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2009 Human Rights Report: Barbados

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Barbados is a parliamentary democracy with a population of approximately 278,000. In January 2008 general elections the Democratic Labour Party (DLP), which had been in opposition since 1994, defeated the Barbados Labour Party, and DLP leader David Thompson became prime minister. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, problems included excessive use of force by police and societal violence against women and 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, but on rare occasions there were police killings in the line of duty. All such killings were investigated and referred to a coroner's inquiry when appropriate.

On June 9, police allegedly shot and killed Hugh Springer by accident, when they were responding to a disturbance. The killing was under investigation at year's end.

On December 14, police shot and killed Denzil Headley during an attempted drug landing at Roaches, St. Lucy parish. Media reports indicated that members of the police Drug Squad Unit returned fire when attacked while conducting a nighttime operation. A routine investigation was under way at year's end.

There was no information available about the outcome of the 2007 police killing of Michael Davis. After investigations into three police killings that occurred during 2006, the coroner found that the killing of Merlyn Layne was lawful, returned an open verdict in the killing of Kevin Ellis, and still was considering the killing of Richard Gordon.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

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While the constitution specifically prohibits torture and inhuman or degrading punishment or other treatment, there were reports that police sometimes used excessive force. The majority of complaints against the police alleged unprofessional conduct and beating or assault. Police were occasionally accused of beating suspects to obtain confessions, and suspects often recanted their confessions during their trial. There were many cases where the only evidence against the accused was a confession. Suspects and their family members continued to allege coercion by police, but there was no evidence of systematic police abuse.

Prison and Detention Center Conditions

Prison conditions improved since 2007, when 1,084 prisoners were transferred to H.M.P. Dodds, a new permanent prison in St. Philip, designed to meet modern international standards with a capacity of approximately 1,250 prisoners. In November it held 898 prisoners, including pretrial detainees. Although prisoners occasionally complained about the quality of the food, Dodds has a canteen program where family members can make cash deposits into inmate accounts, and inmates may purchase popular food, snacks, toiletries, and dry goods. The general reaction to the new prison was positive.

There were 35 female prisoners held in a separate wing.

The government permitted prison visits by independent human rights monitors.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

At year's end the Royal Barbados Police Force (RBPF) numbered 1,444--including 1,002 special constables--and is responsible for internal law enforcement. While still a male-dominated profession, the number of female recruits increased to 214. The small Barbados Defence Force (BDF) protects national security and may be called upon to maintain public order in times of crisis, emergency, or other specific need. The RBPF reports to the minister of home affairs, and the BDF reports to the minister of defense and security. Although the police largely were unarmed, special RBPF foot patrols in high-crime areas carried firearms. An armed special rapid response unit continued to operate. The law provides that the police can request the BDF to assist them as needed with special joint patrols.

The Office of Professional Responsibility (OPR) handled complaints of inappropriate police conduct. The office does not answer to independent civil authority and was frequently the subject of complaints of inaction concerning accusations of police abuse. The authorities did not report the number of cases the OPR handled, and there were no convictions of police for unlawful conduct or abuse of authority.

Arrest Procedures and Treatment While in Detention

Police are authorized to arrest persons suspected of criminal activity; a warrant is typically required. The constitution permits detainees to be held without charge for up to five days; however, once charged, detainees must be brought before a court without unnecessary delay. There is a functioning bail system. Criminal detainees were given prompt access to counsel and were advised of that right immediately after arrest. Access to family members generally was permitted.

Police procedures provide that, except when expressly permitted by a senior divisional officer to do otherwise, the police may question suspects, and other persons they hold, only at a police station. An officer must visit detainees at least once every three hours to inquire about the detainees' condition. After 24 hours the detaining authority must submit a written report to the deputy commissioner. The authorities must approve and record all movements of detainees between stations.

There were between 50 and 100 persons in pretrial detention at various times during the year. While length of pretrial detention can vary from one case to another, there were no reports of extended periods of pretrial detention or abuse of the practice.

e. Denial of Fair Public Trial

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

The judiciary includes the courts of first instance, or magistrate's courts, and the Supreme Court of Judicature, which consists of the High Court and the Court of Appeals. The Caribbean Court of Justice is the final court of appeal.

Trial Procedures

The constitution provides that persons charged with criminal offenses be given a fair public hearing without unnecessary delay by an independent, impartial court and a trial by jury. The government generally respected these rights in practice. Defendants have the right to be present and to consult with an attorney in a timely manner. The government provided free legal aid to the indigent in family matters, child support, serious criminal cases such as rape or murder, and all cases involving minors. Defendants are allowed to confront and question witnesses and present evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their case. Defendants are presumed innocent until proven guilty and have the right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Magistrate's courts have both civil and criminal jurisdiction, but the civil judicial system experienced heavy backlogs. Citizens can seek redress for human rights or other abuses through the civil system.

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 of the press, and the government generally respected these rights in practice.

There was no information available about the outcome of the December 2008 incident in which police arrested two journalists who were attempting to cover the arraignment of a police officer charged with drug possession and trafficking charges.

The government restricted the receipt and importation of foreign publications deemed to be pornographic.

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 the peaceful expression of views via the Internet, including by e-mail.

According to the International Telecommunication Union, there were 74 Internet users per 100 inhabitants in 2008.

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.

To obtain import privileges or tax benefits religious groups must register with the government.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community was very small.

For more detailed information, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/rpt/.

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

The constitution and the law provide 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 it was not used.

Protection of Refugees

The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and 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. Although no known cases occurred, the government was prepared to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

Elections and Political Participation

In general elections held in January 2008, the DLP, which had been in opposition since 1994, defeated the Barbados Labour Party, led by Prime Minister Owen Arthur. The DLP won 20 of the 30 seats in the parliament's House of Assembly, and DLP leader David Thompson became prime minister.

There were no restrictions on the political opposition. Individuals and parties were free to declare their candidacy and stand for election.

Two cabinet members were female; there were three women in the House of Assembly. There were four women and three minorities in the 21-member appointed Senate.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively.

There was a report of alleged corruption involving a government-funded housing development program overseen by a junior minister under the previous government. Although the DLP uncovered the alleged corruption and called for an independent investigation, the opposition party did not officially dispute the incident and also called for an investigation. This matter had been a focal point of the 2008 general elections, and the new government launched a financial audit to see if criminal charges should be filed against those involved. The company involved went into receivership, and there were some reports that information may have been destroyed during the investigation. The DLP continued to allege corruption surrounding the building of the national highway system, begun under the opposition party. The highway issue continued at year's end with that dispute under litigation.

There is no law that subjects public officials to financial disclosure. Parliament's Public Accounts Committee and the auditor general conduct investigations of all government public accounts, which include ministries, departments, and statutory bodies.

There is no law providing citizens access to information held by the government. While access to information was provided on government Web sites, responses to requests for specific government information by citizens and other interested parties often were slow.

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 were cooperative and responsive to their views.

The Ombudsman's Office hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The governor general appoints the ombudsman on the recommendation of the prime minister in consultation with the leader of the opposition; Parliament must approve the appointment. The ombudsman submits annual reports to Parliament, which contain both recommendations on changes to laws or possible outcomes and descriptions of actions taken by the Ombudsman's Office.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment regardless of race, origin, political opinion, color, creed, or sex, and the government effectively enforced these provisions.

Women

The law criminalizes rape, including spousal rape, and the maximum penalty for it is life imprisonment. There were legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order. Authorities charged 109 persons with sex-related offenses, compared with 116 in 2008. Charges were brought in 65 cases of rape, compared with 49 in 2008; 17 cases of sex with a minor, compared with 19 in 2008; 35 cases of indecent assault, compared with 46 in 2008; and five cases on other charges, compared with seven in 2008 (some persons faced more than one charge). Many cases were pending in the courts, as there was one conviction for rape and one for sex with a minor, compared with two and one in 2008.

Violence and abuse against women continued to be significant social problems. The law prohibits domestic violence, provides protection to all members of the family, including men and children, and applies equally to marriages and to common-law relationships. Penalties depend on the severity of the charges and range from a fine for first-time offenders (unless the injury is serious) up to the death penalty for a killing. Victims may request restraining orders, which the courts often issued. The courts can sentence an offender to jail for breaching such an order. The police have a victim support unit, made up of civilian volunteers, which offered assistance primarily to female victims of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club operated a crisis center staffed by trained counselors and provided legal and medical referral services. The government funded one shelter for battered women, operated by nongovernmental organizations (NGOs), which accommodated up to 20 women and children. The shelter offered the services of trained psychological counselors to victims of domestic violence.

The Bureau of Gender Affairs cited a lack of specific information and an appropriate mechanism for collecting and evaluating data on incidents of domestic violence as the major impediments to tackling gender-based violence.

Prostitution is illegal, but it remained a problem, fueled by poverty and tourism. A number of brothels with women from Guyana, the Dominican Republic, and other Caribbean islands operated in the country. The police and immigration officers periodically raided brothels and deported women found working illegally. There is no statute specifically prohibiting sexual tourism and no statistics on it, but anecdotal evidence suggested that it occurred.

The law does not specifically address sexual harassment, which was a problem. There were no statistics available on the prevalence of sexual harassment cases. Media reports often indicated that women were afraid to report sexual harassment because they feared retribution in the workplace. An NGO advocacy group called the Coalition on Sexual Harassment, together with the Department of Labor, among others, called for legislation to address this problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

The Office of Gender Affairs in the Ministry of Social Transformation worked to ensure the rights of women. Women have equal property rights, including in a divorce settlement. Women actively participated in all aspects of national life and were well represented at all levels of the public and private sectors. A Poverty Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth.

Children

Citizenship is obtained by birth in the country, but can also be attained through marriage and naturalization procedures. There was universal birth registration.

Violence and abuse against children remained serious problems. In December the minister of youth, family, and sports told the press that every month the Child Care Board received new cases of children who were victims of sexual abuse, physical abuse, domestic violence, emotional abuse, abandonment and neglect.

Pornography is illegal, but there was no information available about any specific prohibitions dealing with child pornography.

The Ministry of Labor and Immigration did not receive any complaints about child labor during the year. The youth, family, and sports minister acknowledged that child prostitution occurred; however, there was no research to document that problem.

The Child Care Board has a mandate for the care and protection of children, which involved investigating day care centers and cases of child abuse or child labor and providing counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family related issues, and the Child Care Board conducted counseling for child abuse victims.

Trafficking in Persons

The constitution and laws do not specifically prohibit trafficking in persons, although laws against slavery, forced labor, or other crimes could be applied. A law prohibiting the procurement of persons for sex, which carries a 15-year sentence, could be used to prosecute that type of trafficking cases. There were reports that persons from the Dominican Republic, Guyana, and Jamaica were trafficked to the country, both to work as prostitutes and as domestic workers or in the construction and garment industries.

The government has no dedicated facilities to assist victims and does not provide funding to antitrafficking NGOs. A number of local NGOs provided safe houses for battered women.

Trafficking victims have been treated as criminals and deported after being held temporarily for questioning.

The Office of Gender Affairs organized public forums to raise awareness of trafficking in persons.

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

Persons with Disabilities

There are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services, other than constitutional provisions asserting equality for all. In practice persons with disabilities faced some discrimination. The Ministry of Social Transformation operated a Disabilities Unit to address the concerns of persons with disabilities, but parents complained of added fees and transport difficulties for children with disabilities at public schools.

While no legislation mandates provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department set provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings had ramps, reserved parking, and special sanitary facilities for such persons.

The government's National Disabilities Unit continued numerous programs for persons with disabilities, including Call-a-Ride and Dial-a-Ride public transportation programs, sensitization workshops for public transportation operators, inspections of public transportation vehicles, sign language education programs, integrated summer camps, and

accessibility programs. However, the National Disabilities Unit was housed in a two-story walkup that was not handicap accessible until recently, when it moved to a new location that met all accessibility requirements.

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

The law criminalizes consensual homosexual relations, and there are no laws that prohibit discrimination against a person on the basis of sexual orientation in employment, housing, education, or health care. Although no statistics were available, anecdotal evidence suggested that societal discrimination against gays and lesbians occurred.

Other Societal Violence or Discrimination

The government funded a large country-wide media campaign to discourage discrimination against HIV/AIDS-infected persons and others living with them.

Section 7 Worker Rights

a. The Right of Association

Workers freely exercised their right to form and belong to trade unions. Approximately 25 to 30 percent of the 120,000-person workforce was unionized; unionized workers were concentrated in key sectors such as transportation, government, the hotel sector, and agriculture. Of the 20,000-member public sector work force, 50 percent belong to the Public Workers Union, and about 20 percent of the private sector also belonged to that union. There were two major unions, one in the public sector and the other focused on the private sector, with some overlapping representation particularly in the state-owned enterprise sector. The unions wielded significant influence. Both unions belong to the Congress of Trade Unions and Staff Associations (CTUSA), which brings together all unions and staff associations. Police, firefighters, and prison officers are not allowed to unionize, but their associations function as quasi-unions and are members of the CTUSA.

The law provides for the right to strike, and workers exercised this right in practice. All private sector employees are permitted to strike, but the Trade Union Act and the Better Service Act prohibit essential workers, such as police, firefighters, electricity, and water company employees from engaging in strikes.

b. The Right to Organize and Bargain Collectively

Workers exercised the legal right to organize and bargain collectively. Negotiated protocols contained provisions for increases in basic wages and increases based on productivity. Government, private sector, and labor representatives signed a fifth such protocol in 2005. It was still in place and, at year's end, a sixth protocol was under discussion. The Social Partnership Agreement provides for monthly meetings of labor, management, and government, and is chaired by the prime minister or the minister of state for labor affairs.

Although employers were under no legal obligation to recognize unions, most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. The Trade Union Act governs trade union activities. Under that act, companies are not obligated to recognize unions or to accept collective bargaining. In practice, most major employers recognized unions, but smaller companies were often not unionized. The National Workers Union took a number of actions when it had reason to believe that companies were not respecting the rights of union members.

While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly awarded monetary compensation but rarely ordered reemployment. Labor unions reported that some companies engaged in antiunion discrimination, and they have

complained to the Labor Ministry on a number of occasions about what they deem to be antiunion activity by employers. According to the NWU general secretary, some unspecified foreign firms engaged in antiunion activities.

There are no export processing 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 provides for a minimum working age of 16, and this provision generally was observed in practice. Compulsory primary and secondary education policies reinforced minimum age requirements. The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers. According to the chief labor inspector, no underage employment cases were filed during the past few years.

e. Acceptable Conditions of Work

The Shop Keepers Act provides for and the authorities established minimum wage rates for specified categories of workers. The process is transparent and involves tripartite participation by government, labor, and the private sector. The categories of workers with a formally regulated minimum wage are household domestics and shop assistants. The minimum wage for these employees was BDS\$5 (approximately \$2.50) per hour, which was only marginally sufficient to provide a decent standard of living for a worker and family. The Ministry of Labor and Immigration recommended that companies use this as the de facto minimum wage, and the prevailing wage on the island was higher than the legal minimum wage. The Labor Department within that ministry was charged with enforcing the minimum wage. There were occasional press reports alleging that migrant workers received less than the minimum wage, but the chief labor inspector insisted that all workers' salaries were above the minimum wage.

The standard legal workweek is 40 hours in five days, and the law requires overtime payment of time and one-half for hours worked in excess. The law prescribes that all overtime must be voluntary.

The government announced an amnesty program for illegal migrants, giving such migrants until the end of the year to register. Employed migrants may apply for permission to stay; all others will be subject to deportation proceedings.

The 2005 Occupational Safety and Health at Work Act was never promulgated into law, as it was passed at the end of the last administration and was therefore still under review. The Labor Department enforced other health and safety standards, such as those in the 1986 Factories (Amendment) Act, and in most cases followed up to ensure that management corrected problems cited. The law requires that in certain sectors firms employing more than 50 workers create a safety committee that could challenge the decisions of management concerning the occupational safety and health environment. The Ministry of Labor and Immigration hired five new health and safety officers in 2008, who received a two-week basic occupational and safety standards course, along with union staff and other employer health and safety inspectors.

Civic organizations such as the Barbados Employer's Confederation worked closely with the government to ensure that worker safety was protected despite the nonimplementation of the 2005 law. Trade union monitors identified safety problems for government health and safety inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Labor Department's Health and Safety Inspection Unit conducted several routine

annual inspections of government-operated corporations and manufacturing plants. Workers had the right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.