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2009 Human Rights Report: Dominica

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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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) by a margin of 18 seats to 3 seats in elections on December 18. Although outside observers found the elections generally free and fair, the opposition boycotted Parliament over alleged electoral abuses. 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, corruption, domestic 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 2007 was still 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 victims.

There was no new information available about the cases in which police shot and injured persons in 2007, the 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. Conditions remained unsanitary, and many buildings were in disrepair. The country's single prison held fewer prisoners than its designed capacity.

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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 force of approximately 400 officers 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. There were no cases of misconduct filed during the year.

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 inefficiency and 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.

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 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

The constitution provides for freedom of speech and of the 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.

In the December election campaign, the opposition claimed that the government blocked its access to the main government-owned radio station, and purchased all the advertising time on the largest private station, restricting the opposition to a smaller private station that only reached about one quarter of the country.

Prime Minister Skerrit ceased pursuing the libel suit he filed against the *Times* newspaper in 2007.

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. According to the International Telecommunication Union, there were 41 Internet users per 100 inhabitants in 2008.

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.

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 *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

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 all 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.

The constitution prohibits forced exile, and the government did not use it.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a legal or procedural system for providing protection to refugees. The law provides for asylum or refugee status, but 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 and other humanitarian organizations in assisting refugees and asylum seekers.

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 parliamentary elections held on December 18, the ruling DLP won 18 seats in the House of Assembly, defeating the UWP, which won three seats. The race was extremely close, with three constituencies decided by five votes or less. The opposition alleged that the government unconstitutionally denied it media access, delayed any type of voter identification system, and provided direct and indirect incentives to voters, particularly by flying in citizens residing elsewhere. The opposition decided to boycott Parliament, in hope of pressuring the government to call new elections with increased protections in place.

The Caribbean Community (CARICOM) and the Organization of American States (OAS) both sent teams of election observers. Both organizations declared the election to be fair and transparent, despite allegations from the opposition and the nongovernmental organization (NGO) community claiming that basic democratic principles were not upheld. The lack of a voter identification card allowed individuals to vote by simply stating their name, address, and occupation, without having to show any documentation to prove their identity. Voters are required to return to the country every five years to maintain their right to vote, but there were limited ways to check the travel record of those residing abroad.

Political parties could generally operate without restrictions. The opposition brought court cases alleging that the government restricted media access of the opposition candidates, in addition to other complaints.

The new cabinet had not been named by year's end. In the pre-election government, there were six women in the 31-seat legislature: four elected to the House of Assembly and two appointed members to the 10-seat Senate, 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 in the pre-election government.

Section 4 Official Corruption and Government 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 multiple reports in the press and by NGOs of corruption in the government, including accusations that some government officials engaged in property speculation. These allegations focused upon the Layou River tourism development, misuse of the economic citizenship program, improper ambassadorial appointments, and no-bid government contracts. There were also accusations that government ministers received unreported money from foreign sources.

In November 2008 a government commission to implement the 2004 Integrity in Public Service Act began operating to minimize government corruption. The act 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. The commission is required to examine each declaration and determine its validity. This declaration is private, and the only disclosure is whether the commission has received it and if it has been deemed valid. If misrepresentation is found, the official can be liable for a fine of EC\$20,000 (\$7,500) or two years' imprisonment, with additional penalties for bribery, possession of unaccounted property, and other provisions. The public submitted multiple claims, but the commission decided against investigating any of them. The chairman stated that, since the alleged crimes occurred before the commission's establishment, they did not fall under its legal mandate.

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 posted limited 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.

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

The law criminalizes rape but not spousal rape. Police were not reluctant to arrest or prosecute offenders; 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 Bureau of Gender Affairs of the Ministry of Community Development, Social Services, and Gender Affairs assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The 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. However, victims were often reluctant to press charges due to their reliance on financial assistance of the abuser. Shelters were operated in private homes, in order to preserve the privacy of the victims, but the location of a shelter was hard to keep secret. 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 men and women sought assistance in dealing with domestic violence. 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 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. 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, 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.

Prostitution is illegal, but authorities rarely enforced laws against it. There were anecdotal reports but no evidence to support the claim of trafficking in persons for commercial sexual exploitation.

The law does not prohibit sexual harassment, and it remained a problem. Government enforcement was not an effective deterrent.

There were no restrictions on reproductive rights, as women were free to choose the number, spacing and timing of their children. Access to contraception and treatment for sexually transmitted diseases, including HIV/AIDS, was widely available.

Women enjoy the same rights as men, and the ministry promotes the legal rights of women. While there was little open discrimination against women, instances of cultural 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 without regard to gender. Although there were some women in managerial or high-level positions, most women worked as shopkeepers, nurses, or in education, and the unemployment rate for women was high.

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, NGO, and police sectors coordinate work on women's issues, particularly in data collection and information sharing.

Children

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

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 handled reports of child abuse; 80 percent of the victims were girls. 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.

There were allegations of irregular adoptions of children from the Carib territory, especially to the neighboring French islands.

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. There was no information available about laws dealing with child pornography.

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 Canefield 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. There were no reports of trafficking of children.

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.

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.

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. The law establishing the Carib Territory does not delineate clearly its territorial boundaries. There were four preschools and two primary schools in the Carib Territory and two secondary schools in nearby communities attended by Kalinago children; a new school was under construction in Salybia. Despite these schools, however, the Carib language has almost completely disappeared, and students elsewhere in the country are 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 and was elected Chief of the Council of Advisors in August.

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. There are 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 move to the capital city of Roseau did not report any significant discrimination. The vast majority of Kalinagos have intermarried, and it is not always easy to identify someone as Kalinago.

Although the government set aside funds for a community aid bank for the Kalinagos, those funds were diverted into the Salybia school and housing project sponsored by Venezuela. There were complaints that the money originally allocated for the bank was greater than the amount being used on those two projects.

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

The law criminalizes consensual homosexual relations. Although no statistics were available, anecdotal evidence suggested that societal discrimination against gays and lesbians was quite common in the socially conservative society. There were very few openly gay men or lesbians.

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. The Right of Association

Workers exercised the legal right to organize and choose their representatives. Unions represented approximately 13 percent of the total work force; approximately half of government workers were unionized, 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 are not unionized. There were six unions: the Public Service Union representing the public sector, the teachers union representing teachers in both public and private schools, and four competing unions for the private sector. There was no labor confederation. Prison guards and firefighters do not have a staff association or quasi-union such as they have in neighboring countries, but the police welfare association functions as a quasi-union.

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. However, in practice essential workers have gone on strike and did not suffer reprisals. The procedure for essential workers to strike is quite cumbersome, involving giving appropriate notice and submitting the grievance to the labor commission for possible mediation. Most such actions were resolved through mediation through the office of the labor commissioner.

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; few disputes escalated to industrial action. A company, a union representative, or an individual can request mediation by the labor commissioner's office. Most of the time the labor commissioner was able to resolve the matter. In the agricultural sector most workers were not unionized, as most agricultural work is performed on small family owned farms. With the collapse of the large-scale banana plantations, most agricultural workers no longer work for larger plantations.

The law provides that employers must reinstate workers who file a complaint of illegal dismissal, which can cover being fired for engaging in union activities, but also covers other grounds of dismissal, 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, 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. Education is compulsory until age 16, and most children attend school until that age. 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

The 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 was last updated in June 2008 and 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. 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 as prevailing wages were much higher than statutory minimum wages. 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. In practice, even persons with disabilities were generally paid more than the minimum, and the labor commissioner had not authorized sub-minimum 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; 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.