

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: AFR 59/015/2011
23 September 2011

Court's decision a setback for accountability for crimes committed in northern Uganda conflict

Amnesty International is concerned that yesterday's decision by Uganda's Constitutional Court to uphold the provisions of Uganda's Amnesty Act which grants amnesties for serious crimes and human rights violations is a big step backwards in delivering justice to victims of human rights violations in the northern Uganda conflict. The five-judge panel held that Thomas Kwoyelo, a former Commander with the rebel Lords Resistance Army (LRA), was entitled to amnesty for any crimes he may have committed during the longstanding conflict between the LRA and the government's forces, – the Uganda Peoples' Defence Forces. The state has not yet indicated whether it would appeal the Court's decision.

Mr Kwoyelo was charged with 53 separate counts of murder, willful killing, kidnap with intent to kill, aggravated robbery and destruction of property among other offences during attacks that he allegedly commanded in Abera village in Parubanga, Pabbo Sub County in Amuru district, during the conflict that started in 1986. He was charged under the provisions of the Geneva Conventions Act, 1964 and the Penal Code Act. The prosecution publicly stated that it did not charge Mr. Kwoyelo with crimes against humanity or war crimes under the provisions of the International Crimes Act of 2010 because the law could not be applied retroactively. Mr. Kwoyelo first appeared before a three-judge bench of Uganda's newly established 'International Crimes Division' of the High Court on 11 July 2011 where he denied the charges. Kwoyelo then applied for a stay of the trial proceedings pending the determination of his application to the Constitutional Court on the ground that his trial before the High Court infringed on his constitutional rights to fair treatment. Kwoyelo claimed in his application that other rebel soldiers had previously been granted amnesty and that his trial constituted different treatment if his application for an amnesty was rejected by the government.

Amnesty International and other organisations documented human rights violations committed throughout the conflict in northern Uganda. Killings, rapes, sexual slavery, abductions of children and other inhumane acts were carried out against civilians by both rebel and government soldiers on a massive scale and in a manner that amounted to crimes under international law, including crimes against humanity and war crimes. Amnesty International has repeatedly called on the government of Uganda to fulfil its obligations under international law to investigate and prosecute all crimes committed before competent, impartial and independent courts in fair trials without recourse to the death penalty; to ensure that the truth about the crimes is told; and to provide full and effective reparations to the victims to address their suffering and to help them rebuild their lives. Disturbingly, the government has done little to ensure justice, truth and reparations for the crimes committed by all sides to the conflict, including crimes committed by Uganda's armed forces. Only a handful of investigations and prosecutions of members of the armed forces for crimes against civilians have been conducted, in most cases before a deeply flawed military justice system which violated the accused individuals' right to a fair trial and in a number of cases imposed the death penalty. Thousands of former LRA soldiers have benefited from an amnesty. Under international law, Uganda is prohibited from granting amnesty to individuals who may be

responsible for such crimes, regardless of whether the underlying offences are qualified as crimes under international law.

In this context, yesterday's court decision to affirm the provisions of the Amnesty Act further entrenches the pervasive impunity in Uganda for serious crimes and human rights violations. The Ugandan government should revoke any amnesty applicable to crimes under international law and not impose amnesties, immunities, statutes of limitations and pardons for crimes under international law. It should ensure prompt and effective investigation and prosecution of all of the crimes before competent, impartial and independent courts in fair trials. The government must also establish effective reparation programmes designed in consultation with victims and civil society.