



**International Covenant on
Civil and Political Rights**

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Agenda item 4

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**Replies of Dominica to the list of issues in the absence of its
initial report***

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Constitutional and legal framework within which the Covenant is implemented (art. 2)

Response to paragraph 1 of the list of issues (CCPR/C/DMA/Q/1/Add.1)

1. Section 117 of the Constitution of the Commonwealth of Dominica declares the Constitution as the supreme law of Dominica. Any provision in any other law that is inconsistent with the provisions of the Constitution is void.
2. The provisions in the ICCPR, that protect the rights and freedoms of individuals are reflected in the Constitution. More specific and detailed protections of these rights and freedoms are found in the body of laws by statute and our courts.
3. To date, Dominica has not acceded to the two Optional Protocols to the ICCPR. Dominica has no difficulty with acceding to the First Optional Protocol to allow individuals who claim to be victims of violations of any of the rights set forth in the Covenant to be received and considered by the Human Rights Committee set up in Part IV. Efforts will be made towards that end.
4. The Second Optional Protocol, however, will require a more comprehensive process to include public consultation and engagement. Since 1986, there has been a de facto moratorium on the death penalty in Dominica. The decision in 2003, by our then court of last resort, the Privy Council, put a stay on executions. In 2018, Dominica supported a UN Resolution calling for a moratorium on the use of the death penalty. Any decision would be determined by the people of Dominica.
5. The Constitution places limitations on the fundamental human rights in a manner that is reasonable in a democratic society. These limits are based on the protection of: (i) defence, public safety, public order, public morality, or public health; and (ii) the rights or freedoms of other persons. These limits are compatible with the Covenant.

Response to paragraph 2

6. Since independence, the Government of the Commonwealth of Dominica has created institutions and enacted laws for the administration of justice in its efforts to protect the rights and freedoms of its citizens. Our court system, although with its challenges, due to resource constraints, is accessible to all.
7. The position of Parliamentary Commissioner has never been filled. Some of the functions of the Parliamentary Commissioner, however, have been taken up by other institutions and offices. Grievance and dispute resolution mechanisms have been established for employees of the private and public sectors; the Public Accounts Committee of the Parliament has an important role to play in ensuring that the resources of the state are well spent and accounted for; and the Integrity in Public Office (IPO) Commission deals with corruption in public life.
8. In 2003, the government enacted the Integrity in Public Office (IPO) Act. Since then, a fully functioning IPO Commission was established for the purpose of establishing probity, integrity and accountability in public life. The Commission is fully independent and has conducted a number of investigations in the affairs of persons in public life.
9. At the beginning of the new term of this administration in December 2019, a new Ministry was created with the responsibility for Governance, Citizen Empowerment and Social Justice. This new department of government is charged with implementing a grievance mechanism to address the concerns of citizens. It will also be responsible for encouraging greater citizen participation in governance and will implement programs and adopt policies for the public service aimed at empowering citizens.
10. These efforts will complement the efforts of the government to enhance the process of reporting to the UPR and the ICCPR. Additionally, the decision has already been taken to create a national mechanism for implementation, reporting and follow up (NMIRF) to include representatives from the departments of government, the private sector and other non-state actors. This will assist in the establishment of 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)

Response to paragraph 3

State of Emergency

11. Section 14 of the Constitution of the Commonwealth of Dominica allows for the derogation of sections 3 and 13, during a period of public or state of emergency. These restrictions, on the right to personal liberty and protection against discrimination are carefully written to be narrowly construed to ensure that there are no undue or unnecessary restrictions of these rights and freedoms of individuals beyond what is reasonable in a democratic society.

12. A state of emergency is only declared when there are overwhelming and compelling reasons to restrict the movement and rights of individuals to protect public safety and for reasons of national security. A period of public emergency can only come into effect if (i) "Dominica is at war with a foreign country; (ii) there is in force a proclamation by the President declaring that a state of public emergency exists; or (iii) there is in force a resolution of the House of Assembly supported by votes of not less than two-thirds of all members of the House declaring that democratic institutions in Dominica are threatened by subversion."

13. In the case when the President declares a state of emergency, he must be satisfied that: "(a) a public emergency has arisen as a result of the imminence of a state of war between Dominica and a foreign state or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of infectious disease or other calamity whether similar to the forgoing or not; or (b) that action has been taken or is immediately threatened by any person of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life".

14. Unless revoked, the declaration remains in force for 21 days or for such period, not exceeding six months, as the House may determine by resolution with the support of the majority of the members of the House (Section 17 (2), Constitution).

15. The Emergency Powers Act, Chapter 15:02, and Emergency Powers (Disaster) Act, Chapter 15:03, of the 1990 Revised Laws of the Commonwealth of Dominica, provide in greater details the declaration and operation of Emergency Powers.

16. Over the last twenty years, the Emergency Powers have been used about 20 times, mainly immediately after a major storm or hurricane that have had severe impact on the country, knocking off power, water supply and making public roads impassable.

Combating Terrorism

17. So far, the only legislative measure that have been enacted to combat terrorism is the Suppression of the Financing of Terrorism Act 3 of 2003. The provisions of the Act are consistent with the guarantees provided by our constitution. These protections are consistent with the rights guaranteed under the Covenant. Therefore, the guarantees provided by articles 7, 9, and 14, are also provided by the Constitution and are not affected by the Act.

Electronic Surveillance

18. Currently, there are no laws governing the use of electronic surveillance by the police and security agencies. Electronic surveillance is therefore not utilized as a tool for law enforcement agencies. However, the right to privacy is protected by the Constitution of the Commonwealth of Dominica. Therefore, any legal framework to govern the use of electronic surveillance would take into account existing legislation and therefore must make provisions for the protection of the right to privacy.

Non-discrimination (arts. 2, 3, 14, 20, 23, 26 and 27)

Response to paragraph 4

Laws Prohibiting Discrimination

19. The Constitution of the Commonwealth of Dominica guarantees fundamental rights and freedoms to every person in Dominica irrespective of race, place of origin, political opinions, colour, creed, or sex. There is no law that expands the list of categories of persons nor are there any grounds of discrimination beyond what is provided in the Constitution.

Combating and Preventing Acts of Discrimination against Vulnerable Persons

HIV/AIDS

20. The government has taken measures aimed at combating and preventing acts of discrimination against persons in all vulnerable situations. The National HIV/AIDS Prevention Unit within the Ministry of Health and Social Services, was instituted in 2003, and has been implementing a number of programmes and activities geared at creating greater awareness, care, understanding, respect and tolerance for persons affected by HIV/AIDS.

21. Counselling, medication and other treatments are provided to all people living with HIV/AIDS, irrespective of their sexual orientation. The total elimination of the stigma associated with the disease poses a challenge, but efforts to educate the public continue, and the populace is becoming more aware and accepting through campaigns, Walkathons, medial awareness programmes including talk Show, issuing of leaflets/pamphlets in schools, workplaces etc.

22. The Unit continues to hold free National “Know Your Status” testing which encourages individuals to be tested for the disease. The last “Know Your Status” was held at the end of 2018. National activities are organized and held in commemoration of international observances of days declared by the World Health Organization and other United Nations systems.

Elderly Persons and Persons with Disabilities

23. The Government places keen emphasis on providing for the needs of the elderly, persons with disabilities and other vulnerable groups. One such outreach, “the Yes We Care” programme, continues to provide support and free home care for the elderly. In addition, a stipend of EC \$300 is given monthly to individuals of pensionable age, that are 65 and over, who otherwise do not qualify to benefit under the current Social Security scheme.

24. Persons with disabilities and other vulnerable groups (unemployed, persons with low socio-economic status) also benefit from this programme once they are deemed qualified to do so. In December 2018, Government granted a one-time bonus of EC \$500 to individuals under this category. It also dispenses cooking gas on a monthly basis to needy elderly persons over 70 years of age. A special programme for centenarians (100+) is also in place. They receive \$500 monthly, free electricity and cooking gas monthly.

25. Over the years, the Government has been working closely with the Dominica Association of Persons with Disabilities (DADP) to ensure that their rights are protected and provisions for assistance to them collectively and individually are made. In 2012, the Government acceded to the Convention on the Rights of Persons with Disabilities. The Convention is being used as the framework for interventions to ensure that the rights of persons with disabilities are protected. Provisions of the Convention are being implemented within the resources of the state.

26. The Government of Dominica provides support to private institutions that cater specifically for children with disabilities. The Alpha Centre and the Isulukati Special Needs School in the Kalinago territory, caters for Children with moderate to severe mental challenges, while the Achievement Learning Centre caters for children with varying types of special needs.

27. An office has been established to coordinate the work in special education and involves the psychological, academic and behavioural assessment of children as well as support for the implementation of intervention programmes to cater to their needs. Children with disabilities are also involved in sports and are regular participants at the Special Olympic Games. They performed very well this year, receiving three gold medals, three silver medals and fourth and fifth ribbons. A new Ministerial portfolio for Dominicans with Disabilities has been created from 2019.

Response to paragraph 5

Sexual Offences Act

28. The provisions of the Sexual Offences Act of 1998, that criminalizes consensual same-sex conduct have not been used to arrest, charge or sentence any individual. Also, over the last five years, there were no cases of any violence, or death threats targeting LGBTI people reported to the police.

29. Additionally, access to health care is not denied to LGBTI persons. No one is required to state or asked about their status, nor denied treatment as a result of their sexual orientation even those who are provided with government provided free treatment for HIV and AIDS. The National HIV and AIDS Prevention Unit in the Ministry of Health continues to provide public education information to fight stigmatization.

Responses to paragraphs 6, 7 and 8

Gender Equity and Preventing Violence Against Women

30. The Government of Dominica through the Bureau of Gender Affairs has recognized the significance of strengthening efforts towards the fight against gender-based violence, domestic violence and gender-discrimination; while promoting human rights and protecting the integrity of the country's population. The following initiatives have ensured progress in protection and promotion of gender equality and equity in addition to human rights.

31. In 2015, the Bureau of Gender Affairs, in collaboration with the UNDP and the Inter American Commission, participated in a Human Rights Joint Caribbean Study Tour on the issue of violence against women, its causes and consequences. State and non-state actors participated in consultations which discussed State responses to violence against women and children in Dominica, and identified strategies to deepen policy response to this human rights issue.

32. More recently, in April 2019, UN Women and the United Nations Human Rights Office of the Commissioner, provided training to key government officials with the objective of strengthening technical capacity among Government partners on CEDAW Reporting, and ensuring that key stakeholders understand the progress made on gender equality at the national and regional level.

33. Via a Social mobilization project, the Bureau of Gender-Affairs in collaboration with UN Women, implemented "Stop the Violence" campaign against gender-based violence. The campaign engaged the Dominican public in a number of activities geared towards increasing public awareness of gender-based violence and human rights, challenging stereotypes surrounding gender and gender-based violence, while increasing support for victims of gender-based violence. The campaign was executed over a three (3) year period (2015–2018).

34. In continuing the efforts at striving for gender-equality and equity, the Bureau of Gender-Affairs, has embarked on gender sensitization and mainstreaming trainings, geared towards public sector officials, non-state actors, schools, women, men, youth and communities. Public awareness through radio programs and social networking continues.

35. The Government of Dominica continues to empower women through the establishment of a revolving loan fund specifically geared towards women. Staffing at the Bureau of Gender Affairs has been increased to meet greater demands of services needed to ensure gender equality and equity. The Bureau and various departments within other ministries and divisions in Dominica currently handle projects and programs related to gender and women issues.

36. The Government of Dominica continues to strengthen the protection and promotion of human rights through its institutions, legislation and public policies. Since Dominica's independence in 1978, a number of pieces of legislation have been enacted to eliminate direct and indirect discrimination on the basis of sex, promote positive action for women, and advance equality and equity between women and men. This includes most recently the amendments to the Sexual Offences Act in 2016 which among other things now criminalizes marital rape; ensures harsher sentences for perpetrators of sexual violence; and provides legislative authority for the mandatory reporting of suspected abuse of minors.

37. Women in Dominica gained the right to vote and to contest elections in 1924. Since then, women have been serving in the Parliament as elected and appointed members both on the government and opposition benches. Dame Mary Eugenia Charles was the first female Prime Minister in the Caribbean region and served for three consecutive terms, a total of 15 years. For the 2019 elections, the Dominica Labour Party (DLP), the incumbent, fielded 8 women and the United Workers Party, Parliamentary Opposition, fielded 5 women. An unprecedented 13 women making up 45% of the candidates. The current Parliament comprises of 11 women and 20 men; 36% women.

Response to paragraphs 9 and 10

38. Termination of pregnancy is still unlawful in Dominica. There is no strict surveillance of clandestine terminations of pregnancy, hence, we are unable to report the numbers that may have been carried out.

39. The Government provides support to pregnant women through access to free medical care islandwide through the island's well established Primary Health Care system. Housing, financial assistance and other public support programs have also been put in place as safety nets whenever the need arises. The Welfare Department also plays a very important role to ensure postnatal support including advice on adoption and foster care.

40. Currently, there is no discussion on lifting the ban on abortions. Any decision will be driven by the wishes of the people.

41. The infant mortality rate for Dominica in 2018 is 33 for every 1,000 live births. The maternal mortality rate is 0. The primary healthcare system with health centres throughout Dominica provides free access to healthcare services to all. This includes sexual and reproductive health.

42. Since 2003, the Ministry of Education adopted a policy to allow girls to attend secondary school while pregnant. The arrangement has been such that pregnant girls are allowed to continue their education after giving birth.

43. In addition, special arrangements have been made at the Government funded free post-secondary institution, the Dominica State College (DSC), to provide opportunities for young people, including girls, to continue their high school level education as prerequisites for enrolling in the Associates Degree programmes at the DSC.

44. The Ministry of Education also provides support for costs of tuition at private education institutions and allowances for transportation for young people including girls who wish to continue their high school education. The Adult Education programme continues to provide alternative opportunity for adults, and women in particular to complete CXC courses outside of the traditional classroom.

Climate change (arts. 6, 17 and 25)

Response to paragraph 11

45. The recent devastation wrought on Dominica by Tropical Storm Erica in 2015 and Hurricane Maria in 2017, have created greater awareness of the impact of climate change. The lessons learned from the impact of these natural disasters have resulted in more efforts at bolstering disaster preparedness and management. This includes the protection of homes, public infrastructure and protecting the most vulnerable among us.

46. Since hurricane Maria, the government has constructed hurricane shelters in some communities where there are major population centres; smart health centres; smart schools; with solar PV power with storage and water storage systems.

47. All of these efforts are within the broader framework of making Dominica the first climate change resilient country in the world. This process will see resilience being built into every aspect of the lives of all the people of the Commonwealth of Dominica.

Right to life (arts. 6 and 7)

Response to paragraph 12

48. Over the last two years, the Government of the Commonwealth of Dominica has made some major strides towards reviewing its position on the Second Optional Protocol of the ICCPR.

49. In 2018, Dominica voted in favour of a moratorium on the death penalty at the General Assembly of the United Nations. Further to that, at his Independence Address on November 3, 2018, the Prime Minister made the following statement:

“At age 40, there are also some adult conversations we need to have, as a nation. Capital Punishment is one of them. Is it still a deterrent? Is it inhumane? What objective does it achieve? Is it desirable? Is there another and a better option? This is an issue that we have to confront, sooner, rather than later, and adopt a position. Your government will, in the months ahead, seek out perspectives from various enlightened groups internationally and share them all with you. In this way, the position we finally arrive at can be informed and sound; based on reason and facts, rather than emotion.”

50. The Government is open to having assistance to facilitate a national dialogue on this subject.

Response to paragraph 13

51. The events of February 2017 began with a political meeting by the Parliamentary Opposition Party. Permission was granted under the Public Order Act, Chapter 15:01. The meeting ended with riotous behaviour after the meeting was officially closed and efforts by the police to disperse the crowd were thwarted by opposition parliamentarians and supporters. This resulted in fires started in the city, vandalising and looting of business places and shots being fired at the police.

52. We would like to place on record that the police exercised tremendous restraint after being pelted by an angry mob with bottles, stones and Molotov cocktails which caused injury to police officers and damage to public property. The reaction of the Police was very measured in the circumstances. The actions of the police were consistent with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Even after being shot at, there was no report of anyone being shot by the police.

53. Section 2 (2) of the Constitution is similar to provisions in laws within Member States. “Stand your ground” laws are well known throughout the United States. The recognition of the use of force in self-defense is a matter to be determined by the courts.

Forced labour and trafficking in persons (arts. 6, 7, 8 and 24)

Response to paragraph 14

54. Dominica has enacted legislation aimed at preventing, combating and punishing persons found to engage in any form of human trafficking. The Immigration and Passport Act provides for the offence of human trafficking and offences related to it. A number of offences relating to trafficking in persons and related matters including forced labour are also provided for in the Transnational Organised Crime (Prevention and Control) Act, 2013.

55. Offences relating to the smuggling of migrants are also provided for in that Act. The penalties attached to the offences are substantial and reflective of the seriousness with which these crimes should be addressed. Offences relating to trafficking in persons are also extraditable offences for the purpose of the Extradition Act.

56. The following Bills have been presented to the Cabinet of Dominica for review and approval namely the:

- Status of Children Bill
- Children (Care and Adoption) Bill
- Juvenile Justice Bill
- Family Court Bill
- Maintenance of Children Bill

57. It is expected that the Bills will receive approval and be taken to Parliament later this year. The provisions will not only serve to protect children and their families but also afford families the opportunity to seek redress when necessary in courts of law and also within established systems, particularly in child care and family related agencies.

58. Discussions are ongoing about the restructuring of the Social Welfare Division, the main child protection agency. Additionally, a review is presently underway, with regards to the implementation of A National Action Plan on Child Sexual Abuse before it can be submitted for approval by policy makers.

59. This legislative agenda will also result in the repeal of section 35 (2) of the National Service Act, 1977.

Liberty and security of person (art. 9)

Response to paragraph 15

60. Section 3 (3) of the Constitution provides:

Any person who is arrested or detained – (a) for the purpose of bringing him before a court in execution of the order of a court; or (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Dominica, and who is not released, shall be brought before a court without undue delay and in any case not later than seventy-two hours after such arrest or detention.

61. The Courts have consistently ruled that the right to protection of the law includes the right to access to an attorney while in custody.

62. The Government continues efforts to enhance the judicial system. Over the years, in spite of fiscal challenges exacerbated by the passage of major hurricanes, investments continued to be made to reduce the delay in trials and to separate persons in pretrial detention from those who have been sentenced. Non-custodial alternative measures to pretrial detention are also being utilized. Currently, 46% of the total prison population are persons in pretrial detention. The time spent in pretrial detention varies. It can range from a few weeks to as much as 4 years. Efforts are being made to drastically reduce the time.

63. Section 49 (1) of the Small Charges Act is among the list of relicts in Dominica's law books that will be dealt with in the next law review as the government seeks to enhance its legal and judicial systems in pursuit of a more just society. Section 49 (1) has not been used to imprison anyone. If this was the case the number of vagrants especially in the city of Roseau would have been drastically reduced.

Treatment of persons deprived of their liberty (arts. 7, 10 and 24)

Response to paragraph 16

64. The Dominica State Prison, the only prison on island is not at capacity. However, the remand population is currently high creating a demand on the available space which is separate and apart from convicted persons. The Government intends to expand the facility but is constraint by the investments required to bring the country back to pre-Hurricane Maria conditions for schools, hospitals, health centres and other public infrastructure for which it has had to prioritize available funds.

65. The law makes provisions for a visiting justices committee who can receive complaints from inmates.

Rights of refugees and asylum seekers

Response to paragraph 17

66. Dominica supports international efforts regulating the protection of refugees and asylum seekers. Over the years, the government has granted permanent residency and citizenship mainly to nationals from Haiti who have qualified after seeking employment in Dominica especially as farm workers.

67. The Citizenship by Investment Programme (CBIP) of the Commonwealth of Dominica accepts applications from stateless individuals who meet the stringent background check and other due diligence requirements of the Programme.

Right to a fair trial, independence of the judiciary and juvenile justice (arts. 2, 7, 9, 10, 14 and 24)

Response to paragraph 18

68. Judges are not paid directly by the Government. Member Governments under the Eastern Caribbean Supreme Court Jurisdiction contribute to the budget of the Court. Their appointment, tenure, suspension, dismissal and promotion fall under the purview of an independent body, the Judicial and Legal Services Commission. The pensions of Judges are governed by the Eastern Caribbean Supreme Court (Rate of Pension of Judges) Act, Chapter 4:03. This provides protection of judges to guarantee their independence and impartiality.

69. While it is true that for many years a major concern at the Magistrates Court was lack of space, backlog of matters and an absence of a full complement of magistrates, prior to Hurricane Maria these concerns had to a large extent been addressed.

70. In 2014 the Magistrates Court expanded into another building that allowed for an additional courtroom and additional facilities for staff. In 2016 the complement of Magistrates was increased from 6 to 8 and all positions filled. These initiatives contributed to a marked reduction in the backlog of cases.

71. In October 2017, Hurricane Maria caused major damage to all court facilities. The Magistrates Court in Roseau resumed sitting for mainly criminal matters in November 2017. The juvenile court, and civil, family and other matters resumed in March 2018. Court rooms are still being repaired and it is expected that all courts will be functioning normally by the end of the year.

72. The High Court similarly experienced extensive damage to its premises and loss of case materials which impacted on the ability of the Court to resume hearing of matters. Staff were adversely affected some of them having suffered damage to their homes. Additionally, the homes of the Judges were damaged and they had to be evacuated from Dominica, until appropriate arrangements could be made for their return.

73. Prior to Hurricane Maria, but for a very few outstanding indictable criminal trials pending and those for which depositions were being typed, the Criminal Division of the Supreme Court was to a large extent up to date in dealing with criminal trials. The criminal court was able to resume operations in January of 2019.

74. As regards to the Civil Division of the Supreme Court, in recent times because of the increase in Public Law cases being filed, coupled with an increase in Civil Litigation matters, this has resulted in a very heavy case load for that Division of the Court. This has been exacerbated by the delays occasioned by the hurricane for which a second Civil Court Judge would help to clear the backlog.

75. Measures taken to strengthen the capacity of the judicial system include but are not limited to:

1. Dominica now has a full contingent of magistrates and an additional 2 lay magistrates to help clear backlog in the magistrates' courts;
 2. A third judge has been recommended for Dominica;
 3. New accommodations are being retrofitted for the courts with an additional court; as well as a committee has been set up by the Chief Justice to look at the designs for the Halls of Justice. The land has already been identified.
 4. Technology has been improved to include e-portal
 5. We are also looking at specialised courts – family – this could facilitate streamlining
76. There is an established legal aid clinic. Both state attorneys and attorneys in private practice may be retained as part of the service offered. In recent times there has been few limitations on the charges for which defendants can benefit from legal aid.

Response to paragraph 19

77. Section 3 of the Children and Young Persons Act, Chapter 37:50 provides:

It shall be conclusively presumed that no child under the age of twelve years can be guilty of any offence.

78. 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 – this section has been struck down as unconstitutional by the Courts and is no longer utilised.

79. For almost two decades now the Government of the Commonwealth of Dominica has established a separate Juvenile Court presided over by child friendly Magistrates. A social enquiry report is submitted on behalf of every offending juvenile (first time or recidivist) to the sitting Magistrate by Probation officers. This report assists in mitigating the sentence handed down on these juveniles as the recommendation made in these reports are more often than not, acceded to by the Honourable Court.

Response to paragraph 20

80. Corporal Punishment is still provided for in the Education Act of 1997 but should only be used as a last resort. Over the past decade, the Ministry of Education and Human Resource Development, through the implementation of the Effective School/Child Friendly School initiative, has been embarking on efforts to offer alternative approaches to discipline, including the use of School-Wide Positive Behavioural Practices. This is in an effort to decrease the need for corporal punishment and for its eventual elimination.

81. While the law exists, which permits a child to be sentenced to life imprisonment, detention during the State's pleasure or corporal punishment, going back as far as 20 years, there has been no such sentence imposed on a child. The Government remains committed to updating its legislation with respect to children, to reflect current day realities.

82. We acknowledge that there are many instances of laws dating back to colonial days, that are archaic. Constraints on resources make it difficult to address all of these in a timely manner. In that regard it would be helpful to have the services of a drafts person(s) for a finite period who could be assigned to review legislation and prepare suggested amendments.

Freedom of expression, assembly and association (arts. 2, 19, 21 and 22)

Response to paragraph 21

83. Section 10 of the Constitution protects the right of every individual in Dominica to the enjoyment of his freedom of expression and opinion without interference. Section 10 also protects the right of the individual to communicate ideas and information without interference. The limits on these rights are imposed for the purpose of protecting reputations, rights and freedoms of other persons. Our courts protect these rights while at

the same time allowing others to enjoy their rights not to be defamed or to have their reputations destroyed.

84. The practice of a free media is alive and well in Dominica. There is a combination of print and electronic media that are allowed to freely publish ideas, views and commentary. The licensing of these media houses is provided by law. The Government has not sought to interfere with the licensing process even when the proprietors and hosts have been found guilty of defamation. No media house or media practitioner has been deprived of their right to publish nor has there ever been any effort to prevent publication.

Response to paragraph 22

85. The right to freedom of expression comes with certain responsibilities, which includes the responsibility not to defame others. The Prime Minister and members of the Government are entitled, as is any other citizen to take action to protect his reputation. In a democratic society journalists do not have a license to defame members or a Government or the public.

86. Libel lawsuits against journalists are subject to the same rigors as lawsuits against a member of the general public. Libel lawsuits involving public figures, however, are treated in recognition of the public right to know. A number of journalists in Dominica have been found guilty of defamation of individuals serving in Government as well as in the opposition and the general public.

87. Our courts are mature and independent enough not to treat lawsuits as a shield or a sword by public figures or Government officials against the media. The decisions of the court reflect that. Currently, there are newspapers, radio stations, and online publications that are owned and operated by members and supporters of the opposition. They continue to operate unmolested.

88. Section 11 of the Constitution of the Commonwealth of Dominica guarantees every person in Dominica the freedom of assembly and association. The extent to those protections are limited by restrictions that are reasonably justifiable in a democratic society: in the interests of defense, public safety, public order, public morality or public health; for the purpose of protecting the rights and freedoms of other persons; or restrictions upon public officers that are reasonably required for the proper performance of their functions.

89. The Public Order Act, Chapter 15:01, of the 1990 Revised Laws of Dominica, sets out the legal framework for regulating freedom of assembly. The law is in conformity with the provisions of the Constitution. These provisions are consistent to article 21 of the Covenant. Both the provisions of the Act and the action of public officials are subject to the review of our courts.

90. There has been no political harassment of opposition parties by the Government. The opposition like the Government is not immune from the processes of the law. If they violate the law then there is a process for enforcement. The events of 7th February 2017 began with a political meeting by the opposition and ended with riotous behaviour after the meeting was officially closed and efforts by the police to disperse the crowd were thwarted by opposition parliamentarians and supporters. This resulted in fires started in the city, vandalising and looting of business places and shots being fired at the police.

91. The Government under the Regional Investigative Management System requested assistance from CARICOM Implementation Agency on Crime and Security, relative to carrying out investigations into that incident. It was determined that sufficient evidence was gathered to bring charges against certain opposition parliamentarians and supporters for incitement of riotous conduct and wilful obstruction of the police in the execution of their duties. Due process was followed and those who were detained had access to legal counsel. They were charged and released. The matters are pending before the magistrate court and have been stayed pending a decision from the High Court on a related matter. It is not correct to say that all charges have been dismissed".

92. Further that one of the opposition parliamentarians who was charged has now disassociated himself from the opposition party in favour of national development and helping to rebuild the country post disaster. He was then invited to and has now joined and become a Minister of Government. The charges against him have not been dismissed.

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

93. The right to join a trade union is protected by section 11 of the Constitution. That right is limited by provisions that are reasonably justifiable in a democratic society: (i) in the interests of defence, public safety, public order, public morality, or public health; (ii) for the purpose of protecting the rights or freedoms of other persons; or (iii) imposes restrictions on public officers that are reasonably required for the proper performance of their functions.

94. The right to form and join trade unions and the procedure laid down for strike action by workers are governed by (i) the Public Service Act, Chapter 23:01; (ii) the Police Act, Chapter 14:01; (iii) the Industrial Relations Act, Chapter 89:01; and (iv) Trade Unions Act, Chapter 89:03.

95. The Industrial Relations Act, Chap. 89:01, declares industries categories of workers as “essential services.” Workers in essential services like other workers are permitted to strike, providing that they follow the procedures laid down in the Act.

Participation in public affairs and corruption (arts. 2 and 25)

Response to paragraph 23

IPO

96. In 2003, the Parliament enacted the Integrity in Public Office Act, 2003. The Commission was established for the purpose of establishing probity, integrity and accountability in public life. The Commission is fully independent and has conducted a number of investigations in the affairs of persons in public life. Every person in public life for the purposes of the Act, must submit a declaration on their financial affairs to the commission annually.

Citizenship by Investment Programme

97. Allegations of corruption over the citizen by investment programme (CBIP) are unfounded and have no basis in truth. The CBIP of Dominica is a robust programme with checks to ensure the integrity of the programme. Before any applicant can be approved for citizenship, due diligence of the applicant is conducted by companies from Canada, United Kingdom, and the USA. These companies are the same companies that are used by governments throughout the world. Furthermore, all applications go through a final check by our Regional Security Services.

98. The approval of every citizen is published in the Gazette and is very public. All funds received from the program are submitted to the treasury of Dominica and through escrow accounts for funds for investment projects. All funds are subject to audit by the Director of Audit. All accounts are subject to review by the Public Accounts Committee of the Parliament headed by the Leader of the Opposition. To date, neither the Leader of the Opposition nor any member of the Public Accounts Committee has called the relevant public officers to account.

99. The Government has signed up to international and hemispheric declaration to encourage access to and publication of public information. Efforts continue to be made to enact legislation to provide for access to information and publication of information legislation.

Electoral Reform

100. The Commonwealth of Dominica has essentially been employing the same system for conducting elections since it attained independence in 1978. These elections over the years have generally been considered to be free and fair. There have been improvements recommended for the electoral system by the electoral office itself and by election observers. The results of the most recent general elections were declared to have “reflected the will of the people” by elections observers from the Organization of American States

(OAS), Commonwealth Secretariat, and the Caribbean Community (CARICOM) Secretariat. Representatives from the United Nations Political Affairs Department were also present before, during and after the elections.

101. Since 2011, the Government has been working towards enhancing the electoral process by: (i) the introduction of voter ID cards; (ii) reviewing the list of electors; and (iii) re-registration of voters.

102. Section 7 of the Registration of Electors act of Dominica creates a right to remain registered. It provides that:

“A person registered pursuant to this Part shall remain registered unless and until his name is deleted from the register because

(a) He has died;

(b) An objection to his registration has been allowed;

(c) He has been absent from Dominica for a period exceeding five years; or

(d) He has become disqualified for registration as an elector under this Act or any other written law imposing disqualifications for registration as an elector.”

103. Dominica like many other countries experiences a high rate of migration. People move more freely and more frequently and while many Dominicans reside and work in other countries, they return home regularly. They therefore remain on the register unless steps are taken to remove them if they become ineligible because of continuous absence exceeding five years.

104. In 2011, the Government informed His Excellency the President with a request for onward notice to the Electoral Commission, of its decision to introduce a National ID card that would include all the features requisite in a voters' identification card. In June 2011, the Commission indicated its approval and proposed the model used in St. Lucia. It was also determined that if the cards were to be used for voting they should be issued by the Commission.

105. In July 2013, His Excellency the President requested financing for the issuance of the card. The Government responded positively in August 2013. By December 2015, the draft amendments to the laws required for the introduction of voter ID cards were submitted to the Electoral Commission for scrutiny and comments. The Commission was assisted in this exercise by an expert from the Commonwealth.

106. In September 2016, the Electoral Commission's reactions to and recommendations on the draft amendments were submitted to the Government. In February 2017, at the request of the Electoral Commission, the Government approved over two million dollars (\$2,043,108.80) for the procurement of the ID Card Management system. In May of 2017, the Government authorised a further sum of \$91,402.08 for staff adjustments for the Electoral Office and the sum of \$3,995,789.49 for the cost of the confirmation process and to purchase additional equipment.

107. In May 2017, the Government tabled the amendment Bills in Parliament. The Bills provided among other things for

1. It to be, mandatory for identification cards to be used for voting

2. It provided for a confirmation process to be undergone in respect of voters on the voters list.

3. It presented a solution to the unique circumstances of persons displaced from their community as a result of Tropical storm Erika.

4. It provided for the codification of the law on bribery and treating as it has been interpreted by the Courts.

108. Before the Bills could be debated by the Parliament, the opposition and its supporters protested outside Parliament, disrupted the proceedings and the Parliament had to be adjourned. The complaint expressed then, was with the provisions in the Bills relating to bribery and treating.

109. Those provisions were eventually removed from the Bills and the Bills were resubmitted to Parliament. They were due to be tabled in Parliament on September 17, 2018. On September 10, 2018, a consultation was organized by the Government to go through and discuss the Bills. It was open to all persons and all members of Parliament and a wide range of civil society was specifically invited. This event was carried live. At the end the Attorney General invited the submission of comments and recommendations on the Bills. These Bills were made available on the Government website. No substantive comments were received. An individual petitioned the court for an injunction for the Bills not to be heard by the Parliament and for declarations that clauses in the Bills are unconstitutional.

110. It bears noting that on the 7th of September, 2017, the Electoral Commission issued a Press Release that stated “The Electoral Commission is satisfied that the proposed amendments are in the best interest of the democratic process in Dominica and urges all stakeholders to give effective support to the speedy passage and implementation.”

111. The Government has made available all of the funding requested by the Electoral Commission for implementing an identification card system and a confirmation process that would lead to a rationalization of the voters list. The process to move forward is currently stalled.

112. In keeping with the commitment of the Prime Minister to the People of Dominica, to have this issue examined and recommendations made for implementation of reform, by a neutral third party of high repute, Sir Dennis Byron, former President of the Caribbean Court of Justice, has been engaged.

113. Sir Bryon will be mandated to review existing legislation and reports including the Addendum by the Commonwealth expert Pauline Welsh. Further, he will advise on changes necessary to regarding the use of identification cards for the purposes of voting and/ or to advise on whether the law ought to also provide for methods of identification in addition to identification cards, in keeping with the constitutional right to vote.

114. The review will consider and advise on the best process to achieve the updating of the electoral register that will not result in the repudiation of the right to vote, and/ or disenfranchisement of legitimate, qualified voters

115. The process will include public hearings and consultations with all stakeholders building up on the submissions and recommendations made by stakeholders during the earlier process.

Electoral Boundaries Commission

116. Section 56 of the Constitution establishes The Constituency Boundaries Commission. The Commission is made up of five members: two appointed on the advice of the Prime Minister, two by the Leader of the Opposition and the Speaker of the House of Assembly. Since an effort to jerrymander the constituency boundaries in 1995 by the United Workers Party administration, there has not been any change of the number or size of the constituencies. Two attempts at constitutional review concluded with recommendations to reduce the number of constituencies. The recommendations are still under active consideration.

Rights of indigenous peoples (arts. 2, 25 and 27)

Response to paragraph 24

117. The Commonwealth of Dominica has ratified the Convention Concerning Indigenous and Tribal Peoples in Independent Countries and efforts are ongoing to ensure its full implementation.

118. Since 2000, the Government created a Ministry of Carib Affairs as a fully functioning department of government headed by the Member of Parliament for the indigenous people responsible for the welfare and development of the Carib Reserve.

119. In 2015, after extensive consultation with the Carib people, a proposal from the then Carib indigenous people of Dominica, was approved to change the name of the indigenous lands from Carib Reserve to Kalinago Territory and the people from Caribs to Kalinagos.

120. Today, Kalinagos have greater opportunity for education and a better way of life and are fully immersed into Dominican society. The Government continues to provide assistance to students up to the tertiary level. After 20 years of affirmative action in favour of the Kalinago people, scores of Kalinagos have graduated from universities and colleges from around the world. Many of them now hold top positions within the country.

121. The Government through development aid partners such as the People's Republic of China, The Bolivarian Republic of Venezuela and the Republic of Korea, has successfully completed several Housing developments in all of the hamlets across the Kalinago Territory.

122. Following the passage of Hurricane Maria in 2017, a new housing development was erected, helping to meet the needs of persons who were rendered homeless. Several grants were given to residents to help them meet the costs associated with rehabilitation of their homes and the UNDP in collaboration with the Government of Dominica also gave grants to persons whose households comprised of small children.

123. The Government, through the Kalinago Council, continues to provide assistance to manufactures of the Craft Industry, one such being a one-time grant, post the passage of Hurricane Maria. The Craft Industry is a sustainable avenue providing much needed earnings for persons who are engaged in this industry as full-time operators. Farmers, in particular cassava producers, receive subsidies to help in cultivation of this crop.

124. Establishment of the Kalinago Barana Aute, a Kalinago model village, was done to create greater awareness among Dominicans and visitors alike to Kalinago culture and heritage. The Barana Aute has a full complement of staff who oversee its daily operations. It continues to bring in much needed currency and the trickling effects are felt across several sectors, from basket weavers to entertainment providers and the food industry, among others.

125. Noteworthy, is the Small Business Fund which has begun operating within the Ministry of Kalinago Affairs, with the overall objective of improving the socio-economic lives of the people. Potential recipients with viable business plans can now access much needed funding under this programme, which is not otherwise available through financial institutions.

126. In every instance, the government consulted with the Kalinago Council and received authorization prior to carrying out any infrastructural project. In most cases, the programmes were executed in collaboration with the council.
