

## Moving Forward: Thomas Kwoyelo and the Quest for Justice

### *A Rapid Situational Analysis on Perceptions and Opinions for the Way Forward*

*In July, ex-LRA commander Col. Thomas Kwoyelo became the first Lord's Resistance Army (LRA) commander to be tried before the International Crimes Division (ICD) of the High Court of Uganda. Following a Constitutional Court ruling in September that he was entitled to amnesty and immediate release from detention under Uganda's Amnesty Act, this brief situational analysis explores opinions on the ground in Gulu town and in Kwoyelo's home area of Pabo regarding his impending release and makes recommendations for his rehabilitation and reintegration.*

### Introduction

Having been charged with 12 substantive counts and 53 alternative counts of war crimes and crimes against humanity, Colonel Thomas Kwoyelo became the first Lord's Resistance Army (LRA) commander to be charged before Uganda's International Crimes Division (ICD), which held its first hearings on 11 July 2011. However, on 22 September 2011, Uganda's Constitutional Court ruled that Colonel Thomas Kwoyelo was entitled to amnesty in line with Uganda's Amnesty Act of 2000, and ordered his immediate release. This ruling was re-enforced by a Court of Appeal ruling on 10 November 2011 following an appeal to stay his release by the Attorney General. On 11 November 2011, the ICD ceased his trial but referred his release to the Directorate of Public Prosecutions (DPP) and the Amnesty Commission.

While his release is expected soon, questions remain hanging on what should happen to him following his release, and how he should be reintegrated into the community. With this in mind, the Justice and Reconciliation Project (JRP) carried out a rapid situational analysis from 4-8 November 2011 in Pabo sub-county (Amuru district) and Gulu town to gauge the perceptions and opinions regarding the way forward for Thomas Kwoyelo, and what should happen to him in the event that he is released. We spoke with 33 respondents, including local leaders, religious leaders, victims, formerly-abducted persons, and residents of Pabo town, along with members of Kwoyelo's family and civil society organizations in Gulu town.

The analysis revealed that the situation on the ground, and more specifically in his home area of Pabo, is highly volatile and unpredictable, and opinions regarding his reintegration into the community are widely varied. Furthermore, many of Pabo's residents – including his family members – feel unprepared, uninformed and confused about how to proceed. This situational analysis presents these perceptions concerning the Constitutional Court ruling and makes recommendations for Kwoyelo's rehabilitation and reintegration in the event that he is released.

### Reactions and Perceptions on the Ground

For most of the local residents we spoke to in Pabo, Thomas Kwoyelo is the face of the LRA. Most victims blame him for the majority of atrocities committed in and around Pabo regardless of whether or not he was directly involved in the commission of a particular act. Therefore, **most direct and indirect victims of LRA atrocities in his home area feel strongly that he should not return and fear his presence in the area.**

Our findings revealed that many victims who were mentally or physically affected by violence perpetrated by the LRA in Pabo largely do not support the Constitutional Court ruling and perceive it as unfair and unjust. Many of Pabo's residents either lost family members to the LRA or still wait for their children to return from captivity. It is hard for them to accept the fact that the alleged perpetrator for whom they blame these atrocities might live freely alongside his former victims. According to one respondent, *"If he is to come back here, then the entire community will live in fear from just hearing his name."*<sup>1</sup> Another respondent said, *"If the government cannot keep him in jail, for him to come live with us in the community is nearly impossible. If they can't keep him in jail, it is fine. But they should do us a favour and not bring him back to the same community in which he committed atrocities."*<sup>2</sup>

**Furthermore, victims expressed frustration over inconsistent dealings with the ICD and a lack of communication about current developments in Kwoyelo's case.** Witnesses who were recruited to participate in the court proceedings reported that they did not receive updates from the ICD about the changes in the case. They heard of the Constitutional Court ruling and the cessation of Kwoyelo's trial through radio reports, but had no direct contact from the ICD. Several witnesses also stated that court representatives promised that Kwoyelo would be imprisoned for life and would never return to Pabo. These witnesses agreed to

<sup>1</sup> 39-year-old male respondent during a focus group discussion in Abera village, Obiangic parish, 3 November 2011

<sup>2</sup> *Ibid.*

participate in the case because of these assurances, but they now feel misguided, confused and disappointed because of broken promises and no feedback. *“When they took our testimonies, we really inquired of them that we will never see this man again, and they said yes. But if he returns, I really have no words.”*<sup>3</sup>

**However, residents of Pabo who were not directly affected by Kwoyelo’s crimes or the atrocities of the LRA took a more neutral point of view and tended to advocate for his reintegration into the community.**

According to various respondents, the conflict went on for too long and people are now ready for peace and reconciliation.<sup>4</sup> Although there was a mutual agreement *“that forgiveness takes time,”*<sup>5</sup> various respondents articulated that Kwoyelo should return home, reintegrate into the community and reconcile with his victims and the community in general. Frequently, people stated that Kwoyelo was abducted by the LRA and only acted upon orders of higher ranking commanders. Nevertheless, as one respondent observed, *“He [Kwoyelo] has to talk to the people and convince them that he is really asking for their forgiveness and to make sure that he will not go back to the bush and not harm anyone in the community.”*<sup>6</sup> Most of the respondents see the necessity of an open and public apology by Kwoyelo to demonstrate that he seeks forgiveness and restored trust from the people around him.

## Kwoyelo’s Reintegration: How to Proceed?

In the event that Kwoyelo is released and returns to his home community in Pabo, the process of his reintegration will be confronted by various challenges. One major problem is the lingering grievances of victims. One local leader in the area observed that, *“It has been impossible for people to think of Kwoyelo as a human being because there are scars that people have.”*<sup>7</sup> Direct victims in particular often have not been able to forgive him. One person questioned, *“What might people do when he passes by the road on his way home? We rely on the court ruling and if the court ruling is biased, we react biased, as well.”*<sup>8</sup> Without sufficient sensitization and preparation for his return, victims or people affected by the LRA’s atrocities might seek revenge. This will put Kwoyelo and his family in danger. **Many community members recommended that following his release Kwoyelo find an alternative place to stay rather than returning to Pabo directly.**

**Many representatives of civil society organizations on the ground advocated for the use of traditional ceremonies to rehabilitate Kwoyelo.** Some local residents are also strongly in favour of traditional mechanisms. Many people pointed out that after the

community is sensitized and ready to receive Kwoyelo back, traditional rituals will be necessary for reconciliation and rehabilitation. Respondents cited both the *Mato Oput* process and the stepping on the egg (*Nyono Tong Gweno*) ceremony as appropriate measures for dealing with the situation of the former LRA commander. As one respondent in Pabo trading centre mentioned, *“There is nothing here under the sun that we can do to better this situation other than the traditional set-up of Mato Oput.”*<sup>9</sup> In the event that such mechanisms are carried out, various respondents agreed that Kwoyelo should initiate his cleansing ceremonies while traditional and cultural leaders should lead in organizing and facilitating the processes.

However, respondents also had reservations about traditional justice, specifically regarding the fact that ceremonies like *Mato Oput* might not be appropriate for Kwoyelo’s situation. *Mato Oput* requires the participation of the perpetrator as well as family members of the victim. Large-scale killings, atrocities and human rights violations such as those committed or ordered by Kwoyelo make it difficult to identify individual victims, which would obstruct the *Mato Oput* process. As one respondent in Pabo trading centre said, *“The traditional process is going to be hard [...] because his crimes happened all over the North, even in places outside Pabo. Therefore, it is getting difficult.”*<sup>10</sup>

**Other respondents highlighted the necessity of Kwoyelo’s mental rehabilitation before fully returning back to the community.** They emphasized the difficulty of his continuous trauma, as *“He was set free [from the LRA] but instead of living with his community here he was put in jail. His time in jail really traumatized him as he was left on his own with his thoughts and ideas.”*<sup>11</sup> While various respondents recognize Kwoyelo’s disconnect with the true sense of reality on the ground, they advocate that, *“After his time in jail, he should go to a place and rest to have a moment of self-reflection to be able to rehabilitate.”*<sup>12</sup>

As a response to those challenges, various respondents suggested a multi-phased process of rehabilitation for Kwoyelo. Instead of returning home completely and immediately, he should go through a comprehensive process of self-reflection and should be reintegrated step-by-step, first with his family, then with the wider community and finally with his victims.

Another frequently articulated opinion advised Kwoyelo to join the UPDF to allow him to adapt his military experiences and expertise.

## Recommendations

In addition to projecting people’s perception concerning the ruling by the Constitutional Court and Kwoyelo’s

<sup>3</sup> 35-year-old male respondent during focus group discussion in Abera village, Obiangic parish, 3 November 2011

<sup>4</sup> Interview with 38-year-old male resident in Pabo Trading Centre, 4 November 2011

<sup>5</sup> Interview with male respondent in Pabo Trading Centre, 4 November 2011

<sup>6</sup> Interview with female respondent in Gulu town, 7 November 2011

<sup>7</sup> Interview with male respondent in Pabo sub-county, 3 November 2011

<sup>8</sup> 62-year-old male respondent during focus group discussion in Perecu village, Parubanga parish, 3 November 2011

<sup>9</sup> Interview with male respondent in Pabo sub-county, 3 November 2011

<sup>10</sup> 32-year-old male respondent during focus group discussion in Pabo Trading Centre, 4 November 2011

<sup>11</sup> Male respondent during focus group discussion in Pogo, Pabo sub-county, 3 November 2011

<sup>12</sup> *Ibid.*

potential reintegration, this situational analysis intends to provide recommendations on how to proceed and what should happen next. We recommend the following:

- a) **The wider community in Pabo needs to be sensitized.** In the sub-county of Pabo, Kwoyelo's home area and the place he might return following release, almost everyone felt unprepared and poorly informed about the case at the ICD, the ruling by the Constitutional Court and the fact that Kwoyelo might be released soon. To rehabilitate and reintegrate Kwoyelo successfully, members of the community need to be prepared and to know what will happen. Meanwhile, their needs, demands and concerns need to be included in any process.
- b) **Traditional Acholi institutions and leaders need to take a leading role in Kwoyelo's reintegration.** For traditional ceremonies and mechanisms to be implemented successfully, traditional institutions and leaders need to take a leading position. Their specific expertise and experience will enable a holistic and effective approach. Furthermore, many victims expect their traditional leaders to represent and advocate for them. **JRP proposes the formation of a mediation panel** consisting of religious, traditional, and local government leaders to handle the reintegration of Kwoyelo.
- c) **There is need to improve the ICD outreach and communications policy.** To ensure informed and well-prepared victims and witnesses, the Government of Uganda (GoU) and the International Crimes Division (ICD) in particular need to improve the flow of information to people involved and affected on the ground. During the criminal investigations, victims recruited to testify during the trial were promised that Kwoyelo would remain in jail. This clear misguidance leaves the victims confused, disappointed and fearful.
- d) **Kwoyelo needs sensitive preparation before being reintegrated into the community.** Although opinions concerning his potential reintegration are largely divided, many of Kwoyelo's direct victims still feel deep grievances and might seek revenge for losses suffered. Therefore, it is highly important to prepare Kwoyelo about the concerns and voices on the ground to ensure a careful and successful reintegration. Instead of releasing him without

any preparation, Kwoyelo should be sensitized and given time for self-reflection and rehabilitation. Ideally, his reconnection with his family should be part of a longer process of return. In addition to self-reflection, there is need for psychosocial support to re-orient his thinking and prepare him for life as a civilian.

- e) **Kwoyelo needs to engage in a process of truth-telling and free interaction with the communities to regain people's trust.** To be reintegrated successfully, Kwoyelo needs to speak and apologize openly to his victims and the wider community of Pabo. As long as the victims do not understand what happened and why, it is difficult for them to forgive Kwoyelo. A process of truth-telling may also help victims to trust that such events will not re-occur. Public acknowledgement and truth-telling is a first step in breaking the silence and will demonstrate to victims that Kwoyelo seeks forgiveness and regrets what happened. Kwoyelo must speak the language of reconciliation to regain people's trust. As expressed by various respondents, Kwoyelo's potential participation in traditional justice ceremonies would demonstrate his seeking for forgiveness and would contribute to regaining the trust of the community.