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TRIAL CHAMBER II

Before: Judge María del Socorro Flores Liera, Presiding Judge
Judge Kimberly Prost
Judge Nicolas Guillou

SITUATION IN UGANDA

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

Public Document

**Common Legal Representative of Victims' Observations on the
"Registry Submissions pursuant to Reparations Order ICC-02/04-01/15-2074",
No. ICC-02/04-01/15-2082**

Source: Office of Public Counsel for Victims

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I. INTRODUCTION

1. The Common Legal Representative of Victims (the “CLR”) hereby files her observations on the “Registry Submissions pursuant to Reparations Order ICC-02/04-01/15-2074” (the “Registry Submissions”).¹

2. The CLR welcomes the Registry Submissions and generally agrees with the approach proposed in relation to the eligibility assessment as described in paragraphs 13 to 15 of the Submissions. She also supports the approach on the LC.I letters as valid identity documents widely used in the Ugandan context.²

3. On the vulnerability assessment, the CLR reiterates her position - confirmed by a recent mission in the field - according to which all 1,532 victims she represents should fall under the first priority category and further addresses some matters related to said assessment and urgent needs of participating victims.

4. Finally, on the timeframe for the communication to the Registry of the list of all victims she represents, the CLR informs the Trial Chamber that, during her recent mission in the field, she has collected further relevant information and therefore, she will be able to transmit said list by end of May 2024 at the latest, instead of 15 April 2024 as previously indicated.³

¹ See the “Registry Submissions pursuant to Reparations Order ICC-02/04-01/15-2074”, [No. ICC-02/04-01/15-2082](#), 2 April 2024 (the “Registry Submissions”).

² *Ibid.*, para. 16.

³ *Ibid.*, para. 20.

II. PROCEDURAL HISTORY

5. On 4 February 2021, Trial Chamber IX issued its Judgment, finding Mr Ongwen guilty of 61 charges of war crimes and crimes against humanity.⁴

6. On 6 May 2021, Trial Chamber IX sentenced Mr Ongwen to 25 years of imprisonment.⁵ The same day, it issued an Order setting the calendar of submissions in relation to the reparations proceedings.⁶

7. On 15 December 2022, the Appeals Chamber confirmed both the Judgment⁷ and the Sentence.⁸

8. On 28 February 2024, Trial Chamber IX issued the “Reparations Order”.⁹

9. On 12 March 2024, the Presidency decided on the assignment of Judges and on the composition of Trial Chamber II (the “Chamber”), and assigned the *Ongwen* case to it.¹⁰ On 15 March 2024, the judges of the Chamber elected Judge María del Socorro Flores Liera as Presiding Judge and as Single Judge.¹¹

10. On 2 April 2024, the Registry filed its Submissions.¹²

⁴ See the “Trial Judgment” (Trial Chamber IX), [No. ICC-02/04-01/15-1762-Conf and No. ICC-02/04-01/15-1762-Red](#), 4 February 2021 (the “Judgment”).

⁵ See the “Sentence” (Trial Chamber IX), [No. ICC-02/04-01/15-1819-Conf and No. ICC-02/04-01/15-1819-Red](#), 6 May 2021, as well as the “Partly Dissenting Opinion of Judge Raul C. Pangalangan”, [No. ICC-02/04-01/15-1819-Anx](#).

⁶ See the “Order for Submissions on Reparations” (Trial Chamber IX), [No. ICC-02/04-01/15-1820](#), 6 May 2021.

⁷ See the “Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled ‘Trial Judgment’” (Appeals Chamber), [No. ICC-02/04-01/15-2022-Red](#), 15 December 2022.

⁸ See the “Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled ‘Sentence’” (Appeals Chamber), [No. ICC-02/04-01/15-2023](#), and “ANNEX 1: Partly Dissenting Opinion of Judge Luz del Carmen Ibáñez Carranza”, No. ICC-02/04-01/15-2023-Anx1, 15 December 2022.

⁹ See the “Reparations Order” (Trial Chamber IX), [No. ICC-02/04-01/15-2074](#), with Annexes I, II and III, 28 February 2024.

¹⁰ See the “Decision assigning judges to divisions and recomposing Chambers” (Presidency), [No. ICC-02/04-01/15-2079](#), 12 March 2024.

¹¹ See the “Decision notifying the election of a Presiding Judge and Single Judge” (Trial Chamber II), [No. ICC-02/04-01/15-2081](#), 15 March 2024.

¹² See the Registry Submissions, *supra* note 1.

III. OBSERVATIONS

11. At the outset, the CLRV indicates that she agrees with the Registry's approach in relation to the eligibility assessment for the categories of victims and on the validity of LC.I letters.

12. Concerning the urgent needs assessment, the CLRV reiterates her position according to which all the 1,532 victims she represents should fall within the first priority category of "*vulnerable victims in dire need of urgent assistance*". As indicated throughout the proceedings, and in particular at the reparations stage, all victims currently suffer from extremely poor health conditions (mental or physical), and face a lack of resources and incomes, especially in instances where they are the sole providers for their family.

13. The victims include individuals who require urgent medical assistance due to physical conditions, illnesses, or poor health that could lead to loss of life without immediate intervention. Additionally, this category of victims encompasses elderly individuals¹³ and those with physical limitations who lack income, yet are responsible for the care of numerous family members. They are also children and young adults formerly abducted in the LRA, former child soldiers, children born in captivity or from formerly abducted victims, and child headed families - whose reintegration and survival in society depends on their access to specific support, amongst which education and vocational trainings. In addition, all survivors of sexual and gender based violence, including women directly victimized by Mr Ongwen, suffer from medical conditions and social ostracism that endanger their daily survival, as well as the lives of their children (some born of rape in captivity) and family members.¹⁴

14. The CLRV completed a mission in Uganda at the end of March 2024. She visited all the localities where her clients currently reside to inform them about the

¹³ Many victims represented by the CLRV have reached an advanced age and are suffering from a very weakened health, living in very difficult economical situations.

¹⁴ See the "Common Legal Representative of Victims' Submissions on Reparations", [No ICC-02/04-01/15-1923-Red](#), 7 December 2021, paras. 36 to 41.

Reparations Order and collect updated information relevant to their vulnerability assessments. Said mission confirmed the extreme precarity in which all her clients struggle to survive.

15. In this regard, the following categories proposed by the VPRS in the Submissions are accurate given the present circumstances in Northern Uganda, and particularly concerning the victims of the crimes for which Mr Ongwen was convicted: (i) individuals who require immediate physical and/or psychological medical care; (ii) victims with disabilities; (iii) elderly individuals; (iv) victims of sexual or gender-based violence; (v) victims who are homeless; (vi) victims experiencing financial hardship; (vii) children born out of rape and sexual slavery; (viii) former child soldiers; (ix) victims whose family members were killed or who were abducted and never returned, especially elderly parents, widows, widowers and orphans; child headed families, single mothers.¹⁵

a) Individuals who require immediate physical and/or psychological medical care and victims with disabilities

16. Regarding the first and second category, the CLRV recalls that individuals with a mental or physical disability or illness, requiring urgent medical care encompass a broad spectrum of conditions. This includes survivors dealing with chronic diseases, physical or psychological health issues hindering their ability to work or maintain an independent daily life. These conditions may manifest as bullets and bomb fragments still embedded in their bodies, amputated limbs, or burned bodies requiring corrective surgeries. Additionally, victims may suffer from conditions such as hypertension, cardiac issues, respiratory or pulmonary infections, diabetes, or enduring trauma altering their mental state. Examples also include those who suffered from a stroke, are affected by dementia, or are abusing substances altering their mental status or attitudes towards themselves and others. The individuals' physical and psychological condition deteriorate every day, and without urgent care, they do face the risk of dying

¹⁵ See the Registry Submissions, *supra* note 1, para. 24.

from it. Indeed, in Uganda, many people die from curable diseases due to poverty and lack of proper medical care.

b) Elderly individuals

17. Regarding category 3, the CLRV submits that the notion of elderly people in the context of Northern Uganda and following the LRA conflicts, should be deemed to include persons over 50 years of age. The current generation of older people is facing a number of challenges, with the majority of them living in rural areas, including widespread illiteracy, landlessness, food insecurity, poor health,¹⁶ neglect and abuse by younger generations. According to the Ministry of Gender, Labour and Social Development of The Republic of Uganda, *“these challenges persist in a context of structural poverty, i.e., where the majority are poor owing to capital-centric economic development, the absence of a comprehensive social security system and the poor quality of public service infrastructure. [...] In Uganda, older persons offer critical care to children, vulnerable adult children and other older persons. However, families are no longer caring for older persons as much as in the past since the relevance of older persons has dwindled as the economy has modernised. Given that the current working population are afflicted by widespread poverty and unemployment, HIV/AIDs, high living costs, school fees and even alcoholism, older persons have slid to the bottom of the hierarchy of priorities. Older people’s access to care has become unpredictable, relying greatly on the personal relations established over their life course, the individual personalities and behaviour within the kinship circles (including that of the older person), as well as the physical and financial circumstances of ‘willing’ carers to provide at least one or more forms of care”*.¹⁷ *“Social infrastructure in the Acholi sub-region was*

¹⁶ Unintentional injuries are among the leading causes of death and disability in older adults. See SCHEETZ Linda J., [“Life-threatening injuries in older adults”](#), AACN Adv Crit Care, 2011 Apr-Jun, 22(2):128-39. Older adults are also more prone to developing age related diseases that younger people do not typically develop. High blood pressure might be an intergenerational problem, but issues like cardiovascular disease, ischemic heart disease, urinary incontinence, vascular dementia, multiple sclerosis, and other diseases are far more common among older adults. See Keystone Health, [“Geriatric Diseases: Age-Related Medical Conditions & Illnesses”](#). According to NCOA research, nearly 95% of adults 60 and older have at least one chronic condition, while nearly 80% have two or more. See National Council On Aging, [“The Top 10 Most Common Chronic Conditions in Older Adults”](#), 31 August 2023.

¹⁷ See Ministry of Gender, Labour and Social Development, The Republic of Uganda, [“The State of Older Persons in Uganda. Situational analysis report”](#), September 2020, pp. 1, 68, 70 (last available report).

*significantly fractured during the LRA insurgence, which in turn affected social service delivery leaving the region impoverished. The elderly as a result have been excluded from access to social services and healthcare, which has left them vulnerable to heightening Communicable and Non-Communicable Diseases”.*¹⁸

c) *Victims of sexual or gender-based violence*

18. Survivors of sexual or gender-based violence face life-threatening conditions, including but not limited to Vesicovaginal fistula, HIV/AIDS, Hepatitis B and abdominal trauma. Not all survivors of sexual violence experience the same effects, nor do they respond to such trauma in identical ways. As individuals grapple with the aftermath of sexual violence, a range of emotions, behaviours, and physical responses emerge and fluctuate over time.¹⁹

19. This complexity presents significant challenges for adult survivors. Many struggle with feelings of unworthiness, themselves-blame, and fear of social rejection. Cultural factors and lack of community support can exacerbate feelings of isolation. Survivors may have been shunned or marginalised by their families and communities following their disclosure of the violence endured.

20. Long-term reactions to trauma include a range of coping mechanisms, some of which may be beneficial and adaptive – such as seeking social support, or counterproductive and maladaptive – such as self-harm, substance abuse, or developing eating disorders. These reactions may manifest as ongoing anxiety, deteriorating health, sense of helplessness, persistent fear, depression, mood swings, disruptions in sleep patterns, flashbacks, dissociation, panic attacks, phobias, difficulties in relationships, withdrawal or isolation, paranoia or localized pain.²⁰

¹⁸ See MPAABE Edwin, SEMUGABI Collins, NAKINOBE Flavia Gladys, [“Inclusion for Healthcare access for older persons in Northern Uganda Ensuring that older persons from Acholi Sub Region of Northern Uganda have access to quality HealthCare: A Community-centred Response”](#), Department of Population Studies, School of Statistics & Planning, College of Business and Management Sciences, Makerere University, p. 4.

¹⁹ See Washington Coalition of Sexual Assault Programs, [“The effects of sexual assault”](#).

²⁰ *Idem*.

21. In Northern Uganda, victims of sexual and gender-based violence, and notably the former wives of Mr Ongwen, continue to endure stigma and isolation, placing them at heightened risk of harm on a daily basis. Living on the outskirts of communities, devoid of family and communities' support, they confront daily struggles threatening their survival – including, unemployment, limited access to healthcare, inadequate food and water resources, lack of land tenure and secure housing. These challenges also endanger the well-being of their children and dependants. Displaced individuals, who are often isolated, suffer significantly higher rates of mortality than the general population. They are also at increased risk of physical assault, recurring sexual violence and abduction. They frequently endure inadequate access to shelter, food and health services,²¹ therefore facing significant protection challenges and struggle to secure essential resources and basic services.²²

d) Victims who are homeless

22. *“Homelessness can take many forms, with people living on the streets, in encampments or shelters, in transitional housing programs, or doubled up with family and friends.”²³* Victims who are also homeless faces heightened vulnerability due to the compounded challenges of their situation. Homelessness exposes them to increased risks of illness, injury, and mortality compared to the general population. They lack stable shelter, making them more susceptible to adverse weather conditions, violence, and exploitation. Limited access to basic necessities such as food, clean water, and healthcare exacerbates their vulnerability. Moreover, being homeless often means lacking support networks and resources to seek assistance or protection, leaving them especially exposed to further harm and unable to effectively address the trauma they have endured.

²¹ See United Nations Human Rights Office of the High Commissioner, [“About internally displaced persons Special Rapporteur on the human rights of internally displaced persons”](#).

²² See European Civil Protection and Humanitarian Aid Operations, [“Forced displacement Refugees, asylum-seekers, and internally displaced persons \(IDPs\)”](#), 18 January 2024.

²³ See National Health Care for the Homeless Council, [Homelessness & Health: What’s the Connection?](#), Fact Sheet, February 2019.

23. Studies show that *“homelessness dramatically elevates one’s risk of illness, injury and death. For every age group, homeless persons are three times more likely to die than the general population”*.²⁴ *“Homeless individuals are facing a situation in which their basic needs are not addressed, therefore threatening their life on a daily-basis. Homeless individuals are living in locations placing them at constant risks stemming from external factors such as vandalism, criminality, but also lack of shelter (exposing them to severe weather), insufficient access to food and clean water, unsanitary living conditions, no access to health facilities, unemployment, sudden serious illnesses, wounds and skin infections, mental or substance use disorders, etc”*.²⁵

e) Victims experiencing financial hardship

24. Victims experiencing financial hardship face heightened vulnerability due to a combination of economic strain and the aftermath of their victimization. Financial hardship often limits their ability to access essential resources and services necessary for their well-being and recovery. Individuals experiencing financial hardship lack access to basic services and care – including adequate food, clean water, sanitary living conditions and access to healthcare. This deprivation places them at immediate risk of life-threatening situations, requiring urgent support to prevent fatal outcomes.

25. Financial hardship can exacerbate the impact of victimization by amplifying stressors and obstacles to recovery. It may lead to unstable housing situations, making victims more susceptible to further victimization or exploitation. Additionally, financial constraints may restrict their ability to seek assistance or access support services, leaving them feeling isolated and unable to cope with daily needs. Furthermore, victims experiencing financial hardship may face societal stigma or discrimination, compounding their sense of vulnerability and isolation. The intersection of financial hardship and victimization creates a cycle of disadvantage that can be difficult to break without targeted intervention and support.

²⁴ *Idem*. See also a previous report on the issue indicating the factors exposing homeless to a high risk of mortality compared to people with homes. National Health Care for the Homeless Council, [“The Hard, Cold Facts About the Deaths of Homeless People”](#), 2006.

²⁵ See MedlinePlus, [“Homelessness and Health”](#).

26. Moreover, when individuals in financial distress are responsible for others, such as dependents or family members, this risk factor is heightened and exacerbated, intensifying the urgency for assistance.

f) Children born out of rape and sexual slavery

27. Mothers frequently recount the difficulties they face in raising their children without known fathers and in environment fraught with constant threats. Mothers of children born of rape or sexual slavery suffer long-lasting psychological and socio-economic hardships in their daily lives. Despite the humanitarian interventions aimed at child protection, little comprehensive support has been provided to children born out of rape or sexual slavery, particularly concerning targeted service, such as their rehabilitation, care, and empowerment.

28. In many cultures, including the Northern Ugandan (and Acholi) society, rape does not only degrade the victims but also brings shame upon the husbands and communities – complicating the acceptance of the victims in their families and communities.²⁶ The silent suffering of children born out of rape also accelerates their vulnerability and misery, perpetuating indifference and societal taboos surrounding their existence. Many mothers struggle to identify their children’s ancestry and often resort to name them based on the circumstances of their birth.²⁷ As a result, children

²⁶ See Refugee Law Project, “[War forgotten victims: Vulnerabilities of children born out of rape during war](#)”, Gender and Sexuality Issues, 19 June 2023.

²⁷ For children born as a result of conflict-related sexual violence, conflict dynamics and structural gender inequality often combine to bar them from essential cultural and familial networks. [...] Children born of conflict-related rape contend with intergenerational trauma in the home, where survivors may find it difficult to raise them, sometimes leading to violence and neglect. The long-term effects of psychological trauma suffered by children born of conflict-related sexual violence include depression, violence, and drug or alcohol dependence. Moreover, in some contexts, some children born of rape are HIV positive [...]. Children may have lived in situations of captivity where they witnessed the brutal treatment of their mothers and in some cases were exploited themselves, displaying violent behaviours, likely imitating the armed group setting into which they were born. Others may be placed in shelters or orphanages, or may be abandoned, rendering them vulnerable to recruitment by armed groups. The situation of children born of conflict-related rape is often further complicated by socioeconomic marginalization, underpinned by discriminatory birth registration policies. See the Report of the Secretary-General, UNSC, “[Women and girls who become pregnant as a result of sexual violence in conflict and children born of sexual violence in conflict](#)”, 31 January 2022.

born out of rape and sexual slavery in Northern Uganda are left at the margins of their families and communities, facing stigma and isolation that hinder they access to education, employment and essential services such as food, water, sanitation, land and healthcare.

g) Former child soldiers

29. Former child soldiers most often suffer from various forms of mental health conditions, PTSD, trauma-related disorders, substance abuse issues, difficulties in adapting to society and tendencies towards violent behaviours. Their education is mostly interrupted, leaving them struggling to secure an employment and therefore to access basic care for themselves and those under their care. In some instances, their maladaptive and violent behaviour places the lives of their family and community members at risk. In addition, many former child soldiers find themselves displaced and isolated from their communities, unable to disclose the harm they have endured and the context in which it occurred. This heightened vulnerability mirrors that experienced by victims of sexual and gender based violence, as discussed *supra*.²⁸

h) Victims whose family members were killed or who were abducted and never returned; child headed families, single mothers

30. Most orphans face significant vulnerabilities, enduring circumstances that expose them to various forms of abuse and deprivation, and are therefore in need of care and protection.²⁹ Young adults in their early twenties who have lost parental figures often find themselves in similar situations. Moreover, single mothers undergo enormous challenges to meet their children's needs. Some of these mothers are elderly and unable to perform physically demanding tasks, yet they endure such work to provide for their families.³⁰

²⁸ See *supra* para. 21, and footnotes 21 and 22.

²⁹ See Ministry of Gender, Labour and Social Development, "[Orphans and Other Vulnerable Children Statistical Report](#)", 2017-2018, pp. 10-11 (last available report).

³⁰ See Bangaafayo Show You Care, "[Helping widows and single mothers to help themselves](#)", 12 October 2016 (last available report).

31. Women in the community face further adversity when their husbands die, as they often lack the right to inherit property or to have their rights enforced. Widows are frequently evicted from their property, have their possessions taken from them, and often their children are also removed from their care and protection. Thus most widows live in severe poverty.³¹ Even where laws exist to protect women whose husbands have died, the widows are generally not aware of their rights. Legal systems influenced by local customs often favour the deceased husband's family, leaving widows vulnerable to property loss and exploitation.

32. Widows are particularly vulnerable to violence, sexual abuse and rape. Domestic violence is particularly common. The combination of homelessness, illiteracy, and poverty forces widows into exploitative labour situations, exacerbating their vulnerability. This extreme poverty and precariousness also extends to their children, particularly their daughters, who are left in extremely vulnerable positions. Thousands of widows are very young; many are actually children.³²

33. Widowers face similar difficulties, struggling single-handedly to ensure the survival of their family, often with untreated injuries and limited capacity to handling heavy works. Finally, some of the victims, mostly those aged between 14 and 18, find themselves leading households as child-led families, despite lacking necessary skills for livelihood. War-ravaged families in Northern Uganda compel children to become main breadwinners. Struggling to cope with new family responsibilities, many children orphaned by war and the scourge of HIV, have been forced to leave school and seek casual work to provide for younger siblings. In these circumstances, they resort to extreme measures of survival and undertake odd jobs to make ends meet.³³

34. The CLRV emphasizes that, as recognised by Trial Chamber IX,³⁴ victims suffered multidimensional harms. Entire communities were targeted in the

³¹ *Idem.*

³² *Idem.*

³³ See IWPR, "[Uganda: Orphaned Children Struggle to Survive](#)", 11 February 2010, published on ReliefWeb.

³⁴ See the "Sentence", *supra* note 5, para. 393.

perpetration of the crimes, through the attacks against the civilian population, persecution of entire villages and IDP camps. The crimes committed include pillaging and destruction of private property, along with acts such as murder, attempted murder, inhuman treatment and sexual violence. Specifically, direct and indirect victims subjected to these attacks suffered a range of cumulative harms, including: (i) physical injuries and ailments, with chronic and long-lasting health illnesses, impairments and handicaps, which remain to date untreated; (ii) psychological trauma left unaddressed; (iii) loss of family members and separation from families through abductions and murders, resulting in emotional and often material deprivation, compounded by uncertainty regarding the fate of those who never returned; (iv) material loss and economic hardship, leading to extreme poverty and hunger; (v) diminished life opportunities and standards due to the loss of income-generating activities, leaving them unable to support their families; (vi) disruption of education and developmental opportunities, particularly affecting children; (vii) transgenerational harm; (viii) disruption of social cohesion, loss of traditions and customs, erosion of community structures.³⁵

35. The CLRV submits that the *multidimensional nature* of the harms suffered by the victims she represents over the past two decades – compounded by the lack of intervention and resolution - has placed each of them in life-threatening situation where their very survival is at stake. With each passing day, the danger they face escalates, as the cumulative impacts of their sufferings remain unaddressed.

36. The CLRV reports that almost each week she receives notice of victims who passed away due to the absence of relevant support. In this regard, the CLRV recalls that the term *life-threatening* does not mean *immediately* fatal, but rather describes

³⁵ See the Common Legal Representative of Victims' Submissions on Reparations, *supra* note 14, paras. 52 to 54.

conditions which are extremely serious, and which, without timely assistance, *will be fatal*³⁶ over time.

37. Finally, the CLRV informs the Chamber that, during her recent mission in the field at the end of March 2024, she has collected further relevant information which need to be included in the pertinent data for each victim and that follow-up for resumption of actions by family members of deceased victims is ongoing. Therefore, she will be able to transmit the list of the victims she represents to the Registry by end of May 2024 at the latest, instead of 15 April 2024 as previously indicated.

Respectfully submitted.



Paolina Massidda

Dated this 15th day of April 2024

At The Hague, The Netherlands

³⁶ See the definition of the term *life-threatening* in [Merriam-Webster Online Dictionary](#): “Capable of causing death : potentially fatal”. See also, the [Collins Online Dictionary](#): “If someone has a life-threatening illness or is in a life-threatening situation, there is a strong possibility that the illness or the situation will kill them”.