‘INSENSITIVE’ JUSTICE!

PERCEPTIONS OF TRIAL JUSTICE IN THE CASE OF THE PROSECUTOR VS DOMINIC ONGWEN

A SURVEY REPORT

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EXECUTIVE SUMMARY

In February 2021, the Pre-Trial Chamber IX Judges of the International Criminal Court (ICC) delivered a verdict on Dominic Ongwen, a former child abductee and later commander of the Lord's Resistance Army (LRA). For nearly 28 years, Dominic Ongwen, who was abducted at 9 years, grew in the rank and file of LRA and become one of its senior top commanders. The LRA conflict has been one of the most brutal conflicts experienced in Uganda's history. Heinous atrocities were committed by the belligerents during the conflict. However, following a referral of the LRA top commanders by the Uganda Government to the ICC, Ongwen and other top LRA commanders were indicted by the Court in 2005, three years after its establishment. Following alleged threat to his life from his commander, Joseph Kony, Ongwen surrendered to the Seleka rebels in the Central African Republic (CAR) in January 2015. The Seleka rebels then handed Ongwen over to the United States forces in the CAR, who together with the Ugandan Government agreed that Ongwen needed to be transferred to the ICC in the Haque to face trial. He was subsequently charged with 70 counts of acts amounting to war crimes and crimes against humanity under the Rome Statute. After nearly six years of trial at the Haque, Netherlands, the Trial Chamber IX of the ICC delivered its verdict on the case on 04 February 2021, convicting him of 61 out of the 70 counts.

Ongwen's prosecution and verdict raised public interests, especially among the ordinary people who suffered the brunt of the LRA war as well as scholars and legal community in Uganda and beyond. Amani Institute Uganda undertook a study of public perceptions to ascertain reactions towards the "administration of trial justice" by the Pre-Trial Chamber IX Judges of the International Criminal Court on the Dominic Ongwen's case. The study was also intended to identify areas of divergence and commonalities between public perceptions and the ICC's verdict on Dominic's case and, to identify policy implications of the verdict on the pursuit of broader justice and reconciliation goals in northern Uganda. We therefore conducted interviews with a cross-section of society, closely monitored online reactions and engaged selected academic and legal community who have keenly been following the case of Dominic Ongwen.

The main findings of the study revealed mixed reactions and critiqued the Court's verdict as: selective and biased justice; unrealistic and partial; a bad precedence that may impede future pursuit of justice by abducted children; skewed justice and

missed opportunity for complementarity with other justice systems. These findings have implications on perceptions of the ICC's role in post-conflict justice in northern Uganda, including research, policy and praxis towards an inclusive global justice system.

DOMINIC ONGWEN AT THE ICC TRIAL (PHOTO CREDIT: ICC)

INTRODUCTION

The Pre-Trial Chamber IX Judges of the International Criminal Court (ICC) have been criticized over their recent verdict on Dominic Ongwen, a former commander of the Lord's Resistance Army (LRA). Ongwen, a former LRA child abductee, grew up with the LRA in the jungles of northern Uganda and Sudan and rose to become one of its top senior commanders. After being in the LRA captivity for close to 28 years, Ongwen surrendered to the Seleka rebels in the Central African Republic (CAR) in January 2015. It is alleged that by this time, Ongwen had fallen out with the mystic LRA leader, Joseph Kony, who allegedly wanted him dead. The Seleka rebels handed Ongwen over to the United States (US) forces in the CAR, who together with the Ugandan Government struck a deal to have Ongwen transferred by CAR Government to the ICC in the Haque to face

trial. He was subsequently charged with 70 counts of acts amounting to war crimes and crimes against humanity under the Rome Statute.

After nearly six years of trial at the Haque, Netherlands, the Trial Chamber IX of the ICC delivered its verdict on the case on 04 February 2021. The Court found Dominic Ongwen guilty of 61 counts comprising crimes against humanity and war crimes, committed in northern Uganda between 1 July 2002 and 31 December 2005. The Trial Chamber IX, composed of Judge Bertram Schmitt, Presiding Judge, Judge Péter Kovács and Judge Raul Cano Pangalangan, found beyond any reasonable doubt, that Mr Ongwen is guilty of the following crimes:

i. attacks against the civilian population such as murder, attempted murder, torture, enslavement, outrages upon personal dignity, pillaging, destruction of property and persecution; committed in the context of the four specified attacks on the Internally Displaced Persons camps ("IDP camps") Pajule (10 October 2003), Odek (29 April 2004), Lukodi (on or about 19 May 2004) and Abok (8 June 2004);

ii. sexual and gender-based crimes, namely, forced marriage, torture, rape, sexual slavery, enslavement, forced pregnancy and outrages upon personal dignity he committed against seven women (whose names and individual stories are specified in the judgment) who were abducted and placed into his household;

iii. A number of further sexual and gender-based crimes he committed against girls and women within the Sinia Brigade, namely forced marriage, torture, rape, sexual slavery and enslavement; and

iv. The crime of conscripting children under the age of 15 into the Sinia Brigade and using them to participate actively in hostilities.

Against the above background, Amani Institute Uganda undertook a quick survey of public perceptions on the verdict, its strength and gaps, as well as possible policy implications.

STUDY OBJECTIVES

The main objective of conducing the rapid assessment of public perceptions on the ICC verdict was to specifically ascertain the LRA affected communities' immediate reactions to the Ongwen's verdict, and generally their perceptions of "trial justice" in the context of the LRA-GoU conflict; to identify areas of divergence and commonalities between public perceptions and the ICC's verdict on Dominic's case; and to identify policy implications of the Dominic Ongwen's case for the pursuit of justice for the LRA -Government of Uganda conflict.

METHODOLOGY

Following the ICC verdict on 4 February 2021, Amani Institute Uganda interviewed a number of victims and stakeholders in Gulu City to assess their immediate reactions and perceptions of the verdict. The interviewees, many of whom had not read the detailed judgement but heard over radio or watched on TVs, included those who participated in the communal live screening of the verdict organized by the ICC outreach teams in Gulu and Lukodi, as well as some randomly selected community members and persons who were willing to comment on the verdict. Amani researchers also monitored public reactions on various media houses, including radios, TVs, Blogs and social media platforms in this regard.

Generally, the reactions were rather low key, with many commentators expressing no surprises on the guilty verdict *per se*, but at the same time expressed disappointment with the tone, quality, and ramifications of the judgement. The study targeted a cross-section of stakeholders, including affected communities, civil society and justice scholars or practitioners.

KEY FINDINGS

MIXED FEELINGS: LOW-KEY SUPPORT FOR AND HARSH CRITICISMS AGAINST THE VERDICT

The The verdict was greeted with mixed feelings, muted reactions and some harsh criticisms both online and on the streets. Commenting on the trial, Deo Komakech, a Documentation Officer with the Refugee Law Project (RLP) based at the National Memory and Peace Documentation Centre (NMPDC) in

Kitgum twitted on 19 February that, "*the recent ICC verdict against former LRA commander Dominic Ongwen surprisingly is not a very popular subject matter in northern Uganda. Just wondering if that was the long-awaited justice by hundreds of LRA-GoU war victims?*"

LRA affected community members following the live screening of the ICC Verdict on Dominic Ongwen

Some of the immediate reactions published on the verdict include articles by Kirstin Bree Carlson, "*ICC Judges ignored Ongwen's background in the guilty verdict: Why it is a mistake*" available at https://theconversation.com/icc-judges-ignored-ongwens-background-in-guilty-verdict-why-its-a-mistake-154985 and Stephen Kafeero "*Failed Justice casts shadow over ICC verdict*" at https://theconversation.com/icc-judges-ignored-ongwens-background-in-guilty-verdict-why-its-a-mistake-154985.

The Justice in Conflict blog also serialized some very interesting commentaries on the judgement, such as, "*The Moral and Legal Correctness of Dominic Ongwen's*

Conviction" by Paul Bradfield available at https://justiceinconflict.org/2021/02/10/the-moral-and-legal-correctness-of-dominic-ongwens-conviction/; "*Beyond the Ongwen's verdict*" by Sarah Kihika Kasande available at https://justiceinconflict.org/2021/02/09/beyond-the-ongwen-verdict-justice-for-government-atrocities-in-uganda/; "*Litany of Horrors by LRA leader: Ongwen was no Puppet on a String*" by Elise Keppler available at https://justiceinconflict.org/2021/02/08/litany-of-horrors-by-lra-leader-ongwen-was-no-puppet-on-a-string/; "*Getting an Unforgettable Gettable: The Trial of Dominic Ongwen*" by Mark A. Drumbl at https://justiceinconflict.org/2021/02/05/getting-an-unforgettable-gettable-the-trial-of-dominic-ongwen/; "*The Fog of War (Crimes Trials): The Politics of Epistemology in the Dominic Ongwen*" trial by Kirstof Titeca at https://justiceinconflict.org/2021/02/03/the-fog-of-war-crimes-trials-the-politics-of-epistemology-in-the-dominic-ongwen-trial/; *"Dominic Ongwen: it is very difficult to balance all that*" by Kjell Anderson at https://justiceinconflict.org/2021/02/02/dominic-ongwen-it-is-very-difficult-to-balance-all-that/; and many others which are not listed here.

What is evident in the commentaries above, are clear admissions on the complexity of Dominic Ongwen's case, and the limitations of international criminal justice as it is to dispense justice in complex cases, and the acknowledgement that the ICC judges failed the interest of justice in the situation of northern Uganda in this case. They probably did their best, but their best was simply not good enough in this particular case. As a result, it is our opinion too, that there has been a miscarriage of justice for the people of northern Uganda, not necessarily for Dominic Ongwen personally, as will be discussed later.

ONGWEN COULD BE GUILTY BUT NOT FOR ALL THE 61 COUNTS

To many respondents, the guilty verdict was expected but not in the scale and insensitive manner in which it was delivered by the ICC Judges. "*Has Ongwen become the sacrificial lamb in the quest for justice against the LRA?*", asked Bryan Ojok, a causal worker from Koro sub-county, Gulu City, Uganda. Stephen Oyaro of Omoro district, who was also abducted by LRA and forced the walk for over 40 miles carrying heavy languages took issue with the apparent insensitivity of the Judges to the traumatic experiences of Dominic Ongwen as a victim first, and a captive always, to Joseph Kony, the LRA leader.

According to Oyaro, whose own lips were cut:

> *"I thought the verdict would be that Dominic Ongwen was forcefully abducted and trained by Kony to commit these crimes. He did not go to the bush willingly. He*

> *committed all these crimes under the instructions of Kony and as a survival strategy … The Judges were not impartial in their evaluation of the evidence from both the Prosecution and Defence team and for not giving them equal weight*".

Lalam Janet, from Koch Goma in Nwoya district, also a former abductee of the LRA in 1996 agreed that, "the LRA committed all sorts of atrocities but I expected that the Judges would be fairer in their judgement against Ongwen because most of the crimes he committed were not of his interest ... Ongwen was forced to commit some of these crimes". Ongwen may be guilty on some crimes, but he could not possibly be convicted on all those counts, Lalam concluded.

According to Stephen Oola, Director of Amani Institute Uganda:

> *"The Judges were evidently skewed in their evaluation of the case against Dominic Ongwen to a guilty verdict. A quick perusal of the long judgement clearly demonstrates that the Court readily believed the Prosecution team more than the Defence team. Most of the evidence adduced by the Prosecution team against Ongwen was taken as truthful and apparent inconsistencies were sketchily explained away by the Judges without much rigour."*

Oola also described the judgment as lazy. He observed:

"it is obvious that the ICC Judges treated Dominic Ongwen as one of those classical war criminals who had ever been tried and convicted by the ICC itself or any other international tribunals before it….The ICC Judges failed to appreciate the complexities presented by Ongwen's case as a child victim of war, a war captive and a trained killing machine, who unfortunately is now being accused and prosecuted for perpetrating the same heinous crimes for which he, if given an opportunity, would personally be seeking justice for".

According to Oola,

"there are a number of concerns which warranted more introspections from the Judges on some key defense arguments that Ongwen was a victim, incapable of exercising 'mensrea' in some of the cases, and that he acted under constant duress for most of the time of his enslavement. He followed orders from Kony to the letter to survive and his only crime is being order abiding … Kony was feared and revered as superhuman by all LRA captives, with stories of how he can foresee the future, as well as know what anybody else is thinking at a particular time. As a child abductee, Ongwen must have believed Kony's mystic power beyond reasonable doubt."

Oola concluded. Oola also faulted the ICC Judges for their conclusion that "… *Dominic Ongwen was not under any threat of death or serious bodily harm to himself or*

another person when engaging in conduct underlying the charged crimes" without any convincing evidence to the contrary.

PARTIAL JUSTICE

The ICC judgement was welcomed by some respondents for its promises of compensation that will follow but many were very quick to point out that the verdict alone, or even with the impending sentencing, or reparations, will not complete the justice equation in the LRA affected communities in northern Uganda. Rose Apiyo, from Lukodi village, who was in Lukodi IDP camp on the night of the LRA attack in 2004, had "*feared that Ongwen would be found innocent and they miss out on compensation*."

Recalling how on the day of the attack she was preparing food and people were playing *lukeme* and other music instruments, and suddenly bullets started raging, people were running for their dear lives and she fell down and dislocated her knee joints and as result she can no longer walk, Apiyo thought that *"the ICC judgment was fair, even though other people may disagree, and personally she wants to thank the ICC judges for 'ngol matir'* [its fair judgement] *but added that the ICC should compensate them."* For justice to be complete, the respondents argued that more is required than just prosecuting Ongwen, the other LRA indictees or even paying reparations for their atrocities committed. Many spoke of the much-ignored higher responsibility of the Government of Uganda soldiers, who also committed heinous crimes, and yet the ICC turned a blind eye to their possible culpability.

The Prosecution, some argued, did not do justice to the case, by presenting one-sided evidence against Ongwen without highlighting those potentially incriminating the Government of Uganda. It is a widely known fact in northern Uganda that, from the beginning, the ICC investigators were led by Government security apparatus to different sites of atrocities allegedly committed by the LRA, but the Prosecution also relied heavily on evidence provided by the Government of Uganda or State agents during the Ongwen trial. The Prosecution was also accused of concealing potentially exculpatory evidence on Ongwen.

Stephen Oyaro observed, *"the Government was also complicit; they should have protected Ongwen and the citizens. Government should therefore compensate people for all the property destroyed."* The above notwithstanding, some victims welcomed the judgement as a big relief. Mego Angwec from Awach in Gulu District, whose daughter was abducted and died in captivity said, "*many victims are being myopic in the judgement*

just because they were directly affected. As a result, the judgment will bring healing to some people, but there was a lot of unfairness in the verdict."

SKEWED JUSTICE

Not only were the ICC prosecutors accused of presenting a biased case to ensure that Ongwen was convicted at all cost, but the Judges were also accused of naively accepting the prosecution strategy to isolate Ongwen's childhood from his adulthood. The Prosecutor, Fatou Bensouda argued that "their case against Ongwen is not for what he did when he was a child but for the crimes he committed when he became an adult", a convenient argument which the Judges readily accepted, without much introspection.

The Judges ignored the Defence's argument that Dominic Ongwen was a child victim, forcefully abducted by the LRA in 1987 on his way to school, because of the Government of Uganda's failure to protect him, and that from childhood, he was brutalized into submission and indoctrinated by the LRA and turned into a killing machine – which normalized all the different atrocities for which he is being accused of, and therefore lacked the moral foundation to be able to make independent rational choices for which he can be held responsible. The Judges therefore had no hesitation in finding, *inter-alia,* that Ongwen – a slave himself – was guilty of the crimes of enslavement, or that Ongwen who was abducted was also guilty of abduction. To the ICC Prosecutors and Judges, once Ongwen turned 18 years, even though still in captivity, he automatically became criminally responsible – what a bizarre conclusion taking into account what abducted children and even adults go through in LRA captivity.

According to Oola:

> *"it is likely that throughout the trial and at conviction, Ongwen was viewed, in the eyes of the Judges, as an evil wrongdoer – a spoilt child who should have done better upon growing up. Dominic Ongwen was therefore equated with the other warlords like Charles Taylor and Thomas Lubanga who had been tried before for similar crimes.*"

The Judges, Oola argued,

> *"should have been more candid, acknowledged the difficulties in arriving at their guilty verdict, and convicted Ongwen with some caution, that may be – just maybe – he could have turned out differently or done things differently, had it not been for what he was subjected to as a child and LRA captive*".

Instead, the verdict presents the Ongwen's case as rather clear–cut, easy and simple – Ongwen as a bad boy who had all the opportunities like his fellow abductees who

managed to escape the LRA and some of whom even testified before the Court. As a result of this simplistic approach, the Court concluded confidently that Ongwen willfully decided to stay and, committed all the terrible unimaginable things upon becoming a commander, when he could have easily refused to obey Joseph Kony, or even sought a different path. Infuriated by the verdict, Paul Waswa, an advocate in Kampala commenting on a social medial platform (Facebook page) said,

> "*we should have opted for traditional justice mechanisms such as Mato Oput than overly relying on international criminal justice that still has a long way to go to understand the context within which the LRA war was started, sustained and fought.*"

ONGWEN IS NO ORDINARY VICTIM

It is evident that the real impact of the Ongwen's experiences as an LRA child abductee were only glossed over by the Court. The Judges noted that:

> "*Dominic Ongwen was himself a victim of crimes, on account of his abduction at a young age by the LRA. The Chamber has duly considered the above facts underlying these submissions. In addition, and while acknowledging that indeed Dominic Ongwen had been abducted at a young age by the LRA, the Court notes that Dominic Ongwen committed the relevant crimes when he was an adult and, importantly, that in any case, the fact of having been (or being) a victim of a crime does not constitute, in and of itself, a justification of any sort for commission of similar or other crimes beyond the potential relevance of the underlying facts to the grounds excluding criminal responsibility expressly regulated under the Statute*".

According to Oola, *"the Judges oversimplified the case of Ongwen having been a victim as not being justification for his own commission of crimes, without interrogating what crimes, impact of the various nature of crimes, and how someone gets victimized".* Ongwen is no ordinary victim, but a child victim of heinous crimes against humanity and war crimes committed upon him, first and throughout his captivity.

He added:

"*anyone who understands the LRA context knows that Ongwen having been abducted at such a tender age, raised that way, without the opportunity of distinguishing our rights and wrongs, couldn't possibly form the intent to willfully commit the crimes as defined under the Rome Statute.*"

Instead, the Trial Chamber took note of Ongwen's abduction as a child and experiences of suffering, but quickly dismissed it as "may be relevant at a later stage" of sentencing.

DOUBLE STANDARDS

The ICC Judges by acknowledging Ongwen's victimization and immediately dismissing its relevance to their verdict, except for future proceedings like sentencing committed an abomination or grave miscarriage of justice. In Acholi, this kind of attitude is considered "*myel iwi lyel*" or dancing on a grave. Commenting on Facebook, Ronald Kayizzi, an advocate in the High Court of Uganda had this to say:

> "*the ICC decision was not fair. I believe they failed to properly consider a key aspect of the defense. A boy is abducted at 9 years, indoctrinated and taught to kill and not to value life. He never got a chance to live a normal life like other children. Lived in the jungle and killed to survive. He needed more of counselling and help than their conviction*."

As Robert Ali Bogere, a commentator on Oola's Facebook posts commented:

> "*these ICC jurists and their likes are the same people who defend an abused woman who lashes out and kills her abuser. They argue that such a person has psychological and mental issues caused by their conditioning at the hands of their abuser. Ongwen was abused and conditioned from age 9. How much of Kony is in Ongwen and how much of Ongwen (as raised by his parents) was left in him after years of being terrorized?*"

Bogere continued:

> "*if we can say effects of abuse are very long lasting in an adult spouse who has suffered at the hands of their partner and we can excuse her if she kills her abuser; what about a person who was abused, terrorized and forced to kill from age 9? When can we say that such a person should have fought off the years of conditioning and phycological terror? When can we say that Kony left Ongwen?*"

Bogere concluded that,

> "W*hat becomes of the mind of a 9-year-old who is taught to rape, to cut open a pregnant woman, and to slit open the throat of an adult? If you have a 9-year-old child, try picturing him as a rapist, a cold-blooded killer, who is conditioned to lock people up inside a hut and set it on fire. Only then will you understand where this guilty Ongwen came from. Uganda failed Ongwen. The world failed Ongwen. Our Government failed Ongwen.*"

Therefore, whatever side of the (in-)justice debate you fall in this case, there is a legitimate concern for Ongwen's stolen childhood, as a child forcefully conscripted into armed rebellion because of the state's failure to protect him, and that with his continued situation as a captive means he could not simply be deemed fully responsible for the things he did upon attaining the age of consent, simply because

he was promoted or even obeyed by his fellow captives. The Court certainly did not satisfactorily address this concern.

MISSED OPPORTUNITY TO CATALYSE BROADER JUSTICE CONCERNS AND FOSTER COMPLEMENTARITY

Many commentators felt that the ICC Judges and Prosecution team missed the opportunity presented by Ongwen's case to catalyse a broader justice discourse in northern Uganda and to foster complementarity. As already pointed out, some commentators expected the Court to critically interrogate all the evidence and issues raised by the Prosecution and Defence during the trial and to decide on what was clear–cut, or within its competence, and to recommend alternative mechanisms for other matters beyond the Judges' wisdom or realm of trial justice. The judgement, some people argued, read like it was a judgement of a General Court Martial of the Uganda People's Defence Force (UPDF) sitting in Makindye, Kampala. In a way, the ICC judgement appears to follow strictly the Government of Uganda's narrative against the LRA. The language of the Court's judgement was carefully written to avoid imputing any responsibility to the Ugandan State for its own atrocities committed during the war but also its failure to protect Dominic Ongwen and the other LRA abductees.

The Judges shamelessly presented the Government of Uganda soldiers, the UPDF, as victims themselves, unable to match the LRA firepower, and therefore were justified for having to flee the designated IDP camps, whenever the LRA rebels would attack. Stanley Baluku, in his comments on Facebook observed that, *"the judgement could easily be made by a Grade III Magistrate in Kasese. It lacked any sense of analysis. I did not see the responses to critical issues raised by the defense. It looks like a statement crafted at State House…"*

It is arguable that the International Crimes Division of the High Court in Uganda could have even delivered a much better judgement in this case. Lalam Janet had expected that, *"the ICC Court* [sic] *would be a little deliberate in making their final verdict and give a verdict that Ongwen should come back home and be subjected to local mechanisms because the crimes were not in his interest. He was abducted as a child soldier and indoctrinated by Kony."* But the judgement covered all the grounds, including some very unfamiliar ones, acknowledged no margin of error, shut the doors to all other alternative mechanisms, and possibly even to complementarity.

ONGWEN'S PREFERRED VERDICT

Ironically, some people thought that the judgement, for all its flaws actually favoured Dominic Ongwen instead of the long-suffering victims in northern Uganda. They argued that normatively the verdict did not further the broader cause of justice in northern Uganda, but instead closed the chapter on Dominic Ongwen as a person. They wondered whether Ongwen himself is feeling aggrieved with the guilty verdict. Majority of the people interviewed actually thought that Ongwen might be happier with the guilty verdict and that he would prefer a long-term sentence out of northern Uganda than if he was set free to return home and meet some of his captors like Kenneth Banya and many "free victims" who are worse off than him today.

Throughout the reading of the judgement, Ongwen's body language was quite indifferent, unbothered with the litany of guilty findings being read against him. At one point he appeared to be dosing off or even very bored – assuming he was comprehending what was going on. His pictures seated in the Courtroom, wearing a face-mask, very smartly dressed in a nice suit and necktie, was apparently more interesting to many commentators than the 1,077 page judgement and made several rounds on social media. Many people commented on his contrasting looks at the time of his judgement compared with the first time he appeared in the Court for the confirmation of charges hearing. In fact, judging from the sentiments expressed by some of our respondents, it is not far-fetched to imagine that some of the victims, including the witnesses who testified before the Court in this case against Ongwen, if given a chance, would wilfully exchange places with Dominic Ongwen.

IMPLICATIONS OF THE VERDICT

The verdict against Dominic Ongwen sets a number of precedence on legal jurisprudence, particularly regarding children associated with armed conflicts either as victims or perpetrators of violence. These categories of children are bound to face difficulties with the law as per the precedence set by the ICC in its judgement on Ongwen's case. Child victims of war include those conscripted into armed rebellion as well as those born and raised in rebel captivity and, have risen within the rank and file of warlords and have now become adults. The judgement reinforces a state-centric perspective of administration of justice as opposed to a victim-centred approach.

There is no doubt therefore that this judgment, if upheld on appeal, will set a bad precedent and could close all doors for alternative justice approaches and even impede future reconciliation in northern Uganda and other post-conflict contexts.

A man wearing a T-shirt illustrating a holistic conception of peace and justice among the Acholi people (Photo credit: Anonymous).

The Judgement only reinforces the growing divide between the punitive justice administered by the ICC on the case and restorative justice that could assist victims of war especially in northern Uganda where they deeply cherish the customary value of restorative justice. Under the customary restorative justice approaches such as the popular *Mato Oput* in northern Uganda, wherever there is admissibility of guilt, truth-telling, forgiveness, reparation and reconciliation between offending and offended families, societal harmony is fostered. It is of course naïve to have expected a foreign court, sitting at The Hague, to address community concerns in line with the age-old cultural practices, but a candid acknowledgment of its potential at that level, would have significantly empowered Ongwen's indigenous community cultural system and values to address future cases which might not find itself before the ICC.

In a way, the judgement also discards the true tests of command responsibility along the way. The judgement fails to distinguish between warlords who wilfully set out to perpetuate war for their own political objectives or other motives, like Charles Taylor, from those innocent by-standers like Ongwen, who become victims of such warlords through forceful conscriptions. By convicting Dominic Ongwen for all the possible crimes committed by the LRA, the judgment undermines the chilling impact of war crimes committed against children in their childhood, without evidence to the contrary. It declares that a child abducted and who grew up in captivity retains full mental faculty and agency. It equates every child conscript, who rises through the rank and file, to the levels of their senior top commanders who initially abducted them in the first place.

With this kind of judgement, there are genuine fears that even those children, who were born in captivity of the LRA will be judged by the same standard. They now bear equal responsibility for all their actions similar to their parents, or those who abducted their parents. As pointed out by Prof. Kirsten Ainley in her comment on Oola's post on Facebook "… *Somehow this judgement above all others at the international court exemplifies the gulf between the judges and the judged*." As it is, one can only imagine, what the fate of Salim Saleh Kony, the son of the LRA leader Joseph Kony, who is apparently his heir and now a commander in the LRA, would be.

There is also no doubt that the ICC judgement let the Prosecutors off the hook to prove their myriad cases against Ongwen beyond reasonable doubt, by lowering the burden of proof for such a complex matter, either by default or deliberately. Some of the counts against Ongwen were repetitive and others actually incapable of having been wilfully committed in the LRA context. A case in point is a crime like "forced marriages". If you tell any sane person in northern Uganda that there was forced marriages in the LRA camps, that person's natural reaction will be of disbelief. It doesn't matter that this crime is well defined under the Rome Statute. What should matter, in a case like this should have been, its broader social implications on the many LRA women victims who were abducted and held captives as sexual slaves. Any parent in northern Uganda whose daughters were abducted, including those of Ongwen's "former wives" will not understand if you tell them that their daughters were forcefully married. Simply said, there was no marriage (forced or otherwise) in the LRA context.

While the ICC verdict may be celebrated in some quotas as norms setting, a questionable conviction like this of Ongwen, on the basis of an evolving legal standards, totally out of contexts, risks severe social disruptions and cultural confusion. To illustrate this point further, the Acholi's conceptual of a "forced

marriage" is understood as a situation where some families arrange for and compel girls and boys to get 'married' to each other under duress. Although discouraged, such families negotiate and pay bride wealth to the girl's parents. The ICC Judges, therefore, should not be surprised if one day, some elders from northern Uganda approach the ICC to ascertain how much bride wealth was paid, and who received them, for these forcefully married women abducted by the LRA over the years.

CONCLUSION

In conclusion therefore, the ICC verdict on Ongwen fell short of many people's expectations. The ICC judgement was expected to be impartial in its nuances, dispassionate in its evaluation and catalytic in its conclusions. Instead, many perceived it as very simplistic, prejudicial and self-centered. No doubt it sets a precedent (good or bad) which will be very useful for academic purposes and public discourse as Inga Kravchik @inga_kravchi twitted, "*a closer look at the verdict in Ongwen convicted of all nineteen counts of SGBV inspires to finally finish my PhD. Another precedential victory under Prosecutor Bensouda's gender-sensitive approach that will be hopefully maintained by the new leadership of the Office.*" To the people of northern Uganda however, a lot of work remains to done for them to even understand that something called "forced marriages" took place in the LRA camps, and for justice to be considered as having been done.

End.

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