

# EDUCATIONAL TOOLKIT

## ABOLITION OF THE DEATH PENALTY IN THE EASTERN CARIBBEAN AND BARBADOS

DECEMBER 2020



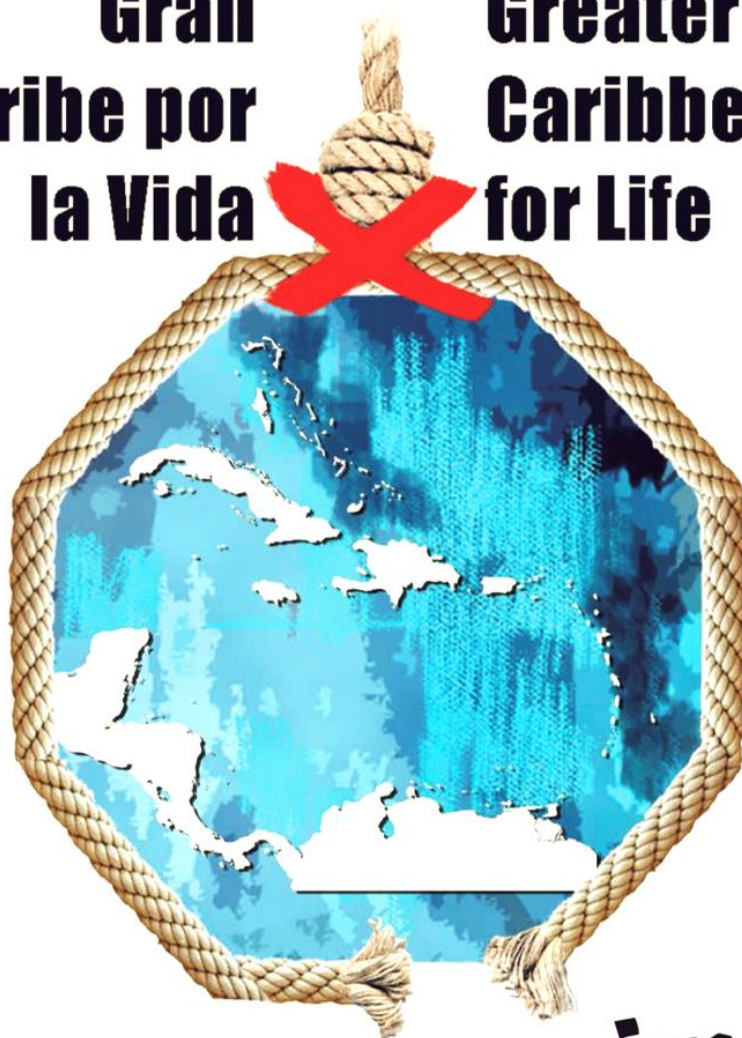
---

# An Abolitionist Organising Toolkit

<b>WHO WE ARE</b>	3
Greater Caribbean for Life	4
Our Mission	4
Our Objectives	4
<b>GLOSSARY OF TERMS</b>	5
<b>HOW TO USE THIS TOOLKIT</b>	7
<b>SECTION ONE</b>	9
History of the Death Penalty in the English Speaking Caribbean	9
Death Penalty Laws	10
Death Penalty Statistics	11
Why Isn't the Death Penalty being used in the English Speaking Caribbean?	11
<b>SECTION TWO</b>	16
Report Findings	17
<b>SECTION THREE</b>	19
International Human Rights Instruments	19
Regional Human Rights Instruments	22
The Case Law: Inter-American Court of Human Rights	26
Case	26
Year and Country	26
Court	26
Principle	26
DaCosta Cadogan v. Barbados[5]	26
The Inter-American Commission Report on the Death Penalty	27
<b>SECTION FOUR</b>	32
What is the Goal?	32
Ways to Mobilise	33
Public Outreach	36
<b>SECTION FIVE</b>	42
<b>Notes:</b>	43

**Gran  
Caribe por  
la Vida**

**Greater  
Caribbean  
for Life**



**stop crime,  
not lives**

# WHO WE ARE

## Greater Caribbean for Life

Greater Caribbean for Life / Gran Caribe por la Vida was constituted in 2013 in Trinidad and Tobago by Caribbean organisations and activists with the purpose of campaigning for and working towards the complete abolition of the death penalty in the Greater Caribbean and supporting Caribbean abolitionist activists and organizations in the region [Mexico, Central America, The Caribbean Islands, Colombia, Venezuela, and the Guyanas] and collaborating with the international abolitionist community.

## Our Mission

The Greater Caribbean for Life aims at campaigning for and working towards the permanent abolition of the death penalty in the Greater Caribbean; supporting Caribbean abolitionist activists and organizations in this Region; and collaborating with the international abolitionist community.

## Our Objectives

- Spearhead the lobbying efforts to convince Caribbean decision-makers to abolish the death penalty
- Build the grassroots struggle in the region by encouraging activism
- Campaign and educate the wider Caribbean public about the need to abolish the death penalty
- Support Caribbean activists with all the tools, information and strategies necessary to campaign for abolition
- Cooperate with and take part in the international campaigning efforts against the death penalty

# GLOSSARY OF TERMS

**ABOLITIONIST FOR ALL CRIMES**

Countries whose laws do not provide for the death penalty for any crime.

**ABOLITIONIST FOR ORDINARY CRIMES**

Countries whose laws provide for the death penalty only for exceptional crimes, such as crimes under military law or during war.

**ABOLITIONIST IN PRACTICE**

Countries which retain the death penalty in law for ordinary crimes but have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions.

**RETENTIONIST**

Countries that retain the death penalty in law for ordinary crimes, such as murder, in times of peace and do not meet criteria for “abolitionist in practice”.

**CLEMENCY**

An act showing mercy or leniency, usually by the executive, by lessening or even completely eradicating a sentence; used as a general term covering both commutations and pardons.

**COMMUTATION**

The death sentence is replaced by a less severe punishment, such as a term of imprisonment, often by the judiciary on appeal, but sometimes also by the executive.

## **GREATER CARIBBEAN**

The Greater Caribbean, also known as the Caribbean Basin, is composed of 25 countries. It includes **13 Caribbean islands**, the Caribbean states of South America, and the countries of Central America and Mexico (in addition to Puerto Rico, and the US, British, Dutch and French Caribbean territories).

## **PARDON**

The convicted person is completely exempted from further punishment; this can be granted for a variety of reasons, usually by the executive such as the head of state or government, or in some cases by clemency boards which have been given final authority.

## **EXONERATION**

After sentencing and the conclusion of the appeals process, the convicted person is later freed from blame or acquitted of the original criminal charge, and therefore is regarded as innocent in the eyes of the law.

## **MOST SERIOUS CRIMES**

The only category of crimes to which the use of the death penalty must be restricted to under international law. International bodies have interpreted this as being limited to crimes involving intentional killing.

## **MORATORIUM ON EXECUTIONS / ON THE USE OF THE DEATH PENALTY**

A public commitment made by the highest authorities or courts, which officially suspends the carrying out of death sentences, or even imposition of the death penalty as such; this should not be confused with a period of time where executions have in fact not been carried out.

# HOW TO USE THIS TOOLKIT

This toolkit is for YOU - an activist who is working or who is interested in working on the abolition of the death penalty in the Caribbean. It is intended to equip you with some key advocacy tools to effectively influence the institutions and individuals who can make abolition a reality. We know this topic can be heavy and hard. Our goal is to ensure you have all of the relevant information at your fingertips. This toolkit is not intended to be an exhaustive guide. Activism on the abolition of the death penalty in the English-speaking Caribbean has a long history, and new challenges and opportunities continue to arise.

The toolkit is divided into **five sections**.

## **SECTION ONE:**

### **DEATH PENALTY ACROSS THE ENGLISH-SPEAKING CARIBBEAN**

Sets out the history and development of the mandatory death penalty in our target Caribbean Countries.

## **SECTION TWO:**

### **WHAT DO PEOPLE IN THE ENGLISH-SPEAKING CARIBBEAN THINK OF THE DEATH PENALTY?**

Highlights the main points from the Death Penalty Project UK's study "*Sentenced to Death Without Execution: Why capital punishment has not yet been abolished in the Eastern Caribbean and Barbados*"

## **SECTION THREE:**

### **DEATH PENALTY IN THE ENGLISH-SPEAKING CARIBBEAN AND INTERNATIONAL LAW**

Sets out the international law framework around the death penalty and the relationship between Caribbean countries and the international and regional human rights instruments.



## SECTION FOUR

### TOOLS TO COMBAT THE DEATH PENALTY

Focuses on some practical approaches to carrying out advocacy at national and regional levels. This provides key tools, suggestions and tips for advocacy that can be used to strengthen and broaden work against the death penalty.

## SECTION FIVE

### ADDITIONAL RESOURCES

Highlights links with other organizations, groups and websites with key information, suggestions and guidance for campaigns for abolition.





## SECTION ONE

# DEATH PENALTY ACROSS THE ENGLISH SPEAKING CARIBBEAN



This toolkit focuses on 7 countries within the English-Speaking Caribbean, namely:

- Antigua and Barbuda
- Barbados
- Dominica
- Grenada
- St. Kitts and Nevis
- St. Lucia
- St. Vincent and the Grenadines

The focus on these countries is intentional as these nations retain the death penalty in their legislation and form part of GCL's collaborative project with the European Union to advance abolition efforts.

## History of the Death Penalty in the English-Speaking Caribbean

The imposition in the Caribbean of the mandatory sentence of death by hanging as a punishment for murder is a legacy of British colonialism which has been incorporated into our relevant criminal codes and statutes.

Subsequent to the wave of Independence in the Caribbean, legal challenges to the mandatory death penalty began to arise by way of challenges to its constitutional validity. As a result, the development of the thinking around the imposition, moralities,

and practicalities of the death penalty has been extensively undertaken by various levels of the Caribbean court system (as we will discuss further below). Therefore, a body of case law has developed which has restricted both the use of the mandatory death sentence and carrying out of an execution.

Despite this, developments in our jurisprudence on the issue of mandatory death penalty, the codification of the mandatory death sentence in murder cases remains largely unchanged in our criminal codes and legislation in our target English speaking Caribbean countries.

## Death Penalty Laws

The table below is a guide to where the death penalty is codified in law in the target English speaking Caribbean countries.

Country	Code/Legislation	Section	Wording
<b>Antigua and Barbuda</b>	<a href="#">Offences against the Person Act</a>	Section 2 - Murder	<i>Whosoever is convicted of murder shall suffer death as a felon.</i>
<b>Barbados</b>	<a href="#">Offences against the Person Act</a>	Section 2 - Punishment for Murder	<i>Any person convicted of murder shall be sentenced to, and suffer, death.</i>  <i>*Note: <a href="#">The Barbados Constitutional Amendment Act 2019</a> has now made the mandatory death penalty unconstitutional</i>
<b>Dominica</b>	<a href="#">Offences against the Person Act</a>	Section 2 - Murder	<i>Any person who is convicted of murder shall suffer the penalty of death.</i>
<b>Grenada</b>	<a href="#">Criminal Code</a>	Section XVIII - Criminal Homicide and Similar Offences	<i>Whoever commits murder shall be liable to suffer death</i>

Country	Code/Legislation	Section	Wording
<b>St. Lucia</b>	<a href="#">Criminal Code</a>	Section 86(1) - Capital Murder	<i>Subject to subsection (2), murder committed in any of the following circumstances is capital murder...</i>
<b>St. Vincent and the Grenadines</b>	<a href="#">Criminal Code</a>	Section 159 (1) - Definition of Murder	<i>(1) Any person who, with malice aforethought, causes the death of another person by an unlawful act or omission is guilty of murder and, subject to the provisions of section 24(2) and (3), shall be sentenced to death.</i>

## Death Penalty Statistics

Despite the death penalty still being on the books in our target countries, none have carried out executions in recent years. This is because the jurisprudence as it has developed in the Caribbean has restricted the carrying out of executions in many important ways. As a result, persons on death row have had their sentences commuted to life, reduced, or pardoned.

Country	Last Execution	Last Death Sentence Imposed	Number on Death Row in 2019	Murder Rate per 100,000
<b>Antigua &amp; Barbuda</b>	1991	2000	0	9
<b>Dominica</b>	1986	2000	0	14
<b>Grenada</b>	1978	2002	0	9
<b>St. Kitts &amp; Nevis</b>	2008	2008	0	56
<b>St. Vincent &amp; the Grenadines</b>	1995	2008	1	36
<b>Barbados</b>	1984	2016	7	8

Source: Statistics from Research by the Death Penalty Project UK, Amnesty international and the UN Office on Drugs and Crime.

## Why Isn't the Death Penalty being used in the English-Speaking Caribbean?

### The development of case law on the death penalty

#### The Impact of Independence

When countries in the English-speaking Caribbean began their break away to independence from Britain, they adopted Constitutions which underscored a Bill of Rights.

The rights enshrined in these Constitutions allowed the death penalty to be challenged for a breach a person's constitutional rights, specifically on the grounds of: the right not to be subjected to cruel and inhuman treatment; the right to due process; and the right to the protection of the law (to name a few).

#### The Case Law

This list is by no means exhaustive as there have been countless challenges to the death penalty in the Caribbean region. This list serves to highlight just a few of the important death penalty cases in the Caribbean to summarize the development of the law in the region.

Case	Year and Country	Court	Principle
<a href="#"><u>Pratt and Morgan</u></a> <sup>1</sup>	1993 Jamaica	Judicial Committee of the Privy Council (JCPC)	<b>A period of more than five years' delay in carrying out a death sentence constitutes cruel and inhuman punishment</b>
<a href="#"><u>R v Hughes</u></a> <sup>2</sup>  <a href="#"><u>Fox v R</u></a> <sup>3</sup>	2002 St. Lucia  2002 St Kitts	Judicial Committee of the Privy Council (JCPC)	<b>A trio of cases brought before the Privy Council where it was held for each case that: Because the Constitutions of St Lucia, St. Kitts and Belize prohibit "inhuman or degrading punishment" it is</b>

<sup>1</sup> (1993) 43 WIR 340

<sup>2</sup> [2002] UKPC 12

<sup>3</sup> [2002] UKPC 13

<b>Reyes v R<sup>4</sup></b>	2002 Belize		<b>unconstitutional for capital punishment to be the <u>mandatory</u> sentence for murder in these countries</b>
<b>Case</b>	<b>Year and Country</b>	<b>Court</b>	<b>Principle</b>
<a href="#"><u>Matthew</u></a> <sup>5</sup>	2004 Trinidad and Tobago	Judicial Committee of the Privy Council (JCPC)	<b>The “savings law” clause that protects laws that existed before the Constitution meant that the mandatory death penalty was “saved” (i.e. could not be invalidated and must be upheld)</b>
<a href="#"><u>Boyce and Joseph</u></a> <sup>6</sup>	2006 Barbados	Caribbean Court of Justice (CCJ)	<b>As Barbados had ratified the American Convention on Human Rights and taking into consideration various comments made by members of government as well as past practice, persons sentenced to death have a legitimate expectation that their petitions could be considered by international human rights bodies before their sentence was activated.</b>
<a href="#"><u>Nervais v the Queen</u></a> <sup>7</sup>	2018 Barbados	Caribbean Court of Justice (CCJ)	<b>The CCJ held that the mandatory nature of death penalty in section 2 of the Offences Against the Person Act placed it in violation of the right to protection of the law as guaranteed by section 11 (c) of the Constitution.</b>

<sup>4</sup> [2002] UKPC 11

<sup>5</sup> (2004) 64 WIR 412; [2004] UKPC 33

<sup>6</sup> The Attorney General, Superintendent of Prisons and Chief Marshal v Jeffrey Joseph and Lennox Ricardo Boyce [2005] CCJ 2 (AJ)

<sup>7</sup> CCJ Appeal Nos. BBCR2017/002

### **Mandatory Death Penalty is unconstitutional, "inhuman and degrading punishment"**

The Privy Council, the Caribbean Court of Justice, and the Eastern Caribbean Supreme Court have all found the mandatory death penalty to be unconstitutional on the basis that it is "inhuman and degrading punishment"

**The Death Penalty  
should only be  
imposed in the  
"worst of the  
worst"/"rarest of  
the rare" cases**



**A delay of 5 years or more in the carrying out of an execution is likely to lead to a commuting of a death sentence:**

If a person is on death row for 5 years or more then this will be considered cruel and inhuman punishment

**Persons on death row have a right to exhaust appeal options and may petition to international human rights bodies:**

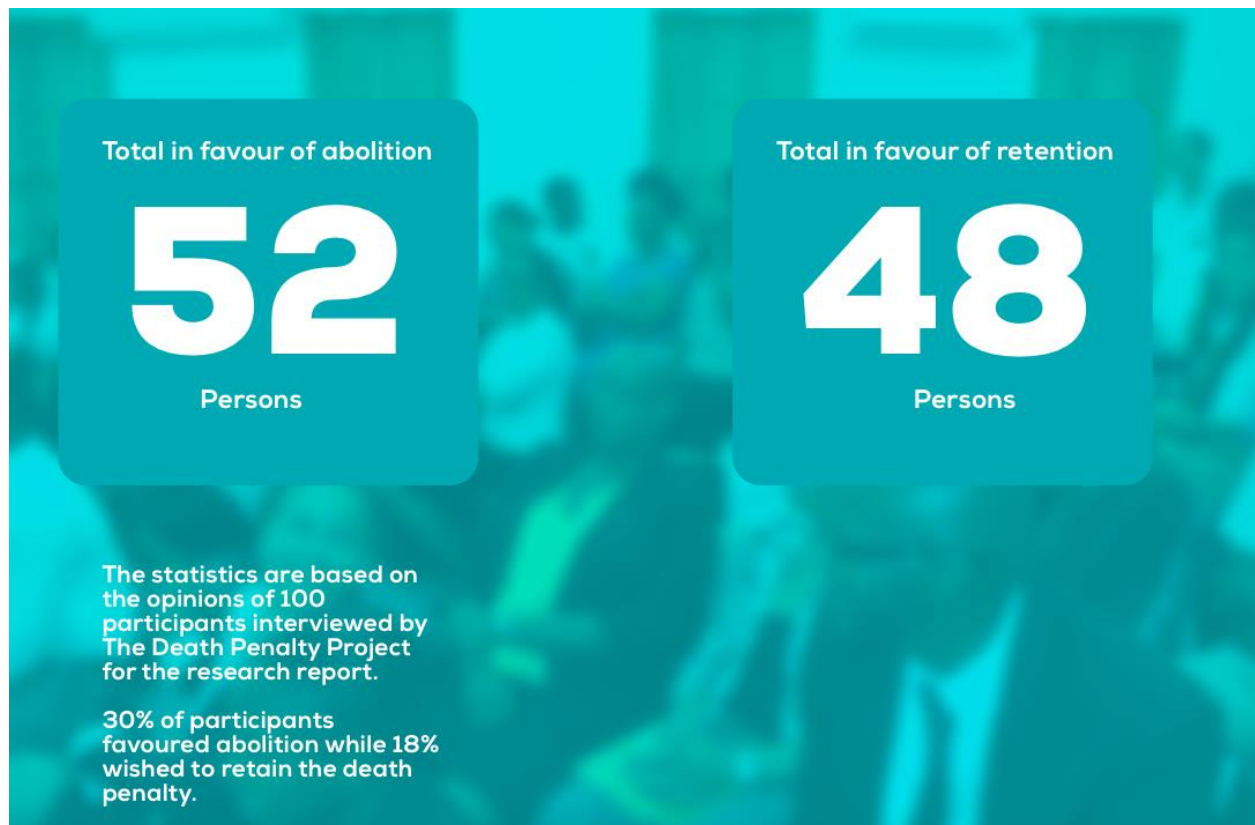
If a country has signed on to an International Treaty persons sentenced to death may have an expectation to petition these bodies as part of their appeal process



## Report Findings

- Only a minority of 'opinion formers' are committed to the death penalty. Only 18% of respondents were strongly in favour of retaining death penalty. The majority who favoured death penalty retention were not strongly opposed to abolition.
- 84% of those who favoured **retention** favoured it because they thought it is needed to show that murder is the very worst crime/and some deserve to be executed
- 2/3 of those who favoured **abolition** chose as their main reason that:
  - the death penalty had no extra deterrent effect; or
  - it was an abuse of human rights; or
  - because of the possibility of wrongful conviction and execution.
- The majority of respondents thought that their governments have not supported abolishing the death penalty because:
  - The government believed that the majority of citizens are still in favour of it, [so] there is no pressure to do so'; and/or
  - that 'politicians think support for abolition would make them unpopular and/or stir up opposition in the media'
- The findings suggest that **only a minority of respondents were committed to retaining capital punishment.**
- Those who favored abolition thought that the strategies to push for abolition that would most likely work in the Caribbean would be:
  - 'through creating an influential **civil society pressure group.**
  - by '**persuading the government to establish a high-level commission to report on the subject**'.

- Lastly **respondents believed that the reasons why these governments have failed to bring forward legislation to abolish capital punishment completely is:**
  - their unwillingness to follow international trends on the grounds of national sovereignty,
  - cultural exceptionalism,
  - assumptions about the deterrent effect of having the death penalty on the statute book, and
  - the strength of public sentiments and concern for maintaining electoral popularity



## SECTION THREE

# DEATH PENALTY IN THE ENGLISH SPEAKING CARIBBEAN AND INTERNATIONAL LAW



The Caribbean region is subject to a number of international law instruments (treaties and declarations). The most relevant to the death penalty are listed below. When a State becomes a party to a treaty, it is bound by the duties imposed in such instrument, and this plays a crucial role in how the courts interpret international law obligations as it relates to respect for human rights and enforcement of the death penalty.

Highlighted below are the international law instruments applicable to the Caribbean region and the provisions that are related to the death penalty:

### International Human Rights Instruments

#### ➤ UNIVERSAL DECLARATION OF HUMAN RIGHTS 1948

Adopted by a resolution of the General Assembly of the United Nations on 10 December 1948.

- ☐ **Article 3** - Everyone has the right to life, liberty and security of person.
- ☐ **Article 5** - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### ❖ INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Adopted by a resolution of the General Assembly of the United Nations on 16 December 1966 and entered into force on 23 March 1976

- ☐ **Article 6(1)** - Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

- ❑ **Article 6(2)** - In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
  - ❑ **Article 6(4)** Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
  - ❑ **Article 7** - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.
- ❖ **The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty 1991** Adopted by the General Assembly of the United Nations on 15 December 1989 and entered into force on 11 July 1991

❑ **Article 1**

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.
2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

❑ **Article 2**

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.
2. The State Party making such a reservation shall at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.
3. The State Party having made such a reservation shall notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory."

- ❖ **CONVENTION AGAINST TORTURE AND OTHER CRUEL INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT** "Adopted by the



General Assembly of the United Nations on 10 December 1984 and entered into force on 26 June 1987”

- ❑ **Article 16** - Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture
  
- ❑ **Article 2** - 1. No reservations may be made to this Protocol. However, at the time of ratification or accession, the States Parties to this instrument may declare that they reserve the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.  
  
 2. The State Party making this reservation shall, upon ratification or accession, inform the Secretary General of the Organization of American States of the pertinent provisions of its national legislation applicable in wartime, as referred to in the preceding paragraph.  
  
 3. Said State Party shall notify the Secretary General of the Organization of American States of the beginning or end of any state of war in effect in its territory.
  
- ❖ **CONVENTION ON THE RIGHTS OF THE CHILD** Adopted by the General Assembly of the United Nations on 20 November 1989 and entered into force on 2 September 1990.
  - ❑ **Article 37** - States Parties shall ensure that:
    - (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;”

## Regional Human Rights Instruments

### Inter-American System of Human Rights

The Inter-American System for the protection of human rights is a regional human rights system, and is responsible for monitoring, promoting, and protecting human rights in the 35 independent countries of the Americas that are members of the Organization of American States (OAS). All of our target Caribbean countries are members of the OAS.

The Inter-American System is composed of two principal entities: The Inter-American Commission on Human Rights (IACHR) and Inter-American Court of Human Rights (IACHR). Both bodies can decide individual complaints concerning alleged human rights violations and may issue emergency protective measures when an individual or the subject of a complaint is in immediate risk of irreparable harm. The Commission also engages in a range of human rights monitoring and promotion activities (including through its various rapporteurships), while the Court may issue advisory opinions on issues pertaining to the interpretation of the Inter-American instruments at the request of an OAS organ or Member State.

The approach to the death penalty in the inter-American system is, in its principal aspects, consistent with that of other human rights systems that impose strict limitations on the penalty aimed at its gradual restriction and eventual elimination.

➤ **AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN 1948**

which was adopted by the Ninth International Conference of American States on 2 May 1948

- ☐ **Article I** - Every human being has the right to life, liberty and the security of his person
- ☐ **Article XXVI** - Every accused person is presumed to be innocent until proven guilty. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

❖ **American Convention on Human Rights**

Adopted by the General Assembly of the Organization of American States on 22 November 1969 and entered into force on 18 July 1978." The American Convention on Human Rights ("American Convention" or "Convention") does not prohibit the imposition of the death penalty but does impose specific restrictions and prohibitions.

- ❑ **Article 4.1** - Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
- ❑ **Article 4.2** - In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.
- ❑ **Article 4.6** - Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.
- ❑ **Article 5.2** - No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

Protocol to the American Convention on Human Rights to Abolish the Death Penalty adopted by the General Assembly of the Organization of American States on 6 August 1990 and entered into force among the States that ratified or acceded to it when they deposited their respective instruments of ratification or accession.

- ❑ **Article 2** - No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.
  1. No reservations may be made to this Protocol. However, at the time of ratification or accession, the States Parties to this instrument may declare that they reserve the right to apply the death penalty in wartime in accordance with international law, for extremely serious crimes of a military nature.
  2. The State Party making this reservation shall, upon ratification or accession, inform the Secretary General of the Organization of American States of the pertinent provisions of its national legislation applicable in wartime, as referred to in the preceding paragraph.
  3. Said State Party shall notify the Secretary General of the Organization of American States of the beginning or end of any state of war in effect in its territory.

**Please refer to the table below which illustrates the Caribbean countries' status in relation to the above-mentioned Treaties and their relevant protocols:**

**Signed (S):** By signing a treaty, a state expresses the intention to comply with the treaty. However, this expression of intent in itself is not binding.

**Ratified (R):** Once the treaty has been signed, each state will deal with it according to its own national procedures. In the Netherlands, parliamentary approval is required. After approval has been granted under a state's own internal procedures, it will notify the other parties that they consent to be bound by the treaty. This is called ratification. The treaty is now officially binding on the state.

**Accession (A):** is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force.

Country	Convention against torture and other cruel inhuman or degrading treatment or punishment	International Covenant on Civil and Political Rights (ICCPR)	Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty	American Convention on Human Rights (American Convention)	Protocol to the American Convention on Human Rights to Abolish the Death Penalty
Antigua and Barbuda	R 1993	R 3rd July 2019 Did not accept individual complaints procedure	×	×	×
Barbados	×	A 5 Jan 1973	×	R 5th November 1981	×
Dominica	×	A 17 Jun 1993	×	R 3rd June 1993	×
Grenada	R 2019	A 6 Sep 1991	×	R July 14th 1978	×
St. Kitts and Nevis	×	×	×	×	×
St. Lucia	×	S Signed 22 Sep 2011	×	×	×
St. Vincent and the Grenadines	R 2001	A Acceded 9 Nov 1981	×	×	×

## The Case Law: Inter-American Court of Human Rights

Case	Year and Country	Court	Principle
<a href="#">Restrictions on the Death Penalty (Arts. 4 (2) and 4 (4) of the American Convention on Human Rights)</a> <sup>[1]</sup>	1983 Advisory Opinion requested by the Inter-American Commission on Human Rights	Interamerican Court of Human Rights (I/A Court H. R.)	Article 4 of the Convention must be interpreted as "imposing restrictions designed to delimit strictly its application and scope, in order to reduce the application of the death penalty to bring about its gradual disappearance" (para. 57).
<a href="#">Hilaire, Constantine and Benjamin et al v. Trinidad and Tobago</a> <sup>[2]</sup>	2002 Trinidad and Tobago	Interamerican Court of Human Rights (I/A Court H. R.)	The Court concluded that the mandatory application of the death penalty is arbitrary according to Article 4(1) of the American Convention (para. 103)
<a href="#">Raxcacó-Reyes v. Guatemala</a> <sup>[3]</sup>	2005 Guatemala	Interamerican Court of Human Rights (I/A Court H. R.)	Article 4(2) of the American Convention stipulates that "[i]n countries that have not abolished the death penalty, it may be imposed only for the most serious crimes. (para. 68)"
<a href="#">Boyce et al v. Barbados</a> <sup>[4]</sup>	2007 Barbados	Interamerican Court of Human Rights (I/A Court H. R.)	A lawfully sanctioned mandatory sentence of death may be arbitrary where the law fails to distinguish the possibility of different degrees of culpability of the offender and fails to individually consider the particular circumstances of the crime. (para. 57)

<a href="#">DaCosta Cadogan v. Barbados</a> <sup>[5]</sup>	2009 Barbados	Interamerican Court of Human Rights (I/A Court H. R.)	Although the capital punishment is not <i>per se</i> incompatible with or prohibited by the American Convention, the Convention has set a number of strict limitations to the imposition of capital punishment (limited to the most serious crimes, sentence must be individualized and subject to certain procedural guaranties). (para. 47)
--	------------------	---	---

<sup>[1]</sup> Advisory Opinion OC-3/83 of September 8, 1983. Series A No. 3.

<sup>[2]</sup> Judgment of June 21, 2002. Series C No. 94.

<sup>[3]</sup> Judgment of September 15, 2005. Series C No. 133.

<sup>[4]</sup> November 20, 2007. Series C No. 169.

<sup>[5]</sup> Judgment of September 24, 2009. Series C No. 204.

Inter-American  
Commission on  
Human Rights **IACHR**



The IACHR held the first hearing on the death penalty in the Greater Caribbean in March 2015. The petitioning organization, Greater Caribbean For Life reported that although there have been no executions to the death penalty in the region since 2008, several

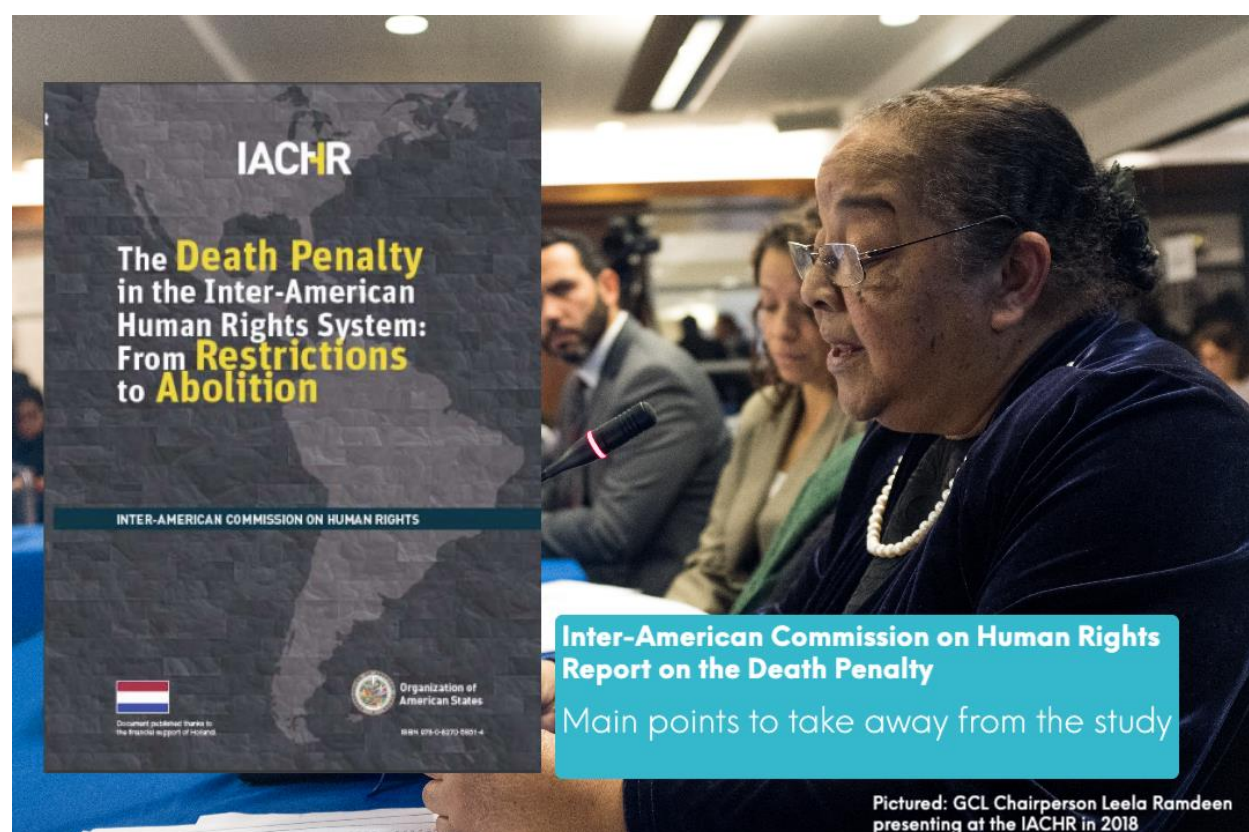


States still oppose the abolition. In this sense, they reported that between 59 and 80 people would be found on death row in eight countries of the Greater Caribbean. Likewise, they highlighted the lack of a free and effective legal defense for persons prosecuted for crimes subject to the death penalty. [View this hearing](#)

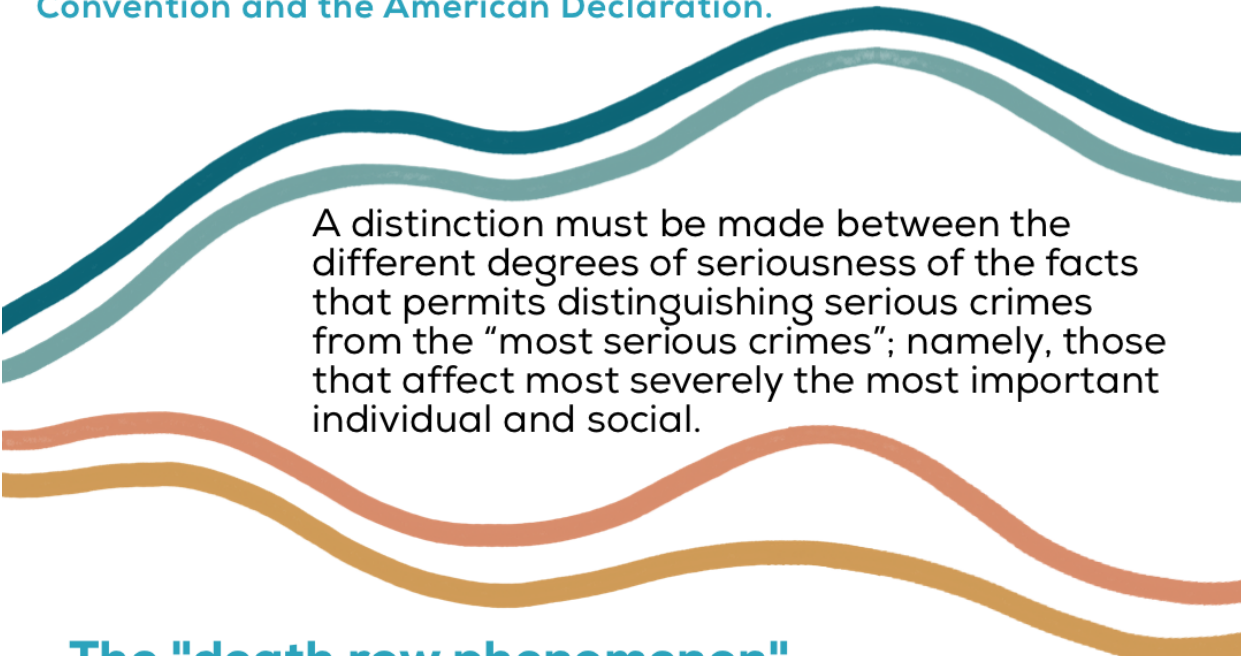
## The Inter-American Commission Report on the Death Penalty

GCL has presented the perspective from the Caribbean abolitionist community in public hearings before the Interamerican Commission in 2015 and 2018.

**In 2011, the Inter-American Commission published a report about the death penalty, “[The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolitions](#)”.** As all of our target Countries are members of the OAS, drawing key points from this region specific report is helpful.





The mandatory death penalty, that is, the imposition of death penalty upon conviction for a crime without an opportunity for presenting and considering mitigating circumstances in the sentencing process, contravenes the American Convention and the American Declaration.



A distinction must be made between the different degrees of seriousness of the facts that permits distinguishing serious crimes from the "most serious crimes"; namely, those that affect most severely the most important individual and social.


**The "death row phenomenon", characterized by a prolonged period of detention while awaiting execution, constitutes cruel, inhuman and degrading treatment.**





**In many instances the inhumane treatment found in death penalty cases is due to conditions of physical deprivation,**


which include insufficient food, water and sanitation. In other instances, it is due to prolonged solitary confinement, which can extend over many years, and the absence of opportunities to leave their cells for exercise. States have the obligation, as guarantors of the rights of people under their custody, to provide adequate prison conditions, as interpreted in light of minimum international standards in this area.





Observance of due process becomes all the more important in capital punishment cases.

**Those States that still have the death penalty must, without exception, exercise the most rigorous control for observance of judicial guarantees.**



**The Commission makes the following recommendations to Member States:**

- 1.** Impose a moratorium on executions as a step toward the gradual disappearance of this penalty;
- 2.** Ratify the Protocol to the American Convention on Human Rights to Abolish the Death Penalty;
- 3.** Refrain from any measure that would expand the application of the death penalty or reintroduce it;
- 4.** Take any measures necessary to ensure compliance with the strictest standards of due process in capital cases;
- 5.** Adopt any steps required to ensure that domestic legal standards conform to the heightened level of review applicable in death penalty cases; and
- 6.** Ensure full compliance with decisions of the Inter-American Commission and Court, and specifically with decisions concerning individual death penalty cases and precautionary and provisional measures.

## SECTION FOUR



### What is the Goal?

While the overall goal in abolition is to ensure the death penalty is eradicated, there are a number of ways by which one can achieve this goal. Each option can create specific goals e.g., Government to:

- Insert a clause in the constitution guaranteeing the right to life in absolute terms (that is, with no qualification whatever);
- Enact Legislation removing the mandatory death penalty from the legislation completely.
- Subscribe to regional and international human rights instruments requiring the abolition of the death penalty and then aligning local law to those instruments
- Establish an official moratorium on executions with a view to abolishing the death penalty, as called for by United Nations General Assembly resolutions, and vote in favour of future resolutions.
- Commute, without delay, all death sentences to terms of imprisonment.
- Publicize, at least on an annual basis, comprehensive statistics on the death penalty and facts around the administration of justice in death penalty cases.

Accomplishing these goals are heavily dependent on effective advocacy to convince Governments to take action to abolish the death penalty.



## Ways to Mobilise

### **Raise awareness - Public Education**

Abolishing a punishment that is so ingrained in our society requires a complete culture shift. This means that we have to start at the grassroots level and educate the public. Some great work has been done in the Caribbean to raise awareness, including by our GCL members and executive. We will reference their work below.

### **Youth Engagement**

When we think about creating a culture shift, youth are an important demographic and even the best starting point. Some important tips to remember when formulating ideas and activities for youth include:

- Simplify the language - words like “abolition” and other complicated language may not be easily understood by younger groups of children. Simplify language as much as possible to maximise understanding of the subject matter.
- Active engagement - It’s best to use activities or foster an active discussion with young people as opposed to talking at them about this topic. Allowing them to engage actively with the subject matter will allow for more thinking around and better understanding of the issues.

Here are some activities you can undertake to conduct youth outreach in the area of death penalty abolition:

### **School Talks**

School talks are good for all ages and allow for various forms of engagement from open discussion to artistic/creative activities. A good structure for speaking to young people around the death penalty can include:

#### Opening:

- Introduce yourself and explain what you’re there to discuss.

#### Actively engage/Activity:

- Ask the students what they think the death penalty is and provide a clear and simplified definition for them after they have given their opinion.
- Ask the students what their views are on whether the death penalty is a good thing or a bad thing.

- Allow for the students to engage amicably with one another about opposing views.
- Provide basic information about why it's important for us to stop using the death penalty
- Consider asking students to create some form of art that represents the end of the death penalty

### End

- Tell students about some of the things they can do to help end the use of the death penalty (examples include talk to their parents, continue to talk about this issue with each other, write about the death penalty as an SBA topic)
- Thank the students and provide information about your group/GCL

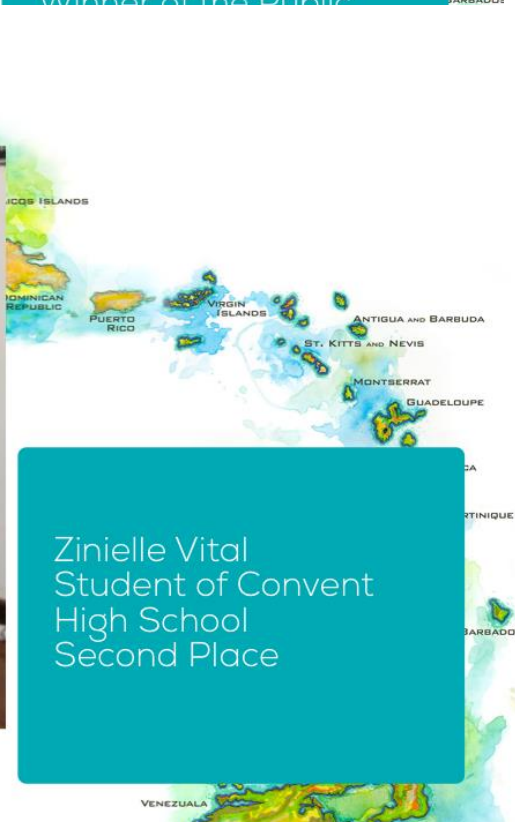
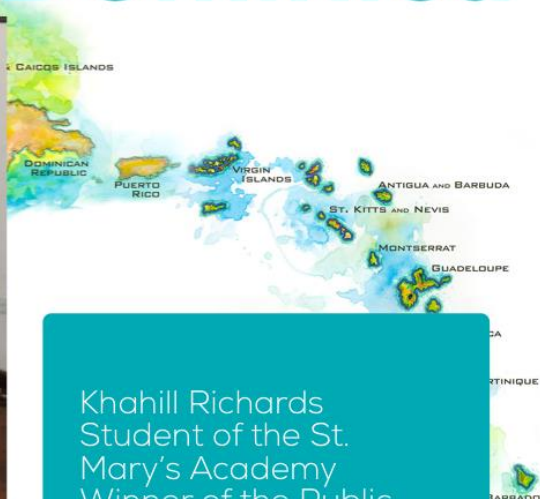


## School Debates/Public speaking competitions

For students who are a little older - 4th and 5th form, A-levels, University - consider hosting a school debate. You can partner with some organisations to raise the profile of the event, enlist judges, and provide sponsorship for prizes.



## Dominica





## Public Outreach

### Outreach

Outreach involves reaching out to groups, organizations and individuals who work together on common concerns about human rights. Faith-based groups, anti-death penalty organizations, ex-death row prisoners and family members of people who experienced the death penalty may all be able and willing to help influence state officials. Identifying them and persuading them to co-operate may facilitate access to information and provide a platform to spread the death penalty abolition message to a wider audience. Effective co-operation requires joint identification of agendas and expectations, and clear definition of roles and responsibilities. It also requires recognizing and respecting different expertise, abilities and resources, including different working styles and cultural backgrounds.

### Host events:

- Panel Discussions (can be virtual)
- Workshops
- Film Nights
- Art exhibitions



## Engaging with the media

Media engagement has strong potential for influencing state officials. Media releases, background briefings, opinion pieces, letters to the editor and featured articles can all help to put government ministers or officials under pressure regarding their position on the death penalty. There is a risk of some media organizations oversimplifying issues. Having good relationships with journalists at key outlets and being available for short notice comments or advice can help overcome this challenge. Running workshops and training journalists to report sensitively on death penalty issues can also help alleviate some of the negative stereotypes which can be disseminated through the media.<sup>8</sup>

## Write!

Keep the issue alive. Write as much as you can.

- Op-eds for your local newspaper
- Blogs
- Research papers
- Letters
- Reports

## Lobby the Government

Form a Lobby Group and lobby the government to reform death penalty legislation.

Join us and help us on our lobbying efforts - [link to our membership form](#)

---

<sup>8</sup> Amnesty International Advocacy Toolkit, 2017

# ARGUMENTS FOR THE ABOLITION OF THE DEATH PENALTY



<p><b>The risk of executing innocent people exists in any justice system</b></p>	<p>There have been and always will be cases of executions of innocent people. No matter how developed a justice system is, it will always remain susceptible to human failure. Unlike prison sentences, the death penalty is irreversible and irreparable.</p>
<p><b>The arbitrary application of the death penalty can never be ruled out</b></p>	<p>The death penalty is often used in a disproportional manner against the poor, minorities and members of racial, ethnic, political and religious groups.</p>
<p><b>The death penalty is incompatible with human rights and human dignity</b></p>	<p>The death penalty violates the right to life - the most basic of all human rights. It also violates the right not to be subjected to torture and other cruel, inhumane or degrading treatment or punishment and it undermines human dignity which is inherent to every human being.</p>
<p><b>The death penalty does not deter crime effectively</b></p>	<p>The death penalty lacks the deterrent effect which is commonly referred to by its advocates. As recently stated by the General Assembly of the United Nations, "there is no</p>

	conclusive evidence of the deterrent value of the death penalty” (UNGA Resolution 65/206).
<b>Public opinion is not a major stumbling block for abolition</b>	<p>Public support for the death penalty does not necessarily mean that taking away the life of a human being by the State is right. There is undisputed historical precedence where gross human rights violations have had the support of a majority of the people, but which were condemned vigorously later on. Leading figures and politicians have the responsibility to underline the incompatibility of capital punishment with human rights and human dignity.</p> <p>Public support for the death penalty is inextricably linked to the desire of citizens to be free from crime. However, there exists more effective ways to prevent crime</p>
<b>The words “Death Penalty” and “Capital Punishment” are terms in contradiction</b>	How can a sinner be punished if he is physically removed from his world? For a punishment to have punitive value the criminal must have the chance to be reformed and to learn not to repeat his crime.
<b>UNNECESSARY</b>	<p>This is really more of a political argument than an ethical one- based on the political principle that a state should fulfil its obligations in the least invasive, harmful and restrictive way possible.</p> <ul style="list-style-type: none"> <li>· A State has an obligation to punish crime, as a means to preserve an orderly and contented society, but it should do so in the least harmful way possible</li> <li>· Capital punishment is the most harmful punishment available, so a State should only use it if no less harmful</li> </ul>

	<p>punishment is suitable</p> <ul style="list-style-type: none"><li>· Other punishments will always enable the State to fulfil its objective of punishing crime appropriately</li><li>· Therefore the State should not use capital punishment</li></ul> <p>Most people will not want to argue with clauses 1 and 2, so this structure does have the benefit of focussing attention on the real point of contention - the usefulness of non-capital punishments in the case of murder.</p>
--	---





## SECTION FIVE

# ADDITIONAL RESOURCES



**Amnesty International:** [www.amnesty.org/en/what-we-do/death-penalty/](http://www.amnesty.org/en/what-we-do/death-penalty/)

**World Coalition against the Death Penalty:** [www.worldcoalition.org/](http://www.worldcoalition.org/)

**Cornell Center on the Death Penalty Worldwide:**  
[www.deathpenaltyworldwide.org/](http://www.deathpenaltyworldwide.org/)

**Death Penalty Project** <https://www.deathpenaltyproject.org/>

**Office of the High Commissioner for Human Rights:**  
[www.ohchr.org/EN/Pages/Home.aspx](http://www.ohchr.org/EN/Pages/Home.aspx)

**International Commission against the Death Penalty:** [www.icomdp.org/](http://www.icomdp.org/)

## Notes:

### **GREATER CARIBBEAN FOR LIFE EXECUTIVE COMMITTEE:**

Leela Ramdeen - Chairperson, Trinidad and Tobago  
 Carmelo Campos Cruz - Deputy Chairperson, Puerto-Rico  
 Zoraida Diaz - Treasurer, Puerto-Rico  
 Jeanie Ollivierre - Secretary, St. Vincent and The Grenadines  
 Angelina Sookoo-Bobb - Executive Member, St. Kitts and Nevis  
 Shirilan Zita Barnwell - Executive Member, St. Vincent and The Grenadines

### **PROJECT MANAGER:**

Annetta Jackson - Antigua & Barbuda

### **RESEARCH ASSISTANT:**

Amaya Athill - Antigua & Barbuda

### **CONTACT US:**

444 Calle De Diego  
 Apartamento 1510  
 San Juan, Puerto Rico  
 00923-3007  
 Tel: 1 (787) 648-6524

15 Pinewood Avenue,  
 Ridgeview Heights,  
 Tacarigua, Trinidad, W.I  
 Tel: 1 (868) 299 - 8945



This toolkit was developed and produced with the financial support of the European Union. Its contents are the sole responsibility of the Greater Caribbean for Life and do not necessarily represent or reflect the views of the European Union