

ANTIGUA AND BARBUDA 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Antigua and Barbuda is a multiparty parliamentary democracy. In the June 2014 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.

Civilian authorities maintained effective control over the security forces.

The most serious human rights problems involved poor prison conditions, alleged police brutality, and violence against women.

Other human rights problems included trial delays resulting from court backlogs and mental, physical, and sexual abuse of children. There are also laws that discriminate against lesbian, gay, bisexual, transgender, and intersex (LGBTI) 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 Deprivation of Life and other Unlawful or Politically Motivated Killings

There were no reports 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 specifically prohibits such practices, but there were multiple reports that police employed them.

In August a foreign citizen alleged police illegally detained him and beat him so severely that he required surgery. Government officials denied the allegation and presented a different version of events.

Prison and Detention Center Conditions

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

Physical Conditions: Her Majesty's Prison, designed to hold a maximum of 150 inmates, held 349 male and 22 female prisoners as of September. Authorities separated remanded prisoners from convicted prisoners when space was available. Remanded inmates faced the harshest conditions, since their cells were often at double capacity. As of August the prison held five juveniles--three sentenced and two remanded--at a separate offsite facility. Police moved the juveniles back into the prison in early September, citing inadequate guard stations at the temporary juvenile facility, which was supported by a nongovernmental organization (NGO).

Extremely poor ventilation caused cell temperatures to remain very high, and standards of hygiene were inadequate. Staff reported that dehydration was the most common medical problem, in effect forcing inmates to buy bottled water from the prison commissary because of a problem with water pipes and a rusted cistern. There were several catchments for rainwater and a well, but prison staff reported that the water in each was likely contaminated. The prison had inadequate toilet facilities, with slop pails used in all cells except for those of the female prisoners. The men's section had no showers; inmates used buckets to wash themselves. The women's section of the prison had two showers, and prison staff provided feminine hygiene products to women, although most female inmates' families provided for this need. Conditions in the kitchen were unsanitary, including the presence of insects and stray cats (to catch rodents).

Inmates with mental disabilities were held in the prison, in large part because the island's psychiatric facility was also overcrowded. The prison superintendent reported that inmates had access to a mental health professional. Medical staff reported three outbreaks of disease, with staphylococcus bacteria and MRSA infections in the spring, followed by an outbreak of chicken pox, which infected one-third of the inmates in November 2015. In each instance diagnosed prisoners were quarantined in the prison's chapel but shared toilet and bathing areas with noninfected inmates, further contributing to the spread of the diseases. The superintendent 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 prison had a work release program for men, and inmates were selected for participation based on their good conduct. Female inmates did not have a comparable program.

Conditions at the police holding facility in Saint John's Station were also deficient. Inmates did not have ready access to potable water and were fed one meal of crusty bread and sausage each day. Toilets were inadequate, and a rusty smell permeated the facility. Like Her Majesty's Prison, the building was very old and appeared to be in a state of disrepair.

Administration: Prison recordkeeping was done in a hard-copy format and appeared adequate although cumbersome. Complaints were handled in several ways, including a prison welfare officer, a complaints committee, and a prisoner appointed to lodge complaints.

Independent Monitoring: The government permitted prison visits by independent human rights observers, although no such visits occurred during the year.

Improvements: Prison staff reported the establishment of Men against Negative Attitudes, a support group for inmates, to serve as a foundation for future sentence rehabilitation or sentence reduction programs.

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 an average of three to four years before their cases came to trial, according to the director of the Office Public Prosecutions.

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. Police fall under the responsibility of the attorney general, who is also the minister of justice, legal affairs, public safety, and labor. Immigration falls under the minister of foreign affairs, international trade, and immigration. The prime minister can call for an

independent investigation into an incident as needed. The Professional Standards 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 reports of impunity involving the security forces during the year.

In October a 13-year-old girl complained of sexual assault by a senior police officer. The father of the victim and media alleged the police commissioner alerted the officer so that he could flee the country before charges were filed. The police department subsequently filed charges against the officer, and a court granted him bail on November 14. In a separate incident, also in October, another 13-year-old girl claimed that her father, a police officer, had raped her. The police did not charge the officer.

Arrest Procedures and Treatment of Detainees

The law permits police to arrest without a warrant persons suspected of committing a crime. NGOs and victims reported that the police often abused this provision. 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, but NGOs reported that victims were often held for 96 hours. Authorities allowed criminal detainees prompt access to counsel and family members. The system requires those accused of more serious crimes to appeal to the High Court for bail, removing this responsibility from lower court magistrates.

Several persons alleged the police detained them without charges. NGOs reported a case in which police instigated an argument with a young man and detained him overnight without pressing charges.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained, regardless of whether on criminal or other grounds, are legally permitted to challenge in court the legal basis or arbitrary nature of their detention and obtain prompt release and compensation if found to have been unlawfully detained.

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 murder trials the government provides legal assistance at public expense to persons without the means to retain a private attorney. Defendants have the right to free interpretation as necessary from the moment charged through all appeals. The law extends these rights to all persons.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees. The government, however, pursued charges against seven members of the opposition. The court dismissed two of the cases and chose to proceed with one of the cases. As of October, five of the seven cases were awaiting trial.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations through domestic courts. They may apply to the High Court for redress of alleged violations of their constitutional rights. They may appeal adverse domestic decisions to regional human rights bodies.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect 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.

In February an opposition spokesperson claimed on the radio that he possessed evidence of corruption in the government-operated Citizenship by Investment Program. The police detained him to compel him to provide evidence for his public claims. When the spokesperson refused to provide evidence, the police charged him with public mischief and making a false claim. The magistrate's court dismissed the case in September.

Press and Media Freedoms: Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinions. There were claims, however, that the government did not allow fair access to opposition and independent media.

Libel/Slander Laws: As of June no libel cases had been filed, unlike in previous years, when 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 credible reports the government monitored private online communications without appropriate legal authority.

According to 2014 International Telecommunication Union data, the most recent available, 64 percent of the population had access to the internet.

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 the freedoms 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, the International Organization for Migration, and other humanitarian organizations in assisting refugees and asylum seekers.

Protection of Refugees

Access to Asylum: The country does not have any laws or legal procedures governing asylum or refugee status. The government handles asylum requests on an ad hoc basis.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In the June 2014 elections, the 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: No laws or traditional practices limit the participation of women or minorities in the political process, and women and minorities participated.

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 several reports of government corruption during the year. Both political parties frequently accused the other of corruption, but investigations yielded few or no results.

Corruption: In March an opposition spokesperson alleged an official misappropriated \$500,000 from the country's Citizenship by Investment Program. The government denied the claim.

Financial Disclosure: The law requires public officials to disclose all income, assets, and personal gifts in a confidential report to the Integrity Commission. Critics stated the legislation was 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.

Public Access to Information: The law gives citizens the right to access official documents from public authorities and agencies, and there is a commissioner to oversee the process. Citizens found it difficult to obtain documents, possibly due to government funding constraints rather than obstruction. There are 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 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 position, an independent authority appointed by parliament, to handle complaints regarding police and other government offices and officials; however, no ombudsman was appointed after the term of the previous ombudsman expired in 2014. The Office of the Ombudsman was unable to take complaints and could only offer advice or refer citizens to other offices.

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

Women

Rape and Domestic Violence: Rape is illegal and carries maximum sentences ranging from 10 years to life imprisonment. The government was unable to provide the number of persons prosecuted for unlawful sexual intercourse, but anecdotal evidence suggested it was a pervasive problem. An investigation commences once the crime is reported, and legislation enacted in August identifies certain government employees as mandatory reporters. Police immediately refer reported rapes to the Serious Crime 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. In situations where the victim did not know her assailant, the case could take years to come to trial. 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. The Directorate of Gender Affairs reported the number of rape survivors coming forward increased as a result of the crisis hotline and the directorate's awareness campaign.

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 Domestic Violence Bill of 2015, which repealed the Domestic Violence Act of 1999, took effect on September 1. The new legislation targets perpetrators of domestic violence and sets forth the process required for victims to obtain an order of protection. The Directorate of Gender Affairs operated several domestic violence programs that provided training for law enforcement officers, health-care professionals, counselors, social workers, immigration officers, and army officers. The directorate also worked with NGOs, 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.

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 (the Convention of Belem do Para), which recognizes sexual harassment as a form of violence against

women. According to the Ministry of Labor, there was a high incidence of sexual harassment in the private and public sectors, but no cases were 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; thus, the court could address harassment cases, although no such cases were filed during the year.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence. The rate of maternal mortality was not available.

Discrimination: The law provides for the same legal status and rights for women as for men. Legislation requires equal pay for equal work. The labor code provides that it is unlawful for an employer to discriminate against an individual because of his or her gender. Women continued to work mainly as homeworkers and domestics, but there was a trend for more women to work in the private and public sectors.

Children

Birth Registration: Citizenship is acquired by birth in the country, and the government registers all children at birth. Children born to citizen parents abroad can be registered by either of their parents.

Child Abuse: Child abuse remained a serious problem. Neglect was the most common form of child abuse, followed by physical abuse, although according to the press, rape and sexual abuse of children also occurred. Adult men having sexual relations with girls as young as eight years of age 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 events about detection and prevention of child abuse and also offered 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. The Child Care and Adoption Bill institutes procedures for

international adoptions and governs the investigation and assessment of child abuse cases. It also includes provisions on orders of care and child-care services.

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.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. Authorities brought charges against few offenders. The Citizens Welfare Division reported that the process of prosecuting offenders was lengthy. Child pornography is illegal and subject to fines of up to \$250,000 Eastern Caribbean Dollars (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 the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.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 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 who were unable to take themselves to the restroom and thus were denied entry to school, or who could not attend school as a result of inadequate transportation and classroom facilities. Additionally, anecdotal evidence suggested support for persons with mental disabilities was lacking. It was alleged that those affected were often left

homeless, as there were few alternatives to the one overcrowded and poorly maintained outpatient mental health facility. In other cases persons with disabilities lived in bad conditions because their families could not provide for their needs. Public areas, including government buildings, often lacked wheelchair accessibility.

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

Consensual same-sex sexual activity for males 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 LGBTI persons.

Societal attitudes somewhat impeded operation and free association of LGBTI 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 LGBTI persons 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 HIV-positive persons reported several incidents of discrimination from health-care professionals and police. Anecdotal evidence also suggested employers dismissed and discriminated against employees 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 persons with HIV/AIDS. The ministry also trained a number of health-care professionals and police officers in antidiscriminatory practices. The Ministry of Labor encouraged employers to be more sensitive to employees with HIV/AIDS, and the ministry conducted sensitivity training for employers who requested it. The ministry reported that stigmatization of HIV-positive persons, while still a significant problem, had decreased, especially among police forces.

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 form and join independent unions. The law also provides for the right to bargain collectively and conduct legal strikes; however, there are several restrictions on the right to strike. The law prohibits antiunion discrimination by employers, but it does not specifically require reinstatement of workers illegally fired for union activity.

Workers who provide essential services (including water, electricity, hospital, fire, prison, air traffic control, meteorology, telecommunications, and the government printing office and port authority) must give two weeks' 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. Strikes within the essential services sector were rare, but there were strikes within the hospitality and public-works sectors during the year.

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. The law prohibits retaliation against strikers.

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

Government enforcement of the right to association and collective bargaining was not always effective at deterring violations. Penalties for violating laws range from a minor fine to two months in prison, which was adequate to deter violations. Administrative and judicial procedures were often subject to lengthy delays and appeals.

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 the retail industry. The government effectively enforced the law. The Office of National Drug and Money Laundering Control Policy investigates cases of trafficking in persons, including forced labor. Authorities removed at least one individual from a forced labor situation during the year. The law prescribes penalties of 20 to 30 years' imprisonment with fines not to exceed \$400,000 XCD (\$148,150). These penalties were sufficiently stringent to deter violations.

Also see the Department of State's *Trafficking in Persons Report* at 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, although in some circumstances children under the age of 16 are eligible for employment with restrictions. Persons under age 18 may not work past 10 p.m., except in certain sectors, and in some cases must have a medical clearance to obtain employment. No list of hazardous work existed for the protection of those under 18.

The law requires the Ministry of Labor to conduct periodic inspections of workplaces, and the ministry effectively enforced the law. The law allows for a small financial penalty or three months in prison for violations, which was adequate to deter violations. The Labor Commissioner's Office also has an inspectorate that investigates 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 and Occupation

The law prohibits discrimination in respect to employment or occupation regarding race, color, sex, age, national origin, citizenship, and political beliefs. In general the government effectively enforced the law and regulations. Penalties include a fine and up to 12 months in prison, which was adequate to deter violations. The law does not prohibit employment discrimination on the basis of disability, religion, language, sexual orientation and/or gender identity, HIV-positive status or other communicable diseases, or social status, but the government encouraged employers not to discriminate on these grounds. Female migrant workers, who

worked mainly in hospitality and industry, reported discrimination. There were also 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 \$8.20 XCD (\$3.03) 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 \$6,320 XCD (\$2,340) per annum, when adjustments were made for nonfood expenditures. 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 12 paid annual holidays. The law requires that employees be paid one and a half times the employees' basic wage per hour for overtime work in excess of the standard workweek. The Ministry of Labor put few limitations on overtime, allowing it in temporary or occasional cases, but did not allow employers to make regular overtime compulsory.

The law includes provisions regarding occupational safety and health, but the government had not developed separate occupational safety and health 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.

Standards were enforced in all sectors, including the informal sector, through the inspectorate unit via field officers. Government enforced labor laws, including levying remedies and penalties of up to 5,000 XCD (\$1,850) for nonpayment of work. Overtime violations were penalized but were not always effective at deterring labor violations.

The Ministry of Labor and the Industrial Court enforced labor standards. As of June there were seven labor inspectors, which was sufficient to enforce compliance. Labor inspectors reported that they conducted periodic health and safety checks, as well as checks for working conditions and work permit violations. Nevertheless, workers in construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions, especially accidents related to working with heavy machinery.