

DOMINICA 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Dominica is a multiparty, parliamentary democracy. In December 2014 general elections, Prime Minister Roosevelt Skerrit's Dominica Labor Party prevailed over the opposition United Workers Party by a margin of 15 seats to six. The Organization of American States election observer team noted some irregularities but found the elections generally free and fair. Civilian authorities maintained effective control over the security forces.

The most significant human rights abuses included domestic and sexual violence against women and children.

Other human rights problems included laws that discriminate against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons and discrimination against persons with disabilities.

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. The Office of the Director of Public Prosecutions (DPP) filed charges during the year, however, against four police officers who were implicated in the killing of a suspect while in custody in 2014.

As of November a police officer who allegedly shot a man in the stomach in 2013 was being tried in criminal court.

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 center conditions generally met international standards.

Administration: Prison recordkeeping was adequate, although there was some discrepancy among reports of prison population figures. There was no prison ombudsman to respond to complaints, but authorities permitted prisoners and detainees to submit complaints. An independent committee composed of the chief welfare officer, chaplain, social workers, and senior retired civil servants investigated complaints and monitored prison and detention center conditions.

Independent 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 Justice, Immigration, and National Security 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. The police did not refer any police abuse cases to the DPP for criminal prosecution during the year. The Financial Intelligence Unit, some of whose members have arrest authority, reports to the Ministry of Legal Affairs.

Civilian authorities maintained effective control over the police, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

Police apprehended persons openly with warrants issued by a judicial authority. The law requires that authorities inform persons of the reasons for their arrest within 24 hours and bring detainees to court within 72 hours. Authorities generally honored this requirement. If 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. The state provides a lawyer if a defendant charged with murder cannot afford one.

Pretrial Detention: Lengthy detention before trial was a problem due to judicial staff shortages. On average, prisoners remained on remand status for six months. As of November, Stockfarm Prison had 10-12 pretrial detainees.

e. Denial of Fair Public Trial

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

Inadequate prosecutorial and police staffing, limited resources for investigations, and 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, consult with an attorney in a timely manner, and 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. Defendants have the right to be informed of the charges in a language they can understand before a competent court in 72 hours or fewer. Defendants have the right to a fair and public trial without undue delay and may not be compelled to testify or confess guilt. The law extends the above rights to all defendants.

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.

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. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Libel/Slander Laws: Defamation is a criminal offense punishable by imprisonment or fines. While there were no active defamation suits against journalists, public and private threats of lawsuits from a variety of sources, including the Skerit government, were used against members of the media, leading to self-censorship.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without judicial oversight. According to the International Telecommunication Union, 62 percent of the population had access to the internet in 2014.

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 the freedoms of assembly and association, and the government generally respected these rights. Security forces dispersed two demonstrations about poor road conditions in the community of Salisbury, one in May and the other in June. The government declared the protests were illegal because the residents blocked the main highway connecting the cities of Roseau and Portsmouth.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

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

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

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, the council must grant permission for a newcomer to live in the territory and use the land.

Although no known cases occurred, the government stated it 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, or other persons of concern.

Protection of Refugees

Access to Asylum: While the law provides for asylum or refugee status, the government did not receive any cases to consider as of October. The government has not established a procedural system for either determining when to grant asylum or for providing protection to refugees in general.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised that ability.

Elections and Political Participation

Recent Elections: In December 2014 parliamentary elections, the ruling Dominica Labor Party won 15 seats in the House of Assembly, defeating the United Workers Party, which won six seats. Caribbean Community and the Organization of American States election observers declared the election generally fair and transparent. Observers praised the use of translucent ballot boxes for the first time but noted concerns about the voter list, on which the number of registered voters exceeded the country's population.

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. According to civil society sources and members of the political opposition, officials sometimes engaged in corrupt practices with impunity, but there were no documented cases.

Corruption: The independent DPP is responsible for prosecuting major crimes, including corruption offenses, but it lacked adequate manpower and resources for complicated money laundering and public corruption cases. These offices did not collaborate with any civil society groups. Integrity in Public Office Commission officials stated the challenges to the implementation of integrity legislation included the need for increased resources, inadequate prosecution of cases, failure of relevant authorities to present the commission's annual report to parliament, a lack of regulations concerning the procedures to deal with bribery and corruption, and a lack of public support.

In 2012 the integrity 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 in which he allegedly had an interest. In 2012, however, the prime minister's personal attorney publicly accused the commission of failing to act fairly on objective evidence and individual commission members of having political bias, and he called on the government to amend the law to change the composition of the committee. In 2014 the prime minister's personal attorney applied to the High Court for an

injunction to prevent the commission from continuing its inquiry. The court granted the injunction pending the High Court's review of the matter, and a hearing in the case was set for November 5.

Financial Disclosure: The Integrity in Public Office Act requires government officials to account annually for their income, assets, and gifts. All offenses under the act, including the late filing of declarations, are criminalized. The commission generally reported on late submissions and inappropriately completed forms but did not share financial disclosures of officials with the DPP.

Public Access to Information: The law does not provide for public access to government information, and the government did not provide routine access. The government maintained a website 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 publicly available on the website.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights and advocacy organizations generally operated without government restriction. Several of these groups, such as the Association of Disabled People, the Dominica National Council of Women, and a women's and children's self-help organization, operated freely and without government interference. Some civil society groups complained the government had blacklisted them and attacked their members in the media.

Government Human Rights Bodies: According to the constitution, a parliamentary commissioner has responsibility for investigating complaints against the government. This position, however, has never been filled and remained vacant as of October.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution specifically prohibits discrimination based on race, sex, place of origin, color, creed, and political opinion, 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 generally were not reluctant to arrest or prosecute offenders; whenever possible, female police officers handled rape cases. The Bureau of Gender Affairs collaborated with civil society organizations to assist victims of abuse.

Sexual violence and domestic violence cases were common, and the government recognized it as a problem. No information was available regarding prosecutions or convictions. The government held workshops and participated in public awareness and outreach programs. 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 might have been significantly underreported. Although no specific laws criminalize spousal abuse, spouses were able to bring charges against their partners for battery. Strong emotional ties to abusers and a lack of financial independence often made survivors reluctant to press domestic violence charges, and there is no legislation that allows the government to bring charges on behalf of the victim for domestic abuse.

Lifeline, a civil society organization, organized emergency temporary shelters in private homes. In previous years the Bureau of Gender Affairs provided temporary shelter to victims through collaboration with the Dominica National Council of Women, a civil society organization, but due to financial constraints, the bureau ceased providing temporary shelter in 2014. The bureau reported that the lack of temporary shelter made some victims reluctant to report domestic violence because they had no place of refuge.

The law allows abused persons to appear before a magistrate without an attorney and request a protective order. Although the country lacks a family court, magistrates 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. Inadequate police resources made enforcement of these restraining orders difficult, and the Bureau of Gender Affairs reported there was slow police response to reports of abuse. The Bureau of Gender Affairs continued to provide occasional training to police officers in dealing with domestic abuse cases and was working with the police to increase training.

The Bureau of Gender Affairs reported that male and female survivors sought assistance in dealing with domestic violence. There was a legal aid clinic, and the

government's legal department also offered assistance. The legal aid clinic was short-staffed, with only two lawyers, and the bureau reported that in some cases victims had to wait up to one month for an appointment to meet with legal aid staff. The bureau also provided counseling services, and a certified counselor joined the staff during the year.

Sexual Harassment: The law does not prohibit sexual harassment, and it continued to be a serious and persistent problem. The Bureau of Gender Affairs reported that women experience sexual harassment while walking in public and in the workplace, particularly young women.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence.

Discrimination: Women enjoy the same legal rights as men, but property ownership continued to be deeded to heads of households, who were usually men. The inheritance law provides that intestate succession leaves the surviving spouse with only a life estate. In recent years, however, the law was amended to accommodate transfer of property between spouses, which boosted married women's property ownership. Women in unrecognized common law partnerships frequently suffered reduced standards of living after such relationships ended. The law establishes pay rates for civil service jobs without regard to gender. Although some women occupied managerial or high-level positions, women faced discrimination in employment opportunities (see section 7.d.). The Bureau of Gender Affairs observed that 40 percent of department and division heads in the government were women, and this percentage increased to 60 percent in departments with a teaching or caregiving focus.

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 and growing problem. The law protects children against assault, mistreatment, neglect, harmful circumstances, domestic violence, and abandonment by parent or guardian. Sexual abuse cases discovered by social workers and medical professionals were reported to the

police. Lack of staff and resources hampered enforcement and actions of children's rights laws.

Early and Forced Marriage: The legal minimum age for marriage is 18 years for both men and women, but 16 years with parental consent.

Sexual Exploitation of Children: The age of consent for sexual relations is 16 years. The law prohibits commercial sexual exploitation of children for purposes of prostitution, and related activity can be prosecuted under laws against prostitution or trafficking. The law protects all persons from unlawful sexual connection, rape, procurement for prostitution, and incest, and it also prohibits sexual intercourse with a child by any adult who employs, controls, or pays wages to the child. 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.

The maximum sentence for sexual intercourse with a person under the age of 14 years is 25 years in prison. When victims are between 14 and 16 years of age, the maximum sentence is reduced to 14 years. Maximum prison terms for incest are longer: 25 years if committed by an adult with a person under the age of 14 years, and 10 years when victims are older than 14 years. Violators avoided prosecutions by paying monetary settlements out of court. The practice is not criminalized.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's country-specific information at travel.state.gov/content/childabduction/en/country/Dominica.html.

Anti-Semitism

There is no organized Jewish community in the country, and there were no reports of discrimination or anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

The law does not specifically prohibit discrimination against persons with disabilities. There is no legal requirement mandating access to buildings for such persons. Although persons with disabilities have the right to vote, polling stations were often inaccessible. Civil society stated that unemployment numbers were very high, in part, because employers refused to hire persons with disabilities (see section 7.d.).

The government funded one special school for children with intellectual or mental disabilities. Children with physical disabilities and those with hearing and vision disabilities were integrated into mainstream schools. Under an Education Enhancement Project, the government worked to increase the human resource capacity at schools to provide further services to students with disabilities, such as providing the services of a clinical psychologist and speech and language therapist. Primary and secondary schools operated special education programs.

Indigenous People

There is a Kalinago, or Carib, population estimated at 3,000 persons, most of whom lived in the 3,782-acre Carib Territory. They actively participated in decisions affecting themselves, their land, and their resources. Their rights are protected in law and practice.

The Ministry of Carib Affairs was 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. This included Isulukati Special Needs School, which provided specialized curricula for students with intellectual or mental disabilities in the Carib Territory. Government support programs existed for Kalinago students in the areas of school feeding, transport, and transition into higher education.

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. In addition, they were eligible for scholarships provided by the Barbados government for indigenous students attending the University of the West Indies.

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 years 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. For the latter, persons registered in the district but resident outside, either in another part of the country or abroad, could vote in the Carib Territory.

Despite improvements, the Kalinago people, particularly women, continued to experience some societal discrimination. Unemployment in the territory was higher than in the rest of the country, and Kalinago mean income was below the national mean. According to a 2008-09 study by the Caribbean Development Bank, the latest available data, 49.8 percent of the Kalinago population lived below the poverty line, compared with approximately 70 percent in 2003.

There were few jobs available 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. The distance from Roseau also contributed to unemployment. Since 2009 the government has implemented an 8.6 million East Caribbean Dollar (XCD) (\$3.2 million) project to build roads, build houses, develop a Kalinago cultural education facility, and increase civil society capacity in the Carib Territory. Many Kalinagos who moved to the capital city of Roseau did not report any significant discrimination.

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

Consensual same-sex sexual activity for both sexes is illegal under indecency statutes. The law also prohibits anal intercourse between male partners. The government reported rare enforcement of both statutes, and there were no instances of the law being enforced through October. Indecency statutes carry a maximum penalty of five years in prison, and consensual same-sex sexual conduct between adult men carries a maximum penalty of 10 years. No laws prohibit discrimination against a person on the basis of sexual orientation or gender identity in employment, housing, education, or health care.

There were no official reports during the year of violence against LGBTI persons, but anecdotal evidence suggested societal and employment discrimination against persons due to their real or perceived sexual orientation or gender identity was common in the socially conservative society (see section 7.d.). Furthermore, civil society organizations reported that LGBTI victims of violence or harassment

avoided notifying police of abuse because of social stigma. There were very few openly gay men or lesbians.

HIV and AIDS Social Stigma

Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred. The government, the Caribbean HIV and AIDS Alliance, 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 provides for the right of workers to form and join independent unions, bargain collectively, and conduct legal strikes. 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 laws apply to all workers, including those in domestic service and agriculture, as well as 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.” The International Labor Organization noted that the list of essential services is broader than international standards and called on the government to exclude the banana, citrus, and coconut industries, as well as the port authority, from the schedule of essential services. The procedure for essential workers to strike is cumbersome, involving appropriate notice and submitting the grievance to the labor commissioner for possible mediation. Strikes in those services deemed essential also could be stopped by compulsory arbitration. In recent years mediation by the Office of the Labor Commissioner resolved approximately 70 percent of strikes and sick-outs, while the rest were referred to the Industrial Relations Tribunal for binding arbitration.

The government generally enforced laws governing worker rights effectively. Penalties under law for violations of freedom of association and collective bargaining protections were a fine of 1,000 XCD (\$370) and three months’ imprisonment. The penalties generally were effective at deterring violations. Administrative and/or judicial procedures were not subject to lengthy delays or

appeals, and there were no cases during the year. Government mediation and arbitration also were available free of charge. Few disputes escalated to strikes or sick-outs. A company, a union representative, or an individual can request mediation by the Ministry of Justice, Immigration, and National Security. In most cases the ministry resolved the matter. If such a matter cannot be resolved, the labor commissioner may recommend, or either party may opt for, the matter to be submitted to the Industry Relations Tribunal. The tribunal's decisions are binding.

Workers exercised the legal right to organize and choose their representatives. Small family-owned farms performed most agricultural work, and workers on such farms were not unionized. Workers exercised the right to collective bargaining, particularly in the nonagricultural sectors of the economy, including in government service. Employers generally reinstated or paid compensation to employees who obtained favorable rulings by the ministry after filing a complaint of illegal dismissal. Generally, essential workers conducted strikes and did not suffer reprisals.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits most forms of forced or compulsory labor, but neither the criminal code nor the labor code prescribes penalties for forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The law allows children to start working at the age of 12 years in family-run businesses and farms, as long as the work does not involve selling alcohol. At 14 years of age, the law allows children to work in apprenticeships and regular jobs that do not involve hazardous work. The law prohibits employing any child under 16 years of age during the school year but with an exception for family-owned businesses. The law does not provide a list of hazardous work, but the Ministry of Justice, Immigration, and National Security reported that jobs such as mining and seafaring were considered hazardous. Safety standards limit the type of work, conditions, and hours of work for children over 14 years of age, most of whom work in services or hospitality. Children may not work more than eight hours a day. The government effectively enforced these standards, and no abuses were reported. The law provides for sentences of up to 20 years in prison for child labor violations. Although resources were insufficient to engage in inspections on a comprehensive basis, the laws and penalties generally were 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/reports/child-labor/findings/.

d. Discrimination with Respect to Employment or Occupation

The constitution specifically prohibits discrimination based on race, gender, place of origin, color, creed, and political opinion, and the government generally enforced this provision.

Discrimination in employment and occupation occurred with respect to women and persons with disabilities. The labor law permits employers to pay people with disabilities less money (see section 6).

e. 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 4.00 XCD (\$1.48) per hour and the highest minimum wage at 5.50 XCD (\$2.04) per hour. A 2009 study by the Dominica Central Statistical Office, the most recent data available, estimated the poverty income level at 6,230 XCD (\$2,307) annually and found that 29 percent of the population lived below this threshold. 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 did not authorize subminimum wages during the year.

The standard legal workweek is 40 hours, worked in five or six days. The law provides for overtime pay of time and a half for work above the standard workweek, and the employee must give prior agreement for overtime work. Work on holidays is paid double, and the law stipulates paid holidays. The law does not prohibit forced or compulsory overtime but mandates that overtime wages paid to employees be not less than 1.5 times standard wages.

The law mandates that occupational health and safety standards be consistent with international standards. The building and construction industry lacked sufficient regulations to meet international standards. Workers have the right to remove themselves from unsafe work environments without jeopardizing their employment, and the authorities effectively enforced this right.

Enforcement is the responsibility of the labor commissioner within the Ministry of Justice, Immigration, and National Security. The government is responsible for enforcing labor standards, including in sectors in which workers were not commonly unionized, but lacked sufficient resources to do so effectively. Four inspectors from the Department of Labor in the ministry, as well as 12 safety officers in the Fire Department, conducted inspections. To ensure compliance with labor regulations, inspectors have the authority to prescribe specific compliance measures and impose fines. Noncompliance can result in prosecution of offenders. The Ministry of Health had 17 inspectors who also inspected labor violations and conducted health and safety surveys. Fines for noncompliance with the Occupational Health and Safety Act were up to 10,000 XCD (\$3,700), and 75 XCD (\$28) per day for violations of wage or hours of work laws. Domestic labor is not covered by labor law.

The informal sector was significant, although statistics were unavailable. Most of the informal sector worked in agriculture. Some overtime violations were reported in the tourism sector. Quarry workers faced hazardous conditions. Some reports claimed that workers entered mines before adequate time elapsed after blasting, exposing them to hazardous chemicals. Other reports claimed that workers refused to wear their protective gear due to discomfort.