

St. Lucia 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. Lucia (“2011 UPR”) the country received numerous recommendations to ratify or accede to various international human rights treaties. Since the 2011 UPR, St. Lucia has ratified/acceded to the following:
 - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
 - Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
 - The Palermo Protocol on Trafficking in Persons

St. Lucia has not ratified or acceded to any other additional core UN international human rights treaties.

Recommendations to the Government:

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

B. Constitutional and legislative framework

1. Since the 2011 UPR St. Lucia has adopted the **Anti-Gang Act of 2014** and the **Labour Code of 2006, which was enacted in 2012**, which are responsive to human rights concerns relating to citizen security, workers’ rights and child labour.
2. St. Lucia participated in the Organization of Eastern Caribbean States (“OECS”) **Family Law and Domestic Violence Legal and Judicial Reform Project**¹ in which four draft bills were developed and submitted to Eastern Caribbean Governments for consideration:

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

- The **Status of Children Bill** seeks to remove the legal disabilities of children born out of wedlock and to provide for the declaration of parentage;
- The **Child Care and Adoption Bill** provides for the care and protection of children from various forms of abuse. The Bill makes provisions for mandatory reporting and places emphasis on investigation, assessment, intervention, emergency removal of children and foster care placements. The Bill also delineates clearly the roles and responsibilities of social service agencies with responsibilities for child care and protection;
- The **Child Justice Bill** is in accordance with articles 37 and 40 of the CRC; and
- The **Domestic Violence Bill** provides protection for all victims of domestic violence.

The Government of St. Lucia has committed to the final recommendations of the aforementioned draft bills. The bills are now before the office of the Attorney General Chambers for final review and submission to Cabinet for approval. The adoption of these draft bills will result in the repeal of the Children and Young Persons Act revised 2001, the Adoption Ordinance of 1954, the Civil Status Act of and the Domestic Violence (Summary Proceedings) Act of 1994.

Recommendations to the Government:

- Complete the review of the draft legislation relating to domestic violence and the rights of children and submit to Cabinet for approval as soon as possible.

C. Institutional and human rights infrastructure and policy measures

- During the 2011 UPR, St. Lucia did not accept any of the recommendations to establish an NHRI in accordance with the Paris Principles. Although St. Lucia has Parliamentary Commissioner who, similar to an Ombudsman, is charged with protecting individual citizens against abuse of administrative power and other forms of government maladministration, the Commissioner's mandate is limited and the office has not been accredited by the ICC as an NHRI.
- Although St. Lucia 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, permanent mechanism to coordinate Government engagement with international and regional human rights mechanisms aimed at implementing recommendations and carrying out required reporting.

Recommendations to the Government:

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.

- 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

- In 2014 the Committee on the Rights of the Child examined St. Lucia's second to fourth periodic reports. The next report is due in 2020.
- UN Women is currently supporting St. Lucia in the completion of its overdue report to the CEDAW Committee.
- To date, the St. Lucia government 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.

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 St. Lucia'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.

Gender equality and women's rights

- Gender stereotyping still results in a traditional division of labour which relegates women into less stable, lower skilled, and lower paying areas of work. Women still comprise the vast majority of underemployed persons, as well, recent reports on the impact of the 2008 global financial crisis on the labour market in Saint Lucia, note that while male unemployment has increased, so has female unemployment with females still having higher rates of unemployment, although the gap is much narrower than before the crisis. Recent reports also note that the poorest 40% of households in Saint Lucia also have higher probabilities of being female headed.

- Although women comprise the majority of civil servants in St. Lucia, women are underrepresented in roles of political leadership. There are currently three women elected to St. Lucia's parliament representing approximately 17% of the country's parliamentary seats.
- St. Lucia's legislative framework addressing domestic and sexual violence is not adequately implemented or enforced. St Lucia enacted a Domestic Violence Law in 1994 and amended the Criminal Code nine year later to conform. However, there are critical shortcomings in the Domestic Violence Act such as the absence of provisions on marital rape, which leave women highly vulnerable to abuse (especially when coupled with social norms which see domestic violence as private matters to be settled within the home). It would also appear that the changes do not include a clear definition of violence against women as an act based on gender. No provisions have been made to date to define violence against women in national law as distinct from intra-family, family or domestic violence. In cases of sexual and domestic violence cases of violence against women are only prosecuted if the victim presses charges. Lawyers in St. Lucia indicate that it can be difficult to meet the legal requirements to prosecute cases of rape and other sexual violence due to a lack of corroboration.
- Rape within marriage or common-law unions is not criminalized, except for it being committed while the person is divorced or separated.
- In 2012 St Lucia's government has launched an island-wide initiative to curb domestic and gender-based violence in the country. The **Violence Is Not An Option** campaign is part of a wider anti-GBV project led by the country's Division of Gender Relations, in collaboration with the United Nations Entity for Gender Equality and the Empowerment of Women.
- The Department of Gender Relations also ran the Women's Support Center, which provided shelter, counseling, residential services, a 24-hour hotline, and assistance in finding employment. Various NGOs, such as the St. Lucia Crisis Center and the National Organization of Women, also provided counseling, referral, education, and empowerment services. The crisis center assisted in cases of physical violence, incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. However, crisis centers in St Lucia are significantly under-funded.
- In 2007 the Royal St. Lucia Police Force established the **Vulnerable Persons Unit**, designed to handle cases involving violence against women and children, increased police responsiveness to these cases. Police indicated an increase in the reporting of sexual crimes against women and children over previous years. This unit worked closely with the Family Court and the ministry's Department of Gender Relations and Department of Human Services and Family Affairs. However, despite the efforts to increase reporting and improve the police response, there is no evidence that due process follows, and no indication that there has been an increase in prosecution. Given that marital rape is still not acknowledged within the legal framework without conditions, for example the required that the couple has to separated, this calls into question the effectiveness of the response of the justice system to sexual violence against women.

Recommendations to Government:

- Institutionalize the collection of sex-disaggregated data which can be used in gender and poverty analyses.

- St Lucia is urged to complete its National Plan of Action or Strategy for the prevention, punishment and eradication of violence against women and ensure that the relevant mechanisms are in place for its systematic implementation, monitoring and evaluation. This must be done in the context of a broad-based, multi-sectoral approach.
- Establish a national multi-sectoral committee on gender-based violence
- It is recommended that the government of St. Lucia review the effectiveness of government mechanisms which are intended to support the achievement of gender equality and to address gender based discrimination.
- Marital rape should be included in the legislation without conditionalities as is currently the case.

The rights of children

- St. Lucia participated in the Organization of Eastern Caribbean States (“OECS”) **Family Law and Domestic Violence Legal and Judicial Reform Project** in which four draft bills were developed and submitted to Eastern Caribbean Governments for consideration:
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- Significant gaps remain in children protection laws due to a significant backlog of legislation which still needs to be drafted or revised, due to the lack of legal professionals and limited resources to hire external consultants.
- St. Lucia recently established the **National Action Child Protection Committee (NACPC)** which is fully operational and meets on a monthly basis. The members of the NACPC are 12 independent stakeholders with an extensive experience working with children and are appointed by the Cabinet of Ministers. The NACPC had been mandated to deal with cases of sexually abused children and to draft a plan of action for children. Although the Committee is not directly involved in the running of any agencies, it provides advisory assistance to Ministries and departments.

- Child sexual abuse remains a serious concern for St. Lucia. However, since the 2011 UPR, St. Lucia has continued to engage in awareness rising around the issue with the support of UNICEF. In 2013 the Government launched the **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 had been conducted and has included the participation of religious leaders, sport and other public figures.
- St. Lucia has adopted a mandatory reporting protocol to address child abuse but sexual violence against children often goes unreported. This is due to a number reasons including the common practice of out-of-court settlements where the abuser pays a parent an agreed sum of money to avoid prosecution, although such arrangements are illegal. Also, there is a reluctance to report sexual violence due to what lawyers describe as an "insensitive and under-equipped justice system" and the fear that bringing a case will undermine the privacy and self-esteem of the child victim.
- Although St. Lucia did not accept any of the 2011 UPR recommendations regarding corporal punishment, the government did engage in awareness raising activities such as a national consultation on the theme **The Future We Want** which focused on the issue of corporal punishment. The government also launched a number of trainings and parenting programmes in order to promote alternative forms of punishment and new ways to interact with children. However, under the Education Act, corporal punishment had not been explicitly outlawed.
- Acknowledging that gang violence involving young people has been increasing in recent years, the Lucian authorities are attempting to address gang violence through providing life skills training to children, introducing community policing, and placing police in schools.
- The age of criminal responsibility is set at 16 but the government has indicated that it intends to increase the age to 18. However, under the current Criminal Code, children between 16 to 18 years of age can still be sentenced to be given life imprisonment or the death penalty for grave crimes.

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

- In St. Lucia the prevalence of HIV/ AIDS is estimated to be less than 1% in the general population, with the number of new infections appearing to be stable. Regardless of the estimated rate, it is likely to be an underestimate as the surveillance system is based on reports from public and private laboratories on clients tested, thereby missing groups known to be at highest risk of exposure who are reluctant to use available services and remain underground due to concerns regarding lack of confidentiality, stigma and discrimination, and of prosecution under the law (for example, MSM and sex workers). In addition, it is believed that a number of people travel outside the country to seek HIV testing and treatment, due to perceived weaknesses with confidentiality and anonymity in their home countries, so these cases are not included in the official count.
- Civil society organizations report that LGBT persons remain vulnerable to persecution and harassment on a daily basis. Gay rights activists report that LGBT persons have been subject to serious violent crimes which are not investigated or prosecuted. In many cases, victims choose not to report the attacks to authorities due to fear of prosecution under St. Lucia's "sodomy laws."

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

- The US Department of State's 2013 Trafficking in Persons (TIP) Report, which describes St. Lucia as "a source and destination country for persons subjected to forced prostitution and forced labor," states that St. Lucia "does not fully comply with the minimum standards for the elimination of trafficking, however, it is making significant efforts to do so." Since the 2011 UPR, St. Lucian authorities have trained a number of police officers in trafficking awareness and have conducted multiple sex trafficking investigations.
- According to the 2012 UNDP Caribbean Human Development Report on Citizen Security, report, there are no police estimates of the numbers of gangs or gang members in St. Lucia nor "systemic research" on the prevalence of organized crime in St. Lucia, but the number of gang homicides in the country "appears to be growing and contributing to a greater share of the nation's homicides."
- In 2011, the government launched the "**United Against Crime**" campaign to get citizens more involved in the crime fighting process by creating links between the public and the police and educating citizens on how to protect themselves from becoming "victims of crime." According to local media, the police are training officers in community policing in an effort to build public trust.
- In 2014 St. Lucia passed anti-gang legislation which criminalizes gang-related activity, including "gang membership, facilitating gang-related criminal activity, and advising and recruiting for gangs."

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

- There is an internal police complaints unit and a Police Complaints Commission (PCC) to take complaints from members of the public. A special unit of three police officers assigned to assist the commission investigated these complaints. The PCC is functional and in 2013 received 184 complaints from citizens.
- St. Lucia has an Integrity Commission however it does not have investigative powers and is not capable of enforcing effective transparency. One requirement of the Commission is the annual submission by senior officials and members of Parliament of their assets and liabilities. This requirement is routinely ignored by Ministers and senior officials as indicated by a review of the information published in the Government Gazette. There are no consequences for failure to comply with the requirement for public disclosure.
- In 2013 the Government passed the **Police Complaints (Amendment) Act** allowing for a new unit to investigate complaints against police officers.
- In 2013 the United States government announced that it would no longer provide support to the Royal St. Lucia Police Force (RSLPF) due to credible allegations of gross human rights violations related to extrajudicial killings that took place in 2010 and 2011.
- Since the 2011 UPR, there were a number of extrajudicial killings by the St. Lucia police including 12 in 2011. The Criminal Investigations Department conducted investigations and referred cases to the Director of Public Prosecutions (DPP) for review. In 2012 the DPP had returned all 12 cases with recommendations to conduct inquests. The government responded by inviting CARICOM to

investigate the alleged extra-judicial killings and enlisted the Jamaica Constabulary Force (JCF) to investigate the St. Lucia police force. Human rights activists reported that investigations by Jamaican investigators were severely hampered due to difficulty in obtaining evidence. However, in early 2015 the Prime Minister announced that the government had received the report of the investigation carried out by the JCF.

- On March 8, 2015, Prime Minister The Hon. Dr. Kenny Anthony issued a public statement discussing the report's findings. In his address, Prime Minister Anthony said the report indicated that all of the shootings reviewed were "fake encounters" staged by the police to legitimize the killings. The investigators found that weapons were planted on the scene of the shootings and that "a number of shootings were done by police officers and [were] listed on the murder statistic as being done by unknown assailants." Indeed, as previously alleged by the media and human rights activists, the investigators confirmed the existence of a police "blacklist or death list." The report also suggested that "the crime problem in St. Lucia is facilitated by corrupt politicians/government officials, business persons, and police officers," The JCF investigators also confirmed that senior police officers were uncooperative and attempted to sabotage certain aspects of the investigation. The investigators concluded that during the period under review there "was an environment of impunity and permissiveness designed to achieve the desired results. Willful blindness existed in respect of the Commissioner of Police and particular members of his leadership and management team."
- The investigators made 31 recommendations, many of which relate to the management and administration of the police force, including the recommendation that all police officers involved in the unlawful killings of citizens be prosecuted. The Prime Minister indicated that he will not issue any directives for the prosecution of the officers but will leave that decision to the discretion of the DPP. Further, the Prime Minister indicated that his administration will require human rights training for all police recruits and all police officers will be required, in rotation, to attend training to sensitize them to the human rights provisions of the St. Lucia Constitution. In addition, the Government intends to allocate resources for the appointment of special prosecutors to assist in the prosecution of any cases should the DPP decide to do so. Prime Minister Anthony said that Cabinet will appoint a joint committee under his chairmanship to oversee the implementation of the recommendations from the report.²

G. Right to work and to just and favourable conditions of work

- In 2012, the Government adopted the amended **Labor Act of 2006, which was enacted in 2012**, which repeals the Employment of Women, Young Persons, and Children Law Revised Ordinances of 1957. The amended Act sets the minimum age for employment at 15 and prohibits the employment of children who have not yet reached the minimum age for compulsory education. The new labor code also further defines worker rights and increases penalties for violations. The law, including applicable statutes and regulations, specifies the right of most workers to form and join

² "A Distressing Issue to Confront," Address to the Nation by The Hon. Dr. Kenny D. Anthony Prime Minister & Minister For Finance, Economic Affairs, Planning & Social Security, on the Investigation into the Alleged Extra-Judicial Killings by the Royal Saint Lucia Police Force, March 8, 2015.

independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, and workers fired for union activity have the right to reinstatement.

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

- The Government has developed a Social Protection Policy and plans are underway to harmonise the Public Assistance Programme, (PAP) which provides cash transfers to poor and indigent persons and the Koudemain Ste. Lisi programme which provides mainly psycho-social support to indigent persons.
- To support the process of harmonization of the PAP and KSL programme, UN Women, on behalf of the UN Joint Programme on Social Protection, is support the conduct of the Gender Aware Beneficiary Analysis of the PAP programme. This analysis will identify the gender specific challenges of beneficiaries in accessing services from the PAP programme. The results are intended to support gender-responsive service delivery of the PAP.
- Although St. Lucia continues to be affected by the global economic crisis, it has worked hard to overcome them. From 2006 to 2010 GDP almost doubled and per capita income increased. During the period the population also grew by 5.1%. PAHO reports that during that period persons over the age of 60 has increased to 11.9% of the population, which indicates the importance of addressing the needs of the elderly in all government development planning policies and programs.

I. Right to health

- The Government of St. Lucia continues to work to implement a universal healthcare coverage model as a means of providing access to key health promotion, disease prevention, curative, and rehabilitative health interventions that are regarded as fundamental to achieving equity in the delivery and use of health care services. PAHO reports that in recent years St. Lucia's health infrastructure is being upgraded, new programs have been initiated, services have become more readily available, immunization coverage remains high, and maternal mortality and infant mortality have been reduced.
- The Ministry of Health developed an HIV/AIDS strategic plan for 2011–2014, with an emphasis on decreasing the spread of HIV and mitigating the impact of HIV and AIDS on the population by focusing on three vulnerable groups: men who have sex with men, sex workers, and pregnant women. HIV programmes continue to be a part of the integrated health system. While this lends to sustainability, it also has the challenge of overburdening healthcare staff to provide more with the very limited resources. Such deficiencies include reduction in behaviour change communication activities, research and data informing activities, and innovative projects or programmes to encourage and maintain positive behaviour. Additionally, the effectiveness of the plan is questionable given that anal sex is criminalised in Saint Lucia and that there is a strong stigma against persons who have same sex, consenting sexual relations.
- The Ministry of Health developed the Saint Lucia Reproductive Health Policy with support from UNFPA. This framework is expected to be approved in 2015 and will further guide the provision of reproductive health care in the relevant sectors.

- As is the case throughout the Eastern Caribbean region, St. Lucia has a relatively high incidence of teenage pregnancy. St. Lucia 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. The plan was developed by a multi-sectoral and multi-disciplinary Regional Task Force led by UNFPA in collaboration with the CARICOM Secretariat.
- Whereas abortions are illegal in St Lucia, the Criminal Code makes it legal for abortions resulting from rape or incest to be terminated. However, abortions are also 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.
- Parental consent is not required for teenagers to access health services and receive information regarding sexual and reproductive rights. The age of consent for girls is currently 16 but is not clearly specified for boys.

L. Persons with Disabilities

- The National Council of and for Persons with Disabilities, which receives an annual government subsidy, addresses the needs of the population with disabilities in St. Lucia. The Government has improved the provision of special education by establishing centers for that purpose in Vieux Fort and Soufriere, bringing the total number of special education centers to four. However, it should be noted that there is no nationally implemented screening process for children with learning disabilities. This means that there is a vulnerable population of students who may be underperforming and who get no support to address their specific needs.
- There is no rehabilitation facility for persons with physical disabilities, although the Health Ministry operated a community-based rehabilitation program in residents' homes.
- The law does not prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services.
- No specific legislation protects the rights of persons with disabilities or mandates provision of government services for them. The government is obliged to provide disabled access to all public buildings, but only a few government buildings had ramps to provide access.
- The Government indicates that a national policy on disability is pending. A multidisciplinary team within the Ministry of Education had been established with the purpose of deliberating on what kind of support they would need to receive.