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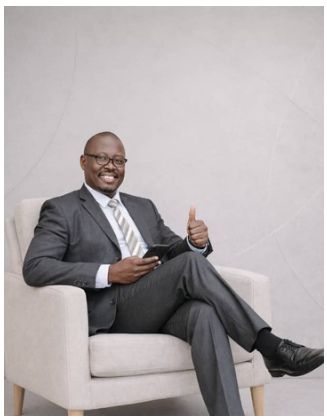
SELECTIVE PROSECUTION, MORAL IMBALANCE, AND UBUNTU-CENTRED POST-CONVICTION JUSTICE

The Conviction of Agnes Nandutu and the Karamoja Iron Sheets Scandal



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ABSTRACT

The conviction of Agnes Nandutu by the Anti-Corruption Division of the High Court on 8 April 2026 in connection with the Karamoja iron sheets scandal highlights a tension between procedural correctness and equitable justice in Uganda. While her conviction under s 21A(1) of the Anti-Corruption Act[2] was legally sound, the

[1]Agnes Nandutu, former State Minister for Karamoja Affairs and Bududa District Woman Member of Parliament, was convicted on 8 April 2026 by the Anti-Corruption Division of the High Court, Kampala, presided over by Lady Justice Jane Okuo Kajuga: *Uganda v Agnes Nandutu* (Anti-Corruption Division, 8 April 2026) (unreported, on file with author). See also Daily Monitor, "Iron Sheets Scandal: Ex-Minister Nandutu Convicted, Remanded to Luzira" (Monitor, Kampala, 8 April 2026).

[2]Anti-Corruption Act 2009 (Act 6 of 2009) (Uganda), s 21A(1) (inserted by the Anti-Corruption (Amendment) Act 2015 (Act 21 of 2015)). Section 21A(1) provides that a person who deals with property that he or she has reason to believe has been irregularly obtained commits an offence and is liable on conviction to imprisonment. The court found Nandutu received and retained 2,000 pre-painted gauge-28 iron sheets marked "Office of the Prime Minister" between June and July 2022, knowing or having reason to believe they had been irregularly diverted from a public relief programme: Daily Monitor (n 1).

withdrawal of charges against co-implicated officials raises grave concerns under Article 21 of the Constitution of Uganda 1995, which guarantees equality before the law.[3] Ubuntu, an African ethical framework centred on relational personhood and restorative accountability, provides a jurisprudential basis for post-conviction corrective interventions — ensuring that justice is not merely procedurally valid but morally coherent, contextually grounded, and relationally complete.

Keywords: *Agnes Nandutu; Karamoja Iron Sheets; Selective Prosecution; Equality Before the Law; Ubuntu; Post-Conviction Justice; Anti-Corruption Act 2009; Presidential Pardon; Article 21; Article 121; Restorative Justice*

I. THE PROBLEM OF SINGULAR CONVICTION IN COLLECTIVE WRONGDOING

The Karamoja iron sheets scandal arose from the diversion of government relief materials — 2,000 pre-painted gauge-28 iron sheets bearing the stamp of the Office of the Prime Minister — from a UGX 39.94 billion programme intended for vulnerable communities in the restive Karamoja sub-region.[4] Multiple senior officials were implicated. Yet on 8 April 2026, Agnes Nandutu stood alone in the dock.

> ***Can justice be considered just when selectively applied in systemic wrongdoing?***

This inquiry concerns jurisprudential integrity rather than factual guilt. Nandutu's guilt, as determined by Lady Justice Jane Okuo Kajuga, is not challenged here. What is challenged is the structural coherence of accountability that isolates one actor from a

[3]Constitution of the Republic of Uganda 1995, art 21(1): "All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law." Art 21(2) further prohibits discrimination on the grounds of sex, race, colour, ethnic origin, tribe, birth, creed, religion, social or economic standing, political opinion, or disability.

[4]The programme was financed by a supplementary budget of approximately UGX 39.94 billion in the 2021/2022 financial year under the Office of the Prime Minister, for distribution of relief items — including 95,044 pre-painted iron sheets procured and stored at OPM stores, Namanve — to support disarmament and community empowerment in the Karamoja sub-region: ChimpReports, "DPP Secures Conviction Against Nandutu for Corruption" (ChimpReports, Kampala, 8 April 2026); Matooke Republic, "Former Minister Nandutu Convicted of Diverting 2,000 Karamoja Iron Sheets" (Matooke Republic, 8 April 2026).

system of collective misconduct.

II. LEGAL VALIDITY OF THE CONVICTION

The conviction rests on firm statutory ground. Under s 21A(1) of the Anti-Corruption Act 2009, a person who deals with property in circumstances giving reason to believe it was irregularly obtained commits a criminal offence. The court found, on evidence adduced by ten prosecution witnesses against three defence witnesses, that Nandutu received, retained, and facilitated transport of the 2,000 iron sheets — first to a private residence in Wakiso, then to her home in Seeta, Mukono — having reason to believe they had been diverted from the public relief programme.

From a positivist perspective, the analysis is straightforward. Hart's rule of recognition[5] holds that law's validity depends on conformity to the system's authoritative procedures, not on moral evaluation of outcomes. The conviction satisfied the evidentiary threshold of proof beyond reasonable doubt and the procedural requirements of the Anti-Corruption Division. It is legally defensible.

> ***Law is valid if it follows recognised rules of authority — regardless of moral outcome.***

III. EQUALITY BEFORE THE LAW: CONSTITUTIONAL CONSIDERATIONS

Article 21(1) of the Constitution of Uganda 1995 provides that all persons are equal before and under the law and are entitled to equal protection of the law. This guarantee is not merely formal; it carries substantive weight, requiring that prosecutorial decisions be made on principled, non-discriminatory grounds.

The documented facts raise constitutional concern. Amos Lugoloobi's charges were withdrawn by the Director of Public Prosecutions. Mary Goretti Kitutu — Nandutu's superior, who authorised the allocation of iron sheets — faces a trial that remains on

[5]HLA Hart, *The Concept of Law* (Clarendon Press 1961) 81–88. Hart's rule of recognition posits that legal validity is determined by conformity to secondary rules of the system, not by moral evaluation. See also Joseph Raz, *The Authority of Law* (Oxford University Press 1979) 37–52.

hold pending an appeal.[6] As at the date of Nandutu's conviction, she was the only official to have faced full criminal liability for the Karamoja diversions.

Selective prosecution does not automatically render a conviction unconstitutional. But it does generate a legitimacy question that Article 21 demands be answered: if the same conduct, in the same systemic context, was not prosecuted to conviction in respect of other participants, the equality guarantee requires a principled justification.[7]

IV. SCAPEGOAT JUSTICE

The structural risk of prosecuting a single actor within a network of collective wrongdoing is that accountability becomes symbolic rather than systemic. When accountability attaches to one person without addressing the institutional conditions that enabled the offence, three pathologies emerge.

> First, symbolic accountability replaces systemic reform — the prosecution is seen to discharge the state's accountability obligation without addressing the underlying failure of governance. Second, broader institutional failures are shielded — the diversion of UGX 39.94 billion of public resources involved procurement, storage, allocation, and transport chains with multiple points of failure. A single conviction leaves those chains intact. Third, the punishment becomes disproportionate in context — what might be proportionate individual accountability within a fully prosecuted system becomes severe isolation within a selectively prosecuted one.[8]

Such selective enforcement satisfies procedural correctness but falls demonstrably short of substantive justice. It is the difference between law's formal validity and its

[6]The Director of Public Prosecutions withdrew charges against Amos Lugoloobi (State Minister for Economic Planning) pursuant to the prosecution's own motion. Mary Goretti Kitutu (Minister of State for Karamoja Affairs, Nandutu's superior) was separately charged but her trial remains on hold pending appeal against a ruling on the circumstances of her arrest. As at the date of Nandutu's conviction, she remained the only official convicted in connection with the Karamoja iron sheets programme: Daily Monitor (n 1); The Observer, "Ex-Minister Nandutu Found Guilty of Stealing Karamoja Iron Sheets" (Observer, Kampala, 8 April 2026).

[7]On the jurisprudence of selective prosecution and its relationship to the equality guarantee, see generally Kenneth Culp Davis, *Discretionary Justice: A Preliminary Inquiry* (Louisiana State University Press 1969) 49–68; cf Ronald Dworkin, "Taking Rights Seriously" in *Taking Rights Seriously* (Harvard University Press 1977) 184–205 on the principle that prosecutorial discretion must be exercised in a manner consistent with treating persons as equals.

[8]On "scapegoat justice" and its structural risks, see Emile Durkheim, *The Division of Labour in Society* (Free Press 1984 trans WD Halls) 85–102 (on collective punishment and social solidarity); cf Joshua Dressler, *Understanding Criminal Law* (9th edn, LexisNexis 2022) 28–34 on the limits of individual accountability in systemic wrongdoing.

moral integrity.[9]

V. UBUNTU AS A CORRECTIVE JURISPRUDENTIAL FRAMEWORK

Ubuntu, as an African jurisprudential ethic, proceeds from the premise that persons are constituted through relationships — that moral responsibility, like personhood, is always already situated in communal and relational networks.[10] Ramose identifies ubuntu's tripartite relational structure as: communal personhood (identity is relational, not atomic); collective responsibility (accountability is contextual, not isolated); and restorative orientation (justice aims at repair, balance, and reintegration, not retributive exclusion).

Letseka, developing ubuntu's normative implications for contextual justice, argues that moral evaluation of individual conduct must situate that conduct within the relational network through which it was made possible.[11] Tutu, in his account of restorative justice in the South African transitional context, draws the same conclusion: accountability, acknowledgment, and reintegration are morally superior to punitive isolation where systemic wrongdoing is implicated.[12]

Ubuntu does not negate Nandutu's legal guilt. It recalibrates the moral framework within which that guilt is assessed and the justice consequences that follow from it.[13]

[9]Hart (n 2) 200–207. Hart acknowledges the "open texture" of law — the inevitable indeterminacy at the margins of legal rules — but does not provide internal resources for resolving the moral deficit that selective application of technically valid rules produces. Fuller's rejoinder — that law's internal morality requires it to treat like cases alike — is directly relevant here: Lon L Fuller, *The Morality of Law* (rev edn, Yale University Press 1969) 38–41.

[10]Mogobe Ramose, *African Philosophy Through Ubuntu* (Mond Books 1999) 49–56; Thaddeus Metz, "Ubuntu as a Moral Theory and Human Rights in South Africa" (2011) 11 *African Human Rights Law Journal* 532, 544–547. Ramose identifies ubuntu's tripartite relational structure — communal personhood, collective responsibility, and restorative accountability — as the philosophical corrective to atomistic theories of individual guilt.

[11]Moeketsi Letseka, "In Defence of Ubuntu" (2012) 31 *Studies in Philosophy and Education* 47, 52–54. Letseka argues that ubuntu's educational and moral significance lies in its contextual understanding of personhood: individual action is always situated within relational and communal networks that co-constitute moral responsibility.

[12]Desmond Tutu, *No Future Without Forgiveness* (Doubleday 1999) 34–36. Tutu's account of restorative justice in the South African transitional context emphasises that accountability, acknowledgment, and reintegration are morally superior to punitive exclusion where systems of collective wrong-doing are implicated.

[13]On ubuntu's relational accountability framework applied to institutional wrongdoing, see Drucilla Cornell and Karin van Marle, "Exploring Ubuntu: Tentative Reflections" (2005) 5 *African Human Rights Law Journal* 195, 204–207; see also Isaac Christopher Lubogo, *Ubuntu and the Law in Uganda: Towards a New Constitutional Dispensation* (LLD Thesis on going, Makerere University School of Law, 2026) ch 3, developing the relational accountability principle as a component of the Ubuntu Interpretive Principle.

VI. COMPARATIVE ANALYSIS: POSITIVIST AND UBUNTU RESPONSES

Question	Positivist Answer	Ubuntu-Informed Answer
Was a crime committed?	Yes	Yes
Is she solely responsible?	Legally, individual accountability is complete	Contextually, responsibility is distributed across the system
Is punishment justified?	Yes	Yes, but proportionality requires systemic context
Is justice achieved?	Legally, yes	Substantively, incomplete without systemic accountability

VII. PRESIDENTIAL PARDON AND UBUNTU

Article 121(1) of the Constitution vests in the President the power to grant pardon, substitute punishment, or remit penalties imposed by conviction.[14] In the context of a conviction marked by documented selective prosecution, the exercise of the pardon power is not an act of impunity. It is a constitutionally available mechanism for correcting moral imbalance.

A pardon issued in this context would serve three functions. It would correct prosecutorial imbalance by situating Nandutu's individual accountability within its systemic context. It would affirm equitable justice by signalling that equality before the law has substantive, not merely formal, meaning. And it would maintain moral coherence — acknowledging wrongdoing while calibrating the state's response to the full moral reality of collective institutional failure.[15]

[14]Constitution of the Republic of Uganda 1995, art 121(1): "The President may— (a) grant a pardon, with or without conditions, to a person convicted of an offence under any law; (b) grant to a person a respite, either indefinitely or for a specified period, from the execution of any punishment imposed on that person for such an offence; (c) substitute a less severe form of punishment for any punishment imposed on a person for such an offence; or (d) remit the whole or part of any punishment imposed on a person or of any penalty or forfeiture otherwise due to Government on account of any such offence."

[15]On the constitutional and jurisprudential basis of executive clemency in contexts of selective prosecution and moral imbalance, see Daniel T Kobil, "The Quality of Mercy Strained: Wresting the

Tutu's distinction between impunity and clemency is critical here: a pardon does not deny culpability; it redirects the state's response from punitive exclusion to relational repair.[16] Ubuntu demands nothing less.

VIII. RISKS OF NON-INTERVENTION

Without post-conviction corrective mechanisms, three institutional pathologies solidify. Selective accountability becomes normalised — each prosecutorial decision not to proceed against other implicated actors is implicitly ratified. Symbolic prosecution replaces systemic reform — the conviction of one actor is treated as discharge of the collective accountability obligation. And equality before the law is progressively emptied of substantive content.[17]

The result is law that achieves formal order without substantive justice — precisely the condition that Hart's positivism acknowledges is possible and that Fuller's internal morality requires law to resist.

Law risks becoming formal order without substantive justice.

Uganda's Constitution does not require that result. Article 21 demands substantive equality. Article 121 provides the executive instrument to correct imbalance. Ubuntu provides the moral philosophy to make the exercise of that instrument coherent.[18]

Pardoning Power from the King" (1991) 69 *Texas Law Review* 569, 607–612; cf Margaret Love, "The Twilight of the Pardon Power" (2012) 100 *Journal of Criminal Law and Criminology* 1169, 1191–1195.

[16]Tutu (n 11) 272–278. Tutu draws a critical distinction between impunity and clemency: a pardon issued in acknowledgment of wrongdoing does not deny moral culpability but redirects the state's response from punitive exclusion to relational repair. See also Ramose (n 9) 56: "Ubuntu is not the enemy of justice; it is justice's most demanding form."

[17]On legitimacy deficits and selective enforcement, see Tom R Tyler, *Why People Obey the Law* (Princeton University Press 2006) 162–178; see also Judith N Shklar, *The Faces of Injustice* (Yale University Press 1990) 39–50 on institutional cruelty as the product not of malice but of indifferent rule-application.

[18]Constitution of the Republic of Uganda 1995, art 21(1), (2) (n 4). Art 44(c) categorises freedom from torture and inhuman treatment as non-derogable, but the equality guarantee of art 21 is also foundational: see Isaac Christopher Lubogo, *Ubuntu and the Law in Uganda* (n 12) ch 6, arguing that selective prosecution violates the relational equality principle embedded in Uganda's constitutional framework.

IX. CONCLUSION: JUSTICE IS WHOLE ONLY WHEN LAW AND MORALITY ALIGN

Agnes Nandutu's conviction by the Anti-Corruption Division of the High Court is legally valid, procedurally sound, and evidentially supported. Nothing in this paper contradicts those findings. What this paper argues is that legal validity is a necessary but insufficient condition for justice.

The selective prosecution of one actor within a system of collective wrongdoing — with the withdrawal of charges against co-implicated officials and the suspension of proceedings against a more senior minister — produces a moral deficit that Article 21 flags as constitutionally significant. Ubuntu identifies that deficit with precision: justice that is not relational, not contextual, and not restorative in orientation is not justice in the fullest sense. It is procedure.[19]

> ***Justice is whole only when law and morality align.***

The path forward is available within Uganda's existing legal architecture. Prosecutorial equality under Article 21. Executive clemency under Article 121. And ubuntu as the interpretive framework that gives both provisions their fullest moral content. Together, they offer a jurisprudence adequate to the full human and institutional complexity of the Karamoja scandal — a jurisprudence that convicts wrongdoing while refusing to let one conviction stand as a substitute for systemic justice.[20]

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— Isaac Christopher Lubogo

Kampala, April 2026

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[19] Metz (n 9) 550–551; Letseka (n 10) 54–57. The restorative orientation of ubuntu — focused on reintegration, repair, and communal accountability rather than retributive isolation — has been recognised as constitutionally significant in South African jurisprudence: *S v Makwanyane* [1995] ZACC 3; 1995 (3) SA 391 (CC) paras 224–237 (Mokgoro J concurring); *Dikoko v Mokhatla* [2006] ZACC 10; 2006 (6) SA 235 (CC) para 68 (Mokgoro J).

[20] Ramose (n 9) 50: "Ubuntu is simultaneously the foundation and the edifice of African philosophy." Isaac Christopher Lubogo, "Ubuntu as Legal Sign: The Semiotics of an African Constitutional Value in Ugandan Law" (forthcoming, *International Journal for the Semiotics of Law*) — arguing that ubuntu operates as a jurisprudential signifier capable of investing constitutional text with relational moral content unavailable to purely positivist readings.

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