

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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

Public Redacted Version of 'Victims' Request for Urgent Support to Victims presenting with Mental Health Challenges and Other Victims Requiring Urgent Medical Intervention, with Public Annex A and Confidential *ex parte* annex B available to the Chamber and Trust Fund for Victims Only', filed on 23 August 2023, ICC-02/04-01/15-2054-Conf-Exp

Source: Legal Representatives of Victims

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

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I. INTRODUCTION.

1. The Legal Representatives for Victims (LRVs) having regard to Article 75 of the Rome Statute and Rule 98 (5) of the Rules of Procedure and Evidence request the intervention of the Trial Chamber (Chamber) to issue an order directing the Trust Fund for Victims (TFV) to urgently make provision for resources on a rolling basis or in the alternative an intermediate Draft Implementation Plan (DIP) to provide for victims requiring priority attention namely:
 - i. Victims identified by the LRVs to be presenting dire mental health challenges to attend mental health clinics in Gulu or Kampala as appropriate to mitigate the threats to life of the victims experiencing mental health challenges, and
 - ii. Other victims requiring urgent medical intervention including victims of sexual and gender-based violence and victims of other harm attend appropriate medical professionals, pending the issuance of the reparations order and any implementation plans for the reparations order and processes by the Trust Fund for Victims (TFV) to give effect to the reparations order of the Court.
2. The LRVs have most recently identified victims whose lives are at risk owing to deteriorating mental health and victims requiring urgent medical intervention.
3. Some of the victims identified by the LRVs have been introduced to TFV partners implementing projects in Uganda however others presenting with mental health challenges that may not be competently handled by said TFV implementing partners on the one hand and the fact of TFV projects at the material time being at the winding up phase are unlikely to provide the expected intervention.

II. CLASSIFICATION

4. Pursuant to regulation 23*bis* (1) of the Regulations of the Court, the present filing is classified “Confidential *Ex parte* Chamber and TFV only” since the content of the request contains the names and potentially identifying information of protected victims.

III. PROCEDURAL HISTORY.

5. On 4 February 2021, the Chamber issued the Trial Judgment, in which it convicted Dominic Ongwen on 61 counts of war crimes and crimes against humanity.¹
6. On 6 May 2021, the Chamber, issued the ‘Order for Submissions on Reparations’ (the ‘Order’),² in which it, inter alia, instructed the parties to make submission on specific issues pertaining to reparations proceedings by 6 September 2021³. The specific issues include but not limited to *any victims or groups of victims who may require prioritisation in the reparations process*.⁴
7. On the 15 December 2022, the Appeals Chamber rendered its decision confirming the conviction of Dominic Ongwen.
8. On the 16 January 2023, the Chamber issued its decision on the Registry Transmission of the List of Individuals and Relevant Information for Reparations Sample.⁵

¹ Trial Judgment, ICC-02/04-01/15-1762-Conf, 4 February 2021.

² Order for Submissions on Reparations, ICC-02/04-01/15-1820, 6 May 2021.

³ ICC-02/04-01/15-1820, para. 5 (i).

⁴ ICC-02/04-01/15-1820, para. 5 (i) (d).

⁵ Decision on the Registry Transmission of List of Individuals and Relevant Information for Reparations Sample, ICC-02/04-01/15-2027 16 January 2023.

9. On the 13 July 2023, the LRVs wrote to the TFV field office [REDACTED] drawing the office's attention to [REDACTED] and concerns on the state of mental health of a group of victims presenting with forms of mental ill health.
10. On the same day the TFV field office responded and informed the LRVs among others that the TFV is left with nine months on its outstanding program and will explore the possibility of accommodating the LRV clients within the existing activities.
11. On the 18 July 2023, the LRVs received another email from the TFV field office requesting information on the location of the victims in issue to inform the consultation with TFV Partners.
12. On the 20th July 2023, the LRVs received another email introducing the LRVs to TFV partners and to arrange for modalities of meeting with 10 of the victims.

IV. SUBMISSIONS.

13. The LRVs recall the provisions of Article 75 of the Statute and the Order of the Chamber to the parties and participants to identify any victims or groups of victims that may require prioritisation in the reparations process and the submissions filed in this regard by the LRVs.⁶
14. The jurisprudence of this Court when addressing victims requiring prioritisation indicates that the eligible victims would be individuals requiring immediate physical and or psychological medical care, victims with disabilities and the elderly, victims of sexual and gender-based violence, victims who are homeless

⁶ ICC-02/04-01/15-1820, para. 5 (i) (d).

or experiencing financial hardships as well as children born out of rape and sexual slavery and former child soldiers.⁷

15. The jurisprudence in the Bosco Ntaganda decision above emphasized the importance of IDIP to prioritise the most urgent needs whilst using existing systems, mechanisms, intermediaries and partnerships.⁸
16. The LRVs appreciate that the jurisprudence cited above arises from an existing reparations order however the above notwithstanding, the jurisprudence is instructive in addressing the need for intervention for victims requiring urgent intervention as discussed below.
17. The LRVs note that there are recent indications amongst participating victims of a rise in cases of victims presenting with forms of mental ill health necessitating deliberate intervention and the prevalence of continuous harm and pain for some victims of sexual gender-based violence that have not received appropriate and or timely response thereby requiring urgent intervention on a rolling basis.

a) *Mental Health Concerns.*

18. Sometime between February and April 2023, during field missions to meet and engage with victims they represent, the LRVs spoke to relatives of some victims who registered their concerns that the victims discussed herein were presenting with some forms of mental ill health. The LRVs also received information pointing to some victims presenting with similar challenges hence the reason for their noted absence at previously convened meetings for participating victims.

⁷ Decision on the TFV's initial draft implementation plan with focus on priority victims, ICC-01/04-02/06-2696 23-07-2021, para. 5.

⁸ ICC-01/04-02/06-2696 23-07-2021, para. 6.

19. During the said period, the LRVs engaged with some victims or family members of the victims believed to be presenting with some form of mental ill health issues and documented the following:

- i. a/00024/15, [REDACTED]:- The LRVs were informed that the victim committed suicide. At the time of the said suicide, the LRVs were informed that the victim was suffering or presenting with severe forms of mental ill health.
- ii. a/00327/16, [REDACTED]:- The LRVs were informed by the victim's widow that the victim at the time of his death was battling with both mental ill health and tuberculosis. The LRVs were told that the victim was not in a position to access treatment at all owing to limitations created by his mental ill health situation which consequently led to his demise sometime mid-May 2023.
- iii. a/06758/15, [REDACTED]:- The LRVs were informed that the victim was presenting with mental ill health. The victim has since been arrested, charged, and remanded to [REDACTED]. The victim's son informed the LRVs that his father's mental ill health had kept deteriorating prior to his arrest and that the victim had become extremely violent. The victim was reported to occasionally disappear from home. However, he would either return on his own or he would be found after days of searching in the community by the family.
- iv. a/01038/16, [REDACTED]:- The victim's wife informed the LRV team that her husband several times leaves home to go to a particular place such as the market or church, but he never reaches. He easily forgets where he is going. The victim is unable to where he is going due to his mental health situation. The LRVs were informed that the victim's family is often thrown into panic when such incidents happen and have

been fortunate to search for him and find him when he has disappeared from home.

- v. a/05421/15, [REDACTED]:- The victim's father, a/05516/15, [REDACTED], informed the LRVs that his daughter occasionally goes into a conversation with herself. When this happens, it as though she is with people around her and they are conversing and walking together over a long distance. Victim a/05421/15 sometimes speaks in an uncoordinated manner. The family has been able to take her to [REDACTED] wherein she was admitted at the mental health department and was receiving treatment.
- vi. a/06946/15, [REDACTED]:- The victim informed the LRVs that she has been having suicidal feelings and has attempted suicide once and she continues to harbour suicidal ideation.
- vii. a/00763/16, [REDACTED]:- A family member to the victim informed the LRVs that the victim disappeared from home and has been missing since beginning of May 2023. All efforts by the family to trace and find her have thus far been unsuccessful. The LRVs were informed that this act of disappearance was not the first of its nature because the victim has previously wandered away from home and returned or the family would find her and bring her back home.
- viii. a/00737/16, [REDACTED]:- The LRVs have been informed that the mental health condition of the victim has kept worsening. The victim who is married has been presenting with mental health challenges in her marital home. However, instead of receiving support, she has been mistreated by her husband. The victims' siblings have been forced to take her back home to her father's home so that they can provide her with better care.

- ix. a/06473/15, [REDACTED]:- An intermediary informed the LRVs that the victim was presenting with mental health challenges that makes him wander about aimlessly in the villages. The victim sometimes gets beaten by transport (Boda-boda) cyclists after they transport him to his supposed destination and he fails to pay the fare. The cyclists do not know the victim suffers some form of mental ill health.
- x. a/06608/15, [REDACTED]:- The victim currently has challenges sustaining an intelligible conversation. The victim's sister explained to the LRVs that the victim is sometimes very violent. The victim has been in the habit of setting the family hut and the neighbours on fire. The LRVs were also informed that the actions of the victim risk his life at risk as the angry community members beat him up in retaliation for torching neighbour's houses.

20. Concerned by these developments, the LRVs conceived and undertook another field mission [REDACTED] ⁹, [REDACTED] to specifically meet with 25 victims identified as presenting with forms of mental ill health challenges including those already identified with the goal of assessing their mental health status. The 25 victims are:

- i. a/05446/15, [REDACTED]
- ii. a/00763/16, [REDACTED]
- iii. a/00693/16, [REDACTED]
- iv. a/00313/16, [REDACTED]
- v. a/01214/16, [REDACTED]

⁹ [REDACTED].

- vi. a/00279/16, [REDACTED]
- vii. a/06608/15, [REDACTED]
- viii. a/00728/16, [REDACTED]
- ix. a/00501/16, [REDACTED]
- x. a/06779/15, [REDACTED]
- xi. a/00737/16, [REDACTED]
- xii. a/06798/15, [REDACTED]
- xiii. a/06946/15, [REDACTED]
- xiv. a/06623/15, [REDACTED]
- xv. a/06758/15, [REDACTED]
- xvi. a/00492/16, [REDACTED]
- xvii. a/00630/16, [REDACTED]
- xviii. a/06473/15, [REDACTED]
- xix. a/01038/16, [REDACTED]
- xx. a/00256/16, [REDACTED]
- xxi. a/01299/16, [REDACTED]
- xxii. a/05615/15, [REDACTED]
- xxiii. a/06702/15, [REDACTED]
- xxiv. a/00626/16, [REDACTED]
- xxv. a/00726/16, [REDACTED]

21. [REDACTED].

22. Amongst the victims [REDACTED].

23. During a recent field mission undertaken in June 2023, to meet with victims who have relocated to distant locations from the three charged locations of Abok, Lukodi and Odek, the LRVs received information pointing to other cases of individuals manifesting forms of mental ill health as follows:

- i. Victim a/06996/15 [REDACTED], [REDACTED]:- The victim [REDACTED] informed the LRVs that he has fears for his life. The Victim informed the LRVs that he is experiencing nightmares and flash backs and intruding images. [REDACTED]. Victim a/06996/15 informed the LRVs that most times when he encounters such attacks, he loses control and becomes violent hence hurting the people around him and himself. At the time of interaction with the LRVs he was nursing wounds sustained during one such manic episode.

The LRVs learnt that victim a/06996/15 was previously receiving treatment from [REDACTED] however because of the distance between his home and the hospital, he was not able to access the prescribed medication in the health centres closest to his home.

The victim has been forced to return and live with his elderly mother who is familiar with the experience of his victimisation and is the only one able bear with his situation albeit not able to support him alone when he relapses.

- ii. a/00619/16, [REDACTED]:- The victim informed the LRVs that he struggles to help his brother [REDACTED], a victim who has not applied to participate at the Court, who has been struggling with mental health issues that have been deteriorating since he - [REDACTED] - saw their late father's dead body in the camp the day after the attack. The victim reported that his brother is often very violent when he feels

provoked. In one incident on or about 19 June, 2023 (3 days before the LRV team met with the client), [REDACTED].

24. The LRVs submit and contend that [REDACTED], the mental health situation for a significant portion of victims is dire and calls for urgent intervention by the Chamber [REDACTED].

b) Other Victims requiring Urgent Medical Interventions.

25. The LRVs have not engaged experts to assess the status of health of victims discussed here below however these victims require urgent intervention. These include victims of sexual and gender-based violence and other forms of physical harm sustained as a result of the crime for which Dominic Ongwen was convicted. These victims have not been able to readily benefit from the TFV Assistance Mandate activities and yet their health situation presents with severe suffering and pain.

26. The following is the list of victims assessed and the harm presented:

- i. a/06921/15, [REDACTED]:- The victim suffers severe pain in the abdomen arising from the rape she endured and is often times is rendered unable to walk. The victim cannot afford the cost of medical treatment because she has no one to support her. Her husband died post the attack having lost his mind due to loss of the couple's three children that were abducted and have never returned. [REDACTED].
- ii. a/01344/16, [REDACTED]:- The victim Suffers severe pain in the chest. He has in the past consulted with health professionals at [REDACTED] and has been advised there may be a complication which needs further attention at an appropriate hospital. The victim Was abducted on the day the camp was

attacked and forced to carry heavy loads and following the attack on the Odek IDP camp. He was further hit in the chest by an LRA fighter.

- iii. a/01289/16, [REDACTED]:- The victim suffers severe disability in her limbs and requires medical attention and cannot effectively provide a livelihood for her family. Prior to the attack on the Odek IDP camp, victim [REDACTED]. On the day of the attack on the Odek IDP camp, victim was running after her 10-year-old child when she was shoved by an LRA fighter and thereby lost balance and fell on her right hip making the previous injury worse. Her son was abducted.
- iv. a/06976/15, [REDACTED]:- The Victim has found it difficult to settle with someone to make a family because she is stigmatised both by the man who she once got married to and his family as well as her own family. Victim contemplates suicide since returning home has not made life any better for her. The victim experiences episodes of recalling witnessing lot of death during her captivity and with the challenges she is presently experiencing struggles to find reason to live.
- v. a/06922/15, [REDACTED]:- The victim suffers chronic pain to her pelvic born. She does not have the money to attend hospital and get treated for this injury. The victim is unable to assist her mother attend hospital and nurse the pains she sustained from the rape. [REDACTED] by LRA fighters because she was resisting instructions.
- vi. a/00061/16, [REDACTED]:- The victim suffers chronic sharp pain to her knees and is unable to perform intensive physical chores like digging to support her livelihood. The victim while running for safety from the attacking LRA fighters on the Abok IDP camp, lost balance and fell and sustained an injury to her knee.

- vii. a/00062/16, [REDACTED]:- The victim continues to nurse sharp pains in limbs. The victim while running for safety from the attacking LRA fighters fell in a pit and suffered a dislocation in her limbs.
- viii. a/00508/16, [REDACTED]:- The victim has consulted with medical professionals and has been advised he needs to purchase a waist corset to fix the hip bone but is unable to afford the cost of procuring the corset. The victim sustained a hip injury resulting from a fall in the attack on Abok IDP Camp as he run for safety from the attacking LRA fighters.
- ix. a/00054/16, [REDACTED]:- The victim consulted with health professionals and was advised after undergoing an x-ray at [REDACTED] that the injury caused one of the ribs to bend which is the reason for the pain he is nursing. Victim was advised to raise Uganda Shillings (UGX.) 600,000.00 for treatment but he is unable to raise the money. The victim sustained a right knee and chest injury as he run for safety from the attacking LRA fighters and his rendered disabled.
- x. a/00424/16, [REDACTED]:- The victim visited [REDACTED] and was told there is a problem with his spine. The victim requests support. The victim fell and hit his chest in an awkward way as he run for safety on the day of the attack on Abok IDP camp.
- xi. a/00407/16, [REDACTED]:- The victim visited [REDACTED] and got treatment but still nurses pain. The Victim while running to safety during the attack on Abok IDP camp, kicked a tree stump and fell on her back and dislocated her waist and shoulder. [REDACTED] as he cannot support himself to ease.
- xii. a/00499/16, [REDACTED]:- The victim was operated in the stomach but still nurses pain. The Victim was running for safety during the attack on Abok IDP camp and fell. The victim cannot tell what happened precisely, but after

her fall she suffered pain in the stomach and despite undergoing an operation the pain continues to persists.

- xiii. a/00185/16, [REDACTED]:- The victim receives medication for the mental illness but would appreciate attending a psychiatrist. The Victim developed mental illness following the attack on Abok IDP camp.
- xiv. a/00067/16, [REDACTED]:- The victim was taken to hospital but the treatment has not relieved the pain. The victim sustained a fracture in the right-side ribs while running to safety during the attack on Abok IDP camp. The victim still nurses pain.
- xv. a/00123/16, [REDACTED]:- The victim was hit with the butt of a gun in the back and chest for refusing to carry a heavy load. Victim is unable to dig because of the pain she sustained.
- xvi. a/00083/16, [REDACTED]:- The victim was gang raped by two LRA fighters 2days after giving birth. The victim developed a growth/lump in her abdomen and she has been rendered disabled. The victim went to [REDACTED] however they were not able to be of help.
- xvii. a/00202/16, [REDACTED]:- The Victim was abducted and raped along the way after the attack on Abok IDP camp. The victim suffered abdominal pain and has not received proper treatment.
- xviii. a/00123/16, [REDACTED]:- The victim was gang raped by three men. Suffers a condition where her uterus protrudes when she does manual work like digging. She cannot have marital sex. The victim has not been able to raise resources to get the condition treated. The victim requests assistance so the condition persists.

- xix. a/00221/16, [REDACTED]:- The victim was arrested and stepped on by the LRA in a violent manner and suffered injury in his waist and lower abdomen. The victim continues to nurse severe pain and requests support.
- xx. a/00644/16, [REDACTED]:- The victim continues to suffer pain from the bullet wound and the burned skin over her entire body. The victim was shot in the stomach; stabbed in the back and suffered severe burns to his body during the attack on Abok IDP camp.
- xxi. a/00319/16, [REDACTED]:- The victim asserts that he has lost functionality of his genitalia. The victim believes it's not worthy to expose himself to treatment which will not help him. The victim was in the presence of his wife and children undressed and his testicles tied in painful way during the attack on Abok IDP camp.
- xxii. a/05502/15, [REDACTED]:- The victim has a catheter installed for him but it's very uncomfortable for him and requires additional medical attention. during the attack on Lukodi IDP camp, the victim fell while running to safety and injured shoulder bone and waist. He continues to nurse severe pain.
- xxiii. a/05814/15, [REDACTED]:- The victims hurt and injured his chest when he accidentally fell running to safety during the attack on Lukodi IDP camp. The victim sustained 2 fractures to his left leg. The victim requests support to return to hospital for further management because of the pain he is nursing.
- xxiv. a/06366/15, [REDACTED]:- The victim requests treatment due to the pain in his right hand and knee. The victim sustained injury to his knee as a result of an accidental fall as he run to safety during the attack on Lukodi IDP camp. He also injured his right hand whilst guarding against a blow by a

blunt metallic object as he raised his hand. The victim states that the veins in his hand appear to be affected hence the pain.

- xxv. a/05560/15, [REDACTED]:- The victim requests counselling due to the bad experiences she encountered in LRA captivity and treatment for injury sustained in her waist. The victim was abducted together with sister and spent three weeks in captivity. She returned with injury to her waist having suffered a fall whilst in the bush.
- xxvi. a/05475/15, [REDACTED]:- The victim requests support to receive medical attention and treatment. The victim Suffers trauma from the abduction. The victim was hit in the chest with the butt of a gun and continues to nurse pain.
- xxvii. a/05122/15, [REDACTED]:- The victim requests support towards returning to hospital for review and proper treatment. The victim was shot in the right foot and was taken to [REDACTED] and treated however she still nurses a lot of pain. She also suffers difficulty walking and seating. She is unable to dig to provide for herself.

c) Trust Fund for Victims and Assistance Mandate.

- 27. The LRVs in making this request to the Chamber are mindful of the TFV Assistance Mandate activities (TFV Activities) still ongoing in the situation country of Uganda. The LRVs have consulted with the TFV on the possibility of incorporating the 25 victims presenting with mental ill health.
- 28. The LRVs have in the conversations with the TFV been informed by the TFV that its Assistance Mandate Country Program has an outstanding single cycle for mental health. This is because the TFV activities are presently winding up. This single cycle mental health support program can only accommodate only those

victims that need therapy sessions and not those needing specialised mental health treatment.

29. The LRVs further note that with respect to other victims requiring urgent intervention listed above, these similarly are unable to get into TFV winding up activities.

V. RELIEF SOUGHT.

30. The LRVs accordingly request the Chamber's intervention in light of the matters raised herein above to direct the TFV to:

- i. provide resources from its 'other resources' or, in the alternative, submit an intermediate DIP, for purposes of responding to victims presenting with forms of mental ill health pending the issuance of a reparations order and consequent implementation plan.
- ii. provide resources from its 'other resources' or, in the alternative, submit an intermediate DIP, for responding to other victims requiring urgent medical and other relevant intervention pending the issuance of a reparations order and consequent implementation plan

Respectfully Submitted.



Joseph A. Manoba



Francisco Cox

Dated this 28th day of August 2023

At Kampala, Uganda and at Santiago, Chile