

THE DEATH PENALTY IN THE GREATER CARIBBEAN

**Presentation for the
Thematic Hearing for 170th Session of Hearings before the
Inter-American Commission on Human Rights**



Greater Caribbean for Life

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A. INTRODUCTION

Honourable Commissioners, Executive Secretary, and assembled dignitaries, the members of The Greater Caribbean for Life and the World Coalition against the Death Penalty are extremely grateful for the opportunity to participate in this hearing. My name is Leela Ramdeen. I am the Chair of The Greater Caribbean for Life (GCL).

My colleagues, Mr Kevin Miguel Rivera Media, President of the World Coalition against the Death Penalty (WCADP), and Jessica Corredor Villamil, Programme Manager of the WCADP, will also address you.

In this brief presentation, I will outline the situation regarding the death penalty in the English-speaking Caribbean states as well as some of the positive developments in the region. I will also address critical human rights issues. The presentation will end with some recommendations.

B. PROFILE OF THE PETITIONER

GCL is an independent, not-for-profit civil society organisation, incorporated under the laws of the Commonwealth of Puerto Rico. GCL is the only organisation in the Greater Caribbean region¹ that is devoted to working on the abolition of the DP and has been active in raising awareness of the issues surrounding the DP since its establishment in 2013 following a Conference in Trinidad and Tobago, which was attended by abolitionists from 12 Greater Caribbean countries as well as abolitionists further afield. To date 142 countries have abolished the death penalty in law or practice. GCL's main aim is to campaign for and work towards the permanent abolition of the death penalty in the Greater Caribbean and to support Caribbean abolitionist activists and organisations in this region.²

GCL believes that society has a right to protect itself from persons who commit heinous crimes and offenders must be held accountable. However, we believe that non-lethal means are sufficient to defend and protect society from offenders. So, while we condemn the rise of violent crime in our region and express solidarity with victims, members reject the notion that capital punishment will act as a deterrent or foster respect for life in our communities.

On March 16 2015, GCL presented a paper before this august body and made some recommendations at a Thematic Hearing during the 154th Session of Hearings.

C. CHALLENGES AND OPPORTUNITIES

GCL faces many challenges in seeking to achieve our goals. For example, although our island states are small in the English-speaking Caribbean, the 13 Retentionist countries in the Greater Caribbean basin comprise about 25% of the total votes opposed to the call at the UN General Assembly's sessions in 2007, 2008, 2010, 2012, 2014, 2016 and 2018 ³, for countries to adopt a resolution to establish a *moratorium* on the use of the DP with a view to work toward abolition. Most of the Caribbean retentionist states have consistently voted against the resolution and have signed the Note Verbale, dissociating them from the moratorium.

It is noteworthy, however, that on 16 November, 2018, when the Third Committee of the UN General Assembly considered a draft resolution on a moratorium on the use of the death penalty, for the first time, Dominica voted in favour of the moratorium resolution and Antigua & Barbuda abstained, rather than voting against it.

From 12-14 November, 2018, a delegation of international experts on the death penalty met in Guyana to “advocate for the abolition of the use of capital punishment” there. The prison in Georgetown was burnt in 2017. It is heartening to note that the Minister of Public Security, Hon Khemraj Ramjattan, stated that the gallows will not be rebuilt in the new prison. His personal view is that the death penalty “should be abolished totally.”

The last hangings in the English-speaking Caribbean are as follows: **Grenada:** 1978 - 40 years ago, **Barbados:** 1984, **Belize:** 1985; **Dominica:** 1986, **Jamaica:**1988, **Antigua and Barbuda:** 1991, **St Vincent and the Grenadines:** 1995, **St Lucia:** 1995, **Guyana:** 1997, **Trinidad and Tobago:** 1999, **Bahamas:** 2000, and **St Kitts & Nevis:** on 19 Dec 2008, Charles la Place was hanged in St Kitts and Nevis.

Even though the Caribbean retentionist states have not carried out any execution for the last ten years, some have sentenced persons to death during this decade. Since the ruling of the Judicial Committee of the Privy Council in *Pratt and Morgan v the Attorney General of Jamaica* (1993) and following the restrictions contained in a number of rulings in subsequent Privy Council cases, it is now very difficult for these countries to implement the death penalty.

GCL continues to work with partners⁴ to educate and inform opinion leaders and the public about the death penalty as a human rights issue and seeks to increase the participation and advocacy capacity of, for example, civil society organisations, Bar Associations, and the Media in the region to work with us to build a strong movement for the abolition of the death penalty.

There have been some positive movements in our region. Suriname is the last country in the region that has abolished the death penalty - on March 3, 2015. And, on June 27, 2018, in a landmark judgment, the Caribbean Court of Justice (CCJ) ruled that the mandatory death penalty as stated

in section two of the Offences Against the Persons Act (OAPA), Ch.141, for persons convicted of murder in Barbados is unconstitutional. ⁵

The CCJ stated that savings clauses, which had “saved” the mandatory death penalty in Barbados, should be condemned and that laws should not be “calcified to reflect the colonial times. Protection for human rights develops over time and a literal interpretation of the savings clause would deprive citizens of Barbados from benefiting from evolving fundamental rights and freedoms.”

The same savings clause exists in the Constitution of Trinidad and Tobago. Trinidad and Tobago remains the only country in the Caribbean that imposes the mandatory death penalty, which prevents judges passing sentence on people convicted of murder from taking into account the defendant's personal circumstances or the circumstances in which the offence was committed, despite the fact that the Judicial Committee of the Privy Council has ruled the practice a violation of the constitutional right to be free from cruel and unusual punishment. On July 2, GCL issued a media release inviting the government of Trinidad and Tobago to approve the necessary reforms to immediately overrule the mandatory death penalty.

Also of note is the fact that the Catholic Bishops of the region released a Pastoral Letter on the Death Penalty in 2016 entitled: *Human Life is Gift from God*. And on 1 August 2018, the Catholic Church revised its teaching on the Death Penalty (see Catechism para 2267), stating, inter alia, that "the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person, and (the Church) works with determination for its abolition worldwide." A number of other faith communities are also opposed to the death penalty.

D. WORLD DAY AGAINST THE DEATH PENALTY, 2018

On 10 October 2018, the 16th World Day against the Death Penalty focused on: *Living conditions on death row*. In those countries in our region in which there are death row prisoners, their dignity continues to be adversely affected, for example, solitary confinement means that they are confined to their cells for 23 hours per day. The *UN Standard Minimum Rules for the treatment of prisoners*, known as the *Mandela Rules*, have not been embraced by countries in the region.

Scientific literature outlines the psychological harms of solitary confinement. Rule 43 of the Mandela Rules specifically prohibits indefinite solitary confinement and prolonged solitary confinement. Rule 44 states that “solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.”

E. RECOMMENDATIONS TO THE COMMISSION

GCL urges the Commission to implement the following recommendations targeted at all Member States of the OAS, particularly those that still retain the death penalty:

1. Sign and/or ratify the key international instruments which aim at the abolition of the death penalty (the First and the Second Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR), and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty);
2. Strengthen their criminal justice systems, for example, by
 - a. improving their law enforcement agencies, their detection and conviction rates, their Forensic capabilities, and Court facilities which may serve to improve efficiency and processing of cases;

- b. dealing with inordinate delays in the system due, for example, to Court backlogs and high case load;
 - c. developing and implementing effective witness protection programmes, and dealing with incompetence and corruption, for example, in some Police Forces;
3. Request retentionist Member States of the OAS to provide accurate and ongoing information to the IACHR about the number of persons sentenced to death, the number of persons on death row, the number of sentences that have been commuted or otherwise reduced, and demographic information concerning all death row inmates, dates of conviction and sentencing, and any other pertinent information;
 4. Build on the positive developments in the region and establish a moratorium on executions, with a view to abolish the Death Penalty and commute all death sentences to terms of imprisonment;
 5. Take appropriate action to address the root causes of crime, address the needs of the victims of crime, find non-lethal means to protect society from offenders, and employ innovative and effective strategies to prevent and reduce crime. For example, the 2012 United Nation Development Programme report: *Human Development and the shift to better citizen security*, shows that for every dollar spent on crime in Trinidad and Tobago, only 15 cents were spent on prevention.⁶

In the spirit of collaboration, GCL hopes to continue working with you, Commissioners; to support the regional process at the OAS towards the total abolition of the death penalty; and to co-operate with the Commission and OAS States in this process. Since, GCL agrees with Archbishop Desmond Tutu that: “*There is no justice in killing in the name of justice...*” we will continue to

advocate against the death penalty.

Thank you again for this valuable hearing. I am available to answer any questions Commissioners may have relating to my presentation.

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ENDNOTES

¹ The region comprises 25 countries, including 13 Caribbean islands, the Caribbean states of South America (Columbia, Venezuela, and the Guyanas), the countries of Central America, and Mexico, in addition to Puerto Rico, and the US, British, Dutch and French Caribbean territories.

- 11 countries are abolitionist in law: Colombia, Costa Rica, Dominican Republic, Salvador (for ordinary crimes only), Haiti, Honduras, Mexico, Nicaragua, Panama, Suriname and Venezuela;
- 1 country is considered abolitionist in practice: Grenada (last hanging in 1978);
- 13 countries are retentionist: Antigua and Barbuda, Bahamas, Barbados, Belize, Cuba, Dominica, Guatemala, Guyana, Jamaica, St. Kitts & Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago.

² A copy of GCL's Constitution is available at <https://gcforlife.files.wordpress.com/2014/04/gcl-constitution.pdf>

³ Votes on 16 November, 2018, when the Third Committee of the UN General Assembly considered a draft resolution on a moratorium on the use of the death penalty:

*Countries in the Greater Caribbean Region that voted **against**:* Bahamas, Barbados, Belize, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago. (10)

*Countries in the Greater Caribbean Region that voted **in favour**:* Dominica (for the first time – and Dominica also co-sponsored the Resolution), Dominican Republic, Guatemala, Haiti. (4)

*Countries in the Greater Caribbean Region that **abstained**:* Antigua & Barbuda and Cuba (2)

⁴ GCL has joined forces with: The Death Penalty Project, the World Coalition against the Death Penalty, the University of the West Indies - Cave Hill Campus, and the Saint Vincent and the Grenadines Human Rights Association and have embarked on a 3-year European Union-funded Project to build civil society engagement on the issue of the death penalty in Barbados and the Eastern Caribbean States. The Project which will run from 2018-2021, entitled: “Building a Platform for Abolition: Strengthening the Anti-Death Penalty Movement in Barbados and the Eastern Caribbean” will be implemented across seven retentionist countries: Antigua & Barbuda,

Barbados, Dominica, Grenada, Saint Kitts & Nevis, Saint Lucia, and St Vincent and the Grenadines.

⁵This judgment relates to the consolidated appeal cases of Jabari Sensimania Nervais and Dwayne Omar Severin, 2 Barbadians who had been convicted of murder there. They appealed their murder convictions and the constitutionality of the mandatory death sentence for murder in Barbados.

⁶ *United Nations Development Programme: Human Development and the shift to better citizen security*: Seven countries were selected for research, in order to represent variations in geography, population size, level of development, and the degree and character of the problem of insecurity. The selected countries for this study were Antigua and Barbuda, Barbados, Guyana, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago.” The report rightly states that these countries need a better balance between legitimate law enforcement and prevention, with an emphasis on prevention; and more investment, for example, in youth development, job creation and reducing poverty and socio-economic inequality/ inequity.

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