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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-seventh session**  
18–29 January 2021

## **Summary of Stakeholders' submissions on Saint Kitts and Nevis\***

### **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 4 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. The Advocates for Human Rights and the World Coalition Against the Death Penalty (JS1) informed that Saint Kitts and Nevis received recommendations to sign or ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, as well as to impose a moratorium on the death penalty or abolish it entirely. Saint Kitts and Nevis did not accept any of these recommendations.<sup>4</sup>

3. JS1 recommended Saint Kitts and Nevis to ratify the International Covenant on Civil and Political Rights and its Second Optional Protocol, the Optional Protocol to the Convention against Torture, and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.<sup>5</sup>

4. The Center for Global Nonkilling (CGNK) recommended the urgent ratification of the Convention on the prevention and punishment of the crime of genocide, the swift ratification of the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>6</sup>

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



5. Just Attonement Inc (JAI) recommended that Saint Kitts and Nevis sign, ratify, and implement the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the American Convention on Human Rights.<sup>7</sup>

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

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

#### *Equality and non-discrimination*<sup>8</sup>

6. Human Rights Watch (HRW) informed that, since Saint Kitts and Nevis' last UPR, it has conducted in-country research that evidenced the discrimination, violence, stigma, and prejudice that beset LGBT people's enjoyment of basic rights. HRW recommended to repeal Sections 56 and 57 of the Offences Against the Person Act, which criminalized consensual same-sex conduct.<sup>9</sup> JAI made the same recommendation.<sup>10</sup>

7. HRW stressed that Saint Kitts and Nevis did not have any comprehensive laws that prohibited discrimination on grounds of gender identity and sexual orientation, including in the employment, housing, access to education, and health care contexts.<sup>11</sup> In this lacking legal context, discrimination against LGBT people seeped into everyday activities, whether it was availing of services such as health care, school, or riding a bus, or social activities such as going to the movies or shopping. Discrimination in the workplace can also occur. Notably, LGBT persons who faced discrimination in any sector lacked any legal avenue to seek redress for themselves or accountability for perpetrators.<sup>12</sup>

8. HRW recommended that Saint Kitts and Nevis pass comprehensive anti-discrimination legislation that prohibited discrimination on grounds of gender identity and sexual orientation, including in the employment, housing, access to education, and health care sectors, and specify effective measures to identify, prevent, and respond to such discrimination.<sup>13</sup> JAI recommended that the country take affirmative steps to protect the rights of LGBT persons.<sup>14</sup>

9. JAI reiterated that international human rights law customarily protected the right to privacy and the right to be protected against arbitrary and unlawful attacks on or interference with one's private and family life. One's reputation or dignity are also protected. International human rights law further establishes that matters of sexual orientation and gender identity are protected by the right to privacy and the right to be protected against arbitrary and unlawful interference with, or attacks on, one's private and family life and one's reputation or dignity. By criminalizing same-sex activity in the penal code, Saint Kitts and Nevis violates these international obligations. Saint Kitts and Nevis are also members states to the Organization of Eastern Caribbean States (OECS), which strives to increase human rights protections in the region. As such, Saint Kitts and Nevis should enact legislation that protects the social, physical, and mental health of LGBT persons.<sup>15</sup>

#### *Development, the environment, and business and human rights*

10. JAI informed that increasing ocean acidification in Saint Kitts and Nevis has been steadily increasing due to carbon emissions absorbing into the ocean, which was resulting in drastic loss of ecosystem. Acidification threatens food sources as well. The people of Saint Kitts and Nevis are also subject to the increased detrimental effects of salt intrusion due to sea level rise and climate change. As sea level rises around the islands, salt water moves onto the land and infiltrates aquifers, often when a storm surges or during high tide. In extreme cases, salt intrusion can result in the complete abandonment of wells.<sup>16</sup>

11. JAI was alarmed by the fact that Saint Kitts and Nevis was not prepared for the effects of climate change and that the imminent climate breakdown and the lives of its citizens were in grave jeopardy as a result. It considered that urgent action was needed to forestall immediate harm to the citizens of Saint Kitts and Nevis because of the climate

breakdown.<sup>17</sup> JAI recommended that, in order to prevent conflict due to climate change induced mass emigration, Saint Kitts and Nevis take appropriate steps with other nation states to plan for potential conflict situations.<sup>18</sup>

12. JAI also recommended Saint Kitts and Nevis to immediately commence with more robust preparations to prepare for climate change and the imminent climate breakdown, and urged the government to extensively prepare for the climate breakdown no later than the end of 2020.<sup>19</sup>

13. On good governance, JAI recommended that Saint Kitts and Nevis should abide the Integrity in Public Life Act and take affirmative steps to prevent corruption to ensure adequate trust in the government to avoid political and democratic unrest. . Corruption is a key example of a deficit of democracy. Although Saint Kitts and Nevis adopted the Integrity in Public Life Act in 2013, an anti-corruption statute, major concerns have been raised about the nation's application of their Citizenship by Investment and Residence by Investment Programs. Thus, it is possible that the government's use of the Act encourages money laundering and the improper admittance of those who may be threats to national security due to lack of proper vetting procedures.<sup>20</sup>

## 2. Civil and political rights

### *Right to life, liberty and security of person*<sup>21</sup>

14. JS1 noted that Saint Kitts and Nevis was the most recent country in the English-speaking Caribbean to carry out an execution, which occurred on December 19, 2008. Previously, Everson "Blee" Mitcham had been on death row for over seventeen years, since his sentencing on June 26, 2001, but in October 2018, the Eastern Caribbean Supreme Court commuted his death sentence to life imprisonment, determining that a declaration to execute Mitcham would now amount to inhuman or degrading punishment in light of his lengthy detention. Saint Kitts and Nevis nonetheless has not abolished the death penalty and also has failed to implement several recommendations from the 2015 Universal Periodic Review regarding torture and capital punishment.<sup>22</sup>

15. JS1 recommended that Saint Kitts and Nevis abolish the death penalty and replace it with a sentence that is fair, proportionate, and in compliance with international human rights standards; commute any death sentences still in force; and impose an immediate moratorium on the death penalty, effective immediately both going forward and retroactively.<sup>23</sup>

16. JS1 stated that despite efforts to improve training for prison officers, there have been reports of beatings and torture at Her Majesty's Prison in Basseterre. In March 2018, Kevin Kelly was hospitalized after three prison officers shackled and beat him in the washroom. In February 2018, Alistair Isaac suffered a broken leg when he received the full impact of a "scattershot bullet" fired by a prison officer. There has been no reported response from authorities regarding the March 2018 incident.<sup>24</sup>

17. JS1 recommended that Saint Kitts and Nevis conduct credible, independent and impartial investigations into all allegations of torture and other ill-treatment in detention facilities, and publish the results of all such investigations.<sup>25</sup>

18. JS1 also recommended that Saint Kitts and Nevis prohibit sentences involving corporal punishment, including lashes, in recognition that such punishment contravenes the Constitutional prohibition against torture and inhuman or degrading punishment.<sup>26</sup>

### *Administration of justice, including impunity, and the rule of law*

19. JS1 recommended that Saint Kitts and Nevis 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 the country.<sup>27</sup> It also added that training for prison staff should include comprehensive training on human rights in collaboration with civil society organizations in the region.<sup>28</sup>

*Right to participate in public and political life*

20. CGNK stressed the right to participate in the decision making of women, youth, persons with disabilities and all vulnerable persons and social groups.<sup>29</sup>

### 3. Economic, social and cultural rights

*Right to health*

21. JS1 recommended to 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.<sup>30</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:*

CGNK	The Center for Global Nonkilling; Geneva (Switzerland);
HRW	Human Rights Watch; Washington DC (USA);
JAI	Just Atonement Inc; New York (USA).

*Joint submissions:*

JS1	<b>Joint submission 1 submitted by:</b> Advocates for Human Rights and the World Coalition Against the Death Penalty (USA).
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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/31/16, paras 91.1–91.18.

<sup>4</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 1.

<sup>5</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 1.

<sup>6</sup> Submission of CGNK, pp. 6-7.

<sup>7</sup> Submission by Just Atonement Inc (JAI), paras. 22-23.

<sup>8</sup> For relevant recommendations see A/HRC/31/16, paras 91.32, 91.37, 91.38, 91.44.

- <sup>9</sup> Submission of Human Rights Watch, p. 3.
- <sup>10</sup> Submission by Just Atonement Inc (JAI), paras. 22-23.
- <sup>11</sup> Submission of Human Rights Watch, p. 3.
- <sup>12</sup> Submission of Human Rights Watch, p. 4.
- <sup>13</sup> Submission of Human Rights Watch, p. 4.
- <sup>14</sup> Submission by Just Atonement Inc (JAI), para. 20.
- <sup>15</sup> Submission by Just Atonement Inc (JAI), paras. 22-23.
- <sup>16</sup> Submission by Just Atonement Inc (JAI), paras. 7-8.
- <sup>17</sup> Submission by Just Atonement Inc (JAI), para. 1.
- <sup>18</sup> Submission by Just Atonement Inc (JAI), para. 3.
- <sup>19</sup> Submission by Just Atonement Inc (JAI), para. 17.
- <sup>20</sup> Submission by Just Atonement Inc (JAI), paras. 28-29.
- <sup>21</sup> For relevant recommendations see A/HRC/31/16, paras.91.28–91.40.
- <sup>22</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 1.
- <sup>23</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 6.
- <sup>24</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 5.
- <sup>25</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 6.
- <sup>26</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, page 7.
- <sup>27</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 7.
- <sup>28</sup> Submission from the Advocates for Human Rights and the World Coalition Against the Death Penalty, p. 7.
- <sup>29</sup> Submission of CGNK, p. 5. For relevant recommendations see A/HRC/31/16, paras 91.32, 91.37, 91.38, 91.44.
- <sup>30</sup> Submission from Advocates for Human Rights and the World Coalition Against the Death Penalty (USA).
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