

SAINT KITTS AND NEVIS 2014 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Saint Kitts and Nevis is a multi-party, parliamentary democracy and federation. In the 2010 national elections, Prime Minister Denzil Douglas' Saint Kitts and Nevis Labor Party (SKNLP) won six of the 11 elected seats in the legislature. Independent observers concluded that the election had no major irregularities and was generally free and fair, but they called for electoral reform. The constitution provides the smaller island of Nevis considerable self-government under a premier. Authorities maintained effective control over the security forces.

The most serious human rights problems were poor prison conditions, politicization of the police force, and discrimination and violence against women.

Other human rights problems included government corruption, child abuse, and 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.

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings.

On June 19, a jury found the 2013 shooting death of Trevor Douglas to be justifiable homicide. Police shot Douglas in the back, and he later died of his wound. Douglas' lawyer claimed that the lack of cooperation and poor communication from the commissioner of police prevented him from fairly representing Douglas.

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. 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.

Prison and Detention Center Conditions

Prisons remained overcrowded and facilities austere, although the number of inmates decreased from previous years.

Physical Conditions: Built in 1840, the prison on St. Kitts had an intended capacity of 182 prisoners but held 296 during the year. Some prisoners slept on floor mats, but all prisoners had access to potable water and adequate food. Russel's Rest, the prison farm in Nevis, has 38 inmates with a total capacity of 50 individuals. In St. Kitts authorities occasionally held pretrial detainees together with convicted prisoners.

There were 10 female inmates and three juveniles in prison in St. Kitts. Authorities held female inmates in separate quarters. There were no female prisoners in Nevis.

In 2013 an inmate collapsed and died after allegedly complaining of stomach pains. Following an investigation during the year, authorities declared the death to be from natural causes.

Administration: Prison recordkeeping was mostly completed in a hard-copy format and appeared adequate, yet cumbersome. The prison had five computers to assist staff members transitioning to digital recordkeeping.

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.

Independent Monitoring: The government investigated and monitored prison conditions and permitted prison visits by independent human rights observers, although there were no known visits during the year.

Improvements: New Horizons, a new youth rehabilitation center housing 30 juveniles--20 boys and 10 girls--became fully operational in February. The facility featured a separate remand center for those awaiting trial.

The government continued work on construction of a new correctional facility.

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, which includes a paramilitary Special Services Unit, a drug unit, the Delta Squad, a Special Victims Unit, and a white-collar crimes unit. In addition, there is 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. The military and the police report to the Anti-Crime Unit, which is under the prime minister's jurisdiction.

The police Criminal Investigation Department is charged with investigating killings by police. Senior police officers investigated complaints against members of the police force. When warranted, they referred complaints to an internal disciplinary tribunal for adjudication. Penalties included dismissal, warnings, or other administrative action.

Arrest Procedures and Treatment of Detainees

Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 72 hours or be released. If charged, authorities must bring a detainee before a court within 72 hours of the detention. 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 72 hours 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 judicial independence.

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 trial 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. The defense force, however, could 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. It was unclear whether the court issued such an order during the year.

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. An independent press, the judicial system, and a functioning democratic political system combined to ensure freedom of speech and press.

Freedom of Speech: Critics alleged that the state-owned National Broadcasting Corporation of St Kitts and Nevis gave the current administration an unfair advantage and failed to include opposing views in its broadcasts.

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 without appropriate legal authority. According to the International Telecommunication Union, approximately 80 percent of citizens used 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. Opposition parties and media, however, reported incidents in which the exercise of these rights was restricted.

Police arrested community activist Clepton Phillip in January under a little-used noise-making law. Phillip was involved in a demonstration against the current government when he alleged that police harassed him and arrested him, allegedly on the orders of Police Commissioner C.G. Walwyn. Additionally, an opposition coalition complained that Commissioner Walwyn arbitrarily denied their right to march past the government headquarters and other locations in the capital.

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 constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees 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.

Protection of Refugees

Access to Asylum: While the law provides for the granting of asylum and refugee status, the government has not established a system for providing protection to refugees.

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. Voters elect 11 members of the National Assembly, and the governor general appoints a three-person Senate, two on the 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' SKNLP returned to office after winning six St. Kitts seats out of the 11 elected seats in the National Assembly. The People's Action Movement (PAM) party won two seats. The Concerned Citizens Movement (CCM) party won two of the three seats assigned to Nevis. International observers from the Commonwealth, Caribbean Community, and the Organization of American States determined the elections were generally free and fair, but they 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 2013 Nevis held its local elections in which voters elected (CCM opposition candidate Vance Amory as the premier of Nevis for a five-year term. The elections were generally free and fair, although officials released voter lists late in some of the districts.

Political Parties and Political Participation: Opposition parliamentarians filed a motion of no confidence against the government of Prime Minister Denzil Douglas in December of 2012, but as of October that motion was not yet tabled or debated in parliament. While the constitution contains no time requirement for the tabling of such motions, the Rules of Parliament defer to the practice of the House of Commons in England where there is no precedent for such a delay. The opposition filed a complaint at the High Court of Justice, which ruled in February that the matter must proceed in parliament; however, the government appealed the decision and the Eastern Caribbean Appeal Court in September granted a stay of all proceedings on the matter.

Participation of Women and Minorities: There was one woman in parliament, a cabinet minister. All five magistrates were women, including the registrar of the High Court.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. Draft legislation to advance transparency and provide checks on corruption has been prevented from coming to the floor of parliament for a debate. Parliament passed Integrity in Public Life legislation in 2013, but it was not implemented as of October.

Corruption: The PAM, CCM, and People's Labor Party, led by two former senior government ministers, continued to allege misconduct on the part of government officials. The media and many private citizens also reported that government corruption was a problem.

In particular, opposition leaders and private citizens continued to express concern about the lack of financial oversight of both the Sugar Industry Diversification Foundation (SIDF) and the Citizenship by Investment Program (CIP). For example, although limited details appeared on the SIDF website, some observers argued that the SIDF had not been audited in a comprehensive, transparent manner and alleged it was the prime minister's "slush fund." The number of passports

issued and the nationalities of the holders of these passports under the CIP was not released publicly. The government had not made public details regarding the operations of the SIDF and CIP.

Financial Disclosure: 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, but these reports were not available to the public.

Public Access to Information: While no laws provide for public access to government information, the government maintained a website 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 elderly, and persons with mental or physical disabilities. These groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Government Human Rights Bodies: The Ministry of Health maintained a human rights desk to monitor discrimination and other human rights abuses.

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

The constitution prohibits discrimination on the basis of race, color, or sex, and the government generally respected these prohibitions. No specific legislation addresses discrimination based on disability, language, sexual orientation or gender identity, or social status.

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. Despite the re-establishment of a Special Victims Unit in the

police force, rape often was underreported due to survivors' fear of stigma, retribution, further violence, or lack of confidence in the authorities. Penalties for rape range from two years' imprisonment for incest between minors, to life imprisonment for statutory rape or incest with someone under 16 years. Indecent assault has a maximum penalty of seven years' imprisonment. 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 \$13,500 Eastern Caribbean Dollars (XCD) (\$5,000) or six months in prison.

The Department of Gender Affairs has field officers who maintained contact with men's organizations, prisons, and schools. Counseling was available for survivors of abuse. The National Council of Women was the lead civil society organization on women's rights, along with the Department of Gender Affairs.

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

Sexual Harassment: According to the Labor Ministry, sexual harassment falls within the purview of the Protection of Employment Act, but the law does not explicitly address sexual harassment. Anecdotal evidence suggested that sexual harassment remained a problem in the workplace, although the Ministry of Community Development, Culture, and Gender Affairs did not receive any cases 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 generally had the means to do so free from discrimination, coercion, and violence. The National Family Planning Office provided information on contraception and support for reproductive rights on a nondiscriminatory basis. Skilled health attendance during pregnancy, at delivery, and during postpartum care were widely available. In 2011 the World Health Organization reported that skilled health personnel attended 100 percent of births. Women had access to emergency health care, including services for the management of complications arising from abortions.

Discrimination: Women enjoy the same legal status and rights as men under family, labor, property, and inheritance laws. The status of women in employment

improved, particularly in the public sector. The law 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 children 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 both awareness and reporting of cases increased during the year.

In child abuse cases, the law 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 home for abused and neglected children. The government noted a rise in runaway teenage girls in St. Kitts, and some of the girls were placed in this children's home. Since many of the girls had special circumstances, such as sexual abuse, they often were unable to obtain necessary assistance in the children's home.

Government officials noted an uptick in gang violence cases involving youth in the courts, and tension related to gangs was also apparent in some high schools. The prevalence of girl gangs in St. Kitts increased. Many of the juvenile delinquents in the country were abused at home and considered "at risk." Some teens were vulnerable to joining gangs through their associations with relatives or close friends who were gang members. During the year the country experienced a high rate of homicides that included youth victims allegedly involved in gang violence.

The government offered counseling for both adult and child victims of abuse. Additionally, the government began a diversion program to provide youth and their families with life skills, counseling, parenting, and mentorship.

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

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

Sexual Exploitation of Children: The law sets the age of consent at 16 years. Under the statutory rape law, having sexual relations with children under age 16 is illegal, with penalties ranging from probation to life in prison, but no cases were prosecuted during the year. 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. For country-specific information see the Department of State's report at travel.state.gov/content/childabduction/english/country/saint-kitts-and-nevis.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 during the year that St. Kitts and Nevis was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

The law does not prohibit discrimination specifically against persons with physical, sensory, intellectual, and mental disabilities in employment, air travel, transportation, access to healthcare or the provision of others services, and persons with disabilities experienced discrimination. 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. For practical reasons there were also separate schools for children with vision and hearing disabilities.

The law allows authorities to declare persons with mental disabilities who commit crimes a menace to society and incarcerate them for life; approximately 32 such persons were incarcerated as of October 2013. The government was unable to provide information on appeal procedures for such menace-to-society declarations. Ministry of Health nurses in the various district health centers provide support services to persons with mental illness, and the general hospital has a wing dedicated to caring for patients with mental illness.

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

The law criminalizes consensual same-sex sexual activity between men, which carries a penalty up to 10 years in prison, but there were no reports of the law being enforced during the year. The law does not prohibit sexual activity between women. No laws prohibit discrimination against a person on the basis of sexual orientation or gender identity.

Negative 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 or gender identity.

HIV and AIDS Social Stigma

Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred. The Labor Ministry previously 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 provides for the right to form and join independent unions, negotiate better wages and benefits for union members, and strike. 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 staff associations. Some of the staff associations have bargaining powers and dispute settlement rights; associations do not have collective bargaining rights but can negotiate or represent members.

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. 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 public employees, using funds from a special severance fund to which all public and private employees contribute.

The government enforced applicable laws. The law does not prescribe remedies for labor law violations. The Ministry of Labor did not provide information on the adequacy of resources, inspections, and penalties for violations. Based on anecdotal evidence, cases were not generally subject to lengthy delays and appeals.

Freedom of association and the right to bargain collectively generally were respected in practice. Employers generally recognized a union if a majority of workers voted to organize. There was no evidence of employer interference or antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The constitution prohibits slavery, servitude, and forced labor. The government effectively enforced such provisions; however, the Ministry of Labor did not provide information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties. There were no reports of forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum legal working age is 16 years. The law permits 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. Other than those limitations, there are no

provisions in law or regulation to protect individuals between 16 and 18 years from working in hazardous conditions.

Most children under the age of 16 who engaged in employment worked after school in shops and supermarkets doing light work. Most domestic work done in the country was outsourced through cleaning agencies.

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. The ministry provided no information on the amounts of fines, or other penalties required by law.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment or Occupation

The law and regulations prohibit discrimination regarding race, sex, gender, language, HIV- positive status or other communicable diseases, or social status. The government effectively enforced those laws and regulations. The law does not prohibit discrimination in employment with respect to disability or to sexual orientation and/or gender identity.

Discrimination in employment and occupation did not occur based on the above categories.

e. Acceptable Conditions of Work

The government set the minimum wage at \$8.00 XCD (\$2.96) an hour. The official estimate of the poverty level income was \$7,329 XCD (\$2,714) for St. Kitts and \$9,788 XCD (\$3,625) for Nevis per year. The law provides for a 40-hour workweek and requires premium pay for overtime. The law does not prohibit excessive or compulsory overtime. Although not required by law, workers received at least one 24-hour rest period per week. The law calls for double the rate of pay for work on designated rest days. The law also calls for paid holidays.

The government sets occupational safety and health standards, which were outdated, but appropriate for the country's main industries. Workers could remove themselves from situations that endangered health or safety without jeopardy to

their employment, and authorities effectively protected employees in this situation. The law also requires that employers report accidental and dangerous occurrences. The Labor Commission settles disputes over safety conditions.

The Labor Commission undertook 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. Information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties was not available.

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.

Workers in the formal sector normally worked 40 hours in five days. Data on workplace fatalities and other accidents were unavailable.