



Frequently Asked Questions on the Trial of Thomas Kwoyelo

Mr. Thomas Kwoyelo is a former commander with the Lord's Resistance Army who is alleged to have been captured by the UPDF (Uganda People's Defence Forces) in March 2009 in Garamba in the Democratic Republic of Congo.

1. Who is Thomas Kwoyelo?

Thomas Kwoyelo is an adult Ugandan. He was born in Pabbo, in northern Uganda. He is believed to be a former commander of the LRA.

2. What crimes is Thomas Kwoyelo accused of committing?

The indictment currently includes the following charges, based on Art. 147 of Uganda's Geneva Conventions Act:

- Wilful killing of civilians;
- Taking of hostages;
- Extensive destruction of property;
- Causing serious injury to body;
- Inhumane treatment.

The indictment also includes the alternative charges, based on Uganda's Penal Code Act:

- Murder;
- Attempted murder;
- Kidnap with intent to murder;
- Robbery with aggravation.

The indictment can be amended at any stage.

3. When and where were the crimes believed to have been committed?

The charges are for crimes believed to have been committed in Pabbo and Lamogi sub-counties in Amuru District, between 1993 and 2005. They include the attack on the Pagak IDP camp in 2004 where there was loss of life, destruction of property, injury to persons and abduction of civilians, including women and children.

4. Thomas Kwoyello was charged with grave breaches of the Geneva Conventions, what are grave breaches?

'Grave breaches' of the Geneva Conventions are serious crimes committed in the context of an armed conflict. 'Grave breaches' of the Geneva Conventions is a term used to denote the seriousness of the offenses. The Geneva conventions defines grave breaches as crimes: "involving any of the following acts, if committed against persons or property protected by the Convention: *willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.* 'Grave breaches' constitute war crimes, which are also prohibited under the Rome Statute of the ICC.

5. Which court will try Thomas Kwoyelo?

The International Crimes Division (ICD) of the High Court of Uganda. The ICD is a special division of the High Court, a national court established in 2008, under the 1995 Constitution of the Republic of Uganda. Originally it was called the War Crimes Division. The International Crimes Division is not an international court. The ICD is not the International Criminal Court (ICC), or a branch of the International Criminal Court.

6. Does the International Criminal Court want to try Thomas Kwoyelo?

No. At present, the ICC is not seeking to try Thomas Kwoyelo. Currently, the ICC wants to try Joseph Kony, Dominic Ongwen, and Okot Odhiambo.

7. When did the trial against Thomas Kwoyelo start?

The trial commenced on 11 July 2011, in Gulu.

8. Is the Trial open to the public?

Yes, in normal circumstances. For members of the public who cannot be in the courtroom because of limited space, alternative viewing arrangements will be organised outside the courtroom.

Other persons usually present in the courtroom are: the Prosecutors, the accused Thomas Kwoyelo and his lawyer(s), the Judges, Assessors, and staff of the Registry of the International Crimes Division.

9. Does Thomas Kwoyelo have a lawyer?

Yes, he has engaged private lawyers at his own expense. He is represented by Mr Alaka Caleb (lead counsel) and Mr Onyango John Francis (co-counsel).

10. What are the fair-trial rights of the accused?

They are the same as the human rights of any other accused, guaranteed by article 28 of the Constitution and other laws. They include the rights to:

- a fair, speedy and public hearing before an independent and impartial court or tribunal established by law
- be presumed innocent until proven guilty
- be given adequate time and facilities for the preparation of his or her defence
- be tried in person
- in the case of any offence which carries a sentence of death or imprisonment for life, be entitled to legal representation at the expense of the State
- be afforded facilities to examine witnesses and to obtain the attendance of other witnesses before the court.