



SAINT LUCIA

Stakeholder Report for the United Nations Universal Periodic Review

Submitted by **The Advocates for Human Rights,**

a non-governmental organization in special consultative status

and

The World Coalition Against the Death Penalty

for the 37th Session of the Working Group on the Universal Periodic Review
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Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization 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 publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. 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 World Coalition Against the Death Penalty, an alliance of more than 160 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 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.

EXECUTIVE SUMMARY

1. Saint Lucia has not reported an execution since 1995 and has steadily decreased the number of death sentences over the years to zero since 2011.¹ Saint Lucia has not handed down any additional death sentences since the last Universal Periodic Review. The death penalty remains an available sentence for ordinary crimes.²

I. BACKGROUND AND FRAMEWORK

A. 2015 Universal Periodic Review of Saint Lucia

1. *Impose a moratorium on the death penalty, effective immediately going forward.*

Status of Implementation: Not Accepted, Partially Implemented

2. The Government of Saint Lucia noted recommendations to establish a formal moratorium on the death penalty.³ In responding to these recommendations, however, the Government recalled “that there has been a de facto moratorium on the death penalty since 1995.”⁴
 3. Saint Lucia has effectively observed a moratorium since 2011, when courts issued the last death sentences,⁵ but the death penalty still exists under law. To its credit, Saint Lucia has had no person on death row since 2013, eliminating the imminent possibility of executions.⁶
 4. In 2016 and 2018, Saint Lucia voted against General Assembly resolutions to establish an official moratorium on the use of the death penalty.⁷
2. *Abolish and replace the death penalty with a sentence that is fair, proportionate and respects international human rights standards.*

Status of Implementation: Not Accepted, Not Implemented

5. The Government of Saint Lucia noted recommendations to take steps toward abolishing the death penalty.⁸ The legislature has neither proposed nor passed any law since 2015 to formally prohibit the death penalty.
3. *Ratify key international agreements regarding the death penalty.*

Status of Implementation: Partially Accepted, Not Implemented

6. Saint Lucia noted several recommendation to ratify the Second Optional Protocol to the International Covenant on Civil and Political rights, aiming at the abolition of the death penalty.⁹ Saint Lucia supported a recommendation from France to fully implement recommendations from the 2011 UPR concerning ratification of the ICCPR.¹⁰
 7. Saint Lucia has not ratified the ICCPR or its Second Optional Protocol.
4. *Educate the public about human rights and alternatives to the death penalty*

Status of Implementation: Not Accepted, Not Implemented

8. The Saint Lucian Government noted Brazil’s recommendation to engage “in awareness-raising campaigns on human rights, with a particular emphasis on the incompatibility between the death penalty and human rights” while taking the necessary steps to abolish

and establish a moratorium on the death penalty.¹¹ Since 2015, Saint Lucian authorities appear to have nothing to inform and educate the public about alternatives to the death penalty.

B. Domestic Legal Framework

9. Much of Saint Lucia's domestic legal framework has remained in place since the previous UPR. Saint Lucia's Constitution expressly authorizes the death penalty.¹² Section 2 of the Constitution states: "a person shall not be deprived of his or her life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law of which he or she has been convicted."¹³
10. The death penalty is available as a sentence for various violent crimes, including aggravated murder, the murder of criminal justice personnel,¹⁴ murders committed in furtherance of sex offenses, hate crimes, and drug trafficking,¹⁵ murders committed in furtherance of acts of terrorism,¹⁶ murders for capital gain,¹⁷ murders that are part of multiple murders,¹⁸ and murders by an offender who has previously been convicted of murder.¹⁹
11. The death penalty is not a mandatory punishment for any crime.²⁰ Judges may consider mitigating factors²¹ and the Governor-General has the authority to grant clemency, a pardon, or a stay of execution.²² The Committee on the Prerogative of Mercy makes a recommendation to the Governor-General as to whether to exercise that authority.²³ Saint Lucia prohibits courts from sentencing people to death for crimes committed as juveniles.²⁴ The law also prohibits sentencing pregnant women²⁵ or people with psycho-social disabilities, subject to qualifications, to the death penalty.²⁶
12. Defendants in criminal proceedings have access to counsel.²⁷ Although the Constitution guarantees a fair hearing within a reasonable time by an independent and impartial court established by law,²⁸ the judicial system continues to face many challenges, including inadequate protections for witnesses, as well as limited forensic capabilities and delays in processing evidence.²⁹

II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Right or area 2.1. Acceptance of international norms

13. Saint Lucia has not ratified the ICCPR, its Second Optional Protocol, the Convention Against Torture, or its Optional Protocol.³⁰

Right or Area 12.4. Death Penalty

14. As discussed above, Saint Lucia has not carried out any executions since 1995, and in 2013 authorities commuted the sentence of the last person on death row. No death sentences have been pronounced since 2011.
15. In 2019, National Security Minister Hermangild Francis, discussing plans for constitutional reforms, said that Saint Lucians should determine whether the country abolishes the death penalty.³¹

Right or area 12.6. Conditions of detention

16. Bordelais Correctional Facility, the island's central prison, reported that in 2019, its "remand population at the facility was at its highest in four years."³² People in the prison lack access to clean drinking water,³³ and the World Prison Brief reported that the prison population was at 105.4% of capacity in 2017.³⁴
17. According to the World Health Organization, overcrowded and unsanitary conditions are "likely to result in a heightened risk of person-to-person and droplet transmission of pathogens like COVID-19," because "people in prisons typically have a greater underlying burden of disease and worse health conditions than the general population, and frequently face greater exposure to risks such as smoking, poor hygiene and weak immune defence due to stress, poor nutrition, or prevalence of coexisting diseases, such as bloodborne viruses, tuberculosis and drug use disorders."³⁵

Right or area 15.1. Administration of justice & fair trial

18. Saint Lucia's Constitution provides for an independent judiciary,³⁶ and the government generally supports and respects judicial independence.³⁷ According to Saint Lucia's Constitution, a person accused of a criminal offense and is officially charged for that offense is "permitted to defend himself or herself before the court in person or, at his or her own expense, by a legal practitioner of his or her own choice."³⁸ However, Saint Lucia's Constitution does not appear to provide subsidized or free legal representation by a legal practitioner in the case that the defendant cannot afford a private attorney.³⁹

III. RECOMMENDATIONS

19. This stakeholder report suggests the following recommendations for the Government of Saint Lucia:
 - Abolish the death penalty and replace it with a sentence that is fair, proportionate, and in compliance with international human rights standards.
 - Impose an immediate, official moratorium on the death penalty.
 - Ratify the International Covenant on Civil and Political Rights, its Second Optional Protocol, the Convention Against Torture, and its Optional Protocol.
 - Vote in favor of General Assembly resolutions to establish an official moratorium on the use of the death penalty.
 - Prior to any public referendum concerning the death penalty, conduct a comprehensive awareness-raising campaign on human rights and alternatives to the death penalty, in collaboration with civil society organizations in the region.
 - Ensure that each person potentially eligible for a death sentence is represented by competent counsel at all stages of judicial proceedings and while pursuing relief under the prerogative of mercy, regardless of the person's ability to pay for legal representation.
 - Ensure that detention conditions comply with the Nelson Mandela Rules.

- Ensure that detention conditions are improved, particularly with respect to food, health care, sanitation, and quarantine measures, so as to minimize the risk of spread of COVID-19, particularly for people at greater risk.
- Continue to recognize the jurisdiction of the Judicial Committee of the Privy Council and the Eastern Caribbean Supreme Court over criminal appeals arising out of cases originating in Saint Lucia.

¹ WORLD DATA, “Death Penalty in Saint Lucia,” accessed Jul. 7, 2020, <https://www.worlddata.info/america/saint-lucia/deathpenalty.php>.

² Amnesty International, *Global Report: Death Sentences and Executions*, (Amnesty International, 2019), 49. Also available online at <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF>.

³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saint Lucia*, (Dec. 15, 2015), U.N. Doc. A/HRC/31/10/ ¶ 88.77 Formally declare the moratorium or abolition of the death penalty.

⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saint Lucia: Addendum*, (Mar. 14, 2016), U.N. Doc. A/HRC/31/10/Add.1, ¶ 88.72 Saint Lucia notes this recommendation and again states that there has been a de facto moratorium on the death penalty since 1995 and ¶ 88.78 Saint Lucia notes this recommendation.

⁵ WORLD DATA, “Death Penalty in Saint Lucia,” accessed Jul. 7, 2020, <https://www.worlddata.info/america/saint-lucia/deathpenalty.php>.

⁶ Death Penalty Database, “Saint Lucia,” accessed Jul. 7, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=Saint+Lucia>.

⁷ UN General Assembly 73/175, U.N. Doc. A/RES/73/175, (Jan. 23, 2019). Also available online at <https://undocs.org/en/A/RES/73/175>.

⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saint Lucia*, (Dec. 15, 2015), U.N. Doc. A/HRC/31/10/ ¶ 88.75 Continue its efforts to adopt necessary measures to abolish the death penalty (Mexico) and ¶ 88.76 Take all necessary steps to formally abolish the death penalty (Netherlands).

⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saint Lucia*, (Dec. 15, 2015), U.N. Doc. A/HRC/31/10/ ¶ 88.13 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Montenegro).

¹⁰ UPR-info.org, “Database of Recommendations,” accessed Jul. 7, 2020, https://www.upr-info.org/database/index.php?limit=0&f_SUR=163&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly.

¹¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saint Lucia*, (Dec. 15, 2015), U.N. Doc. A/HRC/31/10/ ¶ 88.74 Take concrete steps aiming at abolishing the death penalty and, in the meantime, establish a moratorium on the practice, while engaging in awareness-raising campaigns on human rights, with a particular emphasis on the incompatibility between the death penalty and human rights (Brazil).

¹² CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 8, §2. The constitution provides for protection of the right of life broadly, decreeing “a person shall not be deprived of his or her life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law of which he or she has been convicted.”

¹³ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 8, §2.

¹⁴ St. Lucia Criminal Code §§ 86(1)(a), (4) (2004).

¹⁵ St. Lucia Criminal Code §§ 86(1)(d), (4) (2004).

¹⁶ St. Lucia Criminal Code §§ 86(1)(f), (4) (2004).

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- ¹⁷ St. Lucia Criminal Code §§ 86(1)(e), (4) (2004).
- ¹⁸ St. Lucia Criminal Code § 87(3)(b) (2004).
- ¹⁹ St. Lucia Criminal Code § 87(3)(a) (2004).
- ²⁰ See St. Lucia Criminal Code § 86(5) (2004).; *The Queen v. Hughes*, L.R.P.C. [48-52] (2002) (appeal taken from St. Lucia).
- ²¹ St. Lucia Criminal Code § 86(5) (2004). (mitigating factors include 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).
- ²² CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch.4, arts. 74-76, 1978.
- ²³ See St. Lucia Criminal Code §§ 1007(1)-(3), 1113 (2004) (including medical reports and a report from the presided Judge).
- ²⁴ St. Lucia Criminal Code § 86(9) (2004).
- ²⁵ St. Lucia Criminal Code § 1007 (2004).
- ²⁶ St. Lucia Criminal Code § 90 (2004).
- ²⁷ See CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, art. 8(2)(d).
- ²⁸ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, art. 8(1).
- ²⁹ Amnesty International, *Death Penalty in the English-Speaking Caribbean: A Human Rights Issue*, (London: Amnesty International, 2012), 14. Also available online at <https://www.amnesty.org/download/Documents/20000/amr050012012en.pdf>. ; Amnesty International, *Turning the Tide in the Caribbean: Towards an End to the Death Penalty*, (London: Amnesty International, 2013), 21. Also available online at <https://www.amnesty.org/download/Documents/12000/amr050012013en.pdf>.
- ³⁰ U.N. Human Rights Office of the High Commissioner, “U.N. Treaty Body Database,” accessed Jul. 7, 2020, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=147&Lang=EN.
- ³¹ *National Security Minister Gives His Views on Death Penalty*, ST. LUCIA NEWS ONLINE, Feb. 2, 2019, <https://www.stlucianewsonline.com/national-security-minister-gives-his-views-on-death-penalty/>.
- ³² Micah George, *A Look at Homicides/Murders for 2019*, THE VOICE, Jan. 4, 2020, <https://thevoiceslu.com/2020/01/a-look-at-homicides-murders-for-2019/>.
- ³³ Source on file with authors (2018).
- ³⁴ World Prison Brief, “St. Lucia,” accessed June 29, 2020, <https://www.prisonstudies.org/country/st-lucia>.
- ³⁵ World Health Organization, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention: Interim Guidance*, (Copenhagen: World Health Organization, 2020), 2. Also available online at https://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf.
- ³⁶ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 8, §105.
- ³⁷ RefWorld, “2016 Country Reports on Human Rights Practices - Saint Lucia,” accessed Mar. 14, 2020, <https://www.refworld.org/docid/58ec89d913.html>.
- ³⁸ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, §8. The Constitution provides certain provisions to secure protection of the law, broadly protecting persons who have been charged with a criminal offense and the scope of any trial.
- ³⁹ CONSTITUTION OF SAINT LUCIA, Dec. 20, 1978, ch. 1, §8.