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1999 Country Reports on Human Rights Practices

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DOMINICA

Dominica is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A Prime Minister, a Cabinet, and a unicameral Legislative Assembly compose the Government. A President, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, is head of state. The United Workers Party (UWP), led by Prime Minister Edison James, won 11 of 21 seats in Parliament in free and fair elections in 1995 and gained an additional seat in 1996. The Constitution calls for elections at least every 5 years, and the UWP lost control of the Government in the January 2000 general elections. The judiciary is independent.

The Dominica Police is the only security force. It is controlled by and responsive to the democratically elected Government. There were occasional allegations of abuse by the police.

The country's primarily agrarian economy depends on earnings from banana exports. The Government is also developing the tourist industry, diversifying agricultural production, and promoting the export of fresh fruits, vegetables, and coconut products, both within and outside the region. Per capita gross domestic product was about \$3,340 in 1997.

The Government generally respects the human rights of its citizens; however, there were problems in several areas. The principal human rights problems are occasional instances of use of excessive force by police, poor prison conditions, societal violence against women and children, instances of discrimination against indigenous Carib Indians, and societal discrimination against female Caribs in mixed marriages.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

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; however, there were some allegations of occasional use of excessive force by the police.

In November 1997, the authorities forced the Commissioner and Deputy Commissioner of police to retire, as a result of recommendations by a Commission of Inquiry that investigated allegations of mismanagement, corruption, and police brutality. Under new leadership, the police created an Internal Affairs Department in December 1997 to investigate public complaints against the police and to provide counseling to police. In July 1998, a consultant from the United Kingdom conducted a 3-month study to update antiquated police regulations and to establish new operational guidelines for the police. This report was submitted to the Government in 1998 but was still under review at year's end. From January to September, the authorities received 19 complaints regarding excessive use of force by the police.

Prison conditions are poor. Overcrowding and unsanitary conditions continue to be problems in the sole prison facility. There are about 226 prisoners. The prison provides work therapy, sports programs, educational opportunities, and counseling for inmates. Twelve prisoners in the maximum security section of the prison conducted a 2-day hunger strike in July to protest what they claimed to be the poor quality of prison food. The strike ended after the prison superintendent promised to investigate and make any needed improvements in the quality of the food.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution requires that the authorities charge persons with a crime within 24 hours after arrest. If charges are brought, the police must bring the detainee to court within 72 hours. This requirement generally is honored in practice, although often those arrested on Fridays must remain in jail over the weekend and are not charged until the following Monday.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and it is independent in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located with police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

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

The Constitution prohibits such practices. Government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for the right of free expression, and the Government respects this in practice. The political opposition openly criticizes the Government.

The principal radio station is state-owned and has a government-appointed board. There is also an independent radio station owned by the Catholic Church. The print media consist of two private newspapers and political party journals; all publish without censorship or government interference. Citizens also enjoy access to independent news sources through cable television and radio reception from neighboring islands.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the authorities respect them in practice. The Government may revoke passports if subversion is suspected but has not done so in recent times.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In the last national elections in June 1995, the United Workers Party defeated the incumbent Dominica Freedom Party, taking 11 of 21 seats in Parliament. In a by-election in August 1996, the UWP gained an additional seat when it won a seat vacated by a member of the Dominica Freedom Party, giving the UWP a total of 12 seats. The Dominica Freedom Party currently holds four seats, and the Dominica Labour Party holds five seats. According to the Constitution, the next general election must take place by June 2000; at year's end, the Prime Minister called them for January 31, 2000.

There are no impediments in law or in fact to the participation of women in leadership roles in government or political parties; however, they are underrepresented in practice. Voters elected two women to Parliament in the 1995 elections. Indigenous Carib Indians participate in national political life.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no government restrictions on the formation of local human rights organizations, although no such groups exist. Several advocacy groups, such as the Association of Disabled People and a women's and children's self-help organization, operate freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities respect in practice.

Women

Sexual harassment and domestic violence cases are common, and there is no family court to deal specifically with domestic violence issues. Women can bring charges against husbands for battery, and both the police and the courts prosecute cases of rape and sexual assault, but there are no specific spousal abuse laws. However, in April 1998, a new Sexual Offences Act went into effect to replace the previous act, which required medical evidence or witness corroboration for indictment. As a matter of policy, all rape cases are handled solely by female police officers. The Department of Labor recruited a permanent counselor and established a crisis response mechanism to assist women who are victims of domestic violence. The Welfare Department assists victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reports all cases of abuse to the police. The courts may issue protective orders, but the police do not enforce them consistently.

Beyond the general protection of the Constitution, women do not benefit from any specific civil rights legislation. While there is little open discrimination against women, property ownership continues to be deeded to "heads of households," who are usually

males. When the male head of household dies without a will, the wife cannot inherit the property or sell it, although she can live in it and pass it to her children. In the civil service, the law establishes fixed pay rates for specific jobs, whatever the gender of the incumbent.

The Dominica National Council of Women, a nongovernmental organization (NGO), has developed local adult education and small business training programs for women. According to the Labor Department, many women in rural areas find it difficult to meet basic needs, at least in part owing to the decline in the banana export industry.

Children

The law stipulates that the Government should protect the rights of children to education and health care. Education is compulsory through age 16, and primary health care is available throughout the island. Various laws enumerate children's rights, but their enforcement is hampered by lack of staffing in government agencies. According to the Welfare Department, reported cases of child abuse, including sexual abuse, have increased over the past few years. In 1997 there were 267 reported cases of child abuse, 175 of which were sexual abuse cases. In 1998 there were 303 reported cases of child abuse, 124 of which were sexual abuse cases. At year's end, there were nine staff members in the social welfare office that handles all welfare problems, including complaints of child abuse.

Although the maximum sentence for sexual molestation (rape, incest) is life imprisonment, the normal sentence given is 15 years except in the case of murder. The age of consent for sexual relations is 16 years.

People with Disabilities

Beyond the general protection of the Constitution, there is no specific legislation dealing with the disabled. However, the labor laws permit authorization of employment of a disabled person for less than the minimum wage, in order to increase opportunities for employment of the disabled (see Section 6.e.). There is no requirement mandating access for those with disabilities.

Indigenous People

There is a significant Carib Indian population, estimated at 3,400, of a total population of 72,000. Most live on a 3,783-acre reservation created in 1903 and expanded in 1997. School, water, and health facilities available on the Carib reservation are rudimentary but similar to those available to other rural Dominicans. Most Carib Indians engage in farming, fishing, and handicraft. Unemployment is believed to be higher than in rest of the country, while the average income is below the national average. About 65 percent of the Carib population is between the ages of 18 and 35.

The reservation is governed by the 1978 Carib Constitution. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and eight members of the Council of Advisors. Elections are held every 5 years, and the latest election was held in July. According to the Carib Constitution, the Council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

There are credible reports of discrimination against Carib women who are married to, or who live with, non-Carib men, making it difficult for such couples to obtain permits to build homes within the reservation. Building permits are obtained from the Carib Council. Until 1979 the Carib Constitution allowed Carib men married to non-Carib women to continue living on the Carib reserve but dictated that Carib women married to non-Carib men had to move off the reservation. Although the law has changed, practice is not yet in keeping with the law. In one case, a Carib woman in a common-law relationship with a non-Carib man who tried to build a house on land reserved for her family received threats that her house would be burned down. An estimated 25 percent of the Carib Indian population is believed to be in mixed marriages or relationships.

Section 6 Worker Rights

a. The Right of Association

All workers have the legal right to organize, to choose their representatives, and to strike, but unions represent less than 10 percent of the work force. All unions are independent of the Government. While there are no direct ties, members of certain political parties dominate some unions. There is no restriction on forming labor federations, and unions are affiliated with various international labor bodies.

b. The Right to Organize and Bargain Collectively

Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining is widespread in the nonagricultural sectors of the economy, including the government service, and there is also recourse to mediation and arbitration by the Government. The law prohibits antiunion discrimination by employers, and judicial and police authorities enforce union rights. In addition employers must reinstate workers fired for union activities. The law requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures. Department of Labor inspectors under the supervision of the Labor Commissioner enforce labor legislation, but the small Labor Inspection Office lacks qualified personnel to carry out its duties.

Labor regulations and practices governing the country's industrial areas and export firms do not differ from those prevailing in the rest of the economy.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including that by children, and such labor is not known to exist.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum legal age for employment is 15 years. Employers generally observe this law without government enforcement. The law prohibits forced or bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The law sets minimum wages for various categories of workers, but these were last

revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) is as low as \$0.37 (EC\$1.00) per hour if meals are included. However, minimum wages for most workers fall in a range between \$0.74 (EC\$2.00) per hour for tourist industry workers to \$1.11 (EC\$3.00) per hour for occupations such as shopclerks. Minimum wages are not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earn more than the legislated minimum wage for their category. The Minimum Wage Advisory Board met in 1998 and recommended increases in these wage levels. The Prime Minister, who is also Labor Minister, had not yet acted upon these recommendations at year's end.

The labor standards laws state that no employer shall establish or maintain differences in wages between men and women performing the same or similar work with parallel responsibilities under similar conditions. The law further states that no employer may reduce the wages of an employee to comply with equal wage standards. The labor laws also provide that the Labor Commissioner may authorize the employment of a disabled person at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks' paid vacation per year. The Employment Safety Act provides occupational health and safety regulation. Local NGO's and one major union consider it to be consistent with international standards. The Advisory Committee on Safety and Health is an established body but has never met. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

f. Trafficking in Persons

There are no laws that specifically address trafficking in persons.

Recent press reports indicate that the country's economic citizenship program, which allows individuals to purchase passports through investments ranging from \$15,000 (EC\$40,000) to \$50,000 (EC\$135,000), has facilitated the illegal immigration of persons from China and other countries to North America. Criminal organizations reportedly provide funds to such individuals to pay these fees, and the persons later are trafficked to Canada and the United States, where they work under conditions similar to bonded labor until their debt is repaid.

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