



## SAINT KITTS AND NEVIS

### Stakeholder Report for the United Nations Universal Periodic Review

Submitted by **The Advocates for Human Rights,**

a non-governmental organization in special consultative status

and

**The World Coalition Against the Death Penalty**

for the 37<sup>th</sup> Session of the Working Group on the Universal Periodic Review

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Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**The World Coalition Against the Death Penalty**, an alliance of more than 160 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

## EXECUTIVE SUMMARY

1. This report addresses Saint Kitts and Nevis's compliance with human rights obligations with regard to its use of the death penalty. St. Kitts and Nevis is 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. St. 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.

### I. BACKGROUND AND FRAMEWORK

#### A. 2015 Universal Periodic Review of St. Kitts and Nevis

2. During its second-cycle Universal Periodic Review, St. Kitts and Nevis rejected all recommendations related to the death penalty and torture. St. Kitts and Nevis accepted one recommendation relevant to prison conditions generally and a recommendation relating to the length of detention without trial.
  1. *Impose a moratorium on the death penalty or abolish the death penalty.*

#### **Status of Implementation: Not Accepted, Not Implemented**

3. St. Kitts and Nevis received 6 recommendations to sign or ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights,<sup>1</sup> as well as 11 recommendations to impose a moratorium on the death penalty or abolish it entirely.<sup>2</sup> St. Kitts and Nevis did not accept any of these recommendations. Moreover, St. Kitts and Nevis has not imposed a moratorium on the death penalty or abolished the death penalty. The imposition of the death penalty in St. Kitts and Nevis has been rare as of late; the country has carried out three executions over the past 30 years, and none has occurred in the past ten years. St. Kitts and Nevis asserts that, under governing case law, it reserves the death penalty for the "worst of the worst" cases.<sup>3</sup>
  2. *Increase resources to prisons to improve conditions.*

#### **Status of Implementation: Accepted, Partially Implemented**

4. The United States recommended that St. Kitts and Nevis "[i]ncrease resources to prisons to improve conditions."<sup>4</sup> St. Kitts and Nevis accepted this recommendation.<sup>5</sup> Conditions in Her Majesty's Prison are "overcrowded" and "austere," with the prison's population count of 185 exceeding the intended capacity of 160.<sup>6</sup> While most people had beds, some people slept on blankets on the floor.<sup>7</sup> In 2018, prison authorities undertook renovations<sup>8</sup> by plastering and painting cells for males and conducting other non-specified renovations in cells for females.<sup>9</sup>

### 3. *Torture.*

#### **Status of Implementation: Not Accepted, Not Implemented**

5. Despite participating in an October 2015 seminar organized by the Convention against Torture Initiative promoting the ratification of the United Nations Convention against Torture in the Caribbean Region,<sup>10</sup> St. Kitts and Nevis did not accept any of 14 recommendations to ratify the Convention Against Torture or its Optional Protocol.<sup>11</sup> It has not ratified those instruments.

#### **B. Domestic Legal Framework**

6. The Constitution of St. Kitts and Nevis explicitly allows for the use of the death penalty in cases of treason or murder.<sup>12</sup> The law is a product of both case law and acts of parliament. The Judicial Committee of the Privy Council (JCPC) is the highest court of appeal for several independent Commonwealth countries, the British Overseas Territories and the British Crown dependencies, including St. Kitts and Nevis,<sup>13</sup> and has an extensive jurisprudence on the death penalty. While not typically binding on courts within the United Kingdom, the JCPC's judgments are binding on all courts within any other Commonwealth country from which an appeal is heard, including St. Kitts and Nevis.<sup>14</sup>
7. As an example of the interaction between parliamentary acts and court rulings, the Offenses Against the Person Act, as amended, imposes a mandatory death penalty for murder: “[whosoever is] convicted of murder shall suffer death as a felon.”<sup>15</sup> The JCPC interpreted this provision in *Fox v. Queen* to instead be read as “whosoever is convicted of murder may suffer death as a felon.”<sup>16</sup> Individuals under 18 years of age are not subject to execution for murder under the Offenses Against the Person Act.<sup>17</sup> Case law has further specified that courts should sentence only the “worst of the worst” to death, and that they should not so sentence the merely “cold-blooded, brutal, and brazen” killer.<sup>18</sup>
8. There are also procedural restrictions on use of the death penalty. Criminal defendants are constitutionally entitled to a fair, speedy, and public trial by jury, with a presumption of innocence, and the right to confront and question witnesses.<sup>19</sup> Free legal assistance is purportedly available for indigent defendants in capital cases.<sup>20</sup> The JCPC requires that psychiatric reports be presented for all defendants in capital cases, though it is not clear that this requirement is strictly adhered to in practice.<sup>21</sup>
9. The Constitution grants the Governor-General the “prerogative of mercy,” which allows for the granting of pardons, respites, substitution of less severe sentences, or the remitting in whole or in part of forfeitures.<sup>22</sup> The Committee on Prerogative of Mercy is required to provide advice to the Governor-General in all cases (except courts-martial) in which a person is sentenced to death.<sup>23</sup>
10. The JCPC in *Pratt and Morgan v. Jamaica* interpreted execution occurring more than five years after the date of sentencing to violate Section 17(1) of the Jamaican Constitution, which provides that “No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.”<sup>24</sup> The decision has resulted in the imposition of a five-year maximum term on death row across the English-speaking Caribbean.<sup>25</sup> The St. Kitts and Nevis Constitution, echoing that of Jamaica, provides that “A person shall not be subjected to torture or to inhuman or degrading punishment or

other like treatment.”<sup>26</sup>

## **II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS**

### **Right or area 2.1. Acceptance of international norms**

11. St. Kitts and Nevis has not ratified the Convention against Torture or the International Covenant on Civil and Political Rights, among others.

### **Right or area 6. Human rights education and training**

12. During the second UPR, the delegation of St. Kitts and Nevis requested technical and other resources to amend prison policies and to maintain consistent and regular capacity-building programs for prison officers.<sup>27</sup>
13. In 2019, Prime Minister Timothy Harris submitted a motion to the St. Kitts and Nevis National Assembly to change the structure and management of the country’s prisons.<sup>28</sup> In connection with this reform, Terrance James was appointed to the newly created post of Commissioner of Prisons and Corrections.<sup>29</sup> James has remarked that he intends to give additional attention to training for prison officers.<sup>30</sup> In August 2019, a group of senior and junior prison officers visited Barbados for a two-week training course.<sup>31</sup>

### **Right or area 12.4. Death penalty**

14. Although St. Kitts and Nevis has not imposed the death penalty since 2008 and governing case law reserves the sentence for the “worst of the worst,” St. Kitts and Nevis continues to reject recommendations to abolish the death penalty outright.<sup>32</sup> Moreover, the government has confirmed that it intends to abide by any court decision to impose the death penalty. Prime Minister Harris remarked at a 2016 town hall meeting that he has no objections to the use of capital punishment.<sup>33</sup>
15. In October 2018, the Eastern Caribbean Supreme Court commuted to life imprisonment the death sentence of Everson “Blee” Mitcham, who at the time was the sole person on St. Kitts and Nevis’ death row.
16. Mitcham had raised three main several challenges to his sentence. First, in his June 2015 appeal of his original June 26, 2001 sentencing, Mitcham argued, applying *Pratt and Morgan*, that his execution would constitute “inhuman or degrading punishment or other treatment” as his execution did not occur within five years of his sentence. Second, Mitcham contended that his right to the protection of law was breached because the Court of Appeals retracted a single-judge order granting leave to appeal his sentence out of time, contending that the judge had no jurisdiction to grant the appeal. Third, Mitcham argued that authorities violated his right to life and protection of the law when they read him a warrant for his execution without giving him an opportunity to be heard by the Advisory Committee on the Prerogative of Mercy, in accordance with Section 66-68 of the Constitution.
17. In response to these challenges, the Eastern Caribbean Supreme Court determined that an execution would amount to inhuman or degrading punishment or other treatment contrary to Section 7 of the Constitution,<sup>34</sup> that authorities violated Mitcham’s right to the protection of law when they precluded him from presenting his case to the Committee on the Prerogative of Mercy,<sup>35</sup> and when the Court of Appeals retracted the single judge’s

leave to appeal his sentence out of time.

18. In October 2019, a court found Brandon Lee Wells and Travien Liddie guilty of the 2017 killing of 17-year old Leanna Napoleon. The Director of Public Prosecutions filed an application seeking the death penalty. To date, however, the authors of this report have not been able to ascertain the status of their sentencing proceedings.<sup>36</sup>

#### **Right or area 12.5. Prohibition of torture and cruel, inhuman or degrading treatment**

19. 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.<sup>37</sup> In February 2018, Alistair Isaac suffered a broken leg when he received the full impact of a "scattershot bullet" fired by a prison officer.<sup>38</sup> There has been no reported response from authorities regarding the March 2018 incident.<sup>39</sup>
20. While a court may order that an accused person receive lashes if found guilty,<sup>40</sup> the St. Kitts and Nevis Constitution prohibits punishment in the form of torture or "inhuman or degrading punishment or other like treatment."<sup>41</sup> As of 2018, there were no reports that government officials had employed such practices.<sup>42</sup>

#### **Right or area 12.6. Conditions of detention**

21. The country's sole prison was built in 1840 for a population of 150 persons.<sup>43</sup> As of April 2018, the prison's population was reported to be 204.<sup>44</sup> The prison administration has reported its intention to modernize and reform the current approach to incarceration, treatment, and rehabilitation of prisoners.<sup>45</sup> The administration cites a May 2019 law as evidence of this new approach; among other things, the law changed the title of Superintendent of Prisons to Commissioner of Corrections.<sup>46</sup> The Commissioner of Corrections has reported that the Government plans to construct a new corrections facility, with an "ongoing initiative to build the capacity of the staff."<sup>47</sup> In addition, the training of officers now includes prison staff certification as members of the Correctional Emergency Response Team.<sup>48</sup> Notwithstanding these technical improvements, the authors have been unable to confirm implementation of meaningful or substantial reforms to prisoner treatment or detention conditions.
22. The smaller island of Nevis is home to a Prison Farm.<sup>49</sup> The Commissioner reports that since taking office he has undertaken improvements at the Prison Farm, including barracks renovation.
23. Convicted persons are allowed visitors once monthly.<sup>50</sup>
24. The Inter-American Commission on Human Rights expressed concern about overcrowded prisons during the COVID-19 pandemic.<sup>51</sup> According to a World Health Organization study of an infectious disease, overcrowded prisons experience twice the number of infections.<sup>52</sup> To mitigate the community spread of COVID-19, the IACHR recommends that States improve conditions of "food, health, sanitation and quarantine measures."<sup>53</sup> It also urges States to dedicate special attention to populations at greater risk, "such as the elderly, people with chronic diseases, pregnant women or with children in their care."<sup>54</sup>

### **Right or area 15.1. Administration of justice & fair trial**

25. St. Kitts and Nevis has a functioning bail system and free legal assistance for indigent persons in capital cases only.<sup>55</sup> The constitution provides for the right to a fair and public trial with an independent judiciary and presumption of innocence.<sup>56</sup>
26. Death penalty cases are tried in a local court, then appealed to the regional appellate Eastern Caribbean Supreme Court. Cases are subject to a final appeal to the London-based Judicial Committee of the Privy Council.<sup>57</sup>
27. In 2012, the Eastern Caribbean Court of Appeal struck down as arbitrary a statute providing a 14-day time limit on the right to appeal in capital cases.<sup>58</sup>

### **III. RECOMMENDATIONS**

28. This stakeholder report suggests the following recommendations for the Government of 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.
  - Impose an immediate moratorium on the death penalty, effective immediately both going forward and retroactively.
  - Ratify the International Covenant on Civil and Political Rights, its Second Optional Protocol, the Convention Against Torture, its Optional Protocol, and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.
  - Ensure that all persons potentially eligible for a death sentence are represented by competent counsel at all stages of judicial proceedings and while pursuing relief under the prerogative of mercy.
  - 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.
  - Ensure that detention conditions comply with the Nelson Mandela Rules.
  - Ensure that training for prison staff includes comprehensive training on human rights, conducted in collaboration with civil society organizations in the region.
  - 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.
  - Regularly publish and update statistics on the number of executions, number of death sentences imposed, number of people on death row, number of sentences commuted or otherwise reduced, the identities of all persons on death row, dates of conviction and sentencing, and any other pertinent information.

- Amend any prison policies which result in the indefinite isolation of people on death row.
- Ensure that all persons sentenced to death have regular and timely access to counsel, regardless of whether any appeals have been exhausted.
- Prohibit sentences involving corporal punishment, including lashes, in recognition that such punishment contravenes the Constitutional prohibition against torture and inhuman or degrading punishment.
- 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 St. Kitts and Nevis.
- Ensure that no person is held on death row for more than five years, consistent with *Pratt and Morgan*.

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16, ¶92.6 Consider ratification of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Namibia); ¶92.10 Consider ratifying the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Second Optional Protocol, aiming at the abolition of the death penalty, and the Convention Against Torture and its Optional Protocol (Rwanda); ¶92.11 Ratify or accede to the remaining existing international human rights treaties, especially the Optional Protocol to the Convention on the Rights of the Child on the participation of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the International Covenant on Civil and Political Rights and its second Optional Protocol, aiming at the abolition of the death penalty, as well as the Convention against Torture (Slovenia); ¶92.19 Consider ratifying the International Covenant on Civil and Political Rights and its Second Optional Protocol, aiming at the abolition of the death penalty (Ghana); ¶92.20 Ratify the International Covenant on Civil and Political Rights and its Second Optional Protocol, aiming at the abolition of the death penalty (Montenegro); ¶92.68 Establish a formal moratorium on executions with a view to ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Australia). Also available online at <https://undocs.org/A/HRC/31/16>

<sup>2</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16, ¶92.57 Establish a moratorium on the use of the death penalty, with a view to its abolition (Brazil); ¶92.58 Declare a moratorium on the application of the death penalty with a view to its definitive abolition (France); ¶92.59 Establish a moratorium on the death penalty and take measures towards its definitive abolition (Mexico); ¶92.60 Consider removal of the death penalty from its statute books (Namibia); ¶92.61 Establish an official moratorium to abolish the death penalty, as called for in five General Assembly resolutions, including most recently resolution 69/186 of 18 December 2014 (Netherlands); ¶92.62 Initiate a process of abolition of the death penalty and establish an immediate moratorium in relation to its application (Paraguay); ¶92.63 Establish a moratorium on the death penalty with a view to formally abolishing capital punishment in all cases and circumstances (Portugal); ¶92.64 Repeal the legal provisions that allow the death penalty and declare a moratorium on executions, as previously recommended (Slovenia); ¶92.65 Establish a legal moratorium on the application of death penalty with a view to its definitive abolishment and meanwhile carry out awareness campaigns in order for society to be aware of the ineffectiveness of capital punishment and of its lack of connection with the increase or reduction of crime (Spain); ¶92.66 Immediately establish a de jure moratorium on the death penalty with a view of abolishing it (Switzerland); ¶92.67 Repeal national provisions establishing the death penalty and establish an official moratorium on executions with a view to its abolition (Uruguay). Also available online at <https://undocs.org/A/HRC/31/16>

<sup>3</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16. Also available online at <https://undocs.org/A/HRC/31/16>. ¶21

<sup>4</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16, ¶91.27 Increase resources to prisons to improve conditions, to the police

to develop specialties in forensics and evidence collection, and the Department of Public Prosecutions to hasten the speed of trial procedures (United States). Also available online at <https://undocs.org/A/HRC/31/16>.

<sup>5</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16, ¶91. 1. The recommendations formulated during the interactive dialogue/listed below enjoy the support of Saint Kitts and Nevis. Also available online at <https://undocs.org/A/HRC/31/16>.

<sup>6</sup> Source on file with authors (2019).

<sup>7</sup> Source on file with authors (2019).

<sup>8</sup> Source on file with authors (2019).

<sup>9</sup> Source on file with authors (2019).

<sup>10</sup> Convention Against Torture Initiative, *Promoting ratification and meaningful implantation of the United Nations Convention against Torture in the Caribbean region*, (30 October 2015). Also available online at <https://cti2024.org/content/images/Costa%20Rica%20workshop%20-%20report%20.pdf>.

<sup>11</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (23 February 2016), U.N. Doc. A/HRC/31/16/Add.2, ¶A. Also available online at <https://undocs.org/A/HRC/31/16/Add.2>

<sup>12</sup> The Saint Christopher and Nevis Constitution Order 1983, [Constitution], §4(1) (“A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offense of treason or murder under any law of which he has been convicted.”); *but cf.* Constitution of Saint Christopher and Nevis Jun. 23, 1983, Ch. 7 (“A person shall not be subjected to torture or to inhuman or degrading punishment or other like treatment.”). There have been no reported prosecutions for treason in St. Kitts & Nevis, and therefore it is uncertain how Ch. 4(1) of the Constitution or subsequent case law would impact such a case, which would presumably be brought under the Treason Felony Act, 1848, 11 & 12 Vict. c. 12.

<sup>13</sup> Judicial Committee of the Privy Council, “The Judicial Committee,” (2020). Available online at <https://www.jcpc.uk/>

<sup>14</sup> This fact has led some politicians in Saint Kitts and Nevis to call for abandonment of the JCPC in favor of the Caribbean Court of Justice. (Ezekiel Rediker, *Court of Appeal and Colonialism in the British Caribbean: A Case for the Caribbean Court of Justice*, Michigan Journal of International Law (2013). Also available at <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1028&context=mjil>); see *Forum: CCJ v. Privy Council*, BBC (Sept. 30, 2009). Available online at

[http://www.bbc.co.uk/caribbean/news/story/2009/09/090925\\_forumccjprivy.shtml](http://www.bbc.co.uk/caribbean/news/story/2009/09/090925_forumccjprivy.shtml) (“I understand the fears expressed by most writers, living in the Caribbean is like living in a big village, and the expressed fears of politicians’ interference in the judicial system. Let me say we have to start somewhere and trust our intellectuals. It is obvious Mother Country England (Privy Council) will not entertain us indefinitely, and so we need to hold our judges accountable. Politicians/leaders must lead by example and sign on to the CCJ”). These politicians suggest that retention of a right of appeal to a court located overseas, made up mostly of foreign judges who may be out of touch with local values, as incompatible with the nation’s sovereign status. (Judicial Committee of the Privy Council, *FAQs* (2020). Also available online at <https://www.jcpc.uk/faqs.html#1d>; <http://www.guyanatimesgy.com/2015/01/18/only-three-countries-have-abolished-appeals-to-privy-council/>).

Similarly, these politicians are increasing pressure on domestic courts to override previous rulings by the JCPC concerning the death penalty (Larry Rother, *Death-Row Rule Sours Caribbean on Britain*, New York Times July 7, 1997, <https://www.nytimes.com/1997/07/07/world/death-row-rule-sours-caribbean-on-britain.html>; Press Release, Amnesty International, *Bahamas: Privy Council abolishes mandatory death sentence* (Mar. 9, 2006). Also available at

<https://www.amnesty.org/download/Documents/72000/amr140012006en.pdf>).

<sup>15</sup> Offenses Against the Person Act, amended 1998 c. 4.21 § 2 (St. Kitts & Nevis).

<sup>16</sup> *Fox v. R.* [2002] UKPC 13, [2002] 2 A.C. 284 [11] (appeal taken from St. Kitts & Nevis) (interpreting section 7 of the St. Kitts & Nevis Constitution to prohibit the mandatory imposition of the death penalty).

<sup>17</sup> Offenses Against the Person Act, amended 1998 c. 4.21 § 3(1) (St. Kitts & Nevis) (“Provided that sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he or she was under eighteen years”).

<sup>18</sup> *DPP v. Liburd*, [2009] Eastern Caribbean Supreme Court, Suit No. SKBHCR 2009/0007 (St. Kitts & Nevis), *applying Trimmingham v. R* [2009] UKPC 25 (appeal taken from St. Vincent) (“[I]t fell short of being in the category of the rarest of the rare . . . although the manner of the killing was gruesome and violent”).

<sup>19</sup> Source on file with authors (2016).

<sup>20</sup> Source on file with authors (2016).

<sup>21</sup> See *Pipersburgh & Robateau v. R.*, 11 UKPC (2008), 72 WIR 108 (appeal from Belize); see also *Romeo Cannonier v The DPP*, ECCA, HCRAP 2008/002 (2012) 134–149 (appeal from St. Kitts & Nevis on remand from

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JCPC) at [134]-[149] (quashing the conviction of a severely brain damaged man far into the appeals process).

<sup>22</sup> The Saint Christopher and Nevis Constitution Order 1983, [Constitution], §66.

<sup>23</sup> The Saint Christopher and Nevis Constitution Order 1983, [Constitution], §68(1).

<sup>24</sup> *Pratt and Morgan v. Jamaica*, 37 UKPC (1993), 2 AC ,1 P.C. (1994) (appeal from Jamaica) (finding confinement on death row for more than five years presumptively “inhuman and degrading” and commuting sentences to life imprisonment).

<sup>25</sup> *Moise v. R*, 8 ECSC CA (2003), (appeal from St. Lucia), July 15, 2005, ¶¶50–54 (applying *Pratt* five-year standard to St. Lucia); *Ramdeen v. State*, 7 UKPC (2014), (appeal from Trinidad and Tobago) (applying *Pratt* five-year standard to Trinidad and Tobago). See also Rose-Marie Belle Antoine, *Commonwealth Caribbean Law and Legal Systems* (2d ed., 2008) (“All Commonwealth Caribbean courts examining subsequent undue delay cases have felt bound to follow *Pratt and Morgan* despite the great dislocation in the system of justice it has caused and the outcry against its effects.”). But see Stanford Conway, *Will the Five Men on Death Row Be Executed?* SKNVIBES (Nov. 3, 2011), <http://www.sknvibes.com/news/newsdetails.cfm/48933> (indicating that Everson Mitcham “was sentenced to death . . . on June 26, 2001” but was still on death row in 2011).

<sup>26</sup> The Saint Christopher and Nevis Constitution Order 1983, [Constitution], §7; But see Stanford Conway, *Will the Five Men on Death Row Be Executed?*, SKNVIBES (Nov. 3, 2011),

<http://www.sknvibes.com/news/newsdetails.cfm/48933> (stating that although Everson Mitcham “was sentenced to death . . . on June 26, 2001” he was still on death row in 2011, indicating that Saint Kitts and Nevis has not yet applied *Pratt and Morgan* in its own jurisdiction).

<sup>27</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16, ¶22. Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/KNIndex.aspx>.

<sup>28</sup> *St. Kitts-Nevis Appoints First Ever Commissioner of Prison/Corrections*, Times Caribbean. Jul. 24, 2019, <http://www.timescaribbeanonline.com/st-kitts-nevis-appoints-first-ever-commissioner-of-prisons-corrections/>

<sup>29</sup> *St. Kitts-Nevis Appoints First Ever Commissioner of Prison/Corrections*, Times Caribbean. Jul. 24, 2019, <http://www.timescaribbeanonline.com/st-kitts-nevis-appoints-first-ever-commissioner-of-prisons-corrections/>

<sup>30</sup> *Capacity Building and Rehabilitation Among Priorities for New Commissioner of Corrections*, Ziz Broadcasting, Sep. 2, 2019, <https://zizonline.com/capacity-building-and-rehabilitation-among-priorities-for-new-commissioner-of-corrections/>

<sup>31</sup> *St. Kitts-Nevis prison officers getting training in Barbados*, WIC News, Aug. 9, 2019, <https://wicnews.com/caribbean/st-kitts-nevis-prison-officers-getting-training-barbados-392621431/>.

<sup>32</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: St. Kitts and Nevis*, (15 December 2015), U.N. Doc. A/HRC/31/16, ¶21. Also available online at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/KNIndex.aspx>.

<sup>33</sup> *Capital Punishment Remains on the Books in St. Kitts and Nevis*, The St. Kitts & Nevis Observer (August 16, 2016). Also available online at <https://www.thestkittsnevisobserver.com/capital-punishment-remains-books-st-kitts-nevis/>.

<sup>34</sup> *Mitcham v. The Attorney General of Saint Christopher and Nevis*, [2018] Eastern Caribbean Supreme Court, Claim No. SKBHCV 2015/0129 (St. Kitts & Nevis), applying *Pratt and Morgan v. General of Jamaica* [1994] 2 AC 1 (“The case at bar falls squarely within the ratio of *Pratt and Morgan* in that to execute the Claimant more than 14 years after sentence will constitute ‘inhuman or degrading punishment or other treatment’”).

<sup>35</sup> *Mitcham v. The Attorney General of Saint Christopher and Nevis*, [2018] Eastern Caribbean Supreme Court, Claim No. SKBHCV 2015/0129 (St. Kitts & Nevis), applying *Cannonier v. Director of Public Prosecutions* [2012] 80 WIR 260 (“Implicit in this right of access to the Court of Appeal, are the guarantees laid down by Section 1091 of the Constitution as regards both the organization and composition of the court and the conduct of the proceedings, and together they make up the right to a fair hearing”).

<sup>36</sup> *Wells and Liddie Convicted in Death of Leanna Napoleon*, The St. Kitts & Nevis Observer (Oct. 14, 2019). Also available online at <https://www.thestkittsnevisobserver.com/wells-and-liddie-convicted-in-death-of-leanna-napoleon/>.

<sup>37</sup> *Inmate Allegedly Beaten and Tortured At Her Majesty’s Prison In In [sic] St. Kitts*, SKN Pulse (Mar. 28, 2018). Also available online at <http://www.sknpulse.com/inmate-allegedly-beaten-and-tortured-at-her-majestys-prison-in-in-st-kitts/>.

<sup>38</sup> *Inmate Allegedly Beaten and Tortured At Her Majesty’s Prison In In [sic] St. Kitts*, SKN Pulse (Mar. 28, 2018). Also available online at <http://www.sknpulse.com/inmate-allegedly-beaten-and-tortured-at-her-majestys-prison-in-in-st-kitts/>.

<sup>39</sup> *Inmate Allegedly Beaten and Tortured At Her Majesty’s Prison In In [sic] St. Kitts*, SKN Pulse (Mar. 28, 2018). Also available online at <http://www.sknpulse.com/inmate-allegedly-beaten-and-tortured-at-her-majestys-prison-in-in-st-kitts/>.

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<sup>40</sup> Source on file with authors (2019).

<sup>41</sup> CONSTITUTION OF SAINT CHRISTOPHER AND NEVIS Jun. 23, 1983, Ch. 2, Art. 7 (“A person shall not be subjected to torture or to inhuman or degrading punishment or other like treatment.”)

<sup>42</sup> Source on file with authors (2019).

<sup>43</sup> Andrew Revord, *A Look at Homan Rights in St. Kitts and Nevis*, The Borgen Project (Oct. 8, 2017). Also available online at <https://borgenproject.org/human-rights-in-st-kitts-and-nevis/>.

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<sup>45</sup> *Prison (Amendment) Bill, 2019 passed safely through the National Assembly in St. Kitts-Nevis*, SKNVibes (May 10, 2019). Also available online at <https://www.sknvibes.com/news/newsdetails.cfm/109401>; *St. Kitts & Nevis PM Harris discusses the Prison (Amendment) Bill, 2019 at today’s National Assembly Sitting*, INews (May 9, 2019). Also available online at <https://www.ieynews.com/st-kitts-nevis-pm-harris-discusses-the-prison-amendment-bill-2019-at-todays-national-assembly-sitting/>.

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<sup>47</sup> *St. Kitts-Nevis prison officers getting training in Barbados*, WIC News, August 9, 2019, <https://wicnews.com/caribbean/st-kitts-nevis-prison-officers-getting-training-barbados-392621431/>.

<sup>48</sup> *St. Kitts-Nevis prison officers getting training in Barbados*, WIC News, August 9, 2019, <https://wicnews.com/caribbean/st-kitts-nevis-prison-officers-getting-training-barbados-392621431>

<sup>49</sup> *World Prison Brief Data: St. Kitts and Nevis 2017*, Prison Studies. Also available online at <https://www.prisonstudies.org/country/st-kitts-and-nevis>

<sup>50</sup> Source on file with authors (2019).

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<sup>52</sup> World Health Organization Regional Office for Europe, *Prisons and Health*, (Copenhagen, Denmark: World Health Organization, 2014), 57.

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