

St. Kitts and Nevis 2015 UPR: Joint Submission from the United Nations Subregional Team for Barbados and the OECS

I. Background and framework

A. Scope of international obligations

The United Nations Subregional Team for Barbados the OECS (“UNST”) notes that during the 2011 Universal Periodic Review of St. Kitts and Nevis (“2011 UPR”) the country received numerous recommendations to ratify or accede to various international human rights treaties. Although St. Kitts and Nevis (“SKN”) accepted some of these recommendations, SKN has not ratified any additional core UN international human rights treaties.

Recommendations to the Government:

- Consistent with the recommendations issued in SKN’s 2011 UPR, the UNST encourages St. Kitts and Nevis to accede to all core UN human rights instruments as soon as possible.

B. Constitutional and legislative framework

- In 2013 the Government of St. Kitts and Nevis passed the following legislation:
 - **The Child Justice Act, the Children Act and the Status of Children Act** which resulted from SKN’s participation in the Organization of Eastern Caribbean States (“OECS”) **Family Law and Domestic Violence Legal and Judicial Reform Project**¹
- An amended **Domestic Violence Bill, 2014** is currently pending before Parliament.

C. Institutional and human rights infrastructure and policy measures

- During the 2011 UPR, SKN did not accept the recommendations to establish a national human rights institution in accordance with the Paris Principles. Although SKN established an Office of the Ombudsman in 2009, tasked with addressing complaints of injustice at the hands of public officials as a result of maladministration within the government, the power of the office is limited.

¹ The OECS Family Law and Domestic Violence Reform Project forms part of the wider Judiciary and Legal Reform Project of the Eastern Caribbean Supreme Court (ECSC) aimed at increasing the capacity of the judicial system and related institutions to improve the administration of law and quality of justice in the OECS. The project reflects the commitment by the OECS Governments to develop harmonized model family legislation for the Member States and to create a climate that would facilitate greater access and equity to justice as well as a more integrated and holistic approach to resolve matters related to the family and children.

- Although SKN has made efforts to be responsive to some of the recommendations received during the 2011 UPR, the country's ability to do so effectively would be greatly strengthened by the establishment of an institutionalized mechanism to coordinate Government engagement with international and regional human rights mechanisms aimed at implementing recommendations and carrying out reporting.

Recommendations to the Government:

- With the support of international partners, establish a national human rights institution in accordance with the Paris Principles.
- Establish an inter-ministerial, institutionalized mechanism to monitor and report on the implementation of recommendations from international human rights mechanisms.

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

- Recognizing that small island developing states such as SKN have limited capacities and resources to prepare and submit treaty body reports in a timely fashion, SKN is extremely overdue in submitting its reports to the CRC, CEDAW and CERD Committees. To date, the Government of St. Kitts and Nevis (GOVSKN) has had ~~to~~ limited to no engagement with the OHCHR with regard to seeking technical assistance in meeting its international human rights obligations or facilitating human rights training and education.
- UNICEF is currently supporting St. Kitts and Nevis in the completion of its overdue report to the Committee on the Rights of the Child.
- UN Women is currently supporting St. Kitts and Nevis in the completion of its overdue report to the Committee on the Elimination of Discrimination against Women.

Recommendations to the Government:

- Continue to work with UNICEF and UN Women in the preparation of treaty body reports for the CRC and CEDAW treaty body committees and seek technical assistance from the OHCHR to improve SKN's efforts to meet its international human rights obligations.

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

The Constitution prohibits discrimination on the basis of sex, race, place of origin, political opinions, color, or creed, but no specific legislation addresses discrimination based on disability, language, sexual orientation or gender identity, or social status.

The UNST notes that SKN is currently subject to a Standby Agreement with the International Monetary Fund (IMF), which leaves very little space for measures to address the harsh conditions facing the majority of the population, women and children in particular.²

Gender equality and women's rights

- The GOVSKN recently adopted the **Social Protection Strategy for 2013–2017 (SPS)** with technical and financial support from UNICEF and UN Women. The SPS prioritizes a number of vulnerable groups for social protection interventions including single mothers (and their families) and teenage mothers. There are plans to harmonize Social Safety Net Programmes, similar to other Eastern Caribbean countries.
- The GOVSKN has also adopted a **National Poverty Reduction Strategy (NPRS)** which shows an awareness of the impacts of poverty on women, men, girls and boys. However, gender-mainstreaming is not reflected in either the working principles or objectives of the NPRS.
- SKN does not currently have a national gender policy. UN Women indicates that although it has attempted in the past to work with the GOVSKN to develop a gender policy, the government has been unresponsive.
- UN Women indicates that it supported the development of a National Strategic Action Plan on gender-based violence but the plan is still in draft form and has not been implemented.
- There remains, however, many other gender-based obstacles facing women, including those related to the nature of the labour market such as occupational and industrial segregation, time, poverty and skills and strong socio-cultural factors, including the current mind-set of both women and men “that women can only ‘handle’ certain areas.”³
- Gender stereotyping still results in a traditional division of labor which relegates women into less stable, lower-skilled areas of work. SKN appeared before the **58th Session on the Commission on the Status of Women at the United Nations** and indicated that the country currently has a sustained, nation-wide programme underway that provides funding and training to women to compete in higher-income, traditionally male areas of economic work.
- The GOVSKN is currently undertaking initiatives to open the way for encouraging more women into entrepreneurship through programmes supported by multilateral partners such as the **Economic Partnership Agreement. The People's Employment Programme (PEP)**, a poverty reduction programme, has also opened some space for entrepreneurship and asset-building among men and women.⁴
- Similar to other Eastern Caribbean countries, women comprise the majority of civil servants and hold senior level roles within government. However, although women participate fully in voting during

² Caribbean Development Bank, Country Gender Assessment, St. Kitts & Nevis (Vol. 1), June 2014

³ *ibid*

⁴ *ibid*

elections and are very active in political parties, women are still severely underrepresented in political leadership positions. Currently, there is only one woman in Parliament.

- According to the US State Department's 2013 Human Rights Report on SKN, violence against women is also a serious and pervasive problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to EC\$13,500 (\$5,000) or six months in prison.
- The law prohibits rape, but it does not address spousal rape.⁵ According to the UNODC International Statistics on Crime and Justice, 2010, SKN experienced a rate of rape above the unweighted average of the 102 countries in the survey. Despite the **re-establishment of a Special Victims Unit** in the police, rape often was underreported due to survivors' fear of stigma, retribution, further violence, or lack of confidence in the authorities.⁶
- According to the CDB's Country Gender Assessment, in the case of Nevis, reporting of domestic violence is said to be almost non-existent because there is no opportunity for confidential reporting and the Gender Affairs Department does not have the capacity to address this deficiency.
- There are no shelters for survivors of domestic violence in either St. Kitts or Nevis.⁷
- The Government of SKN is currently debating an amended **Domestic Violence Bill 2014** which has had a second reading before Parliament.

Recommendations to Government:

- Adopt a National Gender Policy- with the support of UN Women.
- Review and finalize the draft National Strategic Action Plan on Gender-Based Violence with the view to achieving Cabinet approval.
- Establish a national coordinating committee to address gender-based violence and incorporate a focus on gender-based violence into broader citizen security initiatives particularly those related to addressing gang related violence.
- Enhance the capacity for gender analysis within government ministries, departments and agencies which coordinate policy development.
- It is recommended that the GOVSKN consider undertake a Beneficiary Analysis of its Social Safety Net Programmes, including the "Mold, Empower, Nurture and Direct" (MEND) Programme, from a gender equality and child's rights perspective, in order to ensure that service are targeted and delivered to the most vulnerable.

The rights of children

- The GOVSKN has not yet acceded to the CRC's Optional Protocols although this recommendation was accepted during the 2011 UPR.
- In 2013 the Government of St. Kitts and Nevis passed the following legislation:

⁵ 2013 Human Rights Reports: Saint Kitts and Nevis, US State Department.

⁶ *ibid*

⁷ *ibid*

- **The Child Justice Act, the Children Act and the Status of Children Act** which resulted from SKN's participation in the Organization of Eastern Caribbean States ("OECS") **Family Law and Domestic Violence Legal and Judicial Reform Project.**

- The GOVSKN recently passed the **Maintenance of Children Act, 2012**, which is intended to so implement the provisions of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women as it relate to the maintenance of children. The legislation promotes children's welfare and best interests, and facilitates their development, by helping to ensure that appropriate arrangements are in place for their maintenance and care.
- Since the 2011 UPR, the GOVSKN passed the **Evidence Act No. 30 of 2011**, which allows for special measure to be taken to ensure that the identity of witnesses in criminal proceedings is protected and allows children to testify against attackers via remote technology.
- In 2014 SKN opened the **New Horizon Juvenile Detention/Rehabilitation Centre** which houses and works to rehabilitate juvenile offenders. New Horizons is a juvenile residential facility for delinquents aimed at rehabilitation. The residents there are exposed to a well-rounded programme which include academic and vocational education as well as counselling.
- After a period of inactivity, the GOVSKN recently reinstated the **Probation and Child Welfare Board** which is a critical change necessary to the government to deal with the issue of child abuse.
- Since the 2011 UPR the GOVSKN has made efforts to strengthen child protection systems with the implementation of a **Child Protection Protocol** and the establishment of the **Special Victims Unit (SVU)** within the Royal Saint Christopher and Nevis Police Force (RSCNPF) police force. The SVU was created to deal with issues primarily related to domestic violence and child abuse.
- Disaggregated poverty data from SKN's Country Poverty Assessment 2007/2008 indicates that 40% of the poor in SKN are children.
- The GOVSKN recently adopted the **Social Protection Strategy for 2013-2017 (SPS)** with technical and financial support from UNICEF and UN Women. The SPS prioritizes a number of vulnerable groups for social protection interventions including teenage mothers; infants and young children, particularly those that are income poor; and 'at risk'/'unattached' adolescents and youth.
- Although SKN rejected all recommendations relating to corporal punishment, the GOVSKN has implemented an education initiative called the **Project Purple**, funded by a grant from UNICEF. The overall intention of the project is to develop child friendly education atmospheres and developing alternative forms of discipline. The **Project Purple/Child Friendly Schools** initiative is currently being piloted in 14 schools in St. Kitts and Nevis.
- Since the 2011 UPR the GOVSKN has conducted public awareness programmes in relation to children's rights and abuse and violence against children targeted at the general public. In 2011 the GOVSKN sponsored a national public awareness program themed **"Alternative Discipline, It's Beyond Corporal Punishment."** However, corporal punishment is still legal in the home, schools and in criminal sentencing.
- The GOVSKN continues its efforts to address child abuse which includes on-going participation in UNICEF's **Break the Silence** campaign which empowers children, families and victims of sexual abuse to report cases of sexual offences and to break the stigma surrounding the issue. Within the Break the Silence framework, a

number of workshops have been conducted and has included the participation of religious leaders, sport and other public figures. The GOVSKN also introduced awareness raising initiatives such as designating a **Child Abuse Awareness Month** and modifying the primary school curriculum to educate young students on abuse.

- As is the case in most Eastern Caribbean countries, teenage pregnancy in SKN is relatively high and poses health and education risks to teenage mothers. In the Global Survey International Conference on Population and Development (ICPD) beyond 2014 completed by St. Kitts and Nevis in 2013, adolescent pregnancy was identified as one issue related to sexual and reproductive health and reproductive rights that was expected to receive further public policy priority over the ensuing five to 10-year period.
- SKN was among representatives from the 15 CARICOM Member States that met in St. Lucia in 2014 to agree on a CARICOM strategy and action plan to reduce adolescent pregnancy in the region. The plan was developed by a multi-sectoral and multi-disciplinary Regional Task Force led by UNFPA in collaboration with the CARICOM Secretariat. The new framework is expected to guide Caribbean governments in the development of long term plans to address adolescent pregnancy.

Discrimination, violence and stigma against persons living with HIV/AIDS, lesbian, gay, bisexual, transgender and intersex persons

- According the US State Department Country Report on Human Rights 2013, discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community remains a substantial human rights concern. Societal attitudes towards the LGBT community impeded the operation of LGBT organizations and the free association of LGBT persons. The government asserted it received no reports of violence or discrimination based on sexual orientation; PAHO reports that the human rights desk in the Ministry of Health, despite being operational for many years, has not received any reports of LGBT violence which suggests that SKN does not have an enabling environment for reporting. Unofficial reports indicate that violence and discrimination remained a problem. Anecdotal evidence suggests that LGBT persons were reluctant to report incidents of violence or abuse out of fear of retribution or reprisal due to their sexual orientation.
- According to the 2008 annual report from the United Nations High Commission for Refugees: “The Saint Kitts and Nevis Ministry of Health states that “homophobia is rampant”. Public discourse around the issue of LGBT rights indicates that there remains strong sentiment against homosexuality and gay marriage.
- Since the 2011 UPR, the former Prime Minister of SKN has publicly advocated for a review of the country’s anti-sodomy laws and tolerance for LGBT persons. During a press conference in 2013, the former Prime Minister stated “discuss the issue, stop the discrimination, stop the stigmatization and let us therefore discuss this matter in an open, matured and frank way so that we can deal seriously and comprehensively with the spread of HIV.”⁸

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

⁸ Gaystar News, August 30, 2013, “St. Kitts and Nevis Prime Minister Calls for Gay Tolerance.”

- Relative to its small population, the UNODC recognizes St. Kitts and Nevis as having one of the highest murder rates in the world. However, SKN has attempted to augment its anti-crime activities through increased police operations in rural communities and making efforts to raise public awareness on violent crime.
- In 2014 the GOVSKN supported UNDP's **SocialINNO4Change** project which is an anti-crime initiative developed by and targeted to youth and youth crime.

C. Administration of justice, including impunity, and the rule of law

- During the 2015 general elections, there were legal and administrative irregularities which resulted from the Government's attempt to alter electoral boundaries one month before the scheduled vote. The main opposition party launched a legal challenge which eventually resulted in the intervention of the Judicial Committee of the Privy Council in Great Britain, the final court of appeal for SKN. The Privy Council overturned the new regulations and ordered that the election should be held with the old electoral boundaries. Directly after the elections, further controversy arose when, approximately 12 hours after the polls closed, the Supervisor of Elections (SOE) announced that all ballot counting was suspended and there would be no further announcements of election results. In response, several high ranking, regional actors, including the OECS, CARICOM, and the Prime Ministers of Grenada, St. Vincent and the Grenadines and Trinidad and Tobago, all issued public statements urging the SOE to announce the preliminary results of the elections without delay. Eventually, the SOE announced that the opposition won 7 of 11 seats in Parliament.
- In 2014 SKN opened the **New Horizon Juvenile Detention/Rehabilitation Centre** which houses and works to rehabilitate juvenile offenders. The residents there are exposed to a well-rounded programme which include academic and vocational education as well as counselling.
- Since the 2011 UPR there have been occasional media reports of police brutality. In 2013 it was reported that riot police dragged and beat the former leader of the opposition People's Action Movement during a march that was previously sanctioned by the security forces.
- In 2014 Parliament passed **the Police Complaints Bill** which establishes an independent **Police Complaints Commission** which will be appointed by the minister responsible for police acting on the advice of Cabinet. The Bill also provides for the establishment of the **Police Complaints Unit/Office of Professional Standards (OPS)**. It will be responsible for receiving public complaints against an officer, investigating and determining the next course of action. The independent commission will have oversight of any investigation.
- SKN still experiences severe case backlogs which results in unreasonable delays in the criminal justice system where, in many cases, the accused have remained in prison on remand for multiple years. The GOVSKN previously indicated its intention to conduct a review of its criminal justice system and institute necessary reforms. In 2014 the GOVSKN announced the launch of a comprehensive training program for those involved in the justice system.

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

- Recently, GOVSKN has developed a **National Social Protection Strategy 2013–2017**, which is intended to strengthen the country’s social protection framework, guide the integration of a number of fragmented social programmes, and reduce inefficiency and ineffectiveness in the social protection system
- The GOVSKN has also adopted a **National Poverty Reduction Strategy (NPRS)** which has identified the following “key pillars” to support the social development imperatives identified in the Adaptation Strategy which include: (i) a focus on stimulating economic activity; (ii) strengthening social safety nets; (iii) risk reduction and social protection; (iv) enhancing education training programmes including TVET designed to facilitate the movement of workers into new areas of economic activity; (v) developing agriculture and tourism; (vi) promoting domestic entrepreneurship, community participation and mobilisation; and (vii) community empowerment, crime reduction and security management.

Recommendations to Government:

- GOVSKN is encouraged to adopt a child and gender-responsive approach in the targeting and delivery of social safety net programmes

I. Right to health

- Although there is no national health insurance scheme that covers the population, PAHO indicates that full implementation is high on the political agenda. All employed persons are required to contribute to the Social Security Fund. Vulnerable populations, including children and youths under 18 years of age, persons over the age of 62, prisoners, and the indigent, are exempt from all charges and user fees.
- According to the Interim Report of the St. Kitts and Nevis Health Situation, 2011-2012, 16.2% of total births in SKN were to teenagers in 2012. PAHO states that although SKN has experienced a downward trend in adolescent pregnancy since 2001, the actual rate of teenage pregnancy is subject to fluctuation.
- SKN is part of CARICOM’s Council for Human and Social Development (COHSOD) which has approved a strategy to reduce the number of adolescent pregnancies in each country of the English and Dutch speaking Caribbean by at least 20 percent over the five year period 2014 – 2019.
- Abortions are illegal in SKN but are allowed in cases where the pregnancy involves a risk to the life of the pregnant woman, and non-termination would result in grave permanent injury of a physical or mental health nature to the woman. However, abortion is illegal in cases of rape or incest.
- HIV continues to be a priority for the Government of St. Kitts and Nevis as demonstrated in its efforts to mitigate the impact of the virus on the infected and affected with a renewed emphasis on decreasing the spread of HIV and mitigating the impact of HIV and AIDS on the population. The response to address HIV/AIDS is directed by the National Strategic Plan (2010-2014) which is focused on three vulnerable groups: men who have sex with men, sex workers, and pregnant women. Support of the response is visible through programme management and coordination, the provision of treatment and care of PLHIV and prevention activities such as outreach Counselling

and Testing, Information, Education and Communication materials. Provisions are being made to scale HIV prevention and testing through Point of Care Rapid Testing in non-laboratory settings where persons can receive same day results and most at risk populations can assess services.

- The HIV epidemic in St. Kitts and Nevis can best be characterized as a low-level epidemic with potential for becoming a more concentrated epidemic. Based on data available, HIV appears not to have reached significant levels in any key population that could be considered at high risk for HIV infection. Despite this observation data on behavioral risk factors for HIV transmission and anecdotal information suggest that there is potential for higher prevalence among key populations for whom there is no seroprevalence data available yet. There is a widespread perception that more serious sub-epidemics may be affecting vulnerable and most-at-risk populations (MARPs) that are unwilling to be identified and labelled in certain categories due to fear of stigma, discrimination and breach of confidentiality.⁹
- PAHO reports that there is a high prevalence of non-communicable diseases with 31.7% of males and 49.2% of females being obese (2008 data), 72.2% of males and 79.4% of females are overweight and 42.7% of males and 32.9% of females having raised blood pressure (2008 data). The 2008 estimates show that non-communicable diseases account for 83% of all deaths with 22% of all male deaths and 13.9% of female deaths occurring under the age of 60.

J. Right to education

- According to the CDB's Country Gender Assessment, a major issue affecting education is the high rate of teenage pregnancy and the effects on the interruption of girls' education.

L. Persons with Disabilities

- The GOVSKN recently adopted the **Social Protection Strategy for 2013-2017 (SPS)** with technical and financial support from UNICEF and UN Women. The SPS prioritizes a number of vulnerable groups for social protection interventions including persons with disabilities, particularly those who are income poor.

⁹ St. Kitts and Nevis Global Aids Response Progress 2014 Report