

ANTIGUA AND BARBUDA 2015 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Antigua and Barbuda is a multiparty, parliamentary democracy. In the June 2014 parliamentary elections, which observers described as generally free and fair, the ruling Antigua and Barbuda Labor Party (ABLP) defeated the United Progressive Party, and Gaston Browne was elected as Prime Minister. Authorities maintained effective civilian control over the security forces.

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, transgender, and intersex (LGBTI) 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.

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, but there was one report that police employed them.

Cruel, Inhuman, or Degrading Treatment: In June a Jamaican citizen alleged that, while being held on unknown charges at St. John's Police Station, police officers

beat him with the handle of a pickax. The incident was under investigation by the Professional Standards Department.

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 very high prison cell temperatures, and the superintendent was unable to promote the required standards of hygiene within the prison. The prison, designed to hold a maximum of 150 inmates, held 356 male and 14 female prisoners, a total of 370 prisoners, as of October. Authorities separated remanded prisoners from convicted prisoners when space was available. Authorities reported one death in prisons in 2015, but reported that the prisoner suffered from hypertension and died of natural causes. Authorities held undocumented migrants, including 17 Syrian refugees claiming asylum, initially at a police station barracks and subsequently at a former military installation.

Prison officials held four male juvenile prisoners in the same building as adult prisoners. There was no space available to house the juveniles in separate cells, and juveniles were housed in cells together.

The prison had inadequate toilet facilities, with slop pails used in all cells except for those of female prisoners and remanded prisoners. 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 prison superintendent 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, although he reported that the firing of several corrupt guards helped to improve the smuggling problem. The prison superintendent also reported suspected gang violence.

Administration: Prison recordkeeping was done in a hard copy format and appeared adequate, yet cumbersome. The prison was in the process of implementing an automated recordkeeping system. Authorities did not practice alternative sentencing for nonviolent offenders, although officials reported that they were reviewing this policy. Complaints were handled in several ways, including through a prison welfare officer, a complaints committee, and a prisoner appointed to lodge complaints. Prisoners and detainees had reasonable access to

visitors, were permitted religious observances, had reasonable access to complaint mechanisms, and had 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.

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 an average of three to four years before their cases came to trial if they chose not to take bail, according to the director of public prosecutions.

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 and money laundering. Police fall under the responsibility of the Office of the Attorney General, who is also the minister of justice, legal affairs, public safety, and labor. Immigration falls under the minister of foreign affairs, international trade, and immigration. The prime minister can call for an independent investigation into an incident as needed. The Professional Standards Department, which investigates complaints against police, is headed by the deputy police commissioner and decides whether an investigation is conducted. Senior authorities typically held police accountable for their actions.

In January, Police Commissioner Vere Browne was suspended following an incident of insubordination and failing to report an assault. Browne was replaced by Acting Police Commissioner Wendell Robinson.

Civilian authorities maintained effective 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 of Detainees

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. 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. Legal assistance to the indigent was provided by the state only in cases involving murder charges. 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 the right to be informed orally and in writing of the charges against them, 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 and will not be compelled to testify. In murder trials the government provides legal assistance at public expense to persons without the means to retain a private attorney.

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, presides over civil cases involving sums of up to 1,500 Eastern Caribbean Dollars (XCD) (\$555). Five magistrate's courts handle summary offenses and civil cases of not more than 10,000 XCD (\$3,703) in value. Individuals 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.

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.

Press and Media Freedoms: Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. There were claims that the opposition and independent media had less access than government-sponsored outlets to the government for official interviews or comments.

Libel/Slander Laws: In previous years politicians in both parties often filed libel cases against individual members of the other party, although no libel cases were filed as of June.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no reports the government monitored private online communications without appropriate legal authority.

According to 2013 International Telecommunication Union data, the most recent available, 63 percent of the population had access to the internet.

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.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

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, and the government generally respected these rights. Antigua and Barbuda ratified the United Nations Convention of 1954 with regard to stateless persons, and also ratified the 1967 Protocol relating to refugees. 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 country does not have specific laws or established procedures governing asylum or refugee status. The government handles asylum requests on an ad-hoc basis. In August the government worked closely with UNHCR to develop a more structured internal process under which to facilitate asylum claims. The government convened an eligibility committee consisting of government officials and civil society representatives to evaluate the claims of 17 refugees. The government determined that 15 of the individuals were legitimate refugees and was awaiting UNHCR assistance to resettle the individuals in a third country. The remaining two refugees did not intend to claim political asylum, and the government released them. The 15 refugees remained on the island, supported by UNHCR.

There is also no process of designation of safe countries of origin or transit within the government framework for the purpose of expedited processing and the deterrence of unfounded claims.

Temporary Protection: Lacking legislation, the government handles subsidiary temporary protection on an ad-hoc, case-by-case basis granting such status to 15 persons during the year, all of whom were Syrian refugees. Those granted such status were granted protection and access to health care, but the full measure of protocol, including employment and education, had not been decided.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government through free and fair periodic elections based on universal and equal suffrage. Citizens exercised this right.

Elections and Political Participation

Recent Elections: In the June 2014 elections, the ruling ABLP won 14 of 17 seats in the House of Representatives and took over the government. The then incumbent United Progressive Party won three seats. The OAS observer group reported that the elections were generally free and fair.

Participation of Women and Minorities: No laws or traditional practices prevented women or minorities from voting, running for office, or serving as electoral monitors.

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: The Integrity in Public Life Act requires public officials to disclose all income, assets (including those of spouses and children), and personal gifts while in public office. An Integrity Commission, established by the act and appointed by the governor general, receives and investigates complaints regarding noncompliance with or contravention of any provisions of this law or of the Prevention of Corruption Act. The commission responded to isolated reports of corruption, administered the act, and received the required disclosure reports.

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 was 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 under-resourced. The commission 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 position to oversee the process. Citizens found it difficult to obtain documents, possibly due to government funding constraints rather than obstruction. A defined unit is mandated to monitor and verify disclosures. By law the disclosures 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: An independent ombudsman, appointed by parliament, handles complaints regarding police and other government offices and officials; however, no ombudsman was appointed after the term of the previous ombudsman expired in November 2014. The Office of the Ombudsman, which employed eight staff members including investigation officers, research officers, and junior officers, was unable to take complaints as of June and could only offer advice or refer citizens to other offices.

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

The constitution prohibits discrimination based on race, sex, religion, language or national origin, political opinion, citizenship, disability, sexual orientation, gender identity, age, or HIV or other communicable disease status, and the government generally enforced these prohibitions. Going further, the constitution explicitly states “No person shall be treated in a discriminatory manner.”

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. The government was in the process of creating a crisis center to house all services for victims of sexual assault. 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.

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 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 in the private and public sectors, but there were no cases formally reported during the year. The lack of reporting was believed to result from concern 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 have the right to decide the number, spacing, and timing of their children, manage their reproductive health, and have access to the information and means to do so, free from discrimination, coercion, or violence. Incidence of maternal mortality was not available.

Discrimination: Women enjoy the same legal status and rights as men, including under family, nationality, and inheritance laws, and under the labor code it is unlawful for an employer to discriminate against an individual because of his or her gender. There is legislation requiring equal pay for equal work, and women faced no restrictions involving ownership of property. Women continued to work mainly as homeworkers and domestic workers, but more women joined the private and public sectors. Female migrant workers, who worked mainly in hospitality and industry, reported discrimination.

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 the government registered all children at birth. Children born to citizen parents abroad can be registered by either of their parents. There are no differences in birth registration law or policy based on the child's gender.

Child Abuse: Child abuse remained a problem during the year. Neglect was the most common form of child abuse, followed by physical abuse.

The press reported regularly on the rape and sexual abuse of children. The minimum age for consensual sex is 16 years, and statutory rape is punishable by imprisonment from 10 years to life, but authorities brought charges against few offenders. The Citizens Welfare Division reported that the process of prosecuting offenders was long, and time spent on remand was often taken into account during sentencing. Adult men's having sexual relations with young girls was a particular problem, and the Citizens Welfare Division reported that there was an increase in cases of sexual abuse of young girls. 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. A family court handled child abuse cases, providing faster prosecution and more general handling of family and welfare cases.

Early and Forced Marriage: The legal minimum age for marriage is 18 years 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 statistics on it.

Sexual Exploitation of Children: The minimum age for consensual sex is 16. Child pornography is illegal and subject to fines of up to \$250,000 XCD (\$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.

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/rls/tiprpt/.

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, or who could not attend school as a result of inadequate transportation and classroom facilities. Additionally, anecdotal evidence suggested support for persons with mental disabilities was lacking. Advocates for persons with disabilities alleged that persons with mental disabilities often could not gain access to the sole

overcrowded and poorly maintained outpatient mental health facility, and often lived on the street. In other cases persons with disabilities lived in poor conditions because their families could not provide for their needs. Public areas, including government buildings, often lacked wheelchair accessibility.

In July a blind man alleged he was beaten while in prison. The incident spurred the Antigua and Barbuda Association of Persons with Disabilities to protest at the police headquarters, demanding suspension of the police officers responsible. The government's investigation concluded that the man fled police custody and ran into a fence, an assertion that the Association denies. As of October 2015, the man intended to hire a private attorney to bring the matter to court in a civil case.

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

Consensual same-sex sexual activity for males is illegal under indecency statutes; however, the law was not strictly enforced. The law also prohibits anal intercourse. 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 protect LGBTI persons.

Societal attitudes somewhat impeded operation and free association of LGBTI organizations, but there were a few organized groups. There were limited reports of discrimination based on sexual orientation or gender identity in a variety of settings.

There was one report of police brutality against a well-known transgender individual. On September 12, police apprehended this individual for following another car. While in custody, the individual stated that the police severely beat him, and as a result he lost sight in his right eye. The police are still investigating the incident, but one organized LGBTI group claimed that they believe the police will cover up the incident.

HIV and AIDS Social Stigma

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 healthcare professionals and police. Anecdotal evidence also suggested employers had dismissed and discriminated against employees with HIV/AIDS.

There were 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 police officers 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 employers who requested it. The Ministry of Health reported that stigmatization of HIV-positive persons, while still a significant problem, had decreased, especially among police forces.

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.

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 form and join independent unions and bargain collectively without interference. The law 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 two weeks' 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.

If 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 was not always effective at deterring labor violations. Penalties for violations of freedom of association or collective bargaining included fines. Administrative and judicial procedures often were subject to lengthy delays and appeals.

Freedom of association and the right to collective bargaining were generally respected in practice. Strikes within the essential services sector were rare, but there were strikes within the hospitality and public works sectors during the year. There were no official or unofficial reports of antiunion discrimination nor any violations related to collective bargaining rights; however, trade unions reported that some employers did not enter into negotiations in good faith. The unions reported a positive relationship with the government, however, and engaged the government in difficult situations with employers.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor.

The government effectively enforced the law in all cases. The Office of National Drug and Money Laundering Control Policy investigated cases of trafficking in persons, including forced labor. Authorities removed at least one individual from a forced labor situation during the year. The law prescribes penalties for forced-labor violations of 20 to 30 years imprisonment with fines not to exceed 400,000 XCD (\$148,148). These penalties were sufficiently stringent to deter violations.

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/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law stipulates a minimum working age of 16 years, although in some circumstances children under 16 are eligible for employment with restrictions. Persons under 18 may not work past 10 p.m., except in certain sectors, and in some

cases must have a medical clearance to receive employment. No list of hazardous work existed for the protection of those under 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. Discrimination with Respect to Employment or Occupation

The law prohibits discrimination on the basis of race, sex, age, or political opinion in employment or occupation. In general the government effectively enforced these laws and regulations. The law does not prohibit employment discrimination on the basis of disability, language, sexual orientation and/or gender identity, HIV or other communicable disease status, or social origin, but the government encouraged employers not to discriminate on these grounds. There were anecdotal reports of employment discrimination against employees with HIV/AIDS (see section 6, HIV and AIDS Social Stigma).

e. Acceptable Conditions of Work

The minimum wage was 8.20 XCD (\$3.03) an hour for all categories of labor. According to a 2007 Caribbean Development report on poverty, the most recent data available, the official estimate for the poverty income level was 6,318 XCD (\$2,340) per annum when adjustments were made for non-food expenditure. In practice the great majority of workers earned substantially more than the minimum wage. The customary standard workweek was 40 hours in five days. The law provides that workers are not required to work more than a 48-hour, six-day workweek and provides for 12 paid annual holidays. The law requires employees be paid one and one-half times the employee's basic wage per hour for overtime work in excess of the standard workweek. The Ministry of Labor put few limitations on overtime, allowing it in temporary or occasional cases, but did not allow employers to make regular overtime compulsory.

The government does not have occupational health and safety regulations apart from those regarding child labor. The law does not specifically provide that workers can remove themselves from situations that endanger health or safety without jeopardy to their employment. It does, however, provide the ministry the

authority to require special safety measures, not otherwise defined in the law, to be put into place for worker safety.

The Ministry of Labor and the Industrial Court enforced labor standards, and there were seven labor inspectors as of June 2015. The government enforced labor laws, including remedies and penalties of up to 5,000 XCD (\$1,851.55) for nonpayment of work. Overtime violations were penalized but these were not always effective at deterring labor violations.

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. Nevertheless, workers in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions, especially accidents related to working with heavy machinery.