

Community Views on the Trial of Thomas Kwoyelo and the Need for Community Outreach

Colonel Thomas Kwoyelo is a former LRA commander who is currently facing charges of war crimes and crimes against humanity before the International Crimes Division (ICD) of the High Court of Uganda. Although authorities arrested Kwoyelo in 2008, his trial is only scheduled to begin this May. This commentary focuses on views of community members in anticipation of his upcoming trial.

Background

Following his capture by the Uganda People's Defense Forces (UPDF) in 2008 in the Democratic Republic of Congo (DRC), Kwoyelo first appeared before the ICD on July 11, 2011 and was charged with 12 substantive counts and 53 alternative counts of war crimes and crimes against humanity, to which he pleaded not guilty. His defense lawyers immediately raised a preliminary objection arguing that Kwoyelo had applied to and was entitled to pardon under the Amnesty Act 2000, which was still a valid law in Uganda at the time.

On September 22, 2011, Uganda's Constitutional Court ruled that Kwoyelo was entitled to amnesty and directed the ICD to cease his trial. His trial was halted, however, the ICD deferred his release to the Directorate of Public Prosecutions (DPP) and the Amnesty Commission. The DPP wrote to the Amnesty Commission on November 17, 2011, stating that Kwoyelo could not be released because he had pending charges against him that rendered him ineligible for amnesty. In response, Kwoyelo's defense team filed an application in the High Court seeking orders to compel the DPP and Amnesty Commission to grant him amnesty, issue him with an amnesty certificate, and release him from custody. The High court granted the defense requests on January 25, 2012.

Uganda's Attorney General appealed this decision to the Supreme Court of Uganda requesting the court to again stay the release of Kwoyelo. On April 8, 2015, the Supreme Court of Uganda [ruled](#) that Kwoyelo's trial was constitutional and did not violate the provisions of the Amnesty Act. After this ruling, the ICD proceeded with preparations for the trial. A pre-trial hearing was held on April 4, 2016, and the full trial is set to commence on May 2.

Community Outreach

On Monday April 4, 2016, the [Foundation for Justice and Development Initiatives](#) (FJDI) in collaboration with [Avocats Sans Frontières](#) (ASF) facilitated five community representatives from Pabo to attend the pre-trial hearing in Kampala. Two days later, on April 7, the two organizations held a community dialogue in Pabo to sensitize the community members about the outcome of the pre-trial hearing. Pabo and the surrounding areas is not only the home area of Kwoyelo, but it is also the location in which he is alleged to have committed most of the crimes he is charged with. In the evening of that same day, ASF and FJDI representatives held a radio talk show on Gulu FM Radio, in Gulu Town, still with the aim of sensitizing the wider public about the upcoming trial.

The pre-trial hearing in Kampala went smoothly. The community representatives who attended were very grateful for the opportunity to participate. When they were given an opportunity to narrate their experience

at the community dialogue, which was held two days later in Pabo, they thanked ASF and FJDI representatives present for the opportunity and requested that if possible a larger number of representatives should be facilitated to attend the main trial in Gulu Town. In the words of one of the community members, 'it was re-assuring to be present in the court just a few feet away from Kwoyelo, and to see that his trial had finally kicked off'.

The community dialogue held on April 7 was attended by approximately 150 participants from Pabo and the surrounding villages. Opening remarks were made by the Pabo Sub-County chairperson. Thereafter, Patricia Bako, the ASF representative gave a brief background of the trial of Kwoyelo and the key issues involved. The floor was then opened up for discussion from the public.

Many community members asked factual questions pertaining to the case and expressed interest in learning more about the trial. One community member asked to be told specific locations on where Kwoyelo had committed crimes. Another member asked why the case was referred to as 'Uganda Vs Thomas Kwoyelo' and yet some of the crimes had been committed in DRC and South Sudan. Community members were also interested in knowing about the duration of the trial, the judges who would try the case, and the lawyers representing the defense and prosecution.

Many community members repeatedly asked questions on Amnesty. They asked why Kwoyelo had not been granted Amnesty like many other LRA combatants who surrendered before him. They asked why the people in Pabo could not be allowed to use traditional mechanisms of reconciliation to re-integrate Kwoyelo. One person asked why the DPP was insisting on trying Kwoyelo despite overwhelming calls for forgiveness from the grassroots. Several people openly stated that they were victims and were willing to forgive Kwoyelo. One woman narrated how she had lost several relatives including her father to LRA rebel attacks. Another narrated how she had been beaten by LRA rebels and left for dead. Both said they were willing to forgive Kwoyelo. In response, the FJDI representative noted appreciation for their views on Amnesty but reminded them the crimes committed by Kwoyelo were of a grave nature that necessitated him to be tried. He used an example of capital offences in Uganda such as defilement and murder that have to be prosecuted by the state regardless of the interest by the concerned parties to reconcile.

Not all community members, however, were pro-amnesty and forgiveness. Many people present also said that Kwoyelo deserved to be tried and imprisoned (if found guilty) for the crimes he had committed. A young lady challenged people present to be realistic and imagine Kwoyelo coming back to live in Pabo. She argued that the very presence of Kwoyelo in Pabo would be unsettling for victims, like her, who were directly affected. Another person even recommended that in the event that Kwoyelo was forgiven, he should go and live in another part of the country.

The community concerns on amnesty and forgiveness are understandable, given that for many years it was promoted in northern Uganda by traditional and religious leaders, and was also effective in facilitating the return of over 10,000 combatants. Their concerns demonstrate that questions on amnesty and forgiveness will always dominate outreach sessions, and therefore any stakeholders going out to conduct outreach must be prepared accordingly.

Community members asked ASF and FJDI representatives whom they represented: the prosecution or the defense. In response, we stated that we represented neither party but were simply conducting outreach. Community members then asked if the court representatives had intentions of coming to sensitize them in the near future. They also wanted to know whether we would pass on their concerns to the court. One community member said: *"You cannot address all our questions. Next time come with a*

Government Representative.” This is an indicator that community representatives have concerns that they feel can only be addressed by certain entities, such as the prosecution or defense.

Community members present also expressed interest in attending the main trial due to start on May 2. One community member asked if ASF and FJDI would support victims to go and attend the trial in Gulu Town as they had done with the five representatives from Pabo who were taken to Kampala. Another community member from Pogo (Kwoyelo’s village) asked if representatives from his village would be given a special status to attend the trial and give testimony. In response, ASF mentioned its desire to support victims in this way but that resources were limited.

In light of the fact that many of them would not be able to be physically present in the courtroom, community representatives then asked if ASF and FJDI could sponsor the broadcast of proceedings on radio. This, they argued, would enable victims to follow proceedings even in their villages. This concern demonstrates the importance of mass media, and in particular radio, in conducting community outreach. Any stakeholders who set out to conduct outreach must recognize radio as a vital tool for communication.

Community members also expressed interest in having more outreach sessions and meetings conducted in the future. Many community members repeatedly recommended that outreach should not only stop at Pabo Trading Center, but should extend to surrounding villages and parishes. They cited the fact that many people in far locations had not been able to come given the long distance. They therefore recommended that other sessions needed to be organized for them at the grassroots. This concern demonstrates the need to ensure that outreach meetings are multiple and cover as wide a geographic scope as possible.

Questions on reparations were also raised by community members. One member asked how victims of Kwoyelo would be assisted, and who would pay the costs of compensation if he was found guilty. A civil society representative attending the dialogue recommended that victims needed to be supported in the interim with medical and psychosocial needs given that the trial would last for long.

A community member recommended that ASF and FJDI should prepare the community for the outcome of the trial. He felt that regardless of the outcome, certain parties would celebrate while others would be disappointed. Victims therefore needed to be prepared for both outcomes.

Just before the dialogue concluded, ASF and FJDI representatives took a few minutes to update the audience on the trial of Dominic Ongwen before the International Criminal Court (ICC), in particular, the [recent ruling](#) by the ICC judges on the confirmation of 70 charges against him.

After the community dialogue in Pabo, ASF and FJDI representatives held a radio talk show on Gulu FM Radio in Gulu Town. The show lasted for one hour, and approximately half an hour was spent on updating the audience about the trial and another half hour was spent in answering questions from the listeners. The same questions that emerged from the community dialogue were once again raised during the radio talk show and therefore do not require repetition in this article.

In conclusion, Northern Uganda is currently the scene of two significant ongoing trials: the trial of Dominic Onwen before the ICC in The Hague, and the trial of Thomas Kwoyelo before the ICD in Uganda. The above experience by ASF and FJDI indicates an overwhelming need for outreach in northern Uganda for both trials. For communities to actively participate, they need to be frequently updated on what is happening, given that many of them live in remote locations and have little access to information.

About FJDI: [FJDI](#) works with children, youth, women and communities to promote justice, development and economic recovery in northern Uganda. Contact: info@fjdi.org.



About ASF: [Avocats Sans Frontières](#) is an international NGO that specializes in defending human rights and supporting justice.

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