

**United Nations Human Rights Council**  
**Universal Periodic Review: Saint Kitts and Nevis**

Submission of the International Center for Advocates Against Discrimination (ICAAD) 51st session of  
the UPR Working Group

**About the International Center for Advocates Against Discrimination (ICAAD)**

ICAAD empowers our network to become leaders in driving systemic change. We build the capacity of marginalized communities as systems-level change makers, while strategically connecting those with greater influence to data and insights that increase their capacity for informed and meaningful action.

By fostering collaboration between grassroots advocates and those in positions of power we create lasting shifts in how systems operate, ensuring that the voices and needs of the most marginalized shape more equitable policies, practices, and structures. Through this approach, ICAAD strengthens community resilience and accelerates the dismantling of structural inequities globally.

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## **1 INTRODUCTION**

1. Despite positive steps taken to improve existing legal barriers to gender equality, Saint Kitts and Nevis (SKN) continues to face challenges on progressing critical human rights issues, including a rise in the rate of domestic violence<sup>1</sup> and the continued lack of legal protection for spousal rape.<sup>2</sup> This report focuses on improving justice sector service delivery for combatting gender-based violence (GBV) through offering targeted recommendations aligned with SKN's obligations under international law.

## **2 METHODOLOGY**

2. This submission draws on several sources, including public judgments of the Eastern Caribbean Supreme Court, police force data, desk research, and submissions prepared by the government of SKN to international organisations, such as the Voluntary National Review of the 2030 Agenda for Sustainable Development to the 2030 Agenda in Latin America and the Caribbean (VNR).<sup>3</sup>

## **3 GBV – INTERNATIONAL STANDARDS AND DATA**

3. SKN is a participant/member in several international treaties, organisations and efforts to further gender equality and promote economic, social, cultural and political empowerment of women.
4. These efforts include participation in the 2030 Agenda for Sustainable Development, the Beijing Declaration and Platform for Action, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. As a party to these efforts, SKN is subject to report on its efforts on gender achievement targets.
5. Despite this, the United Nations holds very limited data on SKN's sustainable development goals from a gender perspective – as at December 2020, only 11.5% of these indicators were present, with gaps in areas of data such as violence against women.<sup>4</sup> Similarly, organisations such as the World Health Organisation lack data with respect to intimate partner violence.<sup>5</sup> Progress has been made via the submission to the VNR,<sup>6</sup> however, by SKN's own admission in the VNR, it is still the case that SKN is a patriarchal society, and that women continue to be disadvantaged through embedded socio-cultural attitudes and behaviour which perpetuate gendered practices.<sup>7</sup>
6. Further, the United Nations holds no data on categories such as lifetime physical/sexual intimate partner violence and lifetime non-partner sexual violence.<sup>8</sup>

## **4 STATE RESPONSE TO GBV**

### **4.1 GOVERNMENT**

7. Within the SKN justice system, the legal framework which provides protection from GBV include the Constitution, Acts of Parliament, and rules from the common law.
8. In this regard, SKN has taken some positive steps in recent years, such as revisions to the Domestic Violence Act (2000) to include a definition of domestic violence.<sup>9</sup>
9. The Offences Against the Person Act and Criminal Law Amendment Act (CLAA) both govern sexual offences in SKN. As identified above, while the law classifies rape, sexual violence and incest as an offence, there is no definition of, or penalty for, marital rape.<sup>10</sup> Additionally, the CLAA also provides for specific procedural rules including jury instructions permitting the dismissal of felony rape in favour of a lesser crime.<sup>11</sup>

10. Additionally, the Government of SKN makes available a legal aid and advice centre to all individuals who cannot afford an attorney in private practice, with an emphasis on serving women, the elderly, and youths.<sup>12</sup> However, this service is not prima facie ‘free’, noting that a reasonable fee will be charged for the service provided. This fee will only be waived if the applicant cannot afford to pay.
11. Notwithstanding the above, there is an absence of a provision in the Criminal Code which specifically criminalises GBV against women, nor any other comprehensive legislative prohibitions against all forms of GBV.<sup>13</sup> The UN’s Committee on the Elimination of All Forms of Discrimination Against Women (the Committee), which monitors the implementation of the CEDAW, has made strong recommendations to pass this legislation, as well as more broadly encouraging reporting of all forms of GBV, described further below.<sup>14</sup>
12. Despite statements made in the VNR that the Special Victims Unit (SVU) of the Royal St. Christopher and Nevis Police Force was established to handle cases of domestic violence,<sup>15</sup> the SVU no longer deals primarily with these cases, with complainants now required to report incidents to their local police station.<sup>16</sup> Additionally, there is reporting that suggests the SVU does not provide sufficient information about actions taken by the unit, or the care or reception of victims.<sup>17</sup>

## 4.2 LAW ENFORCEMENT

13. It has been reported that many cases of violence, such as domestic violence, are not being reported in SKN for fear of retribution, social stigma, or lack of confidence in the authorities.<sup>18</sup> This is aligned with the view that SKN is a patriarchal society where males dominate power structures, and women may be susceptible to uneven power dynamics in relationship with men – including, for example, due to unemployment and poverty which may lead to higher dependency.<sup>19</sup>
14. A further contributor to the high levels of underreporting of sexual and domestic violence is the absence of efficient procedures for confidential reporting, and the absence of a State-funded toll-free hotline for reporting domestic violence incidents.<sup>20</sup> There are also no State-run emergency shelters for victims of GBV,<sup>21</sup> although non-governmental organisations providing this service do exist (such as the Garden of Rebirth).<sup>22</sup> There are ongoing discussions between the Government of SKN and other non-governmental organisations towards the provision of a safe house through private-public partnership.<sup>23</sup>

## 4.3 JUDICIARY

15. The Magistrate’s Court is the initial court to hear disputes in SKN; despite this, it does not maintain written records of proceedings and has not updated its public court lists in several years. The Eastern Caribbean Supreme Court, which consists of both the Court of Appeal and a High Court of Justice, is the primary court of appeal from SKN’s domestic court system. The Eastern Caribbean Supreme Court publishes written judgments on its website.
16. In much of the Caribbean, including SKN, failure of the Magistrate’s Court of SKN to report its decisions results in a significant gap in data, particularly as this court has jurisdiction over domestic violence matters.<sup>24</sup>
17. The ECSC maintains a series of sentencing guidelines for sexual offences which direct the Justice to consider relevant facts regarding the mitigating and aggravating circumstances of the offence to determine the seriousness of the crime, and then provide a range of circumstances for which the Justice can adjust the sentence.<sup>25</sup> The sentencing guidelines, however, do not direct the Justice to have regard to sentencing to broadly achieve the intent of international obligations to which SKN is a party.
18. This becomes clear in several SKN cases reviewed. Using ICAAD’s methodology<sup>26</sup> of identifying contentious factors in GBV cases that lead to discriminatory outcomes in sentencing, we identified contentious factors raised in 11 of 12 cases by the Defence, resulting in sentence reduction in five of those cases based on contentious factors. The contentious factors that arose were as follows: 1) unjustly privileging the interests of the perpetrator over the victim/ survivor and <sup>27</sup> 2) gender stereotypes that underplayed the extent of psychological harm to the victim/ survivor resulting from rape.<sup>28</sup>

## 5 EFFORTS TO IMPROVE GENDER EQUALITY

19. In statements made in the VNR, the Government of SKN has committed to gender equality and has referred to gender mainstreaming efforts to promote the economic, social, cultural and political empowerment of women and men.<sup>29</sup>
20. These efforts include the work of the National Gender Machinery, comprising of various Departments, with the principal mandate of promoting education and programming on gender equality and women's empowerment. Additionally, SKN has published a Gender Equality Action Plan 2022-2027 (**Action Plan**), representing the Government's comprehensive statement of intent and blueprint for achieving gender justice.<sup>30</sup> The Action Plan includes a strategic goal of implementing a multi-sectoral public health approach to prevent gender based violence and discrimination, with objectives including conducting public education to improve the understanding of GBV, and implementing a dedicated strategy for victims and survivors of domestic violence.
21. Despite these efforts, women continue to be underrepresented in decision-making roles and in government. As at 2022 women represent approximately 31.3% of the Parliament of SKN,<sup>31</sup> and as at 2017, there is data that suggests that the proportion of female CEOs and managers is low.<sup>32</sup> As iterated above, there is dated and limited data assessing gender gaps in SKN<sup>33</sup> – however, there is a well-reported nexus between lower levels of education and sexual violence against women.<sup>34</sup>

## 6 IMPLEMENTATION OF PREVIOUS RECOMMENDATIONS AND DEVELOPMENTS SINCE LAST REVIEW

22. The Government of SKN submitted its National Report in participation of the 3<sup>rd</sup> Cycle of the UPR in 2021 (**National Report**). In the National Report, SKN responded to recommendations made via the previous reporting cycle. In particular, SKN noted that, through the Department of Gender Affairs, the reduction of all forms of GBV remains a priority for the Government.
23. SKN also reported on the launch of the Domestic Violence and Sexual Violence Complaints Response Protocol in 2018 which educates key stakeholders on appropriate procedures to follow when a crime of this nature materialises.<sup>35</sup> There is little further public reporting on the efficacy of this program.
24. In the National Report, SKN additionally noted the launch of various campaigns, such as the 16-day campaign on Violence against Women and Girls, public campaigns featured in national radio programs, and collaborations with primary school children in public service announcements to condemn domestic violence.<sup>36</sup>
25. In the National Report, the Government of SKN also referred to the CEDAW as forming an 'important component of the Government's social development thrust:
  - a) In referencing the CEDAW, the National Report noted that SKN had submitted a report to the Committee in 2020 responding to concerns and recommendations raised by CEDAW in 2002.<sup>37</sup> In the National Report, SKN makes little reference to GBV.
  - b) The Committee published its concluding observations to the National Report in late 2022 (**Concluding Observations**). The Committee welcomed progress made by SKN in respect of the passage of the Domestic Violence Act, amendments to the Married Women's Property Act (2002) allowing married women to acquire and hold property, and the Gender Equality Policy and Action Plan.<sup>38</sup>
  - c) In its Concluding Observations, the Committee outlined several principal areas of concern and recommendations, including a suite of recommendations to address GBV against women considering the high prevalence of domestic and other violence towards women in SKN. These recommendations include, at a high level, amendment of the CLAA to criminalise all forms of GBV against women and girls, encourage reporting of all forms of GBV, strengthen victim support services to match demand, and ensure the systematic compilation of statistical data on

all forms of GBV.<sup>39</sup>

- d) More broadly, the Concluding Observations outlined concerns that the CEDAW and the Committee's general recommendations were not fully incorporated in the domestic law of SKN, were not well known within the judiciary and among legal professionals, and that women were not aware of their rights under the CEDAW and remedies available to claim them.<sup>40</sup>
26. Following the publication of the 3<sup>rd</sup> National Report, the Human Rights Council (**HRC**) published its Report of the Working Group on the Universal Periodic Review of Saint Kitts and Nevis in which the HRC observed that SKN had implemented more than half of the recommendations from the second cycle of the universal periodic review.<sup>41</sup> More broadly, the HRC and its member states praised the National Gender Equality Policy and Action Plan, the Domestic Violence and Sexual Violence Complaints Response Protocol and progress made with respect to access to justice for victims of sexual and domestic violence. The HRC encouraged the promotion of women's participation in political and public life, while also combatting GBV.
  27. The HRC made several recommendations to SKN following the 3<sup>rd</sup> National Report, including criminalizing marital rape, ensuring protection against GBV, and ensuring greater representation of women in the public sphere.
  28. In October 2021, the High Commissioner for Human Rights wrote to the Minister for Foreign Affairs and Aviation of SKN to follow-up on several areas raised by the United Nations, which the High Commissioner considered to be 'in need of particular attention over the next four and a half years, until the next cycle of the UPR'.<sup>42</sup> These areas include:
    - a) Increasing the participation and representation of women in political decision-making positions, for example in the parliament, by taking temporary measures aimed at accelerating de facto equality between men and women;
    - b) Implementing legislative frameworks to address domestic and sexual violence against women and girls, and taking further steps through education and social protection measures, such as training of law enforcement personnel and judicial officers, sensitizing the media and educating the public; and
    - c) Strengthening efforts to raise awareness in the society about the need to change stereotyped and discriminatory attitudes concerning the role of women and girls, through educational programmes targeted at men and boys on the prevention of violence and the reform of traditional negative attitudes towards women.

## 7 RECOMMENDATIONS

29. SKN has made significant efforts in improving justice sector service delivery for combating GBV and taking steps to improve gender equality more broadly. Despite this, it is clear there remains room for improvement to more closely align with expected international standards and obligations. It is recommended that SKN:
  - a) Undertake **consistent and comprehensive reporting of gender equality metrics**, including rates of women in **literacy, labour force participation, business ownership, home ownership and employment in middle and senior management**. This is most logically addressed through collecting information by way of annual census and then taking steps to ensure that census data is published via official means on an annual basis.
  - b) Continue initiatives to entrench **gender-centric education at all stages of public education** and take steps to ensure the success of these initiatives are measurable. This may include requiring students to compulsorily undertake assessments on an annual basis which tests gender literacy and awareness of global standards of gender equality.
  - c) Ensure that **legal and law enforcement personnel in SKN** are aware of, and have active regard to, the **commitments made by SKN to its international obligations with respect to the protection of women and gender equality**. This can include introducing mandatory

training or gaining a mandatory certification at the commencement of any legal or law enforcement role, and a requirement to ‘re-qualify’ to maintain such a certification over the course of the individual’s career. This training could be two pronged, and could include:

- a. Testing of contemporary developments in international obligations with respect to the protection of women and gender equality, and how these developments should be applied in the day-to-day business of officers; and
  - b. Reinforcing, in line with accepted global standards, best practice procedures for engaging with individuals who have been impacted by GBV.
- d) **Amend the sentencing guidelines for sexual offences** to expressly refer to, and encourage, **consideration of international obligations and standards for GBV, in the course of sentencing and other punitive action.** In tandem with the above recommendation, these sentencing guidelines should be continually re-exposed to judicial officials and assessed by reference to test cases to ensure that sentences in relation to GBV offences are applied consistently and without relying on contentious factors.
- e) Establish **efficient and appropriate procedures for confidential reporting of GBV**, such as a State-run toll-free hotline, or establishing “satellite” discrete reporting locations for individuals who may want to report GBV in-person, but do not wish to present directly to the police.
- f) Establish a **free State-run emergency shelter** for victims and their children or dependants of all GBV. In doing so, the Government of SKN may wish to further engage with established shelters such as the Garden of Rebirth, to ascertain best-practice procedures for maintaining such a facility. If a wholly State-run shelter is not feasible, the Government of SKN should consider continuing to engage with non-government organisations to ascertain whether a partnership arrangement is possible, by way of funding or other resources.
- g) Ensure that all victims of GBV who wish to seek legal recourse are afforded **free legal advice and representation**, irrespective of whether they can afford to pay for such a service. In ensuring this service can remain free, the Government of SKN should strongly consider providing robust funding to such a service, including through engaging pro bono or retired legal officers who may be content to provide their services for free or at a significantly reduced rate.
- h) Develop and pass **comprehensive legislative prohibitions against all forms of GBV.** Such prohibitions should have regard to the factors already outlined in this submission, including commitments already made by SKN in international fora, as well as accepted international standards against GBV.
30. **Prioritisation:** The development and passage of legislative prohibitions against all forms of GBV should be prioritised, to entrench in the legal framework, the strong position of the Government of SKN in condemning gender-based violence, as well as the rights and obligations of those impacted who wish to seek recourse.

**WORD COUNT:** 2,786

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- <sup>1</sup> Comprehensive National Level Review, *The Federation of St. Kitts and Nevis*, at 15 (May 2024), <https://www.cepal.org/sites/default/files/static/files/st-kitts-and-nevis-national-report.pdf>; St. Kitts and Nevis, *Voluntary National Review of the 2030 Agenda for Sustainable Development*, at 36 (2023), [https://hlpf.un.org/sites/default/files/vnrs/2023/VNR%202023%20Saint%20Kitts%20and%20Nevis%20Report\\_1.pdf](https://hlpf.un.org/sites/default/files/vnrs/2023/VNR%202023%20Saint%20Kitts%20and%20Nevis%20Report_1.pdf).
- <sup>2</sup> US Department of State, *2022 Country Reports on Human Rights Practices: Saint Kitts and Nevis*, at sec. 6 <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/saint-kitts-and-nevis/>.
- <sup>3</sup> See generally St. Kitts and Nevis, *supra* note 1.
- <sup>4</sup> UN Women, *Saint Kitts and Nevis*, <https://data.unwomen.org/country/saint-kitts-and-nevis>.
- <sup>5</sup> World Health Organisation, Data, *Saint Kitts and Nevis*, <https://data.who.int/countries/659>.
- <sup>6</sup> See generally St. Kitts and Nevis, *supra* note 1.
- <sup>7</sup> *Id.* at 36.
- <sup>8</sup> UN Women, *Global Database on Violence Against Women, Saint Kitts and Nevis*, <https://data.unwomen.org/global-database-on-violence-against-women/country-profile/Saint%20Kitts%20and%20Nevis/country-snapshot>.
- <sup>9</sup> Women and Development Unit at the University of the West Indies, *A Gender Analysis of the Domestic Violence Act of St. Christopher and Nevis*, at 4 (June 2010), <https://global.uwi.edu/sites/default/files/docs/wanddomestic5.pdf>.
- <sup>10</sup> Offences Against the Person Act, Part VII, at sec. 46.
- <sup>11</sup> Criminal Law Amendment Act, art. 10.
- <sup>12</sup> Government of St. Kitts and Nevis, *Legal Aid and Advice Centre, 'About Us'*, <https://www.gov.kn/legal-aid-and-advice-centre-about-us/>.
- <sup>13</sup> Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations on the combined fifth to ninth periodic reports of Saint Kitts and Nevis*, CEDAW/C/LMA/C/5-9, at 6 (Nov. 5, 2022), <https://docs.un.org/en/CEDAW/C/KNA/CO/5-9>.
- <sup>14</sup> *Id.*
- <sup>15</sup> St. Kitts and Nevis, *supra* note 1, at 36.
- <sup>16</sup> Comprehensive National Level Review, *supra* note 1, at page 10.
- <sup>17</sup> Convention of Belem do Para, *Saint Kitts and Nevis, Country Report*, at 11 (Nov. 21, 2017), <https://belemdopara.org/wp-content/uploads/2022/02/FinalReport2017-SaintKitts.pdf>.
- <sup>18</sup> St. Kitts and Nevis, *supra* note 1, at 36.
- <sup>19</sup> *Id.* at 35-36.
- <sup>20</sup> CEDAW, *supra* note 13, at 16.
- <sup>21</sup> *Id.* at 6.
- <sup>22</sup> See, for example, the *Garden of Rebirth*, <https://cpdcngo.org/ngo-resource-hub/ngo-country-overview/garden-of-rebirth-st-kitts-nevis/>.
- <sup>23</sup> Government of St. Christopher and Nevis, *Third Multilateral Evaluation Round Follow-Up Phase, St. Kitts and Nevis, Progress Report on the Implementation of the Inter American Convention on the Prevention, Punishment and Eradication of Violence Against Women*, at 23 (2019), <https://belemdopara.org/wp-content/uploads/2022/02/QuestionnaireThirdFollowUp-StKittsandNevis-Response.pdf>.
- <sup>24</sup> See page 24 of the St Kitts and Nevis research report.
- <sup>25</sup> Eastern Caribbean Supreme Court, *A Compendium Sentencing Guideline of the Eastern Caribbean Supreme Court, Sexual Offences* (Nov. 8, 2011), <https://cms.eccourts.org/wp-content/uploads/2021/11/Sexual-Offences-Compendium-Guideline-Nov-2021-Re-Issue.pdf>.
- <sup>26</sup> ICAAD, *Sexual and Gender-Based Violence in the Pacific Islands: Handbook on Judicial Sentencing Practices*, at 66 (2018), <https://icaad.ngo/wp-content/uploads/2019/01/ICAAD-SGBV-Sentencing-Handbook-1.19.pdf>.
- <sup>27</sup> See *Rex v. Abkim Bryan*, <https://www.eccourts.org/judgment/rex-v-abkim-bryan>; *Rex v. Vernon Richardson*, <https://www.eccourts.org/judgment/rex-v-veron-richardson>; *Rex v. Adrian Bart*, <https://www.eccourts.org/judgment/rex-v-adrian-bart>; *Rex v. Ashley Harris*, <https://www.eccourts.org/judgment/rex-v-ashley-harris>.
- <sup>28</sup> See *Rex v. KH*, <https://www.eccourts.org/judgment/rex-v-kh>.
- <sup>29</sup> St. Kitts and Nevis, *supra* note 1, at 35.
- <sup>30</sup> UNESCO, *Saint Kitts and Nevis Gender Equality Action Plan, 2022-2027*, *St-Kitts-Nevis-National-Gender-Equality-Action-Plan-2022-2027.pdf*.
- <sup>31</sup> IPU Parline, *Global Data on National Parliaments*, <https://data.ipu.org/parliament/KN/KN-LC01/data-on-women/>.
- <sup>32</sup> [https://hlpf.un.org/sites/default/files/vnrs/2023/VNR%202023%20Saint%20Kitts%20and%20Nevis%20Report\\_1.pdf](https://hlpf.un.org/sites/default/files/vnrs/2023/VNR%202023%20Saint%20Kitts%20and%20Nevis%20Report_1.pdf), page 25
- <sup>33</sup> Saint Kitts and Nevis, *Country Gender Scorecard* (Dec. 2021), <https://documents1.worldbank.org/curated/en/221291645684846946/pdf/Saint-Kitts-and-Nevis-Country-Gender-Scorecard.pdf>.
- <sup>34</sup> World Health Organisation, *Violence Against Women*, <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.
- <sup>35</sup> United Nations Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Saint Kitts and Nevis, Universal Periodic Review*, at 8 (Nov. 9, 2020), [https://upr-info.org/sites/default/files/documents/2021-02/a\\_hrc\\_wg.6\\_37\\_kna\\_1\\_e.pdf](https://upr-info.org/sites/default/files/documents/2021-02/a_hrc_wg.6_37_kna_1_e.pdf).
- <sup>36</sup> *Id.* at 9.
- <sup>37</sup> CEDAW, *supra* note 13, at 6.
- <sup>38</sup> *Id.* at 2.
- <sup>39</sup> *Id.* at 6.
- <sup>40</sup> *Id.* at 3.
- <sup>41</sup> Report of the Working Group on the Universal Periodic Review, *Saint Kitts and Nevis*, at 2 (Mar. 30, 2021), <https://documents.un.org/doc/undoc/gen/g21/074/58/pdf/g2107458.pdf>.
- <sup>42</sup> OHCHR, *Letter from the United Nations Office of the High Commissioner to the Minister for Foreign Affairs and Aviation of Saint Kitts and Nevis*, [https://www.ohchr.org/sites/default/files/2021-11/HC\\_letter\\_to\\_Saint-Kitts-and-Nevis.pdf](https://www.ohchr.org/sites/default/files/2021-11/HC_letter_to_Saint-Kitts-and-Nevis.pdf).