

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

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

**Date: 7 June 2021**

**TRIAL CHAMBER IX**

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

**SITUATION IN UGANDA**

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

**Public Document**

**Request for leave to file submissions on reparations issues**

**Source:** The International Center For Transitional Justice , and The Uganda  
Victims Foundation

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

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**Unrepresented**

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

**REGISTRY**

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**Registrar**

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**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

## I. Introduction

1. The International Center for Transitional Justice (“ICTJ”) and the Uganda Victims Foundation (“The UVF”) collectively, (the “Applicants”), respectfully request Trial Chamber IX (the “Chamber”) for leave to submit *amicus curiae* observations on reparations issues pursuant to Article 75 of the Rome Statute and Rule 103 (1) of the Rules of Procedure and Evidence (“RPE”) in the case of *The Prosecutor v. Dominic Ongwen* (the ‘Ongwen case’)
2. The UVF is a registered nongovernmental organization based in Uganda which serves as a coalition of human rights and civil society nongovernmental organizations working with victims and on victims' rights issues in Uganda. The objectives of the UVF are to advocate for victims' rights especially with respect to the conflict in northern Uganda. The UVF was formed in 2006 initially as the Ugandan Victims’ Rights Working Group, by participants and representatives of Ugandan nongovernmental organizations working with victims who acknowledged the absence of an independent victims' rights advocacy group in the country.
3. The mandate and objectives of the UVF include raising the voice for victims of crimes including victims of international crimes perpetrated in Uganda. Activities of the UVF include advocacy actions in the form of statements, press releases and press articles, notably on the national transitional justice process. UVF also trains trainers and grass roots activists working with victims on victims’ rights, and conducts coordinated consultations with victims and sensitization about their rights.
4. The UVF has knowledge of issues concerning victims of international crimes in Northern Uganda. UVF member organizations work with victims on initiatives such as reintegration and rehabilitation programs, and therefore have direct experience of victims’ issues. They are based in the targeted districts in Northern Uganda. The UVF has held workshops for members and

consulted with victims in their own constituencies to inform transitional justice processes spearheaded by the government of Uganda.

5. As such, The UVF has an expertise directly related to the issues at stake in the Chambers Order on Submissions on Reparations.
6. The International Center for Transitional Justice is an international human rights organization, founded in 2001, with specialist expertise in transitional justice. It provides expert technical advice, policy analysis, and comparative research on transitional justice approaches, including criminal prosecutions, reparations, truth-seeking and memory, and institutional reform. The core principles of the ICTJ are to: prioritize the interests and perspectives of victims and survivors, promote compliance with international obligations, shape policy, and offer advice based on rigorous analysis of the national and international context and circumstances.
7. ICTJ experts have advised truth commissions and government bodies responsible for administering reparations programs, among others, in Colombia, Côte d'Ivoire, Tunisia, Uganda, and Kenya on how to design reparations policies that are effective and relevant to the needs of victims.
8. ICTJ experts assisted the Extraordinary Chambers in the Courts of Cambodia, to develop regulations that govern court-ordered reparations in its cases. The ICTJ has also filled amicus submissions in reparations proceedings before the ICC.<sup>1</sup>
9. The ICTJ has been working in Uganda since 2009 to support the design and implementation of victim-centred transitional justice processes that address

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<sup>1</sup>*The Prosecutor v. Thomas Lubanga Dyilo* Submission on reparations issues ICC-01/04-01/06-2879

impunity for human rights violations, uphold victim's right to truth and reparations, heal fractured communities, and restore confidence in the rule of law. For the last 12 years, ICTJ has worked directly with victims and victims' groups across Northern Uganda, including victims of sexual violence, to advance their right to redress and ensure that their dignity is recognized and respected.

10. ICTJ has provided the Ugandan Justice Law and Order Sector with critical information about the reparative needs of victims and helped to identify capacity gaps and resources that would be required to design and implement effective reparations programs. In addition, ICTJ supported civil society organizations, especially women's organizations, to submit reparations policy proposals to state authorities to inform the National Transitional Justice Policy.
11. The Applicants long experience working directly with victims; their in-depth knowledge of the enduring impact of the crimes on victims, and specialist expertise on transitional justice make them uniquely qualified to provide the Chamber with independent information about matters relevant to the proper determination of the issues before it.

## **II. Procedural History.**

12. On 4 February 2021, Trial Chamber IX found Dominic Ongwen ("Mr. Ongwen") guilty for the commission of 61 counts of crimes against humanity and war crimes committed in Northern Uganda between 1 July 2002 and 31 December 2005.
13. On 6 May 2021, Trial Chamber IX sentenced Dominic Ongwen to 25 years of imprisonment. On the same day, the Trial Chamber Issued an Order for Submissions on Reparations in the Ongwen case ("The Order"). In this Order, the Chamber, inter alia, invited 'any persons or organizations, particularly

with local expertise, interested in making submissions on the specific reparations-related issues listed by the Chamber, to request leave from the Chamber, pursuant to article 75 of the Statute and rule 103 of the Rules.<sup>2</sup>

14. The Chamber invited submissions on the following reparations issues: (paragraph 5 (i) of the Order):

- a. *the need for the Chamber to consider additional principles on reparations, apart from those already established by the consistent jurisprudence of the Court, as recently adapted and expanded in the case of The Prosecutor v. Bosco Ntaganda (the 'Ntaganda case');*
- b. *estimated total number of the direct and indirect victims of the crimes for which Mr. Ongwen was convicted, who may be potentially eligible for reparations;*
- c. *any legal and factual issues relevant to the identification of eligible victims;*
- d. *any victims or groups of victims who may require prioritization in the reparations process;*
- e. *specification of the types and extent of the harm suffered by the victims of the crimes for which Mr. Ongwen was convicted;*
- f. *whether recourse to factual presumptions should be considered;*
- g. *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 components, the appropriate modalities to be included therein, and whether certain modalities can be expeditiously implemented;*
- h. *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*

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<sup>2</sup>*The Prosecutor vs Dominic Ongwen* ICC-02/04-01/15-1820 Order for Submissions on Reparations Para 5(iii) 6 May 2021

*multi-dimensional harm of individual beneficiaries for the purposes of reparations.*

- 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; and*
- j. any additional information relevant to reparations.*

### **III. Applicable Law**

15. Article 75 (1) of the Statute provides that ‘The Court shall establish principles relating to reparations to, or in respect of victims, including restitution, compensation and rehabilitation...’

16. Rule 97 (1) of the RPE stipulates that, ‘[t]aking into account the scope and extent of any damage, loss or injury, the Court may award reparations on an individualized basis or, where it deems it appropriate, on a collective basis or both.’

17. Rule 103(1) of the RPE provides that ‘[a]t 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 orally, any observation on any issue the Chamber deems appropriate.’

18. The decision to invite or to receive an amicus intervention is a matter within the discretion of the Chamber.<sup>3</sup>

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<sup>3</sup>*Prosecutor v. Gbagbo*, Decision on the ‘Request for Leave to Submit *Amicus Curiae* Observations Pursuant to Rule 103 of the Rules of Procedure and Evidence’, Appeals Chamber, ICC-02/11-01/11-517, 1 October 2013, para. 9; *Prosecutor v. Bemba Gombo*, Decision on the Application of 14 September 2009 for Participation as an *Amicus Curiae*, Appeals Chamber, ICC-01/05-01/08-602, 9 November 2009, para. 10.

19. The Court has previously held that the core rationale underlying an amicus curiae submission is that the Chamber be assisted in the determination of the case by an independent intervener having no other standing in the proceedings.<sup>4</sup>

#### **IV. The Specific issues to be addressed in the observations**

20. In accordance with the Chamber's instructions, and pursuant to Rule 103(1) of the Rules of Procedure and Evidence, the Applicants respectfully request leave to submit observations on the following reparations issues:

- a. The types of victims or groups of victims who may require prioritization in the reparations process,
- b. The specification of the types and extent of the harm suffered by the victims of the crimes for which Mr. Ongwen was convicted,
- c. The types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Mr. Ongwen was convicted, with particular focus on delivering collective community-based reparations with individualized components,
- d. The 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.

21. The Applicants intended submissions on the issues identified in paragraph 20 above will draw from their extensive experience working closely with victims and war affected communities in Northern Uganda; and their research on the harms suffered by victims, and the appropriate forms and modes of delivering

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<sup>4</sup>*Situation in the Republic of Kenya*, Decision on Application for Leave to Submit *Amicus Curiae* Observations, Pre-Trial Chamber II, ICC-01/09-35, 18 January 2011, para. 6.



reparations to victims, including victims of various forms of sexual violence in Northern Uganda.<sup>5</sup>

22. The Applicants intended submissions will also be based on focus group discussions conducted in the four case locations of Lukodi, Abok, Pajule and Odek and with victims of sexual violence from across the Northern Uganda region to establish the extent of harm suffered by victims of the crimes for which Mr. Ongwen was convicted.
23. Relying on both international law and Uganda's experiences with reparations policymaking, the Applicants will identify practical ways, and relevant precedents that the Court can consider and apply to determine the types and modalities of reparations that are appropriate to address the harms suffered by the victims of the crimes for which Mr. Ongwen was convicted.

## V. Conclusion

24. For the reasons set forth above and pursuant to Rule 103(1) of the RPE, the Applicants respectfully request that they be granted leave to submit written observations on reparations issues identified in paragraph 20 above arising from the Chamber's Order.

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<sup>5</sup> Graham Carrington and Elena Naughton, *Unredressed Legacy: Possible Policy Options and Approaches to Fulfilling Reparations in Uganda*, The International Center for Transitional Justice (December 2012) accessed here <https://www.ictj.org/publication/unredressed-legacy-possible-policy-options-and-approaches-fulfilling-reparations-uganda>; See Virginie Ladisch, *From Rejection to Redress: Overcoming Legacies of Conflict-Related Sexual Violence in Northern Uganda*, The International Center for Transitional Justice (October 2015) accessed here <https://www.ictj.org/publication/rejection-redress-overcoming-legacies-conflict-sexualviolence-northern-uganda>; See Sarah Kasande and Eva Kallweit, *Building Blocks for Reparations, Building Blocks for Reparations: Providing Interim Relief to Victims Through Targeted Development Assistance*, The International Center for Transitional Justice (September 2020) accessed here <https://www.ictj.org/publication/building-blocks-reparations-providing-interim-relief-victims-through-targeted>



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Ms. Anna Myriam Roccatello, Deputy Executive Director  
on behalf of  
The International Center For Transitional Justice



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Mr. Christ Ongom, Executive Director  
on behalf of  
The Uganda Victims Foundation

Dated this 7 June 2021

At Kampala, Uganda