



SITUATION OF THE DEATH PENALTY IN UGANDA

*(impact of the death penalty, relevant
national and international legal framework)*

PRESENTATION BY:

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AT THE PARLIAMENTARY ROUND TABLE ON THE ABOLITION
OF THE DEATH PENALTY.

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VISION & MISSION OF UPS

Vision:

A centre of excellence in providing human rights based correctional services in Africa.

Mission:

To provide safe, secure and humane custody of offenders while placing human rights at the centre of their correctional programmes.



INTRODUCTION

- ▶ Uganda population: 35 million
- ▶ Prisoners' population: 45,027 (August 31st)
- ▶ Incarceration rate of 129 per 100,000
- ▶ 4% are females
- ▶ Convicts are 45% and remands 55%
- ▶ Inmates on death row: 215



Death Penalty In Uganda- Historical Perspective

- ▶ The Death sentence dates back in the precolonial era.
- ▶ Traditional justice was restorative, aimed at reconciliation, settlement and reparations.
- ▶ Cleansing and reintegration rituals were carried out for murderers.
- ▶ Murder victims could be compensated after evidence of remorse. Execution was the last resort. It was unheard of in some communities.



Historical Perspective cont.

- The death penalty as a legal remedy was introduced by the colonial regime.



INTERNATIONAL LEGAL FRAMEWORK

- ▶ The international law is against the death penalty
- ▶ Article 3 of the Universal Declaration of Human Rights (UDHR) provides that everyone has a right to life, liberty and the security of person.



International legal framework cont.

- ▶ Article 5 of the UDHR says, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.
- ▶ Article 6 of the International Covenant on Civil and Political Rights (ICCPR) also provides that every human being has an inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.



International legal framework cont.

- Uganda has not ratified the Second Optional Protocol to the ICCPR - Toward the Abolition of the Death Penalty.
- The UN General Assembly Moratorium Resolution 2014 – Uganda abstained.



NATIONAL LEGAL FRAMEWORK

- ▶ The **right to life** is provided for under Article 22 of the Constitution of the Republic of Uganda (1995).
 - However, the same article provides that the right to life may be taken on sentence by a competent court of law.
- ▶ Uganda has 28 offences (11 criminal and 17 military crimes) for which a death sentence may be imposed:
 - Including; Murder, Aggravated robbery, Treason, Rape, Terrorism.



2009 SUPREME COURT RULING

- ▶ The Kigula and 417 others petition brought up under Article 137(2) of the Constitution challenged the death penalty under Articles 24 and 44 that prohibits inhuman and degrading treatment
- ▶ The delay between sentence and execution was seen to constitute cruel, inhuman or degrading treatment or punishment which are unconstitutional.



2009 SUPREME COURT RULING CONTD

- ▶ On the 21st day of January 2009, the Supreme Court of Uganda delivered a ruling on the death penalty.
- ▶ Following the order, five inmates on death row were released and 165 had their sentences automatically commuted to life imprisonment without remission.



2009 SUPREME COURT RULING CONTD

- ▶ Section 23 of the Penal Code Act and sections 7&8 of the Anti Terrorism Act (2002) which prescribe a mandatory death sentence were declared **unconstitutional**.
- ▶ The sentencing regime has changed



2009 SUPREME COURT RULING CONTD

- ▶ Longer sentences are being awarded leading to the emergency and increasing number of prisoners on life imprisonment (lifers).
- ▶ Since the 2009 Kigula ruling, a total of 121 and 187 persons have been convicted and sentenced to life imprisonment and to suffer death respectively.



TRENDS - EXECUTIONS

- ❑ The earliest recorded execution was in 1917.
- ❑ The last executions in a civil prison were done on 29th April, 1999 with 28 inmates.
- ❑ 51 inmates have been executed in civil prisons since independence.



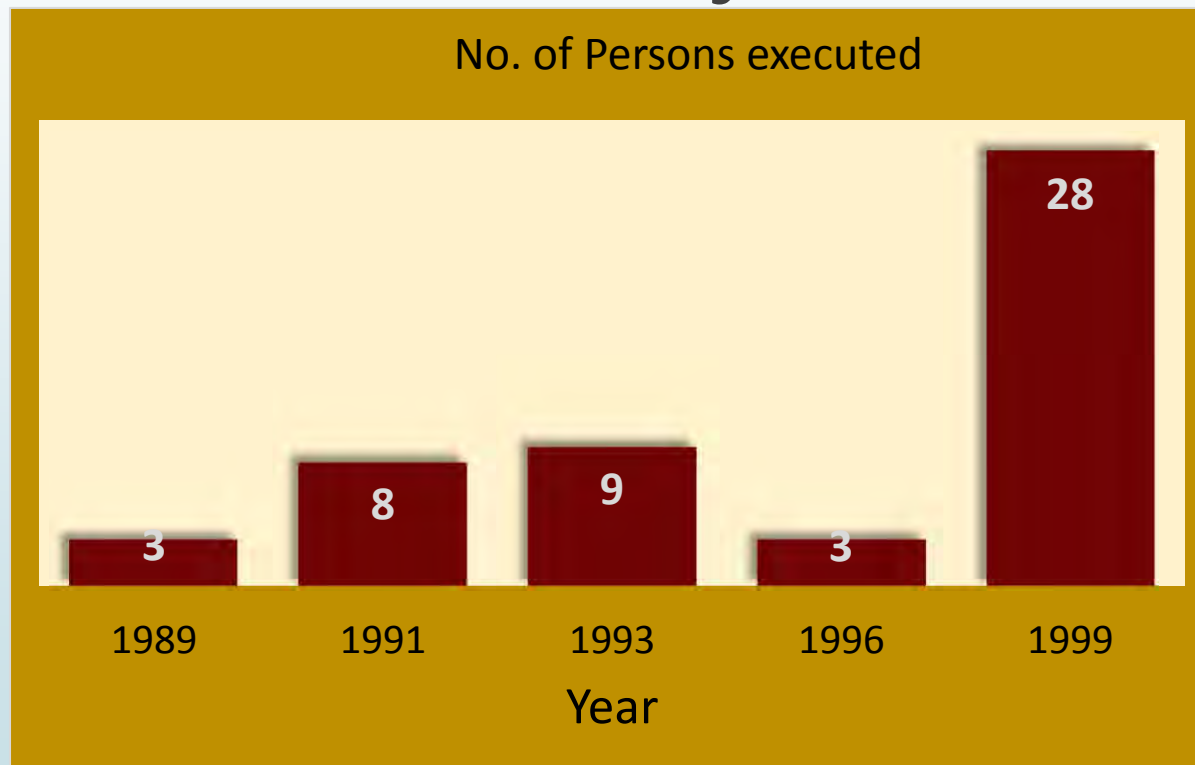
TRENDS CONTD

Executions under Military Law

- ▶ Two soldiers were executed by firing squad in 2002, and three others in March 2003.
- ▶ The last executions under military law took place in 2005.

TRENDS CONTD.

Executions over the years





IMPACT OF THE DEATH PENALTY

- Stiffer sentences including death penalty only hardens criminals and make them more sophisticated. Hardly do they deter.
- In cases of miscarriage of Justice it is impossible to address the wrongs done.
- Executions have a devastating and traumatic impact on the Prisons personnel, their family members and other inmates even those not necessarily on death row.
- Prison warders, after an execution, develop psychological problems like stress and nightmares



IMPACT OF THE DEATH PENALTY cont.

- ▶ Some of them either quit the Prison Service or go mad after participating in executions.
- ▶ Execution of the death penalty forces unethical conduct on the prisons officers and medical officers



Conclusion

- ▶ Capital punishment is an ancient form of punishment that is contrary to modern penal policy that thrives on the principle of respect for Human dignity without exception.
- ▶ Every person who has wronged society should, as far as possible, be given opportunity to reform and re-integrate back into community.



RECOMMENDATIONS

- ▶ Death penalty should be abolished so that society maintains a high moral ground distinct from its lawless counterparts.
- ▶ With the abolition of death penalty, there will be an increasing number of prisoners on life imprisonment and so a need to build new prisons structures to match their requirements.
- ▶ There is need to pursue the introduction of Judicial Parole as contrasted to Administrative Parole (S.89 Prisons Act 2006) so that every prisoner is given an opportunity to reform and re-integrate back into society except only in extreme cases.

