

DOMINICA'S RESPONSE TO THE REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW

INTRODUCTION

Dominica is a small island developing state which continues to struggle with the challenges brought about by an increasingly hostile global environment especially in the areas of aid and trade, and a myriad of crises in recent years. In spite of these challenges, however, the country has performed creditably in the provision of social services- health, education, housing, and the provision of basic infrastructure - roads, bridges, access to safe drinking water, and sanitation, without compromising its fiscal and economic situation especially in the wake of the recent global financial and economic crises. The support of the international community has been tremendous in bolstering the implementation of these programs and projects.

The process of development however, continues to be a very long and challenging one. Due to our stage of development, there are still basic infrastructure and services which must be provided to communities and groups of persons who previously have been underserved. The government has to balance the provision of these services and to maintain the fiscal discipline. This is at a time when the Doha Round of trade negotiation has been stalled and WTO rulings continue to elbow us out of the global trading system with the erosion of preferential treatment especially for bananas. This is further compounded by the severe impact of climate change while the resources for adaptation and mitigation from the international community based on commitments given are very slow in coming. These challenges notwithstanding we continue to maintain a society operating under the rule of law and the recognition of the rights and dignity of our citizens.

We have been able to continue to protect and maintain a vibrant democracy guided by the principles of social justice and equity, peace, tolerance and the fear of God. On December 18, 2010, the Dominican electorate went to the polls to exercise their franchise. They returned into office the Dominica Labour Party headed by Prime Minister Roosevelt Skerrit with a larger majority of 18 to 3 seats

in the Parliament. The election was described as free of fear and free from fear by observer missions from the CARICOM and the OAS.

UNIVERSAL HUMAN RIGHTS

The issue of universal human rights has always been and continues to be a matter of great significance to the Government and people of Dominica. Our institutions – executive, legislature, and judiciary- continue to hold high the ideals of the rule of law and have been very responsive to international norms, conventions and customs.

Over the years we have signed, ratified and acceded to several documents aimed at protecting human rights especially the most vulnerable among us. This clearly demonstrates the willingness of Dominica to work along with the hemispheric and international institutions. We are however, constraint by resources - both technical and financial, and the reality of our stage of development as well societal beliefs and norms.

RESPONSE TO RECOMMENDATIONS MADE BY THE WORKING GROUP

The Working Group on the Universal Periodic Review in its report on Dominica (A/HRC/13/12, January 4, 2010) made a number of recommendations on pages 13 to 17. Having reviewed the recommendations contained therein the Government responds as follows:

In the case of the conventions and protocols the Government commits to use its best efforts to do the follow within 3 months of this document:

- i. Ratify the Convention on the Rights of Persons with Disabilities;

- ii. Accede to the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women, and Children supplementing the United Nations Convention against Transnational Organized Crime;
- iii. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
- iv. Ratify the International Convention on the Elimination of All Forms of Racial Discrimination;
- v. Accede to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women;
- vi. Ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;

MEETING OUR OBLIGATIONS

As indicated above, the government is committed to the international principles of human rights and social justice and equity. We are however, constrained by the absence of resources, both technical and financial, to meet all our international commitments: (a) in giving domestic legal effect to international human rights norms and standards as contained in the United Nations conventions; (b) submitting reports to the respective bodies in a timely manner; and (c) meeting our payments to these bodies. We therefore call on the United Nations generally, and the Office of the High Commissioner on Human Rights (OHCHR) to provide us with the technical and financial resources in order to assist us to meet these commitments especially those which are currently outstanding.

This will enable us to make a plan for the submission of all overdue reports to treaty bodies. Currently, UNIFEM is assisting us with our report to the Convention on the Elimination of Discrimination against Women. Efforts to meet our reporting obligations under the CRC are also being pursued.

The Government of Dominica is not averse to the establishment of an independent human rights institution. However, as a prerequisite, the government would like to ensure that the technical and financial resources are made available by the UN and the international community to ensure that all the outstanding reports under the respective conventions as well as the administrative arrangements which would have to be made are put in place.

THE RIGHTS OF WOMEN

As was indicated in our report to the Working Group of the Human Rights Council, in document A/HRC/WG.6/6/DMA/1, December 3, 2009, on pages 6 and 7, the parliament of Dominica enacted the Domestic Violence Act in 2001 in an effort to stop violence against women. This effort has had mixed results. It has, however, created the legal framework to criminalize acts of violence against women. It was accompanied by a series of public education and awareness. This included several programs with the police and the government prosecutors who would have to deal with charges brought under the provisions of the act. The legislation is part of a wider national policy on gender equity and equality.

In 2006 the Cabinet approved the National Gender Policy. The document identified a number of measures to be implemented in an effort to further strengthen the implementation of the Domestic Violence Act as well as other policy initiatives in order to reduce violence and discrimination against women.

In addition, the Labour Contract Act prohibits differences in pay rates for the same work based on the sex of the employee. Employers have by and large complied with the requirements of the Act.

The Title by Registration Act allows for the low cost transfer of property between the spouses.

While there are still some concerns in regards to the protection of women, the Sexual Offences Act 1998 has created the legal framework for the prosecuting sexual offenders especially against women. It helps to protect the rights of the victim and it has streamlined the process of prosecuting offenders. It has been

accepted that more work needs to be done to further strengthen the rights of victims.

Since the establishment of the women's bureau as part of the government's social services Ministry a number of support services have been provided to women who have been abused by their spouses in particular. In collaboration with the Dominica National Council for Women, special programmes of training and empowerment of women have taken place.

Due to the lack of financial resources neither the government nor the Dominica National Council for Women has been able to provide a formal system which provides housing for women seeking shelter from abuse. Through the government's housing program however, housing continues to be provided to single mothers especially those who are unemployed and may have been in abusive relationships.

RIGHTS OF PERSONS WITH HIV/AIDS

Since the establishment of the National HIV/AIDS Prevention Unit in the Ministry of Health in 2003 there have been a number of programs geared at creating greater awareness, care, understanding and tolerance for those whom have been infected and affected by the disease. With assistance from our development partners much has been achieved. This has made it possible to provide drugs and treatment to persons infected and affected.

The challenge of removing the stigma and the taboo associated with the disease has been a very difficult the world over. Efforts continue to be made to educate the public with public campaigns. These have included, on a number of occasions, the Minister for Health and other Ministers of Government.

RIGHTS OF PERSONS WITH DISABILITIES

Over the years the Government has worked in collaboration with a number of Non-Governmental Organizations to improve the lives of persons with disabilities. The Dominica Association of Persons with Disabilities, The Alpha Centre, The Workshop for the Blind, the Grotto Home for the Homeless, The Dominica

Infirmaries, the Association of Parents Advocating for the Inclusion of Children with Disabilities have all been assisted to enhance their delivery of services to persons with disabilities.

The Alpha Centre is a school which provides tuition and training to children with disabilities. The school is funded jointly by the Government of Dominica and the Roman Catholic Diocese of Roseau. The school provides support to the children and their parents.

The Ministry of Education has also made some major strides in recent times in its efforts to provide for children with disabilities. For the first time a student with visual impairment was able to seat the national assessment examination for students transitioning from primary to secondary school. Also, a pilot project which is designed to provide learning support for children with learning disabilities was started about 3 years ago. The program so far has been a moderate success. It is hope that the lessons learnt will be used to infuse the program into our school system.

The government is fully committed to continue to provide resources to these and other associations and institutions and also in its pursuit of policies geared at the inclusion of persons with disabilities into the wider society within the limits of its resources. We recognize the significant investments which are required to create a friendlier environment for our persons with disabilities and therefore expect the process to be a gradual one.

RIGHTS OF PRISONERS

As part of the training of the members the Commonwealth of Dominica Police Force, officers are sensitized on the rights of the individual. The Police Act makes special provisions for investigation and prosecution of any member of the Force against whom an adverse report is made. This includes the use of excessive force while apprehending and detaining criminals. In recent times a few cases have resulted in the dismissal of, and charges being brought against officers.

Efforts are being made to separate prisoners based on the severity of their crimes. Presently at the Dominica State Prison a distinction has been made. The

recent construction of a new cell block has assisted in this regard. Unfortunately we recognize that there are still inadequacies.

This is compounded by the backlog of cases which exists. The recent additional judge which has been placed at the high court will most definitely reduce the number of cases pending and the number of accused persons who are detained at the state prison.

RIGHTS OF THE CHILD

This month, March of 2010, the Government of Dominica is celebrating the 19th anniversary of its signing of the Convention of the Rights of the Child. Dominica has been in active pursuit of its obligations under the convention. We recognize however, that there is still a lot of work to be done for the benefit of our children and in order to fully comply with the Convention.

The Welfare Department of the Ministry for Social Services continues to play a very active role in intervention, prevention, and response of child abuse. They provide public assistance in the form of allowances per child; placement of children at foster homes; assist the police in investigating allegations of child abuse; counseling to children and parents; and public education and awareness.

Currently, a place of safety for children is being constructed and will soon be commissioned. It will serve as a facility to house children from homes where they have been abandoned or abused. It will also provide some facility where children can be sent for detention.

In collaboration with the Organization of the Eastern Caribbean States efforts are being made to establish a Family Court in Dominica. This comprehensive approach with harmonization throughout the member states will address the laws, investigation, prosecution and litigation, and correctional facilities. We are actively participating in this and other initiatives which will result in greater care and protection of our children and families.

As mentioned earlier, we are still constrained by the lack of institutional and financial capacity to fully meet all our obligations. There are also issues of societal

norms and culture which have made it difficult to fully implement some obligations. We therefore must continue the process with public awareness and education and the pursuit of viable alternative in a practical manner.

At all our secondary schools we provide tuition in Health and Family Life Education. This program teaches students the importance of health and how to take care of their bodies. Issues to deal with human sexual reproductive health also form part of the program at the higher grades.

In the unfortunate even of teenage pregnancy prenatal and postnatal care are also provided to pregnant teenagers. These services are available in the rural areas at the Primary Health care facilities.

Girls who are pregnant while at school still have an opportunity to continue their education within the school system after having their pregnancy. Special arrangements have been and continue to be made for girls who are pregnant while at school.

THE RIGHT TO DRINKING WATER AND SANITATION

Dominica is considered to be the island of many rivers and the nature island of the Caribbean. The demography of the country with homes located sparsely and many in remote mountain tops and valleys has made the cost of providing physical infrastructure and services – electricity, water, telecommunications services – very expensive and uneconomical. This has resulted in the government providing these basic infrastructure and services at a cost which the utility services company would otherwise not bear.

Safe, healthy, potable water is now available to the majority of the population. Over the past year the government has embarked on a very ambitious program of making safe drinking water available to all families especially the poor and vulnerable in areas which were not previously serviced.

The Government is also been implementing a "Housing Revolution" since 2007. As part of this programme the Government provides social housing and proper sanitation to the poor especially single mothers. This is being done both in the urban and rural areas. So far hundreds of families have benefited.

THE RIGHT TO EDUCATION AND HEALTH CARE

The Government of Dominica considers the access to health care and education as fundamental human rights which must be guaranteed to all. We continue to build on a primary health care system which provides primary care to all citizens including those in the rural areas free of charge. These services are provided close to the homes in the communities making it very accessible.

Exemptions of payment of hospital fees are now available to:

- i. Children (0-18 years old);
- ii. Pregnant women;
- iii. Members of families on public support;
- iv. Persons 60 years and older;

As was indicated in our report to the Working Group in December 2009, Dominica has had universal primary education for several decades. We were able to achieve universal access to secondary level education in September of 2005. To ensure that students get to school and remain there for the entire school day the government recently started to providing transportation to students which is subsidized in some cases and free in other cases. A hot meal is also provided to students at most of our rural schools which serve students from remote areas.

With the establishment of the Dominica State College in 2002 we have expanded access to post secondary level education. The cost of tuition is heavily subsidized and in most cases paid for by the government especially for children from poor households. A transportation grant is also provided to those who are in need.

THE RIGHTS OF REFUGEES

Over the past ten years Dominica has become one of the preferred locations for Haitians who are looking for a place to settle outside of Haiti. To date, a significant number of Haitians now reside in Dominica. Many of them have received permanent residence. The majority hold renewable work permits and some have become citizens of Dominica. Over the years we have developed a rather accommodating arrangement with the Haitians who mainly migrate to

Dominica as migrant workers. Their children have been accommodated at our schools and they have full access to all government services.

Recognizing our own financial limitations it has been difficult for us to fully adhere to and implement the obligations under the United Nations Convention relating to the Status of Refugees. We are prepared however, to cooperate with the Office of the High Commissioner for Refugees (UNHCR).

THE DEATH PENALTY

Since colonial times, Dominica, like most of the English speaking Caribbean countries have had the death penalty as part of their laws. In the case of Dominica however, there has been a self imposed moratorium on the use of the death penalty since 1986.

The current law on the death penalty is based on the 2003 ruling of the Privy Council of England, the final court of appeal for Dominica, which now makes the death penalty the maximum penalty for murder, to be imposed only for the most serious killings, rather than as a mandatory penalty.

While the death penalty has not been used by Dominica since 1986, the popular sentiment in the country is for the reintroduction of executions for persons who have been convicted of murder. The Cabinet of Dominica has indicated that as a democratically elected government, elected by the people, to represent the people, that the laws which it introduces to the Parliament must reflect the sentiments and desires of the people as far as possible. The Government therefore has taken the position that the matter of the death penalty will remain within the jurisdiction of the judiciary and that the country will continue to be guided by the law as it exists.

THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

As was indicated above, the Government of Dominica remains committed to the full inclusion of persons with disabilities into the mainstream. As a signatory to the Convention of the Rights of Persons with Disabilities on March 30, 2007, efforts are being made to ratify the convention. There has been a series of

stakeholder and wider public consultations. Based on our plan of action the ratification process will be completed within the next 3 months.

DISCRIMINATION BASED ON SEXUAL ORIENTATION

The constitution of Dominica guarantees the protection of all citizens from discrimination based on their race, place of origin, political opinions, colour, creed, or sex. The constitution also provides for a legal mechanism by which persons who feel that they have been discriminated against can utilize. The court system is open to any such person. This could result in laws enacted by the Parliament being ruled as unconstitutional and can be stricken down.

The government promotes non-discrimination against all its citizens and call on institutions and individuals to do the same. It also recognizes that laws are to be enforced and it cannot seem to condone the violation of the law. We continue, through our National HIV/AIDS Programme, to provide support for persons who have been infected and affected by the disease. This is done without any a request for the disclosure on the part of the victim of their sexual orientation.

CORPORAL PUNISHMENT

The Educational Act no. 11, 1997 which sets out the policies for dealing with student behavioural and discipline problems, allows for the administering of corporal punishment. The contents of Section 49(2) states: "Corporal punishment may be administered where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed in writing by the principal for the purpose in a manner which is in conformity with the guidelines issued in writing by Chief Education Officer."

It is illegal for a teacher not authorised to do so to administer corporal punishment. Furthermore, where authorised, the following guidelines must be followed.

- Corporal punishment should be given only as a last resort for serious offences. It should not be inflicted for failure to learn or remember or do homework. Corporal punishment may be given by the Principal, Deputy Principal or any teacher appointed in writing by the Principal in cases of persistent impertinence or rude behaviour towards the teachers and other staff members, physical violence, intemperance and any other serious forms of misbehaviour with other students.
- Where a strap is used for administering corporal punishment, such punishment shall take the form of strokes not exceeding four (4) on the palm of the hand or on the buttocks over the clothing. All other forms of corporal punishment are strictly forbidden. (No hitting on back, head, legs, feet or other parts of the body not stipulated above)
- A student may only receive corporal punishment from the principal, deputy or designated teacher of the same sex.
- A teacher must be present as a witness when the corporal punishment is administered.
- Corporal punishment shall be so administered as not to cause bodily injury. A person administering corporal punishment should not do so while in a fit of temper or when he or she is emotionally upset.
- A check should be made of the student's medical record before corporal punishment is inflicted. (Corporal punishment shall not be inflicted on a student who is in ill health or whom the principal believes is unwell)
- The caning must be recorded in a punishment book, giving the name and class or form of the student, the date and time of the caning, number of strokes, and the nature of the offence. The name and signature of the person who had administered the corporal punishment, the witness and

the signature of the principal should also be on record. A format is attached for guidance.

- The child's parents should be informed as soon as possible of the details of the offence and the number of strokes given.

Notwithstanding the use of corporal punishment at our schools the Ministry of Education continues to implement alternatives means of discipline and most of all to curb violence and anti-social behaviours at our schools.

THE CRIMINALIZATION OF SEXUAL RELATIONS BETWEEN SAME SEX ADULTS

The position of the Government of Dominica remains the same as regards the criminalization of sexual relations between consenting adults of the same sex. The laws of the Dominica which have been on the statute books since colonial times remain unchanged.

The Government of Dominica is not prepared to introduce to the Parliament any legislation to decriminalize sexual relations between consenting adults of the same sex.

CONCLUSION

The Government of Dominica remains committed to the principles of universal human rights as have been established by the United Nations Conventions, Covenants, and Declarations as well as international norms and customs. These rights are also guaranteed by our constitution.

Our inability to submit reports to the relevant bodies and organizations of the United Nations is by no means due to a lack of interest. The reality is that we are constrained by our lack of technical and financial resources. It is extremely difficult to meet the demands of our developing population especially in the areas of education, healthcare, housing and sanitation and basic infrastructure and

services while at the same time providing the resources to meet our obligations. We recognize the need to enhance our institutional capacity to meet our obligations under the several conventions. We therefore once again call on the United Nations and all its organs to provide assistance in this regard. This must not be limited to technical assistance and training in the areas relevant to the United Nations Conventions but must also be extended to the areas of adaptation and mitigation to climate change as well as recognition of our special and differential position as regards to trade.