

DOMINICA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

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

The most serious human rights problem was domestic violence against women and children.

Other human rights problems included adverse conditions experienced by the indigenous Kalinago (Carib) population and discrimination based on real or perceived sexual orientation.

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

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings. There were no fatal shootings by police during the year and no pending cases of criminal prosecutions of police from previous years.

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

Prison and Detention Center Conditions

Prison and detention conditions generally met international standards.

Physical Conditions: Because of new buildings and reallocated space, the prison's authorized capacity increased to 300 inmates, and it held 275 inmates, including 70 detainees on remand from the court, as of year's end. The inmates included four women and nine juveniles, who were separated from the adult male population. Inmates had access to potable water.

Administration: Prison recordkeeping was adequate. There was limited alternative sentencing for first-time offenders and juveniles, and authorities employed the measure. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. There was no prison ombudsman to respond to complaints, but authorities permitted prisoners and detainees to submit complaints, and the government investigated complaints and monitored prison and detention center conditions. While the media highlighted one allegation of prisoner abuse, in fact the case was investigated years ago and referred to the director of public prosecutions (DPP) for prosecution.

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

Civilian authorities maintained control over the police, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no fatal shootings by police officers in 2012. In the 2011 case of a nonfatal shooting by police Inspector Lincoln Corbette, authorities arrested, charged, and relieved the officer of duty; his trial was scheduled for April 2013.

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 bail system. Criminal detainees had prompt access to counsel and family members.

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

e. Denial of Fair Public Trial

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

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

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. There are public trials by jury, and defendants have the right to be present, to consult with an attorney in a timely manner, and to confront or question witnesses. Criminal defendants are presumed innocent until proven guilty, have access to legal counsel, and enjoy the right to appeal. Juveniles and the indigent receive free legal counsel if they are unable to obtain their own counsel. 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

For civil matters there is an independent, impartial judiciary 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 press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. According to the International Telecommunication Union, the Internet penetration rate was 44 percent at the end of 2011.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

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

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

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

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

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

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

Protection of Refugees

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

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

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

Elections and Political Participation

Recent Elections: In parliamentary elections held in December 2009, the ruling DLP won 18 seats in the House of Assembly, defeating the UWP, which won three seats. The Caribbean Community and the Organization of American States sent teams of election observers, who declared the election to be fair and transparent. After the election the opposition filed complaints of election irregularities in a number of cases, but the court rejected the claims except for one of ineligibility to

hold office against two ministers over dual-nationality issues. After a full evidentiary trial, the court ruled against the opposition and determined the two ministers were eligible under the law.

Two of the three opposition members continued to boycott parliament to pressure the government to call new elections. As a result of the boycott, after six months the government declared the two seats vacant and called by-elections in those two constituencies, both won again by the opposition. Throughout the year opposition members occasionally boycotted full participation in Parliament; they appeared for each sitting, signed in, and then walked out.

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

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

Section 4. Corruption and Lack of Transparency in Government

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

The Integrity in Public Office Commission 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. However, the DPP lacked adequate manpower and resources for concentration on complicated money laundering and public corruption cases. These offices did not collaborate with any civil society groups.

The Integrity in Public Office Act, monitored by the Integrity in Public Office Commission, requires government officials and their immediate family members to account annually for their income, assets, and any gifts they have received. During the year the commission rejected two parts of a three-part public complaint brought against the prime minister for abusing his office. The commission began an inquiry into the third charge, that the prime minister used his influence to secure concessions for a business concern of which he was part owner. However, the prime minister's lawyer publicly accused individual commission members of political bias and reserved the prime minister's right to change the composition of the committee. The commission decided to postpone hearing testimony in this inquiry until January 2013.

During the year the DPP prosecuted the speaker of the house for failure to comply with the financial disclosure rules of the Integrity in Public Office Act. However, upon the defendant's submission of a "no case" motion, a judge dismissed the case. The DPP reported that the commission shared with his office a list of names of officials who had not filed their declarations on time. The commission has never referred a case to the DPP of an official living beyond his means and has never shared any of the disclosures with the DPP. Citing the difficulties involved in prosecuting cases when it lacks the underlying files, the DPP decided to cease pursuing prosecutions for failure to comply with the Integrity in Public Office Act, including the 16 officials who were charged with not filing on time at the end of 2011.

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

A number of domestic human rights and advocacy organizations operated without government restrictions. Several of these 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.

Government Human Rights Bodies: According to the constitution, a parliamentary commissioner has responsibility to investigate complaints against the government. However, this position was never filled and remained vacant at year's end.

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 government generally enforced it.

Women

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

Sexual violence and domestic violence cases were common, and the government recognized it as a problem. Authorities received reports of 19 rapes (the same as 2011), 33 indecent assaults (compared with 44 in 2011), 38 cases of unlawful sexual intercourse (compared with 44 in 2011), and 43 cases of grievous bodily harm (compared with 75 in 2011). No information was available about prosecutions or convictions. The government held workshops, participated in public awareness and outreach programs, and updated its domestic violence legislation. Survivors of sexual and domestic violence were sometimes reluctant to speak out due to fear of retribution, stigma, or further violence, which suggested that the problem may be significantly underreported. Although no specific laws criminalize spousal abuse, spouses could bring charges against their partners for battery. However, survivors were often reluctant to press charges due to their reliance on financial assistance of the abuser. Emergency temporary shelters were operated in private homes to preserve the privacy of the victims, but the location of a shelter was hard to keep secret. There was one government-supported shelter. The law allows abused persons to appear before a magistrate without an attorney and request a protective order. The court also may order the alleged perpetrator to be removed from the home to allow the victims, usually women and children, to remain in the home while the matter is investigated. However, inadequate police

resources made enforcement of these restraining orders difficult. The Bureau of Gender Affairs continued to provide occasional training to police officers in dealing with domestic abuse cases.

The Bureau of Gender Affairs reported that both male and female survivors sought assistance in dealing with domestic violence. Despite the range of programs offered, there were insufficient support systems to address the problem effectively. In addition to counseling services offered by the DNCW and the bureau, there was a legal aid clinic, and the government's legal department offered assistance as well.

The DNCW provided preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily. Funding constraints limited stays at the shelter to several days at a time; however, if needed, additional housing was provided in private homes for up to three weeks. The Catholic Church continued to be active in educating the public about domestic violence.

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

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

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

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

Children

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

Child Abuse: Child abuse continued to be a pervasive problem. The law protects children against assault, mistreatment, neglect, harmful circumstances, domestic violence, and abandonment by parent or guardian. The Welfare Department of the Ministry of Social Services, Community Development, and Gender Affairs handled 117 cases of child abuse through September, compared with 211 cases in all of 2011. The government operated a shelter for abused children. The Welfare Department also assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. That department reported all severe cases of abuse to the police. Lack of staff and resources continued to hamper enforcement of children's rights laws.

Child Marriage: The legal minimum age for marriage is 18 for both men and women, but 16 with parental consent. Underage marriage was rare, and the government kept no statistics on it.

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

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

Anti-Semitism

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

Trafficking in Persons

There were no confirmed reports of human trafficking during the year.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities, and there is no legal requirement mandating access to buildings for such persons. Many employers refused to hire persons with disabilities, and unemployment among such persons was very high.

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

Indigenous People

There was a Kalinago, or Carib, population estimated at 3,000 persons, most of whom lived in the 3,782-acre Carib Territory, an area not clearly delineated by law. They actively participated in decision making affecting themselves, their land, and their resources. Their rights are protected both in law and in practice.

There is a Ministry of Carib Affairs headed by a Kalinago. There were four preschools and two primary schools in the Carib Territory and two secondary schools in nearby communities attended by Kalinago children. Despite these schools, however, the Carib language has almost completely disappeared, and students elsewhere in the country were not taught about pre-Columbian history or the role played by Caribs in shaping the country's society. The Ministry of Education covered tuition for Kalinago students at the Dominica State College and awarded scholarships to Kalinago students for study throughout the Caribbean.

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

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

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

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

Consensual same-sex conduct between men is illegal, and no laws prohibit discrimination against a person on the basis of sexual orientation in employment, housing, education, or health care. There were no legal impediments to organizations for lesbian, gay, bisexual, and transgender (LGBT) persons. Anecdotal evidence suggested that societal discrimination against actual or perceived LGBT persons was common in the socially conservative society. There were very few openly gay men or lesbians.

During the year the minister of education formed a task force with responsibilities that include, according to the ministry's press release, "investigating and identifying the root cause of deviance and the increasing incidents of homosexuality among our student population." The press release further stated that the head of the task force "will be the ministry's champion on the issue of crime and violence and inappropriate behavior among our youth of school age."

In March authorities arrested two men on a gay cruise on suspicion of indecent exposure and sodomy for allegedly having sex on a cruise ship balcony. The two were later charged with indecent exposure, pled guilty, and paid fines of EC\$ 11,000 (\$4,075).

Other Societal Violence or Discrimination

Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred. The government and the Dominica Planned Parenthood Association continued programs designed to discourage discrimination against HIV/AIDS-infected persons and those living with them.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including statutes and regulations, protects the right of workers to form and join independent unions, provides for the right to strike, and protects the right of workers to bargain collectively with employers. The law prohibits antiunion discrimination by providing that employers must reinstate workers who file a complaint of illegal dismissal, which can cover being fired for engaging in union activities or other grounds of wrongful dismissal. These rights apply to all workers, including those in domestic service, agriculture, and foreign workers.

Restrictions on worker rights include the fact that emergency, port, electricity, telecommunications, and prison services, as well as the banana, coconut, and citrus fruit cultivation industries, were deemed “essential,” which deterred workers in these sectors from going on strike. Nonetheless, in practice essential workers conducted strikes 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. During the past five years, approximately 65-70 percent of such actions were resolved through mediation by the Office of the Labor Commissioner, with the rest referred to the Industrial Relations Tribunal for binding arbitration.

The government generally enforced laws governing worker rights effectively; penalties and remedies were effective. Workers exercised the legal right to organize and choose their representatives. The informal sector accounted for close to 50 percent of total employment, and workers in that sector saw increasing union

membership, although from a very small base. Most agricultural work was performed on small family-owned farms, and such workers were not unionized.

Workers exercised the right to collective bargaining, particularly in the nonagricultural sectors of the economy, including in government service. Government mediation and arbitration were also available free of charge; 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 minister of labor or the labor commissioner was able to resolve the matter. Employers generally reinstated employees who filed a complaint of illegal dismissal or paid compensation when ordered by the tribunal.

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

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and the government generally enforced the law effectively. However, there were unconfirmed reports of Chinese construction workers having their passports taken by their Chinese sponsors until money owed for bringing them to the country had been repaid. Government representatives responded that they had received no formal complaints of this and that when Chinese citizens needed to show their passports (e.g., after a traffic accident), they always had them.

c. Prohibition of Child Labor and Minimum Age for Employment

The law allows children to start working at 12 in family-run businesses and farms, as long as the work does not involve selling alcohol. At age 14 the law allows children to work in apprenticeships and regular jobs that do not involve hazardous work. The minimum age to be employed in hazardous work is 18. The law does not set out a list of hazardous work, but the Ministry of Labor reported that in practice jobs such as mining and seafaring were considered hazardous. Safety standards limit the type of work, conditions, and hours of work for children over the age of 14. The government effectively enforced these standards, and there were no abuses reported. Although resources were insufficient to engage in inspections on a comprehensive basis, the laws and penalties were generally adequate to remove children from illegal child labor.

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

d. Acceptable Conditions of Work

The minimum wage law establishes no universal minimum wage but rather varies base wages depending on the category of workers, with the lowest minimum wage set at EC\$4.00 (\$1.50), and the highest minimum wage at EC\$5.50 (\$2.06) per hour. Most workers (including domestic employees) earned more than the legislated minimum wage as prevailing wages were much higher than statutory minimum wages. A 2009 study done by the Dominica Central Statistical Office, the most recent data available, estimated the poverty income level at EC\$6,230 (\$2,335) annually, and found that 29 percent of the population lived below this threshold. Enforcement is the responsibility of the labor commissioner. Labor laws provide that the labor commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate to enable that person to be employed gainfully. The labor commissioner has not authorized subminimum wages for the last few years.

The standard legal workweek is 40 hours, worked in five or six days. The law provides overtime pay for work above the standard workweek, and the employee must give prior agreement for overtime work. Any time worked over 8 hours per day or 40 hours a week is paid time and a half, while work on holidays is paid double. The law stipulates paid holidays.

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

The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conducted health and safety surveys. Six inspectors from the Department of Labor in the Ministry of National Security, Immigration, and Labor, as well as safety officers in the Fire Department, conducted inspections that prescribe specific compliance measures, impose fines, and can result in prosecution of offenders. They covered all labor rights, and the Ministry of Health had 17 inspectors who also inspected labor violations. Fines for noncompliance with the Occupational Health and Safety Act are up to EC\$10,000 (\$3,750). There were no workplace deaths; five workplace accidents occurred during the year.