

DOMINICA 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Dominica is a multiparty, parliamentary democracy. In the 2014 general election, Prime Minister Roosevelt Skerrit's Dominica Labor Party prevailed over the opposition United Workers Party (UWP) by a margin of 15 seats to six. The Organization of American States (OAS) election observers noted some irregularities but found the elections generally free and fair.

Civilian authorities maintained effective control over the security forces.

Human rights issues included criminalization of consensual same-sex sexual activity between adults, although no cases were reported during the year, and criminalization of libel.

The government took steps to prosecute officials who committed abuses.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings. There were no updates on the February 2017 police killing that occurred in Boetica.

b. Disappearances

There were no reports of disappearances by or on behalf of government authorities.

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

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in the country's sole prison, Stockfarm Prison, regarding physical conditions or inmate abuse.

Administration: Authorities conducted proper investigations of credible allegation of mistreatment.

Independent Monitoring: An independent committee composed of the chief welfare officer, justices of the peace, chaplain, youth welfare officers, social workers, and senior retired civil servants visited the prison once per month to investigate complaints and monitor prison and detention center conditions. Prisoners could request meetings with the superintendent to lodge complaints. The government permitted visits by independent human rights observers. As of October no independent human rights observers visited the prison.

Improvements: During the year the prison finished installing beds and toilets in the maximum-security unit, built new administrative offices, and repaired its electrical room, which was damaged during Hurricane Maria.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

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 Financial Intelligence Unit reports to the Ministry of Legal Affairs and some of its officers have arrest authority.

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

Arrest Procedures and Treatment of Detainees

Police apprehended persons using 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 was 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.

Arbitrary Arrest: In August 2017 police charged opposition political figures with “obstruction of justice and incitement.” Three of them appeared at the high court in September, and the magistrate set the next hearing for March 28, 2019. The charges stemmed from public disturbances that occurred in February 2017, when police arrested four opposition UWP leaders on the grounds that a UWP public political meeting incited a subsequent riot. Police alleged that opposition members had attempted a coup and charged one of them with obstructing a police officer, but the court dismissed the charge against that individual.

Pretrial Detention: Lengthy detention before trial was a problem due to judicial staff shortages. On average, prisoners remained on remand status for six to 24 months. According to prison management, the average length of time prisoners remained on remand status was two months, while civil society claimed the waiting time was between six and 24 months.

e. Denial of Fair Public Trial

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

Inadequate prosecutorial and police staffing, outdated legislation, 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 and public trial, and an independent judiciary generally enforced this right.

Defendants have the right to a presumption of innocence; prompt and detailed information about charges; a trial without undue delay; personal presence at their trial; communication with an attorney of their choice; adequate time and facilities to prepare a defense; free assistance of an interpreter; challenge of prosecution or plaintiff witnesses and presentation of one's own witnesses and evidence; freedom from being compelled to testify or confess guilt; and appeal. Attorneys are not provided at public expense to defendants who cannot pay, unless the charge is murder.

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 to which one can bring lawsuits seeking damages for a human rights violation. Individuals and organizations cannot appeal adverse domestic decisions to regional human rights courts for a binding decision; however, individuals and organizations may present petitions to the Inter-American Commission on Human Rights.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Press and Media Freedom: Government officials at times did not permit journalists to attend parliamentary sessions.

Libel/Slander Laws: Defamation is a criminal offense punishable by imprisonment or fines. While there were no active defamation suits against local journalists, there was one active libel case against the leader of the opposition. Media representatives reported that public and private threats of lawsuits were used against media outlets and individual reporters, leading to some 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 appropriate legal authority.

According to the International Telecommunication Union, 67 percent of the population used the internet in 2017.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

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

Freedom of Peaceful Assembly

Following the February 2017 opposition political party's public meeting and subsequent riot, the government denied the opposition a number of permits to hold public meetings, citing public safety. There were no reports that the government denied permits during the year.

c. Freedom of Religion

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

d. Freedom of Movement

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

Protection of Refugees

Access to Asylum: The law provides for asylum or refugee status. The government has not established a system for 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 held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In the 2014 parliamentary elections, the ruling Dominica Labor Party won 15 seats in the House of Assembly, defeating the UAP, which won six seats. The Caribbean Community and OAS election observers declared the election generally fair and transparent but made a number of recommendations to address widespread concerns about the electoral process. Observers noted concerns about the voter list, whose number of registered voters exceeded the country's population. They also noted that the government should implement a voter identification system, review its electoral boundaries, review legislation covering the validity of votes, and enact political finance regulations. As of October none of the recommendations had been implemented. Furthermore, civil society and opposition leaders alleged that the government had provided travel and financial assistance to citizens living abroad to return to the island to vote for the prime minister's Dominica Labor Party.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but implementation was inconsistent. According to civil society sources and members of the political opposition, officials sometimes engaged in corrupt practices with impunity.

Corruption: Local media and opposition leadership continued to raise allegations of corruption within the government. The government continued to deny selling

diplomatic passports. In 2017 the integrity commission dismissed all pending cases against government officials, including the president and prime minister.

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 criminal offenses. The Integrity Commission generally reported on late submissions and inappropriately completed forms but did not share financial disclosures of officials with the Office of the Director of Public Prosecutions.

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

A number of domestic and international human rights and advocacy organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

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.

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

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape. Although the maximum sentence for sexual molestation (rape or incest) is 25 years' imprisonment, the usual sentence was five to seven years. Police generally were not reluctant to arrest or prosecute offenders. Whenever possible, female police officers handled rape cases. Women were reluctant to report domestic violence to police. The only shelter for victims of gender-based violence remained closed since Hurricane Maria in September 2017.

Civil society reported that sexual and domestic violence was common. The government recognized it as a problem, but according to civil society groups, understanding of gender-based violence, particularly domestic violence, was low among the general population. Although no specific laws criminalize spousal abuse, spouses were able to bring charges against their partners for battery.

The law allows abused persons to appear before a magistrate without an attorney and request a protective order.

Sexual Harassment: The law does not prohibit sexual harassment. Civil society reported it was a pervasive problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The constitution provides women with the same legal rights as men, but property deeds continued to be given to heads of households, who were usually men. The law establishes pay rates for civil service jobs without regard to gender.

Children

Birth Registration: Citizenship is derived by birth within the country's territory or to a citizen parent. Birth certificates were provided to parents on a timely basis. Failure to register resulted in denial of access to public services except emergency care.

Child Abuse: Child abuse was reportedly a pervasive problem, but up-to-date statistics on child abuse cases were not available.

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

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 may be prosecuted under laws against prostitution or trafficking. The law protects all persons from "unlawful sexual connection," rape, procurement for prostitution, and incest. It prohibits sexual intercourse between a child and an adult and increases the penalty to 25 years of imprisonment for an adult who rapes a child whom the adult employs or controls, or to whom the adult pays wages. A 2016 amendment criminalizes behaviors such as voyeurism.

The maximum sentence for sexual intercourse with a person under the age of 14 years is 25 years in prison. When victims are between ages 14 and 16, the maximum sentence is 14 years.

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 *Annual Report on International Parental Child Abduction* at travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.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.

Children with physical disabilities and those with hearing and vision disabilities were integrated into mainstream schools. Civil society reported that one visually impaired student completed the entire mainstream education with the help of a teacher. The government funded a separate special education school for children with intellectual or mental disabilities.

Indigenous People

The Kalinago (Carib) population was estimated at 3,000 persons, most of whom lived in the 3,782-acre Kalinago Territory. The government recognizes their special status, and their rights are protected in law and practice. The law allocates Kalinago territory and gives the local council its authority, including the exercise of veto power over new infrastructure projects within the territory. Some societal discrimination against the Kalinago existed, most notably when Kalinago children attended schools outside the territory.

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 males. The government reported rare enforcement of both statutes, and there were no instances of the law being enforced through September. Indecency statutes carry a maximum penalty of five years in prison, and same-sex sexual conduct between consenting adult men carries a maximum penalty of 10 years. No laws prohibit discrimination against a person on the basis of sexual orientation, gender identity or expression, or sex characteristics in employment, housing, education, or health care.

Anecdotal evidence suggested that strong societal and employment discrimination against persons due to their real or perceived sexual orientation, gender identity or expression, or sex characteristics was common. Furthermore, civil society organizations reported that lesbian, gay, bisexual, transgender, and intersex (LGBTI) victims of violence or harassment avoided notifying police of abuse because of social stigma. Stigma and fear of abuse and intimidation prevented LGBTI organizations from developing their membership or executing activities such as Pride marches.

HIV and AIDS Social Stigma

Reports from civil society indicated individuals with HIV feared job discrimination if their HIV status became public. This fear resulted in patients not seeking treatment at a hospital.

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. Employers must reinstate workers who file a complaint of illegal dismissal, which can cover being fired for engaging in union activities.

Restrictions on worker rights include the designation of emergency, port, electricity, telecommunications, and prison services, as well as the banana, coconut, and citrus fruit cultivation industries, as “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 essential services also could be subject to compulsory arbitration. In recent years mediation by the Office of the Labor Commissioner in the Ministry of Justice, Immigration, and National Security resolved approximately 70 percent of strikes and sickouts, while the rest were referred to the Industrial Relations Tribunal for binding arbitration.

The government and employers generally respected freedom of association and the right to collective bargaining. The government generally enforced applicable laws, and penalties generally were sufficient to deter 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 were free of charge. Few disputes escalated to strikes or sickouts. A company, a union representative, or an individual may request mediation by the Ministry of Justice, Immigration, and National Security. In most cases, the ministry resolved the matter.

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.

Persons with disabilities generally experienced hiring discrimination.

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. The government effectively enforced the law.

c. Prohibition of Child Labor and Minimum Age for Employment

The law provides for a minimum age of employment: children may start working at the age of 12 years in family-run businesses and farms, as long as the work does not involve selling alcohol. The law allows children age 14 to work in apprenticeships and regular jobs that do not involve hazardous work. The law prohibits employing any child under 16 during the school year but makes an exception for family-owned businesses. While the government does not have a comprehensive list of hazardous work prohibited for children, the Ministry of Justice, Immigration, and National Security considers jobs such as mining and seafaring as hazardous. In addition, children under 18 are prohibited from engaging in night work and from working on ships. Safety standards limit the type of work, conditions, and hours of work for children over 14, most of whom worked in services or hospitality. Children may not work more than eight hours a day. The government effectively enforced these standards. 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 and 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. There were no government programs in place to prevent discrimination in the workplace and no penalties to deter violations.

Discrimination in employment and occupation occurred with respect to women, sexual orientation, and persons with disabilities. The labor law permits employers to pay persons with disabilities lower wages.

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 east Caribbean dollars (XCD) (\$1.48) per hour and the highest minimum wage at \$5.50 XCD (\$2.04) per hour. A 2009 study by the Central Statistical Office, the most recent data available, estimated the poverty income level at \$6,230 XCD (\$2,310) annually and found that 29 percent of the population lived below this threshold. The law provides that the labor commissioner may

authorize the employment of a person with disabilities at a wage lower than the minimum rate. The labor commissioner did not authorize subminimum wages during the year.

The law provides for overtime pay for work above the standard workweek of 40 hours, and the employee must give prior agreement for overtime work. 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. Some overtime violations were reported in the tourism sector.

The law was amended in 2017 to ensure that occupational health and safety standards were consistent with international standards. Workers have the right to remove themselves from unsafe work environments without jeopardizing their employment, and authorities effectively enforced this right.

Enforcement is the responsibility of the labor commissioner within the Ministry of Justice, Immigration, and National Security, including in the informal sector, where workers were not commonly unionized. The commissioner lacked sufficient resources, including inspectors, to enforce the law 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 penalties for violations were insufficient to ensure compliance. 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.

The informal sector, primarily in agriculture, was significant, although statistics were unavailable. No social protection is provided to persons in the informal sector beyond social security benefits for maternity leave, sickness, disability, or death. Domestic workers are not covered by labor law and did not receive social protections.

Quarry workers faced hazardous conditions. Some reports claimed that workers entered mines before adequate time elapsed after blasting, which exposed them to hazardous chemicals. Other reports claimed that workers refused to wear their protective gear due to discomfort.

There were no reported workplace fatalities and accidents.