



2008 Human Rights Report: Dominica

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2008 Country Reports on Human Rights Practices

February 25, 2009

Dominica is a multiparty, parliamentary democracy with a population of approximately 72,500. Prime Minister Roosevelt Skerrit's Dominica Labour Party (DLP) prevailed over the opposition United Workers Party (UWP) in 2005 elections, the results of which were certified despite challenges filed by the opposition in a few constituencies. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in a few areas, primarily poor prison conditions, violence against women and children, and adverse conditions experienced by indigenous Kalinago (Carib).

RESPECT FOR HUMAN RIGHTS

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.

The case of two police officers charged with murder for shooting and killing a man in December 2007 was pending prosecution at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

While the constitution prohibits such practices, there were reports that police used excessive force while making arrests, including documented cases in which the police shot the victim.

Cases in which police shot and injured persons in 2007 were pending prosecution at year's end. There was no information available about the February 2006 beating by police that went before a civil court, nor about a pending case from 2005.

Prison and Detention Center Conditions

Prison conditions were poor. The opening of a new wing at the country's single prison, Stock Farm, helped matters, but conditions remained unsanitary as many of the buildings were in disrepair. The prison held 235 prisoners at year's end, less than its designed capacity.

Juvenile detainees were held with adults, and pretrial detainees were held with convicted prisoners.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

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 prime minister's office oversees the Dominica Police, the country's only security force. The 411-officer force effectively carried out its responsibilities to maintain public order. The police have a formal complaint procedure to handle allegations of excessive force or abuse by police officers. Corruption was not a problem within the police force.

The police Internal Affairs Department investigates public complaints against the police and provides officers with counseling. Several cases of alleged misconduct were filed, but authorities did not suspend or otherwise discipline any officers during the year.

Arrest and 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 inefficiency and staff shortages. On average prisoners remained in remand status for over three months.

e. Denial of Fair Public Trial

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

The judicial system is composed of the High Court with two judges, and four magistrates based in the capital city of Roseau who periodically travel around the country. Appeals can be made first to the Eastern Caribbean Court of Appeal and then to the Privy Council in the United Kingdom.

Inadequate police staffing for investigations, together with a lack of judges, 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 trials by jury, and defendants may 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.

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

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. Generally individuals could criticize the government publicly or privately without reprisal. The independent media were active and expressed a wide variety of views without restriction.

Libel suits filed by Prime Minister Skerrett in September 2006 against the Times newspaper were pending in civil court at year's end.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was largely available in homes, offices, and Internet cafes in urban areas, but infrastructure limitations restricted Internet access in villages.

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 freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

The government requires all religious organizations to register. On February 21, the government formally recognized the Church of Jesus Christ of Latter-day Saints, which had been seeking full authorization since 2004.

In 2007 Rastafarians sought repeal of a 1974 measure that outlaws their religion, and the Kalinago called for the legalization of polygamy, stating it was part of their culture.

Societal Abuses and Discrimination

Rastafarians complained that the use of marijuana, an aspect of their religious rituals, was illegal and that their members were victims of societal discrimination, especially in hiring. There is a small Muslim community and no organized Jewish community; there were no reports of discrimination against either community or of any anti-Semitic acts.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/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 constitution prohibits forced exile, and the government did not use it.

Protection of Refugees

Although the country signed the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a legal or procedural system for providing protection to refugees. The government did not grant refugee status or asylum during the year.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR has an honorary liaison located in the country with whom the government can consult regarding asylum claims and other protection concerns.

To deal with a large increase in Haitian immigration, in 2006 the government instituted an agricultural labor program, which gave the Haitians legal status. Many Haitians used the country as a transit point and attempted to depart illegally for the neighboring French territories of Martinique or Guadeloupe. As an incentive to enter and exit the country legally, the government began charging Haitians EC\$1,000 (approximately \$400) when entering the country and promised to return the funds upon legal exit from the country. The refundable entrance fee had little effect on the numbers of Haitians departing illegally.

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

In 2005 the ruling DLP won 12 seats in parliamentary elections, defeating the UWP, which won eight seats. An independent candidate affiliated with the DLP also won a seat. After the election the independent candidate and an

opposition member joined the ruling party. Election results were certified, but there were no impartial observers present to verify them. In 2007 the Eastern Caribbean Court of Appeal dismissed UWP challenges to the results in five constituencies.

In October the two opposition parties released a white paper calling upon the government to remedy alleged defects in the 2005 election process by screening the electoral rolls to ensure that only citizens living in the country or who have visited during the last five years are listed, in accordance with the law.

Political parties could operate without restrictions. However, opposition parties claimed that the state-owned Dominica Broadcasting Corporation coverage of the 2005 election campaign was unfair and did not provide access to opposition candidates. They also complained that businesses owned by known opposition leaders faced discrimination in securing government contracts or bids.

There were six women in the 31-seat legislature: four elected to the House of Assembly and two appointed senators, three of whom served as cabinet ministers. A woman also served as attorney general, a cabinet position. The speaker of the house was a woman.

The parliamentary representative for the constituency that includes the Carib Territory was a Carib, who served concurrently as minister for Carib affairs.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflected that government corruption was a problem. There were reports in the press and by nongovernmental organizations (NGOs) of corruption in the government, including accusations that some government officials, including the prime minister, engaged in property speculation. There were also widespread accusations that a number of government ministers received unreported money from Venezuelan sources.

In September the government established a commission to implement the Integrity in Public Service Act of 2004, which requires financial disclosure by elected officials and senior civil servants. The opposition noted that the commission did not making its reports public.

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 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, where it increasingly posted limited information such as directories of officials and a summary of laws and press releases.

Section 4 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.

There were no requests for investigations of human rights abuses from international or regional human rights

groups. There is no ombudsman, but a parliamentary commissioner has the responsibility to investigate complaints against the government.

Section 5 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

The law criminalizes rape, which can include spousal rape. Whenever possible, female police officers handled rape cases. Although the maximum sentence for sexual molestation (rape or incest) is 25 years' imprisonment, the normal sentence given was five to seven years, except in the case of murder. The Gender Bureau of the Ministry of Community Development and Gender Affairs assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Gender Bureau also coordinated interagency efforts to collect data, advocate policy changes, and provide programs for the empowerment of women.

Domestic violence cases were common. Although no specific laws criminalize spousal abuse, spouses could bring charges against their partners for battery. 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 in order to allow the victims, usually women and children, to remain in the home while the matter is investigated. However, enforcement of these restraining orders was difficult because of a lack of police resources. Police officers continued to receive training in dealing with domestic abuse cases.

The Gender Bureau reported that both men and women sought assistance in dealing with domestic violence; it dealt with approximately 100 cases during the year. Despite the range of programs offered, there were insufficient support systems to deal with the problem. In addition to counseling services offered by the DNCW and the Gender 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. It assisted approximately 100 persons during the year. Due to a shortage of funding, the organization could permit persons to stay at the shelter only for several days at a time; however, if needed, further 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.

Prostitution is illegal but was a problem. There were anecdotal reports of trafficking in persons for commercial sexual exploitation.

The law does not prohibit sexual harassment, and it remained a problem.

While there was little open discrimination against women, cultural instances of discrimination existed. Also, property ownership continued to be deeded to heads of households, who were usually male. When the male head of household dies without a will, the wife may not inherit or sell the property, although she may live in it and pass it to her children. The law establishes pay rates for civil service jobs regardless of gender, but there was a 53 percent unemployment rate for women. The Labor Department reported that many rural women found it difficult to meet basic economic needs, which resulted partly from the continuing decline of the banana export industry. Although there were some women in managerial or high-level positions, most women worked as shopkeepers, nurses, or in education.

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

Children

The government was committed to children's rights and welfare.

Child abuse continued to be a pervasive problem, both at home and at school. The Welfare Department of the Ministry of Community Development and Gender Affairs received approximately 100 reports of child abuse; 80 percent of the victims were female. The Welfare Department also assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all severe cases of abuse to the police. Lack of staff and resources continued to hamper enforcement of children's rights laws.

The age of consent for sexual relations is 16 years. No specific laws prohibit commercial sexual exploitation of children, but such activity could be prosecuted under laws against prostitution or trafficking.

Trafficking in Persons

The law prohibits trafficking in persons, specifically involving forced labor, commercial sexual exploitation, and smuggling illegal migrants. There were no confirmed reports that persons were trafficked to, from, or within the country.

However, there were anecdotal reports that women from the Dominican Republic, Haiti, South America, Eastern Europe and Asia entered the country irregularly to work in underground strip clubs that proliferated in the outskirts of Canfield or Portsmouth, as well as some that opened in Roseau. These women faced cultural and language barriers that made finding assistance difficult. The Ministry of National Security did not believe that there was widespread trafficking in persons but acknowledged there might be a few isolated incidents.

The DNCW and other activists believed that there may be some trafficking of women for prostitution, but acknowledged it was hard to prove as most of the women in the sex trade were afraid to come forward, fearing deportation. An NGO that interviewed commercial sex workers as part of an HIV/AIDS awareness campaign found that most appeared to have entered the country for economic reasons and began working in prostitution thereafter.

Persons convicted of trafficking are subject to a fine of EC\$100,000 (approximately \$37,500) and up to seven years in prison, but there were no known prosecutions for trafficking in recent years.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

Although the law does not specifically prohibit discrimination against persons with disabilities, 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.

There is no legal requirement mandating access to buildings for persons with disabilities. A new cricket stadium, opened in 2007, was the first large building to have wheelchair access ramps. However, the ramps do not extend to the seats.

There are no programs in school for children with learning or other disabilities, most of whom did not complete educational programs due to the difficulty involved in simply getting to and from school and in keeping up with the curriculum. Mentally challenged children had difficulty finding appropriate foster homes when faced with neglect from their birth parents. However, in 2007 several students with disabilities were admitted to secondary school, and one graduated from the community college.

Indigenous People

There was a Kalinago, or Carib, population, estimated at 4,000 persons, most of whom lived in the 3,782-acre Carib Territory. There were four preschools and two primary schools in the Carib Territory and two secondary schools in nearby communities attended by Kalinago children. 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. Although the law permits Kalinago men and women married to non-Kalinagos to continue living in the territory, in practice Kalinago women married to non-Kalinagos had to move out of the territory.

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. A Kalinago headed the Ministry of Carib Affairs.

The Kalinago people continued to suffer from low levels of unofficial and societal discrimination. Unemployment in the territory generally was higher than in the rest of the country, and mean income was below the national mean.

The law establishing the Carib Territory does not delineate clearly its territorial boundaries. Kalinagos continued to report difficulties obtaining bank financing, particularly since reservation land was communal and therefore unavailable for use as collateral for loans.

Other Societal Abuses and Discrimination

There are no laws that prohibit discrimination in employment, housing, education, or health care against a person on the basis of sexual orientation. Although no statistics were available, anecdotal evidence suggested that societal discrimination against homosexuals was quite common, as homophobic attitudes were widespread in the socially conservative society. There were very few openly gay men or lesbians.

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

Section 6 Worker Rights

a. The Right of Association

Workers exercised the legal right to organize and choose their representatives. Unions represented approximately 10 percent of the total work force; approximately half of government workers were unionized.

The law provides for the right to strike, and workers exercised this right in practice. However, emergency, port, electricity, telecommunications, and prison services, as well as banana, coconut, and citrus fruit cultivation industries, were deemed essential, which effectively prohibited workers in these sectors from going on strike.

b. The Right to Organize and Bargain Collectively

Unions have legally defined rights to organize workers and to bargain with employers. Workers exercised this right, particularly in the nonagricultural sectors of the economy, including in government service. Government mediation and arbitration were also available.

The law provides that employers must reinstate workers fired for union activities, and employers generally did so in practice.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. 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. The government defined 15 years as the minimum age for employment and enforced this standard in principle. 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.

e. Acceptable Conditions of Work

In mid-year a new minimum wage law, prepared after tripartite consultations, established a base wage of EC\$5.00 (approximately \$1.87) per hour for all public and private workers. The minimum wage did not provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage. Enforcement was 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 standard legal workweek is 40 hours in five days. The law provides overtime pay for work above the standard workweek; however, excessive overtime is not prohibited. The government effectively enforced these standards.

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. The Department of Labor conducted inspections that prescribe specific compliance measures, impose fines, and can result in prosecution of offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment, and the authorities effectively enforced this right.

