towards the abolition of the death penalty in Uganda-challenges to abolition, the role and contribution of parliamentarians on the abolition of the death penalty.

Paper presented at the Parliamentary roundtable on the Abolition of the death penalty.

By
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6th October 2015
Introduction

• Last execution: 1999(civil); 2003(military)
• Last death sentence: June 2015
• Approximate number of persons on death row: 223(13 women, 210 men)
• Abstained from voting at the 2014 UNGA resolution moratorium on the use of the death penalty.
Cont’d

• Susan Kigula & 417 Others versus AG, Constitutional Petition No. 6 of 2003
• The case challenged the constitutionality of the death penalty as cruel, inhuman and degrading and in the alternative that mandatory death sentence was unconstitutional...
• On Appeal at the Supreme Court upheld the decision of the Constitutional Court that; mandatory death sentence was unconstitutional on grounds that a mandatory death sentence violated the right to fair trial by denying the accused a proper sentence hearing.
Cont’d

• Court made an observation to the effect that the legislature should re-open the debate on the desirability of the death penalty in the constitution in view of the fact that no death sentences have been executed.

• The ruling led to significant changes in law and practice in Uganda.
Reduction in the number of death row inmates 2009-2015
Reduction in the number of death sentences

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• Murder convicts constitute majority of remand population. Among the 2,930 inmates as of 11th March 2015 in the maximum prisons, 1337 (45.6%) were facing murder charges.
Legal reform

• Anti- Terrorism Act, 2002 as amended by Act of 2015. Section 7 was amended by substituting ‘mandatory death sentence’ with a discretionary death sentence.

• Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill, 2015- Gazetted on 1\textsuperscript{st} October 2015.
Challenges

• Public opinion- majority of the public support death penalty
• Terrorism
• Ritual killings / Gruesome murders
• Limited awareness among key stakeholders and the public.
• Lack of transparency.
Role of Parliamentarians

• Support legislation to reduce the number of death penalty applicable crimes.

• Review legislation to extend the categories of persons on whom the death sentence may not be pronounced to include mothers and elderly.

• Establish an official moratorium on executions.

• Promote and initiate implementation of the UN Standard Minimum Rules (Mandela Rules).
Conclusion

• By abolishing the mandatory death sentence, courts broadly agree that constraining judicial discretion in sentencing violates the right to fair trial. Mandatory death sentences infringe the right to appeal.

• They also unanimously agree that the principle of proportionality has to apply in capital offences, since they are not the same; rape, defilement, murder may not attract the same degree of criminal liability.
The gains so far made are a contribution of many stakeholder: lawyers, judges, prison officers, academia, faith based groups, members of parliament, development partners and media.

Political will is an important anecdote in abolishing the death penalty.