



SAINT LUCIA
23rd Session of the Working Group on the Universal Periodic Review
Human Rights Council
5 November 2015

Joint Written Statement submitted by

**The Advocates for Human Rights, a non-governmental organization in special consultative status,
in collaboration with The Greater Caribbean for Life and The World Coalition against the Death
Penalty, an alliance of NGOs, bar associations, local authorities and unions**

Founded in 1983, The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization (NGO) committed to the impartial promotion and protection of international human rights standards and the rule of law. 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 Greater Caribbean for Life is an organization constituted on October 2, 2013 to unite Caribbean abolitionist organizations and individuals, reflecting the highest respect to right to live in the struggle against death penalty. This initiative began on October 19, 2011, by a group of organizations and individuals from countries of the Greater Caribbean opposed to the application of the capital punishment that participated in the International Conference on the Death Penalty in the Great Caribbean organized in Madrid by the Community of Sant' Edigio. The Greater Caribbean for Life was constituted with the purpose of campaigning for and working towards the permanent abolition of the death penalty in the Greater Caribbean and supporting Caribbean abolitionist activists and organizations in this region (comprised by the Caribbean Islands, Mexico, Central America, Colombia, Venezuela and the Guyanas) and collaborating with the international abolitionist community.

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.

I. EXECUTIVE SUMMARY

1. Saint Lucia is de facto abolitionist and there has not been a reported execution in the country since 1995.¹ However, **Saint Lucian politicians have begun calling for an end to the de facto abolition of the death penalty in response to rising crime rates, causing a serious concern that there might soon be a spike in the number of executions.**² Saint Lucia has rejected previous recommendations to declare a formal moratorium or abolish the death penalty, and has failed to follow through on its commitments to build public awareness of human rights, which might lessen public support for the death penalty.

II. BACKGROUND

A. Domestic Legal Framework

2. The death penalty in Saint Lucia applies to the offense of aggravated murder, including the murder of criminal justice personnel;³ murders committed in furtherance of sex offenses, hate crimes, and drug trafficking;⁴ murders committed in furtherance of acts of terrorism;⁵ murders for capital gain;⁶ murders that are part of multiple murders;⁷ and murders by an offender who has previously been convicted of murder.⁸

3. The imposition of the death penalty in Saint Lucia is not mandatory.⁹ Judges are allowed to consider several mitigating factors.¹⁰ However, it is not clear how often judges exercise such discretion. Saint Lucia prohibits application of the death penalty to juveniles,¹¹ pregnant women until delivery or miscarriage,¹² and those suffering from a mental disorder that “substantially impaired his or her mental responsibility for his or her acts in doing or being a party to the killing.”¹³

¹ *Communities for Life – Saint Lucia, Latin America*, WORLD COALITION AGAINST THE DEATH PENALTY (Jan. 28, 2011), <http://www.worldcoalition.org/Saint-Lucia>.

² World Coalition Against the Death Penalty, *Death Penalty Worldwide*, CORNELL UNIV. SCH. OF LAW, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Saint%20Lucia> (last updated Jan. 23, 2011); DEATH PENALTY IN THE CARIBBEAN: A HUMAN RIGHTS ISSUE, AMNESTY INT’L 24-25 (2012) (noting, for example, that prominent politicians in Saint Lucia have publicly voiced support for the increased imposition of the death penalty).

³ St. Lucia Criminal Code 2004 §§ 86(1)(a), (4).

⁴ *Id.* at §§ 86(1)(d), (4).

⁵ *Id.* at §§ 86(1)(f), (4).

⁶ *Id.* at §§ 86(1)(e), (4).

⁷ *Id.* at §§ 87(3)(b).

⁸ *Id.* at §§ 87(3)(a).

⁹ *See id.* at § 86(5); *Reyes v. The Queen*, (2002) L.R.P.C. [43] (appeal taken from Belize); *The Queen v. Hughes*, (2002) L.R.P.C. [48-52] (appeal taken from St. Lucia).

¹⁰ St. Lucia Criminal Code 2004 § 86(5) (including factors such as the gravity and nature of the offense, character and record of the offender, subjective factors that may have influenced the conduct of the offender, manner of the execution of the offense, and the possibility of reform and social re-adaptation of the offender).

¹¹ *Id.* at § 86(9).

¹² *Id.* at § 1007.

¹³ *Id.* at § 90.

4. The Governor-General has the prerogative of mercy, and may grant a pardon, clemency, commutation or stay of execution.¹⁴ The Committee on the Prerogative of Mercy makes a recommendation to the Governor-General as far as exercising the prerogative; the Governor-General may also receive other reports related to the potential exercise.¹⁵

5. The Saint Lucia Constitution and criminal code allow for the accused persons have access to counsel at all phases of criminal proceedings.¹⁶ For any person charged with a criminal offense, the Constitution also guarantees a fair hearing within a reasonable time by an independent and impartial court established by law.¹⁷ In practice the **judicial system in Saint Lucia suffers from various issues, including heavy caseloads, insufficient protection for witnesses, problems with the jury, high levels of crime, weak forensic capacities, crime lab delays in processing evidence, lack of mental health assessments for the accused, and inadequate legal representation.**¹⁸ One or more of these factors can easily contribute to the miscarriage of justice.

6. It is impossible to predict how the death penalty would be applied if the de facto moratorium is lifted in Saint Lucia. In the past, in violation of international standards, reports indicate that death row inmates in Saint Lucia were often shackled to the wall for their entire detention or for prolonged periods of time.¹⁹ Thus, it is unclear whether the criminal justice system would provide those accused of death eligible crimes a process in accordance with all minimum international safeguards intended to prevent the arbitrary deprivation of life, torture, and coercion of the accused and witnesses to obtain convictions.

B. 2011 Universal Periodic Review (UPR) of Saint Lucia

a. Recommendations and Saint Lucia's Response

7. During Saint Lucia's last Universal Periodic Review in 2011, many countries commended Saint Lucia for its de facto moratorium on the death penalty and further requested that Saint Lucia consider instituting a formal moratorium.²⁰ Several countries also requested more information as to the possibility of Saint Lucia revoking the de facto moratorium in response to the increase in domestic crime.²¹ In addition, many countries requested that Saint Lucia sign and ratify the ICCPR and the Second Optional Protocol to the ICCPR.²²

¹⁴ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch.4, arts. 74-76, 1978.

¹⁵ See St. Lucia Criminal Code 2004 §§ 1007(1)-(3), 1113 (including medical reports and a report from the presided Judge).

¹⁶ See CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, art. 8(2)(d); Legal Aid Act, §§ 22, 31, 35 (2007) (St. Lucia).

¹⁷ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, art. 8(1).

¹⁸ DEATH PENALTY IN THE CARIBBEAN: A HUMAN RIGHTS ISSUE, AMNESTY INT'L 17 (2012); TURNING THE TIDE IN THE CARIBBEAN TOWARDS AN END TO THE DEATH PENALTY, AMNESTY INT'L 21 (2013).

¹⁹ Death Penalty Worldwide, *Death Row Conditions*, CORNELL UNIV. SCH. OF LAW, <http://www.deathpenaltyworldwide.org/death-row-conditions.cfm> (last updated Sept. 4, 2012).

²⁰ U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—St. Lucia, U.N. Doc. A/HRC/17/6 (Mar. 11, 2011).

²¹ *Id.* at pp. 10-11, ¶¶ 73 (Sweden), 74 (Argentina).

²² See *id.* at p. 16, ¶¶ 89.64-89.72 (Spain, Slovakia, Italy, Portugal, Australia, Sweden, Germany, France, Sweden, among other countries).

8. Saint Lucia received more than 15 recommendations on the death penalty.²³ Saint Lucia noted many of these recommendations, including all recommendations that called for a formal moratorium and/or abolition of the death penalty.²⁴ The Saint Lucian delegation argued that the country's political system is a constitutional democracy, and "the current views of its population are not supportive of abolition of the death penalty."²⁵ The delegation noted, however, that "the country has not performed any executions within the last 15 years."²⁶ The delegation also drew attention to the fact that the Constitution of Saint Lucia and other domestic legislation already contain provisions that safeguard the rights of all persons.²⁷

9. Saint Lucia accepted recommendations to ratify the ICCPR, to establish a National Preventative Mechanism (as recommended by Maldives), and to strengthen its Ombudsman's office to protect citizens against violations of their fundamental rights.²⁸ Further, Saint Lucia reaffirmed that it condemns any acts of torture, cruel, inhuman or degrading treatment or punishment, against any persons.²⁹

b. Saint Kitts and Nevis's Implementation of UPR Recommendations

10. It appears **little has been done since 2011 when the Saint Lucian delegation gave assurances that it would promote and build public awareness of human rights.** For example, although Saint Lucia accepted the recommendation to consider establishing a National Preventative Mechanism during its Universal Periodic Review in 2011, it has not submitted a designation of any such mechanism to the U.N. Subcommittee on Prevention of Torture.³⁰ Similarly, although Saint Lucia accepted the recommendation to consider strengthening its Ombudsmen's office to protect human rights, it does not appear the country has made a concerted effort to do so.³¹ Further, in 2013, the U.S. Department of State reported that "few domestic rights groups ... [engaged in] investigating and publishing their findings on human rights cases" in Saint Lucia.³²

²³ *Id.*

²⁴ U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—St. Lucia, addendum presented by the State under Review, U.N. Doc. A/HRC/17/6/Add. 1 (June 1, 2011).

²⁵ *Id.* at p. 5, ¶¶ 89.64-89.71.

²⁶ *Id.*

²⁷ *Id.* at p. 5, ¶ 89.64.

²⁸ *Id.* at pp. 2-4, ¶¶ 89.1, 89.2, 89.37-89.39.

²⁹ *Id.* at p. 2, ¶ 6.

³⁰ Optional Protocol to the Convention Against Torture Subcommittee on Prevention of Torture, *National Preventative Mechanisms*, UNITED NATIONS HUMAN RIGHTS, <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/NationalPreventiveMechanisms.aspx> (last visited Dec. 8, 2014).

³¹ See CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978.

³² ST. LUCIA HUMAN RIGHTS REPORT, U.S. DEP'T OF STATE (2013), available at <http://www.state.gov/j/drl/rls/hrrpt/2013/wha/220468.htm>.

11. During Saint Lucia's Universal Periodic Review in 2011, the country accepted the recommendations to sign and ratify the ICCPR.³³ On September 22, 2011, Saint Lucia signed the ICCPR.³⁴ As of December 8, 2014, the country has not ratified the same.³⁵

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. *Human Rights and the Death Penalty in Saint Lucia.*

12. Saint Lucia is commended for not committing an execution in over 15 years³⁶ and for not holding any offenders on death row at this time.³⁷ The county is also commended for limiting the potential use of capital punishment to the most heinous crimes;³⁸ in practice only offenders convicted of aggravated murder can be sentenced to death based on the applicable laws.³⁹

13. Saint Lucia is further commended for its dedication with respect to the general advancement of human rights despite its lack of financial and technical resources.⁴⁰ For example, the Constitution of Saint Lucia contains provisions which protect all persons from torture and other cruel, inhuman or degrading treatment or punishment;⁴¹ the country maintains the office of the Parliamentary Commissioner and Ombudsman;⁴² and the Criminal Code of Saint Lucia condemns violence against all persons.⁴³ Nonetheless, there remain a great number of opportunities for Saint Lucia to better protect the human rights of its people, including abolishing the death penalty.

³³ U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–St. Lucia, addendum presented by the State under Review, at 2, U.N. Doc. A/HRC/17/6/Add. 1 (June 1, 2011).

³⁴ *Ratification Status for Saint Lucia*, U.N. HUMAN RIGHTS, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx (last visited Dec. 8, 2014).

³⁵ *Id.*

³⁶ U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–St. Lucia, addendum presented by the State under Review, U.N. Doc. A/HRC/17/6/Add. 1 (June 1, 2011).

³⁷ World Coalition Against the Death Penalty, *Death Penalty Worldwide*, CORNELL UNIV. SCH. OF LAW, <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Saint%20Lucia> (last updated Jan. 23, 2011).

³⁸ U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–St. Lucia, addendum presented by the State under Review, U.N. Doc. A/HRC/17/6/Add. 1 (June 1, 2011) (“Regarding the death penalty, Saint Lucia stated that it is reserved for the most heinous crimes.”).

³⁹ St. Lucia Criminal Code 2004 §§ 86(1)(a), 87 (authorizing capital punishment only for offenders convicted of aggravated murder, including: murder of criminal justice personnel; murders committed in furtherance of sex offenses, hate crimes, and/or drug trafficking; murders committed in furtherance of acts of terrorism; murders for capital gain; murders that are part of multiple murders; and murders by an offender who has previously been convicted of murder).

⁴⁰ U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–St. Lucia, addendum presented by the State under Review, U.N. Doc. A/HRC/17/6/Add. 1 (June 1, 2011) (noting Saint Lucia's “lack of financial and technical resources will not detract from its pursuit of the full enjoyment of human rights by its population.”).

⁴¹ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, art. 5.

⁴² CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch.9, art. 110.

⁴³ St. Lucia Criminal Code 2004 § 103 (“Harm with violence. Any person who with any of the intents mentioned in section 102 and by means of choking, suffocating, strangling, or by any other violence, or by means of any stupefying or overpowering drug, gas, or other matter, renders or attempts to render a person unconscious or insensible or physically incapable of resistance, is liable on conviction on indictment to imprisonment for twenty years or on summary conviction to imprisonment for ten years.”).

14. Saint Lucia is a retentionist country. **There is a serious threat that executions will resume in the near future in response to an increase in domestic crime.** Various reports and news outlets indicate that crime is a significant problem in Saint Lucia.⁴⁴ According to a U.N. Office of Drugs and Crime (UNODC) global study on homicide, in 2012, there was a homicide rate of 21.6 per 100,000 people in Saint Lucia.⁴⁵ In comparison, over the same time period, there was a homicide rate of just 1.6 per 100,000 people in Canada.⁴⁶

15. In response to domestic criminal activity, Saint Lucia has retained the death penalty and some politicians have begun promoting its actual use.⁴⁷ As a representation of the country's endorsement of capital punishment, Saint Lucia has voted *against* every U.N. General Assembly Moratorium Resolution prohibiting the practice, including the most recent resolution in 2014.⁴⁸ Saint Lucia has also signed the Note Verbale of Dissociation submitted with respect to each resolution.⁴⁹

16. However, a 2010 U.N. Development Programme survey indicates **strong support across the Caribbean for methods that emphasize social intervention in lieu of strictly punishing perpetrators.**⁵⁰ For example, many Saint Lucians participated in the eleventh annual World Day Against the Death Penalty on October 10, 2013, which focused on eliminating capital punishment in the Caribbean and promoting human rights.⁵¹ Saint Lucia has apparently not capitalized on this public sentiment to push for the abolition of the death penalty.

IV. RECOMMENDATIONS

17. The Advocates and the World Coalition against the Death Penalty commend Saint Lucia for its de facto moratorium on the death penalty, and further commend Saint Lucia for limiting death

⁴⁴ See, e.g., *Crimes Up 3 Percent*, THE VOICE, July 19, 2014, available at http://www.thevoiceslu.com/local_news/2014/july/19_07_14/Crimes.htm (reporting that Saint Lucia Police Commissioner voiced concern over the “several challenges being faced by the police force to maintain law and order in the country” and that as of July 19, 2014, there had been at least twenty homicides recorded).

⁴⁵GLOBAL STUDY ON HOMICIDE 2013: TREND, CONTEXTS, DATA, U.N. OFFICE ON DRUGS AND CRIME (2013), available at <http://www.unodc.org/gsh/en/data.html>.

⁴⁶ *Id.*

⁴⁷ DEATH PENALTY IN THE CARIBBEAN: A HUMAN RIGHTS ISSUE, AMNESTY INT’L 24-25 (2012) (noting, for example, that prominent politicians in Saint Lucia have publicly voiced support for the increased imposition of the death penalty).

⁴⁸See G.A. Res. 69/186, U.N. Doc A/RES/69/186 (Dec. 18, 2014); G.A. Res. 67/176, U.N. Doc. A/RES/67/176 (Dec. 20, 2012); G.A. Res. 65/206, U.N. Doc. A/RES/65/206 (Dec. 21, 2010); G.A. Res. 63/168, U.N. Doc. A/RES/63/168 (Dec. 18, 2008); G.A. Res. 62/149, U.N. Doc. A/RES/62/149 (Dec. 18, 2007).

⁴⁹ Note Verbale dated Apr. 16, 2013 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General, at 5, U.N. Doc. A/67/841 (Apr. 16, 2013); Note Verbale dated Mar. 11, 2011 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General, at 5, U.N. Doc. A/65/779 (Mar. 11, 2011); Note Verbale dated Feb. 10, 2009 from the Permanent Missions to the United Nations of Afghanistan et al. addressed to the Secretary-General, at 4, U.N. Doc. A/63/716 (Feb. 10, 2009); Note Verbale dated Jan. 11, 2008 from the Permanent Missions to the United Nations of Afghanistan et al. addressed to the Secretary-General, at 4, U.N. Doc. A/62/658 (Jan. 11, 2008).

⁵⁰ U.N. DEV. PROGRAMME, CARIBBEAN HUMAN DEV. REPORT 159-160 (2012).

⁵¹*11th World Day Against the Death Penalty: Stop Crime, Not Lives*, INTERNATIONAL FEDERATION FOR HUMAN RIGHTS (Oct. 10, 2013), <https://www.fidh.org/International-Federation-for-Human-Rights/death-penalty/11th-world-day-against-the-death-penalty-stop-crime-not-lives-14080>.

sentences to the most extreme cases. The Advocates and the World Coalition against the Death Penalty respectfully recommend that Saint Lucia take the following measures:

1. **Impose a moratorium on the death penalty, effective immediately going forward.** Saint Lucia should impose a country-wide moratorium on the death penalty that immediately halts all sentences and executions, with a view toward complete abolition of the death penalty.
2. **Abolish and replace the death penalty with a sentence that is fair, proportionate and respects international human rights standards.** Saint Lucia should eliminate the death penalty from its penal code and Constitution and replace it with a sentence that is fair, proportionate and respects international human rights standards.
3. **Ratify key international agreements regarding the death penalty.** Saint Lucia should ratify the International Covenant on Civil and Political Rights (ICCPR) and the Second Optional Protocol to the ICCPR with a view toward abolishing the death penalty.
4. **Educate the public about human rights and alternative to the death penalty.** As public support for the death penalty is the primary obstacle to Saint Lucia instituting a formal moratorium, Saint Lucia should undertake a public education campaign about human rights and alternatives to the death penalty, in order to move the country closer to full abolition.

V. QUESTIONS

1. **What steps has Saint Lucia taken to change public opinion about the death penalty, with a view towards facilitating full abolition?**