Cape Verde

Released by the Bureau of Democracy, Human Rights, and Labor
February 23, 2001

Cape Verde is a multiparty parliamentary democracy in which constitutional powers are shared between the elected Head of State, President Antonio Mascarenhas Monteiro, an independent; the Head of Government, Prime Minister Carlos Wahnon Veiga; and Veiga's party, the Movement for Democracy (MPD). The MPD has an absolute majority in the National Assembly, although a disagreement within the top levels of the MPP during the year resulted in a split within the party and the formation of a new party. The principal opposition party, the African Party for the Independence of Cape Verde (PAICV), held power in a one-party state from independence in 1975 until 1991. National elections are scheduled for January and February 2001. The judiciary is independent; however, there were accusations of politicized and biased judicial decisions.

The Government controls the police, which has primary responsibility for maintenance of law and order. Some members of the police and prison guards committed human rights abuses.

Cape Verde has a market-based economy but little industry and few exploitable natural resources. Based on 1998 data, the per capita income is $1,312. The country has a long history of economically driven emigration, primarily to Western Europe and the United States, and remittances from citizens abroad remained an important source of income. Even in years of optimum rainfall, the country can produce food for only 25 percent of the population of approximately 435,000 persons, which resulted in heavy reliance on international food aid.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were a number of credible reports of police abuse, including beatings, of citizens detained on suspicion of criminal activity. While in principle the law and the judiciary provide means to deal with isolated instances of abuse, in practice the Government has not held accountable police officers who were credibly accused of human rights abuses. There were reports that immigration authorities harassed Nigerian citizens. Prison conditions are poor. The judicial system is overburdened, lengthy delays in trials are common, and there continued to be accusations of politicized and biased judicial decisions. There were some limitations on press freedom, and there continued to be allegations of media self-censorship. Revisions of the Constitution in 1999 created an independent ombudsman. Violence and discrimination against women and mistreatment of children continued to be serious problems. Although the Government supported legislation to ameliorate these problems, it failed to adopt, implement, and enforce policies designed to address the most critical challenges. There were reports of trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

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, but there was one credible report that police beat a detainee on Sal Island in August; at year's end, no action had been taken against the police. While mechanisms for investigating citizen complaints of police brutality exist in theory, in practice these mechanisms neither ensure the punishment of all of those responsible nor effectively prevent future violations. In addition in some instances of violence against women, the police did not protect the victims effectively (see Section 5). There were reports that immigration authorities harassed Nigerian citizens (see Section 2.d.).

Prison conditions are poor, and they are severely overcrowded; however, there were no reports of prison deaths. The President's amnesty did not reduce the overcrowding. Sanitation and medical assistance is poor; a doctor and a nurse were available and prisoners were taken to the public hospitals for serious problems. Psychological problems were common. Although women and men are held separately, juveniles are not held separately from adults.

According to a study by the Ze Moniz Association (AZM), there were reports that guards abused female prisoners.

The Government permits both formal visits by human rights monitors to prisons and routine visits to individual prisoners; however, other than the AZM study there were no visits by human rights groups.

d. Arbitrary Arrest, Detention, or Exile

The laws provide for protection from arbitrary arrest and detention, and the authorities generally observe these laws in practice. The law stipulates that a suspect must be charged before a judge within 48 hours of arrest. Police may not make arrests without a court order unless a person is caught in the act of committing a felony. In 1999 the Government revoked a provision that allowed authorities to detain a person for up to 5 days in exceptional cases.

The courts have jurisdiction over state security cases. There is a functioning system of bail.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for a judiciary independent of the executive branch, and the Government respects this provision in practice; however, there continued to be accusations of politicized and biased judicial decisions. In July 1999, a prosecutor dismissed a case against four persons associated with the main opposition party who had been arrested for church desecration in 1996. In 1998 a judge ordered their release from detention because of lack of evidence. The Attorney General refused to confirm the prosecutor's decision and declared that the case should await better proof that the persons were not culpable (see Section 5). At year's end, the case remained pending.

The judicial system is composed of the Supreme Court and the regional courts. Of the five Supreme Court judges, one is appointed by the President, one by the National Assembly, and three by the Superior Judiciary Council. This council, created by the 1999 revision of the Constitution, consists of the President of the Supreme Court, the Attorney General, eight private citizens, two judges, two prosecutors, the senior legal inspector of the Attorney General's office, and a representative of the Ministry of Justice. Judges are independent and may not belong to a political party.

The Constitution provides for the right to a fair trial. Defendants are presumed to be innocent; they have the right to a public, nonjury trial; to counsel; to present witnesses; and to appeal verdicts. Free counsel is provided for the indigent. Regional courts adjudicate minor disputes on the local level in rural areas. The Ministry of Justice does not have judicial powers; such powers lie with the courts. Defendants may appeal regional court decisions to the Supreme Court.

The judiciary generally provides due process rights; however, the right to an expeditious trial is constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely leads to trial delays of 6 months and more.

There were no reports of political prisoners.
f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for the freedom to express ideas by words, images, or any other means, and for freedom of the press without censorship; however, although the Government generally respected these rights in practice, there were some restrictions on press freedom. There is a substantial and growing independent press. Nevertheless, there was continued criticism by independent political figures of the performance of the state-controlled television, radio, and print media for their failure to exercise vigorously their monitoring role in a multiparty system. In several instances, persons in the media (and other sectors) whose views did not coincide with those of the Government and the ruling party were transferred, fired, or subjected to other disciplinary actions; the Government does not acknowledge that the divergence of views was the reason for such actions. There continued to be reports of media self-censorship.

The constitutional provision of freedom of expression was amended in 1999, to exclude using this freedom as a defense in cases involving defamation or offense to personal honor. This wording was criticized strongly by opposition politicians and some journalists as potentially limiting the freedom of expression; however, at year's end, no legal challenge had been made to the provision.

There are three independent newspapers and one state-owned newspaper. There are six independent radio stations and one state-owned radio station. One television station is state-owned and two others are foreign-owned. Foreign broadcasts are permitted. Journalists are independent of government control and are not required to reveal their sources; however, there are credible reports that journalists within the government-controlled media still practice self-censorship. In November opposition party members demonstrated in Praia against what they considered to be MPD control of the public media.

Government authorization is not needed to publish newspapers or other printed material. Despite the broadly interpreted criminal libel laws, no independent media outlets reported direct pressure in their daily operations or business activities. The national radio station provided live broadcasts of National Assembly sessions.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast; however, there were no reports that licenses were denied or revoked or that the Government refused to authorize broadcasts.

The Government did not restrict Internet access. There was a single, private sector Internet service provider. There were technical limitations on Internet use related to bandwidth and the unavailability of electricity and telephone lines in isolated parts of the country.

The Constitution provides for academic freedom, and this right is respected in practice.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, and the Government respected this right in practice. Throughout the year, labor organizations, opposition political parties, civic action groups, and numerous others exercised this right without government interference or objection.

In July students demonstrated in front of government offices in Praia to protest the requirement that they pass an achievement examination before receiving government scholarships. The demonstrations initially were peaceful, but they became violent when students blocked off main roads with burning tires; police fired into the air to disperse the demonstrators. There were no reported injuries.

The Constitution provides for freedom of association, and the Government respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in
practice.

The overwhelming majority (more than 90 percent) of citizens are at least nominally Roman Catholic. It generally is recognized that the Catholic majority enjoys a privileged status in national life; for example, the Government provides it with free television broadcast time for religious services and observes its holy days as official holidays.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides citizens with the right to travel and establish residence without government restrictions.

The Constitution provides for repatriation, and the Government respected this right in practice.

The Constitution provides for the right of asylum by refugees, and no violations were reported. The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. According to the U.N. Human Rights Commission, credible media reports, and government officials, Nigerian citizens have been subjected to harassment and prejudice by immigration authorities. The Government has not reviewed charges of misconduct by immigration officials. Nigerians alleged that they have been subjected to discriminatory treatment by Government officials; however, some Nigerians were illegally present in the country or convicted of crimes. Other observers reported no evidence of a government policy of discrimination against Nigerians. Three or four Basque separatist asylees remained in the country; there are no refugees.

The Government has not formulated specific policies regarding refugees or first asylum, and the issue of first asylum has never arisen.

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

Citizens have the right to change their government. Power was transferred peacefully by the PAICV to the MPD following free and fair elections in 1991; a second general election in 1995 and municipal and presidential elections in 1996 also were judged free and fair by international observers. National elections are scheduled to be held on January 14 and February 11, 2001.

The Constitution provides for the separation of powers. Cabinet ministers are not required to be members of the National Assembly, but they are individually subject to confirmation by the President. Collectively, they must retain the support of a parliamentary majority. The President may dismiss the Government with the approval of the political parties represented in the National Assembly and the Council of the Republic. This council consists of the President of the National Assembly, the Prime Minister, the President of the Constitutional Court, the Attorney General, the Ombudsman, the President of the Economic and Social Council, the former presidents, and five private citizens appointed by the President.

In November 1999, a disagreement within the top levels of the MPD ended cooperation between the party's factions, and the group that controlled the party bureaucracy dismissed a number of dissident ministers and senior officials from the Government. Those who were dismissed claimed that they could not get a fair hearing for their views and formed a new political party, the Partido da Renovacao Democratica (PRD), which was legalized on October 25.

There are no restrictions in law or practice regarding the rights of women or members of minorities to vote or to participate in the political process; however, women are underrepresented in government and politics. Women constitute 11 percent of the deputies elected to the 72-member National Assembly. There are 2 female cabinet ministers and 3 female secretaries of state (junior ministers) in a cabinet consisting of 14 ministers and 6 secretaries of state.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are two private human rights groups, the National Commission of the Rights of Man and the Ze Moniz Association. During 1999 a foreign government financed a professional study of prison conditions by the Ze Moniz Association, which was released to the Government and the public in September. The Government cooperated with the researchers who prepared the report and, upon its publication, expressed interest in using the report to help formulate new laws and regulations; however, no action had been taken by year's end.

http://www.state.gov/g/drl/rls/hrrpt/2000/af/725pf.htm
The post of an independent Ombudsman, to be elected by the National Assembly, was created by the 1999 revision of the Constitution. The Ombudsman's powers remained undefined at year's end, and no Ombudsman has been elected.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status. However, despite the Government's increasing efforts to enforce all relevant constitutional provisions, it still does not do so effectively, and not all elements of society, particularly women and children, enjoy full protection against discrimination.

Women

Domestic violence against women, including wife beating, remains common. The Government and civil society encourage women to report criminal offenses such as rape and spousal abuse to the police; however, longstanding social and cultural values inhibit victims from doing so, and according to the media, such reports remain rare. Nevertheless, reporting of such crimes to police slightly increased during the year, and the media continued to report their occurrence. Women's organizations continued to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, they made no progress in achieving the required legislation.

Violence against women has been the subject of extensive public service media coverage in both government- and opposition-controlled media. In 1998 the Parliament revised the Penal Code, widening the scope of sexual abuse and strengthening penalties against abusers.

Despite constitutional prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. Although they often are paid less than men for comparable work, women are making modest inroads in various professions especially in the private sector. However, some employers continued to claim that they prefer to hire men.

The Constitution prohibits discrimination against women in inheritance, family, and custody matters; however, largely because of illiteracy, most women are unaware of their rights. Women often are reluctant to seek redress of domestic disputes in the courts. The Organization of Cape Verdena Women alleged that there is disparate treatment in inheritance matters, despite laws that call for equal rights. For example, some women are pressured to sign judicial agreements detrimental to their statutory inheritance rights.

In July a group of female attorneys formed the Assoiação Caboverdiana das Mulheres Juristas, an association whose purpose is to provide free legal assistance to women throughout the country suffering from social abuse (both violence and discrimination) and spousal abuse.

Children

The Government updated its studies of social policy priorities and legal rights for children and adolescents and, during the year, it restructured the Cape Verdena Institute for Children in accordance with norms established in the Convention on the Rights of the Child. The Government provides free mandatory education for 6 years of primary school for all children. Normally this benefit covers children from age 6 to 12. Education is compulsory until age 16; however, secondary education is free only for children whose families have an annual income below approximately $1,700 (160,000 escudos). According to 1998 UNICEF statistics, primary school attendance is approximately 97 percent for children. Attendance rates by boys and girls differ by less than 1 percent. The Government also seeks to reduce infant mortality and disease, combat drug and alcohol abuse, and discourage teenage pregnancy; however, progress continued to be slow.

Child abuse and mistreatment, sexual violence against children, and juvenile prostitution are continuing but isolated problems, exacerbated by chronic poverty, large unplanned families, and traditionally high levels of emigration of adult men. The media reported cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system made it difficult for government institutions to address the problem.

People with Disabilities

Although the Constitution mandates "special protection" for the aged and disabled, the Government does not require access to public buildings or services for the disabled. There are no official schools or trained teachers for the disabled, although several nongovernmental groups, including an association for the blind, are active.
Religious Minorities

More than 20 cases involving the desecration of Catholic churches have been reported to the police over the years. While some cases date from 1975, after 1990 the rate of incidence increased; however, in contrast to previous years, there were no incidents during the year. The persons responsible for the desecrations never were identified, and the topic has remained a controversial electoral issue since the MPD accused supporters of the main opposition party PAICV of involvement in the crimes; however, the courts have dismissed every formal accusation that has been brought against PAICV members, usually for lack of evidence. In August 1999, the Attorney General rejected a local prosecutor's dismissal of the case against the four individuals of the "S. Domingos Group," who were accused of desecrating a Catholic church in 1996 (see Section 1.e.), and no further action was taken during the year.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides that workers are legally free to form and join unions without government authorization or restriction. There are two umbrella union associations: The Council of Free Labor Unions, composed of 11 unions with about 14,000 members; and the National Union of Cape Verde Workers, formed by the former ruling party but operating independently, composed of 14 unions with about 16,000 members. The Government does not interfere with the activities of these organizations, but the National Union of Cape Verde Workers claims that it received less than its share of funds for unions. Both unions suffer from a shortage of funds.

The Constitution provides union members with the right to strike, and the Government generally respects this right. However, in July and August 1999, the workers of the shipping company Arca Verde made two attempts to strike. The Government invoked a "civil request," under which it has the power, in an emergency or if a strike threatens coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. Because of the Government's "civil request," the crew and workers of four of the five ships in the fleet were required to continue working. According to the National Union of Cape Verde Workers, the Government's decision violated the law, since there was no emergency. The union claimed that, under such circumstances, the "minimum services list" that it presented to the Government would have ensured the continuation of essential services of public interest. The union presented the case to the International Confederation of Free Trade Unions, which in August 1999 filed a complaint against the Government with the International Labor Organization (ILO). At year's end, the complaint remained unresolved.

In its November report, the ILO Committee on Freedom of Association (CFA) noted that the Government amended legislation in April 1999 so that organizations of workers may enjoy the right to peaceful demonstration without unreasonable restrictions, in particular with regard to time. The CFA also reported that the Government began to take measures to amend its legislation so that in the event of disagreement between the parties on the minimum services to be respected during strikes, this difference of opinion is resolved by an independent body. However, at year's end, the Government had not created an independent body to resolve such differences.

The law requires an employer either to reinstate a worker fired unjustly or to provide financial compensation. This law is enforced in practice.

There were a number of strikes during the year, including a 3-day strike by firemen in Praia in February demanding wages equivalent to those of the police and a 2 day strike by teachers in November to protest delays in the payment of their salaries. There also were strikes by undergraduate students in November and meteorology workers in December; however, neither of the strikes resulted in concessions to the strikers.

In 1999 the ILO invited the Government to contest a case presented by the labor union UNTO-CS regarding the arrest of two of its activists in connection with a demonstration in 1998. The Government contested the case in July, and the ILO requested that the Government revise its legislation to permit an independent agency to resolve disputes concerning the provision of minimum services during a strike. During the year, the Government took no action to revise its legislation; however, it did not prosecute persons who struck without providing "minimal services" such as the strike by firemen in February.

Unions are free to affiliate internationally and have ties with African and international trade union organizations.

b. The Right to Organize and Bargain Collectively
The Constitution provides for the right to organize, to operate without hindrance, and to sign collective work contracts. Workers and management in the small private sector, as well as in the public sector, reach agreement through collective bargaining. Although there are no collective labor contracts, workers succeeded in collectively negotiating important issues such as salary increases. However, as the country's largest employer, the Government continued to play the dominant role in setting wages. It does not fix wages for the private sector, but salary levels for civil servants provide the basis for wage negotiations in the private sector. There are no collective bargaining agreements.

A 1991 legislative decree bans antiunion discrimination by employers with fines for offenders. No cases were brought to court during the year.

Praia has a 30-acre export processing zone, which houses two Portuguese companies and a Cape Verdean-Sengalese joint venture. There are no special laws or exemptions from regular labor laws for such zones.

c. Prohibition of Forced or Compulsory Labor

The law forbids forced or compulsory labor, and it is not known to occur.

The Government prohibits forced and bonded labor by children, and enforces this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment

The legal minimum age for employment is 14 years. The law prohibits children under the age of 16 from working at night, more than 7 hours per day, or in establishments where toxic products are produced; but the Government rarely enforces the law. In practice the Ministry of Justice and Labor enforces minimum age laws with limited success, and then only in the urban, formal sectors of the economy.

The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

The Government has taken no action on ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work

There are no established minimum wage rates in the private sector. Large urban private employers link their minimum wages to those paid to civil servants. For an entry-level worker, this wage is approximately $120 (11,193 escudos) per month. The majority of jobs pay wages insufficient to provide a worker and family with a decent standard of living; most workers also rely on second jobs, extended family help, and subsistence agriculture.

The maximum legal workweek for adults is 44 hours. While large employers generally respect these regulations, many domestic servants and agricultural laborers work longer hours.

The Director General of Labor conducts periodic inspections to enforce proper labor practices and imposes fines on private enterprises that are not in conformity with the law. However, the Government does not enforce labor laws systematically, and much of the labor force does not enjoy their protection. Few industries employ heavy or dangerous equipment, and work-related accidents are rare.

There is no legal provision for workers to remove themselves from unsafe working conditions without jeopardy to continued employment.

f. Trafficking in Persons

There is no law addressing trafficking in persons. Illegal trafficking in emigrants to various points in Europe is believed to be a thriving business, with the country as a transit point; it has become a concern for local authorities. Several notices in the press report that the police have arrested some persons, traffickers as well as victims. During the year, cases involved fewer than 30 persons. The Government is cooperating with European authorities, neighboring governments, and embassies to counter the problem.

[End.]