Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Dominica - 6th Session - 2009
7th December 2009, 9am - 12pm

National Report
37. The Government has also established a Child Abuse Prevention Unit that is responsible for public education programmes as well as the counseling of child victims of abuse. All cases of sexual abuse are supposed to be referred to the police. In addition, the development of the Child Abuse Guidelines has allowed for the ongoing development of closer inter-agency collaboration in the interest of the protection of children and the punishment of perpetrators.


40. A number of programmes and activities have been undertaken to give effect to the Convention. In terms of policy, a protocol on Joint Police and Social Services investigation into child abuse cases is to be established. In regard to the legislative framework, Government plans to enact Model Family Legislation drafted by the Organization of Eastern Caribbean States (OECS) Legal Affairs Unit. Among the bills being reviewed are the Status of Children Bill, and the Child Adoption Bill. The Children and Young Persons Act is one of the pieces of legislation which seeks to incorporate specific provisions of the CRC into domestic legislation.

74. Two schools in Dominica provide targeted educational programmes for children with disabilities. They are the School for the Hearing Impaired, which is Government funded, and the Alpha Centre, a privately-funded school for the mentally challenged which receives some Government assistance. Education of children with disabilities remains a serious challenge in Dominica as many disabled children outside the capital remain outside the orbit of access to education.

75. The Government of Dominica is committed to ensuring the right of every Dominican to quality education. The education system is governed by The 1997 Education Act, which makes education compulsory for any person between the five years and fifteen years of age. Dominica has attained Universal Secondary Education.

76. The establishment of Universal Secondary Education has allowed for every child to access a secondary education. It was also recognised that with the implementation of Universal Secondary Education there was a simultaneous need to enhance students’ Literacy Skills.

77. The Education Regulations have been completed and almost in a ready state for submission to the Cabinet. These regulations will clarify and provide the necessary details to the provisions of the 1997 Education Act. It is expected that when formally approved, the regulations will serve as a vital tool for interpretation of the provisions of the 1997 Education Act.

78. There is a broad recognition of the need to ensure the development of clear policies, programmes and strategies aimed at improving the physical capacity, the learning effectiveness, and the social climate of schools. As a result, the Ministry of Education has embarked on various education initiatives which can be categorised under six broad headings namely, safety net/support programmes for the students, the development of human resource capacity, plant construction and maintenance, quality control mechanisms, teaching and learning and education legislation.

79. The Ministry of Education considers as important the emotional and social needs of students. As a result the Ministry has established several safety nets aimed at less advantaged families so that all students have equal access to a well balanced education. These include
the concern for sexual abuse is heightened by a pervading sense of the inability of social services and the police to adequately protect

80. With the creation of the Dominican State College in 2004, the number of Dominicans receiving tertiary level education has quadrupled. In addition, there has been a significant increase in the number of scholarships awarded by the Government of Dominica towards pursuit of higher education overseas.

81. Establishment of the National Accreditation Board is a formal mechanism introduced in September 2009 for ensuring quality control within the education system. One element of this quality control mechanism is to institutionalise a school review process. School reviews, started in 2004, are designed to assist schools in enhancing their effectiveness.

82. At the early childhood level, there is continued focus on inspecting, registering, licensing, monitoring and improving early childhood facilities on a national level. The inspection, certification and monitoring of these learning institutions ensures that quality early childhood care is provided for all students. So far seventy-eight (78) Early Childhood Facilities have been issued three-year licenses and those which require improvements are being upgraded with funds secured from UNICEF. Training for pre-school teachers is also an area of focus this Academic Year. In addition, government has recently committed itself as part of the 2009 – 2010 national budget to making financial contributions to early childhood centres.

Compilation of UN information

2. In 2004, the Committee on the Rights of the Child (CRC) noted the efforts undertaken by Dominica to harmonise its legislation with regard to children. Nevertheless, it was concerned that the existing legislation does not fully reflect the principles and provisions of the Convention. It recommended that Dominica take all necessary measures to ensure that its legislation conforms fully with the principles and provisions of the Convention and ensure its effective implementation. 9

5. In 2004, CRC encouraged Dominica to pursue its efforts to develop and establish an independent and effective mechanism, provided with adequate resources and easily accessible to children, that would monitor the implementation of the Convention, deal with complaints from children in a child-sensitive and expeditious manner, and provide remedies for violations of their rights under the Convention. 12

7. In 2004, CRC noted that a national plan of action, which would coordinate the activities of both public and private sector focusing on children’s needs, was in a state of preparation but was concerned at the delay in finalizing, adopting and implementing it. It encouraged Dominica to expedite its efforts in developing and effectively implementing a comprehensive national plan of action for the full implementation of the Convention¹. 15

8. CRC was also concerned about the cultural norms and societal beliefs which perceive the promotion of children’s rights as the erosion of parental rights and societal control. It recommended that the State strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by adults and children alike and continue its systematic education and training on the Convention for all professional groups working for and with children. 16

11. As an exceptional measure, in order to help Dominica catch up with its reporting obligations, CRC invited it to submit its second and third reports in one consolidated report by 1 September 2006. 24 CRC also noted with concern that the submission of the initial reports on the Optional Protocols were overdue and urged it to submit them as soon as possible. 25

12. In 2004, CRC was concerned that societal discrimination persists against vulnerable groups of children, including children with disabilities and Carib Indian children. It recommended that Dominica increase its efforts to ensure the implementation of existing laws guaranteeing the principle of non-discrimination and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups. 29

13. CRC also noted with concern that a significant proportion of children with disabilities do not attend school or participate in social and cultural life. It recommended that Dominica (a) continue to strengthen efforts to combat discriminatory attitudes towards children with disabilities and promote their participation in all aspects of social and cultural life; (b) formulate a strategy that includes appropriate teacher training, to ensure that all children with disabilities have access to education and, wherever possible, that they are integrated into the mainstream education system; and (c) take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of the Committee’s recommendations adopted at its day of general discussion on the rights of children with disabilities. 30

17. CRC welcomed the Act of 2001 on Protection against Domestic Violence which contains specific provisions covering various forms of violence against children. 37 UNIFEM noted that despite the power given to the police to make applications under the Domestic Violence Act on behalf of children and to respond to complaints of abuse, there is still reluctance on their part to intervene. 38 CRC remained concerned about the high incidence of child abuse in Dominica and recommended that it (a) undertake studies on domestic violence, ill-treatment and abuse of children, including sexual abuse within the family, in order to adopt effective policies and programmes to combat all forms of abuse; (b) develop a national system for receiving, monitoring and investigating complaints and, when necessary, prosecuting cases, in a manner which is child sensitive and ensures the victims’ privacy; and (c) strengthen the activities of the Social Welfare Division and its cooperation with non-governmental organizations and provide it with the necessary resources to establish a comprehensive and nationwide response system which would provide, where appropriate, support and assistance to both victims and perpetrators. 39

18. A 2009 UNICEF report stressed that sexual abuse constitutes 87 per cent of police cases for child abuse. 40 According to UNIFEM, the concern for sexual abuse is heightened by a pervading sense of the inability of social services and the police to adequately protect
children and to ensure the apprehension and punishment of perpetrators. 41 While acknowledging that the Sexual Offences Act of 1998 has helped to improve reporting, UNICEF indicated that a concerted approach for further law reform, screening, public education and intervention is required. 42

19. CRC was deeply concerned at the wide use of corporal punishment in Dominica. It also noted with concern that corporal punishment is mentioned in the Education Act of 1997 and that the Magistrate Code of Procedure allows the whipping of a male child or a young person. 43 In 2009, UNICEF referred to surveys according to which 88-94 per cent of children had experienced corporal punishment at home and school. Similarly, 22-55 per cent reported being burned, or witnessed someone being burned at home, as a punishment. 44 CRC recommended that Dominica (a) remove all provisions from laws that allow corporal punishment and explicitly prohibit corporal punishment by law in the family, schools and other institutions; (b) continue the constructive dialogue with political leaders and the judiciary with the aim of abolishing corporal punishment; (c) continue to strengthen public education campaigns about the negative consequences of corporal punishment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment; and (d) establish an effective mechanism to receive, monitor and investigate complaints, including intervening where necessary, and ensure that victims of corporal punishment have access to assistance for recovery. 45

20. In 2004, CRC was concerned at the lack of juvenile courts and at the fact that children may be sentenced to a penalty at the “President’s pleasure”, to life imprisonment and to whipping in private. 46 It recommended that Dominica review the sentencing of children at the “President’s pleasure” so that the decision is in the hands of the judge and abolish the sentences of whipping and life imprisonment. 47 The Committee also recommended separating children from adults in detention, including in pretrial detention centres; 48 enhancing training programmes on relevant international standards for all professionals involved with the system of juvenile justice; and ensuring the full implementation of juvenile justice standards and in particular articles 37, 39 and 40 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Guidelines for the Prevention of Juvenile Delinquency. 49

21. CRC welcomed the amendment to the Maintenance Act in 2001 to provide access by unwed fathers to their children and also increased weekly child maintenance by 50 per cent. 50 However, it noted with concern the limited degree to which fathers assume their parental responsibility and recommended that Dominica strengthen the capacities of families to take care of their children and, in particular, pay attention to strengthening the role of fathers. 51 It also encouraged Dominica to continue to strengthen Operation Youth Quake, which caters for children in need of placement, by providing it with sufficient resources and support to enable it to function efficaciously. 52

22. Concern was also expressed by CRC about children who have not been named and registered. It urged Dominica to increase its efforts, including legislative measures and awareness-raising campaigns, to ensure the registration of all children at birth, in accordance with article 7 of the Convention. 53

26. In 2004, CRC recommended that Dominica increase the minimum age for admission to employment in order to harmonize it with the age at which compulsory education ends (16 years). 58 In 2009, the ILO Committee of Experts recalled that no higher minimum age had been fixed for work which is likely to jeopardize the health, safety or morals of young people, other than night work. It urged the Government to take measures so as to set such higher minimum age(s) in accordance with article 3, paragraph 1, of Convention No. 138 and to determine the types of employment or work to which higher minimum age(s) should apply, in accordance with article 3, paragraph 2, of the Convention. 59

30. A 2009 UNICEF report noted that Dominica is one of the poorest Eastern Caribbean countries and is exposed to high levels of environmental, social and economical vulnerabilities. 64 UNICEF added that the poverty rate in 2003 was 39 per cent 65 and that approximately half of the children in Dominica live in poor households. 66 It further noted that the level of public assistance is below the indigence line and many more resources are needed to reach the poor. 67 CRC recommended that Dominica pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to economically disadvantaged groups. 68

31. A 2006 United Nations Statistics Division source indicated that the proportion of undernourished population in 2002 was 8 per cent 69 and that the total proportion of urban population living in slums in 2001 was 14 per cent. 70 CRC remained concerned at the poor availability of drinking water and adequate sanitation facilities in certain areas of the country and specifically in the Carib Territory. It recommended that Dominica take all necessary measures to ensure access to drinking water and adequate sanitation facilities throughout the country. 71

32. UNICEF stressed that Dominica had an HIV prevalence rate of 0.75 per cent in 2007, with males representing 72 per cent of all diagnosed cases. Although the absolute number of HIV infections is low, there is the potential for escalation of the disease. UNICEF noted that sexually active girls are especially at risk of HIV, adding that 16 per cent of all births in Dominica are by teenage mothers. 72

33. In 2004, CRC was concerned at the high incidence of teenage pregnancies and alcohol abuse among adolescents and the insufficient level of youth mental health services, particularly in rural areas and for Carib Indian children. 73 It recommended that Dominica (a) undertake effective measures to reduce the rate of teenage pregnancies through, inter alia, making health education, including sex education, part of the school curriculum and strengthening the campaign of information on the use of contraceptives; (b) undertake effective preventive and other measures to address the rise in alcohol consumption by adolescents and increase the availability and accessibility of counselling and support services, in particular for Carib Indian children; and (c) strengthen mental health services, ensuring that they are accessible to, and appropriate for, all adolescents. 74

40. In 2004, CRC acknowledged the challenges faced by Dominica, namely the vulnerability to natural disasters and the economic difficulties which impede progress to the full realization of the children’s rights enshrined in the Convention. 85 A 2009 UNICEF report...
noted that tropical storms, hurricanes, landslides, volcanic eruption, earthquake and climate change are the key hazards to children and their families in Dominica. In recent years Hurricane Dean left devastating effects on the infrastructure and livelihoods in agriculture, livestock, fisheries, manufacturing, tourism, construction and international financial services. 86

42. CRC recommended that Dominica seek technical assistance with regard to juvenile justice, 87 education, 88 child abuse 89 and corporal punishment. 90 It also recommended seeking assistance to develop a national plan of action for the full implementation of the Convention. 91

Stakeholder information

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. 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

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

Final Report


14. A number of programmes and activities have been undertaken to give effect to the Convention on the Rights of the Child. In terms of policy, a protocol on Joint Police and Social Services investigation into child abuse cases is to be established. A review process for the Status of Children Bill, and the Child Adoption Bill is underway while a new piece of legislation, The Children and Young Persons Act, seeks to incorporate specific provisions of CRC into domestic legislation. The Education Act No. 11 of 1997 has been amended to provide early childhood education for children from 0 to 5 years instead of from 3 to 5 years as was previously the case. The Protection Against Domestic Violence, Act No. 22 of 2001, contains specific provisions covering various forms of violence against 4 children. In view of growing transnational crime in the Caribbean region, the Government of Dominica has been proactive in enacting legislation to make human trafficking a crime.

18. The delegation stressed that the Government continued to improve the facilities at the Stockfarm Prison. A new cell block was completed in 2008 which has helped to reduce the serious problem of overcrowding. Separate facilities for juvenile offenders have been established, and a skills training programme has been established for them. The inmate population at Stockfarm Prison includes both remanded and convicted prisoners, and the staff of the facility has received training in rehabilitation, and exposure to counselling, which are available for the benefit of the inmates.

27. The Government of Dominica is committed to ensuring the right of every Dominican to quality education. The education system is governed by the 1997 Education Act, which makes education compulsory for any person between the five years and fifteen years of age. Dominica has attained Universal Secondary Education.
31. The delegation referred to several questions raised by Denmark, concerning the improvement of the Rights of the Child, in relation to issues such as sexual abuse and corporal punishment. The delegation pointed out that there is a specific law in Dominica’s Sexual Offences Act, which addresses sexual abuse. Dominica had a number of cases before the court and several perpetrators have been sent to prison. Concerning corporal punishment, the delegation noted that it is hardly used in the school system. Although the delegation noted that it is a problem in families. It pointed out that this is an arena Dominica still needs to work at, and that the Government will have to look towards possible amendments in this regard.

38. Algeria welcomed Dominica’s efforts to promote the right to education, particularly for poor children. Algeria noted the establishment of specific programs, the allocation of funds and the free distribution of textbooks to help poor children, which shows a determination to give full effect to the right to education. Algeria was aware of the climatic and economic difficulties which affect efforts to ensure the full and effective implementation of economic, social and cultural rights. Algeria finally recalled that environmental, social and economic vulnerability have made Dominica among the poorest countries within the Eastern Caribbean. Algeria made several recommendations.

40. Belarus welcomed the efforts of Dominica as a State party to the Convention on the Rights of the Child and requested information as to the steps taken to protect children as envisaged by Dominica and seen as priorities for the near future. Belarus asked how severe the problem of trafficking in persons was in Dominica. It expressed the view that Dominica could make more progress in combating contemporary forms of slavery by acceding to the major international instruments on trafficking. Belarus made recommendations.

41. Turkey welcomed the efforts undertaken by the Dominican authorities to address human rights issues. It praised the national policy and action plan for gender equality adopted in June 2006 as well as the law of 2001 on protection against domestic violence, which contains specific provisions covering various forms of violence against children. Turkey was aware that challenges and problems in Dominica remain. It requested more information on the national action plan designed to coordinate public and private sector activity in highlighting the needs of children. Turkey indicated that it was convinced that Dominica will continue to address its commitments to promote and protect human rights.

49. Germany stated that there were reports about the wide use of corporal punishment which gave cause for concern. It asked how Dominica was addressing this issue. Germany also made recommendations.

54. Italy acknowledged with appreciation that, since 1986, there has been a de facto moratorium on executions of people sentenced to death. It invited Dominica to consider the adoption of legislation on the abolition of the death penalty. Italy expressed deep concern at the widespread use of corporal punishment and noted that corporal punishment is mentioned in the Education Act of 1997 and that the Magistrates’ Code of Procedure allows the whipping of a male child or young person. It noted that, in 2009, the United Nations Children’s Fund (UNICEF) referred to surveys according to which more than 90% of children experienced corporal punishment at home and school. Italy made recommendations.

**Conclusions and Recommendations**

1. Consider the possibility of acceding 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 (Belarus);

13. Continue the implementation of measures aimed at the promotion of the rights of children and senior citizens (Cuba);

35. Strengthen measures to protect children who are victims of abuse, following, the recommendations of the Committee on the Rights of Children, UNIFEM and UNICEF, among others (Netherlands);

39. Separate children from adults in detention in line with the recommendations of the Committee on the Rights of Children, enhance training programmes on relevant international standards for all professionals involved with the system of juvenile justice and ensure the full implementation of juvenile justice standards of the Convention on the Rights of the Child (Germany);

43. Take measures to reduce the number of teenage pregnancies, to provide a sufficient level of youth health services, especially in rural areas, taking into account the recommendations of the Committee on the Rights of the Child, among other bodies (Netherlands);

48. Introduce school programmes for children with learning or other disabilities (Canada);

49. Continue its efforts to ensure a quality education for every citizen of Dominica and especially for the most disadvantaged children (Djibouti);