SAINT KITTS AND NEVIS 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation. In January 2010 national elections, Prime Minister Denzil Douglas’s Saint Kitts and Nevis Labour Party (SKNLP) won six seats in the 11 seats elected in the legislature. Independent observers concluded that the election had no major irregularities and was generally free and fair but called for electoral reform. The constitution provides the smaller island of Nevis considerable self-government under a premier. Security forces reported to civilian authorities.

The most serious human rights problems were poor prison conditions, discrimination and violence against women, and child abuse.

Other human rights problems included discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community.

The government took steps to prosecute and convict officials who committed abuses, but some cases remained unresolved. There was not a widespread perception of impunity for security force members.

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 prohibits such practices, but the media reported that some persons claimed they received severe beatings from the Delta Squad, an arm of law enforcement used to conduct periodic raids throughout the country. As a result, law enforcement officials came under increased scrutiny, and some citizens were
afraid to report crime because of the heavy-handedness with which police carried out their duties. For example, a police officer was under investigation for shooting a man with mental disabilities while in pursuit of armed robbers. Corporal punishment is legal and an accepted measure for juveniles in schools and the justice system. A court can order that an accused person receive lashes if found guilty.

At year’s end Jamal Phillip and Charles Bowry, the two defense force members arrested and charged for the February 2011 rape of a 16-year-old girl, were awaiting trial before the High Court. Two police officers also awaited trial at year’s end for the November 2011 rape of a 14-year-old girl while they held her and her brother in custody.

**Prison and Detention Center Conditions**

Prisons remained overcrowded and facilities austere.

**Physical Conditions:** Built in 1840, the prison on St. Kitts had an intended capacity of 182 prisoners but held 367. Some prisoners slept on mats on the floor, but all prisoners had access to potable water. A prison farm in Nevis had an intended capacity of 30 prisoners but held 46. Authorities occasionally held pretrial detainees together with convicted prisoners.

There were three female inmates and six juveniles in prison in St. Kitts. Authorities held female inmates in separate quarters.

**Administration:** Prison record keeping was completed in a hard copy format and appeared adequate, yet cumbersome. There was no alternative sentencing for nonviolent offenders. Prisoners and detainees had reasonable access to visitors and complaint mechanisms, could observe religious practices, and had the ability to request inquiry into conditions. An ombudsman was available to respond to complaints. Prison staff periodically received training in human rights, but some prisoners reported harsh treatment by prison guards.

**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.

**Role of the Police and Security Apparatus**

The security forces consist of a police force, including a paramilitary Special Services Unit, a drug unit, the Delta Squad, a Special Victims Unit, and a white-collar crimes unit, along with a coast guard and a small defense force. The governor general can authorize the defense force to patrol jointly with the police for periods up to six months, which he did in October 2011 to help combat youth gang violence. The military and the police report to the Anti-Crime Unit, which is under the prime minister’s jurisdiction.

Senior police officers investigated complaints against members of the police force. When warranted, they referred them to an internal disciplinary tribunal for adjudication; penalties included dismissal, warnings, or other administrative action. During the year authorities investigated 112 cases of complaints against police officers. Of those cases, authorities subjected 20 officers to disciplinary charges, found 30 complaints to be false, resolved 23 by mediation, and could not substantiate 38; one was withdrawn. With regard to disciplinary complaints, authorities brought charges against 85 officers for various disciplinary offenses, disposed of 52 cases without charges, and had 27 pending at year’s end. Five complaints were withdrawn.

**Arrest Procedures and Treatment While in Detention**

Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 48 hours or be released. If charged, authorities must bring a detainee before a court within 72 hours. There is a functioning system of bail. Authorities permitted family members, attorneys, and clergy to visit detainees regularly.

Detainees may be held for a maximum of seven days awaiting a bail hearing. Authorities remand those accused of serious offenses to custody to await trial, while releasing those accused of minor infractions on their own recognizance or on bail with sureties.

**e. Denial of Fair Public Trial**
The constitution provides for an independent judiciary, and the government generally respected this provision in practice. The government recognized magistrates needed better training, especially since many of them were not lawyers.

**Trial Procedures**

The constitution provides for a fair, speedy, and public trial, and authorities generally observed these requirements. Defendants have the right to be present and to consult with counsel in a timely manner. There is a presumption of innocence, and defendants may question or confront witnesses and communicate with an attorney of choice. Defendants also have the right to be informed promptly and in detail of the charges, to have a trial without undue delay, and to appeal. All defendants are entitled to a fair and public trail in either the Magistrate or High Court depending on the crime, while juries are only used at the High Court level for criminal matters. Free legal assistance was available for indigent defendants in capital cases only.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters, including lawsuits regarding alleged civil rights violations.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, the defense force can carry out stop and search operations without a warrant. In addition a High Court judge can issue an order allowing interception of all telecommunication networks, including telephones and Internet transmissions, when presented with evidence of criminal activities.

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

**a. Freedom of Speech and Press**
The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judicial system, and a functioning democratic political system combined to ensure freedom of speech and press.

In August the Eastern Caribbean Supreme Court ruled that during the July 2011 Nevis Island Assembly elections, the failure of the government’s radio station to carry the opposition party’s political events violated the constitutional right not to be discriminated against on behalf of political beliefs. It held some members of the Nevis Island administration liable and ordered them to pay costs. They have not paid and asked the court to forgive the costs.

**Internet Freedom**

There were no government restrictions on access to the Internet or credible reports the government monitored e-mail or Internet chat rooms without judicial oversight. According to the International Telecommunication Union, approximately 45 percent of citizens used the Internet 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.

**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 constitution and the law provide 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) and was prepared to cooperate with other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. There was an honorary UNHCR liaison in the country.

**Protection of Refugees**

**Access to Asylum:** The government has not established a system for providing protection to refugees, and it did not routinely grant refugee status or asylum.

**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. Voters elect 11 members of the National Assembly, and the governor general appoints a three-person Senate, two on recommendation of the prime minister and one on the recommendation of the opposition leader.

**Elections and Political Participation**

**Recent Elections:** In the 2010 general elections, Prime Minister Denzil Douglas’s SKNLP returned to office after winning six of eight Saint Kitts-assigned seats in the 14-seat National Assembly. The People’s Action Movement (PAM) party won two seats. The Concerned Citizens Movement party won two of the three assembly seats assigned to Nevis. (Appointed senators held the remaining four seats.) International observers from the Commonwealth, Caribbean Community, and Organization of American States (OAS) concluded that the elections were generally free and fair but issued a number of recommendations for future elections.

The island of Nevis exercises considerable self-government, with its own premier and legislature, and it has the right to secede from the federation in accordance with certain enumerated procedures. In July 2011 Nevis held its local elections in which voters reelected Joseph Parry as premier. OAS observers concluded that the elections were generally free and fair but noted the process could have been improved, reiterating its recommendations from the 2010 federal elections. The Caribbean Community Observer Mission report also noted irregularities with the
voters’ list. Based upon such irregularities, the opposition party contested the election results, and a local court ruled the elections in that particular district “invalid and void.” The government appealed the ruling, and in August the Eastern Caribbean Supreme Court upheld the lower court’s decision and declared that authorities should hold a general or by-election. On November 8, the premier dissolved the Nevis Island Assembly and called elections for January 22, 2013.

Participation of Women and Minorities: There was one woman in parliament -- a cabinet minister. All four magistrates were women -- three in St. Kitts and one in Nevis. In Nevis the appointed president of the House of Assembly was a woman.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated media reports of government corruption during the year, and many private citizens reported that government corruption was a problem. The opposition PAM party continued to allege possible misconduct on the part of government officials.

Public officials are not subject to financial disclosure laws, and there is no agency responsible for combating government corruption. The Financial Intelligence Unit investigates reports on suspicious financial transactions, along with the police white-collar crime unit.

While no laws provide for public access to government information, the government maintained a Web site and broadcast briefings of weekly cabinet meetings on radio and parliament meetings on television and radio.

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

There were no governmental restrictions on human rights groups, and several organizations worked with marginalized groups such as women, children, the mentally challenged, the elderly, and persons with disabilities.


Section 6. Discrimination, Societal Abuses, and Trafficking in Persons
The constitution prohibits discrimination based on race, place of origin, birth out of wedlock, political opinion or affiliation, color, gender, or creed, and the government generally respected these prohibitions in practice.

**Women**

Rape and Domestic Violence: The law prohibits rape, but it does not address spousal rape. Anecdotal evidence suggested rape was a serious and pervasive problem in society but often underreported due to victims’ fear of stigma, retribution, further violence, or lack of confidence in the authorities. Reporting increased significantly, however, with the reestablishment of the Special Victims Unit. Penalties for rape range from two years’ imprisonment for incest between minors to life imprisonment for statutory rape or incest with someone under 16. Indecent assault has a maximum penalty of seven years’ imprisonment. There were 50 sexual offense cases, which includes rape and indecent assault, reported during the year. In practice, those arrested and prosecuted for rape and indecent assault received strict sentences.

Violence against women was also a serious and pervasive problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to EC$13,500 ($5,000) or six months in prison. The police reported 84 cases of domestic abuse throughout the year.

The ministry offered counseling for victims of abuse and conducted training on domestic and gender violence for officials in the police and fire departments, nurses, school guidance counselors, and other government employees. The ministry also worked with men’s organizations to conduct training focused on sexual violence and conducted training in the prisons for perpetrators of violence against women. The ministry maintained a hotline for domestic violence victims and worked through the churches, workplaces, radio programs, and other civil society groups to spread its campaign against sexual violence.

Sexual Harassment: According to the Labor Ministry, sexual harassment falls within the purview of the Protection of Employment Act. Anecdotal evidence suggested that sexual harassment remained a problem in the workplace, although the Ministry of Labor reported only four cases during the year and said each of them was resolved.

Reproductive rights: Reproductive rights were generally protected; couples and individuals had the right to decide the number, spacing, and timing of children.
The National Family Planning Office provided information on contraception and support for reproductive rights on a nondiscriminatory basis. Skilled attendance at delivery and postpartum care were widely available. A 2008 report by the UN Children’s Fund indicated that skilled attendance at birth was 100 percent. Incidence of maternal mortality was not available.

**Discrimination:** The role of women in society is not restricted by law but was circumscribed by culture and tradition. Despite this, the status of women has improved, particularly in the public sector. The Ministry of Gender Affairs reported that 62 percent of women in the civil service occupied public sector leadership positions. The ministry carried out programs addressing poverty, health, and the promotion of institutional mechanisms to advance the status of women and attain leadership positions for them. During the year Parliament passed legislation that requires equal remuneration, and women and men generally received equal salaries for comparable jobs.

**Children**

**Birth Registration:** Children acquire citizenship by birth in the country, and all are registered at birth and equally able to access public education and public services. Children born to citizen parents abroad can be registered by either of their parents.

**Child Abuse:** Child abuse remained a major problem. According to the government, neglect was the most common form of abuse, while physical abuse also remained prevalent. Sexual abuse and exploitation were problems and increased over the year. Authorities received a number of reports of sexual assaults against children during the year and brought charges against perpetrators. In child abuse cases, new legislation allows children to testify against their attackers using remote technologies such as Skype. Moreover, the Ministries of Social Services and Education collaborated on programs to curb child abuse, including modifying the primary school curriculum and designating a child abuse awareness month. The government also reinstated its Probation and Child Welfare Board to help deal with cases of child abuse during the year.

The government operated one children’s home for abused and neglected children. In addition, the government offered counseling for both adult and child victims of abuse. The government also opened a youth rehabilitation center specifically for juvenile delinquents.
Child Marriage: The legal minimum age for marriage is 18 for both men and women. Underage marriage was rare, and the government kept no statistics on it.

Sexual Exploitation of Children: The law sets the age of consent at 16. Under the statutory rape law, sexual relations with anyone under 16 are illegal, with penalties ranging from probation to life in prison. Child pornography is illegal and carries a penalty of up to 20 years in prison.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction and passed the necessary implementing legislation in March. For information see the Department of State’s report on compliance at [www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html](http://www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

Anti-Semitism

There was no organized Jewish community, and there were no reports of anti-Semitic acts.

 Trafficking in Persons

There were no confirmed reports of human trafficking during the year.

Persons with Disabilities

While the law prohibits discrimination, it does not specifically cite discrimination against persons with disabilities. The building code mandates access to buildings for persons with disabilities, but this code was not always followed or enforced. Children with disabilities attended school. There were also separate schools for children whose vision and hearing were impaired.

Authorities can declare persons with mental disabilities who commit crimes a menace to society and incarcerate them for life; there were 20 such persons in the prison. Ministry of Health nurses in the various district health centers deal with persons with mental illness, and the General Hospital has a wing dedicated to caring for patients with mental illness.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity
There are no laws that prohibit discrimination against a person on the basis of sexual orientation or gender identity. Sexual activity between men is illegal and carries a penalty up to 10 years in prison. The law does not prohibit sexual activity between women.

Societal attitudes towards the LGBT community impeded the operation of LGBT organizations and the free association of LGBT persons. The government asserted it received no reports of violence or discrimination based on sexual orientation; however, unofficial reports indicated that violence and discrimination remained a problem. Anecdotal evidence suggested that LGBT persons were reluctant to report incidents of violence or abuse out of fear of retribution or reprisal due to their sexual orientation.

In January an LGBT minor, attacked multiple times during 2011, was shot and paralyzed; anecdotal evidence suggested the attacks were a result of the victim’s LGBT status. Authorities arrested one person in connection with the shooting, and he was awaiting trial at year’s end.

Other Societal Violence or Discrimination

Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred. The Labor Ministry implemented a specific antidiscrimination policy covering HIV/AIDS in the workplace.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including applicable statutes and regulations, protects the right to form and join independent unions, to negotiate better wages and benefits for union members, and to strike. However, employers are not legally bound to recognize a union. The law permits the police, civil service, and organizations such as hotels, construction workers, and small businesses to organize “associations” that serve as unions. It remained unclear if the rights of such associations differed from those of unions. Labor laws cover all workers, including migrant workers, domestic workers, and workers in specialized trade zones.
Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom but not by law.

A union that obtains membership of more than 50 percent of employees at a company can apply for the employer to recognize it for collective bargaining. The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. However, the employer must pay lost wages and severance pay to workers employed at least one year, based upon their length of service. The Labor Ministry also pays severance to terminated employees, using funds from a special severance fund that all public and private employees pay into. The government enforced applicable laws, including with effective remedies and penalties. Based on anecdotal evidence, cases were not generally subject to lengthy delays and appeals.

The government generally protected the legal right of workers to form and join unions and bargain collectively. The government also protected the right to strike. Employers generally recognized a union if a majority of workers voted to organize. Worker organizations were independent of the government and political parties. There was no government interference in union activities, and employers did not use hiring practices such as subcontracting or short-term contracts to avoid hiring workers with bargaining rights. There was no evidence of employer interference or antiunion discrimination toward union functions.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits slavery, servitude, and forced labor, and the government effectively enforced such provisions.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum legal working age is 16. The law permits full employment of youth between the ages of 16 and 18 with regular hours, except in certain industries related to the hotel and entertainment sectors, where their employment is restricted because of their age. Except for those limitations, there are no provisions in law or regulation to protect those between 16 and 18 from working in hazardous conditions.

The Labor Ministry relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they did effectively. The Labor
Ministry reported that investigations were infrequent in the informal sector, and fines and penalties were not always enforced.

Children under age 16 often engaged in domestic service. Such labor included children looking after younger siblings or ailing parents and grandparents, but rarely at the expense of their schooling. Children often worked in other households as domestic servants or babysitters.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

d. Acceptable Conditions of Work

The government sets the minimum wage, which was EC$8.00 ($3.00) an hour. Average wages were considerably higher than the minimum wage. The official estimate of the poverty level income was EC$7,329 ($2,714) for St. Kitts and EC$9,788 ($3,625) for Nevis per annum. The law provides for a 40- to 44-hour workweek and for premium pay for work above the standard workweek. There was no legal prohibition on excessive or compulsory overtime. The law also calls for paid holidays and equal pay for equal work.

While there are no specific health and safety regulations, the law contains general health and safety guidance for Labor Ministry inspectors. The Labor Commission settles disputes over safety conditions. The law also requires that employers report accidental and dangerous occurrences.

In practice workers in the formal sector normally worked 40 hours in five days. Although not required by law, workers received at least one 24-hour rest period per week. Local custom dictates that workers be eligible for flextime and not forced to work overtime.

The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages. Eight labor officers also served as labor inspectors. Penalties were sufficient to deter violations. The Ministry of Labor encouraged enforcement of standards in the informal labor sector as well and worked in conjunction with the Social Security Office to have those in the informal sector register their businesses and become self-employed. The labor commissioner reported that this outreach led to an increase in registered businesses. Once a
business is officially registered, employees begin to receive benefits along with regular inspections.