



## **Frequently Asked Questions on the International Crimes Division of the High Court of Uganda**

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In 2006, The Government of Uganda and the Lord's Resistance Army commenced peace talks to end the conflict in Northern Uganda.

In June 2007, the GoU and the LRA signed an, annexure to the final peace Agreement on Accountability and Reconciliation, which required the Government to establish both formal and non-formal justice mechanisms to address accountability and reparations for atrocities committed in Northern Uganda.

In line with the Juba Peace Agreement calling for the establishment of accountability mechanisms for crimes perpetrated during the conflict, the Government of Uganda established the War Crimes Division in 2008, now the International Crimes Division of the High Court, to try individuals suspected of committing war crimes in the country.

### **1. What is the International Crimes Division?**

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.

### **2. Where is the International Crimes Division located?**

The headquarters is in Kampala, at Plot 8 Mabua Road, Kololo. The court may also sit in any other place in Uganda as the Chief Justice and the Principal Judge may decide.

### **3. What kind of crimes will the International Crimes Division handle?**

The International Crimes Division deals has jurisdiction over serious international crimes as prescribed in the Practice Directions of the ICD (Legal Notice No. 10 of 2011, gazetted 31 May 2011) these include; any offence relating to *genocide, crimes against humanity, war crimes, terrorism, human trafficking, piracy*, and any other crimes as prescribed by Law.

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**4. What laws can be applied by the International Crimes Division?**

The ICD shall apply the 1995 Constitution of the Republic of Uganda, the Geneva Conventions Act of 1964, the Penal Code Act Cap 120, and the International Criminal Court Act of 2010, governing international crimes, and any other relevant law.

**5. How many judges are there in the International Crimes Division?**

There are five Judges appointed to the ICD. They sit in a panel of three Judges at the war crimes proceedings. The Head of the Division is Hon Justice Dan Akiiki-Kiiza. The Deputy Head of the Division is Hon Justice Elizabeth Nahamya Ibanda. The other Judges are Hon Justice Alfonse Chigamoy Owiny Dollo, Hon Justice Ezekiel Muhanguzi, and Hon Justice A.S. Choudry.

**6. Which institution is responsible for bringing charges before the International Crimes Division?**

The Director of Public Prosecutions, on behalf of the people of Uganda, according to the Constitution of Uganda (Art. 120(3), of the 1995 Constitution of Uganda)

*The functions of the Director of Public Prosecutions are the following—*

- (a) to direct the police to investigate any information of a criminal nature and to report to him or her expeditiously;*
- (b) to institute criminal proceedings against any person or authority in any court with competent jurisdiction other than a court martial;*
- (c) to take over and continue any criminal proceedings instituted by any other person or authority;*
- (d) to discontinue at any stage before judgment is delivered, any criminal proceedings to which this article relates, instituted by himself or herself or any other person or authority; except that the Director of Public Prosecutions shall not discontinue any proceedings commenced by another person or authority except with the consent of the court.*

**7. What is the lifespan of the International Crimes Division?**

It is a permanent division of the High Court of Uganda.

**8. Is the International Crimes Division the same as the International Criminal Court (ICC)?**

No. The International Crimes Division is a Division of the High Court of Uganda. The ICC is an International Court, based in The Hague, The Netherlands. The two courts complement each other.

**9. What is the International Criminal Court?**

The International Criminal Court (ICC) is an international court that handles cases dealing with serious international crimes, specifically the crime of genocide, crimes against humanity and war crimes. The ICC was established by the Rome Statute in 2002. Uganda ratified and domesticated the Rome Statute in June 2010 by enacting the International Criminal Court Act 2010, meaning that it is obliged to respect the obligations in this treaty. Specifically, Uganda has the duty to prosecute the listed crimes where they are committed in its territory. If Uganda is unable or unwilling to do so, the International Criminal Court may bring charges against offenders of such crimes, especially when the offenses were committed in Uganda after 2002.

For more information about the International Criminal Court, see [www.icc-cpi.int](http://www.icc-cpi.int)

**10. What is the maximum punishment for a war crimes case?**

The maximum penalty under the Geneva Conventions Act is life imprisonment for grave breaches of wilful killing.

**11. What are grave breaches under the Geneva Conventions Act?**

'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.

**12. What is the Role of the International Crimes Division?**

The role of the International Crimes Division is to hear the evidence presented by the Prosecution and any case presented by the Defence to raise serious doubt about the Prosecution case, and then to decide whether the accused is guilty or not guilty.

**13. What is the Role of the registry of the International Crimes Division?**

The registry provides administrative support to the International Crimes Division and coordinates all aspects of the trial. The Registrar heads the registry.

#### **14. What is the Role of Prosecutors?**

Prosecutors guide the police in investigating a crime. If Prosecutors think there is sufficient evidence to prove that someone committed a crime, they institute a criminal case in a court. At trial, Prosecutors try to convince Judges that the accused committed the crimes. Prosecutors must prove their case beyond a reasonable doubt.

#### **15. What is the Role of the CID(Criminal Investigations Department)**

The CID investigates the cases, summon witnesses at the hearing stage, produce exhibits in Court, and Testify as investigators in the case.

#### **16. What is the Role of the Defence?**

The Defence speaks on behalf of the accused. They also try to convince the Judges that the accused did not commit the crimes and help ensure that the rights of the accused are protected.

#### **17. What is the Role of the Prisons Service?**

The prisons service detains the accused in legally recognised places of detention, in good conditions and in accordance with accepted standards. The prisons produce the accused before courts as and when required. On acquittal, the prisons release the accused and on conviction, the prisons undertake to rehabilitate the accused.

#### **18. Will the prosecution and defence witnesses be protected?**

Yes. Measures are in place to ensure the safety of witnesses.

#### **19. What kind of protection measures can be provided to witnesses?**

Protection measures that exist include; physical protection, internal relocation, external relocation, change of witness contacts. Other include protection of the witness' identity, including withholding names from the press, shielding witnesses' faces during testimony, and presenting sensitive testimony in closed court sessions. These measures can apply before, during, and after the trial.

#### **20. What remedies are available to victims at the end of a trial?**

Upon conviction of an accused, courts may order the accused to pay compensation or

*Provide other remedies to victims. According to Article 50 of the Constitution of the Republic of Uganda, Any person, who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.*

**21. What kinds of evidence can be used by the Prosecution and Defence in criminal trials?**

Evidence can include:

- Testimony of witnesses in court
- Written documents
- Video recordings
- Scientific reports and forensic evidence
- Post mortem reports
- Photographs
- Clinical notes

**22. Who can be a witness in criminal trials?**

Any person who has information relevant to the trial.

**23. How can victims participate in criminal trials?**

Current practice in Uganda is that victims can participate as witnesses if called by the Prosecution or defense to help the court decide whether the accused is guilty or not. Victims can also attend the hearings as members of the public.

**24. Can decisions of the International Crimes Division be appealed?**

Yes, to the Court of Appeal.

**25. How long do war-crimes trials last?**

Depending on how complex the case is and how many witnesses will testify, war crimes trials can take many months to conclude. There is no time limit; however, trials must be conducted without undue delay.

**26. Where can I get more information about the Kwoyelo case and the International Crimes Division?**

One can get information from the JLOS website at [www.jlos.go.ug](http://www.jlos.go.ug) or the Judiciary Website at [www.judicature.go.ug](http://www.judicature.go.ug)

**27. What is the contact information of the International Crimes Division?**

Please contact the ICD at [www.judicature.go.ug](http://www.judicature.go.ug)

**28. What role do NGOs, cultural leaders and other civil-society groups play in war-crimes cases at the International Crimes Division?**

They can play different roles. Examples include the dissemination of information about the case, appearing as witnesses if called by one of the parties or the court, and supporting victims and witnesses. They are also partners and stakeholders in the administration of Justice.