

- ♦ Lwak kok bot kot ma kwako bal I wilobo me lubo cik kore ki kore kit ma wilobo ducu timo tutwale cike me Rome Statute, me neno ni miti ki koko pa mon ma kinywaro gi ma kibutu ked gi tek-tek. Myero kitamo pi gi I kare me winyo pido man, ki
- ♦ Yo ma twero pa Kwoyelo kibigwoko kede me neno ni pido owoto labongo apoka poka.

### Wiye-wiye ikom laro lok pa Kwoyelo

I dwe Abiro me mwaka 2011, kot ma kwako bal I wilobo ocako winyo pido ikom Kwoyelo. Man pido me acel pi bal me lweny ikom latela olum me LRA. I kare ma kimake I mwaka 2010, Kwoyelo openyo pi kica ite Cik me miyo kica (Amnesty Act) ma okeme ki bal ma otime I kare me lweny ki muduku. Lapilida me kot pe ogamo lega pa Kwoyelo ento omede anyim odote pi bal I kot. I dwe me Aboro me mwaka 2010, kidoto Kwoyelo inyim kot pi bal 12 me turu cike ma Uganda obedo kede ite cik me Geneva Conventions Act, ma ikine obedo nek akaka, amak kacel ki balo jami pa dano I distrik me Amuru kede Gulu I tung kumalo me Uganda. En Kwoyelo okwero ni en pe otimo bal meno ducu dok bene lupilida ne owaci gitye kiyub me cimo kamaleng peko malube ki Pen Cik ikom adot pa Kwoyelo. Inge lacen kot ma kwako bal I wilobo ocwalo lok man inyim kot ma kwako lok me Pen Cik wek kigony tyen loke maber.

I dwe me Abongwen, nino dwe 22 me mwaka 2011, Kot ma kwako lok me Pen Cik ocimo ni Kwoyelo ite cik tye ki twero me penyo pi kica ite cik namba 3 me Cik me timo kica (Amnesty Act). Me Aryo, kot bene owaci dul ma kwako yub me timo kica (Amnesty Commission) kacel ki lapilida pa Gamente (DPP) oturo twero pa Kwoyelo ite cik me Pen Cik pien pe kimiye kony marom ki jo mukene ma kidoto gi. Pe gumine tiki-tiki me kica kun con onongo guyubo tiki-tiki pa lutela mony macon mukene. Kot meno ocimo ni kot ma kwako bal I wilobo me juko mede ki winyo pido pa Kwoyelo dok ocimo latela pa lapilida pa Gamente ki dul ma kwako yub me timo kica me yubo tiki-tiki me miyo kica ki Kwoyelo.

I cobo peko ma I Pen Cik ikom cik me timo kica (Amnesty Act), Kot me Pen Cik onongo ni Pen Cik yee pi timo kica ento bene gengo pido ikom bal labongo neno rwom me bal meno. Ento, pen cik otamo ikom cik ma wilobo ducu ocwako me pok ikin timo kica k

i ngat ma kitweyo ki ngat ma pwud pe kitweyo I buc.

I nino dwe 11.04.2012, Lapilida madit pa Gamente ocwalo koko ne bot Kot madit me Uganda kun tye kitam me loko ngol pa Kot me Pen Cik me mede anyim ki winyo pido ikom Kwoyelo. Tyen lok me koko ne ni; Kot me Pen Cik opoto Cik me nongo ni cik namba 2 ki 3 me cik me timo kica (Amnesty Act) pe opore ki Cik me Pen Cik dok bene opoto I gonyo tyen cik namba 28(10) me Pen Cik me medo ikome cik me timo kica. Med ikom meno, lapilida madit pa Gamente opyem ni Kot madit me Uganda opoto I gonyo cik me ngolo ni Cik me timo kica oturo cike pa Uganda me lubo cik ma wi-lobo ducu ocwako. Dok me gwoko Kwoyelo nyuto ni en onongo twero me nongo kica meno.

I nino dwe 8.04.2015, Kot madit me lobo ongolo ni kot ma kwako bal me wilobo (ICD) winyo pido ikom Kwoyelo opore dok omede anyim.

I nino dwe 04.04.2016, kiwinyo adot ma kwako Thomas Kwoyelo I Kot madit I Kampala. Yub man tutwale obedo me niang lok ada ikom adot, me cimo kamaleng caden ma kiketo inyim kot kacel ki me nyuto yo ango mapat pat ma kibigwoko ki lucaden. Ikare me winyo adot man aye dul me Uganda Law Society omiyo nying lupilida aryo ma bene Kot ma kwako bal I wilobo ocimo gi me cung pi jo ma kitimo bal ikom gi.

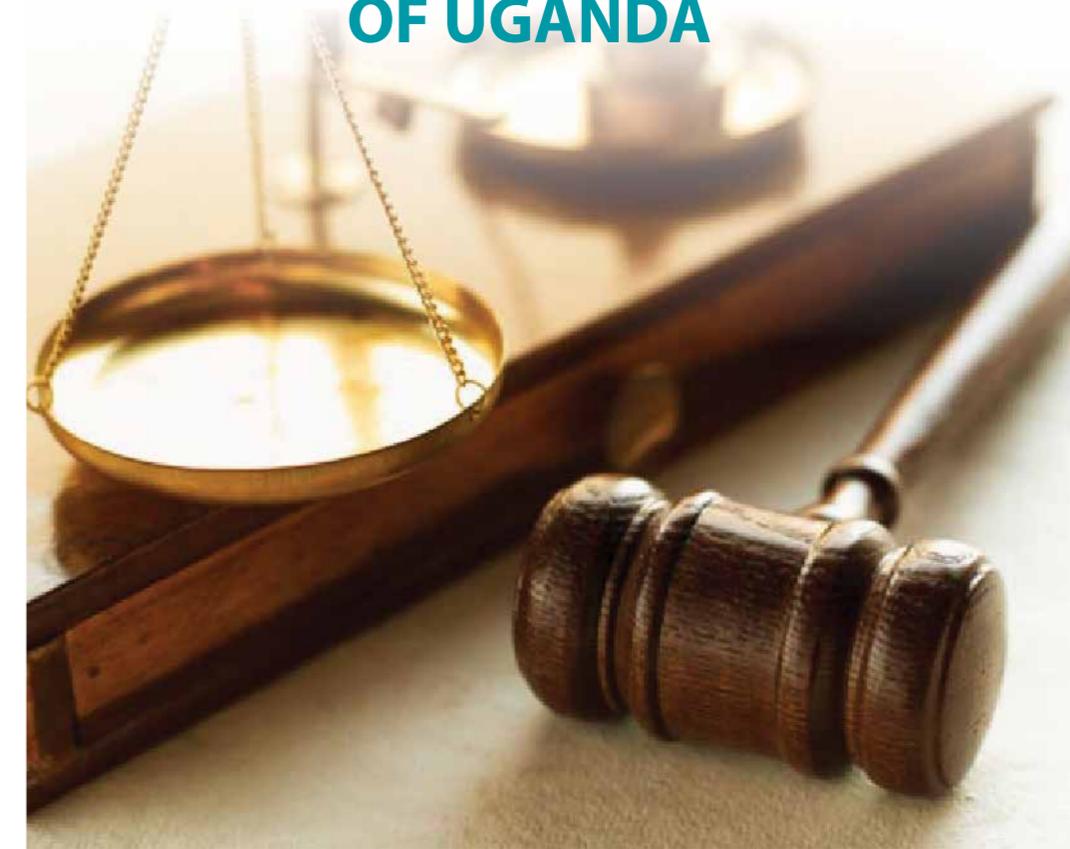
Winyo laro lok ikom T. Kwoyelo obicake I nino dwe 18.07.2016 I Gulu. Malube ki cik me tic pa jang kot ma kwako bal I wilobo, lupilida ma kicimo gi ni bikonyo jo matye ki koko me bedo tye I kawinyo laro lok meno. Lungol kop tutwale bitamo pi lutino, lutiyo ki lugoro kacel ki mon ma kibuto ked gi idic onyo kilwenyo ikom gi.

Kace kinongo T. Kwoyelo ki bal, Kot ma kwako bal I wilobo romo ngolo lok ni myero kicul jo ma kitimo bal ikom gi. Me ngolo lok ni myero kicul jo ma kitimo bal ikom gi, kibilubo tam gi".

**With support from:**



## INTERNATIONAL CRIMES DIVISION OF THE HIGH COURT OF UGANDA



## 1. JANG KOT MA KWAKO BAL I WILOBO (INTERNATIONAL CRIMES DIVISION) OBEDO KOT ANGO?

### A. Ocake

- I mwaka 2008 kiyabo jang Kot ma kwako bal me lweny (War Crimes Division) ite twero pa Langol Kop madit.
- Langol Kop madit otiyo ki twero ne ite cik namba 141 me Pen Cik madit me mwaka 1995 me yabo jang Kot ma kwako bal me lweny (War Crimes Division).
- Yabo jang kot ma kwako bal me lweny obedo tutwale tute pa Gamente me keto itic cik me Juba Peace Agreements (tutwale winye I lok me nyuto kor tic ki kwayo kica kacel ki yo me doro tic). I mwaka 2011, jang Kot makwako bal me lweny kiloko odwugo
- Kot ma kwako bal I wilobo ite loc pa Kot madit malube ki dul coc namba 6 me Kot madit (Jang Kot ma kwako lok me lweny I wilobo) ma cimo yo aluba me doro miyo tic, cik me miyo lok ngec namba 10 me mwaka 2011.
- Laloo wii lungol kop ducu aye okati ki cik me miyo lok ngec I dwe me Abic mwaka 2011.

### B. Bere kacel ki twero

- Yabo jang kot ma kwako bal me wilobo okati ki ikom yub me winye I cike me nyuto kor tic ki timo kica (2007) kacel ki yo aluba me doro tic (2008) ma kimoko I kare me poro-lok pi kelo kuc ikin Gamente me Uganda ki lumony pa Lord's Resistance Movement/ Army (LRM/LRA) ma otime I Juba.
- Yo aluba me me doro tic ikom winye ma kicike me nyuto kor tic ki timo kica ocimo ni myero kiyab "jang kot" me Kot madit I Uganda me laro lok ikom jo ma "kikok ikom gi pi timo bal maraco ikare me lweny pa LRA."
- Kot ma kwako bal I wilobo obedo jang Kot madit me Uganda. Pe obedo kot ma kwako wilobo ducu. Pe obedo kot me International Criminal Court (ICC) onyo jang kot me ICC.
- Ngat ma kikok ikome pi bal langol kop mapiny miyo twero me cwalo ne I jang kot ma kwako bal ma I wilobo me laro lok kome.
- Koko ikom ngolo kop ki I kot ma kwako bal I wilobo kicwalo I kot madit me winyo koko ma cut cut ingeye ki cwalo I kot madit loyo

wi-kot mukene ducu.

- Kot ma kwako bal I wilobo cwalo koko ma kwako Pen Cik I kot ma kwako Pen Cik.
- Ite Cik ma kwako miyo lok ngec namba 10 me mwaka 2011, Kot ma kwako bal I wilobo tye ki twero me winyo "bal madongo" macalo:
  - ♦ Bal me lweny
  - ♦ Bal ikom kit me kwo pa dano
  - ♦ Nek me tyeko kaka onyo anywali onyo jo me dino moni
  - ♦ Tim aranyi
  - ♦ Kwalo dano I lobo ma woko
  - ♦ Alayak I pii kacel ki bal mukene me wilobo

### C. Kit ma lungol kop me Kot ma kwako bal I wilobo bedo kede

- Langol kop madit, I winye ki laloo wi-lungol kop ducu, cimo lungol kop me kot madit me ngolo kop I kot ma kwako bal I wilobo.
- Kot ma kwako bal I wilobo tye ki lungol kop angwen.
- Lungol kop meno bedo dano adek-adek kawinyo laro lok malube ki bal me lweny.
- Bal mape obedo me lweny ma kot ma kwako bal I wilobo tye ki twero me winyo bibedo ki langol kop acel. Labole, bal me kwalo dano I lobo ma woko.
- Jang kot ma gwoko lok ducu me kot ma kwako bal I wilobo miyo kony me tic dok kubo kin lok ducu me winyo adot.
- Jang kot ma gwoko lok ducu tye ite loc pa langol kop.

### D. Cik ma opore ite Kot ma kwako bal me wi-lobo

- Pen Cik me mwaka 1995.
- Cik me Geneva Conventions Act, Cap. 363.
- Cik me The International Criminal Court Act, Act 11 of 2010.
- Cik me The Penal Code Act, Cap. 120.
- Cik ma kwako kwalo dano I lobo ma woko me mwaka 2009 (Prevention of Trafficking in Persons Act, 2009).
- Cik ma kwako gengo tim aranyi me mwaka (Anti-Terrorism Act, 2002)
- Cik mukene ducu mapire tek

## 2. KIT MA JANG KOT MA KWAKO BAL I WILOBO TIYO KEDE

Lapilida ma loyo yub me cwalo adot I kot pi gamente (Director of Public Prosecutions) tice me cwalo adot inyim langol kop me kot mapiny wek kicwal labal inyim kot ma kwako bal I wilobo. Langol kop moko tam me cwalo labal inyim kot ma kwako bal I wilobo wek kiwiny pido ikome. Lapilida ma loyo yub me cwalo adot I kot pi gamente (Director of Public Prosecutions) tiyo kacel ki abili ma kwako yub me kwedo kor bal me neno ni kinongo caden ma oromo me anyuta inyim kot.

Kot ma kwako bal I wilobo winyo caden ma lupilida pa Gamente okelo inyim kot kacel ki koko pa lupilida ma cung pi labal ikom adot meno.

Kot bingolo kop kace ngat meno tye ki bal onyo pe ki bal.

- ♦ Me nyuto ni ngat meno labal myero obed caden ma kelo akala kala mo keken
- ♦ Ngat ma kipido ikome ni tye ki twero ma kot myero owor

## 3. TIC KI KOT MA KWAKO BAL I WILOBO: LARO LOK KOM KWOYELO

- Man pido me acel dok bene en keken ma kwako bal me lweny ma tye inyim kot ma kwako bal I wilobo ma lobo Uganda kombedi tye kapido ki Thomas Kwoyelo (HCT-00- ICD kot namba 20/2010)
- Thomas Kwoyelo ma nying pake Latoni obedo con latela mony me LRA.
- Pido ikom Kwoyelo ocake I nino dwe 11/07/2011 I Gulu;
- Kibedo ki kacoke madit I nino dwe 11.07.2011 cut cut ma pwud onongo pe kiwinyo kace lagam pa Kwoyelo me oyee onyo okwero adot meno
- I kacoke meno, kikati ki lok ma kwako koko pa mon ki lwak ma I kumalo me Uganda ikom kit me tic pa kot ma kwako bal I wilobo
- Koko ikom kit me tic pa kot ma kwako bal I wilobo tye ikine:
  - ♦ Peko ikit yo aluba ki caden me doro wikot I winyo pido meno; Ni cik me Geneva Conventions Act ma kidoto Kwoyelo itere
  - ♦ ni pe cobo bal ma kitimo ikom mon matye ite cike me Rome Statute;

- ◆ crimes which are recognized in the Rome Statute;
- ◆ stakeholders called on the ICD to apply international standards, specifically those contained in the Rome Statute, in particular to ensure that the interests and needs of victims/survivors of sexual violence are taken into account at every stage of the proceedings, and
- ◆ Ways in which the rights of the defence would be safeguarded to ensure a fair trial.

### Summary of the Kwoyelo case

In July 2011, the ICD commenced proceedings against Kwoyelo, its first war crimes trial against an LRA rebel leader. While in detention in 2010, Kwoyelo had applied for Amnesty under the Amnesty Act, which covers crimes committed in furtherance of war or armed rebellion. The DDP did not respond to Kwoyelo's application and instead initiated criminal proceedings against him. In August 2010, Kwoyelo was charged with 12 counts of violating Uganda's Geneva Conventions Act, including willful killing, taking hostages and extensive destruction of property in the Amuru and Gulu districts of northern Uganda. Kwoyelo denied all charges and his defence indicated that they intended to raise several preliminary objections concerning the constitutionality of the case. The case was thereafter referred by the ICD Judges to the Constitutional Court for interpretation.

On September 22, 2011, the Constitutional Court held that Kwoyelo has acquired the legal right to amnesty under section 3 of the Amnesty Act. Secondly, the court held that the Amnesty Commission and DPP had violated Kwoyelo's constitutional right to equal treatment by failing to process his amnesty certificate when they had previously processed amnesty certificates for other senior ex-combatants. The court thereafter directed the ICD to cease Kwoyelo's trial and directed that the DPP and the Amnesty Commission process his amnesty certificate.

Addressing the constitutionality of the Amnesty Act, the Constitutional Court observed that the Constitution allows for pardons, while barring criminal prosecutions for criminal offences regardless of their gravity. However, the court did not address

the internationally accepted distinction between amnesties and pardons.

On April 11, 2012, the Attorney General filed an appeal before the Supreme Court of Uganda seeking to overturn the Constitutional court's decision and resume Kwoyelo's trial. The grounds for Appeal were that; the Constitutional court erred in law by finding that sections 2 and 3 of the Amnesty Act were not consistent with the Constitution and erred in interpreting article 28(10) of the Constitution to include an amnesty. In addition, the Attorney General argued that the court erred in law and in fact by failing to consider that the Amnesty Act disregards Uganda's International obligations

and by holding the Kwoyelo had acquired a legal right to amnesty. On the 8th of April 2015, the Supreme Court ruled that the trial of Kwoyelo by the International Crimes Division is proper and should proceed.

On 4th of April 2016, the pre-trial of Thomas Kwoyelo was held at the High Court in Kampala. The purpose was to consider the facts of the case, to identify the evidence that will be presented before the court and to highlight mechanisms through which the witnesses will be protected. It was also during the court sessions that two lawyers for the victims identified by the Uganda Law Society were appointed by the ICD.

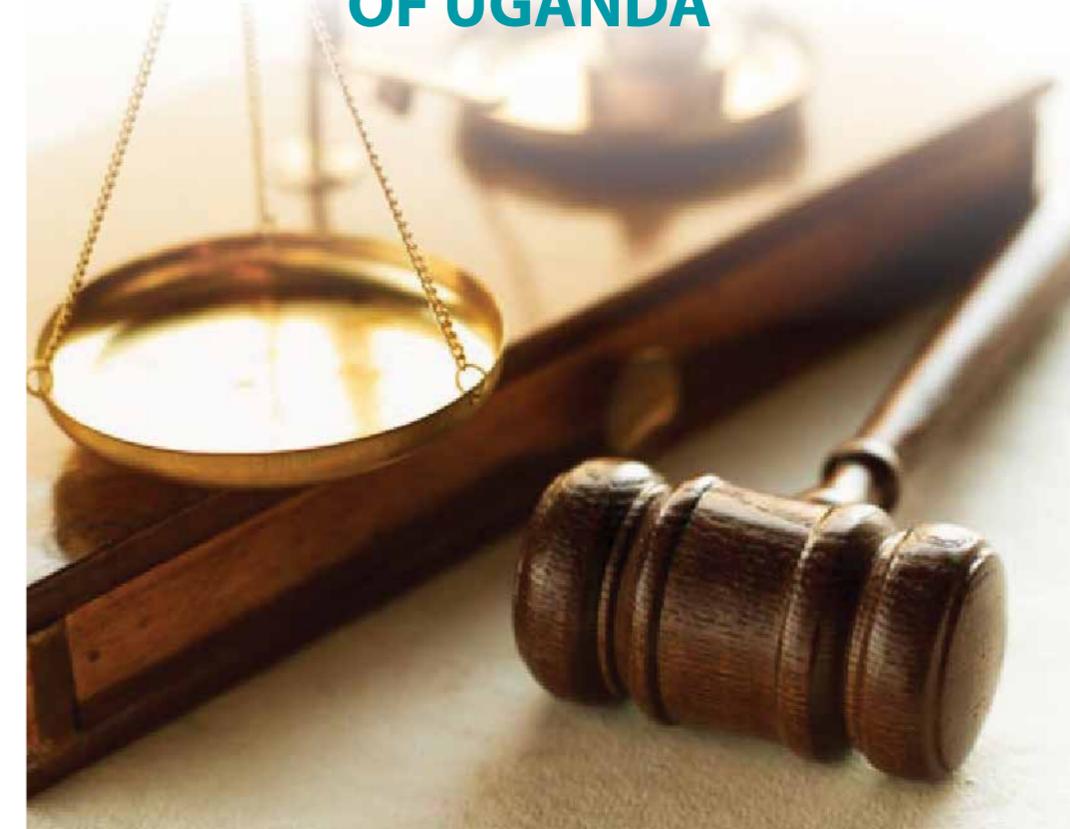
The trial of T. Kwoyelo will be starting on 18th of July and it will be held in Gulu. According to the ICD Rules of Procedure, the victims will be entitled to participate in the proceedings with the assistance of the lawyers appointed by the ICD. The Judges are expected to consider in particular the interests of children, elderly persons and persons with disabilities and victims of sexual and gender violence.

If T. Kwoyelo is found guilty, the ICD may also consider awarding reparations for the victims of the crimes. In awarding any reparations, the views of the victims will be taken into consideration".

**With support from:**



## INTERNATIONAL CRIMES DIVISION OF THE HIGH COURT OF UGANDA



## 1. WHAT IS THE INTERNATIONAL CRIMES DIVISION?

### A. Establishment

- ❑ In 2008 the War Crimes Division (WCD) was established by an Administrative Order issued by the Principal Judge.
- ❑ The Principal Judge exercised his administrative powers under Article 141 of the 1995 Constitution to create the War Crimes Division.
- ❑ The Division was created as part of Government's efforts to implement the Juba Peace Agreements (more specifically the Agreement on Accountability and Reconciliation and its Annexure).
- ❑ In 2011 the War Crimes Division was renamed the International Crimes Division of the High Court (ICD) pursuant to paragraph 6 of The High Court (International Crimes Division) Practice Directions, Legal Notice No.10 of 2011.
- ❑ The Legal Notice was issued by the Chief Justice in May 2011.

### B. Relevance and Jurisdiction

- ❑ The creation of the ICD was based on the Agreement on Accountability and Reconciliation (2007) and its Annexure (2008) that was concluded during the peace talks between the Government of Uganda and the Lord's Resistance Movement/Army (LRM/LRA) in Juba.
- ❑ The Annexure to the Agreement on Accountability and Reconciliation provided for the creation of a "special division" of the High Court of Uganda to prosecute individuals "alleged to have committed serious crimes during the [LRA] conflict."
- ❑ The ICD is a special division of the High Court of Uganda. It is not an international court. It is not the International Criminal Court (ICC), or a branch of the International Criminal Court.
- ❑ An accused is committed to the ICD by the Magistrate's court for trial.
- ❑ An appeal from the decision of the ICD is to the Court of Appeal

and subsequently from the Court of Appeal to the Supreme Court.

- ❑ The ICD refers constitutional issues to the Constitutional Court.
- ❑ Under Legal Notice 10 of 2011, the ICD has jurisdiction to try "serious offences" such as:
  - ◆ War crimes
  - ◆ Crimes against humanity
  - ◆ Genocide
  - ◆ Terrorism
  - ◆ Human trafficking
  - ◆ Piracy and other international crimes

### C. Composition and sitting of the ICD

- ❑ The Principal Judge, in consultation with the Chief Justice, designates the High Court Judges to the ICD.
- ❑ The ICD has four Judges designated to it.
- ❑ The Judges sit as a Panel of three at war crimes proceedings.
- ❑ Cases that are not of a war crime nature, over which the ICD has jurisdiction, will be heard by a single Judge. For example cases of human trafficking.
- ❑ The Registry of the ICD provides administrative support to the Division and coordinates all aspects of the trial.
- ❑ The registry is headed by the Registrar.

### D. Laws Applicable by the ICD

- ❑ 1995 Constitution.
- ❑ Geneva Conventions Act, Cap. 363.
- ❑ The International Criminal Court Act, Act 11 of 2010.
- ❑ The Penal Code Act, Cap. 120.
- ❑ Prevention of Trafficking in Persons Act, 2009.
- ❑ Anti-Terrorism Act, 2002.
- ❑ Any other relevant laws.

## 2. HOW THE ICD WORKS

The Director of Public Prosecutions (DPP) is responsible for bringing charges before the Magistrates' Court for the Committal of the suspect to the ICD. The Magistrates' Court commits the suspect to the ICD for trial. The Director of Public Prosecutions (DPP) works closely with the Police investigations team to ensure that the right evidence is collected to support prosecution.

The ICD hears evidence presented by the Prosecution and any case presented by the Defence to raise serious doubt about the Prosecution case.

The Court then decides whether the accused is guilty or not guilty.

- ◆ Proof of guilt for an accused person is beyond reasonable doubt
- ◆ The accused person has rights that should be respected by the court

## 3. THE ICD IN PRACTICE: THE KWOYELO CASE

- ❑ First and only case of war crimes before the ICD is the case of Uganda v. Thomas Kwoyelo (HCT-00- ICD Case No.20/2010)
- ❑ Thomas Kwoyelo alias Latoni is a former commander/officer in the LRA.
- ❑ Kwoyelo's case was opened on 11 July 2011 in Gulu;
- ❑ A Stakeholders meeting was held on 11 July immediately prior to the plea taking
- ❑ At the meeting a joint statement was presented expressing the concerns of the women and communities in the greater north with respect to the work of the ICD
- ❑ Concerns regarding the work of the ICD included:
  - ◆ the absence of clear rules of procedure and evidence to guide the court proceedings;
  - ◆ fact that the Geneva Conventions Act under which Kwoyelo was charged did not adequately address gender-based