26th Session of the Working Group on the Universal Periodic Review
United Nations Human Rights Council

Joint Stakeholder Report on the Death Penalty in Uganda for the Second Universal Periodic Review of Uganda

3 November 2016
Submitted by

The Advocates for Human Rights
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The World Coalition Against the Death Penalty,
The Foundation for Human Rights Initiative, and
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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

The Foundation for Human Rights Initiative (FHRI) is an independent, non-governmental, non-partisan and not-for-profit human rights organization in Uganda established in 1991. The organization seeks to enhance knowledge, respect and observance of human rights and promotes exchange of information and best practices through training, education, research, legislative advocacy and strategic partnerships. FHRI has observer status with the African Commission on Human and Peoples' Rights, is a member of the World Coalition against the death penalty and is affiliated to the International Federation of Human Rights Defenders (FIDH). FHRI has since 1994 spearheaded the campaign for the abolition of the death penalty in Uganda including filing the landmark case that led to the abolition of mandatory death sentences. It currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

Parliamentarians for Global Action (PGA) is a dynamic network of over 1,300 individual Legislators in 142 Parliaments around the world committed to protecting fundamental human rights. PGA's Vision is to contribute to the creation of a rules-based international order for a more equitable, safe and democratic world. As a non-profit, non-partisan international network of committed legislators, it is PGA's Mission to inform and mobilize parliamentarians in all regions of the world to advocate for human rights and the rule of law, democracy, human security, non-discrimination, and gender equality. PGA does so through its strategy of bringing together parliamentarians with key stakeholders, including civil society and international organizations, across sectors; equipping legislators with relevant knowledge and expertise; and achieves immediate impact and longer-term national implementation on programs and initiatives in support of the mission.

EXECUTIVE SUMMARY

1. This stakeholder report addresses Uganda's compliance with its international human rights obligations with regard to the death penalty. This report examines and discusses the current state of the death penalty in Uganda, including: (i) the broad scope of crimes subject to the death penalty; (ii) the legal system's failure to ensure effective access to counsel in capital cases; (iii) the status of remaining resentencings required under the Supreme Court's decision in Attorney-General v. Susan Kigula and 417 Others [hereinafter *Kigula*]; (iv) prolonged pretrial detention; (v) prolonged death row detention, which the Supreme Court has characterized as cruel, inhuman, and degrading treatment; (vi) the method and secrecy of executions; and (vii) the changing tide of public opinion.

2. This stakeholder report offers suggested recommendations regarding steps to better align death penalty practices in Uganda with the country's international human rights obligations. These steps include: reducing the maximum possible sentence from death to one that is fair, proportionate, and respects international human rights standards; establishing an official moratorium; reducing the number and scope of death-eligible crimes; and other measures to ensure that both law and practice conform to the Ugandan Supreme Court's landmark 2009 *Kigula* decision.

I. Domestic Legal Framework, Recent Developments, and Uganda's First UPR

3. Uganda's Constitution articulates a qualified right to life, providing that "No person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court."[1]

4. Uganda has the greatest number of crimes eligible for the death penalty of any country in the East African region.[2] Under Uganda's Penal Code, the following crimes constitute capital offenses: crimes related to treason and offenses against the state,[3] rape,[4] aggravated defilement,[5] murder,[6] aggravated robbery,[7] smuggling while armed with a deadly weapon,[8] detention with sexual intent,[9] and kidnapping with the intent to murder.[10] Separately, the Uganda Peoples' Defense Forces Act[11] enumerates a lengthy set of capital offenses under

[1] Constitution – Article 22, Section 1.
[2] Penal Reform International, The Abolition of the Death Penalty and its Alternative Sanction in East Africa: Kenya and Uganda, p. 6, http://www.penalreform.org/wp-content/uploads/2013/05/East-Africa-research-report-on-death-penalty-and-life-imprisonment.pdf, May 2013.
[3] Section 23, of the Penal Code Act, Cap 120, Laws of Uganda (Offenses against the state include, "compelling by force or constraining the government to change its measures or counsels or to intimidate the parliament, or instigating any person to invade Uganda with an armed force, adversely attempting to incite any person to commit an act of mutiny or treacherous act; incite any person to make a mutinous assembly").
[4] Section 123 of the Penal Code Act, Cap 120, Laws of Uganda.
[5] Section 129(3) of the Penal Code Act, Cap 120, Laws of Uganda.
[6] Section 188 of the Penal Code Act, Cap 120, Laws of Uganda.
[7] Section 286(2), Penal Code Act, Cap 120, Laws of Uganda.
[8] Section 319(2), Penal Code Act, Cap 120, Laws of Uganda.
[9] Section 134, Penal Code Act, Cap 120, Laws of Uganda.
[10] Section 243, Penal Code Act, Cap 120, Laws of Uganda.
[11] Cap 307, Laws of Uganda.

military law punishable by death, and the Anti-Terrorism Act[12] provides for the death penalty for terrorist acts that result in the death of any person.

5. Consistent with international human rights standards, Uganda does not authorize the death penalty for juvenile offenders (individuals who are below the age of 18 at the time of the offense),[13] pregnant women,[14] people who are experiencing mental illness or psycho-social disorders,[15] or people with intellectual disabilities.[16]

6. As a result of the landmark 2009 *Kigula* case, the death penalty is no longer mandatory for capital offenses. In *Kigula*, the Ugandan Supreme Court held that various provisions of the laws of Uganda which prescribed a mandatory death sentence were inconsistent with the Constitution insofar as they were contrary to the principles of equality before the law and of fair trial. Consequentially, the decision of whether to impose the death penalty is now discretionary in all capital cases, with the presiding judge deciding the sentence based on consideration of all the relevant circumstances surrounding a particular case. The Court further held that "where after three years from the date of sentence no decision has been made by the Executive to carry out the Court Order for execution of the convict, the death sentence shall be deemed commuted to imprisonment for life without remission."[17]

7. As of 2nd March 2016, there were 208 people on death row (197 men and 11 women),[18] but the last civilian execution occurred in 1999 and the last military execution occurred in 2005. In Uganda, death sentences are carried out by hanging in the civilian system[19] and by firing squad in the military justice system.[20]

8. Recent developments include:

    - Introduction of the Private Members Bill "The Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill 2015" in the House of Representatives, a Bill that aims to implement *Kigula* by amending the relevant sources of law that still provide for mandatory death sentencing and to reduce the number of offenses that are punishable by death under the Penal Code.[21]

    - In 2013, following the *Kigula* decision, the former Chief Justice Benjamin Odoki issued the Sentencing Guidelines for Courts of Judicature, which set out

[12] Anti-Terrorism Act of 2002, as amended by Act 12 of 2015.
[13] The Trial on Indictments Act, sec. 105, Consolidated Laws of Uganda 2000 Ch. 23, Aug. 6, 1971, as updated through to Dec. 2000
[14] The Trial on Indictments Act, sec. 103, Consolidated Laws of Uganda 2000 Ch. 23, Aug. 6, 1971, as updated through to Dec. 2000. Eric Mirguet, Thomas Lemaire & Mary Okosun, Uganda: Challenging the Death Penalty, p. 21, International Federation of Human Rights, No. 425/2, Oct. 2005.
[15] Section 11, Penal Code Act, Cap 120, Laws of Uganda.
[16] Section 194, Penal Code Act, Cap 120, Laws of Uganda.
[17] Attorney General v. Susan Kigula & 417 Others (Constitutional Appeal No. 03 OF 2006) [2009] UGSC 6 (21 January 2009).
[18] Prison Data Verification Visit, FHRI (Nov. 11, 2015); Communication from FHRI to The Advocates for Human Rights, 23 March 2016, on file with The Advocates for Human Rights.
[19] Section 99(1), Trial on Indictment Act.
[20] Eric Mirguet, Thomas Lemaire & May Okosun, Uganda: Challenging the Death penalty, p. 35, International Federation of Human Rights, no. 425/2, Oct. 2005.
[21] FHRI, *The Death Penalty Campaign*, http://www.fhri.or.ug/index.php/about-event/legal-services/success-stories/item/49-the-death-penalty-campaign

mitigating factors for all judges to consider during resentencing hearings, including the offender's background, circumstances, and character.[22]

- In December of 2014, instead of voting against as it had done in the past, Uganda abstained from voting on the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly.[23]
- Uganda has not carried out any executions since 2005, and courts have significantly reduced the number of death sentences issued in each year since *Kigula*, with 10 sentences in 2012, 2 in 2013, 4 in 2014, and 4 in 2015.[24]

9. In the first cycle Universal Periodic Review of Uganda in 2011, Uganda accepted Belgium's recommendation to consistently apply the rulings of the Court in *Kigula* by automatically converting all death sentences into life in prison after more than three years on death row.[25] Uganda noted the remaining recommendations pertaining to the death penalty.

II. Promotion and Protection of Human Rights on the Ground

10. **Uganda does not limit capital offenses to the "most serious" crimes.** The death penalty should be reserved for "intentional crimes with lethal or other extremely grave consequences."[26] The list of capital offenses in Uganda is extensive and goes beyond those that constitute the most serious of crimes. While in practice Ugandan courts have generally imposed the death penalty primarily for the crime of murder, many death-eligible crimes in Uganda are broadly defined, allowing for non-lethal crimes to potentially result in a death sentence. For instance, the following crimes could result in a death sentence under the terms of the current Penal Code:
    - kidnapping or detailing with intent to murder;
    - rape not resulting in death;
    - robbery resulting in harm or with use of or threat to use a deadly weapon;
    - smuggling resulting in harm or with use of or threat to use a deadly weapon;
    - treason and offenses against the State; and

[22] Sentencing Guidelines, Library of Congress, http://www.loc.gov/law/help/sentencing-guidelines/uganda.php.
[23] Natasja Sheriff, *Record number of states vote for UN resolution on death penalty moratorium*, http://america.aljazeera.com/articles/2014/12/18/record-number-ofstatesvoteforunresolutionondeathpenaltymoratoriu.html (Dec. 18, 2014).
[24] Foundation for Human Rights Initiative, Report on Death Penalty and Alternative Sanctions in Uganda (February 2015 draft) (citing FHRI Prison Reports).
[25] U.N.G.A., Human Rights Council, Report of the Working Group on the UPR: Uganda, sec. 11.37, U.N. Doc. A/HRC/19/16 (Dec. 22, 2011); U.N.G.A., Human Rights Council, Recommendation and Pledges, http://www.upr-info.org/sites/default/files/document/uganda/session_12_-_october_2011/recommendations_to_uganda_2012.pdf (Mar. 16, 2012).
[26] United Nations Human Rights, "Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty," May 25, 1984, accessed August 11, 2014, Para. 1, http://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx.

- terrorism-related offenses, whether or not they result in death, and including abetment, funding, harboring and supporting terrorists and/or terrorist acts, as well as the promotion of terrorism and training of persons.[27]

In addition to these crimes, Bills have been presented to Parliament, which would expand this list of crimes. For instance, in 2009 a Bill was presented that would have mandated the death penalty for active homosexuals living with HIV or in cases of same-sex rape.[28] A version of this Bill passed in 2013, which criminalized this conduct, but set the maximum penalty as life imprisonment, rather than the death penalty. In 2014, a Ugandan court stuck down this law based on narrow procedural grounds. While this ruling served to invalidate the law, the narrow holding preserved both the possibility that the Bill will be reintroduced and of renewed application of the death penalty for "aggravated homosexuality."[29]

11. **Uganda's legal system does not ensure effective access to counsel in capital cases.** Although the constitution guarantees legal representation at the state's expense in cases that carry a possible death sentence or imprisonment for life,[30] Uganda has no formal legal aid or public defense system. Instead, Ugandan courts appoint "state briefs" or private lawyers required to provide pro-bono representation. This lack of dedicated legal aid and funding results in inexperienced or ineffective legal representation provided by the state.[31] State-appointed lawyers in capital cases do not thoroughly investigate cases or produce all the possible supporting evidence in court, sometimes leading to wrongful convictions.[32] A number of organizations in Uganda provide legal aid for indigent persons, but most NGOs handle only non-capital offenses. As a result, the majority of people charged with capital offenses are at the mercy of state-appointed lawyers. Interviews conducted by the Foundation for Human Rights Initiative with prisoners on death row found that in some cases the accused met his lawyer for the first time during his hearing and the lawyer did not interview the accused before the trial or become acquainted with the facts of the case in the accused's file.[33] Reports also indicate concerns regarding the consistency of sentencing hearings and additional technical support required for such hearings, including the need for independent social workers and psychologists for evaluations.[34]

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[27] Section 7(2) of the Anti-Terrorism Act.
[28] Faith Karimi, Ugandan parliament passes anti-gay bill that includes life in prison, CNN, http://www.cnn.com/2013/12/21/world/africa/uganda-anti-gay-bill/, Dec. 23, 2013.
[29] Jeffrey Gettleman, Uganda Anti-Gay Law Struck Down by Court, http://www.nytimes.com/2014/08/02/world/africa/uganda-anti-gay-law-struck-down-by-court.html?_r=0, Aug. 1, 2014.
[30] The Constitution of the Republic of Uganda, art. 28(3)(d), abridged by The Uganda Law Reform Commission, Sept. 22, 1995.
[31] Penal Reform International, The Abolition of the Death Penalty and its Alternative Sanction in East Africa: Kenya and Uganda, p. 35, http://www.penalreform.org/wp-content/uploads/2013/05/East-Africa-research-report-on-death-penalty-and-life-imprisonment.pdf, May 2013; Civil Society Coalition on the Abolition of the Death Penalty in Uganda: The Foundation for Human Rights Initiative, Towards Abolition of the Death Penalty in Uganda, p. viii, Fountain Publishers, 2008.
[32] Eric Mirguet, Thomas Lemaire & Mary Okosun, Uganda: Challenging the Death Penalty, p. 26, International Federation of Human Rights, No. 425/2, Oct. 2005.
[33] Foundation for Human Rights Initiative, Report on Death Penalty and Alternative Sanctions in Uganda (February 2015 draft) (citing *The Report of the Commission of Inquiry Consultation Review, Findings and Recommendations*).
[34] Penal Reform International, The Abolition of the Death Penalty and its Alternative Sanction in East Africa: Kenya and Uganda, p. 30-31, http://www.penalreform.org/wp-content/uploads/2013/05/East-Africa-research-report-on-death-penalty-and-life-imprisonment.pdf, May 2013.

12. **Courts have made some progress in resentencings since the *Kigula* ruling, however, a worrying trend is the missing files that have deterred resentencing for some condemned prisoners who qualify.** As part of its 2009 *Kigula* decision that declared mandatory death sentences unconstitutional, the Ugandan Supreme Court declared that defendants sentenced under the mandatory death sentence provisions with appeals still pending were entitled to have their sentences vacated and remitted to the High Court for resentencing. Resentencing of the prisoners on death row began in 2009. Since the ruling, 13 condemned women have been released, 18 are serving long-term sentences, and 11 are on death row. On the part of men, 48 are serving 20 years without remission, 264 are through with mitigation, 19 are pending mitigation (because of missing files), 8 were released from court, 15 were given terms of imprisonment and they served and were released, life in prison, 21, determinate sentences, 119 (5 to 50 years), from mitigation and back to condemn, 20, sent to mental hospital, 2, pending Minister's Order, 2, and 2 pardoned. 75 new admissions since the *Kigula* ruling have been recorded.[35]

13. **Persons accused of capital crimes face prolonged pretrial detention.** Article 23(4)(b) of the Constitution and Section 25 of the Police Act both provide that arrested persons shall be brought before a court as soon as possible, but in any case not later than forty-eight hours from the time of his or her arrest. And Article 28(1) of the Constitution guarantees the right to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law. Individuals awaiting trial in a capital case, however, can legally be detained for up to a year without trial.[36] In practice, some have spent up to five years in detention pending trial, waiting for their names to be put on the cause list.[37] Case backlogs are a substantial issue, further contributing to lengthy pretrial detentions. Pre-trial detention also contributes significantly to the overcrowding issue, discussed further below. As of 31st January 2016, the pre-trial detention and remand population represented 55.4% of prisoners in Uganda.[38] In 2010, Uganda began a program to handle this backlog, creating a system in which a judge hears numerous cases, of fifty to sixty defendants, and has just 40 days to both hear the case and issue decisions.[39] These expedited procedures raise fair trial concerns, particularly in light of their application in capital cases.

14. **Prolonged detention of individuals sentenced to death amounts to cruel, inhuman, and degrading treatment.** Part of the *Kigula* decision was based on the court's findings that delay in the execution of the death penalty in Uganda creates "death row phenomenon" and amounts to cruel, inhuman and degrading treatment, which is prohibited by Articles 24 and 44(a) of Uganda's Constitution. According to Death Penalty Worldwide, prisoners on death

[35] Data as of 2 March 2016, received by FHRI from Prisons' authorities.
[36] Penal Reform International, The Abolition of the Death Penalty and its Alternative Sanction in East Africa: Kenya and Uganda, p. 34, http://www.penalreform.org/wp-content/uploads/2013/05/East-Africa-research-report-on-death-penalty-and-life-imprisonment.pdf, May 2013.
[37] *Id.*
[38] World Prison Brief, Ugands, http://www.prisonstudies.org/country/uganda [last accessed March 6, 2016].
[39] Graeme L. Hall, Death Row in Uganda, Counsel Magazine, p. 25, http://www.doughtystreet.co.uk/documents/uploaded-documents/Counsel_2012_08_Int_Hall_(Final).pdf, Aug. 2012.

row are housed in Luzira Prison in Kampala, a maximum-security prison, which is overcrowded and inadequately staffed.[40]

15. **Prison conditions for individuals sentenced to death are cruel, inhuman, degrading, and even life-threatening.** Specific details regarding prison conditions for individuals sentenced to death are sparse, but overall prison conditions in Uganda have been described as "harsh and sometimes life-threatening."[41] Local organizations have received reports of torture and abuse.[42] Many death row prisoners allegedly perish while imprisoned.[43] According to a U.S. Department of State report, in 2009 there were 141 prisoner deaths nationwide due to factors such as mistreatment, overcrowding, poor sanitation, malnutrition, inadequate medical care, and disease.[44] Overcrowding is also a serious problem for prisons in Uganda.[45] As of August 2015, the occupancy level for prisons in Uganda was 273%, based on official capacity; Uganda's 247 prisons housed 45,092 prisoners, but are only designed to accommodate 16,517 inmates.[46] Uganda's Human Rights Commission 2014 Annual Report noted key improvements in places of detention that included the establishment of Human Rights Committees in prisons, improved sanitation, and renovations of old prison units.[47]

16. **Prisons conduct executions in secret, without notifying family or counsel.** As noted above, the method of execution for civilians is by hanging. In *Kigula*, the Supreme Court upheld hanging as a constitutional method of execution, but recommended that Parliament both reopen the debate over the death penalty as a whole and also define the methods of execution to conform to "evolving standards" of decency. As of 2016, however, both the death penalty and the method of execution remain unchanged. Further, there are other complaints regarding the process of the execution, stemming from the period prior to the *de facto* moratorium. According to a 2013 Penal Reform International Report, executions are reportedly held in private with only the warden or officer in charge, religious leader, hangman, assistant hangman, and doctors present. The family of the victims, lawyers, and the media are excluded. Many families of executed persons learn of the execution only after an inordinate period of time and state that they were not informed or notified of their relative's burial place.[48]

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[40] Death Penalty Worldwide, Death Penalty Database: Uganda, http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Uganda [last accessed March 6, 2016].

[41] Death Penalty Worldwide, Death Penalty Database: Uganda, http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Uganda [last accessed March 6, 2016].

[42] The African Center for Treatment and Rehabilitation of Torture Victims registered 17 allegations of torture against prison officials and other reports have documented cases of extrajudicial killings. [more content]

[43] Civil Society Coalition on the Abolition of the Death Penalty in Uganda: The Foundation for Human Rights Initiative, Towards Abolition of the Death Penalty in Uganda, p. 135, Fountain Publishers, 2008.

[44] U.S. Dept. of State, 2009 Human Rights Report: Uganda, http://www.state.gov/g/drl/rls/hrrpt/2009/af/135982.htm, Mar. 11, 2010.

[45] An August 28, 2015 article in the Daily Monitor noted that "[a]s a result of congestion in the country's 247 jails, more than half of the prison population (about 28,000 prisoners) spends the night standing." http://www.monitor.co.ug/News/National/28-000-inmates-spend-nights-standing/-/688334/2849244/-/tbnawe/-/index.html

[46] World Prison Brief, Uganda, http://www.prisonstudies.org/country/uganda [last accessed Mar. 6, 2016].

[47] U.S. Dep't of State, Country Reports on Human Rights Practices for 2014: Uganda; Uganda Human Rights Commission 2014 Annual Report.

[48] Penal Reform International, The Abolition of the Death Penalty and its Alternative Sanction in East Africa: Kenya and Uganda, p. 39, http://www.penalreform.org/wp-content/uploads/2013/05/East-Africa-research-report-on-death-penalty-and-life-imprisonment.pdf, May 2013.

17. **Public support for the death penalty in Uganda is declining.** Public opinion has played a key role in the retention of the death penalty in Uganda. Prior to the enactment of the 1995 Constitution, a national survey solicited public opinion regarding abolishing the death penalty. At that time, the results indicated that 75% of those interviewed were in favor of retaining the death penalty.[49] Subsequent surveys conducted by NGOs show a noticeable change in public opinion. A 2001 survey showed that 42.5% favored abolishing the death penalty while 57.7% were in support of its retention.[50] Even those who expressed support for the retention of the death penalty, however, had a preference that it be applied only for crimes such as murder and defilement of minors and opposed it for the crime of treason. And a more recent 2008 study commissioned by FHRI found that 42% of the sampled population was against the death penalty, 39% supported it, and 19% did not comment.[51] The President has been vocal about his support of the death penalty. In February 2015, at the 17th Annual Judge's Conference, the President urged the Judiciary to hand down more death sentences, especially for murderers.[52] Government monitoring of the Ugandan public's opinion regarding the death penalty was a recommendation made by the 1995 Constitution Review Commission and reiterated in *Kigula*, but the Ugandan government has not implemented this recommendation to track public opinion.

III. Suggested Recommendations for the Government of Uganda

18. Uganda's *de facto* moratorium on the death penalty, its efforts to resentence capital convicts post-*Kigula*, and adoption of mitigation principles for capital sentencing are a first step toward ensuring Uganda's compliance with international human rights standards. The joint stakeholders who authored this report respectfully suggest the following recommendations for the Ugandan Government:

    - **Replace the death penalty with a sentence that is fair, proportionate, and respects international human rights standards.** Uganda should eliminate all instances of death penalty from the Penal Code and replace it with a sentence that is fair, proportionate, and respects international human rights standards, such as life imprisonment for the most serious crimes. Post-*Kigula* death sentences should be automatically commuted to life imprisonment.
    - **Support and ensure the adoption of the *Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill 2015* currently before Parliament, aimed at effecting the *Kigula* ruling by amending laws that provide for mandatory death sentences and reducing the number of offenses that are punishable by death.**
    - **Impose an official moratorium on the death penalty, effective immediately going forward and for persons currently on death row.** Uganda should

[49] Foundation for Human Rights Initiative, Report on Death Penalty and Alternative Sanctions in Uganda (February 2015 draft) (citing Benjamin Odoki, *The Search for the National Consensus: The Making of the 1995 Constitution* 186, Fountain Publishers (2005)).
[50] Foundation for Human Rights Initiative, Report on Death Penalty and Alternative Sanctions in Uganda (February 2015 draft) (citing *The Report of the Commission of Inquiry Consultation Review, Findings and Recommendations*).
[51] Id.
[52] Remarks by Dr. Livingstone Sewanyana, Consultations on the Abolition of the Death Penalty in Uganda, p.6 (7 October 2015), http://www.pgaction.org/pdf/2015-10-07-Sewanyana.pdf.

establish a *de jure* moratorium that immediately halts executions and imposition of death sentences, with a view toward complete abolition of the death penalty.

- **Ensure full implementation of the 2011 UPR recommendation from Belgium to consistently apply the rulings of *Kigula* by automatically converting all death sentences into a sentence of life imprisonment after a person serves three years on death row.**[53]
- **Ensure prompt and fair resentencing hearings for the remaining death row prisoners who received automatic death sentences for crimes pre-*Kigula*.** Prisoners convicted under the mandatory death penalty laws should be resentenced in accordance with sentencing guidelines.
- **Restrict the application of the death penalty**. Limit the number and scope of crimes that are death-eligible. Strengthen the use of minimum standards on the use of the death penalty (e.g., the EU guidelines on the death penalty), including fairness and transparency of the sentencing process.
- **Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.** Ratify the ICCPR-OP 2 that aims to abolish the death penalty and amend the Constitution to abolish any constitutional provisions that provide for the death penalty.
- **Improve Prison Conditions**. Improve overall conditions of prisons and adopt relevant measures to tackle problems such as overcrowding, unsatisfactory sanitation, and shortcomings in the supply of health care to detainees.
- **Improve Legal Assistance for Individuals Charged with Capital Crimes and Individuals Sentenced to Death**. Provide individuals charged with capital crimes and death row detainees with adequate legal representation by strengthening the state brief system through training and adequate funding.
- **Establish state-funded legal aid to increase access to justice for capital offenders.**
- **Improve Efficiency and Fairness of the Legal Process.** Uganda should undertake a systematic review of the sentencing hearing process and application of the sentencing guidelines to ensure fairness and consistency in sentencing hearings.
- **Support the next United Nations General Assembly Resolution in favor of a moratorium on the use of the death penalty.**

[53] U.N.G.A., Human Rights Council, Report of the Working Group on the UPR: Uganda, sec. 11.37, U.N. Doc. A/HRC/19/16, Dec. 22, 2011. U.N.G.A., Human Rights Council, Recommendation and Pledges, http://www.upr-info.org/IMG/pdf/recommendations_to_uganda_2012.pdf, Mar. 16, 2012.