

Annex 1

Public redacted version

TABLE OF CONTENT

Introduction	2
1) Methodology of consultations	2
a) Consultations with victims	3
b) Consultations with CBOs	6
c) Consultations with intermediaries	6
d) Consultations with the LRVs of the <i>Kony</i> and <i>Ongwen</i> cases and the Situation in the Republic of Uganda	6
2) Information collected	7
a) Common views expressed by victims.....	7
i) Victims of the attacks on the IDP Camps.....	8
ii) Victims of the attack on Lwala Girls School	11
iii) Girls and women abducted and integrated into the LRA	12
iv) Former child soldiers and other abducted children	14
v) Children born in captivity	16
b) Views expressed by CBOs	17
c) Views expressed by intermediaries	18
d) Views expressed by the LRVs currently appointed to represent victims in the Uganda situation and the <i>Kony</i> and <i>Ongwen</i> cases	19
e) Indigence of victims and availability of legal aid.....	19
3) Registry observations	21
a) Conflict of interest and divergent interests of victims.....	21
b) Registry’s conclusion on the grouping of victims of the Case	23
4) Registry recommendations.....	24

Introduction

1. In accordance with the Order of 15 May 2024 and the information requested therein, the Report will convey the following information:
 1. Methodology of the consultations;
 2. Information collected;
 3. Registry observations; and
 4. Registry recommendations.

1) Methodology of consultations

2. In the section below, the Registry describes the activities carried out since the Chamber issued its “Second decision on the Prosecution’s request to hold a confirmation of charges hearing in the *Kony* case in the suspect’s absence” (“Second Decision”),¹ and in particular since the Order of 15 May 2024. This section sets out the sources and types of information that have been collected by the Registry to respond to the Chamber’s request. These include consultations with victims who have not yet participated in proceedings², community based organisations (“CBOs”), intermediaries and legal representatives, as well as information from the Registry’s Counsel Support Section (“CSS”). The list of meetings organised is detailed in Table 1 below.

¹ Pre-Trial Chamber II, “Second decision on the Prosecution’s request to hold a confirmation of charges hearing in the *Kony* case in the suspect’s absence”, 4 March 2024, ICC-02/04-01/05-481.

² This includes in particular victims of alleged crimes charged in the *Kony* case which did not form part of the charges in the *Ongwen* proceedings.

Table 1 – List of Focus Groups

Date	Location	Group	Type of Meeting	Number of Persons	thereof F	thereof M
4 June 2024	Gulu	Intermediaries (Lukodi)	In person	4	1	3
5 June 2024,	Gulu	IDP Camps ³	In person	24	10	14
5 June 2024	Gulu	Thematic ⁴	In person	20	16	4
6 June 2024	Gulu	CBO ⁵ s	In person (3), on phone (1)	4	4	0
6 June 2024	Lira	Children born in captivity	In person	6	4	2
7 June 2024	Lira	IDP Camps ⁶	In person	21	12	9
7 June 2024	Lira	CBOs	In person	2	1	1
7 June 2024	Lira	Thematic	In person	6	3	3
11 June 2024	Soroti	Lwala Girls	In person	11	11	0
11 June 2024	Soroti	Thematic	In person	12	7	5
13 June 2024	Kampala	Children born in captivity	In person	3	0	3

a) Consultations with victims

3. The Registry carried out a number of activities to inform and identify potential new victim participants⁷, held small focus group discussions with them to explain the Case and victims' rights⁸ and collected information on the legal representation of victims for the present report. Due to the limited time available to conduct the consultations, the Registry primarily carried out its activities in Gulu, Lira, and Soroti, also bringing in survivors from different districts in the Acholi, Lango, Teso and West Nile sub-regions.⁹

³ Abok (7), Pagak (11), Odek (6).

⁴ West-Nile (5), Acholi (11).

⁵ The CBO representatives met in Gulu on 5 July 2024 are also victims of thematic crimes. They also participated as victims in the thematic focus group consultation on 5 July 2024 in Gulu.

⁶ Abia (12), Barlonyo (9).

⁷ Beyond those victims that already participated in the *Ongwen* proceedings.

⁸ Three joint missions of staff from the VPRS and the Public Information and Outreach Section ("PIOS") were conducted. (1) From 6 to 10 February 2024, a mission was conducted in Olan, Odek and Gulu; (2) from 22 to 27 February 2024, a mission was conducted to nine locations (parishes) within Pajule sub-county (Pader District); (3) from 27 to 29 February 2024, a mission was conducted to Gulu. See also Registry, "Thirty-Sixth Periodic Report of the Registry on Applications Received by the Victims Participation and Reparations Section in the Situation in Uganda", 13 May 2024, ICC-02/04-259, fn 5-7.

⁹ The geographical scope of the *Kony* case covers Northern Uganda including the Acholi, Lango and Teso areas, see Office of The Prosecutor, "Document Containing the Charges", 19 January 2024, ICC-02/04-01/05-474 ("DCC"), para. 2. Therefore, victims reporting to have suffered from crimes

4. The focus groups listed above in Table 1 were designed to be representative¹⁰ samples of the various victim groups and harm of the *Kony* case, to the extent possible.¹¹ The Registry chose this format to aggregate representative data and information on larger populations. Moreover, the focus group dynamic allowed for participants to build on one another's responses and generate ideas that they might not have thought of in an individual interview setting; conversations brought forward observations and views of victims which the Registry was not previously aware of. The interaction among the focus group participants and the Registry staff stimulated the victims' memories and ideas, leading to a better understanding of their survival experience and their specific needs.
5. Within the timeframe between the Order of 15 May 2024 and the deadline of 28 June 2024 for the submission of the Report, the Registry managed to meet with victims from all crime categories, ensuring both gender and geographical representation. A total of 103 victims were consulted, out of which 63 are women and 40 men. The age categories range from 17 to 67, with the age group between mid-thirties to early fifties being the widest represented.
6. The consultations were conducted using focus groups only with victims who did not participate previously in the proceedings in *The Prosecutor v. Dominic Ongwen*

allegedly perpetrated by Mr Kony in the Central African Republic were not considered by the Registry for the purpose of the focus group consultations organised in the context of the present Report.

¹⁰ See in para. 8, *infra*. The selection of victims for the focus groups involved consultations with networks of CBOs in each sub-region. The goal was to engage with victims ensuring representation of the various categories of crimes (as outlined in para. 10 *infra*). Additionally, the selection aimed for a balance in geographical areas, gender and age. Concerning victims of attacks on IDP camps, priority was given to new crimes and camps (*ie* not yet encompassed in the *Ongwen* proceedings). The prioritisation aimed to give the first opportunity in many years for these victims to engage with ICC representatives. Additionally, a large number of victims from the IDP camps in Abok, Odek and Lukodi already participated in Court proceedings and were represented by legal counsel. Due to time limitations and geographical distance, the victims of the Pajule IDP camp attack could not be included in this consultation.

¹¹ Focus groups are a form of representative sampling. They comprise a form of qualitative research in which a group of people are asked about their attitudes and feelings towards a service, concept, or an idea. Focus groups allow questions to be asked in an interactive group setting where participants can enter into a dialogue and exchange their opinions with other group members. Focus groups allow to generate key information about much larger communities due to their representative characteristics.

(“*Ongwen* case”).¹² The Registry ensured, as far as feasible, representativity in these groups in terms of crimes, gender and geographical distribution. Among them, some had been previously identified by the Registry, including through survivors’ associations and intermediaries in Northern Uganda.

7. Focus groups consisted of three to 24 people (*see* Table 1 *supra*), of mixed gender every time possible. The consultations were open discussions, guided by questions from Registry staff.¹³ Victims were provided information about the *Ongwen* case and the *Kony* case, including explanations on the victims’ rights to participation and reparations in the latter, the role of victims and lawyers at the ICC, the justice process (including the confirmation of charges *in absentia*) and the scope of both cases. Victims had many questions about different aspects of the ICC and participation of victims, including about the rights of the accused. The open discussions with each group category aimed to explore and understand the victims’ opinions, preferences, and beliefs by providing as much information they needed to then embark on an informed discussion about victims’ views on legal representation.
8. Based on the DCC, the Registry has identified and consulted victims of the following victim groups:
 1. Victims of the attacks on the IDP Camps (Abok, Odek, Pagak, Abia, and Barlonyo);
 2. Survivors of the attack against the Lwala girls school;
 3. Thematic crimes victims:
 - Girls and women abducted and integrated into the LRA;
 - Former child soldiers and other abducted children; and
 - Children born in captivity.

¹² In view of the time frame between the Order of 15 May 2024 and the submission of the Report as well as relevant submissions of the victims’ legal representatives in the *Ongwen* proceedings on behalf of their clients, the Registry focused on consulting victims who have not yet been registered nor participated in proceedings.

¹³ See Annex 3.

b) Consultations with CBOs

9. To ensure a meaningful consultation process, the Registry consulted six representatives of CBOs, among which four are also victims of alleged crimes in the *Kony* proceedings.¹⁴ By involving representatives of CBOs in the consultation process, the Registry aimed at identifying victim needs at community level, which in turn provides helpful background for sensible options for victims' legal representation.¹⁵

c) Consultations with intermediaries

10. The Registry consulted a number of key intermediaries from Lukodi that had assisted previously in the *Ongwen* proceedings.¹⁶ Their involvement in this consultation process allowed the Registry to receive feedback on the intermediaries' own perspective on victim communities' needs with regards to the victims' legal representation in the *Kony* case, and potential lessons learnt from the victim representation scheme in the *Ongwen* case. They also played an important role in ensuring the inclusion also of the less accessible victim communities.

d) Consultations with the LRVs of the *Kony* and *Ongwen* cases and the Situation in the Republic of Uganda

11. The Registry consulted with Counsel of the Office of Public Counsel for Victims ("OPCV") in their role as legal representative of (i) a group of participating victims in the *Ongwen* case, (ii) a number of victims admitted to participate in the *Kony et al.* proceedings previously; and (iii) victim participants and applicants in the Situation in the Republic of Uganda ("Uganda Situation"); as well as the team of

¹⁴ On 6 June 2024, field staff of the Victims Participation and Reparations Section ("VPRS") (i) met with three CBO representatives in person in Gulu; and (ii) had a telephone conversation with one CBO representative on the same day. On 7 June 2024, the field VPRS staff met in person with two CBO representatives in Lira.

¹⁵ Relevant meetings also aimed at fostering trust of relevant victim communities in the ICC process which in turn generates more conducive information exchange.

¹⁶ On 4 June 2024, the field VPRS staff met with four intermediaries from Lukodi in Gulu.

external counsel of the second group of participating victims in the *Ongwen* case.

¹⁷ The Registry solicited counsel's input on their respective availability to act as legal representatives for victims participating in the *Kony* case, on the potential internal organisation they would foresee for the *Kony* case, on their availability to work in a team with other (external) counsel, and any additional observations including on a potential conflict of interest they may wish to share with the Registry and the Chamber.¹⁸

2) Information collected

a) Common views expressed by victims

12. Below, the Report first presents the common views of victims across all thematic group sessions. Following that, the Report outlines the more detailed submissions by the different thematic victim groups.
13. The vast majority of the victims consulted see the *Kony* case as a distinct one, different from the *Ongwen* case. For that reason, and while appreciating the experience of victims' lawyers in the *Ongwen* case, a call for a new team of lawyers was expressed. It was submitted that a new team will have a fresh approach, not influenced by what happened in the *Ongwen* case, and display open-mindedness to hear the victims' stories specific to the *Kony* case.
14. Victims also held that the legal representatives should have certain specific features, such as (i) understanding of the conflict in Northern Uganda, (ii) a team of both national and international lawyers, (iii) wide experiences in human rights

¹⁷ Annex 2, email from Registry (CSS) to OPCV – Ms Massidda on 30 May 2024 at 15:23, and email from Registry to Messrs Cox and Manoba on 30 May 2024 at 15:26. Additionally, the Registry notes that other lawyers expressed their interest informally in representing victims in the Case. The Registry asked them to provide formal submissions and powers of attorneys. However, the Registry received no official follow-up communication from these lawyers to date. If anything is received in the future, in keeping with the Chamber's Order of 15 May 2024, the Registry will report accordingly.

¹⁸ Email from Registry to OPCV on 30 May 2024 at 16:22; email from Registry to Messrs Cox and Manoba on 30 May 2024 at 16:22; email from Registry to OPCV on 19 June 2024 at 13:10.

and victims' rights, and (iv) the ability to communicate directly with victims and to be near them and present.

15. A formula that was commonly suggested was one single team of common legal representatives of victims, composed of a number of lawyers, each of whom could take care ideally of one specific sub-group of victims/harm as follows: (i) women and girls who suffered crimes; (ii) former child soldiers and other abducted children; (iii) children born in captivity; (iv) victims of the attacks on the IDP camps; and (v) victims of the attack on the Lwala girls school.
16. In this team, according to the victims consulted, there would preferably be more female than male lawyers, because they may be more capable to understand the depth and intimacy of the endemic harm suffered by women and girls. Most of the victims prefer a team composed of both Ugandan (to guarantee understanding of the conflict in Northern Uganda and language skills) and international lawyers (to guarantee neutrality and acquaintance with the ICC procedural framework). Speaking the language of the victims was mentioned as fundamental to ensure a good understanding of the victims' harm. Victims also expressed the wish that the team of lawyers would include – or at least work in close collaboration with - representatives of the CBOs who have been close to them and helped them for many years to date.
17. All victims of all categories expressed their indigence and the resulting need for legal representation to be free of charge. Most victims requested that the Registry assists them with choosing a lawyer.

i) Victims of the attacks on the IDP Camps

18. The victims of the attacks on the IDP camps¹⁹ consulted confirmed that they have not participated in any ICC cases but expressed their desire to participate in the *Kony* case. They stated that they have not chosen any legal representative and that

¹⁹ See details of the meetings in Table 1.

they cannot afford to pay for one. While victims from Abok and Odek seemed well informed about the ICC (specifically about the *Ongwen* proceedings), victims from the Abia, Barlonyo and Pagak IDP camps had contact with the ICC at the early stages of the investigations but feel abandoned by the ICC.

19. A total of 45 victims of the attacks on the IDP camps were consulted: twelve from Abia, seven from Abok, nine from Barlonyo, six from Odek, and eleven from Pagak.
20. It is important for all of them that their counsel would be able to speak the same languages of the victims. As the conversation evolved, they all agreed that one team of lawyers, with different individual specialisations (i.e sexual violence, crimes against children, attacks on the IDP camps) may be most conducive in the *Kony* case, especially considering the expected large amount of victims eligible to participate. Yet, working together for the common benefit of all victims was highlighted as important since segregating victims would have an adverse effect on reconciliation.
21. A number of victims from Abia, Abok, Barlonyo, and Odek expressed the need for an experienced international lawyer to be part of the team to avoid fraud and biases towards the conflict in Northern Uganda. It was felt that a team of both national and international lawyers would be best to ensure neutrality.
22. Availability, accessibility, trustworthiness, and integrity of the lawyer(s) are characteristics that were widely agreed upon by all victims. Some victims in Abia and Barlonyo expressed their wish that the people who have accompanied them over the years will be included in some form in the team of legal representatives.²⁰

²⁰ Victims from Abia and Barlonyo specifically mentioned the NGO who assisted and mobilised them.

23. There was consensus about the necessity of a gender-balanced team, including enough female lawyers/members of the team who are specialised in crimes against women.²¹
24. Victims residing in Abok expressed that they heard positive things about the current LRVs and their field assistants in the *Ongwen* case.
25. Victims residing in Pagak are following the *Kwoyelo* case before the International Crimes Division of Uganda closely, as they are hearing about the crimes committed in Pagak and Paboo IDP camps; consequently, a number of them proposed the victims' lawyers in the *Kwoyelo* case to be appointed as their counsel in the *Kony* case.
26. It was expressed by residents from all camps that the team should be present in Northern Uganda, possessing a deep understanding of the region's cultural context and conflict history.
27. On the issue of a potential conflict of interest between the group of former child soldiers or other children abducted, and the group of victims of the attacks, there was general agreement that there should be different (groups of) counsel.²² Victims in Pagak in particular mentioned that former child soldiers will not feel comfortable to speak in front of victims of the attacks.²³ Victims from Abia and Barlonyo mentioned that some of the former child soldiers are not in a good mental state and the lawyers working with them should have certain characteristics and specialised skills to deal with mental issues. It was mentioned that there should be an individual counsel for the women who suffered sexual and gender based crimes ("SGBC"), one for the formerly abducted victims, and one for the children born in captivity.

²¹ A female victim from Barlonyo stated that: "[b]ecause of the deeper and more special abuse that women suffered, many of us feel that they can only share it with another woman that understands that pain."

²² Victims explicitly insisted that these different counsel would have to operate within the same team.

²³ A male victim from Abia, referring to the stigma former child soldiers endure, explained that: "[i]t is not possible to speak freely if you are sitting with people speaking bad about you."

ii) Victims of the attack on Lwala Girls School

28. The victims of the attack on the Lwala Girls School form a very cohesive group of victims, with very clear ideas, organised in different associations. 11 women survivors of the attack against the Lwala Girls School participated in the consultations.²⁴ In the meeting, all of the victims expressed their desire to participate in the *Kony* case.
29. With regards to their choices on legal representation, they expressed their strong preference to have a new counsel (*ie* not previously affiliated with the *Ongwen* case), with a fresh and open mind. They want a counsel that only represents their group's unique interests, because according to them, it is not possible to compare their suffering to the suffering of others.²⁵ It is important for the victims that the counsel not only be present in the villages and places of residence, but also reaches out to victims in more remote areas, as their suffering is often worse due to isolation, limited access to counselling and stigma. Further, victims expressed that they want to be represented by someone (i) that puts their interests first instead of personal financial interests, (ii) is honest and transparent, and (iii) communicates all information timely and openly.
30. There was a wide consensus amongst victims that the counsel selected for them should be a woman.²⁶ Some of the victims prefer a counsel from Northern Uganda, as according to them, it is the only way to understand what the victims have gone through. Others prefer an international lawyer representing them, because they fear corruption. The group submitted that a suitable solution would thus be a team with both, local and international lawyers. They all agree that their counsel should

²⁴ See details of the meetings in Table 1.

²⁵ A female victim from the Lwala Girls School indicated that: “[t]hey abducted us from school. Which meant losing our future. We discontinued our education but also our expectation to have a normal family life as we are often rejected when they found out we are from Lwala. We often have to care for children born in the bush on behalf of their mothers, some of us gave birth in the bush.”

²⁶ A female victim from Lwala Girls School explained that: “[i]t is much easier to open up to a woman for us than to a man. For example, a man cannot relate to the feeling of being touched in certain parts of the female body.”

(i) speak local languages (i.e. Luo, Ateso, or others, as the victims of the Lwala Girls School all come from Northern Uganda), (ii) be an expert in international criminal and human rights law, (iii) have strong listening skills and (iv) know first-hand what it means to suffer from such atrocities.

31. The victims requested the Registry to support them in the process of finding appropriate legal representation. Additionally, they purport that it would be most beneficial to analyse and meet potential counsel, before the judges decide on their behalf.²⁷ They said that they would like to be able to change their lawyer if they are unhappy with their work.
32. Finally, the victim group underlined the importance that all LRA victims, whether within the Case or not, have access to all information on the Case to avoid tensions and facilitate understanding.²⁸ They complained about people and NGOs using victims for their own interests.

iii) Girls and women abducted and integrated into the LRA

33. During the focus group meetings, the Registry consulted 26²⁹ women between the ages of 28 and 54 who were abducted from all four sub-regions of Northern Uganda and integrated into the LRA. There was a strong feeling of shared experiences and mutual interests regardless of the sub-region of origin. All of them expressed their desire to participate in the *Kony* case.

²⁷ Victims were cognisant that due to their not having means to pay for legal representation, the Court will afford common legal representation as considered appropriate by the Chamber (rule 90(5) of the Rules).

²⁸ The victim group specifically mentioned the case of the Aboke Girls Boarding School, which happened in 1996. It was lamented that this incident falls outside the temporal jurisdiction of the ICC. The Registry explained that victims may fall within the scope of the *Kony* case if they remained enslaved during the period until after July 2002.

²⁹ This number does not include 11 female victims from the Lwala girls school whose views are represented already *supra*. This said, the total number of female victims of abduction and SGBC consulted by the Registry is thus 37.

34. There was general agreement amongst the female victims of abduction and SGBC that the counsel representing them should be a woman.³⁰ Some of the victims expressed that the counsel should be someone trustworthy and, if possible, a victim of the conflict in Northern Uganda themselves, knowing the conditions of women who were abducted when they were girls and endured horrible crimes and difficult conditions in the bush. Some of them fear that a counsel from outside the region would fail to understand the suffering they endured.
35. Due to their specific and distinct victimhood, the victims agree that it would be best if one counsel would only represent the interests of female victims of abduction and SGBC as a separate group. While there was no consensus on whether the counsel should be Ugandan or international, all victims agreed that they should speak a language which is widely understood in the affected regions.
36. Victims found the following to be indispensable criteria for their counsel: putting the interest of the victims at the centre of their work; integrity; respect for confidentiality; reliability and trustworthiness. In addition, close proximity to the victims and constant availability were agreed upon by all victims consulted. Victims also indicated that they want someone with experience in reparations and human rights.
37. Although they recognize that the lawyers of victims of crimes committed by Mr Ongwen have gained valuable experience during the process, they see the *Kony* Case as something new. They expressed concerns that lawyers of victims in the *Ongwen* case could be influenced by the experience of other victims; they therefore would prefer a new team of lawyers.
38. Many of the victims consulted expressed the need for the counsel to work closely together with local survivor associations, since the victims often only feel comfortable sharing their experiences in the presence of trusted representatives of such associations.

³⁰ A female victim from Acholi sub-region submitted that: “[i]t is so much easier for us women to express what we have been through to another women.”

39. It was further expressed that victims should be able to change their counsel if they, at any point during the proceedings, feel not properly understood or represented by them.
40. Most of the victims consulted in this category want the Registry to assist them to find a counsel and see this as a guarantee of integrity and neutrality. They generally have limited trust in Ugandan lawyers but at the same time recognise the latter in-depth understanding of the conflict. Therefore, the consulted victims suggested that a mixed team of national and international lawyers would be most balanced.
41. The victims consulted do not see a need for separate legal representation from other victims due to a potential conflict of interests. One victim said that while having a female lawyer for their specific group would be advantageous, this female counsel could be part of the same team of legal representatives, as this would ensure reconciliation between victims who were former child soldiers, children abducted and/or female victims of abduction and SGBC.

iv) Former child soldiers and other abducted children

42. The Registry has met in person with 12 former male child soldiers and other abducted male children from the Acholi, Lango, West-Nile, and Teso sub-regions, as women who were former child soldiers were embedded in other groups (Lwala girls group or children and women victims of abduction and SGBC group, *see supra*).³¹ The majority of consulted victims expressed that the sub-region of origin does not impact their shared identification as one group. Regardless of the origin, all former child soldiers and other abducted male children expressed interest in participating in the *Kony* case.
43. As former child soldiers and other male children abducted from all over Northern Uganda, the majority of them emphasized that their legal representation should

³¹ See details of the meetings in Table 1.

include counsel from each of the four sub-regions reflecting the broad geographic impact of the conflict. Others stressed the importance of having one team of counsel, regardless of the origin, who can unite victims from all over Northern Uganda, albeit with different specialisations amongst team members and dealing with different categories of victims (i.e. former child soldiers and other abducted male children, girls and women victims, children born in captivity and victims of the attacks).

44. Trustworthiness and integrity were named as key criteria for the victims, who expressed concerns about corruption and the potential for local lawyers to be influenced by tribal or political motivations. Hence, some victims expressed the need for an international lawyer with expertise in international criminal justice and a strong track record in representing victims in international cases to lead the team of local counsel.³² They all agreed, however, that the international lawyer must be familiar with the local context, ideally with previous experience living in the region and ability to communicate in one of the local languages.
45. The former child soldiers and other abducted male children held that, due to their distinct suffering and circumstances, they should be represented as an individual group of victims.³³ They expressed their strong preference not to be represented by the team representing victims in the *Ongwen* case, because in their eyes the Ongwen victims' counsel have mostly worked with victims of the attacks on IDP camps. Victims emphasized the importance of selecting counsel who listen to their clients, communicate regularly, and are not driven by financial gain. Further, they

³² A male victim from Lango sub-region indicated that: "It would be best to have a mix of local and international lawyers to have more trust and make sure they are not after the money or in favour of their own people. The exception should be made for children born in captivity, as they need to be together in one team, they have been really left behind by everyone, the government and the ICC."

³³ A male victim from the Acholi sub-region stated that: "The indoctrination of the children abducted made their mental health state very fragile, so they have more specific needs than the ones that were attacked."

requested that the candidates present themselves in Uganda, allowing the victims to participate in the Court's selection process.

v) Children born in captivity

46. The scope of the *Kony* case specifically includes children born to women and girls who were abducted by the LRA in all sub-regions of Northern Uganda.³⁴ Due to their distinct challenges, unique status of recognition, and experience of severe stigma, the children born in captivity have a strong shared identity regardless of their sub-region of origin. In the focus group meetings, the Registry has consulted with nine children born in captivity, out of which four were girls, and five were boys.³⁵ All of them expressed their desire to participate in the *Kony* case.
47. The children born in captivity emphasized the importance of having a counsel from the region who truly understands their past experiences and current societal challenges. They agree that while an international counsel might be well-informed, in their eyes such counsel would lack the personal connection and deep understanding of what it is like to have been born and raised in captivity.³⁶ Therefore, a regional counsel, not limited to a specific sub-area, was considered most suitable for effective legal representation.
48. A majority of the consulted victims explained that they do not want to be grouped with other victims because of issues related to their specific victimhood. However, some stated that there should be no absolute division amongst any of the groups, to unite victims and amplify a shared voice. There was strong consensus that their counsel should be an honest and strong advocate, dedicated to fighting for the rights of children born in captivity. The victims also considered that having a counsel who is able to speak their language is crucial, as is to be present on the

³⁴ DCC, para. 92.

³⁵ See details of the meetings in Table 1.

³⁶ A male victim from Lango sub-region expressed that: "[i]t is not possible to understand our challenges in the community if you are not from here."

ground, actively and compassionately listening to their concerns, and having the ability to understand their concerns. Some expressed a preference for a counsel that is also a victim, as this shared experience would foster greater empathy and trust.

49. Victims highlighted the necessity of having a female lawyer on the team to ensure gender sensitivity and balance. While the majority expressed that there should be a new team of counsel representing victims in the *Kony* case, it was emphasized by others that the experience of the LRVs in the *Ongwen* case might be beneficial.
50. However, they all agreed that working closely with grassroots organisations is crucial for their counsel, ensuring that their legal representative is well-informed and connected to the community. In addition to that, victims wish their lawyer to be available and easily accessible.³⁷
51. According to them, their lawyer should have the quality of a parent, being able to understand the victims, their frustrations and suffering without judging. This included understanding their silences as well.

b) Views expressed by CBOs

52. Representatives of CBOs in Northern Uganda emphasized the importance of unified legal representation to avoid regional divisions among victims of the conflict. They advocated for bringing in new counsel who are not already overburdened with other cases. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED] A mix of local and international lawyers was recommended by all representatives, with a strong emphasis on including female counsel, especially for women and girls.

³⁷ A male victim from Lango sub-region stated that: "We don't want to meet our lawyers in hotels or fancy cafes in town, we want them to come to the remote villages and witness the reality on the ground."

53. The CBO representatives strongly recommended that victims be grouped with individual legal representatives dedicated to their specific needs. Each group should have lawyers with specific expertise in these matters to ensure that the unique experiences and rights of each group are adequately represented and advocated for.
54. One proposal that was put forward by a representative involves four groups of victims: (i) former child soldiers and other abducted children; (ii) women and girls who suffered from SGBC; (iii) the children born in captivity; and (iv) the victims of the attacks against IDP Camps. Although such grouping is important, they also see as crucial that the individual counsel operate as a cohesive team towards a unified goal.
55. There is strong consensus that collaboration between the counsel, the CBOs and the intermediaries is essential. These organisations have the relevant networks and knowledge to ensure no one is left behind. One representative expressed that continuous information flow and transparency are vital, with regular grassroots meetings to keep victims informed. They suggest that the Registry should assist in the selection process to ensure the best legal representation for the victims.

c) Views expressed by intermediaries

56. Intermediaries from Lukodi provided positive feedback about the current LRVs in the *Ongwen* case.³⁸ They noted that most issues brought to the Court were addressed, and the LRVs regularly met with them, ensuring a good flow of communication. According to them, both teams are very active, and particularly attentive to the needs of women. The community's response to the lawyers has been very positive, highlighting their transparency and assistance in translating case information.
57. The intermediaries specially emphasized the need for children born in captivity to be individually represented in the *Kony* case, as these children were left behind in

³⁸ See details of the meetings in Table 1.

previous proceedings, despite the magnitude of their suffering. Intermediaries insisted that the counsel for children born in captivity should be a Ugandan lawyer, preferably Acholi or Lango. Intermediaries held that counsel's availability for victims would be key – be that a legal representative already active in a current case or a completely new counsel. Finally, they recommended having one lead counsel responsible for all victims represented in the Case, supported by a broader network of counsel with specific expertise, such as children's rights or SGBC, to ensure comprehensive and specialized legal representation for all victim groups.

d) Views expressed by the LRVs currently appointed to represent victims in the Uganda situation and the Kony and Ongwen cases

58. All LRVs communicated their availability to represent victims in the Case. They provided additional information, available in Annex 2, concerning notably the potential team composition as well as additional remarks highlighting challenges and specific aspects related to the Case.³⁹

e) Indigence of victims and availability of legal aid

59. All victims consulted have indicated that they are unable to pay for their legal representation. The consulted CBOs and intermediaries confirmed that (i) victims have no financial means to afford a legal representative; and (ii) they have no knowledge of any existing structure offering legal aid or *pro bono* legal representation support to victims in Uganda.

60. In light of the above findings, the Registry expects that participating victims in the Case will rely for their legal representation exclusively on the financial assistance that may be provided by the Court under its legal aid budget.

61. With regard to the scope of legal assistance in the present case, the Registry has made a provisional assessment of the complexity level taking into account all applicable parameters as stipulated in the "Legal aid policy of the International

³⁹ See Annex 2, emails from OPCV to the Registry (CSS) on 10 June 2024 and on 20 June 2024 at 10:32 at 16:24; email from Messrs Cox and Manoba to Registry on 11 June 2024 at 17:45.

Criminal Court” (“Legal Aid Policy”).⁴⁰ As a result, the Registry assessed the victims team at a complexity level 1 at the pre-trial stage until any further submissions by the appointed LRV and any further developments in the case warranting a reassessment. In this case, the appointed LRV should have the burden to demonstrate that a specific parameter impacts their workload. Therefore, any final assessment of the complexity level should only be made by the Registry following the submissions by the appointed LRV in accordance with paragraph 46 of the Legal Aid Policy.

62. In this regard, the Registry notes that at a complexity level 1, the victims team at this stage is composed as follows: Legal Representative, Case-Manager and Field Assistant.⁴¹ This composition results in a monthly expenditure between €20,481.20 (Step 1) and €22,691.20 (Step 4).⁴²
63. The LRV’s team would also have resources as envisaged under various programmes of the Legal Aid Policy. In particular, under Programme 1, the team would be allocated resources to conduct field missions with the amount of €10,000 per year, to cover all costs associated for the purpose of facilitating communication with victims in the field. These resources could also be used to engage “non-permanently selected field assistants”.⁴³
64. Furthermore, under Programme 2, the LRV’s team would receive “a yearly lump-sum for resources to cover costs for experts, translation and other miscellaneous

⁴⁰ Legal aid policy of the International Criminal Court, ICC-ASP/22/9, 22 November 2023 (“Legal Aid Policy”), paras. 53-54.

⁴¹ See Table 2 of the Legal Aid Policy. The exact remuneration would depend on the Registry’s assessment of the number of years of relevant experience collected for a specific position at the time of the assignment to a team, in line with the indicated years of relevant experience per table 6 and annex II of the Legal Aid Policy.

⁴² In accordance with Table 8 of the Annex II of the Legal Aid Policy, the total monthly lump-sum, including 10% compensation for taxes for full-time services for the Legal Representative would vary from €12,405.90 (Step 1) to €13,705.90 (Step 4); for the Case Manager – from €5,682.30 (Step 1) to €6,592.30 (Step 4). In accordance with paragraph 12 of the Annex II of the Legal Aid Policy, monthly remuneration of the field assistant that form part of the permanent team composition is €2,393.

⁴³ Legal Aid Policy, para. 86.

expenses other than that assumed by the Court.”⁴⁴ This amount is €10,000 per year irrespective of the stage of the proceedings and complexity level.⁴⁵

65. Finally, Programme 3 of the Legal Aid Policy, subject to the conditions outlined in the Legal Aid Policy, “covers the reimbursement of travel expenses incurred by counsel and associate counsel to and from The Hague or an area within commuting distance from the Court’s premises in The Hague.”⁴⁶

66. The Registry wishes to stress that in the case of several LRVs being appointed in one case, the total monthly remuneration of one position of “Legal Representative”, as foreseen under the Legal Aid Policy, would be shared among them.

67. The Registry further notes that in accordance with paragraph 104 of the Legal Aid Policy, “insofar simultaneous mandates for cases before the Court are concerned, they shall be limited to no more than two cases, whereby the total monthly remuneration for the other case may not exceed 50% of the monthly full-time remuneration of one case.”⁴⁷ Where counsel represents victims in a another case before the Court, applicable fees in a second case would be at 50% of the disbursement applicable.

68. Upon consultation, the OPCV reported that “no additional resources are needed for the [OPCV] to continue to carry out its legal representation in the *Kony* case” and “there will be no budgetary impact if the [OPCV] remains appointed.”⁴⁸

3) Registry observations

a) Conflict of interest and divergent interests of victims

69. In recent years, the Registry has consistently recommended to Chambers that in the absence of any conflict of interest between participating victims that would

⁴⁴ Legal Aid Policy, para. 89.

⁴⁵ Legal Aid Policy, para. 90.

⁴⁶ Legal Aid Policy, para. 92-94.

⁴⁷ Legal Aid Policy, para. 104.

⁴⁸ Annex 2, Email from OPCV to Registry (CSS) on 20 June 2024 at 10.32.

justify their separate representation, it may be appropriate that all participating victims are represented by one common legal representative.⁴⁹

70. In the course of its consultation, the Registry sought to identify whether, in the present Case, victims appear to have, among themselves, any conflicting or substantially distinct interests pursuant to rule 90(4) of the Rules that would justify their separate representation before the Court, or whether there exists any other factor that would necessitate and justify common legal representation of victims through two or more groups.

71. Although no definition of conflict of interest is provided under the Code of Professional Conduct for Counsel (“Code”),⁵⁰ the approach adopted thus far before the Court is that:

“[i]n case the common legal representative receives conflicting instructions from one or more groups of victims, he or she shall endeavour to represent both positions fairly and equally before the Chamber. In case the conflicting instructions are irreconcilable with representation by one common legal representative, and thus amount to a conflict of interest, the common legal representative shall inform the Chamber immediately, who will take appropriate measures [...].⁵¹

[...] a conflict of interest may arise when the situation or the specificity of the victims is so different that their interests are irreconcilable”.⁵²

72. For guidance on what constitutes the “distinct interest” of the victims, the Registry notes that rule 90(4) of the Rules makes reference to the criteria set out in article 68(1) of the Rome Statute that includes, *inter alia*, “the nature of the crime, in

⁴⁹ See, for example, Registry, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Public redacted version of “Annex I to the Registry’s Second Report on Legal Representation of Victims”, 28 January 2019, ICC-01/12-01/18-209-AnxI-Red, para. 13 or Registry, *The Prosecutor v. Jeoffroy Eli Mokom Gawaka*, Public redacted version of “Annex I to the Registry Report on Legal Representation of Victims”, 7 October 2022, ICC-01/14-01/22-98-AnxI-Red, para. 55.

⁵⁰ Article 16(1) states that “Counsel shall exercise all care to ensure that no conflict of interest arises.”

⁵¹ Trial Chamber II, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, “Order on the organisation of common legal representation of victims”, 22 July 2009, ICC-01/04-01/07-1328, para. 16.

⁵² Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, “Decision on common legal representation”, 25 May 2012, ICC-02/05-03/09-337, para. 42.

particular, but not limited to, where the crime involves sexual or gender violence [...]”.

73. Since it is accepted that within any group of participating victims, a variety of interests will co-exist, the Registry would have to identify distinct interests so substantially different among victims that they would justify separate representation.

b) Registry’s conclusion on the grouping of victims of the Case

74. Included in the charges brought against Mr Kony is the charge of children under the age of 15 years old being conscripted and used to participate actively in hostilities during some attacks relevant to the charges.⁵³

75. In other cases before the Court where this crime is included in the charges, the Registry systematically recommended two separate teams of legal representatives, if the victims themselves were not expressly against such solution.⁵⁴

76. Most consulted victims proposed that within a single team of lawyers representing a common interest, each of the identified victim sub-groups⁵⁵ should have a dedicated lawyer to represent their distinct interests/victimhood. Yet, victims do not perceive a need for separate legal representation due to potential conflict of interests. While the CBO representatives stressed that grouping is important, they consider it crucial that the individual counsel dedicated to the different groups function as a cohesive team towards a unified goal. Finally, the victims of the

⁵³ DCC, para. 93.

⁵⁴ See for example, Registry, *The Prosecutor v. Bosco Ntaganda*, Public redacted version of the “Registry’s Interim Report on the organisation of the legal representation” dated 1 August 2014 and registered on 4 August 2014, ICC-01/04-02/06-141-Red2, paras. 11 and 18; Registry, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaiisona*, “Registry’s Report on Legal Representation of Victims”, dated 16 April 2019 and registered on 17 April 2019, ICC-01/14-01/18-178-AnxI-Red, paras. 96-97 (A public redacted version was notified on 16 May 2019); and Registry, *The Prosecutor v. Maxime Jeaffroy Eli Mokom Gawaka*, “Registry Report on Legal Representation of victims”, 7 October 2022, ICC-01/14-01/22-98-Anx-Red, paras. 55-63.

⁵⁵ The five identified groups are: (1) victims of the attacks on IDP camps, (2) victims of the Lwala Girls School attack, (3) Girls and women abducted and integrated in the LRA, (4) Former child soldiers and other abducted children, and (5) children born in captivity.

attacks highlighted that working together for the common benefit of all victims is important since segregating victims could have an adverse effect on reconciliation.

77. Following the consultation process, the Registry thus did not identify any (potential) conflicting or divergent interest between victims that would warrant separate teams of victims' legal representatives. The Registry will however continue to monitor whether an additional legal representative would be warranted, should the perception of a conflict of interest arise.

4) Registry recommendations

78. The Registry notes readiness and willingness of the two counsel teams in the *Ongwen* case to continue the representation of their clients in the latter case in the confirmation proceedings *in absentia* in the *Kony* case. This would account for altogether 4,096 victims, presuming indeed that all victims have indicated their desire to their legal representative to participate in the said proceedings in the *Kony* case. The Registry is also mindful of the OPCV's role regarding a number of victims already recognised by the Pre-Trial Chamber in a previous constitution in the *Kony et al.* proceedings and at Situation level.

79. Furthermore, as a result of the victim consultation exercise⁵⁶, the Registry notes that many victims not yet participating in any proceedings before the Court would favour a newly constituted team of counsel, as well as specific dedicated counsel on specific topics of harm/types of victimisation. Yet, consulted victims did not provide unanimously or by majority any references to specific counsel in this regard. Finally, it is noted that nothing in the collected information suggests the unsuitability of the counsel in the *Ongwen* proceedings to potentially represent – at least in the interim – the interests of new participating victims in the confirmation proceedings *in absentia* in the *Kony* case. Together, both counsel teams respond to a number of key victim demands, such as a mix of national and

⁵⁶ See paras. 3-10 and 13 of the Report.

international counsel, different gender, familiarity with the situation, attention to local specifics of victim communities, but also proficiency in ICC proceedings, amongst other items.

80. Recognising the limited timeframe between the present day and the anticipated confirmation of charges hearing on 15 October 2024, the Registry considers it appropriate to continue the appointment of counsel already engaged in the *Ongwen* proceedings for the confirmation proceedings *in absentia* in the *Kony* case. This would guarantee an *immediate* effective representation. Simultaneously, the Registry would intensify its efforts to identify additional counsel on specific themes put forward by consulted victims catering for specific types of victimisation, who could be incorporated into the legal representation team confirmed by Pre-Trial Chamber III and in accordance with the Legal Aid Policy.