



# REFUGEE LAW PROJECT

“A Centre for Justice & Forced Migrants”  
SCHOOL OF LAW, MAKERERE UNIVERSITY



## ONGWEN'S JUSTICE DILEMMA PART II

*“Ongwen’s Confirmation of Charges Hearing:  
Implications and Way Forward?”*

This report captures victims’ expectations and key issues arising from the live screening of Ongwen’s Confirmation of Charges Hearing. It also reflects on the second Justice Tafakari Forum and victims’ consultations in the ICC investigation sites in Lukodi, Pajule, Odek and Abok in relation to the background and nature of the case against Ongwen, possible outcomes of confirmation of charges hearing, victim’s participation, complementary and alternative justice mechanisms, outreach and way forward. It highlights mixed reactions at community level and affirms that - whether charges are declined or confirmed - government, civil society and donors should look for options and solutions for victims.

# ONGWEN'S JUSTICE DILEMMA PART II

## “Ongwen’s Confirmation of Charges Hearing: Implications and Way Forward?”

### INTRODUCTION

Prior to the confirmation of charges hearing, Refugee Law Project (RLP) in partnership with the International Criminal Court (ICC) Field Outreach Office in Uganda conducted a series of victim consultations and dialogues from 8-13 January 2016 with the ICC situation victims in the four investigation sites above (Lukodi, Odek, Abok and Pajule). This was followed by a stakeholder’s roundtable discussion called “Justice Tafakari” meaning “reflection on justice matters that affects us”. Held in Gulu on 15 January 2015 this was attended by over 70 key stakeholders including victim’s representatives. Consequently, RLP facilitated live broadcasts of the confirmation of charges hearing in the Case of Prosecutor Vs. Dominic in the affected communities of Pader, Kitgum and Gulu districts.

The ICC first made its mark in northern Uganda over a decade ago when in 2005 it announced its investigation and indictment of the “Big Five” of the Lord’s Resistance Army (LRA); Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya and Dominic Ongwen. With Dominic Ongwen now in custody, it is likely that only Joseph Kony remains at large. Both Raska Lukwiya and Okot Odhiambo have been confirmed dead and indictments against them have been terminated by the ICC. Vincent Otti is equally suspected to have died, though this has yet to be officially confirmed. After the initial indictments were announced the ICC conducted outreaches in northern Uganda but the failure to arrest any of the indicted five for nearly ten years coupled with other constraints made the ICC shift focus to other situations. This affected information flow and understanding of the Court’s involvement in northern Uganda.

With the resumption of the ICC operations in Uganda this year, in particular with the euphoria surrounding the surrender and transfer of LRA commander Dominic Ongwen to The Hague, high hopes and at times false expectations are widespread amongst victims and survivors throughout LRA-affected areas. The recent visit to Uganda by the ICC’s Chief Prosecutor Fatou Bensouda in late February 2015 on a fact-finding and stakeholders consultative mission to support the case at the ICC has raised hopes that “the wheels of justice may turn slowly but turn they surely will”. Nonetheless, many questions abound.

### ABOUT DOMINIC ONGWEN

Ongwen is a former LRA abductee who rose through the LRA ranks to become one of its senior commanders. On January 2015 he surrendered to the Seleka rebels in the Central African Republic, who transferred him to the US Special Forces in CAR. They in turn handed him over to the ICC in The Hague where he is currently detained.

Following Ongwen’s initial appearance at a hearing on 26 January 2015 some facts about Ongwen’s identity were established which partly contradict existing popular narratives. First, Ongwen was born in 1975 not 1980. Second, he originates from Amuru district, Kilak county, Coo-rom village, rather than from Gulu district, Awach Sub county, Paibona village. Lastly, he was abducted in 1988 and taken to the bush at the age of 14 and not at the age of 10.

## JUDICIAL UPDATE ON ONGWEN’S CASE: THE UGANDA SITUATION

### Procedural History

In December 2003, the Government of Uganda referred the northern Uganda situation to the ICC. In 2004, the prosecutor announced the commencement of Investigations. In 2005, Dominic Ongwen was indicted together with four other top LRA commanders (Joseph Kony, Raska Lukwiya, Vincent Otti and Okot Odhiambo). Subsequently, arrest warrants were issued by Pre-Trial Chamber II, issued under seal on 8 July 2005 and Unsealed on 13 October 2005.

### Surrender and Transfer

A decade later, Dominic Ongwen was surrendered to ICC’s custody and transferred to the ICC Detention Centre at The Hague on 21 January 2015.

### Initial Appearance

On 26 January 2015, Dominic Ongwen made his first appearance before the Single Judge, in the presence of the Prosecutor and the Defence. He was represented by his Duty Counsel, Hélène Cisse. The Single Judge verified the identity of Ongwen and ensured that he was clearly informed of the charges brought against him and of his rights under the Rome Statute of the ICC in a language he fully understands and speaks - Ongwen’s native Acholi.

### Non-redacted Warrant

On 29 January 2015, the non-redacted warrant of arrest for Dominic Ongwen and its translations into French and Acholi were reclassified as public pursuant to an instruction of Pre-Trial Chamber II.

### Separation of the Ongwen’s Case

On 6 February 2015, Pre-Trial Chamber II severed the proceedings against Dominic Ongwen from the Kony et al. case. On 12 February 2015 the Prosecutor, Ms. Fatou Bensouda, requested Court to extend the date for confirmation of charges hearing for Mr. Dominic Ongwen to allow her adequately review all materials for purposes of disclosure; investigate incriminating and exonerating circumstance; and also provide the defendant materials in a language that he understands..

### Counsel Appointment

On 24 February 2015, Mr. Kripus Ayena Odongo was appointed as Counsel of Mr. Dominic Ongwen before the ICC.

### Status Conference

On 19 May 2015, a status conference was held before the Single Judge of Pre-Trial Chamber II Judge Cuno Tarfusser to discuss preparations for the Confirmation of charges hearing and related issues. Consequently, on 27 September 2015, the Prosecutor filed a notice of amended charges against Dominic Ongwen following concerns raised by victims and survivors in the LRA affected communities during the prosecutor’s visit and consultations about the scope of the charges contained in the arrest warrant of 2005. The notice amended the charges against Dominic Ongwen.

*Born of 1975, from Amuru district, and was abducted in 1988 and taken to the bush at the age of 14*

# DOMINIC ONGWEN'S JUSTICE TIMELINE



**1975**

Born from Amuru district, Kilak county, Coo-rom village

**1988**

Abducted by the Lord's Resistance Army at the age of 14

**2005**

Arrest warrants for Dominic Ongwen, and four other LRA commanders publicly announced and unsealed by Pre-Trial Chamber II

**2015**

6th Jan 2015 Ongwen surrenders to Seleka Rebels and is taken into custody of the US forces stationed in CAR

16th Jan 2015 Ongwen flown to Bangui, CAR headed to The Hague

19th Jan 2015 Opinions and analysis on Ongwen's justice options continues locally and internationally. Ongwen speaks to media in Bangui, CAR

20th Jan 2015 US Department of State, Human Rights Watch & UN welcomes the transfer of Ongwen to The Hague

21st Jan 2015 Public Opinions remain divided while Ongwen arrives at the ICC detention centre in The Hague. Media reports confirms Ongwen's arrival at the Hague

22st Jan 2015 ICC Names three judges for Ongwen's trial. Government of Uganda to defend Ongwen at the ICC

06th Feb 2015 Separation of Dominic Ongwen's trial by the Pre-Trial Chamber II

24th Feb 2015 Mr. Ayena appointed counsel to Dominic Ongwen for his trial at the ICC

21st Jan 2015 Status conference held before a single judge of the Pre-Trial Chamber II

**2016**

21st Jan 2016 The ICC holds a week long confirmation of Charges hearing on Dominic Ongwen

**Dominic Ongwen** is an alleged commander of the Sinia Brigade of the Lord's Resistance Army (LRA), a guerrilla group that once operated in northern Uganda, Central African Republic, South Sudan and Democratic Republic of Congo. Ongwen is currently held at the International Criminal Court (ICC) detention facility in the Hague, awaiting trial. Ongwen, was initially indicted for only three counts of crimes against humanity and four counts of war crimes. However, sexual and gender based crimes as well as conscription and use of children in armed conflict have been included in the amended charges on Ongwen.

## THE CHARGES AGAINST ONGWEN

Dominic Ongwen, was initially indicted for a total of 7 counts, namely 3 counts of crimes against humanity (enslavement, inhumane acts of inflicting serious bodily injury and suffering) and 4 counts of war crimes (murder, cruel treatment of civilians, intentionally directing an attack against a civilian population and pillaging), all allegedly committed on or about 20 May 2004 at the Lukodi IDP Camp in Gulu District.

Under the amended charges for which the ICC seeks to confirm Dominic Ongwen is allegedly individually responsible under Article 25(3) (b) for 56 counts, namely;

» 26 counts of War Crimes including attacks against civilian populations (Articles 8(2)(e)(i)); Murder (Article 8(2)(c) (i)); Torture (Article 8(2)(c)(i)); Cruel treatment (Article 8(2)(c)(i)); Pillaging (Article 8(2)(e)(v)); Attempted murder (Article 8(2)(c)(i)); Outrages upon personal dignity (Article 8(2)(c)(ii)); and Destruction of property (Article 8(2)(e)(xiii))

» 19 counts of crimes against humanity including Murder (Article 7(1)(a)); Torture (Article 7(1)(f)); other inhumane acts (Article 7(1)(k)); Enslavement (Article 7(1)(c)); and Attempted Murder (Article 7(1)(a))

» 1 count of Persecution as a crime against humanity (Article 7(1)(h)) including murder, attempted murder, torture, cruel treatment, enslavement, sexual slavery, rape, other inhumane acts (including forced marriage); pillaging, conscription of children under 15 into armed forces and use of children under 15 to participate actively in hostilities, outrages upon personal dignity and destruction of property

» 3 counts of Sexual and Gender Based crimes as a War crime including torture (Article 8(2)(c)(i)); Rape (Article 8(2)(e)(vi)); and sexual slavery (Article 8(2)(e)(vi))

» 5 counts of Crimes against humanity (5 counts) including forced marriage (as an inhumane act) (Article 7(1)(a)–(j)) and crime against humanity (Article 7(1)(k)); torture (Article 7(1)(f)); rape (Article 7(1)(g)); sexual slavery (Article 7(1)(g)); and enslavement (Article 7(1)(c))

» 2 counts of conscription and use of children in armed conflict as a war crime including conscription of children under the age of 15 into armed groups (Article 8(2)(e)(vii)); and use of children under the age of 15 to participate actively in hostilities (Article 8(2)(e)(vii))

In addition to increasing the number of counts in the charge against Dominic Ongwen, the above also increase the scope of the case Dominic Ongwen to include crimes committed in; Pajule IDP camp then located in Pajule trading centre, Pajule subcounty, Pader district in October 2003; Odek IDP camp then located in Odek subcounty, Gulu district in April 2004; and Abok IDP camp then located in Ngai subcounty, Apac district in June 2004.

## ICC CONFIRMATION OF CHARGES HEARING

A Confirmation of Charges hearing is not a trial. *It is held to determine whether there is sufficient evidence to establish substantial grounds to believe that Dominic Ongwen committed each of the crimes charged.* There are three possible outcomes after sixty days: Court confirms all or some of the charges, dismiss all charges or adjourn and request for additional evidence. If charges are confirmed, the Pre-Trial Chamber commits the case for trial before a Trial Chamber, which conducts the subsequent phase of the proceedings: the trial. Additionally, Jimmy Ocogo, ICC Uganda outreach representative noted,

*“the confirmation of charges hearing is not to determine guilt or innocence of suspect, but to help judges determine whether there is need to commit to a full trial. At this stage, the Prosecutor must present sufficient evidence to satisfy the judges that there are substantial grounds to believe that the person has committed the crimes alleged”.*

A confirmation of the charges also means credibility of evidence gathered so far and possibility of future conviction at trial. It is particularly important to many victims in northern Uganda especially in sites of ICC Ongwen's case because it clarifies, depending on which charges and location gets confirmed, the category of victims qualified to participate and potential benefits from a future reparation package if ordered upon convictions.

## LIVE SCREENING OF ONGWEN'S CONFIRMATION OF CHARGES HEARING

*“If the court case against Dominic Ongwen is real then they should broadcast it for us to see the court sessions” A victim in Lukodi*

From Thursday 21 January until Wednesday 27 January 2016, RLP in partnership with ICC Outreach office in Uganda organized live community screenings of the confirmation of charges hearing as Dominic Ongwen appeared before the Pre-Trial Chamber II of the ICC in The Hague. The screenings were held simultaneously in four locations between 12:30pm - 6:00pm (Ugandan local time) in the following venues; (1) Bamboo Sports Villa, Pajule Town Board, Pader district (2) Bomah Hotel in Gulu, (3) RLP Gulu office, (4) RLP Kitgum office (NMPDC). Interestingly in Gulu, Dominic Ongwen's family members - including two of his former “wives” and the Rwot (Chief) of Lamogi - attended the live screening.

During community screenings and follow-up discussions, victims had divided opinions on the proceedings. Some sympathizers argued that Ongwen's abduction at a tender age robbed him the opportunity to be a man of noble character. *“According to Dominic Ongwen's profile he seemed a very focused man; if he was left to study he would be very outstanding”* said an elderly man in Gulu. A female survivor in Pajule expressed the need for forgiveness. She said, *“Forgive Ongwen, he is a victim who turned into a killer, it was not his intention to kill”.*



Community members following the Confirmation of Charges Hearing in Pajule

Concerned about other perpetrators and actors in the Northern Uganda conflict, a male youth in Pajule asked, *“Now we are watching Ongwen at ICC, will government also appear at the ICC?”*. Uncertain of the outcome of the confirmation of charges hearing, a youth following the proceedings in Gulu expressed fears about Ongwen’s cooperation with the court in revealing the hidden truth. He said, *“my fear is that Dominic Ongwen has nothing to lose”*.

Meanwhile, it is evident that victims are yearning for justice and hold high expectations of the court. They think that ICC will get to the depth of the conflict in Northern Uganda, which still remains a mystery to many victims. *“I have confidence in the ICC, I had never seen Ongwen but after following the proceedings I am looking forward to more evidence”* a victim opined.

## JUSTICE TAFAKARI (REFLECTION) FORUM

On Friday January 15, 2016 Refugee Law Project in partnership with ICC Outreach office in Uganda convened the 2nd Justice Tafakari forum at the Doves Nest Hotel in Gulu. This forum, the second in a series, followed the inaugural forum held in July 2015. It was attended by over 70 key stakeholders including local leaders, justice practitioners, victims’ representatives, scholars and the ICC outreach team. The discussions focused on the background to Ongwen’s case, key developments, processes, challenges and prospects of the renewed ICC intervention in northern Uganda, including complementary transitional justice mechanisms.

### Key Highlights of Justice Tafakari Discussions

#### Who is a Victim under the ICC?

According to the ICC, a victim is a person who has suffered harm occasioned by the suspect in the crimes for which he/she is being charged for (especially from 1 July 2002 in the case of Uganda). Organizations such as schools, hospitals among others that were destroyed or affected by the ICC crime may be interpreted as a victim as well.

Victims under the ICC can be classified into two types: (1) victims of the case, and (2) victims of the situation. The victims of the cases are often linked to the charge and sometimes referred to as direct victims for instance, all those directly affected by the attacks on Lukodi, Odek and Pajule constitute victims of the cases. Victims of the situation, are not necessarily linked to case but suffered indirectly from the commission of the crimes. For instance, victims outside the ICC core investigation sites in Northern Uganda may be considered victims of the situation.

#### Victims’ Participation in the case of Dominic Ongwen

At the ICC only the victims that have suffered from crimes brought against a suspect or an accused, in this case Ongwen, can participate in the proceedings. The Victims’ Participation and Reparations Section (VPRS), a section of the Registry which is the neutral organ of the Court, provides information on who can apply for participation and how they can apply.

On 3 September 2015, the Pre-Trial Judge of Pre-Trial Chamber II adopted a decision determining how the victims’ applications in the Dominic Ongwen’s case will be dealt with and how victims will be admitted to participate in the court proceedings. According to the information available, so far VPRS has received 905 applications for participation. As of 18 December 2015 it had been able to transmit 209 applications to the judge and parties without objection from the OTP.

#### Balancing Ongwen’s Rights and Victims’ Rights

The majority of victims are unaware of their rights or those of the suspect. While Dominic Ongwen is still a suspect and enjoys some specific rights such as; presumption of innocence until proven guilty beyond

reasonable doubt, the right to be informed promptly and in detail of the nature and content of the charges in a language that he fully understands, the right to be present during the confirmation of charges hearing, some victims already consider Ongwen guilty and are not happy seeing Ongwen sitting in air-conditioned rooms and wearing a suit; they argue that Ongwen should rather be released than enjoy such luxury when (they) victims are suffering.



Odek survivors and Victims’ group during RLP Consultation meeting at Odek

Under the Rome Statute and its Rules of Procedure and Evidence, victims have a right to participate in court proceedings. This is called *“victims’ participation in proceedings”*, and is different from victims appearing as witnesses for one of the parties. Under victims’ participation in proceedings, the Court may permit the views and concerns of the victims to be heard during the hearing on the confirmation of charges. However, this is subject to the decision of the Judge and, once granted, victims participation could be through written submissions, attending the hearing and submitting evidence.

While victims’ participation in proceedings offers victims a unique opportunity to be involved in the ICC court process and to ensure that their voices are heard, to others, Victim participation means going to The Hague. Other believe that their participation automatically translates into reparations. Additionally, it was apparent during the discussions that there is a confusion between victims and witnesses even though one can be both.

#### Compensation—whose responsibility?

Compensation is central to any discussion regarding justice in Northern Uganda. At the forum, some participants held the view that the duty to protect citizens lies with the State - Government of Uganda. As such it is also the duty of the State to compensate those affected by its inability to protect them. Besides, victims of the dead suspects such as Raska Lukwiya and Okot Odhiambo who have been confirmed dead already in addition to those of the case are a responsibility of the State argued Dr. Brian Kalenge, International Criminal Law expert at Uganda Christian University.

#### Scope of Ongwen’s Case

A participant representing civil society in Teso at the Forum questioned the scope of the case and whether investigations relating to the new counts/charges were conducted in Teso. In response, the ICC Outreach representative informed that the initial indictment in 2005 was narrow and specific but that after the visit

of the Prosecutor in the affected areas, the charges were amended. This was influenced by the varying availability of evidence. Citing the example of *Corner Pachol*, where people were cooked as not being within the scope of the case, Jimmy Ocogo noted that, the affectewhere victims were cooked in pots, as not being within the scope of the case, Jimmy Ocogo noted that there could be additional affected areas that could extend to include parts of Teso but that due to the limitation of resources, time and pressure, the *“court had to start from somewhere”*.

## DAUNTING SCENARIOS WITH CRITICAL IMPLICATIONS

While it is not clear what implications the Confirmation of Charges hearing decision will bring, four key scenarios with far reaching consequences were noted at the Justice Tafakari in Gulu.

### 1) Charges Declined

Ongwen’s recent past and involvement in the LRA appears incriminating and draws a presumption that the charges will certainly be confirmed. Lino Ogora of Foundation for Justice and Development Initiative said; *“It appears like Dominic Ongwen is a sacrificial lamb for all the other commanders. What if this sacrificial lamb is set free, where do we go from there? since there is a possibility that Ongwen can walk away free”*.

Lino further questioned whether various stakeholders are ready to deal with such a scenario. Besides, some victims were concerned that the dismissal of the case could jeopardize the good relationship between ICC and Uganda. The outcome could undermine confidence in the justice system and promote lawlessness. However, if the case is dismissed, it may motivate other senior commanders who were abducted to renounce rebellion and come out of the bush.

### 2) Politicization of Ongwen’s Case

The confirmation of charges hearings came in the middle of an electioneering period (Presidential and Parliamentary elections were held in February 2016). In some affected areas, Ongwen’s case was used as political capital in ongoing political activities. Komakech Henry Kilama, an activist-academic, cautioned politician to tread carefully. Citing the Buganda riots of September 2009, Dr. Brian Kalenge emphasized that Ongwen’s case should not be used to the detriment of the victims who have already suffered enough. When asked why ICC was targeting African leaders, Dr. Kalenge, referred to it as *‘political dogma’*. He added that, as a continent Africa has the highest number of state parties (about 34) and *“they consented willingly, now they are the ones retracting the case, when they see ICC is getting at them. Pulling out is a process just like getting in and pulling out also doesn’t mean the case is closed”*

### 3) Principal of Double Jeopardy

Can Ongwen be tried in Uganda if he is acquitted at The Hague? A female participant asked at the Justice Tafakari. In response, Dr. Kalenge noted that one cannot be tried twice on the same charges. He added that, one can however argue that, it is possible to put someone on trial again either on the basis that he was acquitted on grounds of a technicality or when he is charged with different facts.

### 4) Non-Disclosure Agreements

It was noted that some agencies would not wish to be associated with judicial processes because they do not want to be seen as partisan, and that obtaining critical evidence from such agencies might prove a challenge that could jeopardize the pursuit of justice.

## HIGHLIGHTS OF VICTIMS CONSULTATIONS

The Justice Tafakari was preceded by a series of victim’s consultation and community dialogues held 8-13 January 2016 in the four ICC investigation sites regarding the case (Lukodi, Pajule, Abok and Odek) and with the Chief of Lamogi clan where Dominic Ongwen belongs. Their critical and varying perspectives were shared at the Tafakari as described below.

### Victim’s perspectives

Those interviewed offered mixed reactions. Some fully support the confirmation of charges hearing, and urge the Court to confirm all charges. A significant number, however, think the court should drop all charges against Ongwen and argue that he was a victim turned perpetrator.

Those in favor of the ICC confirming all charges argue that the atrocities/mass killings for which Ongwen is being charged were particularly heinous and must be accounted for by all top LRA commanders. A male victim in Lukodi said: *“We are determined to follow the hearing to confirm that it is capable of bringing change and happiness in our hearts because the suffering we experienced left men powerless with multiple injuries, we want to see fair justice”*

Ongwen is alleged to have operated in these areas during the war and must have had knowledge of what happened, who did it, when and why. Therefore, even if he did not do it himself, he should explain to Court for the record. Ongwen is also perceived to be a top LRA commander, thus he bears collective responsibility in the absence of other commanders given the fact that Kony may never be apprehended and other commanders have died.



Aboke survivors group members during the victim consultations meeting in Oyam district

To many victims in ICC investigated sites, Ongwen’s conviction appear to be the only hope for justice, with justice mainly understood in terms of reparation by the Court. They recite countless losses and demand a whole range of redresses upon his conviction. A victim in Odek said: *“Ongwen’s case will enable us as a community to be certain that if there will be fair judgment in future we will receive reparation”*. Interestingly, many believe that upon confirmation of all charges, ICC will roll out its assistance program in support of the victims. They urged the Court to expedite the proceedings and attend to their immediate livelihoods, health and education challenges.

This conclusion is reinforced by the victims' insistence that life imprisonment of Ongwen or Kony cannot quench their taste for justice, despite knowing that ICC's maximum sentence upon conviction is life imprisonment. Their support to the Court is therefore not based on any hope that it will settle their score with Ongwen but because it promises reparation understood and expected to include both individual compensation and collective measures like building vocational schools and monuments.

In summary, the different views above appear to correspond to the extent of the communities' engagement with the ICC outreach and investigation team, in particular within sites of ICC investigation (Lukodi, Abok, Odek and Pajule). Those who have interacted with the ICC outreach team over a long time, and some who have registered to participate as victims in the case of Ongwen, are fully in support of the charges and get agitated with the slightest possibility of acquittal.

### Victims Expectation from the Confirmation Hearing

When asked what they expected from the just concluded hearing, the majority expected the Court to confirm all charges and seemed unhappy at the prospect of any other outcomes. In fact, in Lukodi the victims said if charges are dropped it would mean that even the ICC is corrupt, because they have provided overwhelming evidence. Some however said they expect the ICC to deliver fair justice (*'ngol matir'*) and will take its decision as providing clarification of Ongwen's role in the alleged attacks.

Irrespective of the outcome of the Confirmation of Charges Hearing and trial if that is the case, many victims still expect that, if he is to return, Ongwen should participate in *'Mato Oput'* even if he is given and serves his ICC sentence.

The victims also want to be taken to The Hague to witness the proceedings and in any case demanded for Video telecasting (Live Screenings) of the all the proceedings to witness the court process. Others are expecting an immediate reparation programmes upon the confirmation of charges.

While for many, the Court case is a step towards establishing the legal truth on who did what, when, where and why, victims also demand subsequent community level truth processes in order to kick-start social healing for some victims.

There was a unanimous call for the Government of Uganda to pick a leaf from the ICC and complement its process by initiating appropriate reparations measures and other TJ programmes for assisting victims outside ICC sites. Finally, if the case is dismissed, some victims/witnesses will need protection for fear of retaliation.

### Other concerns raised

Some of the communities consulted expressed concerns about renewed violence and armed conflicts if the 2016 elections were mismanaged. Others reiterated that Ongwen's trial would not put food on their table meaning that they were more concerned with meeting their livelihood challenges and basic needs. For direct and emotionally affected victims and survivors, their concern appears to be more urgent medical and psychosocial support. Others asked the ICC to support emergency medical rehabilitation and psychological assistance to the victims and affected communities even as the trial proceeds at The Hague. Finally, many had only heard of Ongwen's case on radio but were unsure about where it fits within the broader Transitional Justice demands, in particular those for compensation, forgiveness, amnesty, return of abducted children, *'Mato Oput'*, and ending the LRA war once and for all.

### Some fears expressed

Some victims expressed their fears regarding the hearing, particularly the fear that the ICC may lack sufficient evidence to establish a strong case against Ongwen due to the lapse of time and initial lack of interest in the case due to the prolonged failure to arrest the suspect. Others fear that the case may be dismissed and

the door to justice slammed in the face of victims: *"If the case is not confirmed who else will answer for the crimes committed as most top LRA leaders are dying?"*

Moreover, there is fear that if Ongwen is released he will make his way back to Kony in Central African Republic and seek revenge from there. Similarly, there is a fear that the LRA might renege on its commitment at the Juba Talks not to disturb Northern Uganda and return to punish sites that cooperated with the ICC in their investigations.

Civil society actors should continuously hold stakeholders and communities' consultation and engage with key actors accordingly prior and during such development in order to generate local momentum for justice around such international processes, elicit and share local perspectives as well as influence national and international justice processes.

## CONCLUSION

In conclusion, the Dominic Ongwen's case is a very important development for post-conflict northern Uganda and the country as a whole with far-reaching implications on Transitional Justice and sustainable peacebuilding in the region. It is important because it once again draws attention back to northern Uganda and highlights the plight of victims and survivors of a horrendous and protracted conflict. Hopefully, it will lead to an outcome, whether judicial reparations or others measures, that will directly benefit the thousands of victims of the conflict and people in the LRA-affected areas more generally.

In fact, a key concern amongst victims' groups is whether all charges will get confirmed. Whether charges are declined or confirmed, there is a call for civil society and donors to look for options for victims such as counselling for those who have offered to be witnesses or provided evidence.

Legally, Ongwen's case will also set a precedent on a number of legal questions currently before the Court, including; the nature and command structure of the LRA; the fate of other abducted children who are still in captivity and may have graduated into command positions; how to determine intentional acts in situations of coercion; the separation of acts committed as a child from that when one attains maturity; the fine line between victims turned perpetrators as well as the plight of child soldiers in international criminal and humanitarian law.

Finally, to the victims and many stakeholders who have advocated a comprehensive Transitional Justice approach to deal with the legacy of the armed conflict in northern Uganda, this trial is an important developed in the formal criminal justice component of the solution and testimony to the reality that the *"wheels of justice grinds slowly, but surely it grinds."*

## About Refugee Law Project: A Centre for Justice and Forced Migrants

The Refugee Law Project (RLP) is a Community Outreach Project of the School of Law, Makerere University. It seeks to ensure fundamental human rights for all forced migrants and their hosts. RLP envisions a country that treats all people within its borders with the same standards of respect and social justice.

## About the National Memory and Peace Documentation Centre (NMPDC)

The National Memory and Peace Documentation Centre (NMPDC) is a memory initiative of Refugee Law Project (RLP), School of Law, Makerere University and the Kitgum District Local Government (KDLG). The NMPDC documents, archives and communicates memories of conflict-related events as well as experiences of past human rights violations or abuses and legacies of violent conflict.

NMPDC is a history clinic- a living memorial to the victims and survivors of war, armed conflicts and gross human rights violations - a space to promote and celebrate Uganda's heritage. NMPDC serves as a documentation and educational facility which integrates history, education, culture, remembrance and human rights into one space where memories live and where memorialisation interface with past, present and future. For more information visit [www.refugeelawproject.org/nmpdc](http://www.refugeelawproject.org/nmpdc)

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# Conflict, Transitional Justice & Governance

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