

ANTIGUA AND BARBUDA 2014 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Antigua and Barbuda is a multi-party, parliamentary democracy. In the June parliamentary elections, which observers described as generally free and fair, the ruling Antigua and Barbuda Labor Party (ABLP) defeated the United Progressive Party, and Gaston Browne was elected as prime minister. Authorities maintained effective control over the security forces.

The most serious human rights problems involved poor prison conditions and violence against women.

Other human rights problems included trial delays resulting from court backlogs and reports of mental, physical, and sexual abuse of children. There were also laws that discriminate against lesbian, gay, bisexual, and transgender (LGBT) persons.

The government took steps to prosecute and punish 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 the government or its agents committed arbitrary or unlawful killings.

On June 21, a police officer shot and killed escaped prisoner, Avie Howell, during pursuit. The director of public prosecutions reviewed the incident and determined it to be lawful.

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 there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prisoners in Her Majesty's Prison, the country's only prison, faced harsh conditions and extreme overcrowding.

Physical Conditions: Poor ventilation caused cell temperatures to remain very high, prisoners did not receive an 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. The prison, designed to hold a maximum of 150 inmates, held 317 male and 14 female prisoners, a total of 331 prisoners, as of September. Authorities separated remanded prisoners from convicted prisoners when space was available. Authorities held undocumented migrants in the same facility.

Prison officials held four male juvenile prisoners 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.

The prison had inadequate toilet facilities, with slop pails used in 98 cells. There were unsanitary conditions in the kitchen, including the presence of insects, raw meat on the ground, stray cats, and an overwhelmingly unpleasant odor. The local media 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. The media also reported gang violence.

Administration: Prison recordkeeping was done in a hard copy format and appeared adequate, yet cumbersome. Authorities did not practice alternative sentencing for nonviolent offenders, and an ombudsman was available to respond to complaints. Prisoners and detainees had reasonable access to visitors, were permitted religious observances, had reasonable access to complaint mechanisms, and had the ability to request inquiry into conditions.

Independent Monitoring: The government 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. Prisoners on remand, however, often remained in jail for a number of months or years before their cases 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 Defense Force; and the Office of National Drug Control and Money Laundering Policy, which coordinates law enforcement and prosecutorial action to counter narcotics trafficking. 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 police, is headed by the deputy police commissioner and decides whether an investigation is conducted. Senior authorities typically held police accountable for their actions.

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 of Detainees

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. 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 lower court magistrates.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The constitution provides for criminal defendants to 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 adverse witnesses, access government-held evidence, present their own witnesses and evidence, 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, presides over civil cases involving sums of up to \$1,500 Eastern Caribbean Dollars (XCD) (\$555). Five magistrate's courts handle summary offenses and civil cases of not more than \$10,000 XCD (\$3,703) in value. Individuals 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.

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.

Press Freedoms: Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion. The Antigua Labor Party continued to claim 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 individual members of the other party.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no reports the government monitored private online communications without appropriate legal authority.

According to the International Telecommunication Union, 63 percent of the population had access to the internet in 2013.

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.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

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. The government generally respected these rights. 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 an established system for providing protection to refugees and received one application for refugee status as of July. The UNHCR was present in the country and has a formal procedure for conducting

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. The government has a small, temporary center where asylum seekers can stay while obtaining assistance from the government and support from the IOM.

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

The constitution provides citizens the ability to change their government through free and fair elections, which they exercised through elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In the June elections, Antigua experienced a change in government. The ruling ABLP won 14 of 17 seats in the House of Representatives and took over the government. The then incumbent United Progressive Party won three seats. The Organization of American States observer group reported the elections were generally free and fair.

Participation of Women and Minorities: There were two women in the House of Representatives and eight women appointed to the 17-seat Senate. The president of the Senate is a woman. There were two women 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.

Corruption: The Integrity in Public Life Act requires public officials to disclose all income, assets (including those of spouses and children), and personal gifts while in public office. The law established an Integrity Commission, appointed by the governor general, to receive and investigate complaints regarding noncompliance with or contravention of any provisions of this law or of the Prevention of Corruption Act. The commission responded to isolated reports of corruption, administered the act, and received the required disclosure reports.

Financial Disclosure: 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. Critics stated the legislation is inadequately enforced and the act should be strengthened.

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. 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.

Public Access to Information: 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. Citizens found it difficult to obtain documents, possibly due to government funding constraints rather than obstruction. There is a defined unit mandated to monitor and verify disclosures. By law the disclosures 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 parliament, to handle complaints regarding police and other government offices and officials. During the year the office received greater resources than prior years but remained underresourced.

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.

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. 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. The government was unable to provide the number of persons prosecuted for 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 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, 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.

Female Genital Mutilation/ Cutting (FGM/C): No law prohibits FGM/C, and the practice was virtually nonexistent in the country.

Sexual Harassment: Sexual harassment is not specifically defined in law. The country is, however, party to the Inter-American Convention on the Prevention,

Punishment, and Eradication of Violence against Women, known as the Convention of Belem do Para, which recognizes sexual harassment as a form of violence against women. According to the Labor Department, there was a high incidence of sexual harassment in the private and public sectors, but there were no cases formally reported during the year, and the lack of reporting was believed to result from concerns about retaliation. The labor court requires a safe working environment for all persons, and the 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 and the right to attain the highest standard of reproductive health, free from discrimination, coercion, and violence. There was adequate access to modern contraception. Most pregnant women had at least one prenatal care visit, and most women gave birth in hospitals with skilled health attendance at birth. Women had access to emergency health care, including services for the management of complications arising from abortions. Incidence of maternal mortality was not available.

Discrimination: The labor code provides that it is unlawful for an employer to discriminate against an individual because of his or her gender, and women enjoy the same legal status and rights as men. Women continued to work mainly as homeworkers, domestics, and in agriculture, but the trend of more women joining the private and public sectors. There is legislation requiring equal pay for equal work, and 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 the government registered all children at birth. Children born to citizen parents abroad can be registered by either of their parents.

Child Abuse: Child abuse remained a problem during the year. Neglect was the most common form of child abuse, followed by physical abuse, although the press reported regularly on the rape and sexual abuse of children. Adult men having regular sexual relations with young girls was also a problem. 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 how to detect child abuse and how to work with abused children. The government's welfare office also provided counseling services for children and parents and often referred parents to the National Parent Counseling Center. A family court handled child abuse cases, providing faster prosecution and more general handling of family and welfare cases.

Early and Forced Marriage: The legal minimum age for marriage is 18 years for both men and women. Children between 15 and 18 could marry with parental consent; however, underage marriage was rare, and the government did not keep statistics on it.

Female Genital Mutilation/Cutting (FGM/C): No law prohibits FGM/C, and the practice was virtually nonexistent in the country.

Sexual Exploitation of Children: Statutory rape is illegal; the minimum age for consensual sex is 16 years. Despite a maximum penalty of 10 years to life, authorities brought charges against few offenders. Child pornography is illegal and subject to fines of up to \$250,000 XCD (\$92,600) and 10 years in prison.

International Child Abductions: The government is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, although the government is party to the Inter-American Convention for the International Return of Children. See country-specific information at travel.state.gov/content/childabduction/english/country/antigua-and-barbuda.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 <http://www.state.gov/j/tip/rls/tiprpt>.

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 with disabilities unable to take themselves to the restroom and thus were denied entry to school. Additionally, anecdotal evidence suggested 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 outpatient mental health facility. Public areas often lacked wheelchair accessibility.

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

Consensual same-sex sexual activity for both sexes is illegal under indecency statutes; however, the law was not strictly enforced. The law also prohibits anal intercourse. Indecency statutes carry a maximum penalty of five years in prison, and consensual same-sex sexual conduct between adult men carries a maximum penalty of 15 years. No antidiscrimination laws exist that specifically protect LGBT persons.

Societal attitudes somewhat impeded operation and free association of LGBT organizations, but there were a few organized groups. There were limited reports of discrimination based on sexual orientation or gender identity in a variety of settings. There were no reports of violence committed against LGBT persons during the year due to their real or perceived sexual orientation.

HIV and AIDS Social Stigma

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 police. Anecdotal evidence also suggested employers had dismissed 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 also trained a number of health-care professionals and policemen in anti-discriminatory 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 employers who requested it.

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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of public and private sector workers to organize and bargain collectively without interference. The law 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.

If 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 was not always effective at deterring labor violations. Administrative and judicial procedures often were subject to lengthy delays and appeals.

Freedom of association and the right to collective bargaining were generally respected in practice. There were no reports of antiunion discrimination nor any violations related to collective bargaining rights.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but there were reports of forced labor, including in domestic service and retail industry.

The Office of National Drug and Money Laundering Control Policy investigates cases of trafficking in persons, including forced labor. Authorities removed three persons individuals from forced labor situations during the year. The law prescribes penalties for forced-labor violations of 20 to 30 years' imprisonment with fines not to exceed \$400,000 XCD (\$148,148). These penalties were sufficiently stringent to deter violations.

Also see the Department of State's *Trafficking in Persons Report* at <http://www.state.gov/j/tip/rls/tiprpt/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law stipulates a minimum working age of 16 years. 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 existed for the protection of those under 18 years.

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. Discrimination with Respect to Employment or Occupation

The law prohibits discrimination in respect to employment or occupation regarding race, sex, age, or political beliefs. In general the government effectively enforced these laws and regulations. The law does not prohibit employment discrimination on the basis of disability, language, sexual orientation and/or gender identity, HIV-positive status or other communicable diseases, or social status. There were anecdotal reports of employment discrimination against employees with HIV/AIDS (see section 6, HIV and AIDS Social Stigma).

e. Acceptable Conditions of Work

The minimum wage was \$7.50 XCD (\$2.78) an hour for all categories of labor. According to a 2007 Caribbean Development report on poverty, the most recent data available, the official estimate for the poverty income level was \$6,318 XCD (\$2,340) per annum, when adjustments were made for nonfood expenditure. In practice the great majority of workers earned substantially more than the minimum wage. The customary standard workweek was 40 hours in five days. The law provides that workers are not required to work more than a 48-hour, six-day workweek and provides for paid annual holidays. The law requires employees be paid one and one-half times the employees' basic wage per hour for overtime work in excess of the standard workweek. The law prohibits excessive or compulsory overtime such that employees are not allowed to work more than 12 hours per day.

The law includes provisions regarding occupational safety and health, but the government had not developed separate occupational health and safety regulations apart from those regarding child labor. The law does not specifically provide that workers can remove themselves from situations that endanger health or safety without jeopardy to their employment. It does, however, provide the ministry the authority to require special safety measures, not otherwise defined in the law, to be put into place for worker safety.

The Ministry of Labor and the Industrial Court enforced labor standards, and there were eight labor inspectors. Government enforcement of labor laws, including remedies and penalties of up to 1,500 XCD (\$555) for nonpayment of work overtime violations were applied but these were not always effective at deterring labor violations.

Labor inspectors reported that they conducted periodic health and safety checks, as well as checks for working conditions and work permit violations; 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. Nevertheless, workers in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions, especially accidents related to working with heavy machinery.