

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 7th 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 submit Amicus Curiae observations on the legal questions presented in the Order for Submissions on Reparations (pursuant to Rule 103 of the Rules of Procedure and Evidence) of 6th May 2021 (ICC-02/04-01/15)

Source: The Uganda Association of Women Lawyers (FIDA- Uganda)

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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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I. INTRODUCTION

1. The Uganda Association of Women Lawyers herein after referred to as the FIDA Uganda requests Chamber IX (the “Chamber”) for leave to submit amicus curiae observations pursuant to Rule 103 of the Rules of Procedure and Evidence (RPE) in the case of Prosecutor Vs Dominic Ongwen (the situation in Uganda) herein after referred to as (“the Request”).
2. FIDA Uganda is a membership non-governmental organization, established in 1974 to promote gender equality, using the law as a tool for social change. The organization has a keen interest in, and long standing track record of promoting civil, political and socio-economic rights of women and girls in various parts of Uganda, through legal and policy advocacy, litigation and provision of legal aid.
3. FIDA Uganda has supported the Transitional justice processes in Acholi sub region and Karamoja sub region in Uganda, working with formal and informal justice institutions to address the legacies of conflict for over 10 years. FIDA has worked to improve human rights protection form women and girls, support reintegration of formers abductees and children born in captivity and facilitate land justice to enable sustainable livelihoods for women.
4. In addition to research, advocacy and strategic litigation, FIDA Uganda in partnership with Greater North Parliamentary Forum continues to work towards empowerment and the provision of a strong and coherent voice of war-affected communities.
5. FIDA Uganda has engaged in advocacy for victims’ rights through legal representation, protection and reparation in the justice institutions in Uganda including national courts specifically in Lira High Court where a strategic interest litigation case has been filed for the women in the Northern region who were victims of sexual slavery, sexual and gender based violence at the hands of the soldiers including those under the command of Dominic Ongwen during

the armed conflict and the same is awaiting hearing. Through and after the filing of this case, FIDA Uganda has undertaken great research and engagement with the communities on a proposed reparation program that ought to be adopted in order to restore the livelihoods of the communities affected by the armed conflict. This has been in consideration of the National Transitional Justice Policy of Uganda passed in 2019, believed to be key in reintegrating individuals back into society and give them a chance for dignity. We believe that despite the adoption of the Policy, the absence of an enabling law on reparations will deter the yielding of results. The information and research gathered from the communities in regards to the proposed reparation program by government versus the wishes and demands of the communities will best inform the Trial Chamber on the matter of reparations.

6. This Request follows from an Order for Submission on Reparations in the case of Prosecutor Vs Dominic Ongwen by the Trial Chamber IX inviting persons and organizations particularly with local expertise interested in making submissions on the specific reparations- related issues listed by the Chamber.
7. FIDA Uganda would like to request the Chamber for leave to submit amicus curiae observations regarding the specifications of the types and extent of the harm suffered by the victims of the crimes for which Dominic Ongwen was convicted together with types of modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Dominic Ongwen was convicted.

II. PROCEDURAL HISTORY

8. On 8th July 2005, a warrant of arrest was issued to Brigade Commander of the senior Brigade of the Lord's Resistance Army, Dominic Ongwen who was charged by the prosecutor with a total of seventy (70) counts including attacks against civilian population, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement outrages against personal dignity, pillaging, destruction of property and persecution committed in the context of

the four specified attacks on the Internally Displaced Persons camps ("IDP camps") together with sexual and gender based crimes, namely, forced marriage, torture, rape, sexual slavery, enslavement, forced pregnancy and outrages upon personal dignity he committed against several women.

9. On 6th July 2016, the trial of Dominic Ongwen commenced at the International Criminal Court (ICC) with the prosecution and defence presenting their evidence of the case before Court and witnesses appearing before the Chamber and submission were declared closed by the 12th of December 2019.
10. On 4th February 2021, the Trial Chamber IX on the International Criminal Court (ICC) convicted Dominic Ongwen for the commission 61 counts of crimes against humanity and war crimes committed in Northern Uganda between 1st July 2002 to 31st December 2005.
11. On the 6th of May 2021, Dominic Ongwen was sentenced to 25 years in prison with the period of his detention between 4th January 2015 and 6th May 2021 taken into consideration and hence deducted from the total time of imprisonment imposed on Dominic Ongwen,
12. On 6th May 2021, the Trial Chamber IX also issued an order for submission on reparations.

III. APPLICABLE LAW

13. Rule 103 (1) of the PRE provides 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 the Chamber deems appropriate.

IV. SUBMISSIONS

1. How FIDA Uganda's proposed submissions will assist the Chamber in determination of the Motion of Reparation for the victims

14. The purpose of FIDA Uganda's proposed submissions is to assist Trial Chamber IX to make an informed decision on reparation program based on the types and extent of harm suffered by the victims of the crimes for which Dominic Ongwen was convicted together with the types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Dominic Ongwen was convicted.

15. FIDA Uganda if granted leave by the Trial Chamber IX to submit amicus curiae observations will address various issues on victim participation in the reparation program given their earlier engagements and interactions with the various communities while in the pursuit of their case on transitional justice with the major objective of ensuring a concrete reparation program for victims in Uganda.

16. In our proposed submissions, FIDA Uganda will explain the importance of victim participation in all justice frameworks that involve them, the need for a clear understanding of their perceptions on what reparations ought to be, the specific parameters and modalities under which they ought to be given either collectively or individually and the implication for these parameters on the socio-economic development of the war victims given their current state of livelihood in line with their key asks on the proposed reparation programs.

2. Expertise of FIDA Uganda to opine on the proposed submissions

17. The fact that FIDA Uganda works directly with the war victims through their various interventions including legal representation that requires a lot of evidence is in itself a unique aspect of the organizations ability to opine on the proposed submissions. Through its engagement, the organization has been a pioneer in strategic interest litigation not only on human rights but the socio-

economic wellbeing of victims affected wither directly and indirectly by the armed conflict in Northern Uganda.

18. FIDA Uganda in partnership with the Greater North Parliamentary forum have also worked together to implement a number of projects in Northern Uganda focusing land rights and justice for formerly abducted women and children that were born in captivity. This has been through advocacy campaigns seeking government to provide redress to the unique issues experienced by women and children born out of captivity and livelihood support for formerly abducted girls. A petition was presented to the speaker of the 10th parliament of Uganda and on 13th of February 2019, parliament passed a motion and resolution that government should provide funds for livelihood support for formerly abducted women to address their unique needs and this led Government to budget for a proposed sum of Uganda Shillings Twenty billion (UGX 20,000,000,000) to fund compensation for these victims.
19. FIDA Uganda, upon request by Parliament also embarked compilation of a verified National database and statistics of formerly abducted women and children born in captivity through conducting an identification and profiling exercise and a validation meeting to have this data authenticated. This data was meant to support the Government process of verifying individuals that are victims of armed conflict in Northern Uganda and are eligible to receive livelihood funding from the Government. This can play role in enabling the Chamber understand the approximate number of affected people and reparation modalities.
20. FIDA Uganda in partnership with other organizations has also has also undertaken a medical assessment on the degree to which medical and psychological needs that ought to be met if the communities are to feel the effects of any reparation program.

21. FIDA Uganda has also organized “Wango sessions” (Bonfire sessions enabling proper story telling for the war victims). These are aimed at creating awareness to the communities on the progress of transitional justice in their country, how far their Asks have gone among others. Through these form of dialogues, discussions around the proposed reparation programs have arisen on an ideal resettlement program, challenges faced by war survivors, and the need for livelihood support. FIDA Uganda has further had documentaries and interviews with most of the survivors that have informed the organization on their way of living and how the same can be improved.
22. FIDA Uganda has been a key stakeholder in providing input to development of the National Transition Justice policy that was passed in 2019 in Uganda through continuous lobbying and stakeholder engagements that had key deliberations in informing the policy. At the time of introduction of the policy, the contribution of FIDA Uganda had been realized through the proposed reparation program that is to be followed in helping war victims in Uganda.
23. The Organization is further undertaking stakeholder engagements to ensure that the National Transitional Justice law (Act) is passed in Uganda to give operationalisation of the Policy with the aim of creating clear avenues for facilitating access to reparations for the war victims. This is due to the fact that even with the existence of the policy, less is done without an existing law in place hence FIDA Uganda’s intervention in taking lead on and through its strategic litigation mechanism. The passing of the Transitional Justice Act is a key Ask in the orders prayed for in the transitional justice case filed in Lira High Court in Uganda.

V. RELIEF SOUGHT

24. FIDA Uganda therefore seeks for leave from the Trial Chamber IX for leave to submit amicus curiae observations on the types and extent of harm suffered by the victims of the crimes for which Dominic Ongwen was convicted together

with the types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Dominic Ongwen was convicted.

Submitted by;

A handwritten signature in black ink on a light blue background. The signature is stylized and appears to read 'L. Byarugaba Adriko'.

MRS. LILIANE BYARUGABA ADRIKO
EXECUTIVE DIRECTOR]
on behalf of
[FIDA - UGANDA]

Dated this 7th June 2021

At Kampala, Uganda

At [place, country]