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## 2010 Human Rights Report: Dominica

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

Dominica is a multiparty, parliamentary democracy with a population of approximately 72,800. 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 in elections in December 2009. Although outside observers found the elections generally free and fair, the opposition boycotted Parliament over alleged electoral abuses. Security forces reported to civilian authorities.

There were human rights problems in a few areas, primarily an overcrowded prison, 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 criminal prosecution of two police officers for the 2007 murder of Stan Bruney remained pending before the chief magistrate. Some witnesses had already testified, and the prosecution was proceeding in this case.

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.

A civil case filed in 2006 accusing police officers of beating a man was settled for monetary damages in the amount of EC \$8,000 (\$2,963).

### 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 289 inmates, including 62 detainees on remand from the court, as of December 29. The inmates included six women and 15 juveniles, who were separated from the adult population.

There was one suicide by hanging, which occurred in a detention center at a police station.

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

The government used prison labor to improve the facilities, and a new mess hall and ancillary buildings were still under construction at year's end.

#### 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 Dominica Police, the country's only security force. The force of approximately 450 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.

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, nor were there any reports of impunity involving the security forces 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 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 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.

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### 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 2009 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. In January individual members of the opposition filed an election challenge in court raising these claims and other election-related complaints. In August the Eastern Caribbean Supreme Court struck out the access to media claims, finding no supporting material facts for the assertion of denial or refusal of access. The opposition subsequently filed an appeal of the court ruling.

### 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 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 42 Internet users per 100 inhabitants in 2009.

### 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

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://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 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.

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.

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

#### Protection of Refugees

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.

The government did not expel or return refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, no such cases arose 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

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 with increased protections in place. As a result of the boycott, after six months the government declared the two seats vacant and called by-elections in those two constituencies, both won again by the opposition.

The Caribbean Community and the Organization of American States sent teams of election observers. Both organizations declared the election to be fair and transparent, but the OAS report recommended that the government implement a voter identification system, provide for equal access to purchase advertising from media, and implement campaign finance laws to govern and define the appropriate use of funds to bring voters to the polls without impeding the diaspora members' franchise. The law does not require a voter identification card, does not contain any campaign finance provisions, and only requires a voter outside the country to be present in the country one time during a five-year period and be on the electors list in order to vote. After the 2009 election, the opposition filed court complaints of election irregularities regarding these

issues, and in August the court rejected all the claims with the exception of ineligibility to hold office claims against two ministers over dual-nationality issues. At year's end these dual-nationality claims were in pretrial proceedings, with an expected trial date in early 2011.

Political parties could operate without restriction or outside interference.

For most of the year, women held three cabinet positions: the minister for social services, community development, and gender affairs; the minister for culture, youth, and sports; and the attorney general. Voters elected two women to the House of Assembly. The appointed Speaker of the House of Assembly was a woman.

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, no charges were filed and none of these allegations were proven in the courts.

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 commission referred 44 public officials for prosecution for failure to comply with the Integrity in Public Service Act by failing to declare their assets. After a review of the evidence, the director of public prosecution (DPP) filed criminal charges against 25 of these public officials; trial dates were set for early 2011. The commission receives complaints from the public as well and was involved in investigating complaints filed against public officials.

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.

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 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 problem became more apparent as government officials participated in public awareness and outreach programs. 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. During the year the government opened a new 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 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. 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.

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. There was no information available regarding maternal mortality. Access to contraception and treatment for sexually transmitted diseases, including HIV/AIDS, was widely available.

The government has a national gender policy to eliminate discrimination against women in the areas of health, economic development, domestic violence and violence-producing conditions, education and skills training, and participation in power and decision-making positions. At year's end this policy was still in the process of full implementation.

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. 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, 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, and it became more evident as government officials participated in public awareness programs and outreach to communities following several publicly reported prosecutions of child sexual abuse. The Welfare Department of the Ministry of Social Services, Community Development, and Gender Affairs handled reports of child abuse; 80 percent of the victims were girls. Judicial magistrates and other officials estimated that 60 to 70 percent of child welfare cases sent to the high court involved sexual abuse of 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.

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. The government was reviewing amending the Sexual Offences Act to strengthen penalties and further penalize criminal acts against children. 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.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](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

In 2009 there were no reports that persons were trafficked to, from, or within the country.

#### 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.

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 disabled 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. 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 completed during the year in Salybia. 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 and was elected chief of the Council of Advisors in August 2009.

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 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

The law criminalizes consensual homosexual relations. Although no statistics were available, anecdotal evidence suggested that societal discrimination against gays and lesbians was common in the socially conservative society. There were very few openly gay men or lesbians. Family members of a September murder victim publicly claimed that the perpetrator attacked the victim because the attacker believed the victim was a member of the LGBT community.

#### 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 workforce; 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, but the police welfare association functioned 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. 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.

### 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. In most cases 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 worked 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 or 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; it was taking steps toward amending the laws. 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 establishes 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 such persons were generally paid more than the minimum, and the labor commissioner had 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; 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. 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. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment, and the authorities effectively enforced this right.

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