

# Analysis: 10 Grave Flaws, Myths & Outright Lies That Plagued Rosemary Namubiru's Court Case.

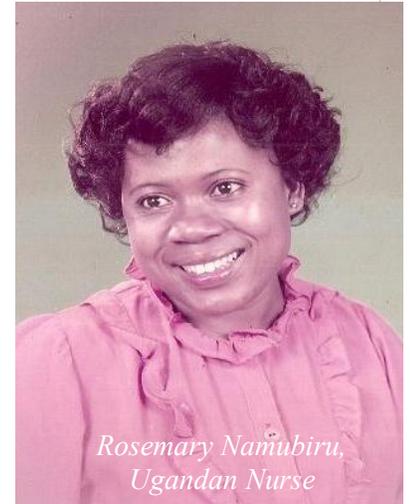
## BACKGROUND

Rosemary Namubiru, a 64 year old nurse at Victoria Medical Center, was tried, convicted and sentenced to three years in prison for 'criminal negligence' arising from an incident where she was pricked by a needle while administering medicine to a 2 year old patient, and may have accidentally reused that needle on the child after bandaging her pricked finger. The judgment was severely flawed and will be appealed by Namubiru.

Namubiru is HIV positive. The child quickly received post exposure prophylaxis (PEP), and subsequent HIV tests have indicated the child did not contract HIV as a result of the incident.

This was a workplace error that warranted appropriate action by her employer and the relevant professional council. How did Uganda reach a point where such a flawed judgment and harsh criminal sentence could be handed down from court?

Because of Namubiru's HIV status, shameful sensationalization by the media, and outright lies by the prosecution, police, and the media, Rosemary never got a fair hearing in Court.



## What went wrong?

### 1 Police's failure to protect her as a suspect, instead paraded her before the media.

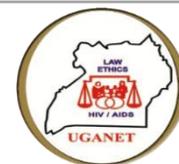
The police officers at Wandegaya police station erred from day one when the case was reported. They called the media and Paraded Namubiru before the "excited" and biased media without presuming her innocent until proven guilty as is the rule. In the face of the Police forces, she was already proven guilty and the officers took advantage of the media to deliver their verdict against Namubiru. This act influenced the subsequent reporting by the media which provoked the public outrage and denied her a fair hearing.

### 2 A media frenzy depicting Namubiru as a 'monster' and a 'killer' who deliberately 'infected a baby.'

Virtually all television, radio and print media coverage reporting on Namubiru's arrest distorted the facts about the facts of the case. The media printed complete fabrications that bore no relationship with reality. For example, articles claimed there was *evidence* she had acted deliberately and that she deliberately drew her blood into a syringe and injected it into the baby. Journalists wrote articles based on *assumptions* that Namubiru had ill-will toward the child or his family. These astonishing lies outraged a believing public. Namubiru's presumption of innocence, guaranteed in the Constitution, was attacked by grossly unethical journalism.



**International Community of Women  
Living with HIV & AIDS Eastern Africa**



International Community of Women Living with HIV Eastern Africa (ICWEA) • Health GAP

Uganda Network on Law, Ethics and HIV (UGANET) • Uganda Health Sciences Press Association (UHSPA)

**3** **The prosecution’s initial baseless charge was attempted murder.** Although this charge was withdrawn because the prosecution had no evidence to support it, the damage had been done. The initial, groundless charge that Namubiru committed such an extreme offense was widely reported and further undermined her presumption of innocence. Surprisingly, when the charge of attempted murder was withdrawn and criminal negligence preferred, very few media outlets reported it – further indicating that the media was biased.

**5** **Her HIV Status.** Namubiru was convicted because of her HIV positive status – and not because she had an accident while executing her duties. The magistrate stated that had she been found HIV negative, the matter would have been treated as an accident and therefore handled by the relevant professional body but her HIV status worked against her, she was deemed dangerous to society – a ground for which she was denied bail, and would later be prosecuted for. It appears like HIV positive people cannot suffer accidents.

**7** **Witnesses were afraid to testify.** The intense and unrelenting media circus not only affected the atmosphere surrounding the case, it also restricted available evidence—witnesses whose testimony could have helped Rosemary tell the truth about what happened that day, feared to appear in court. The Magistrate never heard their evidence.

**9** **Using the case as a justification for the HIV Bill.** Judgment was made days after Parliament passed the HIV Prevention and Management Bill. Throughout the proceedings, the State used the HIV Bill (that calls for, among other things, criminalization of attempted and intentional transmission of HIV) to try to justify its arguments—creating a vicious cycle where misrepresentation of Namubiru’s case implied that the draconian Bill was needed, and the passage of the Bill in turn was used to argue that a harsh sentence would be “consistent” with the will of Parliament. This cynical and manipulative approach was particularly flawed given a) Namubiru was charged before the Bill was passed by Parliament and b) the President has not assented to the Bill—it is not law, and hopefully will not become law—if the President rejects the harmful provisions regarding criminalization, mandatory testing, and mandatory disclosure.

**10** **Irresponsible and completely inaccurate reporting of her conviction and sentencing.** The same reporting of Namubiru’s arrest, unethical and sensationalistic—resurfaced as she was sentenced to three years. The Associated Press retracted its initial wire story, and issued a corrected article, because the first version falsely reported that Rosemary had been convicted for deliberately exposing her patient to HIV. The New Vision reported that she had been convicted for intent to transmit HIV even after the Magistrate read her ruling saying that there was no proof of intent.

**4** **Namubiru’s requests for bail were denied.** Rosemary spent 5 months on remand, with repeated requests for bail denied. The Magistrate claimed that the grandmother, who had never before been accused of any criminal activity of any sort, posed a ‘danger to her community.’ Moreover she spent days in detention before being charged, and was compelled to give a statement with no counsel present. The allegation that Namubiru was a posed a danger to the community fueled a perception by the public that Namubiru—and by extension all people with HIV—was dangerous.

**6** **Unrelenting claim that Namubiru ‘deliberately’ exposed the baby to HIV.** Criminal negligence, the charge she was convicted for, does not relate to the intent of the accused. There was never any evidence of any sort that Namubiru deliberately exposed the baby to HIV. But the prosecution claimed it repeatedly, including a reference during the sentencing—the State said “we submit that her action was deliberate.”

**8** **Using Namubiru’s sentence to “send a message.”** The Magistrate openly stated she wanted a ‘deterrent’ sentence for Namubiru in order to ‘send a message’ to people with HIV. The purpose of a sentence is punishment to secure rehabilitation of a convict. Using Namubiru’s sentence to ‘deter’ similar incidents is unacceptable because a) It defies the purpose of criminal sentencing and b) It implies that there are substantial numbers of people with HIV who are criminally negligent—when there is no evidence at all that this is the case.