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Pénale
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**International
Criminal
Court**

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

Date: **17 February 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

Defence Additional Submissions on Beneficiaries and Transgenerational Harm

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 additional information on the estimated total number of beneficiaries and transgenerational harm as allowed by Trial Chamber IX (‘Chamber’).¹

II. PROCEDURAL HISTORY

2. On 4 February 2021, the Chamber passed judgment on Dominic Ongwen, convicting him of 61 counts of crimes against humanity and war crimes.²
3. On 21 July 2021, the Defence filed its appeal against the convictions.³
4. On 26 August 2021, the Defence filed its appeal against the sentence.⁴
5. On 21 October 2021, the Prosecution,⁵ Common Legal Representative for Victims (‘CLR’),⁶ and Legal Representatives for Victims (‘LRV’) ⁷ filed responses against the Defence’s appeal against the convictions.
6. On 26 October 2021, the Prosecution,⁸ CLR⁹ and LRV¹⁰ filed responses against the Defence’s appeal against the sentence.

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

² Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#).

³ Appeals Chamber, *Defence Appeal Brief Against the Convictions in the Judgment of 4 February 2021*, [ICC-02/04-01/15-1866-Conf](#).

⁴ Appeals Chamber, *Correct Version of “Defence Document in Support of its Appeal against the Sentencing Decision”*, filed on 26 August 2021, [ICC-02/04-01/15-1871-Conf-Corr](#).

⁵ Appeals Chamber, *Prosecution Response to “Defence Appeal Brief Against the Convictions in the Judgment of 4 February 2021”* ICC-02/04-01/15-1866-Conf, [ICC-02/04-01/15-1882-Conf](#).

⁶ Appeals Chamber, *CLR Observations on the “Defence Appeal Brief Against the Convictions in the Judgment of 4 February 2021”*, [ICC-02/04-01/15-1880-Conf](#).

⁷ Appeals Chamber, *Victims’ Observations on the “Defence Appeal Brief Against the Convictions in the Judgment of 4 February 2021”*, [ICC-02/04-01/15-1883-Conf](#).

⁸ Appeals Chamber, *Prosecution response to Sentencing Appeal Brief*, [ICC-02/04-01/15-1886-Conf](#).

⁹ Appeals Chamber, *CLR Observations on the “Defence Appeal of the Sentence”*, [ICC-02/04-01/15-1885](#).

¹⁰ Appeals Chamber, *Victims’ Observations on the “Defence Document in Support of its Appeals against the Sentencing Decision”*, [ICC-02/04-01/15-1887](#).

7. On 6 December 2021, the Defence,¹¹ Registry,¹² Trust Fund for Victims ('TFV'),¹³ LRV¹⁴ and CLR¹⁵ filed submissions on reparations.
8. On 7 February 2022, the Registry,¹⁶ Prosecution¹⁷ and LRV¹⁸ filed submissions on reparations.
9. On 15 December 2022, the Appeals Chamber pronounced the judgments on the appeals against the convictions¹⁹ and sentence,²⁰ upholding all the convictions and the sentence.
10. On 16 December 2022, the Chamber allowed the Parties and Participants to submit additional observations on specific issues related to the estimated total number of beneficiaries and transgenerational harm.²¹

III. SUBMISSIONS

A. Defence estimated total number of potential beneficiaries of the thematic crimes.

11. The Defence has serious concerns with the way the total number of potential beneficiaries was calculated by the Registry. While the Defence understands the problems with determining the extent of potential beneficiaries because of records kept during this time period, and the fact that the Government of the Republic of Uganda did not respond to the Registry's request for help, the Defence offers this alternative methodology for calculating potential beneficiaries.
12. Furthermore, it is unfortunate and regrettable that the Defence must file these submissions without having the unredacted versions of the sample victim application pool. Mr Ongwen has the right to know his accusers and check the veracity of their statements. Even in redacted form, there appears to be several applications which do not allege harm from one of the crimes for which Mr Ongwen was convicted. If persons in the victim application pool are not victims of

¹¹ Trial Chamber IX, *Defence Submissions on Reparations*, [ICC-02/04-01/15-1917](#).

¹² Trial Chamber IX, *Registry's Mapping Report and Submission on Reparations*, [ICC-02/04-01/15-1919](#) with annexes.

¹³ Trial Chamber IX, *Trust Fund for Victims' Observations relevant to Reparations*, [ICC-02/04-01/15-1920](#).

¹⁴ Trial Chamber IX, *Victims' Preliminary Submissions on Reparations*, [ICC-02/04-01/15-1921](#).

¹⁵ Trial Chamber IX, *Common Legal Representative of Victims' Submissions on Reparations*, [ICC-02/04-01/15-1923-Conf](#) with annexes.

¹⁶ Trial Chamber IX, *Registry's Additional Submissions on the Mapping Exercise and Reparations*, [ICC-02/04-01/15-1975](#).

¹⁷ Trial Chamber IX, *Prosecution's Observations on Reparations*, [ICC-02/04-01/15-1976](#).

¹⁸ Trial Chamber IX, *Victims' Further Submissions on Reparations*, [ICC-02/04-01/15-1977](#).

¹⁹ 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](#).

²⁰ Appeals 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](#)).

²¹ Trial Chamber IX, *Decision on the Registry Additional Information on Victims*, [ICC-02/04-01/15-2024](#).

the crimes for which Mr Ongwen was convicted, this would affect the estimated number of potential beneficiaries. The Defence shall cover this in more detail in its other submissions.

13. Finally, the Defence highlights the testimony of P-0189 who stated that on 4 September 2006, when he met with Mr Ongwen near Lacekocot, there were between 200-300 persons in his group.²² This is largely inconsistent with the estimated potential number of beneficiaries of the Registry, even given the fact that this is just over 8 months after the jurisdiction of the case. The Defence emphasises that the estimations below are against the Registry's estimations, and that the Defence shall make further comments on its submissions made pursuant to Order 2024.

i. There were six (6) fighting units in the LRA during the jurisdiction of the case.

14. The Defence notes that the Registry incorrectly lists the divisor as four (4) brigades in the LRA. The LRA was comprised of Sinia, Stockree, Gilva, Trinkle, Jogo Division and Control Altar. Evidence of the two additional units is proven by the presence of Vincent Otti and his fighters at the attack on Pajule²³ and that the Chamber specifically discussed Control Altar and Jogo Division in the Trial Judgment.²⁴ The misconception that there were only four (4) units causes a serious miscalculation of the alleged number of potential beneficiaries of the thematic crimes.
15. Control Altar and Jogo Division operated the same as Sinia, Trinkle, Stockree and Gilva Brigades. Those units carried out operations, abducted persons and distributed women as wives within the LRA. The actions taken by Vincent Otti and his subordinates in Control Altar, and the formation of Jogo Division in 2003, cannot be discounted. Thus, when determining the overall number of potential beneficiaries, the Chamber must take into account that there were six (6) LRA units/bodies operating in Uganda, not four (4) units.

ii. Mr Ongwen's time as the leader of Sinia is miscalculated by the Registry.

16. The Registry, when calculating the total number of potential beneficiaries for the thematic crimes, calculated the estimated number of persons abducted during the jurisdiction of the case.²⁵ This appears to encompass from 1 July 2002 to 31 December 2005.

²² P-0189, [ICC-02/04-01/15-T-95-Red](#), p. 50, lns 8-13 (*noting* the time frame of the meeting, September 2006) and p. 56, lns 5-12 (*noting* the approximate size of Mr Ongwen's group).

²³ See Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), paras 1176-1177.

²⁴ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), paras 854-864.

²⁵ Trial Chamber IX, *Registry's Mapping Report and Submission on Reparations*, [ICC-02/04-01/15-1919-AnxI](#), paras 52-55.

17. Mr Ongwen was not the commander of Sinia Brigade during this entire 42-month period. As pronounced by the Chamber, Mr Ongwen assumed command of Sinia Brigade on 4 March 2004.²⁶ Using 1 March 2004 as a rounded date, Mr Ongwen controlled Sinia Brigade for 22 months during the jurisdiction of the case, or better put, 52.38% of the jurisdiction of the case.

iii. Estimated potential beneficiaries of thematic crimes.

18. Firstly, the Defence makes this estimated potential beneficiaries outside of the unredacted sample victim applications, which the Defence has yet to receive. The Defence asserts that reasonable doubt exists about some of the victims in the sample victim applications qualifying for reparations as victims of a crime for which Mr Ongwen has been convicted. The Defence shall submit observations on this issue in the appropriate submissions allowed by the Chamber.
19. The Registry estimated the number of potential beneficiaries of the thematic crimes as 10,000 persons using the four (4) brigade system. Using the outlined above, the Defence provides the estimated number of 3,492 potential beneficiaries. The Defence arrives at this number by:

$40,000 \text{ persons}^{27} / 6 \text{ units} = 6,667 \text{ persons per group}$ $6,667 \times 0.5238^{28} = 3,492 \text{ estimated persons from 1 March 2004 – 31 December 2005}$

B. Defence submissions related to estimated potential beneficiaries from Pajule, Odek, Lukodi and Abok.

20. The Defence does not make any submissions at this time on the estimated number of potential beneficiaries from Pajule, Odek, Lukodi and Abok. As allowed by the Chamber, the Defence shall make representations about the estimated potential beneficiaries in its responses.

C. Defence submissions related to transgenerational harm.

21. The Defence cannot emphasise enough the problems associated with transgenerational harm and its use in determining reparations at the ICC. This broad, undefined, untested and novel concept cannot form the basis of reparations or increasing reparations at the ICC. Reparations

²⁶ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), para. 137.

²⁷ Trial Chamber IX, *Decision on the Registry Additional Information on Victims*, [ICC-02/04-01/15-2024](#), para. 22 (citing to Trial Chamber IX, *Registry Additional Information on Victims*, [ICC-02/04-01/15-2019](#) and noting Trial Chamber IX, Annex I of *Registry Report on the Mapping Exercise*, [ICC-02/04-01/15-1919-AnxI](#)).

²⁸ As noted above, this is the percentage of time Mr Ongwen was the head of Sinia Brigade during the jurisdiction of the Court.

are available for persons who suffered from the crimes for which the accused was convicted. As noted below, problems exist with differentiating the harm suffered by the victim and the attack in which s/he suffered the harm. The protracted war, most of which occurred outside the temporal jurisdiction of the Court, would contribute significantly to any transgenerational harm.

i. The scientific basis for the concept of transgenerational harm.

22. The Defence shall reserve its comments for its responses. With respect, it is not required for the convicted person to prove anything related to his/her reparations. It is incumbent upon the moving party to prove that such persons qualify for reparations. As the current jurisprudence of the Court is against incorporating transgenerational harm into reparations, the Defence insists the Chamber maintain the *status quo*.

ii. The evidence needed to establish transgenerational harm.

23. The Defence shall reserve its comments for its responses. With respect, the CLRV and LRVs are required to outline and prove transgenerational harm, which include the evidence and standards required for its proof.

iii. What are the evidentiary requirements for an applicant to prove transgenerational harm.

24. The Defence shall comment on the arguments made by the Parties and Participants in its response. But, in anticipation of arguments, the Defence hereby makes some comments on any evidentiary requirement.
25. An applicant should be able to provide clear and convincing evidence that the applicant's transgenerational harm is directly attributable to Mr Ongwen **and** attributable to one of the crimes for which Mr Ongwen was convicted. The war in northern Uganda lasted for 20 years, and persons went in-and-out of IDP camps, many long before the jurisdiction of the case.²⁹ Furthermore, as discussed below, the four (4) IDP camps were attacked several times. Attributing any and all the transgenerational harm on Mr Ongwen, even though he would potentially only be responsible for a small fraction of it, would be placing the entire damage caused by both the LRA and the UPDF upon Mr Ongwen. If an applicant can prove that s/he

²⁹ For example see D-0139 Expert Report, *Internment Camps and Forced Displacement in Northern Uganda*, UGA-D26-0015-1172, pp 1180-1192.

suffers from transgenerational harm, it must be required that said applicant demonstrate what percentage of the transgenerational harm is attributable to Mr Ongwen.

iv. The need, if any, for a psychological examination of applicants and parents.

26. The concept of transgenerational harm in the context of massive human rights violations is an evolving concept in scientific, medical and legal literature and scholarship. Although it has been discussed in previous cases before this Court,³⁰ it did not form part of the reparations award in *Lubanga*,³¹ and victims alleging transgenerational harm were rejected in *Katanga*.³² Hence, this concept remains undefined and novel at the ICC.³³
27. Transgenerational harm is the process in which trauma is transposed from the first generation who were directly exposed to the trauma to second and third generations who were not directly exposed to the trauma.³⁴ There are two theories to explain the transmission of transgenerational harm. Firstly, according to the attachment theory, unresolved trauma affects the quality of parenting and leads to secondary traumatization in offspring.³⁵ Secondly, according to the epigenetic transmission theory, biological alterations occur when a parent is exposed to trauma, which results in the child re-experiencing that trauma as if it is their own.³⁶

³⁰ Trial Chamber I, [ICC-01/04-01/06-T-166](#), p. 30, lns 14-19; Trial Chamber III, [ICC-01/05-01/08-T-368](#), p. 99, ln. 11 to p. 100, ln. 13; Trial Chamber IX, [ICC-02/04-01/15-T-177](#), p. 30, ln. 11 to p. 31, ln. 7. *See also* Trial Chamber II, *Decision on the Matter of the Transgenerational Harm Alleged by Some Applicants for Reparations Remanded by the Appeals Chamber in its Judgment of 8 March 2018*, [ICC-01/04-01/07-3804-Red-tENG](#) (“Katanga Decision on Transgenerational Harm”).

³¹ Trial Chamber I, *Decision establishing the principles and procedures to be applied to reparations*, [ICC-01/04-01/06-2904](#) and Appeals Chamber, *Judgment on the appeal 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](#).

³² Trial Chamber II, *Order for Reparations pursuant to Article 75 of the Statute*, [ICC-01/04-01/07-3728-tENG](#); Appeals Chamber, *Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled “Order for Reparations pursuant to Article 75 of the Statute”*, [ICC-01/04-01/07-3778-Red](#); and Trial Chamber II, *Decision on the Matter of the Transgenerational Harm Alleged by Some Applicants for Reparations Remanded by the Appeals Chamber in its Judgment of 8 March 2018*, [ICC-01/04-01/07-3804-Red-tENG](#).

³³ Appeals Chamber, *Judgment on the appeals against the decision of Trial Chamber VI of March 2021 entitled “Reparations Order”*, [ICC-01/04-02/06-2782](#), para. 491.

³⁴ Peter Fonagy, ‘The transgenerational transmission of holocaust trauma’ (1999) 1 Attachment & Human Development p. 94.

³⁵ Nigel Field, ‘Intergenerational transmission of trauma stemming from the Khmer Rouge Regime an attachment perspective’ in Beth Van Schaack, Daryn Reicherter, Gillian Reiersen, Cambodia’s Hidden Scars: Trauma Psychology and the Extraordinary Chambers in the Courts of Cambodia (2nd Edition Documentation Centre of Cambodia 2016) p. 101.

³⁶ Fiona Gardner ‘Transgenerational processes and the trauma of sexual abuse’ (1999) 2:3 The European Journal of Psychotherapy, Counselling & Health, p. 297.

28. Although the Chamber in the Katanga case did recognize the existence of the phenomena called transgenerational harm,³⁷ the Chamber noted that there is no absolute scientific certainty regarding this concept,³⁸ with regard to the epigenetic change theory.³⁹
29. The Defence submits that there is need for a psychological examination of both the applicants and the parents. In order to prove transgenerational harm, there must first be a diagnosis of psychological harm for the parents. Moreover, considering that a psychiatric diagnosis fluctuates and evolves with time, it must be reassessed on a rolling basis. Indeed, in the Bemba case, Dr Reicherter testified that: first, a clinical diagnosis could not be based on information collected years ago; and second, a diagnosis dated from 10 years had to be reassessed, even in the presence of indications that the mental trouble is a chronic one.⁴⁰
30. It follows that a precise psychological assessment is therefore necessary in order to establish a transgenerational harm due to the PTSD or stress disorder of one of the parents who suffered harm as a result of a crime for which the accused person was convicted of and that would have been transmitted to his/her offspring.
31. For there to be a proper assessment as to whether Mr Ongwen is liable for this type of harm, the Chamber should be clearly guided by among others expert evidence provided in respect to the different applications for reparations in respect of this type of harm by particular victims.⁴¹

v. The need, if any, to exercise caution in assessing applications based on transgenerational harm.

32. The Defence posits that the Chamber should take caution while assessing applications based on transgenerational harm. It must be established that there is a causal nexus between the crimes of which Mr Ongwen was convicted and the psychological harm, if any, suffered by the Applicants Concerned.

³⁷ [Katanga Decision on Transgenerational Harm](#), para.10.

³⁸ [Katanga Decision on Transgenerational Harm](#), paras 12-14.

³⁹ Katanga Appeals Judgment.

⁴⁰ Trial Chamber III, [ICC-01/05-01/08-T-369](#), p.6, lns 10-13.

⁴¹ See Appeals Chamber, *Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled "Reparations Order"*, [ICC-01/04-02/06-2782](#), para. 484.

33. The Appeals Chamber has held that the standard of causation is a “but-for relationship” between the harm and the crime. There is a further requirement that the crimes of which the person was convicted were the proximate cause of the harm for which reparations are sought.⁴²
34. The proximate cause standard is a limitation placed by some courts on a person’s liability for the consequences of his or her actions. This means that the liability of the person who committed an act is limited to the causes that are closely connected to the result of that act and that are significant enough to justify a finding of liability.⁴³
35. The Defence posits that factors/events predating the attacks on four IDP Camps greatly contributed to the suffering of most of the victims in Northern Uganda.⁴⁴ Therefore, as this Court has previously observed, “it lies with the Applicant to provide sufficient proof of the causal nexus between the harm alleged and the crimes of which the person was convicted.”⁴⁵
36. Therefore, the absence of certainty in relation to the transgenerational harm must be carefully considered when attempting to determine the existence of a causal link between the harm and the crimes the convicted person has been convicted of. Resorting to presumptions for this matter would seriously undermine the rights of the convicted person.
37. Regarding Pajule IDP Camp, this Chamber already acknowledged how it was attacked several times prior to the charged attack.⁴⁶ There is also evidence on record to the effect that several months before the attack on Lukodi IDP Camp, LRA had made incursions into the camp.⁴⁷ Therefore, *in arguendo*, even if some of the applicants did suffer from transgenerational harm, it could be linked to these initial attacks and not the one for which Mr Onwgen was convicted.

⁴² Trial Chamber II, *Order for Reparations pursuant to Article 75 of the Statute*, [ICC-01/04-01/07-3728-tENG](#), para. 162.

⁴³ B. Garner (ed.), *Black’s Law Dictionary* (8th edition, 2004), p. 662. *Black’s Law Dictionary* also gives the following definitions: “An event that comes between the initial event in a sequence and the end result, thereby altering the natural course of events that might have connected a wrongful act to an injury”; “An intervening act or force that the law considers sufficient to override the cause for which the original tortfeasor was responsible, thereby exonerating the tortfeasor from liability” (B. Garner (ed.) *Black’s Law Dictionary* (Minnesota: Thomson West, 3rd Pocket Edition, 2006).

⁴⁴ For example see D-0139 Expert Report, *Internment Camps and Forced Displacement in Northern Uganda*, UGA-D26-0015-1172, pp 1180-1192.

⁴⁵ Trial Chamber II, *Order for Reparations pursuant to Article 75 of the Statute*, [ICC-01/04-01/07-3728-tENG](#), paras 162-163 and 166.

⁴⁶ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), paras 415 and 1173 and fn. 2394.

⁴⁷ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), para. 1645 and fn. 4173.

vi. Whether Mr Ongwen is liable to repair such harm in the specific context of the case.

38. The Appeals Chamber has previously held that, “in awarding reparations, a trial chamber must remain within the confines of the conviction and sentencing decisions.”⁴⁸
39. The Defence submits that Mr Ongwen is not liable to repair such transgenerational harm considering the nature of the protracted armed conflict in Northern Uganda involving the LRA led by Joseph Kony on the one side, and the UPDF on the other side. There is ample evidence on record showing that there was crossfire between the UPDF and the LRA in the course of the attacks against the four IDP camps namely Pajule,⁴⁹ Odek,⁵⁰ Abok⁵¹ and Lukodi.⁵² The Defence therefore argues that any transgenerational harm that could have been suffered cannot entirely be attributed to Mr Ongwen.
40. Furthermore, Mr Ongwen was found responsible as an indirect perpetrator of crimes committed in the context of the attacks carried out on the Lukodi IDP camp and the Abok IDP camp. He was also found criminally responsible as an indirect co-perpetrator of crimes committed in the context of the attacks on the Pajule IDP camp on or about 10 October 2003 and the Odek IDP camp on or about 29 April 2004 and for the conscription and use in hostilities of children below the age of 15 years. The Defence posits that in the context of his conviction as an indirect co-perpetrator, he cannot be held fully accountable for any transgenerational harm that may have been suffered by the victims.
41. The Defence submits that most of the policies of the LRA predate the time frame relevant to the charges, and that Mr Ongwen only became commander of the Sinia brigade on 4 March 2004.⁵³ Mr Ongwen is therefore not responsible for any transgenerational harm that may have been suffered by the victims prior to that date that he did not directly commit.
42. The Chamber acknowledged the fact that IDP camps came into existence in Northern Uganda before the period directly relevant to the charges, and that some people were moved into IDP camps against their will. Several witnesses testified of occurrences of abuse by camp residents

⁴⁸ Appeals Chamber, *Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’*, [ICC-01/04-01/06-3466-Red](#), para. 311

⁴⁹ See D-0076, [ICC-02/04-01/15-T-219-Red](#), p. 16, line 15 to p. 17, line 2 and p. 25, lines 2-5.

⁵⁰ LRA fighters P-0372, [ICC-02/04-01/15-T-148-Red](#), p. 46, lns 3-14; P-0264, [ICC-02/04-01/15-T-66-Red](#), p. 66, lns 4-11; P-0085, [ICC-02/04-01/15-T-159-Red2](#), p. 36, ln. 21 to p. 38, ln. 8; P-0233, [ICC-02/04-01/15-T-111-Red2](#), p. 45, ln. 18 to p. 46, ln. 3; and P-0269, [ICC-02/04-01/15-T-86-Red2](#), p. 25, lns 13-16.

⁵¹ See D-0065, [ICC-02/04-01/15-T-211-Red](#) and P-0280, [ICC-02/04-01/15-T-84-Red](#).

⁵² P-0142, [ICC-02/04-01/15-T-70-Red2](#), p. 65, ln. 23 to p. 66, ln. 4; P-0172, [ICC-02/04-01/15-T-113-Red](#), p. 25, lns 14-20.

⁵³ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), para. 137.

at the hands of government soldiers and IDP camp residents gave testimony indicating poor living conditions, due to lack of food, access to water and adequate health facilities.⁵⁴ Therefore in the context of this particular case, Mr Ongwen is not liable to repair any transgenerational harm that may have been suffered by victims as result of establishment of the IDP camps and the suffering that they may have gone through as a result of the various atrocities suffered.⁵⁵

IV. CONCLUSION

43. For the abovementioned reasons, the Defence respectfully submits these observations for Trial Chamber IX's consideration.

Respectfully submitted,



.....
Chief Charles Achaleke Taku
On behalf of Dominic Ongwen

Dated this 17th day of February, 2023

At The Hague, Netherlands

⁵⁴ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Conf](#), para. 1105.

⁵⁵ For example see D-0139 Expert Report, *Internment Camps and Forced Displacement in Northern Uganda*, UGA-D26-0015-1172, pp 1180-1192.