

Keynote Address by Hon. Frederick Ruhindi
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“Dialogue: The Crossroads of Amnesty and Justice”

Friday November 11, 2011
Protea Hotel, Kampala

Thank you for inviting me to this important meeting to deliberate on issues that affect the Nation and mapping a way forward on pursuing justice and accountability in Uganda.

I have been asked to address you on the issue of amnesty, justice and accountability in Uganda. Before sharing my views, it is first important to note that the question of amnesty has recently been brought into question by the case of *Uganda v. Thomas Kwoyelo*. The Constitutional Court issued a ruling last month which found in favor of the applicant on his equal protection challenge and upheld the constitutionality of the Amnesty Act. The case is currently waiting to be heard on appeal, and therefore, discussion of the case itself is *sub judice*, and will not be the subject of this presentation.

Beyond the case, a discussion of the nature of amnesty laws and their potential impact on achieving justice and accountability is a noteworthy subject.

As a starting point, I wish to place this discussion within the larger context of transitional justice and Uganda’s commitment to pursue accountability and reconciliation.

As you may be aware, the Government of Uganda has embarked on a process to pursue justice and accountability for serious crimes committed during the war that waged in Northern Uganda. This commitment is grounded first and foremost in Uganda’s Constitutional obligations. As primary duty bearer to the people of Uganda, the Government is bound to respect the rights and freedoms of all Ugandans. It is also bound to ensure the enforcement of these rights, particularly, the right of individuals to seek protection where there is a breach, and seek redress by applying to a competent court.

Specifically, the Agreement on Accountability and Reconciliation, an annexure to the Juba Agreement, provides an overarching legal framework for the Government's commitment to pursue transitional justice. The Agreement calls for the adoption of institutional mechanisms and legislative amendments to give effect to the Agreement.

Indeed, to pursue justice and accountability for serious and conflict related crimes, the Government of Uganda has established the International Crimes Division of the High Court of Uganda, a specialized division with jurisdiction over international crimes, war crimes, and acts of terrorism. Uganda ratified the Rome Statute in 2002, creating the International Criminal Court, and has since adopted implementing legislation, this being the International Criminal Court Act in 2010. In addition, Uganda is party to the Geneva Conventions providing protection for civilians during armed conflict. Uganda has domesticated this instrument by enacting the Geneva Conventions Act of 1964. Both instruments provide for individual criminal accountability for crimes against humanity and war crimes.

These instruments embrace the principles of international justice and human rights and set forth the State party's duty to investigate, prosecute and punish gross violations of human rights, serious crimes of an international nature, including war crimes. Equally, Uganda's ratification of the Rome Statute and the International Covenant on Civil and Political Rights (ICCPR) reflect the State's duty to provide a remedy for violations arising under these treaties.

Together, these developments provide an adequate legal framework for the Government to effectively fulfill its commitment to pursue criminal accountability for war crimes as called for in the Juba Agreement.

The other side of the coin is Uganda's search for peace and reconciliation, including the adoption of measures that will promote this objective. The Amnesty Act was adopted in 2000 with the spirit of peacemaking, and was used as a tool to encourage fighters to abandon hostilities and reintegrate back into their communities. The Act has two salient features which have a bearing on the pursuit of justice: the granting of automatic amnesty from prosecution upon renouncing rebellion; and, the possibility of requesting to exempt certain individuals from amnesty, if approved by Parliament. The

first clause provides a blanket amnesty for all individuals regardless of their actions during the conflict, and the second clause seeks to limit this general provision.

At the time, when the war had already claimed many lives and caused mass displacement of civilians, the Act was seen to be a critical instrument to achieving the end to hostilities and promoting peace and national reconciliation between parties to the conflict. The Amnesty Commission began receiving applications for amnesty from ex-combatants and has issued several thousands of certificates since its enactment. Since 2000, the Amnesty Act has been renewed numerous times. While the Amnesty Act has clearly contributed to regaining peace in the region, its role in the current context in Uganda --over ten years since its enactment-- raises questions for national debate and deliberation. In particular, there is value in ascertaining the implications of the amnesty law in its current form on achieving sustainable peace, justice and accountability in light of Uganda's commitment to pursue a transitional justice policy in line with the Juba Agreement.

Uganda's transitional justice policy envisions an integrated, coherent and victim-centered approach. This is likely to require the adoption of multiple mechanisms to achieve accountability and reconciliation, including formal justice processes, alternative justice processes, traditional justice mechanisms, and reparations for victims. Uganda has made notable progress by setting up appropriate structures to pursue criminal justice; meanwhile, pursuant to a prospective national policy on transitional justice, alternative accountability mechanisms may conceivably be implemented alongside criminal prosecutions. It is therefore imperative that we ensure that the measures being adopted are mutually reinforcing and complementary, in terms of their functions and impact on Ugandan society, and victims' rights to justice especially.

I will end by saying that above all the State has a commitment to deliver justice to the victims of the conflict. This constitutes a guiding principle and measuring stick for ensuring that whichever mechanisms are adopted, the Government of Uganda continues to serve the public interest and the interest of justice.