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23 MAY 2013

**IN THE INTERNATIONAL CRIMES DIVISION OF THE HIGH COURT OF UGANDA AT
KAMPALA**

CASE NO. 02 OF 2010

UGANDA :::PROSECUTOR

VERSUS

KWOYELO THOMAS alias LATONI ::: ACCUSED

AMENDED INDICTMENT

GENERAL ALLEGATIONS

1. The Director of Public Prosecutions charges **KWOYELO THOMAS alias LATONI** with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF ARTICLE 3 COMMON TO THE GENEVA CONVENTIONS** under customary international law, and **OTHER SERIOUS OFFENCES** under **PENAL CODE ACT** of Uganda, in violations of Sections 188 & 189, 243 (1) (a), 285 & 286 (2), 204 (a), and 131 (1).
2. The offences contained and charged in this indictment were committed in the context of a non-international armed conflict that existed in Northern Uganda between the Lord's Resistance Army (hereafter referred to as 'LRA') and armed forces of Uganda together with associated local armed units between 1987 and 2005. The armed hostilities exceeded in intensity, internal disturbances and tension such as riots, isolated and sporadic acts of violence.
3. The LRA that carried out protracted armed violence had well structured armed forces. During this time the LRA was an organized armed group under the overall leadership of Joseph Kony. With a sufficient degree of organization, the LRA were able to plan and carry out military operations for a prolonged period of time.
4. A nexus existed between the armed conflict and the acts of the accused which amount to violations of Article 3 common to the Geneva Conventions, other serious violations of International Humanitarian Law and the Penal Code Act.
5. As a long-term member of the LRA who held a number of command positions, and due to his participation in numerous LRA operations, Kwoyelo Thomas alias Latoni was aware of the factual circumstances that established the existence of this non-international armed conflict.

6. Between 1987 and 2005, Kwoyelo Thomas alias Latoni was at all material times a member of the LRA, an organized armed faction that engaged in fighting the Government of the Republic of Uganda. The LRA operated an organized, hierarchical system of power with a headquarters, a division, brigades, battalions and companies and each unit had a commander assigned to it. Joseph Kony, the commander-in-chief of the LRA, generally communicated orders to other leaders who passed them to the brigade commanders, who communicated them to the battalion commanders and in turn the battalion commanders passed them to their subordinates. □
7. In the LRA, subordinates followed the orders of their superiors almost automatically. LRA fighters, conditioned by, and under threats of physical punishment, obeyed superiors and followed orders. The LRA maintained a violent disciplinary system that guaranteed adherence to orders and rules. The LRA, was composed of a sufficient number of fungible individuals capable of replacement to guarantee that the orders of superiors were carried out, if not by one subordinate, then by another. Kwoyelo Thomas alia Latoni was aware of the fundamental features of the LRA, as an organized and hierarchical system of power.
8. Between 1992 and 2005, Kwoyelo Thomas alias Latoni was a military commander in the LRA and held several positions. including commander of Operation, Director of Military Intelligence and in Charge of all Sick Bays. Most of the time during his operation, Kwoyelo was based in Kilak hills located in the present day Amuru District. His areas of operation covered the whole of Kilak County and in these areas he was a subordinate only to the leader of the LRA Joseph Kony.
9. Kwoyelo Thomas alias Latoni had effective command and control, or authority and control, over his subordinates between 1992 and 2005. He mobilized his authority and power in the LRA to secure compliance with his orders and he carried out and caused his subordinates to carry out the conducts described in this document. This allowed him to exert control over the crimes charged as well as to prevent or repress any conduct by his subordinates of which he disapproved. His subordinates complied with his orders. He had the power, inter alia, to issue or give orders; to ensure compliance with the orders issued; to order forces or units under his command, whether under his immediate command or at a lower level, to engage in hostilities; to discipline any subordinate; and the authority to send forces to the site of hostilities and to withdraw them at any time. Despite the effective control he held over his subordinates at the relevant time, he culpably failed to □adopt necessary and reasonable measures to prevent or punish their crimes.
10. The LRA leadership including Kwoyelo Thomas alias Latoni shared a common plan, purpose or design which was to take any actions necessary to gain and exercise political power and control over the territory of Uganda, in particular the Northern Uganda.
11. The modus operandi of the LRA included abduction, destruction of property, killings, etc in order to prevent or minimize resistance to their activities and to use members of the population to provide support to the members of the LRA.
12. Between 1992 and 2005 Kwoyelo Thomas alias Latoni and his subordinates carried out several attacks in Kilak County formerly of Gulu district now the present day Amuru district. All the attacks, which took place in Kilak County, now the subject of these charges in the indictment, were either carried out by Kwoyelo

Thomas alias Latoni, under his command, or were carried out by his subordinates with his full knowledge and authority.

13. The offences or the conducts alleged herein were committed within the territory of the Republic of Uganda between 1992 and 2005.
14. From 1987 to 2005, the overall objective of the LRA was to overthrow the government of Uganda through armed rebellion and to procure resources to pursue their criminal activities. In order to achieve these objectives and to sustain its activities, the LRA adopted a number of policies that were implemented throughout the organisation. The LRA adopted a policy of launching attacks on civilians, including those living in protected internally displaced persons' camps ("IDP camps") and abducting civilians; male abductees to be conscripted and used as soldiers and female abductees to serve primarily as domestic servants, sex slaves and forced exclusive conjugal partners.
15. The conduct and acts that form the basis for the charges in this document were committed between 1992 and 2005, as part of a widespread or systematic attack directed against the civilian population of northern Uganda. All acts and conduct imputed to the accused were sufficiently connected to that attack so as to fulfill the requirement of nexus between the acts of the accused and the attack.
16. From 1987 until 2005, a protracted armed conflict not of an international character between the LRA and armed forces of the government of Uganda existed in northern Uganda. The armed hostilities exceeded, in intensity, internal disturbances and tensions such as riots, isolated and sporadic acts of violence.
17. The LRA was well structured, armed and carried out protracted armed violence. During this time the LRA was an organised armed group with a sufficient degree of organisation to enable it to plan and carry out military operations for a prolonged period of time. The Uganda People's Defence Force ("UPDF") was the regular military of Uganda.
18. The conduct that forms the basis for the charges in this document took place in the context of and was associated with this armed conflict. As a long-term member of the LRA who held a number of command positions, and due to his participation in numerous LRA operations, Kwoyelo Thomas alias Latoni was aware of the factual circumstances that established the existence of this non-international or internal armed conflict.

