



Evolve FILA 2018 Newsletter

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Evolve in 2018

2018 was an incredible year for Evolve. Here is a round-up of our activities and achievements in 2018, which would not have been possible without your support.

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Overview of the 20th Annual Judges' Conference at the Speke Resort

Evolve at the 20th Annual Judges' Conference in Kampala

In January 2018, Evolve came together with the entire Judiciary of Uganda, as well as other key stakeholders in the criminal justice system, for a national sentencing conference, which took place as part of the 20th Annual Judges' Conference. The conference was officially opened by the President of Uganda, Yoweri Museveni.



The Honourable Chief Justice of Uganda, Bart Magunda Katureebe at the Conference

The Chief Justice of Uganda, Bart Magunda Katureebe, had previously spoken of the main challenges in sentencing including a lack of understanding of the purpose of sentencing; inconsistencies in sentencing results; the inconsistent use of the sentencing guidelines and the need to review how they are working since they were implemented in 2013; the relative lack of involvement by victims (particularly vulnerable groups) and the community in sentencing; the use of the death penalty and the meaning of life imprisonment.



From Left to Right: The Chief Justice of Uganda, Bart Magunda Katureebe, Supreme Court Justice Stella Arach and Chair of the JTI's Governing Council, Hon. Major General Kahinda Otafiire and Minister of Justice and Constitutional Affairs, and the Principal Judge of Uganda, Justice Yorokamu Bamwine

Evolve worked with the Judicial Training Institute (JTI) and Chief Justice over several months to organise the national sentencing conference which took place on the first two days of the Annual Judges' Conference. Working alongside local and international partners, Evolve helped identify topics the sentencing conference needed to address, its structure, and the various stakeholders to be invited.

Participants outside of the judiciary included the Director of Public Prosecutions, the President and representatives from the Uganda Law Society, the Law Reform Commission, Justice Centres Uganda, The Foundation for Human Rights Initiative, International Justice Mission, DFID Uganda, The Democratic Governance Facility, Representatives from the Military Courts, Uganda Prisons Service, The African Prisons Project, The European Union Delegation and the Embassy of the Netherlands.



From Left to Right: Hon. Justice Wilson Kwesiga (Head Criminal Division), Hon. Justice Mike Chibita (DPP), Hon. Justice Paul Mugamba, Jacqueline Lule (Evolve Consultant), Col. Dr Godard Busingye (UPDF) and Dr Livingstone Sewanyana (Foundation for Human Rights Initiative) in a panel presentation at the Conference, January 2018



Mrs Justice Maura McGowan presenting at the 20th Annual Judges' Conference

Mrs Justice Maura McGowan, High Court Judge and Member of the Sentencing Council of England and Wales led Evolve's team of facilitators, opening the conference and presented in subsequent sessions on the principles, aims and effects of sentencing; approach to guilty pleas in England and Wales; on the [establishment of the Sentencing Council](#); and used the [Robbery Guidelines](#) to demonstrate the English and Welsh approach to sentencing.



From Left to Right: Hon. Justice Mukasa, Former Head of the Criminal Division of Kampala High Court, the Hon. Principal Judge of Uganda and Mrs Justice Maura McGowan



Marianne Alton with local volunteer Fasiha Arooj and film producer Ken Khire interviewing former death row prisoner Kasule.

We produced and presented a short film on the sentencing regime which showed the views of a cross-section of stakeholders including prisoners, prison officers, judges and lawyers who were interviewed.



From Left to Right: Alex Bennie, Yorokamu Bamwine (Principal Judge of Uganda), Mrs Justice McGowan, Tanya Murshed

Tanya Murshed and Alex Bennie [presented the results](#) of Evolve’s research on sentencing practice across a number of Ugandan courts in 574 sentences before and after the introduction of the sentencing guidelines in 2013. Evolve’s full report, entitled “*Sentencing Patterns in Criminal Cases in Uganda following the implementation of the Sentencing Guidelines 2013*” was distributed at the conference. The results of our research showed a steady increase in the usage of the 2013 Sentencing Guidelines since their introduction, but inconsistencies remained in implementation: some parts were more utilised than others, and some parts were not used at all.

There was also disparity in the application of the Guidelines at different levels of the court system across a number of key areas: the discretionary application of the death penalty; the meaning of life imprisonment; the calculation of remand time; post-conviction mitigation for the *Susan Kigula* beneficiaries; and the treatment of the mentally ill. Many sentences still did not fall within the ranges prescribed in the Guidelines and inconsistencies remained between sentences handed down to different defendants in factually similar cases. This research formed a base for much of the discussion at the conference and in the post-conference meeting.



With regard to the roles played by different stakeholders in the sentencing process, Jacqueline Lule, Partner at Bowmans Law and Consultant at Evolve, spoke on Evolve's involvement in the *Kigula* re-sentencing session including the introduction of a pilot scheme of pre-sentence and social inquiry reports.



Judge Declan O'Callaghan, was the key facilitator for the session on [Sentencing of the Mentally ill, Children, Women and People with disabilities](#).



Evolve's Alex Chakmakjian and barrister at IMCB Chambers presented on the test for discretionary application of the death penalty as set out in the case of *Kakubi and another*, having appeared in this case with Tanya Murshed in the Supreme Court of Uganda in 2015. He presented on the way authorities are being used in Uganda by defence and prosecution advocates. He highlighted the effect and power of precedents in the context of sentencing and the importance of authoritative judgments being made available to courts dealing with these issues to ensure consistent application throughout the jurisdiction, at all levels.

Marianne Alton presented on the importance of law reporting and how it might be implemented in Uganda. In Uganda approximately 50% of judgments are uploaded to ULII, the Ugandan equivalent of BAILII and the remainder go unreported. At the moment ULII relies on judicial officers to send their judgments. A comprehensive system of law reporting would ensure a consistent approach to legal issues and enable access to legal information and transparency in the justice system. To succeed, ULII needs greater financial resources dedicated to law reporting and greater collaboration between various stakeholders which Evolve hopes to assist with this year.



Tanya Murshed, Amelia Montgomery and Hon. Justice Adonyo at the Judicial Training Institute for pre-Conference planning

Amelia Montgomery and Marianne Alton were formally appointed as official rapporteurs from Evolve, responsible for taking a full note of the conference. They collated key recommendations arising out of discussions that took place after each session and worked with other rapporteurs to put together the key proposals for reform.

At the end of the conference, a matrix of activities was agreed by the Sentencing Committee and set the agenda for Evolve's subsequent work with the Judiciary. This included:

1. Review of various legislative enactments related to sentencing
2. Development of a sentencing policy/sentencing reform bill
3. Review of the High Court sentencing guidelines
4. Sensitisation of stakeholders on the sentencing guidelines
5. Fast-tracking completion of the sentencing guidelines for the Magistrates' Court
6. Compilation of sentencing decisions as precedents for each level of court



The Evolve Team with the Sentencing Committee of Uganda, including the Chair, the Honourable Principal Judge at the 20th Annual Judges' Conference in Kampala, Uganda

Evolve would like to thank ROLE UK and all of our individual donors, including David Stephenson of Doughty Street Chambers, who made our visit possible.

Magistrates' Court Sentencing Guidelines and Case Digest

Evolve in conjunction with Mrs Justice McGowan have comprehensively reviewed the Magistrates' Court Sentencing 'Guidelines and have provided their feedback to the Sentencing Committee of Uganda. It is hoped that the Magistrates' Court Guidelines will be formally launched later this year.

Judge O'Callaghan and the Evolve team have also worked on drafting a case digest for the offences of murder and manslaughter, using Evolve's research done prior to and after the conference.

April 2018: Ugandan Judiciary visit the UK



Tanya Murshed meeting with Lord Alton, Justice Gadenya and Andrew Khaukha at the House of Lords

In April 2018, Lord Alton of Liverpool, a patron of Evolve and Vice Chairman of the All Party Group on Uganda invited Justice Gadenya (Head of Judiciary Projects) and Andrew Khaukha (Technical Advisor to the Judiciary) to the House of Lords.

During Justice Gadenya and Andrew Khaukha's visit to London, they met with members of the Evolve team and the Sentencing Council of England and Wales.

Evolve to formalise partnership with the Judiciary of Uganda

With the support of ROLE UK, Tanya Murshed visited Uganda in June 2018 to discuss how Evolve can support the judiciary attain the goals agreed at the meeting following the 20th Annual Judges' Conference in Kampala. During the course of this trip, Evolve discussed the formalisation of the partnership with the judiciary of Uganda and a draft Memorandum of Understanding was prepared. It is hoped that the Memorandum of Understanding will be ratified later this year.

During the trip, Tanya met with the Hon. Justice Henry Adonyo Executive Director of JTI, The Hon. Justice Paul Gadenya (Head of Judiciary Projects), The Hon Justice Bamwine (Principal Judge of the High Court) and Andrew Khaukha (Technical advisor to the judiciary).

Evolve agreed to assist the judiciary on a number of initiatives and objectives in furtherance of the matrix of activities from the national sentencing conference. The general objectives of the partnership will be to build capacity within the Judiciary of Uganda and the Justice Law and Order Sector at large, to improve access to justice, and to promote fairness, efficiency and integrity within the criminal justice system of Uganda.

Tanya Murshed on judging panel of Bar Pro Bono Awards

In 2017 Evolve's Founder Tanya Murshed was awarded the prestigious Bar Pro Bono Award in recognition of her work in Uganda. In 2018, Tanya was invited to sit on the judging panel for the Bar Pro Bono Awards alongside 12 other judges including Lord Goldsmith QC (Founder of 'Advocate' formerly known as the Bar Pro Bono Unit), Lord Burnett (Lord Chief Justice of England and Wales) and Andrew Walker QC (Chair of the Bar in 2018).

Since 1997, the Bar Pro Bono Award had been given every year to recognise outstanding commitment to pro bono work by a barrister or chambers. In 2018, nine new categories were added to recognise barristers, staff members, chambers and projects for their pro bono work, including Young Pro Bono Barrister of the Year, Pro Bono QC of the Year, Pro Bono Chambers of the Year, Pro Bono Innovation of the Year and Lifetime Achievement in Pro Bono. As Evolve's Marianne Alton was nominated as Young Pro Bono Barrister by Lincoln House Chambers, Tanya Murshed recused herself from voting in that category.

Tanya Murshed speaks at Global Pro Bono Week

As part of Global Pro Bono Week, Tanya Murshed took part in a panel discussion at the Law Society on [‘Upholding the Rule of Law Overseas Through International Pro Bono’](#). The event, which took place on 25 October 2018 was run by the National Pro Bono Centre and was chaired by Christina Blacklaws, President of the Law Society of England and Wales. Other panel members were the Chief Executive of Care International and the Chair of Advocates for International Development. Tanya spoke about her award-winning work with Evolve, the factors that help contribute to the success of rule of law work abroad and the various challenges with international pro bono work, including the lack of funding. Organisations and individuals across the international pro bono sector took part in this round-table discussion, where there was a focus on ways to maximise the expertise and resources within the UK judicial and legal sector.

Evolve Meets Uganda’s Judicial Services Commission



The Evolve Team with members of Uganda’s Judicial Service Commission, led by the Chairman, the Honourable Justice Insingoma Kabiito, at the Royal Courts of Justice

In November 2018, Evolve met with the Judicial Services Commission at the Royal Courts of Justice to discuss their respective areas of work, the possibility of sharing research and future collaboration.

Marianne Alton wins Young Pro Bono Barrister of the Year award



Marianne Alton at the Annual and Young Bar Conference on 24 November 2018

Evolve congratulates its Trustee Marianne Alton, for winning Advocate’s ‘Young Pro Bono Barrister of the Year’ award which was presented at the Annual and Young Bar Conference on 24 November 2018. Marianne’s award was based on her exceptional dedication to access to justice in Uganda.

Evolve’s Founder and Director Tanya Murshed said: “Marianne’s commitment to the project has been unwavering. She has

contributed to over 100 cases, traced dozens of missing files, has brought cases of vulnerable individuals to the attention of the judiciary, and has engaged various stakeholders on access to justice and rule of law issues. Her work has saved lives”.

Evolve Assignment November - December 2018

In November 2018, with the support of ROLE UK, Tanya Murshed, Marianne Alton and Alex Bennie visited Uganda to progress Evolve’s projects with the Ugandan Judiciary, including a Training and Mentoring Scheme for lawyers and judges and a study visit to the UK by the Ugandan Sentencing Committee.



The Evolve Team with the Executive Director of JTI, Representatives from the Directorate of Public Prosecutions, Representatives from the Uganda Law Society and Andrew Khaukha (Technical Advisor to the Judiciary)

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During the month long assignment, the team engaged with members of the judiciary to plan and discuss various initiatives including Justice Bamwine (Principal Judge of the High Court), Judges of the Supreme Court, Court of Appeal and High Court, Justice Henry Adonyo (Executive Director of the Judicial Training Institute), Justice Paul Gadenya (Head of Judiciary Projects), Andrew Khaukha (Technical Advisor to the Judiciary), and Rachel Odoi-Musoke (Senior Technical Advisor to the Justice, Law and Order Sector). Evolve also held meetings with relevant stakeholders including ULII, the Uganda Law Society, the DPP, the anti-corruption court, the Foundation for Human Rights Initiative, the African Prisons Project, the Law Development Centre ('LDC'), Justice Centres Uganda, International Justice Mission, Makerere University, Kampala International University, the Military Courts, Uganda Prisons Service and prisoners in Luzira Prison. During the visit, Evolve produced a concept note and developed a detailed proposal for a pilot training and mentoring scheme with the input of the various stakeholders, which was considered by JTT's Governing Council. The pilot is due to begin later this year.



Evolve meeting with the Director of Public Prosecutions, Mike Chibita



Alex Bennie researching in the Court of Appeal of Uganda

Whilst in Uganda, Evolve carried out further research on sentencing to bring our data up to date and engaged with [ULII](#) to see how case sharing and case reporting can be improved. ULII is run by two magistrates with only one fully-equipped computer to scan and upload judgments. As ULII is limited by its funding, Evolve advised on interventions that could be considered to increase its capacity to report all publishable judgments and will be looking at ways to support ULII's development.

During the visit, Evolve also provided technical assistance on a number of death penalty cases as part of its access to justice project. See update on the *Kigula* cases below.

Release of Naveed Ahmed and co-defendants



Naveed in Luzira Prison, 2016. Photo credit: Khire Kennedy

At the end of 2017, we informed you of the progress in Naveed Ahmed's case since he had been convicted and sentenced to death in 2011. In 2012, Evolve team member Liam Loughlin from Church Court Chambers came across Naveed's case when he was visiting the condemned section of Luzira Prison and identified several grounds of appeal.

Over the last few years, Liam and other Evolve barristers including Tanya Murshed and Jacqueline Lule have assisted Naveed by providing legal advice, drafting written submissions and supporting his lawyer with oral arguments at court. On 17 November 2017, the appeal of Naveed and his co-defendants was allowed by the Court of Appeal on various grounds, including the fact that they had not been accorded a fair trial at the High Court.

In the final development in this case, Naveed Ahmed, and all of his co-defendants, have now been released. The prosecution offered no evidence at his retrial at the High Court.

Re-sentencing hearings of the civilian *Kigula* cases complete: two more released

As a wonderful start to 2019, the last five civilian *Kigula* cases have progressed to near resolution. Since 2013, Evolve's barristers have facilitated the re-sentencing process of beneficiaries of the [Susan Kigula](#) case in special mitigation sessions involving 275 individuals.

During the November-December assignment, Evolve advocated for the five remaining *Kigula* cases to be listed and assisted their lawyers, [Onyango and Company](#), with written submissions. After spending years on death row under the mandatory death sentence provisions (found to be unconstitutional in *Kigula*) and a further 10 years since the *Kigula* judgment to be re-sentenced, William Okwang and Magala Bampalana received sentences which resulted in their immediate release, on account of time already served.

The ruling in the other three cases, which involve mental health issues, will be later this month.

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Marianne Alton, Richard English and Rachel Cooper from Lincoln House Chambers and Alex Chakmakjian and Gwawr Thomas of 1MCB Chambers prepared the written submissions in these cases.

Thank You!

We would like to give special thanks to ROLE UK for supporting our activities with the judiciary and assignments in Uganda over the last year. We are immensely grateful and look forward to working with ROLE UK in 2019 and beyond.

We would also like to thank and recognise all of the individual donors who supported Evolve in 2018, including:

- David Stephenson
- Rehana Murshed
- Yasreeb Zahed
- Nabila Hasan
- Javed Khan
- Nadia and Roger Barb
- Maniza Zaman
- Farida and Shafiq Khan
- Altamash Hasan
- Nayaz Hasan
- Mary Ruck
- Donors through JustGiving
- John Benson QC
- Douglas Cochran of King's Chambers for his incredibly generous donation, our largest individual donation to date!

Thank you to all our volunteers and patrons for their time, assistance and continued support. Without them, our work would simply be impossible.



Vincent Lwanga and Fasiha Arooj

We would like to acknowledge our local volunteers Vincent Lwanga and Fasiha Arooj who worked so hard last year supporting our activities on the ground.

Fasiha has since left Evolve to pursue her Master's degree at Warwick University. We wish her the best of luck.

Vincent continues to volunteer with Evolve whilst studying for his law finals, providing invaluable support to the project.



Stay Involved

The entire Evolve team gives their expert assistance free of charge, and your invaluable donations go directly to our running costs.

We hope that we can count on your support in 2019 to help us achieve our goals of improving access to justice, building capacity within the legal profession, and promoting fairness, efficiency and integrity in the criminal justice system of Uganda.

If you would like to find out more about the ways you can get involved, please visit our [website](#) or get in touch at contact@evolvefila.org. To stay updated on Evolve's news this year, please follow us on twitter [@Evolve_FILA](#).

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Newsletter by Zoe Bantleman, Barrister at Richmond Chambers, on behalf of
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