

A COMPARATIVE STUDY OF CAPITAL
PUNISHMENT TRENDS: A CASE OF UGANDA AND
THE UNITED KINGDOM

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ABSTRACT

This Article analyzes some theories that have shaped various countries' penal policies while focusing specifically on the developments in the United Kingdom and Uganda, two neo-liberal countries that share some common history, although culturally different. Despite several authoritarian regimes around the globe that have been implicated in gross human rights abuses, there is a decline in capital punishment globally. The highest rate of incarceration is found in neo-liberal societies, where capitalism and individualism flourish. However, it is also in these societies that relentless campaigns by religious and human rights organizations and world bodies like the United Nations have resulted in the reduction of the death penalty in particular and penal reform in general.

INTRODUCTION

There has been a downward trend in the rate of executions of prisoners globally.¹ Consequently, many countries have adopted life imprisonment as a maximum penalty for offenders.² In 2017, the most significant decrease in executions took place in Africa, south of the Sahara, where the death penalty had been abolished by twenty countries, though in 1981, only one African country had abolished the practice.³ Despite the positive developments, a small number of countries like Iran and Iraq conducted eighty-four percent of all the

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¹ *The Death Penalty: What's Changed Since 1977?*, AMNESTY INT'L UK (Jan. 12, 2018, 7:31 AM), <https://www.amnesty.org.uk/death-penalty-amnesty-campaign-1977>.

² DIRK VAN ZYL SMIT, LIFE IMPRISONMENT: A GLOBAL HUMAN RIGHTS ANALYSIS ix (2019).

³ See *China Named "World's Top Executioner" as Global Rate Falls*, THE GUARDIAN (Apr. 12, 2018), <https://www.theguardian.com/world/2018/apr/12/china-named-worlds-top-executioner-as-global-rate-falls> [hereinafter *China Named "World's Top Executioner"*]; *Countries That Have Abolished the Death Penalty Since 1976*, DEATH PENALTY INFO. CTR., <https://deathpenaltyinfo.org/policy-issues/international/countries-that-have-abolished-the-death-penalty-since-1976> (last visited Mar. 31, 2022).

executions in the world in that year.⁴ The methods of executions included beheading, hanging, lethal injections, and shooting.⁵

To better understand why there has been a decline in the death sentence globally, it is essential to analyze the penal policies of various countries since many factors appear to have contributed to such development. Since it is not possible to study all of the over one hundred countries globally within this research scope, this Article focuses on the United Kingdom (UK) and Ugandan penal policies. However, the starting point is an overview of the developments globally, including relevant theories. Thus, this Article is composed of the following sections: relevant theories, global perspective, rehabilitative purpose, UK penal policy, Ugandan penal policy, and the death penalty in the UK and Uganda, followed by the conclusion.

I. RELEVANT THEORIES

Today's penal policies have been shaped by arguments advanced by various scholars such as Michael Cavadino, James Dignan, Loïc Wacquant, David Nelken, Dario Malossi, and Richard Sparks.⁶ Their various approaches have points of convergence as well as divergence.⁷ For instance, on the one hand, Wacquant tends to agree with Cavadino and Dignan when they attribute the high level of punitiveness in some western countries like the United States of America (US) and the UK to neo-liberalism.⁸ On the other hand, Nelken appears to disagree with Cavadino and Dignan when he questions the explanation that neoliberalism is the cause of increasing punitiveness by citing countries like China (which are not neo-liberal) with an extremely high rate of incarceration and countries like Russia and South Africa (which are emerging neo-liberal societies) that have decreasing prison populations.⁹

The thrust of Cavadino and Dignan's arguments is that different political economies, not differences in support for harsher

⁴ *China Named "World's Top Executioner," supra note 3.*

⁵ *Death Penalty: Methods of Execution Used Around the World*, AMNESTY INT'L AU (Aug. 10, 2015), <https://www.amnesty.org.au/death-penalty-methods-of-execution-used-around-the-world>.

⁶ See LOÏC WACQUANT, *PUNISHING THE POOR: THE NEOLIBERAL GOVERNMENT OF SOCIAL INSECURITY* (2009) (arguing the connection between American neoliberal government and incarceration); Michael Cavadino & James Dignan, *Penal Policy and Political Economy*, 6 *CRIMINOLOGY & CRIM. JUST.* 435 (2006) (connecting incarceration rate with political culture); DAVID NELKEN, *COMPARATIVE CRIMINAL JUSTICE: MAKING SENSE OF DIFFERENCE* 61 (2010) (comparing different countries and their treatment of crime); see also *TRAVELS OF THE CRIMINAL QUESTION: CULTURAL EMBEDDEDNESS AND DIFFUSION* (Dario Melossi & Richard Sparks, eds., 2011) (analyzing the "criminal question" broadly, with an emphasis on culture and diffusion of culture).

⁷ Compare NELKEN, *supra* note 6, at 61 (presenting varying reasons for incarceration in different countries), with Cavadino & Dignan, *supra* note 6, at 435 (connecting incarceration rates with political culture and economy).

⁸ WACQUANT, *supra* note 6, at 119; Cavadino & Dignan, *supra* note 6, at 447.

⁹ NELKEN, *supra* note 6.

sentences, are the critical determinants of incarceration rates in various countries.¹⁰ These scholars have provided typography of the political economies as follows: neo-liberal societies, conservative corporatist societies, social democratic societies, and oriental corporatist societies.¹¹ According to their theory, the highest incarceration rates are found in neo-liberal societies, where capitalism and individualism flourish because such societies follow social and economic policies that exclude minorities and the less privileged in society.¹² The best examples of neoliberal societies are the US and the UK.¹³ Uganda, the East African country discussed in this Article, is also characterized as a neo-liberal country.¹⁴

In conservative corporatist societies, unlike in neo-liberal societies, protection against market forces is high.¹⁵ Here, various interest and social groups, as well as traditional institutions like churches and families, play a significant role in shaping society.¹⁶ Compared to neo-liberal societies, the rate of imprisonment here is relatively low.¹⁷ The next typography is that of social democratic societies, like in Sweden, where prison populations are the lowest globally.¹⁸ These societies are generous towards their residents in terms of welfare benefits.¹⁹ Both conservative-corporatist cultures and social-democratic societies pursue a higher level of inclusiveness of their citizens, and this tends to avoid social exclusion, which is prevalent in neo-liberal societies.²⁰ Lastly, Cavadino and Dignan maintain that there is a low rate of imprisonment in oriental corporatist societies (for example, Japan), which are systems of authoritarian communitarianism where traditional oriental values are quite strong and thus control the rate of offending plus consequent imprisonment.²¹ Oriental corporatism is inclusive and embraces more informal correction techniques through hierarchical systems instead of incarceration.²²

While comparing two or more penal policies has benefits, Nelken warns of the dangers of ethnocentrism and relativism.²³ Nelken further explains that ethnocentrism can lead to the assumption that what is familiar is necessary and universally acceptable, while relativism is based on the claim that what others are

¹⁰ *Id.* at 59–60.

¹¹ *Id.* at 60.

¹² *Id.* at 60–61.

¹³ *Id.* at 68.

¹⁴ THE DYNAMICS OF NEOLIBERAL TRANSFORMATION 1 (Jörg Wiegratz, Giuliano Martiniello, & Elisa Greco, eds., 2018).

¹⁵ Cavadino & Dignan, *supra* note 6, at 444–45.

¹⁶ NELKEN, *supra* note 6, at 36–37.

¹⁷ *Id.*

¹⁸ *Id.* at 60.

¹⁹ *Id.* at 61.

²⁰ *Id.* at 63.

²¹ Cavadino & Dignan, *supra* note 6, at 446.

²² NELKEN, *supra* note 6, at 36–37.

²³ *Id.* at 1, 56.

doing is never comprehensible and that there is no transcultural basis of knowing whether what different people are, or do, is right.²⁴ These two extremes can lead to inaccurate or distorted judgments when making comparisons.²⁵ It can also lead to being stuck in a system that may be archaic.²⁶ For example, while Uganda held on to the penal policy involving punitive measures, including the death penalty, the UK has moved on and abolished the death penalty altogether.²⁷ Could this be regarded as ethnocentrism or relativism on the part of Ugandans? As Nelken has stated, it is not straightforward to determine what is ethnocentric or relativistic.²⁸ In Uganda's case, several other factors have made the country retain the death penalty for so long.²⁹ In addition, the current Ugandan administration is considering introducing capital punishment for gay and lesbian people.³⁰

II. GLOBAL PERSPECTIVE

As mentioned in the introduction above, the death penalty abolition movement has been on the rise globally since the beginning of the twentieth century. This development is not by coincidence, but because of concerted efforts against the death penalty by human rights organizations such as Amnesty International, which has been campaigning against capital punishment since 1977 when the death penalty dominated most states' penal policies.³¹ Other anti-death penalty organizations are Human Rights Watch, Penal Reform International, World Coalition Against the Death Penalty, and many others.³² More so, international and regional bodies such as the United

²⁴ *Id.* at 18–19.

²⁵ *See id.*

²⁶ Compare AMNESTY INT'L, UGANDA: THE DEATH PENALTY: A BARRIER TO IMPROVING HUMAN RIGHTS 2, 7–8 (1993) [hereinafter UGANDA: THE DEATH PENALTY], with *United Kingdom Marks 50th Anniversary of Death Penalty Abolition*, DEATH PENALTY INFO. CTR. (Nov. 9, 2015), <https://deathpenaltyinfo.org/news/united-kingdom-marks-50th-anniversary-of-death-penalty-abolition> [hereinafter *United Kingdom, Death Penalty Abolition*]; see also *Britain Severs Ties with Uganda*, N.Y. TIMES (July 29, 1976), <https://www.nytimes.com/1976/07/29/archives/britain-severs-ties-with-uganda-break-after-four-years-of-tension.html> [hereinafter *Britain Severs Ties*].

²⁷ UGANDA: THE DEATH PENALTY, *supra* note 26; *United Kingdom, Death Penalty Abolition*, *supra* note 26; *Britain Severs Ties*, *supra* note 26.

²⁸ NELKEN, *supra* note 6, at 20.

²⁹ UGANDA: THE DEATH PENALTY, *supra* note 26, at 2–4, 7.

³⁰ Nita Bhalla, *Uganda Plans Bill Imposing Death Penalty for Gay Sex*, REUTERS (Oct. 10, 2019, 7:09 AM), <https://www.reuters.com/article/us-uganda-lgbt-rights/uganda-plans-bill-imposing-death-penalty-for-gay-sex-idUSKBN1WP1GN>.

³¹ *Death Penalty*, AMNESTY INT'L, <https://www.amnesty.org/en/what-we-do/death-penalty/> (last visited Feb. 7, 2022).

³² *See id.*; *Key Facts*, PENAL REFORM INT'L, <https://www.penalreform.org/issues/death-penalty/key-facts/> (last visited Feb. 2, 2022); see also *How to Work with Parliamentarians for the Abolition of the Death Penalty*, WORLD COAL. AGAINST THE DEATH PENALTY (Oct. 10, 2021),

Nations and the European Convention of Human Rights have been very instrumental in fostering the abolitionist trend.³³ According to the United Nations Human Rights Office of the High Commissioner, the International Covenant on Civil and Political Rights (ICCPR) has already started to have an impact, although many countries still allow the death penalty.³⁴ Ultimately, in 2017, eighty-five states had ratified various agreements that restrict or prohibit the use of the death penalty.³⁵

Although the movement to resist the death penalty started as early as the eighteenth century in Britain, the abolitionist trend got an accelerated push from the European Convention on Human Rights.³⁶ The convention is a legally binding international treaty that came into force in 1953.³⁷ The convention guarantees the right to life and prohibits torture or inhumane and degrading treatment.³⁸ The trend has been championed by European Council members who, in 1985, signed Protocol No. 6 to the convention, abolishing the death penalty in peacetime.³⁹ In 2003, all the Council of Europe member states except Armenia, Azerbaijan, and Russia signed Protocol No. 13 to the convention, abolishing the death penalty in all circumstances.⁴⁰ In 2013, the ECHR ruled that it was unlawful to impose life sentences without the possibility of parole.⁴¹ The case had been brought by three people sentenced to life in England.⁴² Thus, the ruling gave the convicts the “right to hope” because it placed an obligation on the British government to offer the prisoners a chance for rehabilitation and release at some point in their sentence.⁴³

It should, however, be noted that while there are official figures on the number of executions, unreported executions still take place in many countries, including those that claim to have low

<https://worldcoalition.org/2021/10/10/publication-of-a-new-guide-on-working-with-parliamentarians-to-abolish-the-death-penalty/>; *Human Rights Watch Submission to the UN Human Rights Committee in Advance of its Review of Egypt*, HUM. RTS. WATCH (Jan. 28, 2022, 10:15 AM), <https://www.hrw.org/news/2022/01/28/human-rights-watch-submission-un-human-rights-committee-advance-its-review-egypt>.

³³ The Death Penalty and the EU’s Fight Against It, EUR. PARL. DOC. (PE 635.516) (2019); G.A. Res. 73/175, ¶ 2, 4 (Dec. 17, 2018).

³⁴ *Death Penalty*, U.N. OFF. OF THE HIGH COMM’R OF HUM. RTS., <https://www.ohchr.org/EN/Issues/DeathPenalty/Pages/DPIndex.aspx> (last visited Feb. 28, 2022).

³⁵ *Key Facts*, *supra* note 32.

³⁶ JULIAN B. KNOWLES, THE ABOLITION OF THE DEATH PENALTY IN THE UNITED KINGDOM 11 (2015); *The ECHR and the Death Penalty: A Timeline*, COUNCIL OF EUR., <https://www.coe.int/en/web/portal/death-penalty> (last visited Feb. 28, 2022).

³⁷ KNOWLES, *supra* note 36.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Vinter v. United Kingdom*, 2013-III, Eur. Ct. H.R. 317, 346.

⁴² *Id.* at 323.

⁴³ *Id.* at 358 (Power-Forde, J., concurring); *European Court Gives Lifers “Right to Hope”*, BHATT MURPHY SOLICS (Feb. 20, 2018), <https://www.bhattmurphy.co.uk/in-the-news/news-archive-4/archived-european-court-of-human-rights-stories/european-court-gives-lifers-right-to-hope>.

numbers of death penalty implementations.⁴⁴ For instance, the rate of executions in China is believed to surpass that of the rest of the world combined, and execution data is missing altogether from some countries.⁴⁵ This caution is echoed by Human Rights Watch, which has stated that some countries regard death penalty statistics as top secret, including Belarus, China, and Vietnam.⁴⁶ Besides executions arising from death sentences, extrajudicial killings take place in many countries around the world.⁴⁷ While most European countries have embraced the European Convention on Human Rights and are relatively transparent, many countries in other parts of the world, including the countries which have officially abolished the death penalty, are not so open and have been implicated in extrajudicial executions.⁴⁸ For example, in 2016, over 100 people, including children, were executed in Western Uganda when government troops stormed a traditional institution compound and other homes in Western Uganda.⁴⁹

Despite this trend, prison numbers in several countries remain high.⁵⁰ For instance, the U.S. appears to have one of the highest numbers of prisoners in the world.⁵¹ According to Alexi Jones, over two million people were behind bars in the US in 2018.⁵² This number did not include the 6.7 million people under correctional control (on probation or parole), of which 4.5 million adults were under community supervision.⁵³ The published official figures of people behind bars do not necessarily give the real picture of the overall number of people subjected to punitive measures in many countries.⁵⁴ The US situation appears to be mirrored in the UK, where the number of people behind bars is very high compared to other European countries.⁵⁵ The similarity between the UK and US penal policies have been highlighted by Tonry, who states that the two countries are in a league of their own in their move “towards harsher penal systems

⁴⁴ AMNESTY INT’L, DEATH SENTENCES AND EXECUTIONS 2013 (2014).

⁴⁵ *Id.*

⁴⁶ Michael G. Bochenek, *Doing Away with the Death Penalty*, HUM. RTS. WATCH (Apr. 11, 2017, 11:01 AM), <https://www.hrw.org/news/2017/04/11/doing-away-death-penalty>.

⁴⁷ *Death Penalty*, *supra* note 31, at 60 n. 66.

⁴⁸ *Id.*

⁴⁹ HUM. RTS. WATCH, UGANDA: EVENTS OF 2017 (2017).

⁵⁰ ROY WALMSLEY, INST. FOR CRIM. POL’Y RSCH., WORLD PRISON POPULATION LIST 2 (2015), <https://nicic.gov/world-prison-population-listeleventh-edition>.

⁵¹ *Id.*

⁵² Alexi Jones, *Correctional Control 2018: Incarceration and Supervision by State*, PRISON POL’Y INITIATIVE (Dec. 2018), <https://www.prisonpolicy.org/reports/correctionalcontrol2018.html>.

⁵³ *Id.*

⁵⁴ *See id.*

⁵⁵ Noah Robinson, *UK Prison Population Third Highest in Europe and Suicide Rate Twice the Average*, JUST. GAP (Apr. 13, 2021, 7:32 AM), <https://www.thejusticegap.com/uk-prison-population-third-highest-in-europe-and-suicide-rate-twice-the-average/>.

across the board.”⁵⁶ Although both the US and UK are neo-liberal countries, there are several differences in their penal policies.⁵⁷ For instance, in 2019, the incarceration rate, per 100,000 inhabitants, in the UK was 139, and in 2015, the incarceration rate in the US was 698, yet the prison density of the UK in 2019 (110%) was higher than that of the US (103%) in 2015.⁵⁸ The similarities and differences simultaneously are in line with Nelken’s caution about generalization when doing a comparative study.⁵⁹

The abolition of the death penalty in many countries worldwide has given rise to the increased use of life imprisonment in many countries, though this is considered “a slow, torturous death.”⁶⁰ There are different kinds of life imprisonment, broadly categorized as formal and informal.⁶¹ In 2018, 183 countries out of 216 imposed formal life imprisonment, but thirty-three countries were found to have no life imprisonment.⁶² Because of its tortures, life imprisonment has been seriously opposed by human rights organizations as much as the death penalty.⁶³ Instead, the campaigners have been advocating for more early release rehabilitative interventions in prisons.⁶⁴

III. REHABILITATIVE PURPOSE

There are many reasons why offenders are put behind bars, including prevention or deterrence from offending, incapacitation of the offender, rehabilitation, and reintegration of the offender.⁶⁵ Out of these objectives, there has been an emphasis on the use of rehabilitative methods to change the lives of prisoners in the past few decades.⁶⁶ *Rehabilitation* can be defined as “a planned intervention which aims to bring about change in some aspect of the offender that is thought to cause the offender’s criminality, such as attitudes, cognitive processes, personality or mental health.”⁶⁷ In the case of

⁵⁶ Michael Tonry, *Determinants of Penal Policies*, 36 CRIM. & JUST. 1, 5 (2007).

⁵⁷ See *id.* at 6–7.

⁵⁸ *Comparison Tool: United States of America & United Kingdom*, PRISON INSIDER, <https://www.prison-insider.com/en/comparer/outil-de-comparaison?profiles=120314-125851> (last visited Mar. 21, 2022).

⁵⁹ NELKEN, *supra* note 6.

⁶⁰ Olivia Rope, *Life Imprisonment: A Sentence in Dire Need of Reform*, PRISON INSIDER (June 14, 2021), <https://www.prison-insider.com/en/articles/la-perpetuite-une-condamnation-a-reformer-d-urgence>.

⁶¹ *Id.*

⁶² Dirk van Zyl Smit & Catherine Appleton, *A Policy Briefing on Life Imprisonment*, PENAL REFORM INT’L (2018) https://cdn.penalreform.org/wp-content/uploads/2018/04/PRI_Life-Imprisonment-Briefing.pdf.

⁶³ See *About Us*, PENAL REFORM INT’L, <https://www.penalreform.org/about-us/> (last visited Feb. 28, 2022).

⁶⁴ See *id.*

⁶⁵ Amanda Dissel, *Rehabilitation and Reintegration in African Prisons*, in HUM. RTS. IN AFR. PRISONS 156 (Jeremy Sarkin ed., 2018).

⁶⁶ *Id.* at 157.

⁶⁷ *Id.* at 156.

people serving life sentences, it might seem like there is no point rehabilitating them because, after all, they will die in prison, especially in countries where early prisoner release is not considered. However, many studies have highlighted the benefits of rehabilitation, regardless of length or type of sentences.⁶⁸ For instance, in their research on jailed sexual offenders, Blagden and Wilson found that prisoner–staff relationships were vital in cultivating a positive prison environment and positively impacting the offenders.⁶⁹ They also found that doing something useful can have a positive influence and be beneficial to the prisoner.⁷⁰ Another study explored the experiences of inmates exposed to vocational and higher education while in prison.⁷¹ The result was that training helped the prisoners understand their crimes and gain valuable skills.⁷² Therefore, it can be deduced from the above studies that rehabilitative interventions can make a positive impact on the lives of prisoners and thus change them into useful citizens.

Both the UK and Uganda provide several activities aimed at rehabilitating prisoners inside their institutions.⁷³ Rehabilitation seems to make sense in the UK, where prisoners, including those on life sentences, do not generally serve their full sentences but are released on parole at some point.⁷⁴ However, there appears to be no evidence to suggest that Uganda has been releasing prisoners early.⁷⁵ This apparent gap in information could be because most of the literature on African prisons is dominated by information on the jails' appalling situations or because there is a lack of documentation on correctional activities in such prisons.⁷⁶ Yet, rehabilitation and reintegration of prisoners are some of the significant activities in African prisons.⁷⁷

⁶⁸ Nicholas Blagden & Kirsten Wilson, "We're All the Same Here"—*Investigating the Rehabilitative Climate of a Re-Rolled Sexual Offender Prison: A Qualitative Longitudinal Study*, 32 *SEXUAL ABUSE J. RSCH. TREATMENT* 727, 734, 736, 738 (2019).

⁶⁹ *Id.* at 736, 738.

⁷⁰ *Id.* at 730.

⁷¹ Robin M. Myers-Li, *From Prison to Reentry: A Journey of Change Through Rehabilitation, Education and Nurturing Opportunities Within Sites of Resilience* (May 2017) (Ed. D. dissertation, University of Southern California) (on file with University of Southern California library).

⁷² *Id.*

⁷³ *Information Pack for British Prisoners in Kenya*, BRIT. HIGH COMM'N KENYA 6, 8 (May 2018) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714024/PRISONERS_PACK_2018__1_.pdf [hereinafter BRIT. HIGH COMM'N]; Dissel, *supra* note 65, at 155–56.

⁷⁴ BRIT. HIGH COMM'N, *supra* note 73, at 10.

⁷⁵ See Dissel, *supra* note 65, at 155.

⁷⁶ See *Even Dead Bodies Must Work: HRW's New Report on Uganda's "Colonial" Prison System*, ANGELO IZAMA (July 19, 2011), <https://angeloizama.com/even-dead-bodies-must-work-hrws-new-report-on-ugandas-colonial-prison-system/> [hereinafter *Even Dead Bodies Must Work*].

⁷⁷ Dissel, *supra* note 65, at 155.

Rehabilitative interventions can be delivered in many forms, such as education and training. In Uganda, for instance, prisoners are offered adult education as well as primary, secondary, and tertiary level education.⁷⁸ Others do various vocational and skills training.⁷⁹ The rehabilitation programs are aimed at enabling inmates to acquire skills as well as earn some income.⁸⁰ There is an emphasis on vocational skills training which includes carpentry, crafts, and hairdressing.⁸¹ However, this varies from prison to prison.⁸² What appears to dominate prison activities, especially in the facilities upcountry, is hard labor in farms and not rehabilitation, as found in a study conducted by Hamza.⁸³ The researcher asserts that, despite legal requirements intended to safeguard prisoners' rights, prison labor in Uganda is forced on the prisoners in a manner that is oppressive and exploitative.⁸⁴ A Human Rights Watch commissioned report in 2011 titled *Even Dead Bodies Must Work* suggests that instead of rehabilitation, prisoners are subjected to hard labor and abuse, a system that has not changed since the colonial times.⁸⁵ More so, it seems there is a lack of therapeutic rehabilitation of prisoners in Uganda, according to Dissel.⁸⁶

Nevertheless, in Luzira Maximum Prison, the facility that is normally cited in various reports on Ugandan prisons, there appear to be many rehabilitative activities, especially for women, according to Prison Insider.⁸⁷ The activities include health and beauty, tailoring, arts and crafts, and other courses, including a Common Law course conducted by the University of London.⁸⁸ The prison also has exceptional facilities and services for pregnant women.⁸⁹ Children born in prison stay with their mothers for four years and then move on to daycare facilities.⁹⁰ Another positive development in Luzira Maximum Prison is the use of sports as a form of rehabilitation of inmates, including those serving life sentences, as highlighted by an article in the Guardian titled *The Prison Where Murderers Play For*

⁷⁸ *Id.* at 165.

⁷⁹ *Id.* at 166.

⁸⁰ *Id.*

⁸¹ *Id.* at 166–67.

⁸² BRIT. HIGH COMM'N, *supra* note 73, at 11.

⁸³ See Hamza Sewankambo, *Punishment or Correction? A Rights-Based Study of Prison Labour in Uganda: The Case of Kirinya Prison-Jinja.*, MAKERERE UNIV. INST. REPOSITORY, <http://makir.mak.ac.ug/handle/10570/4344> (last visited Apr. 11, 2022).

⁸⁴ *Id.*

⁸⁵ *Even Dead Bodies Must Work*, *supra* note 76.

⁸⁶ Dissel, *supra* note 65, at 156.

⁸⁷ Uganda, PRISON INSIDER, <https://www.prison-insider.com/countryprofile/prisonsinuganda?s=populations-specificques#populations-specificques> (last visited Jan. 24, 2022).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

Manchester United.⁹¹ The report paints a picture of happy and healthy prisoners who have set up various football clubs and watch big-screen televisions that connect them to English clubs like Manchester United.⁹²

The poor prisoner rehabilitative program in Uganda contrasts with UK interventions where, apart from education and training, various therapeutic interventions take place to deal with mental health problems and drug addiction issues.⁹³ In UK prisons, there are personality disorder units and therapeutic communities aimed at providing a conducive environment for prisoners to deal with their offending behavior.⁹⁴ Since rehabilitation is a vital component of the UK's criminal justice system, various activities, both within and outside prison, are geared towards addressing the risk of harm and reducing reoffending.⁹⁵ UK prisoners are also offered help and advice to handle financial issues, find suitable accommodation when released, and continue having appropriate support when in the community.⁹⁶

Despite the emphasis on rehabilitation in the criminal justice system by various UK governments over the years, the program has been highly criticized because it appears not to be reducing the number of those reoffending.⁹⁷ The Prison Reform Trust has said that the overall reoffending rates are at about fifty percent.⁹⁸ According to Politics.co.uk, there have also been complaints from the public that the improved prison conditions intended for rehabilitation actually make imprisonment soft and do not prevent reoffending.⁹⁹ More so, the rehabilitation level in prisons is regarded as inadequate due to a lack of resources.¹⁰⁰ Criticism of prisoner rehabilitation in the UK has also been echoed by Zanchi, who, in his article on the need for rehabilitative prison reform, noted that reoffending is high and violence is rampant

⁹¹ David Goldblatt, *The Prison Where Murderers Play for Manchester United*, THE GUARDIAN (May 28, 2015, 1:00 PM), <https://www.theguardian.com/football/2015/may/28/the-prison-where-murderers-play-for-manchester-united>.

⁹² *Id.*

⁹³ *Prison Rehabilitation*, POLITICS.CO.UK, <https://www.politics.co.uk/reference/prison-rehabilitation/> (last visited Mar. 15, 2022).

⁹⁴ *Rehabilitation and Release Planning*, HM INSPECTORATE OF PRISONS, <https://www.justiceinspectrates.gov.uk/hmiprison/our-expectations/prison-expectations/rehabilitation-and-release-planning/> (July 22, 2021).

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Diane Taylor, *Prisoner Rehabilitation Doesn't Work, Says Former Prisons Boss*, THE GUARDIAN (Oct. 29, 2019, 2:00 PM), <https://www.theguardian.com/society/2019/oct/29/prisoner-rehabilitation-does-not-work-says-former-prisons-boss>.

⁹⁸ *Does Prisoner Rehabilitation Work?*, THE WEEK (Oct. 30, 2019), <https://www.theweek.co.uk/104032/does-prisoner-rehabilitation-work>.

⁹⁹ *Prison Rehabilitation*, *supra* note 93.

¹⁰⁰ *Id.*

in UK prisons.¹⁰¹ The article implies that even in the UK, a developed nation, unlike Uganda, which is still a very young democracy, rehabilitative interventions aimed at reducing reoffending are not working.¹⁰²

IV. UK PENAL POLICY

The United Kingdom is a neo-liberal society composed of three penal systems: England and Wales, Scotland, and Northern Ireland.¹⁰³ England and Wales have ten times more prisoners than Scotland and Northern Ireland combined.¹⁰⁴ The population of the UK is 58,744,600, and the country is a constitutional monarchy.¹⁰⁵ The human development index is 0.922 (14/188), and the homicide rate per 100,000 inhabitants is 1.2.¹⁰⁶ These figures are for England and Wales only, because Scotland and Northern Ireland are devolved and thus governed by different systems.¹⁰⁷ According to Prison Insider, private companies run a substantial proportion of the UK prison service, a characteristic of the way prisons are managed in neo-liberal societies where capitalism and individualism determine how the state is run.¹⁰⁸

According to the Howard League for Penal Reform, the prison systems in Britain have experienced a series of transformations for decades, as summarized here.¹⁰⁹ In the sixteenth and seventeenth centuries, the punishing of suspected criminals tended to be done publicly to name and shame as a form of deterrence.¹¹⁰ The death sentence was typical.¹¹¹ Many people were held in prison without trial.¹¹² Prison conditions were appalling, and many people died in jail due to the poor conditions, diseases, poor sanitation, etc.¹¹³ However, there was stiff opposition to the death penalty in the eighteenth century.¹¹⁴ That era was dominated by hard labor in the prisons.¹¹⁵ Prisons were unisex at that time.¹¹⁶ State prisons were introduced in

¹⁰¹ Victor Zanchi, *Rehabilitation, Not Retribution, Is How We Reform Our Prisons*, RENEW (Aug. 15, 2019), https://web.archive.org/web/20200113063957/https://www.renewparty.org.uk/rehabilitation_prison_reform.

¹⁰² *Id.*

¹⁰³ *Uganda, supra* note 87.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *History of the Penal System*, HOWARD LEAGUE FOR PENAL REFORM, <https://howardleague.org/history-of-the-penal-system/> (last visited Jan. 24, 2022).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

the nineteenth century.¹¹⁷ Hard labor was abolished, and emphasis was put on productivity both for the prisoner and the prison industry.¹¹⁸ Penal reforms continued into the nineteenth and twentieth century, a period characterized by active advocacy by religious and voluntary organizations for prisoners' fair treatment.¹¹⁹ The Church of England, Quakers, and Evangelical groups played a vital role in the movement.¹²⁰ During this period, key developments included the Probation Order of 1907, the Criminal Justice Act of 1948 (which abolished prison servitude, hard labor, and flogging), and the Murder (Abolition of Death Penalty) Act.¹²¹ Today's penal policies in the UK are based on the above developments.¹²²

V. UGANDAN PENAL POLICY

Just like the U.K., Uganda is also regarded as a neo-liberal country.¹²³ The country's political system is a parliamentary democracy.¹²⁴ The Uganda Prisons Service (UPS), which falls under the Ministry of Internal Affairs, has the responsibility of administering the prisons.¹²⁵ Uganda was a British colony from 1884 until 1962, when it gained independence.¹²⁶ According to a brief history of Ugandan prisons found on Mongabay, the main penal facility during the colonial administration was Luzira Prison, which has remained the central prison.¹²⁷ This website also states that during the 1970s, when a military government was in power, prison conditions were horrible, and some inmates reported that they survived through cannibalism.¹²⁸

It was in the 1970s that the remnants of the extremely harsh penal policy introduced by the colonial administration were implemented to extreme proportions.¹²⁹ The death penalty, which was designed to reinforce colonial authority over a population perceived by the British to be "violent and dangerous," remained ingrained in many African countries, including Uganda, well after independence.¹³⁰

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Uganda*, *supra* note 87.

¹²⁴ *Id.*

¹²⁵ *Uganda Profile – Timeline*, BBC (May 10, 2018), <https://www.bbc.com/news/world-africa-14112446>.

¹²⁶ *Uganda-Prison System*, MONGABAY, https://data.mongabay.com/history/uganda/uganda-prison_system.html#ykTYjfuozv2131MV.99 (last visited Jan. 30, 2022).

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ Andrew Novak, *The Decline of the Mandatory Death Penalty in Common Law Africa: Constitutional Challenges and Comparative Jurisprudence in Malawi and Uganda*, 11 LOY. J. PUB. INT. L. 19, 42 (2009).

During colonial times, public executions were meant to deter Africans from committing a crime and impress the colonial government.¹³¹ Therefore, it is not surprising to hear of the continuation of public executions in Uganda, especially during the 1970s while a British-trained soldier, Idi Amin, was in power.¹³² In 1973, a televised public execution of twelve people accused of subversion took place.¹³³ Families of the suspects and members of the public were forced to watch the suspects being gunned down.¹³⁴ O’Cleirigh described how the victims were stripped naked, blindfolded, and showered with bullets as hundreds of terrified people attended.¹³⁵ The executions marked the end of the rule of law in Uganda.¹³⁶

Many aspects of the harsh prison regime left behind by the colonial administration have remained to date, though the country is gradually moving towards conformity with international standards of upholding human rights in prisons, as evidenced by the abolitionist trend in the country.¹³⁷ Evidence of appalling prison conditions can be found in various human rights reports.¹³⁸ For instance, Human Rights Watch observed in 2014 that the state of overcrowding in the prisons had gone beyond 200% capacity and that food and water were scarce.¹³⁹ Many prisoners were kept behind bars for several months without trial, and diseases such as tuberculosis and AIDS are widespread.¹⁴⁰ Although the UPS appears on paper to have set very high standards with regards to human rights, the “prisons in Uganda are failed and fragile” because of excessive numbers of inmates and deplorable living conditions.¹⁴¹

VI. THE DEATH PENALTY IN THE UK AND UGANDA

While the UK is located in Europe, where most countries have abolished the death penalty, Uganda has not yet abolished the death penalty and is still implicated in various human rights abuses, including extrajudicial executions of people seen to oppose the government.¹⁴² The UK has not carried out any executions since

¹³¹ *Id.*

¹³² *Id.*

¹³³ NOEL O’CLEIRIGH, RECOLLECTIONS OF UGANDA UNDER MILTON OBOTE AND IDI AMIN, loc. 1201 (2004) (ebook).

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ UNITED NATIONS OFFICE ON DRUGS AND CRIME, HANDBOOK ON STRATEGIES TO REDUCE OVERCROWDING IN PRISONS, at 34 (2013) (ebook).

¹³⁸ Joseph Amon, *Hard Life in Ugandan Prisons*, HUM. RTS. WATCH (July 14, 2011, 12:35 AM), <https://www.hrw.org/news/2011/07/14/hard-life-ugandan-prisons>.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Tomas Max Martin, *Scrutinizing the Embrace of Human Rights in Ugandan Prisons: An Ethnographic Analysis of the Equivocal Responses to Human Rights Watch Reporting*, 9 J. HUM. RTS. PRAC. 247, 248 (2017).

¹⁴² Novak, *supra* note 130.

August 1964, and the government has remained committed to the abolition of the death sentence.¹⁴³ More so, in Protocol 13, Article 1 of the Human Rights Act, abolition of the death penalty was enshrined in law.¹⁴⁴

Being a former colony of Great Britain, Uganda inherited the British penal policy and continues to share good practices from the UK.¹⁴⁵ That may explain why Uganda has been making progress toward the complete abolition of the death penalty, just like the UK. Indeed, *The East African* reported that Uganda abolished the mandatory death penalty for some crimes.¹⁴⁶ The paper also stated that there were “133 inmates on death row[,] and no[one ha[d] been executed in the last 20 years.”¹⁴⁷ However, the Ugandan government was also planning to revive a bill that would impose a death sentence on gay people.¹⁴⁸ The “Kill the Gays” Bill was introduced in 2014 but was shelved at that time due to lack of support.¹⁴⁹

Although Britain officially abolished the death penalty as a punishment option in 1998, capital punishment was passed on to the British colonies, including Uganda, who retained it.¹⁵⁰ The former colonies of Great Britain appear to have been slow to abolish the death penalty, not only in Africa but in other countries outside Europe, although Oceania is reported to have been a top abolitionist region in the world.¹⁵¹ Globally, the mandatory death penalty declined drastically by the mid-twentieth century following developments in the UK and the US.¹⁵² Although the former colonies were slow to abolish the death policy, they continued to be influenced by events in Britain.¹⁵³ In 2009, the Supreme Court of Uganda upheld a Constitutional Court decision in the case of *Attorney General v. Kigula*, finding the mandatory death penalty to be unconstitutional.¹⁵⁴ This is in line with the Constitution of Uganda, Article 22(1), which states:

¹⁴³ CARSTEN ANCKAR, DETERMINANTS OF THE DEATH PENALTY: A COMPARATIVE STUDY OF THE WORLD 77 (Routledge ed. 2004).

¹⁴⁴ *Article 1 of the Thirteenth Protocol: Abolition of the Death Penalty*, EQUAL. & HUM. RTS. COMM’N, <https://www.equalityhumanrights.com/en/human-rights-act/article-1-thirteenth-protocol-abolition-death-penalty> (June 3, 2021).

¹⁴⁵ Novak, *supra* note 130, at 61.

¹⁴⁶ BBC, *Uganda Abolishes Mandatory Death Penalty*, THE E. AFR. (Aug. 21, 2019), <https://www.theeastafrican.co.ke/news/ea/Uganda-abolishes-mandatory-death-penalty/4552908-5243370-rfierez/index.html>.

¹⁴⁷ *Id.*

¹⁴⁸ Nita Bhalla, *Uganda Plans Bill Imposing Death Penalty for Gay Sex*, THOMSON REUTERS FOUND. (Oct. 10, 2019), <https://news.trust.org/item/20191010103819-wbt6x/>.

¹⁴⁹ *Id.*

¹⁵⁰ Novak, *supra* note 130, at 20; Ama Lorenz, *When Was the Death Penalty Abolished in the UK?*, FAIRPLANET (Dec. 12, 2019), <https://www.fairplanet.org/story/when-was-the-death-penalty-abolished-in-the-uk/>.

¹⁵¹ Novak, *supra* note 130, at 19; ANCKAR, *supra* note 143, at 18.

¹⁵² Novak, *supra* note 130, at 20.

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 22.

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.¹⁵⁵

The trend of challenging the mandatory death penalty in former British colonies resulted from pressure by a human rights group based in London, known as the Death Penalty Project.¹⁵⁶ The Death Penalty Project has been campaigning against executions and prison conditions through several test cases in Caribbean and African countries.¹⁵⁷ The abolitionist trend in the Commonwealth countries, including Uganda, has followed a similar pattern.

CONCLUSION

There has been a gradual decrease in the implementation of the death penalty and an increase in life imprisonment globally over the last few decades. The trend in reducing the death penalty and penal reform is, in large part, a result of relentless campaigns by religious and human rights organizations and world bodies like the United Nations. Campaigners regard both the death penalty and life imprisonment as harsh measures against fundamental human rights. As a result, there has been an emphasis on rehabilitative methods to change the lives of prisoners in the past few decades.¹⁵⁸ However, rehabilitative programs have also been criticized for failing to prevent reoffending in the UK.

This Article focused on a comparison of the UK and Ugandan penal policies. Both the UK and Uganda are neo-liberal countries that share some common history, and yet they are very different culturally and politically. Uganda was a colony of Britain for more than a half-century and inherited most of the British criminal justice system's aspects. However, while the UK has been implementing various penal reforms since the nineteenth century, Uganda has made slower progress in reforming its prison system, which has its roots in the colonial administration. For example, the UK no longer uses corporal punishment and the death penalty in prisons, but Uganda has retained both forms of punishment. In spite of internal resistance to reform, exemplified by the attempt to introduce the death penalty for gay and lesbian people, Uganda is slowly moving towards abolition.

¹⁵⁵ CONSTITUTION OF UGANDA 1995, ch.4 art. 22(1).

¹⁵⁶ Novak, *supra* note 130, at 20 n.6.

¹⁵⁷ *Id.*

¹⁵⁸ Myers-Li, *supra* note 71, at 14.

