*.⁷⁵
91. The applicant is not a victim of crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss his application in its entirety.
92. **Application a/07053/15** (ICC-02/04-01/15-365-Conf-Anx808-Red) - The applicant alleges that she was raped just before her abduction, and then she was abducted.⁷⁶ She goes on to state that she had to walk long distances and not allowed to eat the LRA food.⁷⁷ The applicant was abducted from [REDACTED] in 2003.⁷⁸
93. The applicant does not mention that she was forced to: 1) serve as a *ting-ting*, 2) be trained as a soldier, or 3) take part in any attack with the LRA rebels. Furthermore, the applicant was not abducted from one of the four attacks on IDP camps for which Mr Ongwen was convicted. There is no information about which battalion she was abducted by, and by which battalion she was held captive. As the Chamber decided, Mr Ongwen was not in-charge of Sinia Brigade until 4 March 2004, thus he is not responsible for actions committed by battalions not under his command.⁷⁹

⁷² ICC-02/04-01/15-2034-Conf-Exp-Anx32, p.1.

⁷³ ICC-02/04-01/15-2034-Conf-Exp-Anx32, p.1.

⁷⁴ Trial Chamber IX, *Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests*, [ICC-02/04-01/14-1199-Red](#), paras 55-59 and Trial Chamber IX, *Decision on the Legal Representative Request for Reconsideration of the Decision on Witnesses to be Called by the Victims Representatives*, [ICC-02/04-01/15-1210](#), paras 8-9.

⁷⁵ See Pre-Trial Chamber II, *Decision on the confirmation of charges against Dominic Ongwen*, [ICC-02/04-01/15-422-Red](#).

⁷⁶ ICC-02/04-01/15-365-Conf-Anx808-Red, p. 1, questions 1-2.

⁷⁷ ICC-02/04-01/15-365-Conf-Anx808-Red, p. 1, questions 1-2.

⁷⁸ ICC-02/04-01/15-365-Conf-Anx808-Red, p. 1, question 2.

⁷⁹ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 137.

94. Furthermore, from October or November 2002, the Chamber found that Mr Ongwen was in sickbay until mid-2003.⁸⁰ There is no evidence on the record to show that Mr Ongwen's sickbay was [REDACTED] during this time period, casting further doubt on the applicant's claim.
95. The applicant is not a victim of a SGBC for which Mr Ongwen was convicted. The SGBV the applicant described is not one which involves abduction and enslavement for the purpose of doing household chores or becoming a sexual slave to a male member of the LRA. The SGBV she encountered was: 1) a random act of violence not common in the LRA and 2) not part of the common plan of abducting women for the purpose of enslaving them sexually or for labour.
96. Writing Mr Ongwen's name on her application without any supporting material in the statement that she was under Mr Ongwen's control does not create the causal link necessary to be considered a victim. As such, the applicant has failed to show a causal link between her victimhood and crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application in its entirety.
97. **Application a/07090/15** (ICC-02/04-01/15-365-Conf-Anx827-Red) - The applicant alleges that she was abducted from [REDACTED] in 2003 and served within the LRA for [REDACTED].⁸¹ The applicant was not abducted from one or the four attacks on IDP camps for which Mr Ongwen was convicted.⁸² The applicant also states that she both served as a *ting-ting* and was given as a wife.⁸³
98. The applicant states the name of the group in which she served, the apparent names of the persons who led the group and what they would call the commander.⁸⁴ She also gives the name of the person to whom she was given as a wife.⁸⁵ All of this information is redacted, lending one to believe that she did not serve under any command of Mr Ongwen. If she had served under Mr Ongwen's command, some of the redactions would not have been necessary. The failure to disclose necessary and vital information after being requested and justified by the

⁸⁰ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 135.

⁸¹ ICC-02/04-01/15-365-Conf-Anx827-Red, p. 1, question 1.

⁸² ICC-02/04-01/15-365-Conf-Anx827-Red, p. 1, question 2.

⁸³ ICC-02/04-01/15-365-Conf-Anx827-Red, p. 2, question 1.

⁸⁴ ICC-02/04-01/15-365-Conf-Anx827-Red, p. 1, question 1.

⁸⁵ ICC-02/04-01/15-365-Conf-Anx827-Red, p. 2, question 1.

Defence⁸⁶ creates an unfair and prejudicial circumstance against Mr Ongwen to determine properly whether the applicant alleges crimes for which Mr Ongwen was convicted.

99. The failure to disclose necessary and vital information after being requested and justified by the Defence⁸⁷ creates an unfair and prejudicial circumstance against Mr Ongwen to determine properly whether the applicant alleges crimes for which Mr Ongwen was convicted. Placing Mr Ongwen's name on the victim application in question 2 does not, in and of itself, create a causal link between the alleged harm and Mr Ongwen.
100. The applicant has failed to show a causal link between her victimhood and crimes for which Mr Ongwen was convicted, and as such, the Chamber should dismiss her application in its entirety.
101. **Application a/07093/15** (ICC-02/04-01/15-365-Conf-Anx830-Red) - The applicant alleges that she was abducted from the Acholi region in 2003 and served within the LRA for [REDACTED].⁸⁸ The applicant also states that she given as a wife to [REDACTED] in 2004.⁸⁹ The applicant was not abducted from one or the four attacks on IDP camps for which Mr Ongwen was convicted.⁹⁰ She was also 16 years when she was abducted in 2003, meaning she is not a victim of being a child soldier.⁹¹
102. In her victim application, the applicant gives several names, most notably [REDACTED] man to whom she was allegedly given to as a wife, one of his escorts and the alleged commander under whom she served.⁹² The failure to disclose necessary and vital information after being requested and justified by the Defence⁹³ creates an unfair and prejudicial circumstance against

⁸⁶ Email from Defence to Dr Philipp Ambach of VPRS, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET; Email from VPRS to Defence, *RE: Ongwen Defence – Further request for the lifting of redactions to victim applications*, received on 2 May 2023 at 13h52 CET; and Trial Chamber IX, *Omnibus Decision on the Defence's Filings ICC-02/04-01/15-2044 and ICC-02/04-01/15-2045-Conf*, [ICC-02/04-01/15-2049-Conf](#).

⁸⁷ Email from Defence to Dr Philipp Ambach of VPRS, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET; Email from VPRS to Defence, *RE: Ongwen Defence – Further request for the lifting of redactions to victim applications*, received on 2 May 2023 at 13h52 CET; and Trial Chamber IX, *Omnibus Decision on the Defence's Filings ICC-02/04-01/15-2044 and ICC-02/04-01/15-2045-Conf*, ICC-02/04-01/15-2049-Conf.

⁸⁸ ICC-02/04-01/15-365-Conf-Anx830-Red, pp 1-2, question 1.

⁸⁹ ICC-02/04-01/15-365-Conf-Anx830-Red, p. 2, question 1.

⁹⁰ ICC-02/04-01/15-365-Conf-Anx830-Red, p. 1, question 1 (*noting* that she was abducted in January 2003).

⁹¹ ICC-02/04-01/15-365-Conf-Anx830-Red, p. 1, question 1.

⁹² ICC-02/04-01/15-365-Conf-Anx830-Red, pp 1-2, questions 1-2.

⁹³ Email from Defence to Dr Philipp Ambach of VPRS, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET; Email from VPRS to Defence, *RE: Ongwen Defence – Further request for the lifting of redactions to victim applications*, received on 2 May 2023 at 13h52 CET; and Trial Chamber IX, *Omnibus*

Mr Ongwen to determine properly whether the applicant alleges crimes for which Mr Ongwen was convicted. Placing Mr Ongwen's name on the victim application in question 2 does not, in and of itself, create a causal link between the alleged harm and Mr Ongwen.

103. The applicant has failed to demonstrate a causal link between her victimhood and the crimes for which Mr Ongwen was convicted. As such, the Defence requests the Chamber to remove her application from the list of victims in the proceedings.

VI. DEFENCE CONCERNS WITH THE ESTIMATED NUMBER OF POTENTIAL BENEFICIARIES

104. The Defence does not intend to relitigate issues which it already submitted.⁹⁴ The Defence takes this opportunity to recommend to the Chamber to use these submissions when it evaluates the total number of estimated beneficiaries. The VSP comprises a random 5% selection of the victim applications for participation in the case, which is proportional to initial estimates of potential beneficiaries.⁹⁵
105. Considering the sample size, the Defence requested the exclusion of 4.35% of the applications from Pajule IDP Camp, 4.17% of the applications from Odek IDP Camp, and 71.0% of the applications from the thematic crimes. In the thematic crime category, the Defence requested the exclusion from the thematic crimes category, but not for other crimes in Counts 1-49, for 12 victims. Likewise, the Defence requested the exclusion from the thematic crimes category, and as victims entirely, for 10 applicants.
106. These exclusions will make a serious change to the estimated number of potential beneficiaries. The Defence urges the Chamber to consider the amount of persons excluded when determining the potential beneficiaries in the case.

Decision on the Defence's Filings ICC-02/04-01/15-2044 and ICC-02/04-01/15-2045-Conf, [ICC-02/04-01/15-2049-Conf](#).

⁹⁴ Trial Chamber IX, *Defence Additional Submissions on Beneficiaries and Transgenerational Harm*, [ICC-02/04-01/15-2030](#) and Trial Chamber IX, *Defence Response to the Additional Submissions on Beneficiaries and Transgenerational Harm*, [ICC-02/04-01/15-2035](#).

⁹⁵ Trial Chamber IX, *Decision on the Registry Additional Information on Victims*, [ICC-02/04-01/15-2024](#), paras 18-26; Trial Chamber IX, *Registry Transmission of List of Individuals and Relevant Information for Reparations Sample*, [ICC-02/04-01/15-2026](#), paras 9-10; and Trial Chamber IX, *Decision on the Registry Transmission of List of Individuals and Relevant Information for Reparations Sample*, [ICC-02/04-01/15-2027](#) (with Public Annex 1), paras 8-9.

VII. REQUEST RELIEF

107. For the reasons stated above, the Defence respectfully requests the Chamber:

- a. To dismiss applications a/01521/16, a/01639/16, a/01996/16, a/02006/16, a/01380/16, a/0326/07, a/06710/15, a/07031/15, a/07032/15, a/07041/15, a/07042/15, a/07049/15, a/07053/15, a/07090/15 and a/07093/15;
- b. To determine that the following victims do not qualify as victims of thematic crimes for which Mr Ongwen was convicted: a/00252/16, a/00405/16, a/00597/16, a/00654/16, a/00861/16, a/00866/16, a/01013/16, a/01095/16, a/01421/16 a/01490/16, a/01545/16 and a/01566/16; and
- c. To consider these submissions when the Chamber determines the potential number of beneficiaries of the case, especially in respect of Pajule IDP Camp, Odek IDP Camp and the thematic crimes.

Respectfully submitted,



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Chief Charles Achaleke Taku
On behalf of Dominic Ongwen

Dated this 23rd day of May, 2023

At The Hague, Netherlands