



JUST ATONEMENT INC.

justice  
hope peace unity equal opportunity  
golden age  
progress sustainability democracy freedom  
human rights harmony civilization

**Just Atonement Inc.**

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Just Atonement Inc. (JAI) incites transformative social change by empowering lawyers and law students with the opportunities, training and means to defend democracy, human rights, and a livable planet.

JAI was founded in the United States of America in 2017.

JAI invites and organizes legal professionals globally into a single order and aligns a vision of a peaceful, sustainable world, governed by the democratic rule of law; litigates in courts all over the world on cutting edge human rights cases to build peace and sustainability, and to defend democracy; and advocates for a vision of a true Golden Age for humanity: a world where countries settle their disputes peacefully, manage social and economic systems that are in harmony with the planet, and govern themselves through the principles of democracy, the rule of law, and human rights.

JAI submits this written submission with respect to the Universal Periodic Review of Saint Lucia.

**Summary of Conclusions**

- 1. The breakdown and collapse of the Earth's climate system is imminent and may have already commenced.** St. Lucia is among the most vulnerable to the impact of climate change. Rising temperature, sea-levels, and intensity of Atlantic storms pose critical threat to the right to life and self-determination of the St. Lucian people. Although St. Lucia has established an adequate adaptation plan, it is financially restrained to implement those plans.
- 2. Excessive use of force by the Royal St. Lucia Police Force have led to unlawful deaths and injury to St. Lucian citizens.** Such acts violate the fundamental right to life as well as the International Convention Against Torture.



3. LGBTQ+ persons are not equally protected by the laws of St. Lucia, and the lack of anti-discriminatory legislation for the LGBTQ+ community sanctions social stigma and discrimination. Such practices violate the equality of human rights.

### *Analysis*

#### Climate Change

4. Although St. Lucia contributes 0.0015% of global GHG emissions (2010), it is among the most vulnerable states to the adverse impacts of climate change for the following reasons:
  - (1) Geography: Islands in the Caribbean are vulnerable to Atlantic hurricanes and tropical storms. St. Lucia's small geographical area means that natural disasters take country-wide effects. Because 70-80% of the St. Lucian population is located along the coastal belt, intense hurricanes have direct effects on the livelihood of close to all of its citizens.
  - (2) Economy: St. Lucia's economy largely depends on the agriculture and tourism sectors, which account for over 50% of the GDP. Intensified hurricanes and salt-water intrusion have already led to a decline in agricultural output, and projected beach erosion will negatively impact the tourism industry.
5. Studies show that hurricane intensity is projected to increase in the Caribbean. For instance, "category-five" hurricanes have historically occurred once every 50 years; however, since 2000, they have been occurring once every five years. The impact of each "category-five" hurricane has also been rising – Hurricane Tomas (2010) incurred a total cost of 43% of St. Lucia's GDP.
6. The impact of hurricanes is particularly crippling in times of a global pandemic. To deal with the loss of tourism revenue resulting from the COVID-19 outbreak, St. Lucia has borrowed \$900 million (22% of GDP) even before the hurricane season has begun this year. A category-five hurricane in the current situation will be crippling to the St. Lucian economy.
7. Sea level rise will have a critical impact on St. Lucia's transportation and tourism industries. Studies show a complete erosion and flooding of at least 11% and 24% of all island beaches by 2040. Moreover, critical infrastructure (two international seaports, and two airports) are all located on low-lying coastal land. Rising intensity of storms and sea-level will disrupt traffic in and out of these hubs, negatively affecting the tourism industry.
8. Climate change not only affects St. Lucia's national economy but also directly impacts individual livelihoods of St. Lucian citizens. Each year, with more intense wreckage caused by hurricanes, an increasing number of citizens need to be evacuated until the country can rebuild. By 2100, rising sea-level will likely displace 20% of the population from their homes permanently.



9. Likewise, the number of St. Lucian citizens exposed to either internal or external displacement will continue to rise. However, because central St. Lucia is geographically unsuited for living (mostly mountains) and surrounding Caribbean islands also face similar perils, those displaced because of climate change will have limited options. Currently, international law does not formally acknowledge the term “climate refugees” and no treaty provides remedy for climate-induced displacement.
10. The disproportionate impact of climate change on St. Lucia is a violation of the St. Lucian people’s rights to self-determination as recognized in Article 1 of the ICCPR and ICESCR. As the St. Lucian government is forced to adapt its economic policy to the changing climate, and as the people of St. Lucia are forced to relocate from their homes, the people of St. Lucia are prevented from freely pursuing their economic, social, and cultural development. As extreme weather events create more refugees and increase unemployment in St. Lucia, the acts (or inaction) of the global community violate the St. Lucian citizens’ inherent right to life, as recognized in Article 6 of the ICCPR.
11. St. Lucia has adopted policies to both mitigate and adapt to climate change. In 2015, St. Lucia made its first NDC submission, and the government has also established the National Adaptation Plans for 2018-2028.<sup>1</sup> The plans outline sectoral adaptation measures ranging from technological advancement to constructing infrastructure to combat the negative effects of climate change. Although the state has identified the necessary infrastructure, the biggest setback of the NAP is the lack of financial resources.
12. For instance, under the Paris Agreement, countries have committed to jointly mobilizing \$100 billion per year by 2020 to address the needs of developing countries, including Small Island Developing States (SIDS) such as St. Lucia. But this funding has not yet reached the SIDS. Moreover, small island nations cannot access the Green Climate Fund for the purpose of adapting to future climate change impacts.

### ***Recommendations***

13. Implement in full the policies set out in St. Lucia’s NAP. Continue to research and establish adaptation plans beyond 2028 to make St. Lucia a sustainable place to live in the long-term.
14. Petition to the UN Human Rights Committee (UN HRC) or other international judicial bodies to clarify the conditions required for climate refugees to seek asylum. In 2020, the UN HRC recognized the obligation for countries not to refool displaced persons if their lives are at imminent risk due to climate change.<sup>2</sup> However, the UN HRC did not define the environmental conditions that pose “immediate threat to life.”

<sup>1</sup> Government of Saint Lucia, Department of Sustainable Development, *Saint Lucia’s National Adaptation Plan (NAP): 2018-2028* (2018), <https://www4.unfccc.int/sites/NAPC/Documents/Parties/SLU-NAP-May-2018.pdf>

<sup>2</sup> United Nations Human Rights Committee, *Views Adopted by the Committee Under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2728/2016*, International Covenant on Civil and Political Rights (2020).



15. Coordinate with other SIDS and neighboring countries (e.g. U.S. and Canada) to create an inter-governmental system for displaced citizens to seek asylum in extreme weather events.
16. **The international community** should revise the requirements of the Green Climate Fund to be based on a vulnerability index so that the most pressing countries receive the funds. The requirement should also be revised to allow SIDS to utilize the fund to prepare for future impacts of climate change, rather than in the aftermath of calamities.
17. **Nations that contribute the most** to the climate crisis must be held responsible for addressing the damages done in St. Lucia. For instance, larger emitting countries should financially contribute to St. Lucia's NAP programs and provide technological assistance. Currently, the NAP is assisted by the UNDP and the Japan-Caribbean Climate Change Partnership; international contribution should be expanded, and led by the UNFCCC to mandate other global emitters to contribute.
18. **The international justice system** should recognize the inequitable reality that countries like St. Lucia (contributing 0.0015% of GHG emissions) must bear the brunt of climate change. The justice system should introduce procedures by which St. Lucia could seek remedy to both serve justice and to incentivize change in the larger emitting countries.

#### Police Use of Force

19. St. Lucia's Constitution prohibits deprivation of human life; however, it also states that one's death is justifiable if death occurred in order to effect a lawful arrest, or to prevent the commission of a criminal offense. Although the Police Act (1965) makes any "unnecessary" use of police violence liable to a \$240 fine, the legislation does not define "unnecessary" force.
20. An investigative report in Jamaica concluded that in 2010-2011, the Royal St. Lucia Police Force (RSPF) had effectively created "death lists" to deliberately kill suspected criminals and stage the crime scene to cover up the killings. There have been at least five court-ruled remedies for police brutality in 2018-2019, and at least one death caused by police violence in 2019. Many other cases of police violence await review, as the procedure on investigating police officers are often delayed.
21. The deadly use of police force in making non-life-threatening arrests, and especially if they are staged killings, violate the ICCPR that no one shall be arbitrarily deprived of life. Moreover, the excessive use of police force to suspects and prisoners may violate the International Convention Against Torture, if such force deprives one's human dignity. However, St. Lucia is only a signatory to the ICCPR (yet to be ratified and implemented), and is not a signed party to the Convention Against Torture.

#### ***Recommendations***



22. Adopt national law on use of police force to make clear what constitutes as “unnecessary” force. Review and amend the Constitution to either specify what circumstances death during police arrest is justified, or delete the provision on justifiable death by police force.
23. Adopt national law to prohibit the police use of firearms during arrests to protect property. Legislation should make clear that use of firearms is only legal to avoid imminent threat of death or serious injury.
24. Establish independent agency to investigate cases that involve the use of police force to ensure transparent and efficient procedure.
25. Establish and implement police training programs on appropriate use of force and provide guidelines on civil confrontation.

#### LGBTQ+ Rights

26. St. Lucia is frequently listed among the most dangerous places for members of the LGBTQ+ community to work, live, or visit.
27. Consensual same-sex sexual activity is illegal under “buggery” and indecency statutes. Indecency statutes carry a maximum penalty of five years in prison. Although polls show that the majority of the St. Lucian population is indifferent to abolishing the indecency statutes, such laws persist. In addition, anti-discriminatory laws do not include discrimination based on sexual orientation, gender identity, or sexual expression.
28. Although the government rarely enforces its buggery and indecency laws (no cases reported in 2018), their existence provides legal sanction to place LGBTQ+ people in second-class status in every aspect of life. LGBTQ+ citizens face verbal harassment on a daily basis, and even physical threats. These citizens are often denied access to healthcare, the job market, and protection from the police.
29. St. Lucia’s laws on buggery and indecency violate St. Lucia’s own Constitution, which declares that every person has the fundamental right to liberty, personal privacy, protection of the laws, and equality. Discriminatory laws against the LGBTQ+ community also violate the Universal Declaration of Human Rights (UDHR), which declares that all people are born equal in dignity and rights. Furthermore, the UN Human Rights Council has interpreted Article 2 of the ICCPR – which St. Lucia signed in 2011 – to prohibit discrimination based on sexual orientation.

#### *Recommendations*

30. Repeal all laws and legal provisions, in both Civil and Criminal Codes, prohibiting consensual same-sex sexual activity.
31. Amend, or review under the Constitution, the state anti-discriminatory laws to expand their meaning to prohibit discrimination based on sexual orientation, gender identity, and



sexual expression. Establish and implement policies to address workplace discrimination, and implement education programs to raise awareness on gender and sexual diversity.

32. Continue to operate diversity training programs for the Royal St. Lucia Police Force that focus on police interactions with the LGBTQ+ community, and expand the training programs to all government employees.
33. Implement in full the recommendations accepted during the 2011 and 2015 UPRs to ratify the ICCPR.

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### **Acknowledgement**

*This submission was prepared by Dave Inder Comar (Stanford 2001, Stanford 2002, NYU School of Law 2005) and Jay Kim (University of Oxford 2015, Harvard Law School 2022)*

