



2008 Human Rights Reports: Antigua and Barbuda

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
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Antigua and Barbuda is a multiparty, parliamentary democracy with a population of approximately 100,000. In the 2004 parliamentary elections, which observers described as generally free and fair, the United Progressive Party (UPP) defeated the ruling Antigua Labour Party (ALP), and Baldwin Spencer became prime minister. Civilian authorities generally maintained effective control of the security forces.

While the government generally respected the human rights of its citizens, there were problems in a few areas, including excessive use of force by police, poor prison conditions, violation of press freedoms, societal discrimination and violence against women, and sexual abuse of children.

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 specifically prohibits such practices, and the authorities generally respected these prohibitions in practice. Nonetheless, there were occasional reports of police brutality, corruption, excessive force, discrimination against homosexuals, and allegations of abuse by prison guards.

In May authorities placed a police officer on administrative leave for the beating of a 17-year-old. The deputy police commissioner promised an investigation, and the case was pending at year's end.

A court convicted one of two police officers who shot the husband in a domestic disturbance in 2006; final sentencing was pending at year's end.

Prison and Detention Center Conditions

Prison conditions were very poor. Her Majesty's Prison, the country's only prison, was overcrowded, did not have toilet facilities, and slop pails were used in all 122 cells. It held 229 convicted prisoners at year's end.

Prison overcrowding was attributed in part to a law that limited the ability of magistrates to grant bail to those accused of certain offenses. This resulted in an increase in the number of persons held on remand or awaiting trial. Due to space limitations, authorities sometimes held persons on remand together with convicted prisoners.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison.

Juveniles were held with adult inmates.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

Security forces consist of a police force, the small Antigua and Barbuda Defence Force, and the Office of National Drug Control Policy, which coordinates law enforcement and prosecutorial action to counter narcotics trafficking. The police force comprised more than 715 officers, 147 of whom were part of the country's fire brigade, and 568 police officers. The police force is male dominated, but the number of female officers increased to 120. In October Thomas Bennet replaced Gary Nelson as police commissioner. Bennet was the last of a group of former Royal Canadian Mounted Police officers, including Nelson, brought in to help professionalize the police force and combat corruption.

The police discipline department, which investigates complaints against the police, is headed by the deputy police commissioner and decides whether an investigation is conducted. The police fall under the prime minister's area of responsibility, and he can call for an independent investigation into an incident as needed. In the wake of a number of drug-related gang murders that took place in 2007, the prime minister deployed the Defence Force to assist the police, established a midnight curfew for minors, extended hours for local police stations, and instituted random stops of pedestrians and motorists.

Arrest and Detention

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. The police must bring detainees before a court within 48 hours of arrest or detention. Criminal detainees were allowed prompt access to counsel and family members. The bail system requires those accused of more serious crimes to appeal to the High Court for bail, taking this responsibility away from the lower court magistrates.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The first level is the magistrate's court, followed by the court of appeals and the High Court. The constitution designates the Privy Council in the United Kingdom as the final court of appeal, which is always employed in the

case of death sentences.

Trial Procedures

The constitution provides that criminal defendants should 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 timely access to counsel, may confront or question witnesses, and have the right to appeal. In capital cases only, the government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts often reached verdicts quickly, with some cases coming to conclusion in a matter of days.

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, deals with civil cases involving sums of up to EC\$1,500 (\$550); three magistrate's courts deal with summary offenses and civil cases of not more than EC\$500 (\$185) in value. Persons 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 in practice.

In June 2007 the Privy Council rejected an appeal by the former owner of property expropriated by the government in 2002. (The owner alleged abuse of power, harassment, and threats by the government to acquire the property.) At year's end the government had not provided prompt, adequate, and effective compensation to the claimant, as stipulated under law, and was seeking to sell the property to a third party, prior to settling with the previous owner.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, but the government respected these rights on a somewhat limited basis. Although privately-owned print media, including daily and weekly newspapers, were active and offered a range of opinion, there were reports that criticism of the government was met with government harassment, and in at least one case by legal action.

There was no information available about any legal action taken by the two journalists working for media outlets critical of the government, whom the government deported in June 2007, and who reportedly intended to pursue the matter with authorities. Reporters Without Borders and the Association of the Caribbean Media criticized the government for expelling them, noting that both were citizens of Caribbean Community countries that have agreements allowing for the free movement of media workers.

There was continued tension between the government and ZDK Radio, which is owned by the family of Lester Bird, the former prime minister and leader of the opposition ALP.

Internet Freedom

There were no government restrictions on access to the Internet or reports that government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

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

Societal Abuses and Discrimination

Rastafarians complained of discrimination, especially in hiring and in schools. There were no other reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/rls/irf.

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and the government did not use it in practice.

Protection of Refugees

The law provides for granting asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened.

The government did not grant refugee status or asylum during the year. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers, but normally the government immediately deported foreigners who could not provide legal documentation.

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

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

In the 2004 elections, the opposition UPP won 12 of 17 seats in the House of Representatives and 55 percent of the popular vote. Members of a Commonwealth observer group reported that the elections were free and fair. UPP leader Baldwin Spencer replaced Lester Bird, whose ALP had held power continuously since 1976.

There were three women in the 17-seat House of Representatives and two women appointed to the 17-seat Senate. The governor general, the speaker of the House of Representatives, and the president of the Senate, all appointed positions, were women. There were two women in the cabinet.

There was one member of a minority in parliament.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. No information was available about the results of investigations of former ALP officials by a Special Task Force on Crime and Corruption established after the 2004 elections. Investigation targets included the former prime minister, a former finance minister, and a former ambassador.

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. The law established an Integrity 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.

The Freedom of Information Act gives citizens the statutory right to access official documents from public authorities and agencies, and it created a commissioner to oversee the process. In practice citizens found it difficult to obtain documents, possibly due to government funding constraints rather than obstruction.

Section 4 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.

There is an ombudsman, an independent authority appointed by the prime minister, to deal with complaints about the police and other government officials. However, the office lacks the resources to provide effective oversight for the entire government.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, sex, creed, language, or social status, and the government generally respected these prohibitions in practice.

Women

Rape, including spousal rape, is illegal and carries maximum sentences (rarely imposed) ranging from 10 years' to life imprisonment. As many as four rapes were reported every month. The directorate of gender affairs, part of the Ministry of Labor, Public Administration, and Empowerment, established and publicized a crisis hotline for victims and witnesses to sexual assault. When rape cases are reported to the police, a female police officer accompanies

the victim for both questioning and medical examinations. Once the doctor's report is completed, an investigation commences. If a suspect is arrested, he is placed in a line-up and must be identified by the victim face to face, without the use of a one-way mirror. There were 45 rape cases, of which 15 led to prosecution, during the year. In situations where the victim did not know her assailant, the cases rarely made it to trial. At year's end the government was working with a task force from Canada to target suspected serial rapists.

Violence against women, including spousal abuse, was a problem. The law prohibits and provides penalties for domestic violence, but many women were reluctant to testify against their abusers. The directorate of gender affairs operated a domestic violence program that included training for police officers, magistrates, and judges. The directorate also ran a domestic abuse hotline and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children. Services for victims of domestic violence included counseling and an advocacy case worker who accompanied the victim to the hospital and police station.

Prostitution is prohibited, but it remained a problem. There were a number of brothels that catered primarily to the local population.

Sexual harassment is illegal, but it was rarely prosecuted.

According to the Labor Department, there was a high incidence of sexual harassment incurred by employees in both the private and public sectors. However, only five cases were formally reported during the year; the small number was believed to result from concerns about retaliation.

While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector, accounting for 54 percent of the public service and more than half of the permanent secretaries--the most senior level in each government department. In addition 41 percent of bar association members were women. There was no legislation requiring equal pay for equal work, but women faced no restrictions involving ownership of property.

The Professional Organization for Women of Antigua is a networking and resource group for professional women that held seminars for women entering the workforce.

Children

While the government repeatedly expressed its commitment to children's rights, in practice its efforts to protect those rights were limited. Schools faced many shortages, and parents typically provided desks, chairs, and uniforms, and often purchased books.

Child abuse remained a problem. The press reported regularly on the rape and sexual abuse of children. Adult men having regular sexual relations with young girls was also a problem. According to one regional human rights group, the girls were often the daughters of single mothers with whom the perpetrators also had regular sexual relations.

Trafficking in Persons

There are no laws that specifically address trafficking in persons, and there were occasional reports of trafficking in women to the country. There were a number of brothels, which were staffed mostly by women from various Caribbean countries who traveled to the country as "entertainers" or "dancers." In some cases brothel owners reportedly retained their documents to exert influence over the victims. However, authorities usually deported the women immediately, before information on possible trafficking could be obtained.

There were two known cases during the year in which persons were trafficked to the country to work in local brothels. Authorities deported one victim and the other voluntarily returned to her home country with the support of the Bureau of Gender Affairs. In neither case were charges brought against the brothel owners.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. Although the constitution contains antidiscrimination provisions, no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities.

Other Societal Abuses and Discrimination

There were no reports of violence or discrimination based on sexual orientation.

There were no reports of violence or discrimination 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 of Labor encouraged employers to be more sensitive to employees with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to associate freely and to form labor unions. Approximately 60 percent of workers in the formal sector belonged to a union.

The labor code provides for the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, petroleum, health, and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition an injunction may be issued against a legal strike when the national interest is threatened or affected.

After hearings held by the Industrial Relations Court on the 2005 firing of nine pilots and five flight attendants who organized a union to represent employees of Caribbean Star Airlines, the airline merged with another airline and its pilots were unionized and able to strike.

b. The Right to Organize and Bargain Collectively

The law allows labor organizations to organize and bargain collectively without interference, and the government protected this right. The law prohibits antiunion discrimination by employers but does not specifically require reinstatement of workers illegally fired for union activity, although a court could impose it.

The labor code applied equally to workers in the country's free trade zones.

c. Prohibition of Forced or Compulsory Labor

The constitution 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

The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. In addition persons under 18 years of age must have a medical clearance to work and may not work later than 10 p.m. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The labor commissioner's office also had an inspectorate that investigated exploitive child labor matters.

e. Acceptable Conditions of Work

The labor code provides that the minister of labor may issue orders, which have the force of law, to establish a minimum wage. Tripartite consultations were held when the minimum wage was set. The minimum wage was EC\$7.00 (\$2.59) an hour for all categories of labor, which provided a barely adequate standard of living for a worker and family. In practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, six-day workweek, but in practice the standard workweek was 40 hours in five days. Laws provide for overtime work in excess of the standard workweek; excessive or compulsory overtime is not specifically prohibited.

Although the government had not developed occupational health and safety laws or regulations apart from those regarding child labor, the labor code includes provisions regarding occupational safety and health. While not specifically provided for by law, in practice workers could leave a dangerous workplace situation without jeopardy to continued employment.