

SAINT LUCIA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Saint Lucia is a multiparty, parliamentary democracy. In generally free and fair elections in November 2011, the Saint Lucia Labour Party (SLP) won 11 of the seats in the 17-member House of Assembly, defeating the previously ruling United Workers Party (UWP). SLP leader Kenny Anthony became prime minister. Security forces reported to civilian authorities.

The most serious human rights problems included long delays in investigating reports of unlawful police killings, abuse of suspects and prisoners by the police, and continued postponements of trials and sentencing.

Other human rights problems included violence against women, child abuse, and discrimination against persons based on their real or perceived sexual orientation or gender identity.

Although the government took some steps to prosecute officials and employees who committed abuses, the procedure for investigating police officers was lengthy, cumbersome, and often inconclusive. When the rare cases reached trial years later, juries often acquitted, leaving an appearance of de facto impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, there were four fatal police shootings during the year, compared with 12 in 2011.

On July 31, at approximately around 3 a.m. in Dennery, police shot and killed Dalton Greaves, who according to media reports was unarmed and shot while fleeing the scene. Police reported that the investigation continued at year's end.

There was limited progress in the inquests and other investigations into the 12 fatal police shootings that took place during 2011, some reportedly committed by officers associated with an ad hoc task force within the police department. In 2011 the Criminal Investigations Department conducted investigations and sought the advice of the director of public prosecutions (DPP) regarding what, if any, charges

the police should file. By February the DPP had returned all 12 cases from 2011 with recommendations to conduct inquests, six of which subsequently were completed; no information was available regarding conclusions.

There was only limited progress in coroner's inquests and other investigations of police homicides dating back to 2007. In an attempt to expedite investigative processes and review of cases more broadly, the government named all magistrates as coroners and gave them the authority to conduct coroner's inquests. Authorities reported that two of four inquests from 2010, two of three from 2009, and two of three from 2008 remained pending in the coroner's inquest process. The trial of a police officer charged with manslaughter by recklessness in the 2008 fatal shooting of John Garvy Alcindor began in late 2011, and the trial continued at year's end.

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; however, prisoners and suspects regularly complained of physical abuse by police and prison officers. There also were reports that police beat persons under arrest either during the arrest or while in custody at the initial detention center prior to arrival at the prison.

During the year citizens filed a number of complaints against the police, most of which were for abuse of authority. Limited information was available regarding official investigations of complaints pending in various stages of review from earlier years. The DPP is responsible for filing charges in such cases but was unable to monitor their progress due to limited resources and manpower. Although the government sometimes asserted that it would launch independent inquiries into allegations of abuse, the lack of information created a perception of impunity for the accused officers.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

Physical Conditions: The Bordelais Correctional Facility, which has an intended capacity of 500 inmates, held 568 inmates in November, of whom 336 were sentenced prisoners and 232 were on remand awaiting trial or other judicial disposition. Prisoners and detainees had access to potable water. There were eight female inmates and 63 youth offenders ages 16-21. Female inmates were segregated from male inmates, as were youth offenders. Detainees were segregated from sentenced inmates.

The Boys Training Center, a facility for boys charged with criminal offenses or suffering from domestic or other social problems, operated separately from the prison, and conditions were substandard. Authorities did not segregate boys charged with crimes from those with social problems, and the facility was not designed to house juvenile delinquents. There is no residential facility for girls under age 16 charged with crimes, and authorities generally released such girls on minimal bail.

Administration: Recordkeeping on prisoners was adequate. The law does not allow for alternatives to sentencing for nonviolent offenders. Authorities allowed prisoners and detainees reasonable access to visitors and permitted religious observance. Prison authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship, but there are no prison ombudsmen to respond to complaints. Instead, the cabinet appoints a Board of Justices (usually about six retired judges and magistrates) to hear complaints from prisoners. The board has unrestricted access to the prison but no formal powers of enforcement. It reports to the Minister of Home Affairs and National Security. Prisoners and detainees also had access to attorneys in order to lodge complaints.

Monitoring: The Board of Justices also makes health and welfare inspections, but was inactive during the year, making no visits to the prison. According to the director of corrections, outside human rights groups would be welcome to visit the prison, but no such requests were received during the year.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Royal Saint Lucia Police has responsibility in law and in practice for law enforcement and maintenance of order within the country and reports to the Ministry of National Security and Home Affairs. The Criminal Investigations Division investigates internal affairs and allegations against officers and refers cases to the DPP for review and, if authorities file charges, prosecution. There is also a Police Complaints Commission to take complaints from members of the public; a special unit of three police officers assigned to assist the commission investigated these complaints.

Civilian authorities maintained effective control over the police, but there were reports of impunity. Although the government has institutions and procedures in place to investigate abuses by the security forces, these efforts have been ineffective overall. For instance, although authorities referred many cases for investigation and inquests, prosecutions rarely resulted, and cases remained in investigation without conclusion for years. Lack of adequate human resources in the criminal justice system (prosecutors and criminal magistrates), delays in the judicial system, the reluctance of witnesses to testify, and strong public and political support for the police contributed to the overall inability of the government to address allegations in a timely manner.

Arrest Procedures and Treatment While in Detention

The constitution stipulates that authorities must apprehend persons openly with warrants issued by a judicial authority and requires a court hearing within 72 hours of detention. Authorities allowed detainees prompt access to counsel and family. There is a functioning bail system.

Pretrial Detention: Prolonged pretrial detention continued to be a problem; there were 187 of the prisoners at Bordelais Correctional Facility awaiting trial. Those charged with serious crimes spent an estimated six months to five years in pretrial detention.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants have the right to a fair trial without undue delay and to be informed promptly and in detail of the charges. Trials can be by jury and are public. Authorities provide legal counsel for those who cannot afford a defense attorney only in murder cases. Defendants are entitled to select their own representation, are presumed innocent until proven guilty in court, and have the right of appeal. Defendants have the right to confront or question witnesses and have access to government-held evidence.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent, impartial judiciary in civil matters 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, 44 percent of households had Internet access and 42 percent of citizens used it in 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 government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, but the government has established a system for providing protection for refugees. According to the UNHCR, there were five asylum seekers in the country. Refugees and asylum seekers had access to education, health care, social services, law enforcement, legal aid, and access to courts. The government has assisted the safe, voluntary return of refugees to their home countries.

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 November 2011 the SLP defeated the UWP by winning 11 of 17 parliamentary seats. The UWP filed court challenges over the results in three constituencies; these had not been resolved by year's end. SLP leader Kenny Anthony became prime minister; he previously served twice as prime minister in the period 1997 to 2006. Electoral observer missions from the Organization of American States (OAS), the Caribbean Community, and the Commonwealth Secretariat considered the elections generally free and fair. The OAS mission's final report stated the elections were conducted in a fluid and peaceful manner and noted an increase in participation by women as candidates and as election workers. The report recommended that the government update the voters' registry, redraw constituency boundaries, adopt rules to prohibit anonymous and foreign campaign contributions, take steps to increase voter participation, and consider a quota system to provide incentives for greater participation by women in politics.

Participation of Women and Minorities: Voters elected three women to the House of Assembly; two of them also served as members of the cabinet. The governor general was a woman; she appointed a woman to serve as deputy president of the Senate, and the SLP appointed another woman to serve as a senator.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. Although no senior officials were charged, there were successful investigations and arrests of customs and correctional officers for corruption and drug trafficking activities.

Corruption continued to be a problem, but the public considered it less significant than in previous years. Observers reported that some government procurement contracts were steered to favored bidders.

High-level government officials, including elected officials, were subject to annual disclosure of their financial assets to the Integrity Commission, a constitutionally established commission. While authorities do not make public the disclosure

reports filed by individuals, the commission submits a report to parliament each year, after which these reports become public documents, although not published nor widely disseminated. The commission lacked sanctions to compel compliance with the law, and in 2011 the chairman estimated that compliance was about 50 percent.

The parliamentary commissioner, auditor general, and Public Services Commission are responsible for combating corruption. Parliament can also appoint a special committee to investigate specific allegations of corruption. These agencies did not collaborate with civil society. While they were independent, lack of resources hampered their effectiveness.

The law does not provide for public access to government information.

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

A few domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases, and government officials often were cooperative and responsive to their views.

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

The constitution prohibits discrimination on the basis of sex, race, place of origin, political opinions, color, or creed, but no specific legislation addresses discrimination based on disability, language, sexual orientation or gender identity, or social status.

Women

Rape and Domestic Violence: The law criminalizes rape, but not spousal rape. Police and courts enforced laws to protect women against rape, which is punishable by 14 years' to life imprisonment. The police were not reluctant to arrest or prosecute offenders, although many victims were reluctant to report cases of rape or to press charges due to fear of stigma, retribution, or further violence. The Ministry of Home Affairs reported that authorities charged eight persons with rape during the year. There were two convictions for rape, compared with 15 charged and none convicted in 2011. The DPP reported that sexual assault cases were a growing problem but that in approximately one third of sexual offenses, charges did not proceed due to the reluctance of survivors to testify.

Domestic violence was also a significant human rights problem. While police were willing to arrest offenders, the government prosecuted crimes of violence against women only when the victim pressed charges. Often victims were reluctant to press charges due to their reliance on financial assistance of the abuser. Shelters, a hotline, and police training were all used to deal with the problem, but the lack of financial security for the victim was one of the key impediments. The Saint Lucia Crisis Center, a nongovernmental organization (NGO) receiving government assistance, maintained a facility for battered women and their children. The family courts heard cases of domestic violence and crimes against women and children.

The Ministry of Health, Wellness, Human Services, and Gender Relations assisted victims. Authorities referred most of the cases to a counselor, and the police facilitated the issuance of court protection orders in some cases. The Saint Lucia Crisis Center reported assisting 120 people, compared with 125 in 2011. The Women's Support Center took in 48 clients and children and received 73 phone calls, compared with 24 clients and children and 124 phone calls in 2011.

The police's Vulnerable Persons Unit, designed to handle cases involving violence against women and children, increased police responsiveness to these cases. This unit worked closely with the Family Court and the ministry's Department of Gender Relations and Department of Human Services and Family Affairs.

The Department of Gender Relations also ran the Women's Support Center, which provided shelter, counseling, residential services, a 24-hour hotline, and assistance in finding employment. Various NGOs, such as the Saint Lucia Crisis Center and the National Organization of Women, also provided counseling, referral, education, and empowerment services. The crisis center assisted in cases of physical violence, incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights.

The Family Court can issue a protection order prohibiting an abuser from entering or remaining in the residence of a specified person. Occupation and tenancy orders provide certain residential rights to victims of domestic violence, such as rental payments and other protective orders. The Family Court employed full-time social workers who assisted victims of domestic violence.

Sexual Harassment: The criminal code prohibits sexual harassment, but it remained a problem, as government enforcement was not an effective deterrent.

The Department of Gender Relations continued an awareness program through which it provided training opportunities in workplaces and assisted establishments in creating policies and procedures on how to handle sexual harassment. As a result most cases of sexual harassment were handled in the workplace rather than prosecuted under the criminal code.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children. Skilled attendance at delivery and in postpartum care was widely available--in 2008 UN data put it at 98 percent of live births. Access to contraception was widely available.

Discrimination: Women enjoyed equal rights under the law, including in economic, family, property, and judicial matters. However, in practice women were underrepresented in the labor force, had higher levels of unemployment than men, and sometimes received unequal and lower pay. Women's affairs were under the jurisdiction of the Department of Gender Relations, whose parent ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

Children

Birth Registration: Children receive citizenship by birth to a Saint Lucian parent. Authorities provided birth certificates to parents without undue administrative delay.

Child Abuse: Child abuse remained a problem. The Department of Human Services and Family Affairs handled a number of cases of sexual abuse, physical abuse, abandonment, and psychological abuse, but no figures were available on its prevalence during the year. Although the government condemned the practice, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of the victims. Nonetheless, courts heard some child sexual abuse cases and convicted and sentenced offenders.

The human services division provided a number of services to victims of child abuse, including counseling, facilitating medical intervention, finding foster care, providing family support services, and supporting the child while working with the police and attending court. The division was also involved with public outreach in schools, church organizations, and community groups.

The Caribbean Association for Feminist Research and Action (CAFRA) operated a hotline for families suffering from different forms of abuse; however, in the absence of any government shelter for abused children, many children were returned to the homes in which they were abused. Through the hotline and also through its outreach with sex workers, CAFRA learned of various cases of sexual abuse that survivors never reported to the police. The government pays families for foster care, but the system is relatively new.

The Catholic Church operated the Holy Family Home for abused and abandoned children, with space for up to 40 children whom police or social workers referred to the center.

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: Laws on sexual offenses include rape, unlawful sexual connection, and unlawful sexual intercourse with children under 16. The age of consent is 16, but a consent defense can be cited if the victim is between 12 and 16 years of age; no defense of consent is allowed when the child is under 12. The Counter-Trafficking Act prohibits forced labor or sex trafficking of children under age 18. No separate law defines or specifically prohibits child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

No specific legislation protects the rights of persons with disabilities or mandates provision of government services for them. The government is obliged to provide disabled access to all public buildings, but only a few government buildings had ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the Health Ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and the blind up to the secondary level. There also was a school for persons with mental disabilities; however, children with disabilities faced barriers in education, and there were few opportunities for such persons when they became adults.

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

Consensual same-sex sexual activity is illegal under indecency statutes, and some same-sex sexual activity between men is also illegal under anal intercourse laws. Indecency statutes carry a maximum penalty of five years, and anal intercourse carries a maximum penalty of 10 years in prison. No legislation protects persons from discrimination based on sexual orientation or gender identity.

While the indecency statutes and anal intercourse laws were rarely enforced, there was widespread social discrimination against lesbians, gays, bisexual, and transgender (LGBT) persons in the deeply conservative society. There were few openly LGBT persons in the country, but on May 17, as reported widely in the media, several members of the NGO United and Strong demonstrated outside the prime minister's office to denounce homophobia and advocate advancement of human rights for LGBT individuals.

There were few reported incidents of violence or abuse during the year. Civil society representatives noted that LGBT persons were reluctant to report incidents of violence or abuse out of fear of retribution or reprisal due to their sexual orientation.

The October 2011 fire that destroyed the offices of the country's sole LGBT organization, United and Strong, apparently was electrical in nature and not a hate crime.

Other Societal Violence or Discrimination

There was widespread stigma and discrimination against persons infected with HIV/AIDS, although the government implemented several programs to address

this problem, including a five-year program to combat HIV/AIDS. The UN Population Fund also provided support for youth-oriented HIV/AIDS prevention programs.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

A new labor code took effect August 1; it further defines worker rights and increases penalties for violations. At year's end the Labor Ministry was drawing up implementing regulations for the new code. The law, including applicable statutes and regulations, specifies the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, and workers fired for union activity have the right to reinstatement.

The law places restrictions on the right to strike by members of the police and fire departments, health services, and utilities (electricity, water, and telecommunications) on the grounds that these organizations provide "essential services." They must give 30 days' notice before striking. Once workers have given notice, authorities usually referred the matter to an ad hoc tribunal set up under the Essential Services Act. The government selects tribunal members, following rules to ensure tripartite representation. The ad hoc labor tribunals try to resolve disputes through mandatory arbitration.

The government generally respected freedom of association and the right to collective bargaining in practice. The government effectively enforced these laws, including with effective remedies and penalties. Worker organizations were independent of the government and political parties. All trade unions belong to the umbrella Saint Lucia Trade Union Federation except for the National Workers Union. Workers exercised the right to strike and to bargain collectively in practice.

Many companies were openly antiunion in attitude, but there were no reports of interference in practice.

b. Prohibition of Forced or Compulsory Labor

The government prohibits all forms of forced or compulsory labor and effectively enforced the prohibition.

Although there have been reports of forced labor in the past, including one reported case of domestic servitude in 2011, there were no reports of forced labor during the year.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law provides for a minimum legal working age of 16. The minimum legal working age for industrial work is 18. The law provides special protections for children between the age of 16 and 18 as to working conditions and prohibits certain hazardous work, although there are no specific restrictions on working hours for those under 18. Children ages 16 to 18 need their parent's permission to work. There is no list of hazardous work.

The Ministry of Education, Human Resource Development, and Labor was responsible for enforcing statutes regulating child labor. Employer penalties for violating the child labor laws, according to the new labor code that went into effect August 1, were up to EC\$10,000 (\$3,704) or three months' imprisonment. These laws were effectively enforced, and the penalties and inspections were adequate, both prior to and after August.

Child labor existed in the informal economy in agriculture, particularly banana harvesting, in roadside craft shops, urban food stalls, and selling confectionery on sidewalks on nonschool days and during festivals. There were no formal reports of violations of child labor laws.

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

Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was EC\$300 (\$111), for shop assistants EC\$200 (\$74), and for messengers EC\$160 (\$59). The government's Statistics Department calculated the poverty income level in 2011 as EC\$3,324 (\$1,231).

The legislated workweek is 40 hours with a maximum of eight hours per day. Overtime hours are at the discretion of the employer and the agreement of the employee. Pay is time and a half for work over eight hours and double for work on Sundays and public holidays. Monthly paid workers are entitled to a minimum of 14 paid vacation days after one year. Workers paid on a daily or biweekly schedule have a minimum of 14 vacation days after 200 days. Special legislation covers work hours for shop assistants, agricultural workers, domestic workers, and workers in industrial establishments. The law establishes equal pay for equal work.

Labor laws protect all workers, including persons working in the informal economy.

The government set occupational health and safety standards that cover all groups of employees except members of the police force. The new labor code provides penalties for violations of labor standards of up to EC\$10,000 (\$3,704) or imprisonment for three months.

The ministry's labor commissioner is charged with monitoring violations of labor law, including the minimum wage. There were seven compliance officers to cover the entire country and monitor compliance with occupational and safety standards, pension standards, and minimum wage violations.

Occupational health and safety regulations were relatively well developed. The ministry enforced them through threat of fines if it discovered violations in a business and the business did not correct them. However, authorities rarely levied fines due to a lack of sufficient resources and staff, and because employers were generally responsive to ministry requests to address labor code violations.

In practice there were few reported violations of wage laws, as those who were paid less than the law required were often in the country illegally and afraid of reprisal, including possible deportation. Labor unions did not routinely report such violations, and most categories of workers received much higher wages based on prevailing market conditions. The minimum wage was so low that practically no one was willing to work for less. However, a number of smaller establishments paid less than the law required, such as not paying time and a half for overtime or double time for Sundays and public holidays.