



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues in the absence of the initial report of Dominica\*

##### 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.
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).

##### 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.

##### 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,

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\* Adopted by the Committee at its 125th session (4–29 March 2019).



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.

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.

#### **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.

#### **Violence against women (arts. 2, 3, 6, 7 and 26)**

7. 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; and raise the awareness of men and women about their rights and effective remedies.

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.

#### **Termination of pregnancy, maternal mortality and reproductive rights (arts. 2, 3, 6, 7 and 24)**

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.

10. Please provide updated statistical data on maternal and infant mortality rates and detail efforts to reduce the number of child deaths, 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.

**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.

**Right to life (arts. 6 and 7)**

12. In the light of section 2 (1) of the Constitution, please indicate whether the long-standing 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.

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.

**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.

**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 non-custodial 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.

**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.

**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.

**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.

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.

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.

**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.

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.

**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.

**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.

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