

# ANTIGUA AND BARBUDA

## EXECUTIVE SUMMARY

Antigua and Barbuda is a multiparty, parliamentary democracy. In parliamentary elections in March 2009, which observers described as generally free and fair, the ruling United Progressive Party (UPP) defeated the Antigua Labour Party (ALP), and Baldwin Spencer was reelected as prime minister. Security forces reported to civilian authorities.

The most serious human rights problems involved poor prison conditions.

Other human rights problems included discrimination and violence against women; members of the lesbian, gay, bisexual, and transgender (LGBT) community; and persons with HIV/AIDS. There were reports of the mental, physical, and sexual abuse of children.

The government made strides in prosecuting and punishing those who committed human rights abuses, and impunity was not a widespread problem

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings. Authorities investigate any police-involved killings, and the prime minister can call for an independent investigation into an incident as needed.

Authorities held police accountable for their actions, although the process can take months or even years to be completed. For instance, in 2009 a court convicted Constable Kevin Nelson of murder following the use of excessive force against Denfield “Tobi” Thomas during a 2006 incident.

#### **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 use of excessive force and discrimination against persons on basis of sexual orientation or gender identity by the police.

### **Prison and Detention Center Conditions**

Prison conditions were very poor. Her Majesty's Prison, the country's only prison, was overcrowded, had inadequate toilet facilities, and slop pails were used in all 98 cells. A fire in April, as well as one in 2010, worsened the already poor conditions. Poor ventilation caused cell temperatures to remain very high, prisoners did not receive the adequate diet prescribed by internal regulations, and the superintendent was unable to promote the required standards of hygiene within the prison.

The prison, designed to hold a maximum of 150 inmates, held 154 convicted prisoners, 59 remanded prisoners, 83 awaiting trial, two awaiting sentencing, and four recaptured escapees at year's end.

Prison overcrowding was attributed in part to a law that limits 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. Remanded prisoners were separated from convicted prisoners, except in special cases where those arrested were members of a gang, although, this was not the norm. Illegal immigrants also were held in the prison, as the government had not yet completed construction of a separate holding facility.

Thirteen female prisoners were held in a separate section and were not subject to the same overcrowding problems encountered in the men's prison. Ten juvenile prisoners were held in the same building as adult prisoners, but occupied separate cells.

Prisoners and detainees had reasonable access to visitors, were permitted religious observances, and had reasonable access to complaint mechanisms and the ability to request inquiry into conditions.

The government investigated and monitored prison conditions and permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

#### **d. Arbitrary Arrest or Detention**

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

#### **Role of the Police and Security Apparatus**

Security forces consist of a police force, a prison guard service, immigration, airport and port security, the small Antigua and Barbuda Defence Force, and the Office of National Drug Control and Money Laundering Policy, which coordinates law enforcement and prosecutorial action to counter narcotics trafficking. The police fall under the minister of national security and labor's responsibility. The prime minister can call for an independent investigation into an incident as needed.

The police discipline department, which investigates complaints against the police, is headed by the deputy police commissioner and decides whether an investigation is conducted. Police typically are held accountable for their actions, as evidenced by the court conviction of Assistant Superintendent of Police Everton Francis for the unlawful shooting of Damien Watson in 2010.

Civilian authorities maintained effective control over the security forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

#### **Arrest Procedures and Treatment While in 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.

## **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); five 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.

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

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

#### **Status of 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. The opposition party and its leaders frequently asserted that the government infringed upon freedom of speech and did not provide equal access for the media. Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion.

Freedom of Speech: 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. The Senate suspended one senator from three meetings for making negative comments about the governor general on ZDK radio.

Freedom of Press: The ALP claimed that government-operated ABS TV and Radio did not allow fair access to the opposition.

Libel Laws/National Security: Politicians in both parties often filed libel cases against members of the other party.

### **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.

### **Freedom of Assembly**

In 2010 a court convicted the leader of the opposition ALP, along with six other party members, of violating the Public Order Act after speaking at a rally without a permit.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

#### **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 government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), and other humanitarian organizations in assisting refugees and asylum seekers.

#### **Protection of Refugees**

Access to Asylum: The government has not established a system for providing protection to refugees and did not grant refugee status or asylum during the year. Before the presence of the UNHCR and IOM, the government immediately deported foreigners who could not provide legal documentation, but during the year it began processing and housing them in a government-built center until their refugee status is decided. Those who do not receive refugee status may appeal, as they are provided an allotted amount of time before they are deported to their country of origin.

#### **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**

Recent Elections: In the March 2009 elections the ruling UPP won nine of 19 seats in the House of Representatives and 50 percent of the popular vote. Members of the Organization of American States observer group reported that the elections were generally free and fair. After the opposition ALP challenged the results of election, the Court of Appeal upheld the outcome, despite finding some technical problems in the election process.

Participation of Women and Minorities: There were two women in the House of Representatives and five 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 was one woman in the cabinet and one member of a minority in parliament.

#### **Section 4. Official Corruption and Government 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. Both political parties frequently accused the other of corruption, but investigations yielded little or no results.

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 commission responded to isolated reports of corruption, administered the act, and received the required disclosure reports.

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 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

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

Government Human Rights Bodies: There is an ombudsman, an independent authority appointed by the prime minister, to deal with complaints regarding police and other government officials. However, the office lacked the resources to provide effective oversight for the entire government and did not produce regular reports.

#### **Section 6. 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 and Domestic Violence: Rape, including spousal rape, is illegal and carries maximum sentences ranging from 10 years' to life imprisonment. Anecdotal evidence suggested it was a pervasive problem, with 12 rapes and 32 cases of acts defined as unlawful sexual intercourse reported during the year. The Directorate of Gender Affairs, part of the Ministry of Education, Gender, Sports and Youth Affairs, publicized a crisis hotline for victims and witnesses to sexual assault and managed a sexual assault center that coordinates responses to sexual assault. Police immediately refer reported rapes to the newly created Sexual Offenses Unit, and a female police officer accompanies the victim for both questioning and medical examinations at the sexual assault center. Once the doctor's report is completed, an investigation commences. An arrested suspect is placed in a line-up and must be identified by the victim, using a one-way mirror. Victims may, however, choose to identify their attacker face to face, without using a mirror, if they feel it necessary. Authorities prosecuted 10 cases of unlawful sexual intercourse during the year. In situations where the victim did not know her assailant, the cases rarely came to trial, although the number of those coming forward increased since the creation of the Sexual Offenses Unit.

Violence against women, including spousal abuse, continued to be a serious problem. The law prohibits and provides penalties for domestic violence, but some women were reluctant to testify against their abusers due to fear of stigma, retribution, or further violence. The government noted an increase in women coming forward in the years since enactment of the Domestic Violence Act of 1999. The Directorate of Gender Affairs operated a domestic violence program that provided training for law enforcement officers, health-care professionals, counselors, social workers, immigration officers and army officers. The directorate also worked with 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.

Sexual Harassment: 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 four cases were reported formally during the year; the small number was believed to result from concerns about retaliation.

Reproductive Rights: Reproductive rights of women were protected. Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of their children and had the information to do so free from discrimination, coercion, and violence. There was adequate access to contraception. Most pregnant women had at least one antenatal care visit, and most women gave birth in hospitals. A 2008 UNICEF report indicated that skilled attendance at birth was 100 percent and estimated the contraceptive prevalence rate at 53 percent. Incidence of maternal mortality was not available. Women were equally diagnosed and treated for sexually transmitted infections.

Discrimination: Women in society enjoy the same rights as men under the law. However, 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. Despite these limitations, women were well represented in the private and public sectors. There was no legislation requiring equal pay for equal work, but women faced no restrictions involving ownership of property. The Directorate of Gender Affairs is charged with promoting the rights of women.

## **Children**

Birth Registration: Citizenship is acquired by birth in the country, and all children were registered at birth. Children born to citizen parents abroad can be registered by either of their parents.

Child Abuse: Child abuse remained a problem, and the number of cases reported increased over 2010. Neglect was the most common form of child abuse, followed by physical abuse, although 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. In extreme cases of abuse, the government will remove the children from their home and put them in foster care or into a government or private children's home.

The government held public outreach about detection and prevention of child abuse and also completed training for foster parents regarding detecting the signs of child abuse and how to work with children who have been abused. The

government's welfare office also provided counseling services for both children and parents and often referred parents to the National Parent Counseling Center.

Sexual Exploitation of Children: Statutory rape is illegal; the minimum age for consensual sex is 16. Despite a maximum penalty of 10 years to life, authorities brought charges against few offenders, and those convicted did not serve long jail terms due to lack of witness cooperation. Child pornography is illegal and subject to fines of up to EC\$250,000 (\$92,500) and 10 years in prison.

International Child Abductions: The government is not a party to the 1980 Hague Convention on International Child Abduction. For country-specific information on international parental child abduction, see [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

### **Anti-Semitism**

The Jewish community was very small, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution contains antidiscrimination provisions, but no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities. There were few reports of discrimination against persons with disabilities in employment, access to health care, or in the provision of other state services. However, there were anecdotal cases of children, because of disabilities, who were unable to take themselves to the restroom and thus being denied entry to school.

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

Consensual same-sex sexual activity for both sexes is illegal under indecency statutes, and some male same-sex sexual acts are also illegal under anal intercourse

laws. Indecency statutes carry a maximum penalty of five years in prison, and anal intercourse carries a maximum penalty of 15 years.

Societal attitudes LGBT persons somewhat impeded operation and free association of LGBT organizations, but there were a few organized groups. The attorney general told the press that “there will be no change in the law on buggery, at least not if I can help it. Being gay is morally wrong, and to be honest personally, I am still homophobic.” However, other government officials asserted that the country was mostly tolerant of LGBT persons, noting the law was rarely used except when some other crime was also committed. Societal attitudes remained conflicted on the issue, and while there were several reports of discrimination based on sexual orientation, anecdotal reports suggested these were mostly verbal attacks.

### **Other Societal Violence or Discrimination**

Rastafarians complained of discrimination, especially in hiring and in schools, but the government took no specific action to address such complaints.

Some LGBT persons claimed that homophobia impaired the willingness of HIV-positive persons to obtain treatment, and there were several reported incidents of discrimination cited among HIV-positive persons, specifically from health-care professionals and the police. Anecdotal evidence also suggested that employers had laid off and discriminated against employees with HIV/AIDS. There were, however, no reports of violence directed toward persons with HIV/AIDS. The Ministry of Health supported local NGO efforts to register human rights complaints and seek assistance related to cases of discrimination against those with HIV/AIDS. The Ministry of Health also trained a number of health-care professionals and policemen in antidiscriminatory practices. The Ministry of Labor encouraged employers to be more sensitive to employees with HIV/AIDS, and the Ministry of Health conducted sensitivity training for requesting employers.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows labor organizations to organize and bargain collectively without interference. The labor code provides for the right to strike, but places several restrictions on this right. The law prohibits antiunion discrimination by employers but does not specifically require reinstatement of workers illegally fired for union activity.

Workers who provide essential services (including bus, telephone, port, petroleum, health, and safety workers) must give 21 days' notice of intent to strike. The International Labor Organization considered the list of essential services to be overly broad by international standards. Once either party to a dispute requests court mediation, strikes are prohibited under penalty of imprisonment. The Industrial Relations Court may issue an injunction against a legal strike when the national interest is threatened or affected. Labor law prohibits retaliation against strikers.

The government effectively enforced all labor laws. There were no reports of antiunion discrimination nor any violations related to collective bargaining rights.

Unions were generally free to conduct their activities without government interference. Because of the delays caused by mediation and required notice periods, unions often resolved labor disputes before calling a strike. In one case where workers conducted a "sick-out" against a firm being sold, the minister of labor stepped in to help facilitate negotiations.

#### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor, and the government effectively enforced the prohibition. Authorities charged one woman with trafficking in persons, which included forced labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

#### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law stipulates a minimum working age of 16. In addition persons under age 18 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 child labor. The government enforced these laws effectively, and child labor was not a problem.

#### **d. Acceptable Conditions of Work**

The minimum wage was EC\$7.50 (\$2.78) an hour for all categories of labor. 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 the standard workweek was 40 hours in five days. Laws provide for overtime work in excess of the standard workweek, requiring that employees be paid one and one half times the employees' basic wage per hour. Excessive or compulsory overtime is not specifically prohibited. There is a legal provision for paid annual holidays, which requires that no employee shall be obliged to work on a public holiday except in emergency situations. Employees receive their regular pay on holidays, unless an employee is required to work, in which case the employee would be paid an hourly rate of no less than 150 percent of the basic rate per hour worked.

The labor code includes provisions regarding occupational safety and health, but the government had not developed precise occupational health and safety laws or regulations apart from those regarding child labor. The Ministry of Labor and the Industrial Court enforced labor standards, and there were eight labor inspectors. Labor inspectors conducted periodic health and safety checks, and at least one labor officer was dedicated to occupational safety and health standards enforcement. Standards were enforced in all sectors, including the informal sector through the inspectorate unit via field officers. In order to improve labor standards, the government revised the labor code and also proposed implementation of new "stand-alone" health and safety regulations.

While not specifically provided for by law, in practice workers could leave a dangerous workplace situation without jeopardy to continued employment. Those in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions.