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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-third session**  
6–17 May 2019

## **Summary of Stakeholders' submissions on Dominica\***

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of five stakeholders' submissions<sup>1</sup> to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

#### **II. Information provided by stakeholders**

##### **A. Scope of international obligations<sup>2</sup> and cooperation with international human rights mechanisms and bodies<sup>3</sup>**

2. International Campaign to Abolish Nuclear Weapons (ICAN) noted with appreciation that, in 2016, Dominica voted in favour of the UN General Assembly resolution which established the mandate for nations to negotiate the UN Treaty on the Prohibition of Nuclear weapons. ICAN recommended that Dominica sign and ratify the UN Treaty on the Prohibition of Nuclear Weapons as a matter of international urgency.<sup>4</sup>

3. Center for Global non Killing (CGNK) recommended that Dominica ratify the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on the prevention and punishment of the crime of genocide as soon as possible.<sup>5</sup>

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\* The present document was not edited before being sent to United Nations translation services.



## **B. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **1. Cross-cutting issues**

#### *Equality and non-discrimination*<sup>6</sup>

4. The Inter-American Commission on Human Rights (IACHR) noted that it had been informed that organizations representing lesbian, gay, bisexual, transgender and intersex persons in Dominica were afraid to carry out their human rights defence work because of the widespread violence and discrimination against such persons in Dominica. According to the information received, participation in strategic litigation before national courts against laws and statutes that discriminate against or have a negative impact on lesbian, gay, bisexual, transgender and intersex persons has exposed human rights defenders to worrying levels of violence, including death threats, intimidation and violent attacks.<sup>7</sup>

### **2. Civil and political rights**

#### *Right to life, liberty and security of person*<sup>8</sup>

5. CGNK commended the fact that in Dominica no executions had been carried on during the period covered, and recommended Dominica to move to the next step and totally abolish the death penalty.<sup>9</sup>

6. In CGNK's opinion, article 2.2 of the Constitution might be interpreted as permitting to kill someone in case of arrest, escape, riot, insurrection, mutiny and to prevent criminal offences, and therefore could send a wrong message against the right to life for all. CGNK strongly encouraged Dominica to change its constitution accordingly and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at abolishing the death penalty.<sup>10</sup>

7. IACHR noted that the Constitution allowed for deprivation of life for the purpose of suppressing a riot.<sup>11</sup>

8. IACHR referred to the 2015 report of its Special Rapporteur for Freedom of Expression, who expressed concern that Dominica riot police reportedly used a disproportionate amount of force during a protest in May by Salisbury residents, who were complaining about the condition of the roads and the Government's alleged failure to address the problem. On that occasion, the police reportedly attempted to arrest individuals during and after the demonstration. A month later, on 12 June, another demonstration, prompted by discontent with the previous events, took place on the main road connecting the capital, Roseau, with Portsmouth, the island's second largest city. A member of parliament from the opposition party, the United Workers Party, said that police attacked the demonstrators with tear gas and other weapons even though the demonstration was peaceful.<sup>12</sup>

#### *Administration of justice, including impunity, and the rule of law*<sup>13</sup>

9. IACHR expressed concern at the existence of legislation that exempts law enforcement officers from liability, as this is a major obstacle when it comes to determining liability and applying penalties.<sup>14</sup>

#### *Fundamental freedoms and the right to participate in public and political life*<sup>15</sup>

10. IACHR referred to the 2016 report of its Special Rapporteur for Freedom of Expression, noting that two journalists received a death threat after reporting on a sex scandal involving three businessmen and a government minister, on local radio. On 1 March 2016, the journalists filed a formal complaint with the police about a death threat allegedly made by a businessman. The police are said to be conducting further inquiries.<sup>16</sup>

11. With reference to the 2017 report of the Special Rapporteur, IACHR noted that, on 5 October, a journalist had allegedly been assaulted by a member of the defence force of another country while he was reporting on the relief work being carried out in the port of

Dominica after the passage of Hurricane Maria. The officer allegedly took the camera that the journalist was using to record what was happening.<sup>17</sup>

12. IACHR also noted that, on 18 March, the Eastern Caribbean Telecommunications Authority, of which Dominica is a member, reportedly approved the bill on electronic communications that is set to replace the current Telecommunications Act. The bill sets out a series of objectives such as preventing discrimination between licensees on the basis of differing circumstances and ensuring the ability of retail customers to gain access to and to disseminate information. It provides for the establishment of a commission to ensure fair and equal access to the public electronic communications network and to submarine cable landing stations. Dominica is expected to adopt the bill as part of its national legislation.<sup>18</sup>

13. IACHR noted that, on 8 February 2017, the Prime Minister allegedly sued the leader of the opposition and a radio station for defamation and aggravated damages. According to the information available, the Prime Minister filed the lawsuit with the High Court and called for a significant amount in damages in respect of statements made by the journalist in various interviews, articles and in a public meeting. The Prime Minister's lawyer stated that letters would be written to those responsible for various media outlets to remind them not to publish information inadvertently, intentionally or negligently. On 27 April, the Judicial Committee of the Privy Council found the leader of the opposition guilty of defamation and sentenced him to pay the sum of £25,992 (approximately US\$ 34,390) to the Prime Minister.<sup>19</sup>

14. IACHR also noted that, on 23 May 2017, journalists and media workers from various media outlets are said to have gone to the House of Assembly to report on the third meeting of the ninth parliament of Dominica. According to the information available, even though the media workers showed their press credentials, the security officers working at the House of Assembly expelled them from the premises, claiming that only the Government Information Service was allowed to cover the meeting. However, the journalists and media workers from the various press outlets said that they had been invited to attend the meeting.<sup>20</sup>

15. IACHR reported that, on 22 June 2017, a journalist was allegedly denied entry to the House of Assembly. According to the information available, the Speaker of the House of Assembly prevented him from entering the building until he apologized publicly for having disrespected the sanctity of the House of Assembly. The journalist reportedly stated that he was never told why he was being denied entry to the House of Assembly.<sup>21</sup>

### 3. Rights of specific persons or groups

#### *Children*<sup>22</sup>

16. Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that, during the second UPR of Dominica, several recommendations were extended on the issue of corporal punishment of children.<sup>23</sup> It further stated that corporal punishment in Dominica was prohibited in early childhood education facilities. However, it was still lawful in all other settings, including the home, alternative and day care settings, schools, penal institutions, and as a sentence for a crime. Dominica affirmed that efforts were being made to discourage its use.<sup>24</sup> Child Rights International Network (CRIN) was particularly concerned that corporal punishment for children was lawful as a criminal sentence for males.<sup>25</sup>

17. As background information, GIEACPC indicated that, during the dialogue with the Committee on the Rights of the Child in 2004, the Government reported that Dominica was engaged in consultation on abolition of corporal punishment. However, it would be a long process and in the meantime imposition of corporal punishment continued to be legally regulated. As at April 2014, the Child Justice Bill was under discussion in the context of the Juvenile Justice Reform Project of the Organisation of Eastern Caribbean States, with a view to revising it before presentation to Parliament. As at February 2016, the Bill had not been enacted.<sup>26</sup>

18. CRIN noted that, pursuant Article 2 of the Juvenile Offenders' Punishment Act, the High Court Judges were empowered to order that a boy under the age of 14 who had been

convicted of an offence “be as soon as practicable privately whipped”, in lieu of or in addition to any other punishment. The whipping consists of up to 12 strokes with a tamarind rod, in the presence of a police officer and, if desired, the boy’s parent or guardian. A medical practitioner should certify that the boy is fit to receive the punishment but this requirement can be dispensed with if no medical practitioner is available within 24 hours.<sup>27</sup>

19. CRIN also informed that the flogging should generally be carried out as soon as possible, up to 12 strokes on the buttocks for a boy under 16, or 24 strokes for older males. According to the sections 7 and 8 of the Corporal Punishment Act, those under 18, a tamarind rod must be used. The flogging should be carried out in prison, though for boys under the age of 16, it can also be carried out in a police station. A medical officer must certify that the person is fit to undergo the punishment.<sup>28</sup>

20. CRIN noted that the main laws governing juvenile justice were the Children and Young Persons Act 1970, the Magistrate’s Code of Procedure Act 1961, the Juvenile Offenders’ Punishment Act 1881, and the Corporal Punishment Act 1987. CRIN was concerned that article 2 of the Corporal Punishment Act defined a child as under 16; and the Children and Young Persons Act (CYPA) defined a child as under 14, a juvenile as under 18, and a young person as aged 14 to 17. The CYPA also specified the minimum age of criminal responsibility as 12. CRIN regretted that in Dominica, sentences of life imprisonment and corporal punishment were lawful for persons who were under the age of 18 at the time they committed a criminal offence. Indeed, in prohibiting the death penalty for persons under 18, the Offences against the Person Act required that in lieu of the death penalty, children were sentenced to detention “during the State’s pleasure”. According to CRIN, the Government has stated that it was possible for such persons to be sentenced to life imprisonment without the possibility of release, and a 14 to 17-year-old child could be sentenced to prison.<sup>29</sup>

21. CRIN further stated that, according to Section 3 of the Corporal Punishment Act, a boy aged under 16 who has been convicted of any offence may be sentenced to corporal punishment in lieu of or in addition to any other punishment. If the sentence is passed in the Magistrate’s Court, it must be confirmed in the High Court before being carried out. And, according to Section 4 and 5 of the Corporal Punishment Act, the High Court may pass a sentence of corporal punishment on any male convicted to rape, sexual intercourse with a girl under 14, or attempting or aiding these offences.<sup>30</sup>

22. CRIN further indicated that the Children and Young Persons Act did not specifically mention corporal punishment as a way of dealing with juvenile offenders, but referred to the Magistrate’s Code of Procedure Act, which allowed a magistrate to order the “private whipping” of a male under 18. The Offences against the Person Act also provided for “private whipping”<sup>31</sup>

23. CRIN regretted that they had been unable to obtain statistical information relating to sentencing of children to life imprisonment, detention “during the State’s pleasure” or corporal punishment.<sup>32</sup>

24. CRIN highlighted the international human rights consensus against the imposition of life imprisonment and corporal punishment for child offenders, and the specific recommendations made to Dominica by the Committee on the Rights of the Child to abolish sentences of life imprisonment and whipping, and during the first and second cycles of the Universal Periodic Review. CRIN recommended that Dominica explicitly prohibit sentences of corporal punishment and life imprisonment for children in Dominica, without exception; and raise the minimum age of criminal responsibility.<sup>33</sup>

25. GIEACPC hoped that during the third UPR of Dominica, the Working Group will note with concern the continued legality of corporal punishment of children in the country; and that states will raise the issue and make a specific recommendation that Dominica enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home and as a sentence for a crime, and repeal all legal defences for its use, including in the Children and Young Persons Act 1970.<sup>34</sup>

## Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org).

*Civil society**Individual submissions:*

ICAN	International Campaign to Abolish Nuclear Weapons; Geneva, (Switzerland);
CGNK	Center for Global Nonkilling Geneva, (Switzerland);
CRIN	Child Rights International Network Geneva, (Switzerland);
GIEACPC	Global Initiative to End All Corporal Punishment of Children Geneva, (Switzerland).

*Regional intergovernmental organization(s):*

IACHR	The Inter-American Commission on Human Rights.
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<sup>2</sup> The following abbreviations are used in UPR documents:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>3</sup> For relevant recommendations see A/HRC/27/9, paras. 93.32–93.33, 93.36–93.41, 93.43, 94.1–94.4.

<sup>4</sup> ICAN, page 1.

<sup>5</sup> CGNK, page 5.

<sup>6</sup> For relevant recommendations see A/HRC/27/9, paras. 93.1–3.9, 93.44–93.45.

<sup>7</sup> ICHR page 1 and 2.

<sup>8</sup> For relevant recommendations see A/HRC/27/9, paras. 93.11–93.19, 93.22, 93.26–93.27, 94.6–94.7, 94.13–94.30.

<sup>9</sup> CGNK, page 5.

<sup>10</sup> CGNK, page 5.

<sup>11</sup> ICHR, page 1.

<sup>12</sup> ICHR, page 2.

<sup>13</sup> For relevant recommendations see A/HRC/27/9, paras. 94.5–94.6, 94.35–94.37.

<sup>14</sup> ICHR, page 1.

<sup>15</sup> For relevant recommendations see A/HRC/27/9, paras. 93.10–93.19.

<sup>16</sup> ICHR, page 2.

<sup>17</sup> ICHR, page 3.

<sup>18</sup> ICHR, page 3.

<sup>19</sup> ICHR page 4.

<sup>20</sup> ICHR, page 4.

<sup>21</sup> ICHR, page 4.

<sup>22</sup> For relevant recommendations see A/HRC/27/9, paras. 93.23, 93.56–93.61, 93.63, 94.31–94.34.

<sup>23</sup> GIEACPC, page 1.

<sup>24</sup> GIEACPC paras. 1.1–1.3.

<sup>25</sup> CRIN, para. 6.

<sup>26</sup> GIEACPC, para. 2.13.

<sup>27</sup> CRIN, para. 6.

<sup>28</sup> CRIN, para. 9.

<sup>29</sup> CRIN, paras. 1–5.

<sup>30</sup> CRIN, para. 8.

<sup>31</sup> CRIN, para. 10.

<sup>32</sup> CRIN, para. 11.

<sup>33</sup> CRIN, para. 12.

<sup>34</sup> GIEACPC page 2.

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