

CAPE VERDE

EXECUTIVE SUMMARY

Cape Verde is a multiparty parliamentary democracy in which constitutional powers are shared between the newly elected (in August) head of state, President Jorge Carlos Fonseca, and Prime Minister Jose Maria Neves, who is serving a third term after his party won the parliamentary elections in February. President Fonseca was elected to a five-year term in generally free and fair elections. The Supreme Court and the National Electoral Commission also declared the 2011 nationwide legislative elections generally free and fair. There continue to be isolated instances in which elements of the security forces acted independently of civilian control.

There were reports of human rights problems in the following areas: allegations of police violence towards prisoners and detainees, lengthy pretrial detention, and violence and discrimination against women.

Other human rights issues concerned child abuse and some instances of child labor.

The government took steps to prosecute and punish officials who committed abuses. A tendency to downplay or disregard police abuses sometimes characterized the attitude of local governments.

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices, but physical violence committed against persons arrested and detained by police continued to be raised by the media. In most cases authorities took action against abusers.

Prison and Detention Center Conditions

Conditions in prisons and jails in general met international standards, and during the year the government continued to allow visits by independent human rights observers.

Prisoners had access to potable water. There were no reported cases of food shortages or of inadequate sanitation, ventilation, temperature control, lighting, or medical care in prisons and detention centers.

During the year there were three deaths reported in prisons, all linked to health issues. There are seven prisons – the largest, Cadeia Central da Praia (CCP), is designed to hold up to 850 prisoners.

Prisons that exceeded their maximum capacity (indicated in parentheses) were the Central Prison of Sao Vicente with 311 inmates (200), the Regional Prison of Fogowith with 83 (54), and the Regional Prison of Sao Antao with 55 prisoners (36).

The Regional Prison of Sal held 16 prisoners, the Sub Regional Prison of Sao Nicolauo 12, and the Sub Regional Prison of Boa Vista five prisoners.

There were 1,226 prisoners and detainees in total registered in the seven prisons at the end of 2010. Of this number, 1,153 were men and 73 were women.

There were 323 prisoners in prisons and jails in pretrial detention (“preventive detention”): 306 men and 17 women. The prison system continues to struggle with overcrowding, especially in older prisons. To deal with this, the government sent some prisoners to the Central Prison on Santiago Island; this was done also to separate prisoners based on trial status, gender, and age.

There was no credible evidence that conditions for women prisoners were worse than those for men.

There were no prison ombudsmen. There were no steps taken to improve recordkeeping.

The law allows for the suspension of prison sentences that do not exceed two years in nonviolent cases if: a judge agrees; it accompanies a program to reintroduce the offender to society; and the offender completes works “beneficial to the community.”

At CCP, prisoners were separated by gender, age, and type of crime committed, with distinction made between convicted prisoners and those awaiting trial. There were 18 disciplinary cells and two rooms for spousal visits. The facility has spaces for guards, lawyers, and educational and social reinsertion trainers. There is a classroom equipped with television, DVD player, and computers; a space for adult education; medical facilities; canteens for guards and prisoners; a library; and a space for professional training on social reintegration.

Conditions in prisons other than CCP were inadequate for inmates with mental illness and substance addictions. The number of corrections personnel to deal with the growing number of such prisoners was insufficient.

Prisoners and detainees had access to visitors, and authorities allowed freedom of religious practice. There were no reports of impediments to the direct submission of complaints to judicial authorities concerning prison abuses. Prisoners’ relatives reported some complaints; corrections officials claimed all had been investigated and disproven.

The government permitted formal visits by international human rights monitors to the prisons and to individual prisoners. Local nongovernmental organizations (NGOs) and members of the press made frequent visits to prisons to record conditions.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions during the year.

Role of the Police and Security Apparatus

The Public Order Police are under the control of the Ministry of Internal Administration and are responsible for law enforcement. The Judicial Police are under the control of the Ministry of Justice and are responsible for major investigations. Logistical constraints – including lack of vehicles, limited

communications equipment, and poor forensic capacity – continued to limit police effectiveness.

Police abuses were investigated, and some cases resulted in legal action against those responsible. In 2010, the National Police Council received 11 reports of police violence. Most of these concerned physical abuse; there were also two cases of kidnapping. The proposed punishments included suspension, dismissal, and rebuke. In the 11 cases, only one suspension was confirmed; the remaining cases were pending resolution.

During the year, the National Police Council received eight reports of police violence; most cases concerned physical abuse. Three police officers were dismissed in accordance with the findings of the Disciplinary Board of National Police.

The government provided professional training to increase police effectiveness. In late 2011, the National Police conducted a training course on conflict mediation, attended by 50 police personnel.

The government took steps to address police impunity, which historically has been a problem. However, the internal justice system of the National Police continued to move quite slowly. The majority of cases reported during the year were still under investigation.

Arrest Procedures and Treatment While in Detention

Police may not make arrests without a warrant issued by an authorized official, unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a detainee with the right to prompt judicial determination of the legality of the detention, and the authorities respected this right in practice.

Attorneys inform detainees of the charges against them. There is a functioning bail system. Authorities allowed detainees prompt access to family members and to a lawyer of the detainee's choice and, if the detainee or family is unable to pay, to have one appointed by the government.

The judicial system was overburdened and understaffed, and criminal cases frequently ended when charges were dropped before a determination of guilt or innocence was made.

Excessive length of pretrial detention remained a problem.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. However, the judicial system lacked sufficient staffing and was inefficient.

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

Trial Procedures

Defendants enjoy a presumption of innocence. The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the impoverished. Defendants have the right to confront or question witnesses against them and have the right to present witnesses and evidence in their defense. Defendants and their attorneys have access to government-held evidence relevant to their cases and can appeal regional court decisions to the Supreme Court of Justice (SCJ). The law extends the above rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Courts are impartial and independent and handle civil matters including lawsuits seeking damages for, or an injunction ordering the cessation of, a human rights violation. Both administrative and judicial remedies are available.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice. The independent press was active and expressed a variety of views without direct restriction. Specific legislation provides for radio, television, written press, and other media freedom.

Freedom of Press: There were three newspapers that tended to reflect different political parties' views, and one public and two private television channels.

In July, during the presidential elections, the weekly program *Visao Global* (Global Vision) – the only political debate program in the country – was suspended after alleged actions by the commentators that violated electoral law. Article 105 of the electoral law prohibits media organizations from making any kind of pronouncements, favorable or unfavorable, about stakeholders in the electoral process after a certain date of a campaign.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Citizens in the cities had regular access to the Internet at abundant cybercafes.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

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 constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

Protection of Refugees

Access to Asylum: The law allows for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government grants refugee status and asylum when petitioned under the established system. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

The constitution and law provide 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

Recent Elections: In the 2011 legislative elections, individuals and parties were free to declare their candidates. The ruling African Party for the Independence of Cape Verde (PAICV) won 38 seats in the National Assembly with approximately 52 percent of the vote; the main opposition party, Movement for Democracy (MpD), won 32 seats with 42 percent; and the Union for a Democratic and Independent Cape Verde won the remaining two seats with 4 percent. International observers characterized these elections as generally free and fair.

The presidential election also was held in 2011.

Economic Community of West African States and African Union election observers characterized these elections as free, transparent, and credible. However, they noted some irregularities, including cases of pressuring voters near polling stations and also of vote buying.

Jorge Carlos Fonseca, the candidate supported by the opposition MpD, won the election with approximately 54 percent of the vote, while Manuel Inocencio Sousa, the candidate supported by the PAICV, received 46 percent of votes.

Political Parties: Political parties acted without restriction or external interference. Individuals could declare their candidacies and parties could select their candidates without interference.

Participation of Women and Minorities: Of the 72 National Assembly seats, women held 19, and there were eight women working in cabinet-level positions in government ministries out of 21 such positions. Women filled three of eight seats on the SCJ.

Section 4. Official Corruption and Government Transparency

The law provides penalties of up to 15 years' imprisonment for corruption by government officials. There were no new reports of government corruption during the year.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected. In practice, the government frequently granted access.

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

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

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status. The constitution stipulates that the

government should create conditions for the gradual removal of all obstacles to the full exercise of human rights and equality before the law.

The law also prohibits racism, xenophobia, and other forms of discrimination.

However, violence and discrimination against women and children remained significant problems.

Women

Rape and Domestic Violence: Rape is a crime with a penalty of from eight to 16 years in prison. Until 2010, domestic violence was framed in the Criminal Code as a crime of abuse of a spouse, applying only in situations of common law and formal marriages, with penalties of from two to 13 years in prison.

A “Special Law Project on Gender Based Violence” became law in March. This law was prepared jointly by the Cape Verdean Institute of Gender Equality, a government agency, with the support of the Women Parliamentarians and diplomatic representatives. The new law calls for a network of civil society organizations called “Rede Sol,” made up of NGOs, the National Police, health centers, hospitals, and community law centers.

Rede Sol is present in five municipalities and covers five islands: Santiago, Sao Vicente, Sal, Fogo, and Santo Antao. The new law focuses on three objectives: increasing protection of victims, strengthening penalties for offenders, and raising awareness about gender-based violence. In 2010, there were an estimated 3,203 reports of gender-based violence made to Rede Sol, compared with 1,703 complaints in 2009. In 2010, the government and civil society organizations in the Rede Sol network reinforced the network with several training programs for professionals who worked directly with these issues.

Sexual Harassment: Various laws in the criminal code criminalize sexual harassment. Penalties include up to one year in prison and a fine of up to two years’ salary

Reproductive Rights: The civil code grants all citizens the freedom to make decisions regarding the number, spacing, and timing of their children without discrimination, coercion, or violence. All citizens have access to contraception. Family planning centers throughout the country distribute some contraceptives freely to the public.

These centers provide skilled assistance and counseling both before and after childbirth and in cases of sexually transmitted infections, including HIV. Prenatal services include ultrasound screening, tetanus vaccines, and blood tests, including HIV screening. Postnatal services include family planning and free oral/injection contraceptives.

The reported incidence of maternal mortality was 53.7 per 100,000 live births, according to the *2009 Ministry of Health Statistical Report*. Women were equally diagnosed and treated for sexually transmitted diseases.

Discrimination: The law provides equal rights to men and women. However, society imposes cultural obstacles and gender stereotypes that hinder the eradication of gender-based discrimination. Women generally have lower economic status and less access to management positions in public and private sector organizations.

Children

Birth Registration: Citizenship can be derived by birth within the country or from one's parents. The government has created a network of services, such as notary and civil identification records, offices in all municipalities, and the Birth Registration Project, which is implemented in hospitals and health centers to report births. Failure to register births did not result in denial of public services. However, nonregistration of births remained a problem, attributed by the government to uncertainty as to the identity of fathers, parental neglect, and a lack of information on registration in the poorest communities. In 2010, 12,373 children were registered. However, the 2010 census indicated approximately 5,117 other children had not been registered.

Education: The government provided tuition-free and universal education for all children between the ages of six and 12 years. Education remained compulsory until the age of 11. Secondary education was free only to children whose families had an annual income below 147,000 escudos (\$1,871).

Child Abuse: Child abuse including sexual abuse and violence against children remained problems. Local governments have tried to combat these practices through a national network that includes the Cape Verdean Institute of Child and Adolescent (ICCA), various police forces, the attorney general, hospitals, and health centers. Pedophilia is prohibited by law.

The government attempted to reduce sexual abuse and violence against children through several programs such as Disque Denuncia, the Children's Emergency Program, the project Nos Kaza, Centros de Acolhimento de Crianças de / na Rua, Project Espaço Seguro, Project Família Substituta, and the creation during the year of five ICCA offices.

Children continued to work in fishing, agriculture, street vending, car washing, and garbage collection, among other areas.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There is no Jewish community in Cape Verde, and there were no reported 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 law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or in the provision of other state services. The government effectively enforced these provisions.

Persons with disabilities still faced daily obstacles that hindered their integration. Physical accessibility, communication means, and public transport appropriate for persons with disabilities often were lacking.

There were no reported cases in 2011 of abuse towards people with intellectual disabilities or mental health problems in prisons or psychiatric hospitals. Lack of physical accessibility in prisons for handicapped persons and prison facilities designed for the mentally ill were problems.

The government did not restrict the right of persons with disabilities to vote or participate in civil affairs and public life.

The government has created a quota system for the granting of scholarships and tax benefits to companies who employ individuals with disabilities. NGOs recognized these measures as partially effective in better integrating these citizens in society but also noted nonenforcement and inadequate regulation continued to be obstacles.

Several NGOs worked to protect the interests of the disabled. In February, the government adopted a Law of Mobility that sets technical standards for accessibility for persons with disabilities to a variety of public facilities and services.

The Ministry of Youth, Employment, and Human Resources (MERHJ) is the government organization responsible for protecting the rights of people with disabilities. The National Council on the Status of Disabled Persons works in partnership with the MERHJ as a consultative body responsible for proposing, coordinating, and monitoring the implementation of a national policy.

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

No laws explicitly provide a basis for discrimination based on sexual orientation or gender identity.

There were no lesbian, gay, bisexual, or transgender organizations.

Other Societal Violence or Discrimination

During the year there were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers to form or join unions of their choice without previous authorization or excessive requirements. The law protects the right to engage in collective bargaining and to conduct legal strikes. The law allows unions to carry

out their activities without interference, and the government protected this right. The labor code provides for the protection of the freedom of association and the reinstatement of workers.

All workers except for agricultural and road construction workers (FAIMO) are covered by these legal protections. However, observers noted that workers in the informal sector, fishing, construction, and domestic work did not in practice enjoy many of these protections. No studies or hard data on the topic were available.

Although government enforcement is effective, cases can continue for years and can be appealed with the passage of more years before resolution.

Freedom of association and the right to collective bargaining were respected in practice.

Worker organizations were independent of the government and political parties. There were no reports of violence, threats, or other abuses during the year by the government against union members or leaders.

Labor unions complained the government unduly restricted the right to strike for certain critical job categories. A “Civil Need” law states the government can force the end of a strike when there is an emergency, or “to ensure the smooth operation of businesses or essential services of public interest.” However, the government refrained from using this authority when dealing with a potentially crippling customs strike late in the year. The government has used this authority in the past, with prison guards and air traffic controllers. The air traffic controllers claimed the government’s use was an abuse of authority since it was put in place before they started to strike. Observers stated the government cooperates with the unions and does not discriminate against certain job categories.

According to labor unions, workers in some sectors, such as farmers and FAIMO road construction workers, may remain unprotected by domestic regulations. FAIMO was a government program developed in the 1980s and 1990s to provide employment in rural areas through road construction projects. These workers are not explicitly limited in their rights under domestic labor law, but according to labor unions, the workers may not receive all the benefits they are entitled to receive.

There was no reported evidence of anti-union discrimination.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, including by children. The government effectively enforced such laws. There were no reports that such practices occurred during the year.

c. Prohibition of Child Labor and Minimum Age for Employment

The legal minimum age for work is 15 years, and the minimum age for hazardous work is 18. According to the labor code, children ages 15 to 18 are not allowed to work more than 38 hours a week or more than seven hours a day. Children under 15, according to the constitution, can work only in agriculture; as part of an apprenticeship or training program; or to help support the family. Children 16 to 18 are allowed to work overtime in an emergency. However, in these cases the children cannot work more than two hours a day, and these extra hours cannot exceed 30 hours a year.

Several laws prohibit child labor, but enforcement was not consistent.

The ICCA, Directorate General of Labor (DGT), and the Labor Inspectorate (IGT) worked on matters pertaining to child labor. ICCA works on the promotion and defense of the rights of children and adolescents. DGT creates labor market policy and drafts labor legislation to ensure the promotion of social dialogue and reconciliation between social partners. IGT has the responsibility to monitor and enforce labor laws and enforces rules relating to labor relations.

Those agencies stated the resources provided were adequate, and they carried out 1,447 inspections.

Barriers, mostly cultural, remained to the effective implementation of these laws. For example, not all citizens see children working to help support their families as a negative thing, especially in small, remote communities.

The government (through the DGT, IGT, and ICCA) began to lead training activities for local staff to combat child labor, particularly in its worst forms, and began consultations with local businesses.

There is no official data on child labor. Child labor occurred mainly in the informal sector. Children engaged in street work, including in water and food sales, car washing, and begging.

The worst forms of child labor included street work; domestic service; agriculture, fishing, and animal husbandry; trash picking and garbage and human waste transport; and peddling drugs for adults.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The law does not stipulate a minimum wage. The government defines the poverty income level as 105 escudos (\$1.25) a day. The law stipulates a maximum of eight hours per day and 44 hours work per week. The law requires rest periods, the length depending on sector, and that the minimum rest period be 12 hours between workdays. The law also provides for daily and annual overtime hours granted in exceptional circumstances. The law states that a worker is entitled to 22 days of paid vacation.

Overtime must be compensated with at least time and a half. Work done on holidays must be compensated with double pay.

In general, it is the responsibility of the employer to ensure the workplace is healthy and hygienic. The employer must also develop a training program for workers. In specific high-risk sectors, such as fishing or construction, the government, in consultation with the unions and employers, can provide specific health and safety rules.

Although the labor code covers employees in the formal and informal sectors, agricultural workers and FAIMO employees are not covered by labor laws.

The DGT and IGT are charged with implementing labor laws. There were eight technicians working for DGT and 14 technicians working for IGT, covering three islands (Santiago, Sao Vicente, and Sal). Both agencies agreed with trade unions that these numbers were inadequate, and there was a need for tighter enforcement of labor standards, especially on many islands where difficulty of travel limited monitoring.

Although companies tended to respect laws on working hours, many employees such as domestic workers, health professionals, farmers, fishermen, and

commercial workers commonly worked for longer periods of time than the law allows.

Some sources stated it was “likely” foreign migrant workers were more often exploited than others.

There was no official data on the number of work place deaths and accidents during the year.