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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Dominica*

The present report is a summary of 3 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Constitutional and legislative framework

1. Sexual Rights Initiative SRI² indicated that the Constitution of Dominica prohibits discrimination of all citizens, regardless of their race, gender, place of origin and creed subject to respect for the rights and freedoms of others and the public interest, and entitles them to the following rights: (a) life, liberty and the protection of the law; (b) freedom of conscience, of expression, of movement and of assembly and association; and (c) protection against arbitrary search or entry and inhumane treatment.³

2. SRI noted that despite the numerous treaties signed and ratified by Dominica, national legislation for implementing the substantive rights set out in international human rights law has not been passed, leaving the country's international obligations unfulfilled up to date.⁴ SRI recommended undertaking a comprehensive legal reform to domesticate the international legal instruments ratified by Dominica.⁵

B. Institutional and human rights infrastructure

3. SRI recommended that Dominica institutionalize human rights monitoring through a national office that works on addressing violations and fully abides by the Paris Principles.⁶

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Implementation of international human rights obligations

1. Equality and non discrimination

4. SRI noted that, in spite of Dominica's obligations by virtue of the ratification of international treaties, the Government continues to deny legal recognition and protection to persons with same-sex sexual preferences/orientations and persons living with HIV/AIDS, among others.⁷ It recommended that the Government promulgate legislation protecting Dominicans against discrimination based on sexual orientation, gender identity and HIV status at all levels, and take all necessary measures to enforce it, including through sensitization campaigns and programs aimed at the general population and at key government sectors like education, health and justice. It also recommended the creation of mechanisms for redress when the rights of these populations are violated.⁸

5. SRI stressed that the Offences Against a Person Act refers to "incest, rape or sexual abduction" affecting women and girls, but does not define those offences as also affecting boys. According to SRI, the law assumes only women can be raped or experience incest and ignores the reality that males can be raped whether by peers, relatives or in a prison environment. SRI recommended that Dominica amend the relevant articles in the Offences Against a Person Act to make it gender neutral, so it protects also boys and men from incest, rape or sexual abduction.⁹

2. Right to life, liberty and security of the person

6. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment of children is lawful in the home. It added that Article 5 of the Children and Young Persons Act confirms "the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him". Furthermore, provisions against violence and abuse in the Children and Young Persons Act, the Protection

Against Domestic Violence Act, the Offences Against the Person Act and the Small Charges Act are not interpreted as prohibiting all corporal punishment in childrearing.¹⁰ GIEACPC also stressed that corporal punishment is lawful in public and private schools under section 49 of the Education Act and article 5 of the Children and Young Persons Act.¹¹ Corporal punishment is also lawful as a sentence for crime for young male offenders under the Penal Code, the Magistrate Code of Procedure, the Corporal Punishment Act and the Juvenile Offenders Punishment Act. GIEACPEC stressed that on ratifying the American Convention on Human Rights, Dominica made a reservation on article 5 (the right to humane treatment), stating that it “should not be read as prohibiting corporal punishment administered in accordance with the Corporal Punishment Act of Dominica or the Juvenile Offenders Punishment Act.”¹²

7. GIEACPC also noted that corporal punishment is lawful as a disciplinary measure in penal institutions. It explained that “Government training schools” are governed by the Children and Young Persons Welfare Act and the Government Training School Act, which do not prohibit corporal punishment. It added that young people under 18 may also be sentenced to imprisonment and that Section 33 of the Prisons Act and sections 47 and 48 of the Prison Rules, allow visiting justices to order corporal punishment for breaches of discipline.¹³ According to GIEACPC, corporal punishment is also lawful in alternative care settings under article 5 of the Children and Young Persons Act.¹⁴

8. GIEACPC recommended that the Government introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including the home and as a sentence for crime.¹⁵

9. SRI recommended promulgating laws to criminalize sexual harassment in the workplace and conduct the necessary awareness raising campaigns and programs to ensure the enforcement of this provision.¹⁶

3. Right to privacy

10. SRI indicated that the 1998 Sexual Offences Act (Art. 15, 16) penalizes a person engaged in same sex activity with ten years imprisonment. It recommended the repeal of Articles 15 and 16 of the Sexual Offences Act, as they contradict international standards to which Dominica is a party, specifically Articles 2 and 26 of the International Covenant on Civil and Political Rights.¹⁷

11. A Joint submission presented by four organisations (JS1)¹⁸ stressed that Dominica maintains criminal sanctions against sexual activity between consenting adults and in particular in regard to sodomy. It recommended that Dominica bring its legislation into conformity with its international human rights obligations by repealing all provisions which criminalise sodomy and can be used to penalise sexual activity between consenting adults.¹⁹

12. JS1 referred in particular to Section 16 of the Sexual Offences Act, which states that a person who commits buggery is guilty of an offence and liable on conviction to imprisonment for up to 25 years and, if the Court thinks it fit, the Court may order that the convicted person be admitted to a psychiatric hospital for treatment. Section 16 defines buggery as “sexual intercourse per anum by a male person with a male person or by a male person with a female person”.²⁰

13. JS1 and SRI also referred to Section 14 of the Sexual Offences Act, which states that any person who commits an act of gross indecency with another person is guilty of an offence and liable on conviction to imprisonment for five years.²¹ JS1 added that according to Section 14,

this does not apply to an act of gross indecency committed in private between an adult male person and an adult female person. Section 14 defines gross indecency as “an act other than sexual intercourse (whether natural or unnatural) by a person involving the use of genital organs for the purpose of arousing or gratifying sexual desire”.²²

14. SRI noted that young people attending Catholic schools face specific violations that affect their right to uncensored sexual health information. Furthermore, those younger than 16 lack access to HIV/AIDS Voluntary Counselling and Testing Services without parental consent in violation of the right to privacy and in the end the right to health. This is particularly the case for young people in same-sex relationships and young women having pre-marital sex, who might choose not to access the services in order to avoid being punished by their parents if they reveal their sexual behaviour.²³ SRI recommended that the Government promulgate legislation that respects a young person’s right to comprehensive sexual and reproductive health information, and carry out educational campaigns targeted to those who might be left out of other State efforts for different reasons, including their religious schooling. It also recommended removing the requirement of parental consent for access to counselling and testing services by individuals younger than 16 to ensure that young Dominicans will be able to fully enjoy their right to privacy and to health.²⁴

4. Right to social security and to an adequate standard of living

15. SRI indicated that there is no legal framework that protects the rights of people living with HIV/AIDS although there is widespread institutional awareness of the problems faced by such persons.²⁵

16. SRI explained that a community-based group called Chaps Dominica is trying to make an effort in delivering HIV prevention to men who have sex with men (MSM). However, there is no structured health programme for this population despite the disproportionate impact of HIV/AIDS on men. SRI stressed that there is no explicit inclusion of MSM in the National Strategic Plan for HIV/AIDS and recommended reviewing the plan to include in it prevention, treatment and care initiatives addressed to the population of men who have sex with men.²⁶

17. With regard to abortion, SRI noted that it is not legal on any other grounds except to save a woman’s life. It recommended that Dominica broaden the grounds on which abortion is legal, to include at least rape or incest, protection of a woman’s mental or physical health and foetal impairment.²⁷

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

N/A

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

GIEACPC	Global Initiative to End All Corporal Punishment of Children;
JS1	Joint submission presented by four organisations (joint submission);
SRI	Sexual Rights Initiative;

² SRI: a coalition including Mulabi – Latin American Space for Sexualities and Rights; Action Canada for Population and Development; Creating Resources for Empowerment and Action-India, the Polish Federation for Women and Family Planning, and others.

³ SRI, p.2.

⁴ SRI, p.1.

⁵ SRI, p.1.

⁶ SRI, p.1.

⁷ SRI, p.1,2.

⁸ SRI, p.2.

⁹ SRI, p.2.

¹⁰ GIEACPC, p.2.

¹¹ GIEACPC, p.2.

¹² GIEACPC, p.2.

¹³ GIEACPC, p.2.

¹⁴ GIEACPC, p.2.

¹⁵ GIEACPC, p.1.

¹⁶ SRI, p.4.

¹⁷ SRI, p.2.

¹⁸ JS1: ILGA (International Lesbian, Gay, Bisexual, Trans and Intersex Association); ILGA-Europe; ILGA LAC; International Gay and Lesbian Human Rights Commission; ARC International.

¹⁹ JS1, p.3.

²⁰ JS1, p.1.

²¹ JS1, p.1; SRI, p.2.

²² JS1, p.1.

²³ SRI, p.3.

²⁴ SRI, p.3.

²⁵ SRI, p.3.

²⁶ SRI, p.3.

²⁷ SRI, p.3.
