

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: AFR 59/020/2011
23 November 2011

Uganda: Commutation of death sentence for Susan Kigula welcomed, but consistent guidelines needed to overcome backlog of mandatory death penalty cases

Following the High Court judgements on 11 November 2011, in which Susan Kigula and Patience Nansamba's death sentences were replaced with prison sentences of 20 and 16 years respectively, Amnesty International called on the authorities in Uganda to speedily re-sentence all remaining persons in the same position as Susan Kigula, and to develop consistent sentencing guidelines for this purpose.

The judgement came over nine years after Susan Kigula, and Patience Nansamba as her accomplice, were sentenced to death in September 2002 for the murder of Kigula's live-in partner Constantino Sseremba. At the time the law in Uganda prescribed the death penalty as the mandatory punishment for all cases of murder.

This law was struck down in January 2009 by the Supreme Court of Uganda in an appeal brought on behalf of Susan Kigula and 417 other persons sentenced to death under the application of the mandatory death penalty. The Supreme Court declared this form of capital punishment to be unconstitutional, because it prevented courts from taking into consideration all specific circumstances of the defendant and of the crime in the individual case. The court further declared excessive delay on death row as unconstitutional. Following that judgement, a small number of prisoners have been released and approximately 180 death sentences commuted to life in prison.

In the new judgement in the Kigula case of 11 November, the High Court Judge took into account both aggravating and mitigating circumstances of the individual cases, such as the absence of previous criminal convictions and their relative youth at the time. After assessing the cases individually, the judge concluded that in 2002 no death sentences would have been given had the law allowed discretionary sentencing.

While it is to be welcomed that the High Court made an assessment of the guilt and appropriate punishment in the individuals' cases, in accordance with national and international law, Amnesty International is concerned that almost two years after the Supreme Court judgment, reportedly only about one third of the over 200 remaining cases have had new hearings leading to individualized sentences. In addition to this time lag, Amnesty International is concerned about the apparent inconsistent practice of courts in re-sentencing and the present absence of clear sentencing guidelines, which should include requiring reports on the medical and social history of the convicted. Individualized re-sentencing reportedly varies widely in length, and in addition some judges take time already served into account while others do not. Overall there seems to be a lack of a commitment to exhaustively deal with the task of investigating and arguing possible mitigating factors.

Amnesty International opposes the death penalty as a violation of the right to life in all cases without exception, regardless of the nature of the crime, the characteristics of the offender, or the method used by the state to carry out the execution.

Both on the global and on the regional level in Africa, more than two thirds of the countries have abolished the death penalty in law or practice. Out of 54 countries in Africa, 16 have abolished the death penalty for all crimes and 22 are abolitionist in practice. In 2010, Amnesty International recorded executions in four countries in sub-Saharan Africa, and death sentences imposed in 24, including Uganda. The last execution in Uganda was carried out in March 2003.

The organization calls on the government and the courts in Uganda to speed up the implementation of the Kigula judgment of the Supreme Court, and to quickly adopt clear sentencing guidelines in order to provide for a consistent application of the law.

Amnesty International further urges the government in Uganda to immediately commute all death sentences and introduce an official moratorium on executions as a first step towards abolition of the death penalty.