

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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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.

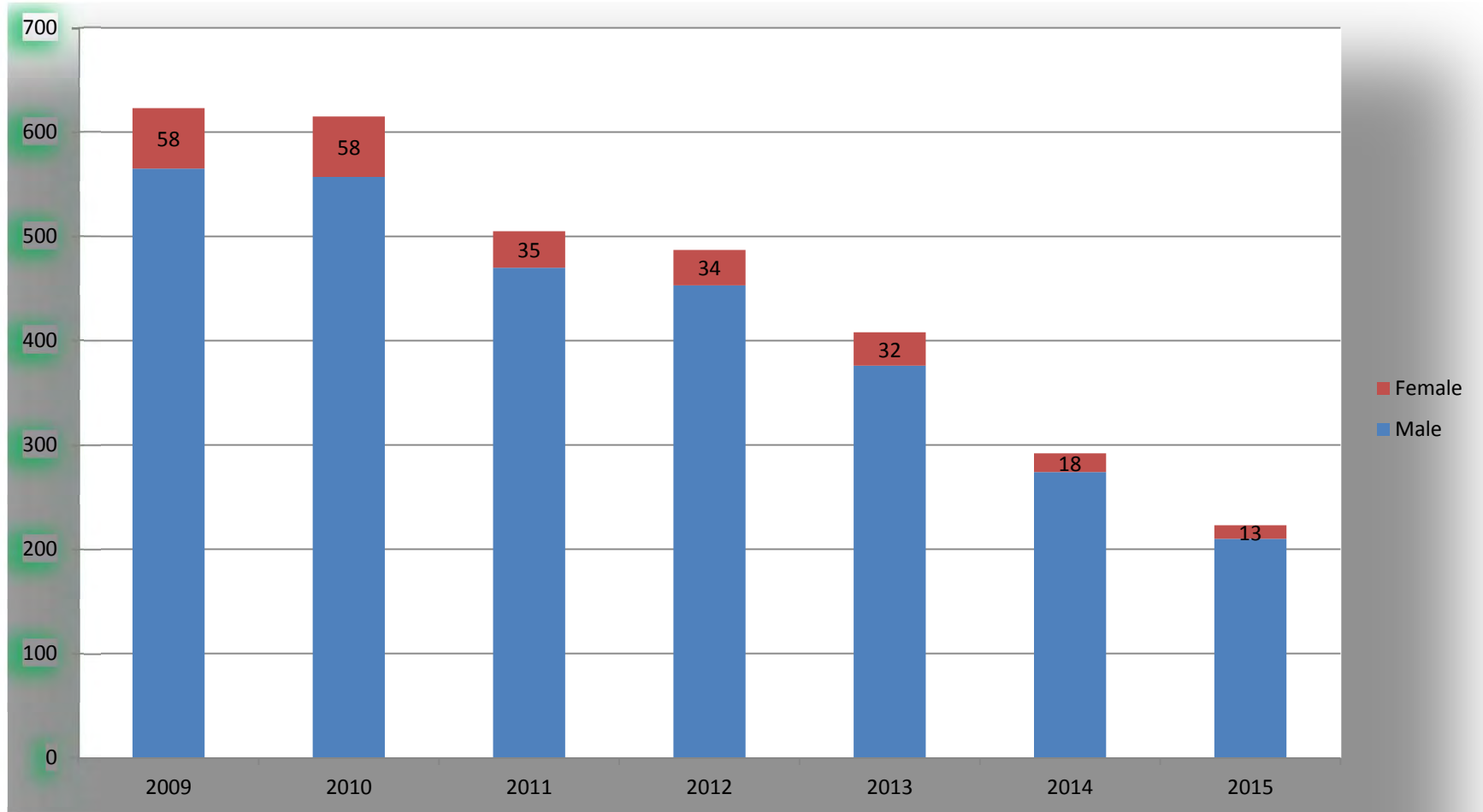
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- Susan Kigula & 17 Others versus AG, Constitutional Petition No.6 of 2003
- The case challenged the constitutionality of the death penalty as cruel, inhuman and degrading and in the alternative that mandatory death sentence was unconstitutional...
- 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.

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- 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

YEAR	MALE	FEMALE	TOTAL
2011	5	0	5
2012	10	0	10
2013	2	0	2
2014	4	0	4
2015	1	0	1

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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 1st 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.

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- 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.