

SAINT KITTS AND NEVIS 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Note: This report was updated 3/05/14; see Appendix H: Errata for more information.

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation. In January 2010 national elections, Prime Minister Denzil Douglas' Saint Kitts and Nevis Labour Party (SKNLP) won six of the 11 elected seats in the legislature. Independent observers concluded that the election had no major irregularities and was generally free and fair, but they called for electoral reform. The constitution provides the smaller island of Nevis considerable self-government under a premier. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

The most serious human rights problems were poor prison conditions, politicization of the police force, discrimination and violence against women, and child abuse.

Other human rights problems included discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community.

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

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings. The police Criminal Investigation Department is charged with investigating killings by police. The police opened an investigation into the shooting death of a person allegedly shot in the back by police.

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. Corporal punishment is legal and an accepted measure for juveniles in schools and the justice system. A court can order that an accused person receive lashes if found guilty.

In July police allegedly dragged opposition politician Lindsay Grant across a barricade during a protest, beat him, and detained him for six hours (see section 2. b.).

Prison and Detention Center Conditions

Prisons remained overcrowded and facilities austere, although the number of inmates decreased from previous years.

Physical Conditions: Built in 1840, the prison on St. Kitts had an intended capacity of 182 prisoners but held 334 during the year. Some prisoners slept on mats on the floor, but all prisoners had access to potable water. A prison camp in Nevis had an intended capacity of 40 prisoners and held 40. In St. Kitts authorities occasionally held pretrial detainees together with convicted prisoners.

There were two female inmates and three juveniles in prison in St. Kitts. No women were held in Nevis. Authorities held female inmates in separate quarters.

In September an inmate collapsed and died after allegedly complaining of stomach pains. By early November, the investigation into the death had not been completed.

Administration: Prison recordkeeping was partially completed in a hard copy format and appeared adequate, yet cumbersome. The prison had five computers, and staff members were transitioning to digital recordkeeping.

There was no alternative sentencing for nonviolent offenders. Prisoners and detainees had reasonable access to visitors and complaint mechanisms, could observe religious practices, and had the ability to request inquiry into conditions. An ombudsman was available to respond to complaints. Prison staff periodically

received training in human rights, but some prisoners reported harsh treatment by prison guards.

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

Improvements: In March the government held a ribbon-cutting for New Horizons, a new youth rehabilitation center to house 30 juveniles – 20 boys and 10 girls. The facility featured a separate remand center for those awaiting trial. As of November the facility had not yet officially opened due to a legal obstacle.

During the year the government continued work on construction of a new correctional facility.

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 security forces consist of a police force, which includes a paramilitary Special Services Unit, a drug unit, the Delta Squad, a Special Victims Unit, and a white-collar crimes unit. In addition, there is a coast guard and a small defense force. The governor general can authorize the defense force to patrol jointly with the police for periods up to six months. The military and the police report to the Anti-Crime Unit, which is under the prime minister's jurisdiction.

There were a number of problems regarding the police force. Several opposition politicians alleged that authorities transferred police officers who supported the opposition under the guise of disciplinary action.

Senior police officers investigated complaints against members of the police force. When warranted, they referred them to an internal disciplinary tribunal for adjudication; penalties included dismissal, warnings, or other administrative action. The police were unable to provide statistics on cases of complaints against police officers during the year. In 2012 authorities investigated 112 cases of complaints against police officers. Of those cases, authorities subjected 20 officers to disciplinary charges, found 30 complaints to be false, resolved 23 by mediation,

and could not substantiate 38; one was withdrawn. With regard to disciplinary complaints, authorities brought charges against 85 officers for various disciplinary offenses.

Arrest Procedures and Treatment of Detainees

Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 72 hours or be released. If charged, authorities must bring a detainee before a court within 72 hours of being detained. There is a functioning system of bail. Authorities permitted family members, attorneys, and clergy to visit detainees regularly.

Detainees may be held for a maximum of 72 hours awaiting a bail hearing. Authorities remand those accused of serious offenses to custody to await trial, while releasing those accused of minor infractions on their own recognizance or on bail with sureties.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. Opposition politicians alleged authorities attempted to interfere with the judiciary when they forced the court registrar in September to take 64 days of leave immediately and without explanation. The court registrar was also the sister of the Unity Coalition opposition leader.

Trial Procedures

The constitution provides for a fair, speedy, and public trial, and authorities generally observed these requirements. Defendants have the right to be present and to consult with counsel in a timely manner. There is a presumption of innocence, and defendants may question or confront witnesses and communicate with an attorney of choice. Defendants also have the right to be informed promptly and in detail of the charges, to have a trial without undue delay, and to appeal. All defendants are entitled to a fair and public trial in either the Magistrate or High Court depending on the crime, while juries are only used at the High Court level for criminal matters. Free legal assistance was available for indigent defendants in capital cases only.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters, including lawsuits regarding alleged civil rights violations.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. The defense force, however, can carry out stop and search operations without a warrant. In addition a High Court judge can issue an order allowing interception of all telecommunication networks, including telephones and internet transmissions, when presented with evidence of criminal activities.

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, the judicial system, and a functioning democratic political system combined to ensure freedom of speech and press. For example, on July 3 and 5, protesters held largely peaceful demonstrations against the prime minister in the city center. The protesters were able to speak out, and news articles and various online videos featured the demonstrations.

Internet Freedom

There were no government restrictions on access to the internet or credible reports the government monitored e-mail or internet chat rooms without appropriate legal authority. According to the International Telecommunication Union, approximately 79 percent of citizens used the internet 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. During July 3 and 5 demonstrations, however, the media reported on one controversial arrest in which police allegedly dragged former opposition leader Lindsay Grant across a barricade and reportedly beat him. Authorities detained Grant and released him several hours later. Also, in at least one instance, the government did not issue a permit until several hours prior to a slated demonstration.

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 was prepared to cooperate with other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: Although the government has a system for providing protection of refugees, it did not grant refugee status or asylum since there were no applicants during the year. The UNHCR representative in St. Kitts encountered a few migrants transiting from Haiti.

The country is a party to the 1951 Convention on the Status of Refugees but not the 1967 Protocol. There is legislation related to the convention that affords protection to refugees.

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 through periodic, free, and fair elections held on the basis of universal suffrage. Voters elect 11 members of the National Assembly, and the governor general appoints a three-person Senate, two on the recommendation of the prime minister and one on the recommendation of the opposition leader.

Elections and Political Participation

Recent Elections: In the 2010 general elections, Prime Minister Denzil Douglas' SKNLP returned to office after winning six St. Kitts seats out of the 11 elected seats in the National Assembly. The People's Action Movement (PAM) party won two seats. The Concerned Citizens Movement party won two of the three seats assigned to Nevis. International observers from the Commonwealth, Caribbean Community, and the Organization of American States that the elections were generally free and fair, but they issued a number of recommendations for future elections.

The island of Nevis exercises considerable self-government with its own premier and legislature, and it has the right to secede from the federation in accordance with certain enumerated procedures. In January 2013, Nevis held its local elections in which voters elected Concerned Citizens Movement (CCM) opposition candidate Vance Amory as the premier of Nevis for a five-year term. The elections were generally free and fair, although officials released voters lists late in some of the districts.

Participation of Women and Minorities: There was one woman in parliament, a cabinet minister. All five magistrates were women, including the registrar of the High Court.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. Draft legislation to advance transparency and provide checks on corruption has been prevented from coming to the floor of parliament for a debate. Parliament passed Integrity in Public Life legislation, but it had not been implemented as of November.

Corruption: As a follow-up to a December 2012 motion of no confidence against the government of Prime Minister Denzil Douglas, on July 4, PAM leader Shawn Richards filed a second motion of no confidence based on allegations of corruption. As of November, there had been no action on that motion. The PAM, CCM, and People's Labor Party, led by two former senior government ministers, all alleged misconduct on the part of government officials. The media and many private citizens also reported that government corruption was a problem.

In particular, opposition leaders and private citizens complained about the prime minister's lack of financial oversight of both the Sugar Industry Diversification Foundation (SIDF) and the Citizenship by Investment Program (CIP). For example, although limited details appeared on the SIDF website, some observers argued that the SIDF had not been audited in a comprehensive, transparent manner and alleged it was the prime minister's "slush fund." Furthermore, the number of passports issued and the nationalities of the holders of these passports under the CIP had not been publicly released. The government had also not made public details regarding the operations of the SIDF and CIP.

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

Financial Disclosure: Public officials are not subject to financial disclosure laws, and there is no agency responsible for combating government corruption. The Financial Intelligence Unit investigates reports on suspicious financial transactions, along with the police white-collar crime unit.

Public Access to Information: While no laws provide for public access to government information, the government maintained a website and broadcast briefings of weekly cabinet meetings on radio and parliament meetings on television and radio.

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

There were no governmental restrictions on human rights groups, and several organizations worked with marginalized groups such as women, children, the elderly, and persons with mental or physical disabilities.

Government Human Rights Bodies: The Ministry of Health maintained a human rights desk to monitor discrimination and other human rights abuses.

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

The constitution prohibits discrimination based on race, place of origin, birth out of wedlock, political opinion or affiliation, color, gender, or creed, and the government generally respected these prohibitions in practice.

Women

Rape and Domestic Violence: The law prohibits rape, but it does not address spousal rape. Anecdotal evidence suggested rape was a serious and pervasive problem in society. Despite last year's re-establishment of a Special Victims Unit in the police, rape often was underreported due to survivors' fear of stigma, retribution, further violence, or lack of confidence in the authorities. Penalties for rape range from two years' imprisonment for incest between minors to life imprisonment for statutory rape or incest with someone under 16. Indecent assault has a maximum penalty of seven years' imprisonment. The government was unable to provide statistics regarding sexual offenses during the year, but survivors reported 50 sexual offense cases, including rape and indecent assault in 2012. Those arrested and prosecuted for rape and indecent assault received strict sentences.

Violence against women was also a serious and pervasive problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to EC\$13,500 (\$5,000) or six months in prison. The government was unable to provide statistics regarding domestic abuse cases during the year, but survivors reported 84 cases in 2012.

During the year, the Ministry of Community Development, Culture, and Gender Affairs underwent personnel and institutional changes and was less active than in prior years. The ministry was unable to conduct training. The Department of Gender Affairs has field officers who maintained contact with men's organizations, prisons, and schools. Counseling was still offered for survivors of abuse and a new organization, the National Council of Women, became the lead civil society

organization on women's rights and the Department of Gender Affairs' new partner. In December 2012 the government developed an action plan on gender-based violence, which was not fully implemented during the year.

Sexual Harassment: According to the Labor Ministry, sexual harassment falls within the purview of the Protection of Employment Act. Anecdotal evidence suggested that sexual harassment remained a problem in the workplace, although the Ministry of Community Development, Culture, and Gender Affairs did not receive any cases during the year.

Reproductive Rights: Reproductive rights were generally protected; couples and individuals had the right to decide the number, spacing, and timing of their children. The National Family Planning Office provided information on contraception and support for reproductive rights on a nondiscriminatory basis. Skilled attendance at delivery and postpartum care were widely available. In 2011 the World Health Organization reported that 100 percent of births were attended by skilled health personnel.

Discrimination: The status of women improved, particularly in the public sector. Parliament passed legislation that requires equal remuneration, and women and men generally received equal salaries for comparable jobs.

Children

Birth Registration: Children acquire citizenship by birth in the country, and all are registered at birth and equally able to access public education and public services. Children born to citizen parents abroad can be registered by either of their parents.

Child Abuse: Child abuse remained a major problem. According to the government, neglect was the most common form of abuse, while physical abuse also remained prevalent. Sexual abuse and exploitation were problems and both awareness and reporting of cases increased during the year. Authorities received approximately 16 cases (11 girl victims, five boy victims) and convicted eight persons of sexual assaults against children as of October.

In child abuse cases, new legislation allows children to testify against their attackers using remote technologies such as Skype. Moreover, the Ministries of Social Services and Education collaborated on programs to curb child abuse, including modifying the primary school curriculum and designating a child abuse

awareness month. The government also reinstated its Probation and Child Welfare Board to help deal with cases of child abuse during the year.

The government operated one children's home for abused and neglected children. The government noted a rise in runaway teenage girls in St. Kitts, and some of the girls were placed in this children's home. Since many of the girls had special circumstances, such as sexual abuse, they were often unable to obtain necessary assistance in the children's home.

Government officials noted an uptick in gang violence cases involving youth in the courts, and tension related to gangs was also apparent in some high schools. The prevalence of girl gangs in St. Kitts increased. Many of the juvenile delinquents in the country were abused at home and considered "at risk." Some teens were vulnerable to joining gangs through their associations of relatives or close friends who were gang members. During the year the country experienced a high rate of homicides that included youth victims allegedly involved in gang violence.

The government offered counseling for both adult and child victims of abuse. The government opened a youth rehabilitation center specifically for juveniles (see section 1. c.).

Forced and Early Marriage: The legal minimum age for marriage is 18 for both men and women. Underage marriage was rare, and the government did not keep statistics on it.

Sexual Exploitation of Children: The law sets the age of consent at 16. Under the statutory rape law, having sexual relations with children under age 16 is illegal, with penalties ranging from probation to life in prison. Child pornography is illegal and carries a penalty of up to 20 years in prison.

On April 19, the Social Services Department of the Nevis Administration and various partners held a rally in Charlestown, Nevis, against sexual abuse of children. Participants included women's groups, school children, youth groups, faith-based organizations, and the general public. The rally attracted Nevisian media outlets and approximately 200 participants.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction and passed the necessary implementing legislation. For information see the Department of State's report on compliance

at www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

There were no confirmed reports that persons were trafficked to, from, or within the country during the reporting period.

Persons with Disabilities

The law does not prohibit discrimination specifically against persons with physical, sensory, intellectual, and mental disabilities in employment, air travel, transportation, access to healthcare or the provision of others services, and persons with disabilities experienced discrimination. The building code mandates access to buildings for persons with disabilities, but this code was not always followed or enforced. Children with disabilities attended school. For practical reasons, there were also separate schools for children with vision and hearing disabilities.

The law allows authorities to declare persons with mental disabilities who commit crimes a menace to society and incarcerate them for life; as of September, there were approximately 34 such persons incarcerated. The government was unable to provide information on appeal procedures for such menace to society declarations. Ministry of Health nurses in the various district health centers provide support services to persons with mental illness, and the General Hospital has a wing dedicated to caring for patients with mental illness.

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

The law criminalizes consensual same-sex sexual activity between men, which carries a penalty up to 10 years in prison, but there was relaxed enforcement of this law. The law does not prohibit sexual activity between women. There are no laws

that prohibit discrimination against a person on the basis of sexual orientation or gender identity.

Societal attitudes towards the LGBT community impeded the operation of LGBT organizations and the free association of LGBT persons. The government asserted it received no reports of violence or discrimination based on sexual orientation; however, unofficial reports indicated that violence and discrimination remained a problem. Anecdotal evidence suggested that LGBT persons were reluctant to report incidents of violence or abuse out of fear of retribution or reprisal due to their sexual orientation.

In August the prime minister publicly called for tolerance toward LGBT persons and an end to discrimination and stigmatization as a way to combat the spread of HIV. He argued that discrimination against LGBT persons affected their willingness and ability to seek medical treatment or counseling on disease prevention.

Other Societal Violence or Discrimination

Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred. The Labor Ministry previously implemented a specific antidiscrimination policy covering HIV/AIDS in the workplace.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including applicable statutes and regulations, provides for the right to form and join independent unions, negotiate better wages and benefits for union members, and strike. Employers are not legally bound to recognize a union. The law permits the police, civil service, and organizations such as hotels, construction workers, and small businesses to organize staff associations that look out for the welfare of employees. Some of the staff associations have bargaining powers and dispute settlement rights. It remained unclear if the rights of such associations differed from those of unions. Labor laws cover all workers, including migrant workers, domestic workers, and workers in specialized trade zones.

Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom, but not by law.

A union that obtains membership of more than 50 percent of employees at a company can apply for the employer to recognize it for collective bargaining. The law prohibits antiunion discrimination, but does not require employers found guilty of such action to rehire employees fired for union activities. The employer must pay lost wages and severance pay to workers employed at least one year, based upon their length of service. The Labor Ministry also pays severance to terminated public employees, using funds from a special severance fund that all public and private employees pay into. The government enforced applicable laws; however, information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties was not provided by the Ministry of Labor. Based on anecdotal evidence, cases were not generally subject to lengthy delays and appeals.

The government generally protected the legal right of workers to form and join unions and bargain collectively. The government also provided for the right to strike. Employers generally recognized a union if a majority of workers voted to organize. Worker organizations were independent of the government and political parties. There was no government interference in union activities outside of the ability to seek financial information from unions upon request. Employers did not use hiring practices such as subcontracting or short-term contracts to avoid hiring workers with bargaining rights. There was no evidence of employer interference or antiunion discrimination toward union functions.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits slavery, servitude, and forced labor, and the government effectively enforced such provisions. The Ministry of Labor did not provide information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties, nor did it indicate whether forced labor occurred or provide information on types of forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum legal working age is 16. The law permits employment of youth between the ages of 16 and 18 with regular hours, except in certain industries related to the hotel and entertainment sectors, where their employment is restricted

because of their age. Except for those limitations, there are no provisions in law or regulation to protect those between 16 and 18 from working in hazardous conditions.

Most children under the age of 16 who engaged in employment worked after school in shops and supermarkets doing light work. Most domestic work done in the country was outsourced through cleaning agencies.

The Labor Ministry relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they did effectively. The Labor Ministry reported that investigations were infrequent in the informal sector, and fines and penalties were not always enforced. The ministry provided no information on the amounts of fines, or other penalties required by law.

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

The government set the minimum wage at EC\$8.00 (\$2.96) an hour. The official estimate of the poverty level income was EC\$7,329 (\$2,714) for St. Kitts and EC\$9,788 (\$3,625) for Nevis per annum. The law provides for a 40-hour workweek and for premium pay for work above the standard workweek. There was no legal prohibition on excessive or compulsory overtime. The law also calls for paid holidays and rest days at double the rate, as well as equal pay for equal work.

There are specific health and safety regulations and the law contains general health and safety guidance for Labor Ministry inspectors. The law also requires that employers report accidental and dangerous occurrences. With respect to issues relating to occupational safety and health, the government enforced the Accidents and Occupational Diseases (Notification) Act and the Factories Act. The country was in the third phase of its Labor Code exercise. The newly institutionalized National Tripartite Committee on Labor Standards was in a consultative process on a draft labor code which an International Labor Organization (ILO) law consultant prepared in collaboration with the ILO Decent Work Team; Office for the Caribbean; and ILO Headquarters in Geneva. The Labor Commission settles disputes over safety conditions.

Workers in the formal sector normally worked 40 hours in five days. Although not required by law, workers received at least one 24-hour rest period per week.

The Labor Commission undertook wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages. Eight labor officers also served as labor inspectors. Information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties was not available. The Ministry of Labor encouraged enforcement of standards in the informal labor sector as well and worked in conjunction with the Social Security Office to have those in the informal sector register their businesses and become self-employed. The labor commissioner reported that this outreach led to an increase in registered businesses. Once a business is officially registered, employees begin to receive benefits along with regular inspections.