

DOMINICA 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Dominica is a multiparty parliamentary democracy. In the December general election, 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. The prime minister is the head of government. The House of Assembly elects the president, who serves as the head of state. Election observers from the Organization of American States (OAS), United Nations, and Caribbean Community found the elections generally free and fair in their preliminary reports.

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 the security forces.

Significant human rights issues included: criminalization of libel; and criminalization of consensual same-sex sexual activity between adults, although there were no reported cases of enforcement during the year.

The government took steps to prosecute officials who committed human rights abuses, but some cases remained unresolved.

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.

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 reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns regarding physical conditions or inmate abuse.

Administration: Authorities investigated credible allegations of mistreatment.

Independent Monitoring: An independent committee composed of the chief welfare officer, justices of the peace, chaplains, 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.

Improvements: Prison officials installed new toilets and beds in the maximum-security block and upgraded the recreational space.

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. The government generally observed these requirements.

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 observed these requirements. If authorities are unable to bring a detainee to court within the requisite period, the detainee may be released and rearrested later. There was a functioning bail system. Criminal detainees had prompt access to counsel and family members. The state provides a lawyer for indigent defendants only in murder cases.

Pretrial Detention: Lengthy detention before trial was a problem due to judicial staff shortages. According to prison management, prisoners remained on remand status for months or even years. As of October, 40 percent of inmates were awaiting trial.

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 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; the ability to challenge prosecution or plaintiff witnesses and to present their own witnesses and evidence; freedom from being compelled to testify or confess guilt; and appeal.

Political Prisoners and Detainees

In the case of three opposition political figures arrested in 2017, in October the court postponed additional hearings until early 2020. Police charged opposition political figures with “obstruction of justice and incitement” stemming from public disturbances following a UWP public political meeting. The lead defendant appeared three times in court during the year. The remaining defendants were outside the country.

Civil Judicial Procedures and Remedies

There is an independent, impartial judiciary to which one can bring lawsuits seeking civil remedies 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.

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 filed by the leader of the political opposition party against an acting government minister. Media representatives reported that public and private threats of lawsuits were made 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.

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.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://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.

e. Internally Displaced Persons

Not applicable.

f. Protection of Refugees

Access to Asylum: The law provides for granting asylum and refugee status. The government has not established systems for determining when to grant asylum or protect refugees.

g. Stateless Persons

Not applicable.

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 December parliamentary elections, the ruling DLP won 18 seats in the House of Assembly, defeating the UWP, which won three seats. In their preliminary reports, the Caribbean Community, OAS, and UN election observers assessed the election as generally fair and transparent. Civil society and opposition leaders reiterated previous allegations that the government provided travel and financial assistance to DLP-leaning citizens living abroad to return to the country to vote, tipping the results in favor of the DLP. Following the election, Skerrit nominated former Caribbean Supreme Court justice Sir Charles Byron to

organize and lead an electoral reform commission to overhaul the country's outdated voter lists, implement a voter identification system, and review the electoral constituency boundaries.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government implemented the law inconsistently. 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. Civil society groups staged a protest alleging the government had misappropriated one billion Eastern Caribbean dollars (\$370 million) in revenues from the Citizenship by Investment program. A December *al-Jazeera* video documented allegations of government officials selling diplomatic passports. The government denied the allegations of misappropriation and continued to deny allegations of selling diplomatic passports.

Financial Disclosure: The law requires government officials to account annually for their income, assets, and gifts. All offenses under the law, including the late filing of declarations, are criminal offenses. The Integrity Commission generally reported on late submissions and on 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

Several 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 remained vacant throughout the year.

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

Women

Rape and Domestic Violence: The law criminalizes rape of men and 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. Whenever possible, female police officers handled rape cases involving female victims. Women were reluctant to report domestic violence to police. The only shelter for victims of gender-based violence remained closed after suffering damage during Hurricane Maria in 2017.

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

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 groups 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 requires equal pay for civil service positions. Women and men generally received equal salaries for comparable jobs.

Children

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

Child Abuse: According to the government and civil society, child abuse remained a pervasive problem. The government maintained a Child Abuse Prevention Unit responsible for protecting children from all forms of abuse. The unit supported victims by providing counseling, psychological assessments, and other services such as financial assistance to abused children and to family members.

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 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 younger than age 14 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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.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 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 were no reports of overt discrimination against persons with disabilities.

There is no legal requirement mandating access to buildings for persons with disabilities. Few buildings, including public buildings, were retrofitted to provide access for persons with physical disabilities.

Children with physical disabilities and those with hearing and vision disabilities were integrated into mainstream schools. The government provides stipends to cover educational expenses in private special education schools for children with intellectual or mental disabilities.

Indigenous People

The population of the Kalinago (Carib) indigenous group was approximately 3,000, most of whom lived in the 3,782-acre Kalinago Territory. The government recognizes their special status, and the Kalinagos' rights are protected in law and practice. The law establishes the Kalinago territory and assigns management authority over the territory to the local council, including the exercise of veto power over new infrastructure projects within the territory. Some societal discrimination against the Kalinago existed, most notably against Kalinago children when they attended schools outside the territory. There was no secondary school inside 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. In July an anonymous citizen, backed by the Canadian HIV/AIDS Legal Network, filed a lawsuit challenging the portions of the Sexual Offenses Act that criminalize specific sexual activity between same-sex partners. The purpose of the lawsuit was to have the statutes declared unconstitutional. The government reported it rarely enforced either statute, with no instances of the law being enforced through October. 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 based on sexual orientation, gender identity, gender 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, gender expression, or sex characteristics was common. 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 conducting 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 some patients not seeking medical treatment.

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, and workers exercised these rights. Workers exercised the right to collective bargaining primarily in the nonagricultural sectors of the economy, including in the civil service. The law prohibits antiunion discrimination. Employers must reinstate workers who file a complaint of illegal dismissal, pending review of the complaint, which can cover termination for engaging in union activities. Generally, when essential workers conducted strikes, they did not suffer reprisals. Employers generally reinstated or paid compensation to employees who obtained favorable rulings by the ministry following a complaint of illegal dismissal.

The law designates emergency, port, electricity, telecommunications, and prison services, as well as the banana, coconut, and citrus fruit cultivation industries, as “essential,” limiting their right to strike. The International Labor Organization noted the list of essential services is broader than international standards. The procedure for essential workers to strike is cumbersome, involving appropriate notice and submission of the grievance to the labour commissioner for possible mediation. Strikes in essential services also could be subject to compulsory 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 judicial procedures were not subject to lengthy delays or appeals, and there were no such problems 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 recent years mediation by the Office of the Labour 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.

Small, family-owned farms performed most agricultural work, and workers on such farms were not unionized.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits most forms of forced or compulsory labor, but the law does not prescribe penalties for forced labor. The government effectively enforced the law.

c. Prohibition of Child Labor and Minimum Age for Employment

The legal minimum age of employment is 12 if children work in family-run businesses and farms, as long as the work does not involve selling alcohol. The law allows children age 14 and older to work in apprenticeships and regular jobs that do not involve hazardous work. The law prohibits employing any child younger than 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 younger than 18 are prohibited from working at night and from working on ships. Safety standards limit the type of work, conditions, and hours of work for children older than 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 sufficient to deter violations. Although resources were insufficient for comprehensive inspections,

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 <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

d. Discrimination with Respect to Employment and Occupation

The constitution specifically prohibits discrimination based on race, gender, place of origin, skin color, creed, or political opinion. 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 against women and persons with disabilities. Discrimination also occurred based on sexual orientation. The law permits employers to pay lower wages to persons with disabilities.

e. Acceptable Conditions of Work

The law establishes no universal minimum wage but rather sets base wages depending on the category of worker. The labor commissioner did not authorize subminimum wages during the year. No reliable recent data indicate whether average minimum wages are above or below the poverty level.

The law provides for overtime pay for work above the standard workweek of 40 hours. The law does not specifically prohibit forced or compulsory overtime. The law mandates that overtime wages be paid at a minimum of 1.5 times an employee's standard wage and the employee must give prior agreement to work overtime.

The law ensures occupational health and safety standards are 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. This enforcement includes the informal sector, where workers were not commonly unionized. The commissioner

lacked sufficient resources, including inspectors, to enforce the law effectively. The penalties for violations were insufficient to ensure compliance.

The informal sector was a significant part of the economy, but credible data on the informal workforce 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 do 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.

There were no reported workplace accidents causing fatalities or major injuries during the year.