

ANTIGUA AND BARBUDA 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Antigua and Barbuda is a multiparty, parliamentary democracy. In the parliamentary elections in March 2009, which observers described as generally free and fair, the ruling United Progressive Party (UPP) defeated the Antigua Labor Party (ALP), and Baldwin Spencer was re-elected as prime minister. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

The most serious human rights problems involved poor prison conditions and violence against women.

Other human rights problems included trial delays resulting from court backlogs and reports of mental, physical, and sexual abuse of children. There were also laws that discriminate against lesbian, gay, bisexual, and transgender (LGBT) persons.

The government took steps to prosecute and punish those who committed human rights abuses, and impunity was not a widespread problem.

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports the government or its agents committed arbitrary or unlawful killings. Authorities investigated any police-involved killings. The prime minister could call for an independent investigation into an incident as needed.

Authorities held police accountable for their actions, although the process can take months or even years to complete. For instance, the trial remained pending for the police constable and former Antigua and Barbuda Defense Force member arrested and charged in the February 2012 killing of a gas station attendant.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution specifically prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prisoners in Her Majesty's Prison, the country's only prison, faced harsh conditions and extreme overcrowding.

Physical Conditions: Poor ventilation caused cell temperatures to remain very high, prisoners did not receive an adequate diet prescribed by internal regulations, and the superintendent was unable to promote the required standards of hygiene within the prison, but prisoners had access to potable water. The prison, designed to hold a maximum of 150 inmates, held 346 male and 15 female prisoners, a total of 361 prisoners. Remanded prisoners were separated from convicted prisoners when possible. Authorities held illegal immigrants in the same facility. Four male juvenile prisoners were held in the same building as adult prisoners.

There was no space available to house the juveniles in separate cells, and they were placed into cells with younger adults closer to their age.

The prison had inadequate toilet facilities and slop pails were used in 98 cells. There were unsanitary conditions in the kitchen, including the presence of insects, raw meat on the ground, stray cats, and an overwhelmingly unpleasant odor. The local media reported that bribery and corruption were common in the prison, with guards allegedly taking bribes and smuggling contraband, liquor, cell phones, and marijuana to prisoners. The media also reported gang violence, including at least four stabbings and several fights.

On September 7, inmates staged a small uprising to protest the refusal of visitors and the administration's confiscation of certain items. Inmates also allegedly refused to return to their holding cells in protest of what they described as deplorable conditions. Authorities regained control of the prison and restored order the same day.

Administration: Prison recordkeeping was done in a hard copy format and appeared adequate, yet cumbersome. Alternative sentencing was not practiced for nonviolent offenders, and an ombudsman was available to respond to complaints.

Prisoners and detainees had reasonable access to visitors, were permitted religious observances, and had reasonable access to complaint mechanisms and the ability to request inquiry into conditions.

Independent Monitoring: The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

Improvements: In May the government solicited proposals for the construction of a new prison to address overcrowding and bring the facilities into compliance with minimum standards for prisons.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. Prisoners on remand, however, often remained in jail for a number of months or years before their cases came to trial.

Role of the Police and Security Apparatus

Security forces consist of a police force; a prison guard service; immigration, airport, and port security; the small Antigua and Barbuda Defense Force; and the Office of National Drug Control and Money Laundering Policy, which coordinates law enforcement and prosecutorial action to counter narcotics trafficking. The police fall under the minister of national security and labor's responsibility. The prime minister can call for an independent investigation into an incident as needed. The police discipline department, which investigates complaints against the police, is headed by the deputy police commissioner and decides whether an investigation is conducted. Police typically were held accountable for their actions.

Civilian authorities maintained control over the security forces, and the government has 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 While in Detention

The law permits police to arrest without a warrant persons suspected of committing a crime. Criminal defendants have the right to a prompt judicial determination of the legality of their detention. The police must bring detainees before a court

within 48 hours of arrest or detention. Authorities allowed criminal detainees prompt access to counsel and family members. The bail system requires those accused of more serious crimes to appeal to the High Court for bail, taking this responsibility away from lower court magistrates.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution provides for criminal defendants to receive a fair, open, and public trial, and an independent judiciary generally enforced this right. Trials are by jury. Defendants enjoy a presumption of innocence, have timely access to counsel, may confront adverse witnesses, access government-held evidence, present their own witnesses and evidence, and have the right to appeal. In certain instances, including capital cases, as well as maintenance, custody, and domestic violence cases, the government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts often reached verdicts quickly, with some cases coming to conclusion in a matter of days.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

A court of summary jurisdiction, which sits without a jury, deals with civil cases involving sums of up to EC\$1,500 (\$555). Five magistrate's courts handle summary offenses and civil cases of not more than EC\$500 (\$185) in value. Persons may apply to the High Court for redress of alleged violations of their constitutional rights.

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, but the government respected these rights on a somewhat limited basis. The opposition party and its leaders frequently asserted the government infringed upon freedom of speech and did not provide equal access for the media.

Press Freedoms: Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. The ALP continued to claim government-operated ABS TV and Radio did not allow fair access to the opposition.

Libel Laws/National Security: Politicians in both parties often filed libel cases against individual members of the other party.

Internet Freedom

There were no government restrictions on access to the internet or reports that the government monitored e-mail or internet chat rooms without appropriate legal authority.

According to the International Telecommunication Union, 83.8 percent of households had internet access and 82 percent of citizens used it in 2012.

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 freedom 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 law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and other humanitarian organizations in assisting refugees and asylum seekers.

Protection of Refugees

Access to Asylum: The government has an established system for providing protection to refugees, but it received no applications for refugee status during the year. The UNHCR was present in the country and has a formal procedure for conducting refugee status determinations. Those who do not receive refugee status may appeal, as authorities allow them an allotted amount of time before deporting them to their countries of origin. The government has a small, temporary center where asylum seekers could stay while obtaining assistance from the government and support from the IOM.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Recent Elections: In the March 2009 elections, the ruling UPP won nine of 17 seats in the House of Representatives. Members of the Organization of American States observer group reported that the elections were generally free and fair. After the opposition ALP challenged the results of the election, the Court of Appeal upheld the outcome, despite finding some technical problems in the election process.

Participation of Women and Minorities: There were two women in the House of Representatives and five women appointed to the 17-seat Senate. The governor general, the speaker of the House of Representatives, and the president of the

Senate, all appointed positions, were women. There was one woman in the cabinet and one member of a minority in parliament.

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. Both political parties frequently accused the other of corruption, but investigations yielded few or no results.

Corruption: In April authorities dismissed four prison wardens after they were found to have been involved in bringing illegal substances into a prison. Former inmates and prison staff alleged the wardens accepted bribes to smuggle illicit goods into the facility. Investigations into additional allegations of corruption at the prison continued throughout the year.

Whistleblower Protection: There is no law that provides protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality.

Financial Disclosure: The Integrity in Public Life Act requires sitting public officials to disclose all income, assets (including those of spouses and children), and personal gifts in a confidential report to the Integrity Commission. The law established this commission, appointed by the governor general, to receive and investigate complaints regarding noncompliance with or contravention of any provisions of this law or the Prevention of Corruption Act. Critics stated the legislation is inadequately enforced and the act should be strengthened.

While the commission did not disclose the particulars of any of the declarations filed, it submitted to the House of Representatives an annual report on its audited accounts and its activities during the preceding year. There were sanctions for noncompliance, as determined by the director of public prosecutions. As the only agency charged with combating corruption, the commission was independent but understaffed and underresourced. The commission, however, adequately responded to isolated reports of corruption, administered the act, and received the required disclosure reports. There was no particular collaboration with civil society.

Public Access to Information: The Freedom of Information Act gives citizens the statutory right to access official documents from public authorities and agencies,

and it created a commissioner to oversee the process. Citizens found it difficult to obtain documents, possibly due to government funding constraints rather than obstruction. There was a defined unit mandated to monitor and verify disclosures. By law the declarations are not made available to the public, and there were criminal and administrative sanctions for noncompliance.

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

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

Government Human Rights Bodies: There is an ombudsman, an independent authority appointed by parliament, to handle complaints regarding police and other government offices and officials. During the year the office received greater resources than prior years but remained underresourced.

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

The constitution prohibits discrimination based on race, sex, creed, language, or social status, and the government generally respected these prohibitions in practice.

Women

Rape and Domestic Violence: Rape is illegal and carries maximum sentences ranging from 10 years' to life imprisonment. Anecdotal evidence suggested it was a pervasive problem. A spouse can bring rape charges only if the two are separated and living in separate quarters. The Directorate of Gender Affairs, part of the Ministry of Education, Gender, Sports, and Youth Affairs, publicized a crisis hotline for victims and witnesses to sexual assault and managed a sexual assault center that coordinates responses to sexual assault. Police immediately refer reported rapes to the Sexual Offenses Unit, and a female police officer and often a caseworker from the Directorate of Gender Affairs accompany the victim for questioning, medical examinations, treatment, and court appearances, if necessary. An investigation commences once the crime is reported. The government was unable to provide the number of persons prosecuted for unlawful sexual intercourse. In situations where the survivor did not know her assailant, the case could take years to come to trial. The Directorate of Gender Affairs reported that

the number of rape survivors coming forward increased following the creation of the Sexual Offenses Unit in 2007.

Violence against women, including spousal abuse, continued to be a serious problem. The law prohibits and provides penalties for domestic violence, but some women were reluctant to testify against their abusers due to fear of stigma, retribution, or further violence. The government noted an increase in women coming forward in the years since enactment of the Domestic Violence Act of 1999. The Directorate of Gender Affairs operated a domestic violence program that provided training for law enforcement officers, health-care professionals, counselors, social workers, immigration officers, and army officers. The directorate also worked with nongovernmental organizations (NGOs), individuals, and businesses to provide safe havens for abused women and children. Services for victims of domestic violence included counseling and an advocacy caseworker who accompanied the victim to the hospital, police station, and court, if necessary.

Sexual Harassment: Sexual harassment is not specifically defined in law. The country is, however, party to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as the Convention of Belem do Para, which recognizes sexual harassment as a form of violence against women. According to the Labor Department, there was a high incidence of sexual harassment reported in both the private and public sectors, but there were no cases formally reported during the year, and the lack of reporting was believed to result from concerns about retaliation. The labor court requires a safe working environment for all persons, and the court could address harassment cases, although no such cases were filed during the year.

Reproductive Rights: Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of their children and had the information to do so free from discrimination, coercion, and violence. There was adequate access to contraception. Most pregnant women had at least one prenatal care visit, and most women gave birth in hospitals. A 2010 World Health Organization report indicated that skilled attendance at birth was 100 percent, and 99 percent of women received prenatal care from skilled health personnel at least four times during pregnancy. The contraceptive prevalence rate was estimated to be 53 percent. Incidence of maternal mortality was not available.

Discrimination: The labor code provides that it is unlawful for an employer to discriminate against an individual because of his or her gender, and women enjoy the same legal status and rights as men. Economic conditions, however, tended to

limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Despite these limitations, women were well represented in the private and public sectors. There is legislation requiring equal pay for equal work, and women faced no restrictions involving ownership of property.

The Directorate of Gender Affairs is charged with promoting the rights of women, and other departments are also involved, including the Ministry of Labor.

Children

Birth Registration: Citizenship is acquired by birth in the country, and all children were registered at birth. Children born to citizen parents abroad can be registered by either of their parents.

Child Abuse: Child abuse remained a problem during the year. Neglect was the most common form of child abuse, followed by physical abuse, although the press reported regularly on the rape and sexual abuse of children. Adult men having regular sexual relations with young girls was also a problem. In extreme cases of abuse, the government removes the children from their home and puts them in foster care or into a government or private children's home.

The government held public outreach about detection and prevention of child abuse and also completed training for foster parents regarding how to detect child abuse and how to work with abused children. The government's welfare office also provided counseling services for children and parents and often referred parents to the National Parent Counseling Center. There was a family court to handle child abuse cases, providing for faster prosecution and more general handling of family and welfare cases.

Forced and Early Marriage: The legal minimum age for marriage is 18 for both men and women. Children between 15 and 18 could marry with parental consent; however, underage marriage was rare, and the government did not keep such statistics.

Sexual Exploitation of Children: Statutory rape is illegal; the minimum age for consensual sex is 16. Despite a maximum penalty of 10 years to life, authorities brought charges against few offenders. Child pornography is illegal and subject to fines of up to EC\$250,000 (\$92,600) and 10 years in prison.

International Child Abductions: The government is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, although the government is party to the Inter-American Convention for the International Return of Children. For information see the Department of State's report on compliance at travel.state.gov/abduction/resources/congressreport/congressreport_4308.html, as well as country-specific information at travel.state.gov/content/childabduction/english/country/antigua-and-barbuda.html.

Anti-Semitism

The Jewish community was very small, 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

The constitution contains antidiscrimination provisions, but no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities. There were anecdotal cases of children with disabilities who were unable to take themselves to the restroom and thus were denied entry to school. Additionally, anecdotal evidence suggested that support for persons with mental disabilities was lacking. It was alleged that those affected were often left on the street, as there were few alternatives to the one overcrowded and poorly maintained outpatient mental health facility. Public areas often lacked wheelchair accessibility.

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

Consensual same-sex sexual activity for both sexes is illegal under indecency statutes; however, the law was not strictly enforced. The law also prohibits anal intercourse between male partners or between a male and female pair. 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 15 years. No antidiscrimination laws exist that specifically include LGBT persons.

Societal attitudes somewhat impeded operation and free association of LGBT organizations, but there were a few organized groups. Societal attitudes remained conflicted on the issue, and there were limited reports of discrimination based on sexual orientation or gender identity in a variety of settings. There were no reports of violence committed against LGBT persons due to their real or perceived sexual orientation.

Other Societal Violence or Discrimination

Rastafarians complained of discrimination, especially in hiring and in schools, but the government took no specific action to address such complaints. Some persons claimed that fear, stigma, and discrimination impaired the willingness of HIV-positive persons to obtain treatment, and there were several reported incidents of discrimination cited by HIV-positive persons, specifically from health-care professionals and the police. Anecdotal evidence also suggested that employers had dismissed and discriminated against employees with HIV/AIDS. There were, however, no reports of violence directed toward persons with HIV/AIDS. The Ministry of Health supported local NGO efforts to register human rights complaints and seek assistance related to cases of discrimination against those with HIV/AIDS. The ministry also trained a number of health-care professionals and policemen in antidiscriminatory practices. The Ministry of Labor encouraged employers to be more sensitive to employees with HIV/AIDS, and the Ministry of Health conducted sensitivity training for requesting employers.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of public and private sector workers to organize and bargain collectively without interference. The labor code provides for the right to strike but places several restrictions on this right. The law prohibits antiunion discrimination by employers but does not specifically require reinstatement of workers illegally fired for union activity.

Workers who provide essential services (including water services, electricity services, hospital services, fire services, prison services, air traffic control, meteorological services, services rendered by the government printing office, services rendered by the port authority, and any entity providing telecommunication services) must give 21 days' notice of intent to strike. The International Labor Organization considered the list of essential services to be

overly broad by international standards, in particular highlighting the inclusion of the government printing office and port authority.

Once either party to a dispute requests court mediation, strikes are prohibited under penalty of imprisonment for all private sector workers and some government workers. The Industrial Relations Court may issue an injunction against a legal strike when the national interest is threatened or affected. Labor law prohibits retaliation against strikers.

Government enforcement of labor laws, including remedies and penalties of up to EC\$1,500 (\$555) for work permit violations were applied, but these were not always effective at deterring labor violations. Administrative and judicial procedures were often subject to lengthy delays and appeals.

There were no reports of antiunion discrimination nor any violations related to collective bargaining rights. Unions were generally free to conduct their activities without government interference. Because of the delays caused by mediation and required notice periods, unions often resolved labor disputes before calling a strike.

b. Prohibition of Forced or Compulsory Labor

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

The Office of National Drug and Money Laundering Control Policy has authority to investigate cases of trafficking in persons, including forced labor. Authorities did not remove any persons from forced labor situations during the year.

There were reports of forced labor, including in domestic service and retail industry.

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 stipulates a minimum working age of 16. Persons under age 18 may not work past 10 p.m. and must have a medical clearance to receive employment. No list of hazardous work was implemented for the protection of those under age 18.

The law requires the Ministry of Labor to conduct periodic inspections of workplaces, and the ministry effectively enforced this law. The Labor Commissioner's Office also had an inspectorate that investigated child labor in both the formal and informal sectors. The government enforced these laws effectively, and there were no reports of child labor during the year.

d. Acceptable Conditions of Work

The minimum wage was EC\$7.50 (\$2.78) an hour for all categories of labor. In practice the great majority of workers earned substantially more than the minimum wage. According to a 2007 Caribbean Development report on poverty, the most recent data available, the official estimate for the poverty income level was EC\$6,318 (\$2,340) per annum, when adjustments were made for nonfood expenditure.

The law provides that workers are not required to work more than a 48-hour, six-day workweek, but the customary standard workweek was 40 hours in five days. Laws provide for overtime work in excess of the standard workweek, requiring that employees be paid one and one-half times the employees' basic wage per hour. The law prohibits excessive or compulsory overtime such that employees are not allowed to work more than 12 hours per day. There is a legal provision for paid annual holidays, which requires that no employee shall be obliged to work on a public holiday except in emergency situations. Employees receive their regular pay on holidays, unless an employee is required to work, in which case the employee is paid an hourly rate of no less than 150 percent of the basic rate per hour worked, in addition to the basic wage.

The law includes provisions regarding occupational safety and health, but the government had not developed separate occupational health and safety regulations apart from those regarding child labor. The Ministry of Labor and the Industrial Court enforced labor standards, and there were eight labor inspectors. Labor inspectors reported that they conducted periodic health and safety checks, as well as checks for working conditions and work permit violations; the supervisory inspector was dedicated to occupational safety and health standards enforcement. Standards were enforced in all sectors, including the informal sector, through the inspectorate unit via field officers.

Workers in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions.