

DOMINICA

EXECUTIVE SUMMARY

Dominica is a multiparty, parliamentary democracy. In 2009 elections Prime Minister Roosevelt Skerrit's Dominica Labour Party (DLP) prevailed over the opposition United Workers Party (UWP) by a margin of 18 seats to three seats. Although outside observers found the elections generally free and fair, the opposition continued to boycott Parliament over alleged electoral abuses. Security forces reported to civilian authorities.

The most serious human rights problems were the overcrowded prison and domestic violence against women and children.

Other human rights problems included adverse conditions experienced by indigenous Kalinago (Carib).

The government took steps to prosecute officials who committed abuses, and there were no known cases of impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On November 24, the chief magistrate dismissed the only pending case of criminal prosecution of police officers, stemming from the 2007 killing of Stan Bruney, upon motion by the defense. The prosecution summoned witnesses on numerous occasions and issued warrants to appear, but the key witnesses refused to appear to testify at court.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Although overcrowded, prison and detention conditions generally met international standards, and the government permitted visits by independent human rights observers, although no such visits were known to have occurred during the year.

The prison has an authorized capacity of 200 inmates but held 238 inmates, including 42 detainees on remand from the court, as of year's end. The inmates included six women and 10 juveniles, who were separated from the adult male population.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Prison authorities permitted prisoners and detainees to submit complaints, and the government investigated complaints and monitored prison and detention center conditions.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Ministry of National Security, Labor, and Immigration oversees the Commonwealth of Dominica Police Force, the country's only security force. The police have a formal complaint procedure to handle allegations of excessive force or abuse by police officers.

Civilian authorities maintained control over the police, and the government had effective mechanisms to investigate and punish abuse and corruption. During the year there was one nonfatal shooting by a police officer that was under investigation and review by the director of public prosecutions (DPP); at year's end the DPP returned the case for further investigation in order to obtain a full forensic and medical report to document the position of the victim's wounds.

Arrest Procedures and Treatment While in Detention

The police apprehend persons openly with warrants issued by a judicial authority. The law requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice. If the authorities are unable to bring a detainee to court within the requisite period, the detainee may be released and rearrested at a later time. There is a functioning system of bail. Criminal detainees were provided prompt access to counsel and family members.

Lengthy detention before trial was a problem due to judicial staff shortages. On average prisoners remained in remand status for more than three months.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Inadequate prosecutorial and police staffing and resources for investigations, together with a lack of magistrates, resulted in severe backlogs and other problems in the judicial system.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. There are public trials by jury, and defendants have the right to be present, to consult with an attorney in a timely manner, and to confront or question witnesses. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to juveniles unable to obtain their own counsel, regardless of the crime committed, and to the indigent, but only in cases involving serious crimes. Defendants and their attorneys have access to government-held evidence relevant to their cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent, impartial judiciary in civil matters where one can bring lawsuits seeking damages for a human rights violation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:**a. Freedom of Speech and Press****Status of Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The only internal restriction on movement applies to the Carib Reserve area. Since the land is collectively owned by the community and managed by the Carib Council, for a newcomer to live in the territory, the council would have to grant permission to use the land.

Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

There were a sizable number of Haitians living in the country who applied for residency and citizenship, but not on the basis of refugee status.

Protection of Refugees

Access to Asylum: The government has not established a procedural system for providing protection to refugees. While the law provides for asylum or refugee status, the government did not grant refugee status or asylum during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In parliamentary elections held in December 2009, the ruling DLP won 18 seats in the House of Assembly, defeating the UWP, which won three seats. Two of the three opposition members boycotted Parliament to pressure the government to call new elections. As a result of the boycott, after six months the government declared the two seats vacant by operation of law and called by-elections in those two constituencies, both won again by the opposition. The

newly elected opposition members continued to boycott full participation in Parliament; they appear for each sitting, sign in, and then walk out.

The Caribbean Community and the Organization of American States sent teams of election observers, who declared the election to be fair and transparent. After the election, the opposition filed court complaints of election irregularities regarding a number of complaints, but the court rejected the claims except for one of ineligibility to hold office against two ministers over dual-nationality issues. After a full evidentiary trial, the court ruled against the opposition and determined the two ministers were eligible under the law.

Participation of Women and Minorities: Voters elected two women to the House of Assembly, and these women held two cabinet positions: the minister for social services, community development, and gender affairs; and the minister for culture, youth, and sports. The appointed Speaker of the House of Assembly was a woman, and the ruling DLP appointed one woman to serve in the 10-person appointed Senate.

The parliamentary representative for the constituency that includes the Carib Territory was a Carib.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. However, there were isolated allegations publicly reported by members of the political opposition and related groups of corruption in the government, including accusations that some government officials engaged in property speculation. The same opposition groups accused government ministers of receiving unreported money from foreign sources. However, they provided no evidence to the government. Thus no charges were filed, and none of these allegations were proven in the courts.

The Integrity in Public Service Act, monitored by a government commission, requires government officials to account annually for their income and assets and those of their immediate family, as well as any gifts they have received. During the year the commission referred seven cases to the DPP for noncompliance, which represented a 96 percent compliance rate. In 2010 the DPP filed criminal charges against 26 public officials the commission identified as noncompliant. The prosecution dropped eight of the cases for lack of evidence, one official won after

trial, one official pleaded guilty and was reprimanded, and the remaining faced trial at year's end.

The commission receives complaints from the public as well and investigated complaints filed against public officials. One complaint against the prime minister concerning a cabinet decision granting concessions for importation of building materials was pending before the commission at year's end.

The Financial Intelligence Unit is the chief government agency responsible for identifying and combating government corruption. In addition the police force and customs service have internal watchdog offices. The independent DPP is responsible for prosecuting major crimes, including corruption offenses, and routinely files charges of theft, false accounting, fraud, theft by deception, and related offenses. The DPP worked closely with the Financial Intelligence Unit. However, the DPP lacked adequate manpower and resources for concentration on complicated money laundering and public corruption cases.

The law does not provide for public access to government information, and the government did not provide routine access in practice. The government maintained a Web page and a government information service, where it posted information such as directories of officials and a summary of laws and press releases. The government budget and an audit of that budget were both publicly available on the Web site.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominica National Council of Women (DNCW), and a women's and children's self-help organization, operated freely and without government interference.

UN and Other International Bodies: There were no requests for investigations of human rights abuses from international or regional human rights groups.

Government Human Rights Bodies: A parliamentary commissioner has responsibility to investigate complaints against the government.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law specifically prohibits discrimination based on race, gender, place of origin, color, and creed, and the authorities generally respected this prohibition in practice.

Women

Rape and Domestic Violence: The law criminalizes rape but not spousal rape. Although the maximum sentence for sexual molestation (rape or incest) is 25 years' imprisonment, the normal sentence was five to seven years, except in the case of murder. Police were not reluctant to arrest or prosecute offenders; whenever possible, female police officers handled rape cases. The Bureau of Gender Affairs of the Ministry of Social Services, Community Development, and Gender Affairs assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action.

Sexual violence and domestic violence cases were common, and the government recognized it as a problem. Authorities received reports of 16 rapes, 44 indecent assaults, 44 cases of unlawful sexual intercourse, and 75 cases of grievous bodily harm during the year. No information was available about prosecutions or convictions. The government held workshops and participated in public awareness and outreach programs, and updated its domestic violence legislation. Victims were sometimes reluctant to speak out due to fear of retribution, stigma, or further violence, which suggests that the problem may be significantly under-reported. Although no specific laws criminalize spousal abuse, spouses could bring charges against their partners for battery. However, victims were often reluctant to press charges due to their reliance on financial assistance of the abuser. Shelters were operated in private homes to preserve the privacy of the victims, but the location of a shelter was hard to keep secret. There was one government-supported shelter. The law allows abused persons to appear before a magistrate without an attorney and request a protective order. The court also may order the alleged perpetrator to be removed from the home to allow the victims, usually women and children, to remain in the home while the matter is investigated. However, inadequate police resources made enforcement of these restraining orders difficult. Police officers continued to receive training in dealing with domestic abuse cases.

The Bureau of Gender Affairs reported that both male and female victims sought assistance in dealing with domestic violence. Despite the range of programs offered, there were insufficient support systems to address the problem effectively.

In addition to counseling services offered by the DNCW and the bureau, there was a legal aid clinic, and the government's legal department offered assistance as well.

The DNCW provided preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily. Funding constraints limited stays at the shelter to several days at a time; however, if needed, additional housing was provided in private homes for up to three weeks. Because of the country's small size, abusive spouses commonly found and visited the victims at the shelter, making private homes a safer option in many cases. The Catholic Church continued to be active in educating the public about domestic violence.

Sexual Harassment: The law does not prohibit sexual harassment, and it continued to be a serious problem.

Reproductive Rights: Women were free to choose the number, spacing, and timing of their children. While statistics on maternal mortality are not available, 94 percent of births occurred with a skilled attendant. Access to contraception and treatment for sexually transmitted diseases was widely available.

Discrimination: Women enjoy the same legal rights as men. However, property ownership continued to be deeded to heads of households, who were usually male. The inheritance law provides that intestate succession leaves the surviving spouse with only a life estate. However, the title registration act was amended to accommodate transfer of property between spouses, which boosted married women's property ownership. The law establishes pay rates for civil service jobs without regard to gender. Although there were some women in managerial or high-level positions, most women worked as shopkeepers, nurses, or in education. The unemployment rate for women was 17.6 percent, compared to 11 percent for men.

The Bureau of Gender Affairs is charged with promoting and ensuring the legal rights of women. The bureau provides lobbying, research, support, counseling, training, and education services. The bureau worked with the DNCW and other organizations to help the government, nongovernmental organizations, and police sectors coordinate work on women's issues, particularly in data collection and information sharing.

Children

Birth Registration: Citizenship is derived by birth to a Dominican parent. Birth certificates were provided to the parents on a timely basis.

Child Abuse: Child abuse continued to be a pervasive problem. The law protects children against assault, ill treatment, neglect, harmful circumstances, domestic violence, and abandonment by parent or guardian. The Welfare Department of the Ministry of Social Services, Community Development, and Gender Affairs handled 184 reports of child abuse during the year, and the government opened a shelter for abused children. The Welfare Department also assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. That department reported all severe cases of abuse to the police. Lack of staff and resources continued to hamper enforcement of children's rights laws.

Sexual Exploitation of Children: The age of consent for sexual relations is 16. The law prohibits commercial sexual exploitation of children for purposes of prostitution, and related activity could be prosecuted under laws against prostitution or trafficking. The law protects all persons from unlawful sexual connection, rape, procurement for prostitution, and incest, and also prohibits sexual offenses against children under employment, control, or on wages. Additionally, the country has designed a series of local and national public policies preventing the commercial exploitation of children. There is no specific law dealing with child pornography. Incest carries a maximum of 25 years if committed by an adult with a person under 14 years of age. In cases of sexual intercourse with a person age 14 to 16, a maximum prison term of 14 years may be imposed. Prosecutions were often thwarted by out of court settlements for money, which the government stated it wanted to criminalize through amendments to the law.

International Child Abduction: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information see the Department of State's report at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

There was no organized Jewish community, and there were no reports of discrimination or any anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports that persons were trafficked to, from, or within the country during the year.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities, and there is no legal requirement mandating access to buildings for such persons. Other than lack of access, there was no reported formal discrimination against them in employment, education, access to health care, or the provision of other state services. However, many employers refused to hire persons with disabilities, and unemployment among them was very high.

The government funded a special school for the hearing impaired and partially assisted two other schools for vision impaired and mentally challenged children. One of the public schools also had a program for autistic children. However, the education of children with disabilities remained a serious challenge, as many of the children were in rural areas.

Indigenous People

There was a Kalinago, or Carib, population estimated at about 3,000 persons, most of whom lived in the 3,782-acre Carib Territory, an area not clearly delineated by law. There were four preschools and two primary schools in the Carib Territory and two secondary schools in nearby communities attended by Kalinago children. Despite these schools, however, the Carib language has almost completely disappeared, and students elsewhere in the country were not taught about pre-Columbian history or the role played by Caribs in shaping the country's society. The Ministry of Education covered tuition for Kalinago students at the Dominica State College and awarded scholarships to Kalinago students for study throughout the Caribbean.

The Carib Act states that any child of a Kalinago is also Kalinago. Non-Kalinagos may become Kalinagos if they are invited to live in the Carib Territory and do so continuously for 12 years.

Every five years Kalinagos over the age of 18 who reside in the territory may vote for the chief and six members of the Council of Advisors. They also are eligible to vote in national elections. In national elections, persons who are registered in the district but reside outside, either in another part of the country or internationally,

are still allowed to vote in the Carib Territory. A Kalinago headed the Ministry of Carib Affairs.

The Kalinago people continued to suffer from low levels of unofficial and societal discrimination. Kalinago women in particular suffered from these types of discrimination. Unemployment in the territory generally was higher than in the rest of the country, and mean income was below the national mean. There were few jobs in the territory, because of the decline of the agricultural sector and the inability to obtain bank financing due to the lack of collateral in terms of privately owned land. Many Kalinagos who moved to the capital city of Roseau did not report any significant discrimination. The vast majority of Kalinagos have intermarried, and it was not always easy to identify someone as Kalinago.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Consensual same-sex conduct between men is illegal. Anecdotal evidence suggested that societal discrimination against lesbian, gay, bisexual and transgender (LGBT) persons was common in the socially conservative society. There were very few openly gay men or lesbians. During the year there was increased public dialogue on the issue, including increased outreach by LGBT persons promoting awareness of the problem.

Other Societal Violence or Discrimination

The government and the Dominica Planned Parenthood Association initiated programs designed to discourage discrimination against HIV/AIDS-infected persons and those living with them.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law protects the right of workers to form and join independent unions, provides for the right to strike, and protects the right of workers to bargain collectively with employers. The law prohibits antiunion discrimination by providing that employers must reinstate workers who file a complaint of illegal dismissal, which can cover being fired for engaging in union activities or other grounds of dismissal.

In practice the government generally enforced laws governing worker rights effectively. Workers exercised the legal right to organize and choose their representatives, but less than 30 percent of private sector workers were unionized. The informal sector accounts for close to 50 percent of total employment, and workers in that sector were not unionized. Most agricultural work is performed on small family owned farms and such workers were not unionized.

Restrictions on worker rights include the fact that emergency, port, electricity, telecommunications, and prison services, as well as the banana, coconut, and citrus fruit cultivation industries, were deemed “essential,” which deterred workers in these sectors from going on strike. Nonetheless, in practice essential workers have gone on strike and did not suffer reprisals. The procedure for essential workers to strike is cumbersome, involving giving appropriate notice and submitting the grievance to the labor commissioner for possible mediation. Most such actions were resolved through mediation through the Office of the Labor Commissioner.

Workers exercised the right to collective bargaining, particularly in the nonagricultural sectors of the economy, including in government service. Government mediation and arbitration were also available; few disputes escalated to industrial action. A company, a union representative, or an individual can request mediation by the Labor Commissioner's Office. In most cases the labor commissioner was able to resolve the matter. Employers generally reinstated employees who filed a complaint of illegal dismissal.

Unions and worker organizations were independent of the government and political parties but must be registered with the government.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and the government effectively enforced the law effectively. There were no reports that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

Although two laws prohibit employment of children, one law defines a “child” as under age 12 and the other as under age 14 for hazardous work. Nonetheless, the government set a policy that defines 15 years as the minimum age for employment and enforced this standard. Children between the ages of 12 and 14 were allowed to work only in certain family enterprises such as farming. Safety standards limit the type of work, conditions, and hours of work for children over the age of 14. The government effectively enforced these standards, and there were no abuses

reported. Although resources were insufficient to engage in inspections on a comprehensive basis, the laws and penalties were generally adequate to remove children from illegal child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The minimum wage law establishes a base wage of EC\$5.00 (approximately \$1.87) per hour for all public and private workers. The minimum wage varies according to category of worker, with the lowest minimum wage set at EC\$4.00 (\$1.50), and the maximum at EC\$5.50 (\$2.06) per hour. Most workers (including domestic employees) earned more than the legislated minimum wage as prevailing wages were much higher than statutory minimum wages. Enforcement is the responsibility of the labor commissioner. Labor laws provide that the labor commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate to enable that person to be employed gainfully. The labor commissioner has not authorized subminimum wages for the last few years.

The standard legal workweek is 40 hours in five days. The law provides overtime pay for work above the standard workweek; moreover, excessive overtime is not prohibited. The law stipulates paid holidays.

The government effectively enforced all labor standards, including in the informal sector, which accounted for close to 50 percent of total employment, and in which workers were not unionized.

The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conducted health and safety surveys. Six inspectors from the Department of Labor in the Ministry of National Security, Immigration, and Labor conducted inspections that prescribe specific compliance measures, impose fines, and can result in prosecution of offenders. They covered all labor rights, and the Ministry of Health had 19 inspectors who also inspected labor violations. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment, and the authorities effectively enforced this right.