**Report from the Dominica National Council of Women for the review in the absence of the initial report of Dominica by the Human Rights Committee**

**March 2020**

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| **Issue from the List of issues in the absence of the initial report of Dominica** | **Comments from Civil Society** |
| **Constitutional and legal framework within which the Covenant is implemented (art. 2)** | |
| 1. In the light of section 117 of the Constitution, please clarify the status of the Covenant under domestic law and provide information on measures to ensure that the provisions of the Covenant are consistently incorporated into the domestic legal system and can be invoked and applied before national courts. Please provide examples of cases in which the provisions of the Covenant have been referred to by national courts and specify the measures taken to ensure that information on the Covenant is disseminated to public officials and to the general public. Please explain what remedies are available for individuals who believe their rights under the Covenant have been violated. Please report on any plans to ratify the Optional Protocol to the Covenant. Please explain how the limitations on fundamental human rights in the Constitution are compatible with the Covenant. | It can be said that the provisions of the constitution are given due regard in the framing of laws however in some instances certain aspects of the constitution have not been implemented. |
| 2. With reference to sections 108 and 110 of the Constitution, please indicate whether the Parliamentary Commissioner has been appointed and if so, provide information on the number of complaints received and specify the number of complaints relating to the provisions of the Covenant. Please provide information on any steps taken towards establishing a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles | No Parliamentary Commissioner is or has been in place.  No mechanism relative to establishing a human rights institution has been dealt with. |
| **States of emergency, counter-terrorism measures and surveillance (arts. 2, 4, 7, 9, 14 and 17)** | |
| 3. With reference to section 14 of the Constitution, please clarify the grounds on which a state of emergency can be lawfully declared. Please explain how section 14 and the related regulations are in compliance with article 4 of the Covenant, particularly with regard to the non-derogable provisions of the Covenant and to limiting any derogations to those that are strictly required by the exigencies of the situation. Please indicate the legislative measures that have been adopted to combat terrorism, and the extent to which they may affect the rights guaranteed under the Covenant, in particular under articles 7, 9 and 14. Please provide information on the legal framework governing the use of electronic surveillance by the police and security agencies, and on the relevant legal safeguards in place. | Dominica has not since 1978 had reasons to institute any State of emergency measures. Following the disaster of Hurricane Maria, a curfew was imposed for limited period. As to counter terrorism, Dominica is part of a regional security system (RSS) which can assist in such circumstance.  At a CARICOM (Caribbean Community) meeting of heads in 2018 respective states agreed to institute counter-terrorism laws. Measures to counter terrorism and law enforcement surveillance matters are not publicly vented by the authorities. |
| **Non-discrimination (arts. 2, 3, 14, 20, 23, 26 and 27)** | |
| 4. With reference to section 13 of the Constitution, please indicate whether there are specific laws in place prohibiting discrimination in the domestic legal system and if so, please provide details. In particular, clarify whether domestic law: (a) provides a definition of discrimination that includes a comprehensive list of prohibited grounds of discrimination including race, religion, colour, property, birth, national or social origin, political or other opinion, sexual orientation, gender identity and any other status; (b) covers direct, indirect and intersecting forms of discrimination; and (c) provides for effective judicial and administrative remedies. Please describe the measures aimed at combating and preventing acts of discrimination against persons in vulnerable situations, including persons with HIV/AIDS, sex workers and elderly persons. Please provide information on steps taken to adopt a legal framework aimed at prohibiting discrimination against persons with disabilities. | There are no laws we are aware of that are contrary to articles quoted above. Discrimination on the basis of race, religion, sexual orientation, colour, property, nationality, political affiliation are not acceptable by law however, the following are to be noted:  *Disabled Persons are represented by* The Dominica Association of Persons with Disabilities (DAPD). The DAPD is established under the Companies Act of Dominica; it is an incorporated entity. The DAPD operates under its own constitution, regulations and policies. From research, it can be said that the DAPD has not been faced with any issues with regards to discrimination in Dominica. The country’s atmosphere for disabled persons is quite a welcoming one.  *Homosexuality:* The Gay and Lesbian Communities in Dominica is quite a quiet circle; therefore there are hardly, if any, reported cases of discrimination. However, there **are no systems or mechanisms** by which these reports can be made or attended to. This may be so because there are no particular laws dealing specifically with Gay and Lesbian relationships in Dominica. |
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| 5. With reference to sections 14 and 16 of the Sexual Offences Act of 1998, please indicate whether the State party intends to revise its legislation that criminalizes consensual same-sex conduct with penalties of up to 25 years of imprisonment and grants the courts discretionary powers to order the psychiatric admission of persons convicted of buggery. Please indicate the number of persons who have been convicted under these provisions, the sentences imposed on them and the number of persons detained in psychiatric institutions under court orders. Please provide information on measures to combat and prevent the violence, marginalization and social stigmatization faced by lesbian, gay, bisexual and transgender persons. Please respond to allegations that some police officers refuse to accept or investigate complaints relating to violence against those persons. Please explain the action taken following the murder conviction quashed by the Eastern Caribbean Court of Appeal in 2009, in its ruling that the victim’s “unnatural advances” towards the accused led to a situation of “justifiable homicide”, and indicate whether this precedent has been followed in other court decisions in Dominica. | under the Sexual Offences Act, Chapter 10:36 of the Laws of Dominica, sections 15 and 16 deal with offences of “indecency between a woman and a girl” and “Buggery” respectively and related matter. There are no reported statistics or cases of discrimination of gays and lesbians, since there are no mechanisms to foster same. There is more of a stereotypical atmosphere present. However, interest groups are currently advocating for legislation to recognize Gay and Lesbian rights. The aim of this is to create an awareness of minority rights, eradicate the stereotypical views of society in Dominica with regards to Gays and Lesbians and repeal the country’s buggery laws. There is need for more work to be done in that area. |
| **Equality between men and women (arts. 2, 3 and 26)** | |
| 6. In the light of the National Policy and Action Plan for Gender Equity and Equality, please provide information on the legal frameworks aimed at ensuring gender equality in all aspects of women’s lives, and on the mandate of the national advisory committee for gender equity and equality. Please report on progress relating to: (a) the representation of women in public and political life; (b) the proportion of women in positions of responsibility both in the private and public sectors; (c) the right to an equal wage for equal work; and (d) the eradication of patriarchal stereotypes regarding the role of women and men in the family and in society. Please indicate whether the State party intends to take legal measures aimed at addressing the situation of women in common law relationships who face discrimination, notably in terms of inheritance rights and financial benefits | Organizations like the Dominica National Council of Women (DNCW) are few and the DNCW is making strides to propel human rights in the public domain. There is no domestic institution that is solely established as a ‘National Human Rights Institution’ in the Commonwealth of Dominica.  Implementation of the National Policy and Action Plan on Gender Equity and Equality has been slow. A few pieces of legislation such as the Title by Registration 1998 Amendment Act, which influenced to some measure women’s access to land and by extension would facilitate access to credit from financial institutions.  Women’s status in public life as well as political life has shifted slightly upwards. In the public sector, currently 11 of the 14 government ministries have women as permanent secretaries. In the present government, 8 women were elected to public office along 10 men to give this government 18 seats in a 21-seat parliament. In the private sector the placement of women is gradually improving |
| **Violence against women (arts. 2, 3, 6, 7 and 26)** | |
| 7; and rais. In view of the reported prevalence of violence against women, particularly domestic violence, please provide information on measures to: (a) ensure the effective implementation of the current legal frameworks on gender-based violence; (b) implement the national action plan to address violence against women and other gender-based violence (2014–2024); (c) increase the capacity of the Bureau of Gender Affairs; and (d) identify the shortcomings and gaps in the current frameworks. In particular, please provide detailed information on measures to prevent violence against women; encourage victims to file complaints; support victims, including through the development of shelters providing health care and psychological and financial assistance to victims; train judges, prosecutors, police officers and health-care workers on gender-based violence e the awareness of men and women about their rights and effective remedies | a). Since the passage of the Domestic Violence Act 22 of 2001, there has been no amendment to give upgrade the Act.  (b) Implementation of the national action plan to address violence against women and other gender-based violence (2014–2024) is still pending Cabinet approval. (c) increase the capacity of the Bureau of Gender Affairs; accomplished.  Information on measures to prevent violence against women; encourage victims to file complaints, support victims; under the Domestic Violence Act of 2001 these are address but effective support mechanisms lacking. The development of shelters providing health care and psychological and financial assistance to victims; not in place. Train judges, prosecutors, police officers and health-care workers on gender-based violence; limited. Raise the awareness of men and women about their rights and effective remedies; provided for under the Gender Policy but effectiveness is wanting. |
| 8. Please indicate whether the State party intends to adopt a specific law aimed at prohibiting sexual harassment and to criminalize spousal rape. Please explain how rape, including the rape of minors, is currently defined. | There are specific sections of the 2016 Sexual Offences (Amendment) Act 9 address these issues as well as criminalizing spousal rape |
| **Termination of pregnancy, maternal mortality and reproductive rights (arts. 2, 3, 6, 7 and 24) 9. Please provide information** | |
| 9. Please provide information on the framework governing the termination of pregnancy in the State party, particularly regarding the conditions required for its authorization. Please provide information on the number of legal abortions and the estimated number of clandestine terminations of pregnancy carried out each year. Please indicate whether the State party intends to repeal legislative restrictions that may compel women and girls to resort to unsafe abortions or abortions overseas, resulting in de facto discrimination against women who cannot afford to travel abroad. | Abortion in Dominica is prohibited by law. |
| 10. Please provide updated statistical data on maternal and infant mortality rates and detail efforts to reduce the number of childdeaths, particularly those of children under the age of 1. Please provide information on measures to ensure access to adequate and quality sexual and reproductive rights and services and to address the issue of teenage pregnancy. Please comment on allegations that girls are prevented from attending school while pregnant and prevented from returning to school after giving birth, and indicate any measures to prevent and address the stigmatization of those girls | Not aware of any such intention or advocacy  Latest information about infant mortality is not readily available. A recently published piece indicating a rise in infant mortality was requested to be disregarded by the Health authorities pending a more accurate release which is still pending. |
| **Climate change (arts. 6, 17 and 25)** | |
| 11. Please indicate the measures aimed at: (a) addressing the negative effects of climate change and environmental disasters, including Hurricane Maria in 2017, on human rights, in particular on the right to life of the whole population, including the most vulnerable persons; and (b) ensuring the meaningful and informed participation of the whole population in projects that may affect sustainable development and resilience to climate change. | Work in this area is still at the budding stage and lacks institutional capacity. Emphasis has been on building resilience through improved housing for selected few but not necessarily for most vulnerable. Mechanisms and awareness for public participation in projects have not been widespread and targeted at the most vulnerable. |
| **Right to life (arts. 6 and 7)** | |
| 12. In the light of section 2 (1) of the Constitution, please indicate whether the longstanding de facto moratorium on the death penalty has been officially proclaimed. Please indicate whether the State party intends to abolish the death penalty and whether it is considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. | There has not been anyone sentenced to, or, put to death over the past 35 years. Reinstatement or use of the death penalty is not a widely debated issue. |
| 13. In the light of the protests in Roseau in February and May 2017, particularly following the deployment of tear gas and firing of warning shots by the police, please provide information on the legal standards applied in the State party for the use of force and firearms by law enforcement officials and on the compliance of such standards with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please indicate whether there is any independent mechanism for the oversight of the national police force. Please comment on reports of excessive use of force during arrests and cases in which police officers injured and shot people in 2007. Please explain the compatibility of section 2 (2) of the Constitution, and in particular its reference to the permissible use of force for protection of property, with article 6 of the Covenant as interpreted by the Committee in its general comment No. 36 (2018) on the right to life. | There are no known set of guidelines or procedure for use of force and related activities by law enforcement, as well as no mechanisms for independent oversight of the law enforcement officials and their behaviour.  Reports of excessive use of force by law enforcement are only aired in public (media) and addressed only if taken to the court which is always drawn out and expensive.  Use of tear gas ( and allegations of use of expired tear gas ) by law enforcement on demonstrators in 2017 in Roseau and Salisbury have gone unattended. The 2019 use of tear gas (by local law enforcers and RSS personnel) on villagers of Salisbury while they slept have not been investigated. Complaints of the after effects of such action on the health of infants and senior citizens have not been attended to. |
| **Forced labour and trafficking in persons (arts. 6, 7, 8 and 24)** | |
| 14. Please provide information on measures to end the worst forms of child labour, particularly the commercial sexual exploitation of girls. In the light of the Transnational Organized Crime (Prevention and Control) Act that criminalizes trafficking in persons, please provide information on efforts to effectively prevent and investigate cases of trafficking in persons and punish the perpetrators. Please provide information on the compatibility of the following regulations with article 8 of the Covenant, and indicate whether there are plans to repeal them: (a) section 35 (2) of the National Service Act, 1977, under which persons between the ages of 18 and 21 years are required to perform national service, including participation in development and self-help projects concerning housing, schools, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment; and (b) section 61 (2) of the Prison Ordinance, chapter 251 of the Revised Laws of Dominica, under which work by prisoners for the private benefit of any person is prohibited, except with the authorization of the Superintendent of Prisons. | There are no data on reported cases of forced labour or child labour. Trafficking of persons is prohibited.  On entry, the use of computerized data has made it easier to document the movement of foreign nationals immigrating and emigrating out of the Country. Since the Immigration and Passport (Amendment) Act, 2013, ACT 24 of 2013, there has been no new amendment |
| **Liberty and security of person (art. 9)** | |
| 15. Please provide information on the permissible grounds for deprivation of liberty and on redress mechanisms to address instances of unlawful arrest or detention. Please elaborate on practices regarding the rights of persons in police custody, including access to a lawyer, and regarding the maximum period of detention before an individual is brought before a judge. Please comment on reports of lengthy periods of detention before trial and provide information on: (a) the percentage of persons in pretrial detention among the total prison population; (b) the average time spent in pretrial detention; and (c) the availability of noncustodial alternative measures to pretrial detention and their application in practice. Please provide information on the application of section 49 (1) of the Small Charges Act, under which any person, being able wholly or in part to maintain him or herself by work or by other means, and wilfully refusing or neglecting to do so, is deemed an idle and disorderly person and may be imprisoned for a term of up to one month, and indicate whether the State party intends to repeal this provision. | No information. |
| **Treatment of persons deprived of their liberty (arts. 7, 10 and 24)** | |
| 16. Please specify what measures have been taken to reduce prison overcrowding and improve the conditions of detention in accordance with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Please provide information on measures taken or envisaged to ensure the separation of accused persons from convicted persons, and the separation of juveniles from adult prisoners. Please indicate whether the State party intends to establish an independent mechanism to regularly monitor and inspect places of detention, with a mandate to receive official complaints and investigate them. | These have not been addressed by the authorities |
| **Rights of refugees and asylum seekers (art. 13)** | |
| 17. Please describe progress on the development of a comprehensive legal framework and administrative regulations, policies and procedures regulating asylum, refugee status determination and international protection. In the light of the Citizenship Act of 1978, please indicate whether the State party plans to adopt new provisions aimed at granting Dominican nationality to stateless individuals present in its territory. | No addressed anywhere |
| **Right to a fair trial, independence of the judiciary and juvenile justice (arts. 2, 7, 9, 10, 14 and 24)** | |
| 18. Please provide information on specific measures taken to guarantee the independence and impartiality of the judiciary, including clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and for taking disciplinary sanctions against them. Please describe measures taken to strengthen the capacity of the judicial system, in particular to address the issue of inadequate financial and human resources and to reduce the case backlog and delays in the administration of justice. Please explain the procedure for granting legal aid and indicate whether the State party intends to increase the number of charges for which defendants can benefit from legal aid. | The judiciary is meant to be independent but the opinion of some is that the external forces do influence the court’s decision.  In some cases, the option to stand up to the judiciary for a fair trial is too expensive and complicated for an average citizen. Legal aid is available to such persons but is of relatively little substance or significance |
| 19. Please provide clarification on the minimum age of criminal responsibility. Please clarify whether sentencing children to life imprisonment is legal and indicate whether the State party intends to repeal section 3 of the Offences against the Person Act, under which judges are allowed to sentence children to detention at the “State’s pleasure” without a time limit, instead of the death penalty. Please indicate whether steps have been taken to establish juvenile courts. | The Juvenile Offenders Punishment Act chapter 12:72 of the revised Laws of Dominica 1990, was established under L. I of 1881. It was further amended by L.I 10 of 1932; 9 of 1934 & 12 of 1990. The purpose of this Act was to provide for the whipping of juvenile offenders. Since the last amendment of 1990, there has been no new amendments to this Act.  There has been however, the establishment of the Juvenile Offenders Court where offences committed by juveniles are heard.  As regards whipping of Offenders, this form of punishment still remains on the law books of Dominica.  Plans are afoot for building of the Organization of Eastern Caribbean States (OECS) juvenile justice reform program to promote the rehabilitation and reintegration of youth in conflict with the law back into society |
| 20. Please indicate whether the State party intends to review its legislation in order to establish a lawful sentence for the crime of corporal punishment of children, and to explicitly prohibit corporal punishment in all settings, including in the home. | No information. |
| **Freedom of expression, assembly and association (arts. 2, 19, 21 and 22)** | |
| 21. Please provide detailed information on: (a) how freedom of opinion and expression is guaranteed in law and practice, including information on all aspects of circulating information in any form and through any media; and (b) the legal regime that regulates the ownership and licensing of the press and the broadcast media. Please provide detailed information on the legislative framework regulating libel lawsuits against journalists, its implementation in practice and related sanctions; and data on lawsuits against journalists and their outcome over the past five years. Please indicate whether there are any measures envisaged to decriminalize defamation. Please comment on the allegations that libel lawsuits and threats are commonly used by the Government against media workers and members of the opposition, resulting in the de facto practice of self-censorship; certain civil society groups have been considered undesirable by the Government and attacked in the media; and journalists are prevented from attending parliamentary hearings. | Freedom of expression, assembly and association are permissible but some can be intimidated by law enforcement practices which may disrupt assemble on the grounds of public safety  There are libel laws that permits an aggrieved party to seek redress in the courts.  The granting of permits to operate a media outfit is left to the satisfaction of the minister granting such permit.  The disbanding of journalists covering parliamentary proceedings is left to the fancies of the Speaker of the House of Assembly according to the House of Assembly rules. |
| 22. Please provide detailed information on the legal frameworks regulating freedom of assembly, in particular on the grounds for restricting public gatherings or protests. Please comment on allegations that the Government denied the opposition a number of permits to hold public meetings in 2017, and specify the grounds for such prohibitions and their compatibility with the provisions of the Covenant. Please provide information on criminal charges pressed against members of the opposition exercising their right to freedom of expression. Please also provide information on the legal frameworks regulating the right to form and join trade unions and indicate the categories of workers in the essential services that might be prevented from striking. | Freedom of assembly is restricted by law enforcers supposedly based on need for public security, often cited as need not to impede traffic or endanger others or threats to public buildings. However, all public assembly are restricted up to 23:00 hours. The rights for workers to form or belong to a union is controlled by set regulations however once a majority of members of any workforce so decide to form a union, the law permits such |
| **Participation in public affairs and corruption (arts. 2 and 25)** | |
| 23. Please provide information on measures to prevent and eliminate acts of corruption, particularly regarding the concerns over the citizen investment programme, and to improve the transparency of public administration, particularly with regard to access to information and the publication of information. Please provide information on the measures taken to respond to concerns related to the electoral process, particularly regarding: (a) the outdated voters’ list; (b) the unbalanced sizes of constituencies, which have not been changed since 1990; and (c) the lack of requirement for political parties to publish sources of campaign funding. | The only information that is published under the citizenship by investment programme is the name and number of such persons in the government Gazette.  Information on matters of the electoral process relative to revised voters list, constituency sizes and published sources of campaign financing are all stagnant. |
| **Rights of indigenous peoples (arts. 2, 25 and 27)** | |
| 24. Please provide information on measures to prevent acts of discrimination against the Kalinago (Carib) people. In the light of the Carib Reserve Act of 1978, please provide information on measures to ensure: (a) the consultation and participation of the Kalinago people for any development programme affecting them; and (b) that the Carib Council maintains custody and control of lands and natural resources in the Carib reserve. | *Carib Indian Community (Kalinago Community)*  The Kalinago Territory Act was established under Act 2 of 2015. This amendment re-named the original “Carib Territory” Act to ‘Kalinago Territory’ Act. It further changed all reference to the word “Carib” to “Kalinago”. This change sought to remove any stigma or discrimination towards the original people of the Commonwealth of Dominica.  As regards any further direct amendments to the existing Kalinago Territory Act there are no documented measures in place against discrimination towards the Kalinago People.  There has been however, significant improvements in the social and educational development in the Territory over the last 10 years. In recent times, there has emerged from the Territory, Lawyers, Doctors and Politicians of Kalinago decent. This on its own should be indicative of efforts toward eliminating any stigma of discrimination against the Kalinago people. |