

HOW SHOULD THE MOST EVIL OF LAW BREAKERS BE PUNISHED? THE DEATH PENALTY VERSUS LIFE IMPRISONMENT IN UGANDA, 1993 – 2009

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ABSTRACT

Article 22(1) of 1995 Constitution of Uganda protects the right to life and provides that it can only be taken away in the '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.' The death penalty is imposed for some crimes such as murder, treason and terrorism. During the constitution making process between 1989 and 1994 and when the constitution was being amended in 2005, there were arguments that the death penalty should be abolished and replaced with life imprisonment which means imprisonment until death. These attempts were unsuccessful. The constitutionality of the death penalty was unsuccessfully challenged in both the Constitutional Court and the Supreme Court. However, both courts appear to hold the view that if the death penalty is to be abolished, it should be substituted with life imprisonment. This article highlights the attempts and the arguments that have been made to abolish the death penalty in Uganda. The author argues, inter alia, that should the death penalty be abolished and substituted with life imprisonment, offenders sentenced to life imprisonment should not be detained until death as life imprisonment without the possibility of release has been found to be cruel and inhuman in some African countries such as South Africa and Namibia. Because the death penalty is no longer mandatory in Uganda and it is likely to be replaced by life imprisonment, the author discusses the objectives of punishment that courts in Uganda have always emphasized in sentencing offenders to life imprisonment.