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## 2009 Human Rights Report: Cape Verde

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

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Cape Verde, with a population of approximately 508,600, is a multiparty parliamentary democracy in which constitutional powers are shared between the elected head of state, President Pedro Verona Rodrigues Pires, and Prime Minister Jose Maria Neves. Pires was reelected for a second five-year term in 2006 in generally free and fair elections. The Supreme Court of Justice and National Electoral Commission also declared the 2006 nationwide legislative elections generally free and fair. Although civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the police forces committed abuses against detainees.

The government generally respected the human rights of its citizens; however, problems were reported in some areas: police abuse of detainees, police impunity, poor prison conditions, lengthy pretrial detention, excessive trial delays, violence and discrimination against women, child abuse, and some instances of child labor.

### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that 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 and law prohibit such practices; however, there were credible reports that in some instances police beat persons in custody and detention. In most cases, authorities took action against the abusers. However, there were credible reports that police failed to report to their superiors some of the abuses that occurred in police stations.

Prison and Detention Center Conditions

Prison conditions were poor, and facilities were severely overcrowded. Sanitation and medical assistance were poor; however, doctors and nurses were available, and prisoners were taken to public hospitals for serious medical problems. Psychological problems among prisoners were common.

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During the year there were no known deaths in prison from adverse conditions. There were a total of approximately 1,300 prisoners and detainees in the country's eight prisons. The maximum capacity of Praia's prison is 800 prisoners.

In prisons juveniles were sometimes held together with adults in certain facilities, but pretrial detainees generally were held separately from convicted prisoners.

In December 2008 a fellow prisoner alleged to be a professional hit man hired by drug traffickers murdered a convicted drug trafficker who was collaborating with authorities. The case remained under investigation.

The 2005 prisoner riot case at the Sao Martinho Prison in the capital city of Praia in which one prisoner was killed and three persons (including a guard) injured was pending final resolution. The prison director, who left for another country after being formally accused of allowing the mistreatment of prisoners under his supervision, subsequently was sentenced in that country to three years' imprisonment for perjury related to his immigration status.

The government permitted formal visits by international human rights monitors to prisons and visits to individual prisoners. Local nongovernmental organizations (NGOs) and media representatives frequently visited the prisons and reported on prison conditions.

Each municipality has police stations capable of holding detainees until they are transferred to prison. There were no deaths as a result of adverse conditions in jails and detention centers, but separation of prisoners based on trial status, gender, and age was not always possible due to space limitations.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

The Public Order Police are under the Ministry of Internal Administration and are responsible for law enforcement. The Judicial Police are under the Ministry of Justice and are responsible for major investigations. Logistical constraints--including lack of vehicles, limited communications equipment, and poor forensic capacity--limited police effectiveness. Corruption was not a significant problem.

Police abuses were investigated internally, and these investigations resulted occasionally in legal action against the perpetrators. During 2008 the government provided training to increase police effectiveness. Police impunity, however, remained a problem.

#### Arrest Procedures and Treatment While in Detention

Police may not make arrests without a warrant issued by an authorized official unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a detainee with the right to prompt judicial determination of the legality of his or her detention, and the authorities respected this right in practice. Attorneys inform detainees of the charges against them. There was a functioning bail system. Detainees were allowed prompt access to family members and to a lawyer of their choice and, if indigent, to one provided by the government.

Nonetheless, the length of pretrial detention was a serious problem. One concern arose from differing interpretations of the law authorizing extended pretrial detention in certain circumstances. Some courts have read this provision broadly, while others have opted for a narrower interpretation. This resulted in situations where detainees facing identical charges were held for different lengths of time based on the prosecutor's and the judge's interpretation of the law. At year's end no standard timelines had been set for pretrial detentions. The judicial system also was overburdened and understaffed, and criminal cases frequently ended when charges were dropped by the citizen before a determination of guilt or innocence was made.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system lacked sufficient staffing and was inefficient.

The judicial system is composed of the Supreme Court of Justice (SCJ), which is the court of last resort and also handles administrative cases, and the regional courts. The National Assembly amended the constitution in February to increase the number of Supreme Court judges from five to seven with a view to expediting the resolution of cases. Of the seven Supreme Court judges, one is appointed by the president, two by the National Assembly, and four by the Superior Judiciary Council. Judges are independent and may not belong to a political party. Regional courts adjudicate minor disputes on the local level in rural areas. The civilian courts have jurisdiction over state security cases. Criminal courts handle violations of criminal law, including the electoral laws, while civil courts handle civil and commercial suits. There is also a military court; it cannot try civilians. The military court provides the same protections as civil criminal courts.

#### Trial Procedures

The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the indigent. Defendants are presumed to be innocent until proven guilty, have the right to confront or question witnesses against them, and have the right to present witnesses in their defense. Defendants also can present evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases and can appeal regional court decisions to the SCJ. The law extends the above rights to all citizens.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

The ordinary courts are impartial and independent, and handle civil matters including lawsuits seeking damages for, or an injunction ordering the cessation of, a human rights violation. Both administrative and judicial remedies are available for alleged wrongs.

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

The constitution and law prohibit such actions, and the government generally respected these prohibitions.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights. The independent press was active and expressed a variety of views without direct restriction.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 21 percent of the country's inhabitants used the Internet. Citizens in the cities had access to the Internet at cybercafes.

#### 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 and law provide for freedom of assembly and association, and the government generally respected these rights.

#### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right.

#### Societal Abuses and Discrimination

There was no known Jewish community, and there were no reports of anti-Semitic acts or discrimination against members of any religious group.

At the end of the year the SCJ had not issued a decision in the 2006 case against four Seventh-day Adventists accused of desecrating a Roman Catholic Church.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and laws provide for freedom of movement within the country, 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 and other humanitarian organizations in assisting refugees and asylum seekers.

The constitution and law prohibit forced exile, and the government did not employ it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The country is also a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The government grants refugee status and asylum when petitioned under the established system. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the government provided temporary protection to 11 individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

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

The constitution and law provide 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

In the 2006 legislative elections, individuals and parties were free to declare their candidacies. The ruling African Party for the Independence of Cape Verde (PAICV) won 41 seats in the National Assembly with 52 percent of the vote; the main opposition party, Movement for Democracy (MPD), won 29 seats; and the Union for a Democratic and Independent Cape Verde won the remaining two seats. International observers characterized the elections as generally free and fair, despite some irregularities. Alleging fraud the MPD unsuccessfully contested the results by filing suit with the SCJ to annul the elections.

Presidential elections were also held in 2006, and individuals and parties were free to declare their candidacies. International observers characterized the conduct of the election as free and fair. The incumbent, President Pires, won a second term with 51 percent of the vote; MPD candidate Carlos Veiga obtained 49 percent of the vote. Veiga then petitioned the SCJ to annul the presidential election results, stating that the elections were not free or transparent. The SCJ ruled there were no legal grounds for annulment and confirmed President Pires as the winner.

Although the National Electoral Commission (CNE) and the SCJ declared the legislative and presidential elections generally free and fair, they also recognized some irregularities in both elections. The CNE noted that the electoral code needed to be amended to provide greater security and transparency. It also cited needs for stricter, more consistent voter identification and registration processes and the adoption of indelible ink on ballots.

There were 11 women in the 72-seat National Assembly, eight women in the 20-member cabinet, and three women on the SCJ.

### Section 4 Official Corruption and Government Transparency

Official corruption carries a criminal penalty of up to 15 years' imprisonment. There were no new reports of government corruption during the year, but the World Bank's 2008 Worldwide Governance Indicators reflected that government corruption was a problem.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected. The government in practice frequently granted access.

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

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

There were several private, independent human rights groups, including the National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The government has a positive attitude towards international NGOs. In November the International Labor Organization (ILO) sent an expert to provide training on constitutional obligations related to reporting requirements under ratified ILO conventions.

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

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the government did not enforce these provisions effectively, and violence and discrimination against women and abuse of children were serious problems.

##### Women

Rape, including spousal rape, is a criminal offense, but the government generally did not enforce the law effectively. The penalty for rape is eight to 16 years' imprisonment. Penalties are higher if the victim is under the age of 16 or if the offender took advantage of job responsibilities in a prison, hospital, school, or rehabilitation center, or with persons under his or her authority.

Domestic violence against women, including wife beating, was widespread. The government and civil society encouraged women to report criminal offenses such as spousal abuse, which is punishable by two to 13 years' imprisonment; however, longstanding social and cultural norms as well as lack of shelter housing inhibited victims from doing so.

While there were mechanisms such as legal counseling, psychological care, specific police attention, and family courts to deal with spousal abuse, these mechanisms neither effectively prevented violence nor ensured the punishment of those responsible. Women claimed that police often ignored the legal complaints they filed against their husbands. Nevertheless reports to police of domestic violence continued to increase during the year. The police and judicial system sometimes delayed acting on abuse cases. Violence against women was the subject of extensive public service media coverage.

The government-run Cape Verdean Institute of Equity and Gender, the Women Parliamentarians Network, and local women's organizations with foreign diplomatic support promoted legislation to address gender-based violence.

Prostitution is legal, except for prostitution of minors, and the government generally did not enforce that prohibition. Sex tourism was a growing problem, and there are no laws to address it.

Sexual harassment was common and not culturally perceived as a crime. It is prohibited by law with a penalty of one year in prison, but the government did not effectively enforce this law.

The Civil Code grants all citizens the freedom to make decisions regarding the number, spacing, and timing of their children without discrimination, coercion, or violence. All citizens have access to contraception. Family planning centers throughout the country distribute some contraceptives free of charge to the public. These centers provide skilled assistance and counseling both before and after childbirth and in cases of sexually transmitted infections, including HIV.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Despite legal prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. The Cape Verdean Institute of Equity and Gender worked for the protection of legal rights of women. The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

##### Children

Citizenship can be derived either by birth within the country or from one's parents. The government registered all births immediately after they were reported. Failure to register did not result in denial of public services.

The government provided free and universal education for all children aged six to 12. Education was compulsory until age 11; however, secondary education was free only for children whose families had an annual income below 147,000 escudos (approximately \$1,950). There was a 94 percent primary education enrollment rate for all children; the enrollment rate in secondary school for all children was 70 percent.

Child abuse and sexual violence against children were serious problems, and the media regularly reported on those issues. Child labor was also a problem (see section 7.d.). Government efforts to address these problems were inadequate. In 2007 the Institute of Children and Adolescents (ICCA), a government organization, carried out a study on the child labor situation and concluded that the practice of using children to collect sand for use in construction should be considered as one of the worst forms of child labor.

The ICCA also found that children tend to work at the behest of their families, and that child labor on the islands is intimately linked to the need to supplement family income. It is believed, however, that the vast majority of these children performed work outside of school hours and attended school.

#### Trafficking in Persons

The law prohibits trafficking in minors, but not adults, and there were reports that persons were trafficked to and from the country. Police reports alleged that the country was a transit point for trafficking in persons from West African countries to the Canary Islands and to Europe. However, there was no additional reported evidence to support these reports.

Sentences for trafficking in children range from 12 to 16 years' imprisonment. There were no prosecutions of such cases during the year. The Ministry of Justice and the Ministry of Internal Administration are responsible for combating human trafficking. The government did not extradite citizens who were accused of human trafficking in other countries.

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. There are no laws or programs to ensure access to buildings for persons with disabilities. Several NGOs, including an association for the blind, actively advocated for the rights of persons with disabilities.

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

Legal protections helped ensure homosexual conduct was protected under the law; however, societal discrimination based on sexual orientation or gender identity continued to be a problem. There were no lesbian, gay, bisexual, or transgender persons' NGOs active in the country.

#### Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### Section 7 Worker Rights

##### a. The Right of Association

The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. There are no restrictions except for employees of diplomatic missions.

Approximately 22 percent of workers were unionized. The law provides union members with the right to strike. Nonetheless, the government may invoke a "civil request" through which it may require the striking union to continue providing specified minimum services in an emergency or if provision of basic services is threatened.

#### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right of workers to bargain collectively; however, there was very little collective bargaining. There were no collective bargaining agreements and no collective labor contracts completed during the year.

The law prohibits antiunion discrimination.

There are no special laws or exemptions from regular labor laws within the export processing zone that encompasses the entire country.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

#### d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, but the government did not implement them effectively. A new labor code was approved in 2008, which lowered the legal minimum age for employment from 16 to 15 years. The code also states children under 15 may be allowed to work as apprentices under specific conditions that do not jeopardize the child's health and development; however, the government rarely enforced either provision. For children under the age of 15, only apprentice contracts are allowed.

The most recent statistics available (2000 census) indicated that an estimated 8,000 children were working as street vendors and car washers in urban centers, and in agriculture, animal husbandry, and fishing in the countryside. It is believed, however, that the vast majority performed work outside of school hours and attended school.

In 2007 the ICCA concluded a study analyzing the child labor situation in the country. The goals of the study were to raise public awareness, to create an action plan to prevent children from entering exploitive work situations, and to encourage children engaged in such labor to stop.

The ministries of justice and labor were responsible for enforcing child labor laws. In practice, however, they seldom did so. There were no government programs to address child labor.

#### e. Acceptable Conditions of Work

As the country's largest employer, the government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector. For a typical entry-level worker, this wage was approximately 12,000 escudos (\$163) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers also relied on second jobs and support from their extended family for income.

The law sets the maximum workweek for adults at 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for whatever overtime is worked. The law also mandates required rest periods, which vary according to the sector--the minimum is 12 hours. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.

The director general of labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law. Nonetheless, the government did not enforce labor laws systematically, and much of the labor force did not enjoy legal protection.

The government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment. The law does provide workers with the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment.