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2010 Human Rights Report: Cape Verde

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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Cape Verde, with a population of approximately 492,000, 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 the National Electoral Commission also declared the 2006 nationwide legislative elections generally free and fair. There were instances in which elements of the security forces acted independently of civilian control.

Problems were reported in the following 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

Sao Martinho is the largest prison in the country, housing more than 55 percent of the national prison population. During the year there were no known deaths in prison from adverse conditions. There were approximately 1,300 prisoners and detainees in the country's eight prisons.

In prisons other than Sao Martinho, juveniles were sometimes held together with adults, but pretrial detainees generally were held separately from convicted prisoners.

In 2008 a prisoner alleged to be a professional killer, 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 Sao Martinho Prison, in which one prisoner was killed and three persons (including a guard) injured, was pending final resolution at year's end. The prison director, a military officer, 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. He returned to Cape Verde in October and was facing a court martial, which had not been scheduled by the end of the reporting period. He is detained in a military jail, awaiting trial.

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.

Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or to request investigation of allegations of inhumane conditions. The government did not investigate and monitor prison and detention center conditions.

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. There is no ombudsman to serve on behalf of prisoners and detainees.

In January the government concluded a project improving conditions in the main prison center on Sao Martinho by inaugurating additional facilities and extending the prison's capacity from 800 to 830 prisoners. In the new unit, prisoners are divided by gender, age, and nature of crime (with separation between convicted prisoners and those awaiting trial); there are 18 disciplinary cells and two rooms for spouses' visits. The facility has spaces for guards, lawyers, and educational and social reinsertion trainers. There is a classroom equipped with television, DVD player, and computers; a space for adult education; medical facilities; canteens for guards and prisoners; a library; and a space for professional training, within the scope of a social reinsertion program. In addition the prison in Sao Vicente saw minor improvements, including a new security camera system, funded by the Portuguese government. Other prisons throughout the country, however, still awaited funding for proposed improvements, and conditions there remained poor.

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. Police abuses were investigated internally, and these investigations resulted occasionally in legal action against the

perpetrators. The government provided training to increase police effectiveness. Police impunity, however, remained a problem.

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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 the 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 interpretative difference 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.

In addition to civil courts, there is also a military court; it cannot try civilians. The military court provides the same protections as civil criminal courts.

Trial Procedures

Defendants enjoy a presumption of innocence. 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 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 Supreme Court of Justice (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 in practice.

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 freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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, and the government has established a system for providing protection to refugees. 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.

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

The constitution and law provide the right for citizens 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 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.

Political parties could operate without restriction or outside interference.

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

The law provides a penalty of up to 15 years' imprisonment for official corruption. There were no new reports of government corruption during the year. The World Bank's 2009 Worldwide Governance Indicators reflected that government corruption was a problem. There were also unofficial reports of instances of corruption among state prosecutors, judges, and justice officials. Police corruption was not a significant 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.

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 provided for 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. 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. As a result of this action, in July the parliament approved a bill that, for the first time in the country's history, addressed gender-based violence. The new law focuses on three main objectives: improving protections afforded to victims, strengthening sanctions against offenders, and raising awareness of the problem. The law was designed to protect both male and female victims, but was expected to protect mostly women. According to a 2005 study by the Ministry of Health and National Institute of Statistics, approximately 22 percent of women and girls have been victims of gender-based violence.

Sex tourism was a growing problem, and there are no laws to address it. There were no indications of governmental involvement or complicity.

Sexual harassment was common but 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 for cases of sexually transmitted infections, including HIV. Prenatal counseling and care is available, including ultrasound screening and tetanus vaccines. Prenatal blood tests are conducted, including HIV screening, and treatment for sexually transmitted diseases (including HIV) is made available if warranted. Postnatal services include family planning and free oral/injection contraceptives. The reported incidence of maternal mortality was 53.7 per 100,000 live births, according to the *2009 Ministry of Health Statistical Report*. Women are equally diagnosed and treated for sexually transmitted diseases, 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 between the ages of six and 12. Education was compulsory until the age of 11; however, secondary education was free only for children whose families had an annual income below 147,000 escudos (approximately \$1,950).

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 tended to work at the behest of their families, and that child labor was intimately linked to the need to supplement family income. It was believed, however, that the vast majority of these children performed work outside of school hours and attended school.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html .

Anti-Semitism

There was no known Jewish community and no reports of anti-Semitic acts.

Trafficking in Persons

In 2009 there were no confirmed reports that persons were trafficked to, from, or within Cape Verde.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental 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 provide for access to buildings, information, and communications for persons with disabilities. Several NGOs, including an association for the blind, actively advocated for the rights of persons with disabilities. The government did not restrict the right of persons with disabilities to vote or participate in civic affairs.

The Ministry of Labor, Family, and Social Solidarity (MTSS) is the government agency responsible for protecting the rights of persons with disabilities. The National Council for Persons with Disabilities works under the MTSS as a consulting body and has the role of proposing and overseeing the implementation of the government's policies.

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

Legal provisions helped provide protection for homosexual conduct; however, societal discrimination based on sexual orientation or gender identity continued to be a problem. There were no lesbian, gay, bisexual, or transgender persons' organizations 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. The country's workforce was estimated at 194,358, 22 percent of whom were unionized. Updated data on the percentage of workers in the agricultural, nonagricultural, public, and private sectors were not available. The laws allow unions to conduct their activities without government interference. 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, and the government effectively enforced this provision. There were no reports of such discrimination by employers during the year.

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 revised labor code was approved in 2008, which lowered the legal minimum age for employment from 16 to 15 years. The code also states that children under 15 years old 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, create an action plan to prevent children from entering exploitive work situations, and encourage children engaged in such labor to stop. The study concluded that child labor was a limited reality in the country and, in most cases, it was a result of poverty and closely tied to the activities of the entire family.

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 sector; the minimum period of rest is 12 hours. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours. The labor code applicable to seamen and merchant marines was updated in May. By legislative decree, the rest period for maritime workers was increased from 2.5 days per 30 working days to 10 consecutive days per 30 working days.

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 provides workers the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment. There were no exceptions in the law for foreign or migrant workers.

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