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**Working Group on the Universal Periodic Review**  
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## **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 and the outcome of the previous review.<sup>1</sup> It is a summary of six stakeholders' submissions<sup>2</sup> for 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>3</sup> and cooperation with human rights mechanisms**

2. JS2 noted that Dominica had not ratified or acceded to several international human rights treaties.<sup>4</sup> They recommended that Dominica ratify the treaties to which it is not a party yet, including the Second Optional Protocol to the International Covenant on Civil and Political Rights; the Convention against Torture and Other cruel, Inhuman or Degrading treatment or Punishment and the Optional Protocol the Convention against Torture and Other cruel, Inhuman or Degrading treatment or Punishment. JS2 also recommended that Dominica enact relevant legislation to domesticate those treaties.<sup>5</sup>

##### **B. National human rights framework<sup>6</sup>**

###### **Institutional infrastructure and policy measures**

3. The Interamerican Commission on Human Rights indicated that a National Human Rights Institution had not yet been established in Dominica. In addition, no Ombudsperson had been appointed.<sup>7</sup> JS1 recommended that Dominica establish an adequate National Human Rights Institution able to address reports of violations of human rights.<sup>8</sup>

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\* The present document is being issued without formal editing.



## C. Promotion and protection of human rights

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

*Right to life, liberty and security of person, and freedom from torture*

4. JS2 indicated that, although Dominica had not sentenced anyone to death or executed anyone since its previous universal periodic review, it had neither officially abolished the death penalty nor instituted a formal moratorium on executions and therefore, capital punishment remained possible under Dominica's in force legislation.<sup>9</sup> They further recalled that Dominica had expressed some support for the abolition of the death penalty. Thus, in 2018, Dominica voted in favour of the UN General Assembly resolution calling on member states to establish a moratorium on executions with a view to abolishing the death penalty; and Dominica was the first Eastern Caribbean country ever to co-sponsor the resolution. However, JS2 regretted that Dominica had subsequently voted against similar resolutions.<sup>10</sup>

5. JS2 specified that the crimes that remained punishable by death in Dominica were murder and treason, and treason did not meet the threshold of "the most serious crimes" within the meaning of Article 6 of the International Covenant on Civil and Political Rights.<sup>11</sup>

6. JS2 also noted that, in a survey carried out in 2020, 84% of the interviewed expressed support to the death penalty, which prevented its abolition. Therefore, they stressed that the status of Dominica's de facto moratorium on death sentences and executions was tenuous and fragile, and at any moment, a single judge could impose a death sentence in a capital case. They also expressed concern that the risk of disregarding the moratorium could become elevated if political or public pressure arose in a particular case.<sup>12</sup>

7. JS2 recommended that Dominica formally abolish the death penalty and replace it with a fair and proportionate sanction aligned with international human rights standards. JS2 also recommended that, in the interim, Dominica fully implement the recommendations of the Human Rights Committee issued in 2020, concerning the death penalty; institute an official moratorium on executions; amend the Treason Act to ensure that the death penalty could be imposed merely for the "most serious" crimes, as specified under Article 6(2) of the International Covenant on Civil and Political Rights.<sup>13</sup>

8. JS2 further recommended that Dominica carry out related awareness raising campaigns and, to initiate a public dialogue regarding the death penalty with members of parliament and the general public, in collaboration with civil society organizations, with a view to identifying the human rights violations implicated in the process and explaining the benefits of alternatives to the death penalty.<sup>14</sup>

9. The Interamerican Commission on Human Rights noted that, according to public information, as of June 2023 there was a total of 240 inmates in the Dominica State Prison, 119 of which were under pretrial detention. The Commission further noted that the length of time spent on pretrial detention was posing a severe challenge, as space at the prison was limited. Reported data also revealed that there were 35 inmates with psychosocial disabilities who were kept among the general population, as the facility did not have a mental health wing.<sup>15</sup>

10. The same Commission also noted that, according to official sources, as of December 2022, the Stockfarm Prison contained 316 inmates despite its capacity being of maximum 300 inmates, which, at the end of 2021, represented a 167% increase in the total population from the previous 189 inmates. It further stated that, according to publicly available information in 2022, prison staff indicated that there was a need for additional personnel to perform duties in a more efficient manner. Additionally, there were 33 inmates in need of psychological care, who were presumably housed with other inmates, resulting in fights due to the behavior of those inmates with psychological needs. Furthermore, there were not prison visits from friends, family and loved ones and there had been no indication of when inmates would be allowed to receive visits.<sup>16</sup>

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

11. JS2 highlighted that, during its third Universal Periodic Review, Dominica received recommendations related to the administration of justice and the right to fair trial. They expressed concern that, despite Dominica's acceptance of those recommendations, challenges within the justice system persisted. Reports of backlogs, overburdened courts, and a lack of resources, among other issues, continued to negatively impact the judicial system.<sup>17</sup>

12. JS2 noted that the Constitution of Dominica provided for an independent Judiciary, and the government generally respected judicial independence. However, it regretted the inadequate prosecutorial and police staffing, outdated legislation, and an insufficient number of magistrates in Dominica.<sup>18</sup> JS2 also noted that Dominica accepted a recommendation to address shortages of judicial, prosecutorial and police staffing, that contribute to lengthy pretrial detentions and severe backlogs in the judicial system. However, according to JS2, Dominica had not implemented that recommendation.<sup>19</sup>

13. JS2 was further concerned by the fact that international organizations had also noted that staffing shortages remained a challenge for the Dominican criminal justice system, and that sometimes resulted in prolonged pretrial detention.<sup>20</sup> JS2 added that, in a survey of 500 households in Dominica carried out in 2022, levels of trust in the Judiciary had declined between 2018 and 2022.<sup>21</sup>

14. JS2 recommended that Dominica take urgent measures to address shortages of judicial, prosecutorial, and police staffing, to reduce lengthy pretrial detentions and redress backlogs in the judicial system.<sup>22</sup>

15. The Interamerican Commission on Human Rights stressed that, according to public information, there were revictimizing practices in investigations of sexual offenses conducted by members of the Commonwealth of the Dominica Police Force. It noted that a confrontation between a complainant and a defendant was reportedly by the police, at the alleged crime scene, where the alleged victim was asked to repeat their allegations in the presence of the defendant.<sup>23</sup>

16. JS2 recommended that Dominica take steps to guarantee fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation with experience in capital cases, and with training on gender-sensitive defense strategies.

*Fundamental freedoms and the right to participate in public and political life*

17. The Interamerican Commission on Human Rights stated that the Organization of American States and the Secretariat of the Commonwealth deployed an observation mission during the General Election. It further indicated that, according to the post electoral preliminary statements by these organizations, Dominica was commended for peaceful and orderly election process, as well as by the substantial number of women and youth who participated in the electoral process, not only as candidates and voters but also as polling staff, party agents, and witnesses/observers. The Interamerican Commission noted, however, that according to the Electoral Observation Mission of the Organisation of American States, there was an urgent priority to implement the long-discussed modernization of the electoral framework of Dominica, and to ensure Dominica's continued social and political progress. According to the Interamerican Commission, Dominica could not proceed conducting another election under the current rules.<sup>24</sup>

*Right to an adequate standard of living*

18. In relation to positive developments, Dominica Dementia Foundation highlighted the care homes that had been set up across Dominica. It regretted, however, that care families were struggling to find enough space to accommodate the growing number of people with dementia across the country. According to Dominica Dementia Foundation, it was essential that the government of Dominica develop a strategy to support the ageing population and address this urgent issue.<sup>25</sup>

19. Broken Chalk indicated that, due to the generalised poverty situation, Dominica offered an alternative in the form of state-funded technical colleges for vocational training.

It, however, noted that the geographical location of these institutions, often in more densely populated places, were not easily accessible to people who live in rural areas and were most likely in poverty situations.<sup>26</sup>

20. Broken Chalk further noted that the geographical factors described above contributed to the lack of a network of infrastructure that ensure access to the Internet in Dominica so that education could be provided online. Broken Chalk added that, even if that were the case, it would still be hindered by the socioeconomic gap, as not everybody would have access to the equipment needed to use the Internet.<sup>27</sup>

#### *Right to health*

21. According to JS1, in Dominica, access to vital medications to treat HIV and AIDS were blocked due to prejudices according to which access to these drugs would promote a culture of promiscuity. They recommended that Dominica approve and introduce medications to reduce the spread of HIV and address the stigma of living with HIV/AIDS.<sup>28</sup>

22. According to the Dominica Dementia Foundation, most informal caregivers for people living with dementia were family members who took care of them at home to reduce the rising costs of care homes. However, it was concerned that the lack of adequate care training might impact the quality of life of both people living with dementia and their families. It recommended that Dominica adopt a national policy to support families of persons living with dementia and civil society organisations who directly support these families.<sup>29</sup>

23. The Interamerican Commission on Human Rights indicated that Dominica decided to abolish the income tax criteria for those who had health insurance in order to give them a better opportunity to obtain health insurance.<sup>30</sup>

#### *Right to education*

24. Broken Chalk acknowledged Dominica's efforts and commitment to improving the country's education quality.<sup>31</sup> For example, it noted that the basic levels of education were, in principle, mandatory and free.<sup>32</sup> Broken Chalk regretted, however, the barriers for children in vulnerable situation to access education, and that the stigma had not been removed for Children with disabilities who attended public schools receiving tailored education, and those affected by poverty still did not have access to quality education, which limited their chances for the future.<sup>33</sup>

25. According to Broken Chalk, the COVID-19 pandemic and the consequent need to resort to virtual education further evidenced the lack of educational resources in Dominica. Broken Chalk regretted that Dominica did not have the capacity to implement virtual education.<sup>34</sup>

26. In Broken Chalk's view, Dominica's socioeconomic gap had perpetuated unequal access to education, including school infrastructure, affecting both students and teachers. Broken Chalk stressed that, given the lack of infrastructure and resources in education, teachers were not knowledgeable about the virtual sphere and, therefore, unable to guide their students.<sup>35</sup> Broken Chalk recommended to provide extensive training to teachers including on technologies.<sup>36</sup>

27. Broken Chalk recommended that Dominica continue its efforts to make education accessible and available for everybody, tailored to the needs of different students; draft and implement operational plans in case of future emergencies to ensure that education is provided including on emergency situations, and alternatives are feasible and accessible to all; continue to invest in teacher competencies; promote communication amongst teachers to ensure high quality of education, including adequate means of transmission. Broken Chalk also recommended that Dominica adopt a policy to guarantee equal access to education for all and to ensure that education is inclusive; employ its available resources in a more efficiently manner, prioritising teacher formation and regulation of the profession; and ensure education for people with disabilities and their progressive integration into educational centres.

28. Broken Chalk regretted that Dominica's offer of universities was limited, which led people to migrate should they wish to pursue university studies.<sup>37</sup>

#### *Development and the environment*

29. The Interamerican Commission on Human Rights stated that, in rural communities in Dominica, women engaged in agriculture, particularly those who are self-employed, single-parent heads of household and women farmers, had been one of the groups most severely affected by climate change. The Commission further indicated that risks from natural disasters and the impact of climate change, including sea level rise, persisted.<sup>38</sup>

## **2. Rights of specific persons or groups**

### *Women*

30. JS2 highlighted that in the third cycle of the Universal Periodic Review, some countries recommended that Dominica adopt the Domestic Violence Act, which it did in 2023.<sup>39</sup> JS2 further indicated that, although Dominica had indicated its intention to update the National Policy, an updated National Policy had not yet been passed. They added that domestic violence increased in Dominica during the COVID-19 pandemic, as economic conditions prevented victims from leaving abusive situations.<sup>40</sup>

31. JS2 recommended that Dominica take further steps toward combating domestic violence and advancement of women's rights, including by updating and implementing the National Policy and Plan of Action on Gender Equality.<sup>41</sup>

32. JS2 noted that the absence of shelters for survivors of gender-based violence in Dominica elevated the risk that women who experience gender-based violence would come into conflict with the law and would be sentenced to death. JS2 added that many women sentenced to death were victims of gender-based violence and came from disadvantaged socio-economic backgrounds.<sup>42</sup>

33. JS1 recommended that Dominica introduce and pass amendments to existing legislation to broaden the definition of "rape", in order to include non-consensual sexual activity perpetrated by any individual or individuals against another or others regardless of their gender identity.<sup>43</sup>

34. JS2 also recommended that Dominica codify gender-specific grounds of legal defense and mitigation circumstances in capital cases, encompassing women's experiences of trauma, poverty, and gender-based violence; ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination and gender-based violence; provide training to all defense counsels on women rights and gender issues.<sup>44</sup> Furthermore, they recommended that Dominica take urgent measures to address shortages of judicial, prosecutorial, and police staffing, and to reduce lengthy pretrial detentions and severe backlogs in the judicial system.<sup>45</sup>

### *Children*

35. The Interamerican Commission on Human Rights indicated that new bills concerning the rights of children were introduced and passed in Parliament on 25 April 2023. The Commission added that, collectively, these bills would help to ensure that the rights and responsibilities of family members were protected in any situation and that they were treated fairly and equitably under the laws of Dominica.<sup>46</sup>

36. End Corporal Punishment stated that, in Dominica, corporal punishment of children was lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child and other human rights treaty bodies. It also recalled that the Committee on the Rights of the Child recommended the repeal of all laws authorising corporal punishment of children in Dominica, together with an explicit prohibition of corporal punishment in the family, schools and institutions and abolition of whipping as a punishment for a crime. It recommended that Dominica repeal Section 5 of the Children and Young Persons Act 1970 and accelerate its efforts to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use.<sup>47</sup>

*Older persons*

37. While acknowledging the Government of Dominica's declaration that older people were entitled to free medication and healthcare from January 2023, Dominica Dementia Foundation highlighted that they needed financial support for transportation or mobility to attend doctor visits, as the bus fares were continually increasing.<sup>48</sup>

38. Dominica Dementia Foundation expressed concern at the lack of specialized public care and hospitals for the elderly.<sup>49</sup>

39. Dominica Dementia Foundation noted that some people were still recovering from the effects of Hurricane Maria and preparing for the hurricane season ahead. It recommended to include, in the national plan, support for elderly people to rebuild their home after natural disasters.<sup>50</sup>

*Persons with disabilities*

40. Broken Chalk indicated that the Isulukati Special Education School, for children with special needs, was damaged by Hurricane Maria, and its road to recovery was taking longer than expected. Broken Chalk also noted that this was attributed to the focus on ensuring "general" education, while children needing special education lacked alternatives. While acknowledging the constant natural disasters faced by Dominica, Broken Chalk regretted the insufficient implementation of recommendations received by the country on this area.<sup>51</sup>

41. Broken Chalk recommended that Dominica ensure the integration of people with disabilities into regular schools and the educational system in general, and ensure equal education opportunities for them.<sup>52</sup>

*Indigenous Peoples*

42. Broken Chalk stated that, although Dominica recognized the high population of Kalinago people in Dominica, the Kalinago lacked resources to adequately enjoy the right to of education and, did not equally enjoy this right as other sectors in Dominica. Broken Chalk also expressed concerns at the multiple discrimination faced by Kalinago children with disabilities.<sup>53</sup>

43. Broken Chalk recommended that Dominica continue with its efforts to ensure education for children with disabilities, including Kalinago children.<sup>54</sup>

*Lesbian, gay, bisexual, transgender and intersex persons*

44. The Interamerican Commission on Human Rights indicated that Dominica was one of the eleven States in the region that continued to criminalize sexual relations between adults of the same sex. It further indicated that, according to section 16 (1) of the Sexual Offences Act 1998, persons convicted of buggery were liable to sentences of up to twenty-five years and there was the possibility of internment in psychiatric institutions for treatment as the Court deems fit.<sup>55</sup> JS1 expressed similar concerns and recommended that Dominica repeal Sections 14 and 16 of the Sexual Offences Act and decriminalize consensual same-sex sexual activity between adults; devote resources to assessing and combatting the problems faced by LGBTQ+ people in Dominica, including social stigma and violence; train police and judicial personnel on issues related to sexual orientation, and/or gender identity or expression; and address societal prejudice and discrimination against the LGBTQ+ individuals and promote their inclusion. JS1 also recommended that Dominica collaborate with civil society to increase publicly accessible reports on issues pertaining to LGBTQ+ individuals; and train police to properly investigate allegations of abuse and violence directed at LGBTQ+ individuals.<sup>56</sup>

45. JS1 noted with concern that the criminalization of sexual relations between adults of the same sex had also resulted in discrimination against the LGBTQ+ community in the areas of housing, education and employment. They regretted the social stigma within Dominica of LGBTQ+ individuals, who experience further violence and harassment based on their gender identity or expression. They further noted with concern that Dominican law enforcement authorities reject or poorly investigate claims of violence and harassment against LGBTQ+

people.<sup>57</sup> JS1 also regretted that the police discriminate against LGBTQ+ individuals and fail to act when LGBTQ+ individuals report violations of their human rights.<sup>58</sup>

46. According to the Interamerican Commission, although Dominican officials rarely enforced the gross indecency and buggery laws, the effects of the laws extended further, because the laws were discriminatory themselves, and they also enabled and encouraged stigma and aggression against LGBTQ+ individuals.<sup>59</sup>

## Notes

<sup>1</sup> AHRC/WG.6/19/DMA/2 and A/HRC/42/9/Add.1 and A/HRC/DEC/42/107.

<sup>2</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) (one asterisk denotes a national human rights institution with A status).

### *Civil society*

#### *Individual submissions:*

Broken Chalk	The Stichting Broken Chalk, Amsterdam (Netherlands);
DDF	Dominica Dementia Foundation, Roseau (Dominica);
ECP	End Corporal Punishment, Geneva (Switzerland).

#### *Joint submissions:*

JS1	<b>Joint submission 1 submitted by:</b> Advocates for Human Rights, Minneapolis (United States of America); Minority Rights Dominica;
JS2	<b>Joint submission 2 submitted by:</b> World Coalition Against the Death Penalty, Montreuil (France); The Advocates for Human Rights, Greater Caribbean for Life, The World Coalition Against the Death Penalty.

#### *Regional intergovernmental organization(s):*

IACHR	The Interamerican Commission on Human Rights.
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<sup>3</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>4</sup> JS2, para.5.

<sup>5</sup> JS2, paras. 5 and 36.

<sup>6</sup> JS1, p. 24.

<sup>7</sup> IACHR, p.2.

<sup>8</sup> JS1, para.24.

- <sup>9</sup> JS2, paras.2 and 8.
- <sup>10</sup> JS2, para.16.
- <sup>11</sup> JS2, paras.10 and 11.
- <sup>12</sup> JS2, paras. 17 and 19.
- <sup>13</sup> JS2, para.36.
- <sup>14</sup> JS2, para.36.
- <sup>15</sup> IACHR, p.5.
- <sup>16</sup> IACHR, p.5.
- <sup>17</sup> JS2, para. 32. See also Human Rights Council, Report of the Working Group on the Universal Periodic Review: Dominica (July 19, 2019), U.N. Doc. A/HRC/42/9, 104.78 Address shortages of judicial, prosecutorial and police staffing, which contribute to lengthy pretrial detentions and severe backlogs in the judicial system (United States of America).
- <sup>18</sup> Confidential source on file with the authors, 2022, at 3; Confidential source on file with the authors, 2021, at 3-4; Confidential source on file with the authors, 2020, at 3; Confidential source on file with the authors, 2019, at 3. Not sure if it is possible to verify this information. Source not founded.
- <sup>19</sup> JS2, para.21.
- <sup>20</sup> JS2, para.33.
- <sup>21</sup> JS2, para.34.
- <sup>22</sup> JS2, para.36.
- <sup>23</sup> IACHR, pp. 5 and 6.
- <sup>24</sup> IACHR, pp.2 and 3.
- <sup>25</sup> DDF, p. 3.
- <sup>26</sup> Broken Chalk para.9.
- <sup>27</sup> Broken Chalk para.24.
- <sup>28</sup> JS1, paras. 23 and 24.
- <sup>29</sup> DDF, pp.3 and 4.
- <sup>30</sup> IACHR, p.6.
- <sup>31</sup> Broken Chalk, para.47.
- <sup>32</sup> Broken Chalk para.6.
- <sup>33</sup> Broken Chalk, para. 15.
- <sup>34</sup> Broken Chalk, paras.23,28 and 30.
- <sup>35</sup> Broken Chalk, paras. 31 and 32.
- <sup>36</sup> Broken Chalk, para.34.
- <sup>37</sup> Broken Chalk, paras.48,49,50,52,53 and 54.
- <sup>38</sup> IACHR, p.6.
- <sup>39</sup> Iceland and Germany, A/HRC/42/9, paras. 104.99 and 104.98.
- <sup>40</sup> JS2, paras.26 and 27.
- <sup>41</sup> JS2, para.26.
- <sup>42</sup> JS2, para. 30.
- <sup>43</sup> JS1, para.24.
- <sup>44</sup> JS2, para. 36.
- <sup>45</sup> JS2, para.36.
- <sup>46</sup> IACHR, p.4.
- <sup>47</sup> ECP, pp.1–4.
- <sup>48</sup> DDF, p.3.
- <sup>49</sup> DDF, p.3.
- <sup>50</sup> DDF, p.3.
- <sup>51</sup> Broken Chalk, paras.45 and 46.
- <sup>52</sup> Broken Chalk, paras.51 and 54.
- <sup>53</sup> Broken Chalk, para.19.
- <sup>54</sup> Broken Chalk, paras.51 and 54.
- <sup>55</sup> IACHR, p.4.
- <sup>56</sup> JS1, paras. 2 and 24.
- <sup>57</sup> JS1, para.3.
- <sup>58</sup> JS1, para.15.
- <sup>59</sup> IAHRRC, p.4. See also ILGA World, *Our Identities Under Arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition, by Kellyn Botha (Geneva: ILGA, Nov. 2023), 145–146 and Dominica News Online, *Challenge to Dominica’s buggery laws filed in Dominica High Court* (July 20, 2019). Also available online at <https://dominicanewsonline.com/news/homepage/news/challenge-to-dominicas-buggery-laws-filed-in-dominica-high-court/>.