

Intervention of Hon. Paul Mwiru

Role and Contributions of Parliamentarians for the Abolition of the Death Penalty

3 May 2015

Your Excellencies,

Honourable colleagues and members of the civil society,

First of all, let me warmly thank Parliamentarians for Global Action (PGA) for organising such an important event, as well as the National Group of PGA in Tanzania led by Honourable Pindi Chana, Chair of the PGA International Council and Hon. Yusuph Nassir, Chair of the PGA Group, who highly contributed to the successful organisation and hosting of this Roundtable.

I feel very honoured by the invitation of PGA to attend this event but first and foremost by the opportunity given to me to talk about the abolition of the death penalty, a topic of utmost importance. The situation of the death penalty in Tanzania and Uganda has already been the object of rich discussions today so I will leave this question aside. Still, I noticed that through the course of the discussions, it has been pointed out several times that the abolition process is at a crucial moment. I fully agree with this statement and, in this regard, I welcome PGA Campaign for the abolition of the death penalty, which has previously been introduced to you, as it aims at enhancing initiatives by key stakeholders in the abolition process, namely parliamentarians. Yes, the role of parliamentarians in the abolition is immense and yet it is underrated by everyone, ourselves included. I will therefore briefly show you why and how parliamentarians can have an impact on this matter.

First, and that would only constitute a preliminary observation that I feel should be recalled, in light of their nature and their importance, reforms related to Human Rights including the death penalty must be on the top of the legislative agenda and be discussed whatever the surrounding context is. Indeed, by definition these rights are universal – universality recognised by numerous texts of international law makes – and History shows that a society where Human Rights are respected is more likely to be stable and prosperous. Thus there is no need to discuss the importance of human rights and I am not here to do such thing as I believe my audience is particularly aware of that.

But this leads us to the crucial question that we should ask ourselves: how can we ensure that human rights are guaranteed? The answer is an easy one, by protecting and enshrining those rights in the law. And the same statement applies to the death penalty. As legislators, our role in ensuring that the death penalty is, at least, significant.

The last executions in Tanzania and Uganda respectively took place in 1994 and 2005. One could argue, in particular for Tanzania, that such figures show that the death penalty is *de facto* abolished in the country. However, we firmly refute this argument. Recent developments in Indonesia, Pakistan or Jordan show that as long as the death penalty is not abolished by law, governments can always bring it back without any legal obstacles. Thus, the only way to prevent this cruel punishment to be brought back for wrong reasons is to abolish it by law, giving thus a legal security for our populations. As legislators, we are on

the frontline to make the abolition of the death penalty a priority before our respective Parliament.

Not only parliamentarians have the possibility to abolish the death penalty but it is also part of their responsibilities that lies in their mandate. Indeed, it is their main responsibility to propose, discuss and adopt legislative reforms on any subject that protect their citizens and benefit to the society as a whole. The death penalty is necessarily in contradiction with a democratic society as the respect of Human Rights, including and in particular the right to life and human dignity, is a cornerstone of the Rule of Law.

As representative of our people, we cannot run away from this responsibility. We are elected because people believe that we know what is good for society. We should embrace this responsibility as we are among the few that can have a concrete impact towards a society more respectful of human rights and human dignity. The abolition of the death penalty might not be seen as priority in some countries or even going against the public opinion. However, such reforms should be undertaken in regard to the posterity it will have and regardless of the common arguments used to justify the death penalty, such as crime deterrence, public opinion etc.

We have a role indeed to play to address those arguments and to sensitize, educate, inform the public on this issue as our work enables us to gain extended knowledge on Human Rights issues. We also need to detach ourselves from those misconceptions and “opinions” and be leaders, visionaries, guiding the people and our constituencies. As Parliamentarians we often have to start reforms that are unpopular but are for the common good, and this is one of them, and this where our strengths lies . In most countries that have abolished the death penalty, when asked, the population is often in favour of the death penalty, but often those polls/studies are misled or not comprehensive enough to let the population express its real opinion. The myth of the public opinion has also to be understood as the simple desire of vengeance, retaliation. We have seen recently in Jordan, after the execution of a pilot of the Jordanian Army, the government immediately retaliated by executing two members linked to ISIS, answering therefore to Barbary by another act of Barbary. But this is not justice, this are not our values, and as parliamentarians who are at the heart of the political and legal arena, we have a role to play to go beyond vengeance and to ensure the respect of human rights (in particular the right to life) and human dignity.

We thus have a real possibility in our hands to influence public opinion regarding the ineffectiveness of, and the alternatives to, the death penalty. As parliamentarians we can inform that empirical evidence has proven that there is no causal link between crime prevention and the availability of the death penalty. We should publicly stress the fact that there are States in which the death penalty has been abolished and the crime rate went down. Within the framework of a national justice system, it has been observed that it is not the severity of the penalty but the relative certainty and predictability in applying any proportionate penalty that renders a functioning criminal justice system a deterrence factor.

This role of parliamentarians towards public opinion should thus not be underestimated as this support is key for parliamentarians to propose abolition bill but also to get the support it needs. As I said before, the death penalty can be deeply rooted in certain countries which makes it very difficult to call publicly for its abolition. For any reform that has such a strong

impact on society, people need to be ready. Parliamentarians, as well as civil society organisations, have a crucial role to play on that aspect.

Furthermore legislators have a political role to play. They benefit from a privileged position towards the executive and can thus push the government to adopt measures towards the abolition. Parliamentary advocacy and enquiries vis-a-vis the Executive can bring about policy-change regarding the death penalty, in domestic and foreign policies. This will ultimately contribute to the emergence of States' practice, which, in turn, may lead to the formation of a customary international norm concerning abolition. Parliamentary action, thus, has the potential to be an essential tool to achieve this new standard of International Law and practice. A concrete example of this impact and contribution of Parliamentarians is the latest vote, in December 2014, of Uganda at the United Nations General Assembly, which abstained on the Resolution on a moratorium on the use of the death penalty, instead of voting against like in previous years. This example shows the role that parliamentarians can play on their government position on the death penalty issue.

This is why I also would like to take this opportunity to hail the initiatives of Honourable Pindi Chana in Tanzania and Hon. Fox Odoi in Uganda who both have introduced bills abolishing the death penalty., I would like to encourage and support such initiatives and I sincerely hope this Roundtable will lead to concrete results to re-launch the abolition processes, in particular led by Parliamentarians in our two countries.

In this regard, I am sure PGA stands ready to support them, through both technical assistance and political support.

Thank you for your attention.