

ANTIGUA AND BARBUDA 2012 HUMAN RIGHTS REPORT

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 trial delays resulting from court backlogs and discrimination and violence against women; members of the lesbian, gay, bisexual, and transgender (LGBT) community; and persons with HIV/AIDS. There were reports of 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 investigated any police-involved killings, and the prime minister could 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 February authorities arrested police constable Gideon Jackson and Timorie Elliotte, a former Antigua and Barbuda Defence Force member, for killing a gas station attendant. Authorities charged the two with murder and remanded them into custody; they awaited trial at year's end.

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 the basis of sexual orientation or gender identity by the police. A number of residents also claimed that the police used unnecessary force when making arrests. According to the media, police allegedly “pistol whipped” one youth and held him for nearly five hours before providing medical treatment.

Prison and Detention Center Conditions

Prison conditions were very poor. Her Majesty’s Prison, the country’s only prison, was seriously overcrowded and had inadequate toilet facilities; slop pails were used in all 98 cells. 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. An investigative account by the *Antigua Observer* newspaper reported that bribery and corruption were common in the prison, with guards allegedly taking bribes and smuggling contraband, liquor, cell phones, and marijuana to prisoners.

Physical Conditions: Fires in 2010 and 2011 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, but prisoners had access to potable water. In March a visiting corrections advisor reported that “the combination of overcrowding and antiquated physical plants results in substandard conditions of confinement, especially in regards to natural light, ventilation, living space, and access to recreational activities and programs.” The report “revealed no evidence of gross human rights violations” but termed conditions of confinement “marginal at best.”

The prison, designed to hold a maximum of 150 inmates, held 331 prisoners. Remanded prisoners were separated from convicted prisoners when possible, as space remained limited. Authorities held illegal immigrants in a separate facility.

Authorities held 15 adult and two female juvenile prisoners in a separate section not subject to the same overcrowding problems encountered in the men’s prison. Eight male juvenile prisoners were held in the same building as adult prisoners.

There was no space available to house the juveniles in separate cells, and they were placed into cells with younger adults closer to their age.

Administration: Prison recordkeeping was done in a hard copy format and appeared adequate, yet cumbersome. Alternative sentencing was not practiced for nonviolent offenders, and an ombudsman was available to respond to complaints. 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.

Monitoring: 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. However, prisoners on remand often remained in jail for a number of months or years before their case came to trial.

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 were 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. During the year the media reported that authorities arrested three police officers for unlawful carnal knowledge, two for robbery, and three for fraud. Authorities brought charges against all of them and remanded them if they could not make bail; all awaited trial at year's end. Authorities typically held arrested police officers in the prison, although they held some in holding cells at the police station when there were security concerns for their safety.

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. Authorities allowed criminal detainees 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 certain instances, including capital cases as well as maintenance, custody, and domestic violence cases, 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 handle 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

The constitution provides for freedom of speech and 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.

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. In 2011 the Senate suspended one senator from three meetings for making negative comments about the governor general on ZDK radio.

Freedom of Press: Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. The ALP continued to claim 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. In 2011 a court awarded two government ministers EC\$50,000 (\$18,518.50) in damages for slanderous statements against them on ZDK radio.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms without judicial oversight.

According to the International Telecommunication Union, 45 percent of households had Internet access and 82 percent of citizens used it in 2011.

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, although there were a number of instances in which the government was accused of not fully respecting these rights.

Freedom of Assembly

In March authorities charged six opposition ALP members with violating the Public Order Act during a demonstration protesting decisions made by the administration by taking a route that was allegedly approved and then not approved by the police commissioner. The chief magistrate dismissed the charges against the six in October. Additionally, the self-appointed “Minister of Helps” successfully held a number of marches but claimed that for at least one march police required more documentation than that for other marches previously approved, despite following the same process.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at 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 internal movement, 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 it began processing and housing them in a government-built center until they could undergo refugee status determinations. Those who do not receive refugee status may appeal, as authorities allow them an allotted amount of time before deporting them to their countries 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 the 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. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, 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 few or no results.

The Integrity in Public Life Act requires sitting public officials to disclose all income, assets (including those of spouses and children), and personal gifts in a confidential report to the Integrity Commission. The law established this 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. While the commission did not disclose the particulars of any of the declarations filed, it submitted to the House of Representatives an annual report on its audited accounts and its activities during the preceding year. There were sanctions for noncompliance, as determined by the director of public prosecutions. As the only agency charged with combating corruption, the commission was independent but understaffed and underresourced. However, the commission adequately responded to isolated reports of corruption, administered the act, and received the required disclosure reports. There was no particular collaboration with civil society.

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. There was a defined unit mandated to monitor and verify disclosures. By law the declarations are not made available to the public, and there were criminal and administrative sanctions for noncompliance.

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 offices and 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 is illegal and carries maximum sentences ranging from 10 years' to life imprisonment. Anecdotal evidence suggested it was a pervasive problem, with 14 rapes and 28 cases of acts defined as unlawful sexual intercourse reported as of August. A spouse can bring rape charges only if the two are separated and living in separate quarters. 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 Sexual Offenses Unit, and a female police officer and often a caseworker from the Directorate of Gender Affairs accompany the victim for questioning, medical examinations, treatment, and court appearances, if necessary. An investigation commences once the crime is reported. In 2011 authorities prosecuted 10 cases of unlawful sexual intercourse. In situations where the survivor did not know her assailant, the case could take years to come to trial. The Directorate of Gender Affairs reported that the number of rape survivors coming forward increased following the creation of the Sexual Offenses Unit in 2007.

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 nongovernmental organizations (NGOs), individuals, and businesses to provide safe havens for abused women and children. Services for victims of domestic violence included counseling and an advocacy caseworker who accompanied the victim to the hospital, police station, and court, if necessary.

Sexual Harassment: Sexual harassment is not illegal and was rarely prosecuted. According to the Labor Department, there was a high incidence of sexual harassment reported in both the private and public sectors. However, there were no cases formally reported during the year; the lack of reporting was believed to

result from concerns about retaliation. The labor court requires a safe working environment for all persons, and that court could address harassment cases, although no such cases were filed during the year.

Reproductive Rights: 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.

Discrimination: Women enjoy the same rights as men under the law. However, economic conditions 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, and other departments are also involved, including the Ministry of Labor.

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 2011. 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 were 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 removes the children from their home and puts 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. The government also created a family court to handle child abuse cases, providing for faster prosecution and more general handling of family and welfare cases.

Child Marriage: The legal minimum age for marriage is 18 for both men and women. Underage marriage was rare, and the government did not keep statistics on it.

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, although the government is party to the Inter-American Convention for the International Return of Children. For information see the Department of State's report on compliance at 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.

Persons with Disabilities

The constitution contains antidiscrimination provisions, but no specific laws prohibit discrimination against, or mandate accessibility for, persons with disabilities. There were anecdotal cases of children, because of disabilities, who were unable to take themselves to the restroom and thus were denied entry to school. Additionally, anecdotal evidence suggested that support for persons with mental disabilities was lacking. It was alleged that those affected were often left

on the street, as there were few alternatives to the one overcrowded and poorly maintained mental health facility.

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 somewhat impeded operation and free association of LGBT organizations, but there were a few organized groups. The press reported that in 2011, the attorney general stated “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, especially by the police, 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 persons claimed that fear, stigma, and discrimination impaired the willingness of HIV-positive persons to obtain treatment, and there were several reported incidents of discrimination cited by 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, including applicable statutes and regulations, protects the right of private sector workers 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 water services, electricity services, hospital services, fire services, prison services, air traffic control, meteorological services, services rendered by the government printing office, services rendered by the port authority, and any entity providing telecommunication services) 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, in particular highlighting the inclusion of the government printing office and port authority.

Once either party to a dispute requests court mediation, strikes are prohibited under penalty of imprisonment for all private sector workers and some government workers. 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.

Government enforcement of labor laws, including remedies and penalties applied, was generally effective. 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.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits all forms of forced or compulsory labor, and the government effectively enforced the prohibition. The government also amended the National Drug and Money Laundering Control Policy Act to give that office authority to investigate cases of trafficking in persons, which includes forced labor.

In 2011 authorities charged one woman with trafficking in persons, which included forced labor in the entertainment industry. The charged individual was released from prison on bail and awaited trial at year's end. Police were investigating three other cases of forced labor at year's end. Authorities removed at least 17 persons from forced labor situations during the year.

Also see the Department of State's *Trafficking in Persons Report* at 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 may not work past 10 p.m. and must have a medical clearance to receive employment. No list of hazardous work has been implemented for the protection of those under age 18.

The law requires the Ministry of Labor to conduct periodic inspections of workplaces, and the ministry effectively enforced this law. The Labor Commissioner's Office also had an inspectorate that investigated child labor in both the formal and informal sectors. The government enforced these laws effectively, and there were no reports of child labor during the year.

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. According to a 2007 Caribbean Development report on poverty, the most recent data available, the official estimate for the poverty income level was EC\$6,318 (\$2,366) per annum, when adjustments were made for nonfood expenditure. There is legislation stipulating equal pay for equal work.

The law provides that workers are not required to work more than a 48-hour, six-day workweek, but the customary 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. The law prohibits excessive or compulsory overtime. 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 is paid an hourly rate of no less than 150 percent of the basic rate per hour worked, in addition to the basic wage.

The labor code includes provisions regarding occupational safety and health, but the government had not developed separate 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 the supervisory inspector 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.

Workers in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions.