

Fidel Castro.
Instagram photo



Cuban leader Fidel Castro dies

BY ANDREW DAVIS AND MATT SIMONETTE

Longtime Cuban ruler Fidel Castro has died at age 90.

The country declared nine days of national mourning to mark his death.

President Barack Obama—who, two years ago, brokered a deal to restore diplomatic ties between the United States and Cuba for the first time since they were cut 55 years ago—offered his condolences. He urged Cubans to remember that they had “a friend and partner in the United States of America.”

U.S. President-elect Donald Trump called Castro a “brutal dictator,” and said he hoped Cubans could move toward a more free future.

Castro took power in Cuba on New Year’s Day 1959, promising to share his nation’s wealth with its poorest citizens. However, he became one of the world’s most controversial leaders, in part due to such developments as the Cuban Missile Crisis and even his abolishment of Christmas as an official holiday for three decades. (Castro was also seen as a thorn in the side of almost a dozen U.S. presidents.) He transferred his power to younger brother Raul in 2006, and formally resigned in 2008.

When it came to LGBT rights, Fidel was not known for his liberalism, and he sent thousands of gay men to labor camps, known as UMAP (or Military Units to Aid Production) camps. (He apologized for the camps in 2010.)

In a September 2015 talk he gave in Chicago, Cuban activist/physician Alberto Roque Guerra described how the island nation’s historical homophobia only got worse in the days immediately following Castro’s rise, since homosexuality was regarded as a hedonistic symptom of capitalism. Guerra said that the communist party, machismo, poor sex education and the medical profession all contributed to homophobia throughout the 1960s. Gay Cubans were not allowed to take part in the arts nor in educational capacities at the time.

“Officials were trying to erase our past,” Guerra said.

A Dec. 10, 1987, issue of the Chicago paper Outlines reported that “up to 50 percent or more of the Cuban prisoners who had been rioting at the Atlanta Federal Penitentiary and the Federal Alien Detention Center in Louisiana” were gay; they were apparently jailed for up to eight years solely because of their sexual

orientation.

In 1980, “Castro opened the doors for the Mariel flotillas, which started when 5,000 Cubans, including a large number of gays, occupied the Peruvian Embassy grounds and demanded freedom.” About 125,000 individuals journeyed to the United States—many of them gay people who Cuban authorities forced out of prisons and detainment facilities. However, once the gay refugees arrived in the United States, they were separated and imprisoned yet again.

Cuba decriminalized same-sex activities in 1979—but his government quarantined HIV/AIDS-positive people until 1993. Raul’s daughter, Mariela Castro, is a prominent LGBT-rights activist; the documentary Mariela Castro’s March: Cuba’s LGBT Revolution debuted on HBO Nov. 28.

According to writer-activist Achy Obejas, “Fidel Castro’s death, honestly, is anti-climactic. The succession of his brother Raul is assured and solid and has been for years. And it makes zero difference to LGBTQ prospects in Cuba: Fidel allowed the UMAP camps that imprisoned gay men and lesbians in the 1960s and only took a tepid responsibility for them a few years ago in a Mexican newspaper. That apology was never heard by the thousands of queer lives he ruined in Cuba and the policies of paranoia he set in place. An entire queer generation still suffers PTSD from that time.”

Obejas added that although Cuba “is progressive on many issues, it remains markedly anti-queer: There are zero rights for same-sex couples on the island. Never mind no right to marry—there are no rights to co-habitation, no rights to adopt, no rights protecting employment, no rights protecting even peaceful assembly. Yes, you can get free gender-reassignment surgery if you’re Cuban, but that’s because the state views that as a medical right, not a civil right, and the difference is critical. For gays to move forward in Cuba, a lot more is going to have to happen than just Fidel dying.”

Cuba-born performer Gloria Estefan wrote on Instagram, “Although the death of a human being is rarely cause for celebration, it is the symbolic death of the destructive ideologies that he espoused that, I believe, is filling the Cuban exile community with renewed hope and a relief that has been long in coming.”

Relationships & the Law Today

BY ANGELO D. DIBARTOLOMEO



Supreme Court to take on issue of transgender bathroom policies in schools

A transgender boy banned from using the boys’ restroom at his high school sued his county school board alleging that it impermissibly discriminated him in violation of Title IX of the U.S. Constitution. The student’s birth-assigned sex is female, but his gender identity is male.

Since he was a freshman, he began hormone therapy, legally changed his name to a traditionally male name, and has lived all aspects of his life as a boy. However, he has not undergone sex reassignment surgery (an action that is not permitted for minors). [This is an important distinction as the case that is the subject of this article is engrossed in the debate of sex versus gender as it applies to federal regulations regarding bathrooms in schools.]

At the student’s request, his high school allowed him to use the boys’ restroom in accordance with his gender identity as male. He was able to do so briefly without incident, however, as word spread through the community of the school’s decision to accommodate the transgender student’s identity, many demanded that he be prevented from using the boys’ restroom.

It was argued by concerned community members that allowing him to use the boys’ restroom violated the privacy of other students and would lead to sexual assault in school restrooms. An argument that is heard often by those opposing transgender individuals from using the restroom in accordance with their identity is that non-transgender boys would attend school wearing dresses so that they could freely access the girls’ restroom.

Ultimately, the school board adopted a policy limiting restroom access to students based upon their biological sex and providing so-called “gender identity issues” an “alternative appropriate private facility.” The student is unable to use the girls’ restroom in accordance with his birth-assigned sex because—as he is a boy in all aspects of his life—it makes the female students uncomfortable. He has further stated that requiring him to use a separate, unisex bathroom “make[s] him feel even more stigmatized. ... Being required to use the separate restrooms sets him apart from his peers, and serves as a daily reminder that the school views him as different.”

In June 2015, the student sued the school board, captioned G.G. v. Gloucester County School Board, Case No. 4:15-cv-00054-RGD-DEM, in the United States District Court for the Eastern District of Virginia. The District Court dismissed his Title IX claim reasoning that although Title IX prohibits discrimination on the basis of sex, it does not on the basis of other concepts such as gender, gender identity, or sexual orientation. Because regulations specifically allow schools to separate restrooms on

the basis of sex, requiring him to use the girls’ restroom in accordance with his birth-assigned sex of female is not a violation of Title IX.

The student subsequently appealed the dismissal of his Title IX claim to the United States Court of Appeals for the Fourth Circuit. On appeal, the main issue was the interpretation of the Department of Education’s regulations implementing Title IX that permit schools to separate bathrooms on the basis of sex. The crux of the issue was that the Department’s Office of Civil Rights specifically stated that the regulation is to be interpreted, in relation to transgender students, that “a school generally must treat transgender students consistent with their gender identity.” The District Court, however, ruled that the regulation permitting separation on the basis of sex was unambiguous and did not afford deference to the Department’s stated interpretation that transgender students are to be treated in a way consistent with their identity.

On appeal, the Fourth Circuit reversed the District Court’s ruling holding that the Department of Education’s regulation is in fact ambiguous, and thus, the courts are to grant deference to the Department’s interpretation of its own regulations. Ultimately, the school board would have to prove that the Department’s interpretation that transgender students are to be treated in conformance with their gender identity is inconsistent with the regulation. The case was thereby remanded back to the District Court, and on remand, the court granted the student’s request for a preliminary injunction requiring the school board to allow him to use the boys’ bathroom in accordance with the student’s gender identity as male.

The school board has since appealed the Fourth Circuit’s ruling that the Department’s interpretation of its own regulations regarding the separation of bathrooms is to be given deference as it applies to transgender students and that schools are to treat them in accordance with their identity as opposed to their birth-assigned sex.

The U.S. Supreme Court in deciding to hear the case has affirmatively decided to engross itself in the national controversy over bathroom laws and policies being implemented across the country pertaining to transgender students. The continued need to protect the rights of transgender individuals in this country is at the heart of this case. The Supreme Court has now entered the field and is poised to render a decision that will provide great precedent and guidance on how transgender rights are to be protected in the future.

Thus, this is a monumental case to keep a close eye on, as it will inevitably set the stage for the progression of transgender rights and advocacy in the future.

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