

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

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

Date: 7 June 2021

**TRIAL CHAMBER IX**

**Before:** Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Raul C. Pangalangan

**SITUATION IN UGANDA**

**IN THE CASE OF  
*THE PROSECUTOR v. Dominic Ongwen***

**Public Document**

**Request for leave to file submission on reparations issues pursuant to Article 75 of  
the Statute and rule 103 of the Rules**

**Source:** The Foundation for Justice and Development Initiatives (FJDI) and  
the War Victims and Children Networking (WVCN)

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

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Competent authorities of the Republic of  
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**Amicus Curiae**

**REGISTRY**

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## I. INTRODUCTION

1. The Foundation for Justice and Development Initiatives (FJDI) and the War Victims and Children Networking (WVCN), collectively, the “Organisations”, respectfully request the Trial Chamber IX (the “Chamber”) for leave to submit *amicus curiae* observations on reparations pursuant to Rule 103 of the Rules of Procedure and Evidence (“RPE”) in the Situation of the ICC Prosecutor versus Dominic Ongwen (hereafter referred to as “Request”).
2. FJDI is an independent non-governmental organization founded in 2015 and registered in 2016 that works with children, youth, women and communities to promote justice, development and economic recovery in northern Uganda. FJDI seeks solutions to the long-term impacts of the conflict that ravaged northern Uganda by advocating for redress of human rights violations and atrocities committed during the conflict, implementation of sustainable development initiatives, and promotion of economic empowerment for conflict-affected communities. [www.fjdi.org](http://www.fjdi.org)
3. WVCN is a community-based, membership organisation open to female victims of the Lord’s Resistance Army (LRA) war in Northern Uganda. Started in 2017, and formally established in January 2018, WVCN works to improve the situation of former LRA abductees, particularly ex-female LRA abductees and children born in captivity. WVCN has a membership of nine hundred and eighty-six (986) members, all former LRA abductees, who took up government amnesty following their escape from LRA captivity and subsequent return to their communities.
4. Both FJDI and WVCN have worked with victims and conflict-affected communities in northern Uganda to implement post-conflict recovery interventions in various areas including livelihoods, economic empowerment, reconciliation and psychosocial support. These interventions aimed to repair the harm and disruption to the live of victims and conflict survivors. FJDI currently runs a community memory center in Lukodi, northern Uganda, aimed at preserving information about the conflict in northern Uganda, and promoting healing and recovery for survivors of the Lukodi Massacre of 2004. WVCN

currently supports its membership to access vocational training and livelihood programs, and to advocate for reparations from the Ugandan Government.

5. Furthermore, FJDI and WVCN have advocated for victims' rights to reparations at local, national, and international levels through the convention and attendance of workshops, and direct interface with policy makers and duty bearers.
6. FJDI and WVCN have been instrumental in conducting outreach during the trial of Dominic Ongwen. From 2017, the FJDI partnered with the ICC Outreach Office in Uganda to conduct community screenings of Ongwen's trial proceedings, radio listening clubs, and community dialogues, to disseminate the trial proceedings to the general public in northern Uganda. WVCN rallied its membership of former LRA abductees and children born in captivity to follow and disseminate trial proceedings.
7. FJDI has conducted research on accountability and justice and northern Uganda, and published articles in this regard, including on the topic of reparations.<sup>1</sup> The said publications have gauged community perspectives on the trial of Ongwen, and sought their views on a wide range of topics, including reparations.
8. WVCN has maintained a presence in northern Uganda since 2017 and has worked to improve the lives of former LRA abductees, particularly female ex-LRA abductees and children born in captivity. WVCN has particularly worked to combat stigma and rejection of female ex-LRA abductees and children born in captivity. For a number of years, these women told their stories to non-governmental organisations and researchers who made promises of support, which they did not honor. Exhausted with being subject of studies with little or no support to address their needs, they decided to form their own community-based organisation. The 986 women members of WVCN have among them more than one thousand (1,000) children born in captivity that they are looking after.
9. FJDI, in partnership with other organizations has conducted extensive consultations with civil society, victims' groups and academia on the question of

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<sup>1</sup> See: [http://fjdi.org/resources/Ignored\\_and\\_Forgotten\\_FJDI\\_Policy\\_Brief\\_2019-001.pdf](http://fjdi.org/resources/Ignored_and_Forgotten_FJDI_Policy_Brief_2019-001.pdf);  
[http://fjdi.org/resources/FJDI\\_A%20Renewed%20Momentum%20for%20Trial%20Justice\\_January%202017.pdf](http://fjdi.org/resources/FJDI_A%20Renewed%20Momentum%20for%20Trial%20Justice_January%202017.pdf)

reparations. The most recent consultation was conducted in early 2020 and sought the views of over 350 stakeholders including victims of conflicts, Civil Society Organizations (CSOs), members of the Amnesty Commission, Members of Parliament, Judiciary, Uganda Human Rights Commission, elders, women and youth representatives, religious as well as political leaders.

10. FJDI currently works with over 30 victims' associations across northern Uganda. FJDI's support to victims' associations has entailed supporting them to conduct local memorial initiatives including annual memorial prayers, capacity building in group dynamics and organizational development, documentation aimed at truth recovery for preservation of information about the conflict, and advocacy for recognition and guarantees of non-recurrence.
11. The Organisations would like to request the Chamber for leave to submit *amicus curiae* observations in the case of the ICC Prosecutor versus Dominic Ongwen pursuant to The Trial Chamber IX's 'Order for Submission on Reparations' issued on 6 May 2021.

## II. PROCEDURAL HISTORY

12. On 4 February 2021, the Chamber convicted Mr. Dominic Ongwen ('Mr Ongwen') for the commission of 61 counts of crimes against humanity and war crimes.<sup>2</sup>
13. On 6 May, 2021, the Chamber sentenced Dominic Ongwen to a joint sentence of 25 years of imprisonment.<sup>3</sup>
14. On 6 May, 2021, The Chamber issued "An Order for Submissions on Reparations" and, inter-alia, invited 'any persons or organizations, particularly with local expertise, interested in making submissions on [reparations], to request leave from the Chamber, pursuant to article 75 of the Statute and rule 103 of the Rules, by Monday 7 June 2021.'

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<sup>2</sup> Trial Judgment, ICC-02/04-01/15-1762-Conf. A public redacted version was filed the on same day, ICC-02/04-01/15-1762-Red.

<sup>3</sup> Sentence, ICC-02/04-01/15-1819-Conf. A public redacted version was filed the on same day, ICC-02/04-01/15- 1819-Red.

### III. APPLICABLE LAW

15. Rule 103(1) of the ICC RPE stipulates that “At any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.”
16. In line with customary international law, similar provisions equivalent to article 103(1) are contained in other statutes of other international criminal tribunals, including the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone (“SCSL”), and the Extraordinary Chambers in the Courts of Cambodia. Many of these tribunals have permitted *amicus curiae* submissions.<sup>4</sup>
17. The Appeals Chamber of this Court has previously allowed *amicus curiae* submissions for example in the case against Thomas Lubanga.<sup>5</sup>
18. Rule 103(1) of the RPE and customary international law precedent as outlined above therefore empowers the Chamber to grant *amicus curiae* observations provided there is reason to believe that the submissions will assist the Chamber in reaching the a decision on an issue.

### IV. SUBMISSIONS

19. In line with the Chamber’s guidance in clause 5(i) of the “Order for Submissions on Reparations”, the Organisations’ proposed submissions will cover the following issues:
- a) Legal and factual issues relevant to the identification of eligible victims;
  - b) Victims or groups of victims who may require prioritization in the reparations process;
  - c) Types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Mr Ongwen was convicted. In particular, the suitability of collective reparations with individualized

<sup>4</sup> See for example Prosecutor v. Prlić et al. IT-04-74-T, Order Appointing an Amicus Curiae, 3 July 2009; Prosecutor v Jean-Paul Akayesu, Case No. ICTR-96-4-T, “Order Granting Leave for Amicus Curiae to Appear”, 12 February 1998.

<sup>5</sup> Appeals Chamber, “Decision on ‘Motion for Leave to File Proposed Amicus Curiae Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of Procedure and Evidence’”, Case No. ICC-01/04- 01/06 OA 11, 22 April 2008, para. 7-8.

components, the appropriate modalities to be included therein, and whether certain modalities can be expeditiously implemented;

- d) Concrete estimates as to the costs to repair the harms suffered by the victims in light of the appropriate modalities for repairing them, including costs of running rehabilitation programmes in the region with the potential to address multi-dimensional harm of individual beneficiaries for the purposes of reparations;
  - e) Information as to whether the victims of the crimes for which Mr Ongwen was convicted have received any form of compensation or reparations for the harm suffered as a result of these crimes; and
  - f) Any additional information relevant to reparations.
20. On (a) “Legal and factual issues relevant to the identification of eligible victims,” the Organizations will;
- (i) Share their experiences and suggestions on how victims should be identified and verified, with particular emphasis on the identification of female ex-LRA abductees and children born in captivity. As aforementioned, FJDI works with over 30 victims’ associations across northern Uganda. WVCN represents 986 female LRA abductees, most of whom returned with children born in captivity. Female ex-LRA abductees and children born in captivity occupy a unique niche among LRA victims due to their unique experiences during LRA captivity, and their post-abduction experiences. Identification of their whereabouts requires unique tracing methods that the Organizations have perfected overtime.
  - (ii) The Organizations will also highlight the need to consider certain categories of deceased victims, who due to the nature of grievous harm suffered, still stand to benefit from reparations posthumously, the said reparations to be received by their surviving relatives.
21. On (b) “victims or groups of victims who may require prioritization in the reparations process,” the Organizations will put emphasis on highlighting the plight of female ex-LRA abductees and children born in captivity, and why they

should be given urgent priority in the reparations process. Again, this stems from the Organizations' day to day interaction with female ex-LRA abductees and children born in captivity, and a first-hand experience of their situation.

22. On (c) "Types and modalities of reparations appropriate to address the harm suffered by the victims," the Organizations will:

- (i) Recommend appropriate modalities of reparations based on their interaction with victims in northern Uganda. The Organizations will specifically highlight the most appropriate forms of reparations for female ex-LRA abductees and children born in captivity, in addition to reparations for other categories of victims.
- (ii) The Organizations will make strong justifications on why the Chamber should consider individual reparations. The Organizations acknowledge that while the question of individual reparations remains contentious, it is not entirely impossible, and will go a long way in alleviating the plight of victims, and can therefore be considered by the Chamber.
- (iii) The Organizations will recommend reparations that are in line with the current livelihood requirements of communities in northern Uganda, in fields such as agriculture production, agricultural value chain additions, agri-business, and small and medium enterprises.
- (iv) In addition, the organizations will highlight the need for symbolic reparations, specifically the need of memory and memorialization initiatives, apology, and guarantees of non-repetition.
- (v) The Organizations will also make specific recommendations on the appropriate modalities and means of transmitting reparations to the final beneficiaries in a transparent and expeditious manner, and in particular the need to involve civil society organizations and victims' associations in the delivery of reparations.

23. On (d) "Concrete estimates as to the costs to repair the harms suffered by the victims," the Organizations will:



- (i) Provide financial estimates based on their first-hand experience of the prevailing economic situation and market price estimates in northern Uganda and their knowledge of implementing economic empowerment and livelihoods programs for ex-female LRA abductees and conflict affected communities in northern Uganda; and
- (ii) The organizations will also recommend the most appropriate rehabilitation mechanisms, and special programmes for the long-term security and well-being of female ex-LRA abductees and children born in captivity.

24. On (i) “information as to whether the victims of the crimes for which Mr. Ongwen was convicted have received any form of compensation or reparations for the harm suffered as a result of these crimes,” the Organizations will submit that to the best of their knowledge victims in northern Uganda have never received reparations. The Organizations will demonstrate that while recovery programs have been implemented by the Ugandan government and assistance provided by Civil Society Organizations, these do not amount to reparations or compensation, and the vast majority of victims have not benefited from measures that redress their harm. The Organizations will therefore recommend appropriate reparations for eligible victims in this case.

25. On (f) “Any additional information relevant to reparations,” the Organizations will highlight other issues pertinent to determination of appropriate reparations, including the need to involve and hold the Government of the Republic of Uganda accountable in the payment of reparations is concerned. This is premised on the fact that certain forms of reparations such as guarantees of non-repetition, apology, and designation of national days of remembrance can only be made and legitimized by the Government. The Organizations will present tangible suggestions on how the ICC can assist to this effect.

## **V. EXPERTISE OF THE APPLICANTS**

26. The Organizations are based in northern Uganda and work directly with victims and conflict-affected communities. Further, the organizations are represented by

individuals who have substantive knowledge on northern Uganda. Mr. Lino Owor Ogora, the founder of FJDI has worked with conflict-affected communities in northern Uganda and South Sudan since 2006, and conducted extensive research on the most appropriate mechanisms for redress and healing. Ms. Stella Lanam, the founder of the WVCN is herself a former LRA abductee and survivor who spent close to 10 years in LRA captivity. She has dedicated her post-abduction life to improving the physical and psychosocial well-being of ex-female LRA abductees and children born in captivity.

## VI. RELIEF SOUGHT

27. The Organisations respectfully request the Pre-Trial Chamber for leave to submit *amicus curie* observations on reparations for victims of conflict in northern Uganda, and in particular, the different forms of reparations that can be considered, the criteria for identification and verification of victims, and the manner in which reparations should reach the final beneficiaries.



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Lino Owor Ogora  
on behalf of

Foundation for Justice and Development Initiatives (FJDI) and the War Victims and  
Children Networking (WVCN)

Dated this 7 June 2021

At Gulu, Uganda