



**CUBA**  
**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 30th 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. 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 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. Cuba has maintained a de facto moratorium on the imposition of the death penalty since its last reported execution in 2003. Its death row has been empty since 2010 when the Supreme Court commuted the death sentence of the last remaining inmate. After Cuba's second Universal Periodic Review in 2013, a public opinion survey found that 52% of the people surveyed want the death penalty repealed and 48% believe it goes against the fundamental rights of a person. Those surveyed believe that abolition of the death penalty should be decided by a popular vote by the people of Cuba.

## II. BACKGROUND AND FRAMEWORK

### A. 2013 Universal Periodic Review

1. *Ratification of the Second Optional Protocol in the International Covenant of Civil and Political Rights and Abolition of the Death Penalty*

#### **Status of Implementation: Not accepted, not implemented**

2. Cuba received 12 recommendations related to the death penalty during the last UPR.<sup>1</sup> Countries recommended that Cuba ratify the Second Optional Protocol to the ICCPR and consider abolishing the death penalty. Noting these recommendations, the Cuban government responded by stating: "Cuba is against the death penalty on ideological grounds and is open to abolishing it under the right circumstances. Cuba understands and respects the arguments of the international movement that is advocating [for] its abolishment or a moratorium."<sup>2</sup>

2. *Imposition of a De Jure Moratorium on the Death Penalty with a View to Abolition*

#### **Status of Implementation: Not Accepted, Not Implemented**

3. Cuba received recommendations to adopt a de jure moratorium on executions, as a first step toward the abolition of the death penalty. Cuba noted these recommendations and has not adopted a de jure moratorium.

### B. Domestic Legal Framework

1. *Legal Basis for Death Penalty*

4. The Cuban Penal Code stipulates that crimes punishable by the death penalty include: aggravated murder, terrorism-related offenses resulting in death, terrorism-related offenses not resulting in death, rape not resulting in death, robbery not resulting in death, drug trafficking not resulting in death, treason, espionage, war crimes, crimes against humanity, genocide, piracy, working as a mercenary, apartheid, pedophilia, and corruption of minors.<sup>3</sup> There is no mandatory death penalty in Cuba and persons convicted of these crimes may be sentenced to life imprisonment as an alternative to the death penalty.<sup>4</sup> Exempted individuals include persons under 20 at the time of crime, pregnant women, people with intellectual disabilities, and people with mental illness.

5. While the Cuban Constitution does not mention the right to life or capital punishment, it calls upon the State to guarantee the “full dignity of man” and maintains the “inviolability of persons,” including prisoners.<sup>5</sup>

### *2. Use of the Death Penalty in Practice*

6. Cuba carried out its last execution fifteen years ago, and since that time has had a *de facto* moratorium on the imposition of capital punishment. On April 11, 2003, three men found guilty of hijacking a passenger ferry with the intent of landing in Florida were executed by firing squad.<sup>6</sup> Presently, death row is empty. In 2008, Raul Castro commuted most of the remaining death sentences to sentences of 30 years imprisonment.<sup>7</sup> The remaining three death sentences were commuted in 2010.
7. Prior to these commutations, inmates on death row were generally kept in solitary confinement within maximum security prisons. The Cuban Government does not permit international bodies such as the International Red Cross, Human Rights Watch, and UN Monitors to monitor prison conditions. Prisoners have reported extended isolation, denial of health care, insufficient food and water, poor hygiene conditions, beatings, and torture.
8. Public defenders are available after formal charges are filed, and death penalty cases can be appealed to the People’s Supreme Court which reports to the Council of State for a final review and decision.<sup>8</sup>

## **III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS**

9. The authors commend Cuba for not carrying out an execution in 15 years, but express disappointment that the Cuban Government has not made further progress on the abolition of the death penalty.
10. Cuba does not limit the death penalty to the most serious crimes. The following crimes are punishable by the death penalty, but do not include intentional killing of the victim: rape, robbery, drug trafficking, treason, espionage, working as a mercenary, piracy, pedophilia, corruption of minors, and apartheid.<sup>9</sup>
11. In January of 2013, just prior to the previous UPR, President Raul Castro reaffirmed the existence of the death penalty at the Community of Latin American and Caribbean States (CELAC). He perceives it as a safeguard, claiming that even though the use of the death penalty is suspended, “it is there as a reservation, because one time we fully suspended it and all that that did was stimulate aggressions and sabotages.”<sup>10</sup> He also encouraged other countries to adopt the death penalty as “part of a war of ‘blood and fire’ against drug trafficking,” citing the lack of drug trafficking in Cuba as proof of the death penalty’s efficacy.<sup>11</sup>
12. The Cuban Government’s National Report 2013 echoes this sentiment, expressing ideological opposition to the death penalty and hope for eliminating it when suitable conditions exist.<sup>12</sup> The government insists that the barrier to abolition has been national security threats in the form of terrorist activity and other crimes.<sup>13</sup> The government’s position is that the law serves as a legal defense for the nation.<sup>14</sup>

13. The Havana Times conducted an opinion survey, limited by technological access and sample size, in July 2016. The survey found that 52% of respondents want the death penalty repealed, 35% want it applied to a more limited number of offenses, and 13% advocated for retaining the death penalty in the Penal Code.<sup>15</sup> In explaining their responses, 48% of respondents opposing the death penalty said it was a violation of fundamental human rights of the person, 35% said that life imprisonment serves as sufficient punishment, and 17% said that the death penalty is not corrective.<sup>16</sup> A majority of all respondents stated that the issue should be decided through a popular vote.<sup>17</sup>

#### IV. RECOMMENDATIONS

14. The authors suggest the following recommendations for the Government of Cuba:

- a. **Impose an official, de jure moratorium on the death penalty, effective immediately.**
- b. **Abolish the death penalty and replace it with sentencing that respects the international human rights standards.**
- c. **Ratify the Second Optional Protocol to the ICCPR.**
- d. **Develop and implement a comprehensive public awareness-raising campaign that educates the public about international human rights standards and alternatives to the death penalty.**

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<sup>1</sup> *Report of the Working Group on the Universal Periodic Review: Cuba*, (May 3, 2013), U.N. Doc. A/HRC/WG.6/16/L.14 ¶¶ 170.7 (Argentina, Montenegro 1, Estonia, Montenegro), 170.134 (Argentina, Honduras 3, France, Switzerland), 170.135 (Australia), 170.136 (Belgium), 170.137 (Italy).

<sup>2</sup> *Report of the Working Group on the Universal Periodic Review: Cuba*, Addendum, (Sept. 19, 2013), U.N. Doc. A/HRC/24/16/Add.1, ¶ 9.

<sup>3</sup> Cornell Center on the Death Penalty Worldwide, “Death Penalty Database: Cuba”, accessed July 18th, 2017, <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=cuba>.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> Death Penalty News, “Cuba: Capital Punishment in a Dictatorship”, accessed July 18, 2017, <https://deathpenaltynews.blogspot.com/2016/11/cuba-capital-punishment-in-dictatorship.html>.

<sup>7</sup> Cornell Center on the Death Penalty Worldwide, “Death Penalty Database: Cuba”, accessed July 18th, 2017, <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=cuba>.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> La Nación. “Cuba: el presidente Raul Castro justifico la pena de muerte”, accessed July 18, 2017, <http://www.lanacion.com.ar/1549737-cuba-el-presidente-raul-castro-justifico-la-pena-de-muerte>.

<sup>11</sup> *Ibid.*

<sup>12</sup> *National Report submitted in accordance with Human Rights Council resolution 16/21 annex 15* (February 7, 2013). U.N. Doc. A/HRC/WG.6/16/CUB/1 ¶¶ 98.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Havana Times, “¿Qué opinan los cubanos sobre la pena de muerte?”, accessed July 18, 2017, <http://www.havanatimes.org/sp/?p=117213>.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*