

ANTIGUA AND BARBUDA 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Antigua and Barbuda is a multiparty parliamentary democracy. Queen Elizabeth II is the head of state. The governor general is the queen's representative in country and certifies all legislation on her behalf. The ruling Antigua and Barbuda Labor Party won re-election in March parliamentary elections. In their initial report, election monitors stated there were problems with the electoral process but results "reflected the will of the people." As of November the final report had not been released.

Civilian authorities maintained effective control over the security forces.

Human rights issues included harsh and life threatening prison conditions, corruption, criminal libel, and laws against consensual adult same-sex sexual activity (although these were not enforced).

The government took steps to prosecute and punish those who committed human rights abuses. There were no reports of impunity involving the security forces during the year.

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 disappearances by or on behalf of government authorities.

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

The constitution prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions were harsh due to inadequate sanitary conditions and overcrowding.

Physical Conditions: Her Majesty's Prison, the country's only prison, was grossly overcrowded, and some inmates were forced to sleep on cardboard on the floor. Authorities separated remanded prisoners from convicted prisoners when space was available. Remanded inmates faced the harshest conditions, since their cells were the most overcrowded. Juvenile inmates were held in a separate detention center.

Poor ventilation caused cell temperatures to remain very high, and hygiene was inadequate. 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; prison staff provided some feminine hygiene products to women, although most female inmates' families provided for this need. Conditions in the kitchen were unsanitary, aggravated by the presence of insects, rodents, and stray cats (to catch rodents). The yard area also had stray cats and rodents.

Inmates with mental disabilities were held in the prison in large part because the country's psychiatric facility was also overcrowded. The prison superintendent reported inmates had access to a mental health professional. The superintendent reported bribery and corruption were common in the prison, with guards allegedly taking bribes and smuggling contraband such as liquor, cell phones, and marijuana to prisoners.

The prison had a work release program for men, but female inmates did not have a comparable program.

Conditions at the police holding facility in Saint John's Station were also deficient with up to 30 prisoners in one holding cell. Media reported food boxes and plastic bags were used as toilets by detainees because toilets were clogged and dark water covered washroom floors with what appeared to be waste matter floating in it. Like Her Majesty's Prison, the building was very old and in a state of disrepair.

Administration: Authorities handled credible allegations of mistreatment in several ways, including by a prison welfare officer, a complaints committee, and a prisoner appointed to lodge complaints on behalf of other inmates.

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

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge his or her arrest or detention in court, and the government generally observed these requirements. Some prisoners on remand, however, remained in detention for up to four years before their cases came to trial, according to the director of the Office of 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 personnel; the 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.

Civilian authorities maintained effective control over the security forces, and the government has effective mechanisms to investigate and punish abuse. 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 held police accountable for their actions. One case under investigation resulted in the suspension of a senior officer. 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 a person based on the suspicion of criminal activity without a warrant. Nongovernmental organizations (NGOs) and victims reported police abused this provision. Police must bring detainees before a court within 48 hours of arrest or detention or file a motion requesting an extension. If time limits are not met, the law stipulates prisoners must be released. NGOs reported victims were sometimes held for as long as 96 hours before being presented to a court. 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.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution provides for the right to a fair and public trial by jury, and an independent judiciary generally enforced this right. Defendants have the right to a presumption of innocence, timely access to counsel, and free assistance of an interpreter. They may be present at their trial, confront adverse witnesses, present their own witnesses and evidence, and appeal. Defendants may not be compelled to testify or confess guilt. The government provides legal assistance at public expense to persons without the means to retain a private attorney, but only in capital cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

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 Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, but the government respected this right on a somewhat limited basis.

Press and Media Freedom: Privately owned print media, including daily and weekly newspapers, were active. There were claims, however, that the government was hostile to opposition and independent media and did not provide them equal access to government officials. Senior government officials routinely refused to grant interviews to media outlets other than those supported by the government.

Libel/Slander Laws: There were two libel cases pending against the country's sole independent media outlet involving ruling party ministers.

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 the International Telecommunication Union, 76 percent of the population had access to the internet in 2017.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful 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

The law provides 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, 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 March elections, the Antigua and Barbuda Labor Party won 15 of 17 seats in the House of Representatives, and Gaston Browne remained prime minister. The Caribbean Community Observation Mission, along with a Commonwealth Observer Group, monitored the election. In their initial report, monitors stated there were problems with the electoral process but that the results reflected the will of the people. As of November their final report had not been released.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. 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 late 2017 media outlets reported Minister of Tourism, Economic Development, Investment, and Energy Asot Michael was arrested in connection with an investigation into bribes paid by a United Kingdom citizen for business contracts in the Caribbean. Michael was stripped of his cabinet position but not removed from parliament. He was re-elected in March and reappointed as minister

of investment and trade. He resigned in May under domestic pressure. The case of three former members of parliament arrested in 2016 on charges of corruption was dismissed but remained on appeal to the High Court.

Financial Disclosure: The law requires public officials to disclose all income, assets, and personal gifts in a confidential report to the Integrity Commission. The commission has the power to investigate public officials without a formal complaint being lodged against them, but lacked adequate staff and resources to investigate. The commissioner made a formal request to the government for additional resources to investigate Michael.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 generally 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. 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: The law establishes sentences ranging from 10 years' to life imprisonment for the rape of women. The law also addresses male rape and establishes sentences of five years' to life imprisonment. Spousal rape is illegal under certain limited circumstances, such as after separation, with a punishment of 15 years. The Directorate of Gender Affairs reported the number of rape survivors coming forward increased as a result of a crisis hotline and the directorate's awareness campaign. Statistics for rape were not disaggregated.

Violence against women, including spousal abuse, continued to be a serious problem. The law prohibits and provides penalties for domestic violence.

The government provided several domestic violence programs including training for law enforcement officers, health-care professionals, counselors, social workers, immigration officers, and army officers.

Sexual Harassment: The law does not specifically define sexual harassment, but it can be addressed under other legal frameworks. According to the Ministry of Labor, there was a high incidence of sexual harassment in the private and public sectors.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides the same legal status and rights for women and men. Legislation requires equal pay for equal work. The labor code stipulates it is unlawful for an employer to discriminate against an individual because of his or her gender.

Children

Birth Registration: Citizenship is acquired by birth in the country (jus soli), 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. Although neglect and physical abuse were common, rape and sexual abuse of children were also problems, according to the press. The law stipulates a fine not exceeding \$20,000 Eastern Caribbean dollars (XCD) (\$7,410) or three years in prison for child abusers. In extreme cases the government removes children from their homes and puts them in foster care or into a government or private children's home.

The government held public outreach events concerning detection and prevention of child abuse and 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 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 law 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 the ages of 15 and 18 may marry with parental consent; however, underage marriage was rare.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. Authorities brought charges against few offenders. Child pornography is illegal and subject to fines of up to \$500,000 XCD (\$185,000) and 20 years in prison.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.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

During the year the government passed the Disabilities and Equal Opportunities Act that prohibits any form of discrimination based on disability. The law stipulates a penalty of \$10,000 XCD (\$3,700) or two years' imprisonment. Public areas, including government buildings, often lacked wheelchair accessibility. The government improved access to workplaces for persons with disabilities by revising building codes and included disabled persons in youth education programs.

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. Consensual same-sex sexual conduct between adult men carries a maximum penalty of 15 years.

Although societal attitudes toward homosexuality improved, media reported some cases in which they impeded operation of lesbian, gay, bisexual, transgender, and intersex (LGBTI) organizations. The government continued its initiative to facilitate dialogue between LGBTI groups. There were limited reports of discrimination based on sexual orientation or gender identity in a variety of settings. There were no reports of public violence committed against LGBTI persons due to their real or perceived sexual orientation.

HIV and AIDS Social Stigma

Some persons claimed 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 in 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 stigmatization of HIV-positive persons, while still a significant problem, had decreased, especially among police.

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; 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.

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

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. There were no strikes within the essential services sector, but postal workers and some workers at a psychiatric hospital went on strike during the year. Protests were peaceful.

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.

Penalties for violating laws range from a minor fine to two months in prison, which were adequate to deter violations. Government enforcement of the right to association and collective bargaining, however, was not always effective at deterring 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. The government effectively enforced the law. The labor code allows the labor inspectorate authority to enter residences to investigate allegations of forced or compulsory labor.

The Office of National Drug and Money Laundering Control Policy investigates cases of trafficking in persons, including forced labor allegations. The law prescribes penalties of 20 to 30 years' imprisonment with fines not to exceed \$400,000 XCD (\$148,000). 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 work prohibitions do not apply to family businesses and in some circumstances children under 16 are eligible for employment with restrictions, such as working only during nonschool hours and only working a certain number of hours. Persons under 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. Laws contain definitions that collectively constitute the worst forms of child labor, but specific details are not provided in any single statute.

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 were adequate to deter violations. The Labor Commissioner's Office also has an inspectorate that investigates child labor in 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 with respect to employment and occupation regarding race, color, sex, age, national origin, citizenship, political beliefs, or disability. In general the government effectively enforced the law and regulations. Penalties include a fine and up to 12 months in prison, which were adequate to deter violations. The law does not prohibit employment discrimination based on religion, language, sexual orientation 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. Persons with disabilities faced limited workplace access, and women often received less pay for equal work. 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 (\$3.04) an hour for all categories of labor. This is more than the official estimate for the poverty income level according to a 2007 Caribbean Development report on poverty--the most recent data available--of \$6,320 XCD (\$2,340) per annum per capita. The majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, six-day workweek. The law requires that employees be paid one and one-half times the employees' basic wage per hour for overtime work. 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 occupational safety and health provisions, 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.

Labor inspectors from the Ministry of Labor and the Industrial Court were responsible for enforcement in all areas, including the informal sector. The number of labor inspectors was generally sufficient to enforce compliance. The government enforced labor laws, including levying remedies and penalties of up to \$5,000 XCD (\$1,850) for nonpayment of work. Penalties for illegal overtime did not always effectively deter labor violations.

Labor inspectors reported 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 and accidents, especially when working with heavy machinery.