



**Office of the Attorney General
Commonwealth of Dominica**

MEMORANDUM

DATE: 16th February, 2016

SUBJECT: ACCESS TO JUSTICE FOR CHILDREN: COMMONWEALTH OF DOMINICA

I have been asked to advice on the accuracy of the assertion set out in a report on the access to justice for children: Dominica produced by White and Case LLP in February, 2014 and to identify any positive outcome in the report.

Issue:

Whether the “Access to Justice for Children Dominica” report give an accurate description of the right of a child?

Key responses to the report:

1. The report stated that the Convention on the Rights of the Child (CRC) was ratified on the 13th of March, 1991. The CRC has not been incorporated into the laws of Dominica, however the Court has used the CRC in its decision making process, example in the case of the State v Andrew Valmond DOMHCV2010/0297.
2. A child can bring a civil case pursuant to part 23 of the Civil Procedure Rules. The rules allow for a parent, guardian or someone appointed by the court to bring the claim on behalf of the minor as his or her “next friend”. The Magistrate Code of Procedure Chap 4:02 makes similar provisions.
3. The Legal Aid Clinic has been instrumental in offering its services to low income families of Dominica at a relatable fee. The Legal Aid Clinic mainly provide services in family matters whether it is domestic violence or protection orders for members of the family including children.

4. The Constitution of the Commonwealth of Dominica provided that any person may apply to the court for redress where their constitutional rights have been breached. These proceeding can be brought by a representative of the child. The **Employment of Children (prohibition) Act, Chap 90:05** and the **Employment of Women, Young Persons and Children Act, Chap 90:06** further provides for the protection of children for child labour and exploitation of child labour.
5. The **Children and Young Person Act Chap 37:50** Act speaks solely to Juveniles (a person under the age of 18 years) and their proceedings and procedure before the Court. The only area which contains provisions relating to their care and protection is Part II which titles ‘Prevention of cruelty to and the protection of Juveniles’.
6. There is a Juvenile Court established under the **Children and Young Persons Act Chap 37:50**. The Act provides for a separate court (not necessarily building) to deal with juvenile matters. The magistrate can make decisions on how each case will be dealt with and the punishment to be handed down.
7. There has been more reporting of case of child sexual abuse around the country as there have been many campaign efforts by the Ministry of Social Services and Gender and other NGO entities to raise awareness of child abuse. The information provided informs the public of how and where help can be obtained. Most of these cases are referred to the Legal Aid Clinic.

Conclusion:

8. The report drafted by White and Case LLP does not give a true reflection of the country position as it relates to access to justice for children. There is a lot of work which must be done statute wise to bring the laws of the country into conformity to adhere to our treaty obligations. The Child Justice Bill when enacted will replace the Children and Young Persons Act Chap 37:50 and cover a broad area of law. The Bill covers areas from Criminal Responsibility to Sentencing of child.