

# SAINT KITTS AND NEVIS 2016 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Saint Kitts and Nevis is a multiparty parliamentary democracy and federation. In February 2015 national elections, Team Unity, a coalition of three opposition parties, defeated the previously ruling Saint Kitts and Nevis Labor Party and won seven of the 11 elected seats in the legislature. Team Unity leader Timothy Harris was elected prime minister. Independent observers from the Organization of the American States concluded that the election was generally free and fair, but they called for electoral reform, noting that procedural difficulties in the election process resulted in the slow transmission of results. The constitution provides the smaller island of Nevis considerable self-government under a premier.

Civilian authorities maintained effective control over the security forces.

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

Other human rights problems included government corruption, child abuse, and discrimination against the lesbian, gay, bisexual, transgender, and intersex (LGBTI) 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 Deprivation of Life and other Unlawful or Politically Motivated Killings**

Two police shootings occurred during the year. On June 23, a police officer shot another police officer while involved in a scuffle with a suspect. The wounded police officer later died of sepsis. The commissioner of police stated that an inquest into the shooting was being conducted. On June 27, an off-duty police officer involved in an altercation shot two bystanders outside a bar, both of whom survived. As of September the commissioner reported the case was with the Director of Public Prosecution's Office.

Following a police inquest, authorities exonerated the off-duty officer involved in the October 2015 shooting of a 17-year-old at a bar in Nevis. The police charged a second police officer for an unrelated September 2015 nonfatal shooting incident also in Nevis. That case was due before the high court in November.

### **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, and there were no reports that government officials employed them. 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**

The St. Kitts prison remained overcrowded and facilities austere, although the number of inmates decreased from previous years.

Physical Conditions: The prison in St. Kitts had an intended capacity of 160 prisoners but held 186 as of September. The majority of prisoners had beds, although some slept on blankets on the floor. In St. Kitts, authorities occasionally held pretrial detainees together with convicted prisoners.

There were two female inmates in prison in St. Kitts. Authorities held female inmates in separate quarters. There were no female prisoners in Nevis.

Prison staff periodically received training in human rights.

Administration: Prison recordkeeping was mostly completed in a hard-copy format and appeared adequate, although cumbersome. The prison had five computers to assist staff members transitioning to digital recordkeeping. Alternative sentencing for nonviolent offenders was available and included community service or counseling. Civil society representatives expressed concern that the alternative sentencing program, which had only been in effect for a few years, was ineffective.

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: Prison staff reported a gradual improvement in the academic classes offered to inmates and stated that 100 percent of prisoners had passed the most recent set of exams. Prisons offered academic classes, as well as classes in music and vocational training; more than 50 percent of prisoners were enrolled in such courses. Prisoners led most classes.

#### **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, a Special Victims Unit, the Office of Professional Standards, and a white-collar crimes unit. These forces are responsible for internal security, including migration and border enforcement. In addition there is a coast guard and a small defense force. The governor general may authorize the defense force to patrol jointly with the police for periods of up to six months. The military and the police report to the Ministry of National Security, which is under the prime minister's jurisdiction.

The police Criminal Investigation Department is responsible for investigating killings by police and works with the Violent Crime Unit and the Office of Professional Standards. Corruption and unprofessional behavior by police are investigated by the Office of Professional Standards. 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.

Civilian authorities maintained effective control over the police, coast guard, and defense force, and the government had 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**

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 detainees are charged, authorities must bring them 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.

Authorities remand those accused of serious offenses to custody to await trial and release those accused of minor infractions on their own recognizance or on bail with sureties.

Pretrial Detention: Government officials stated that detainees commonly awaited trial for two years or more. Some detainees endured this lengthy process only to see charges dropped due to lack of evidence. One individual whom the government released after two years awaiting trial won a civil suit for prolonged pretrial detention against the government for more than \$100,000 Eastern Caribbean dollars (XCD) (\$37,000).

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained, regardless of whether on criminal or other grounds, are entitled 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 the right to a fair trial, and an independent judiciary generally enforced this right.

### **Trial Procedures**

The constitution provides for a fair, speedy, and public trial, and an independent judiciary generally enforced this right. 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 used at the high-court level only for criminal matters. Free legal assistance was available for indigent defendants in capital cases only. Defendants had access to interpretation as necessary from the moment charged through all appeals. The law extends these rights to all defendants.

### **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. Individuals or organizations may seek civil remedies for human rights violations through domestic courts.

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

The constitution prohibits such actions, and the government generally respected these prohibitions. The defense force, however, may carry out stop-and-search operations without a warrant. 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. In March a court ruled in favor of a couple who filed suit after police downloaded a private video of a sexual encounter from a detained man's cell phone and released it publicly in 2013.

### **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 enable freedom of speech and press.

#### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communication without appropriate legal authority. According to the International Telecommunication Union, approximately 76 percent of citizens used the internet in 2015.

### **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. They further reported that the media climate was sensitive, due in part to the country's small size.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://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, or 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. There was one request for asylum during the year, which the government considered, but denied.

### **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. 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 2015 elections, Team Unity, a coalition of three opposition parties, defeated the previously ruling Saint Kitts and Nevis Labor Party and won seven of the elected seats in the legislature. Team Unity leader Timothy Harris was elected prime minister. Observers from the Organization of American States generally labeled the elections as free and fair but indicated that procedures for the release of voter lists needed to be improved.

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 local elections in which voters elected Concerned Citizens' Movement 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: Nongovernmental organizations (NGOs) and individuals anecdotally reported that the government monitored the activities of opposition parties and citizens and that some citizens affiliated with opposition parties lost jobs or were demoted upon the election of the new administration in 2015.

Participation of Women and Minorities: There were two women in parliament and one female minister. In addition, the prime minister appointed the first female cabinet secretary.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. Parliament passed Integrity in Public Life legislation in 2013, but it had been not implemented as of November.

Corruption: The media and many private citizens reported that government corruption was a problem. In particular, 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). The government inherited a depleted SIDF from the previous government and continued to reform both programs during the year. The government also continued its audit of the SIDF and vacated the appointments of the SIDF committee. The government did not release publicly the number of passports issued and the nationalities of the holders of these passports under the CIP. The government did not publicly release details regarding the operations of the SIDF and CIP.

Financial Disclosure: Public officials are not subject to financial disclosure laws. 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**

A number of domestic human rights 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 beyond the health sector.

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

## Women

Rape and Domestic Violence: The law prohibits rape, but it does not address spousal rape. Anecdotal evidence suggested that rape--including spousal rape--was a serious and pervasive problem. 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 of age. 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 continued to be a serious and pervasive problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to \$13,500 XCD (\$5,000) or six months in prison. The Department of Gender Affairs reported many victims were hesitant to take action against their abuser, such as obtaining a restraining order, because of their economic dependence upon the abuser. Local NGOs also reported that most victims of domestic violence did not report the abuse or charge the offender.

Victims reported either to the Department of Gender Affairs or the police, but there was no crisis hotline. The department advocated for a more effective method of reporting domestic violence and sexual assault, including establishing a complaints and response protocol.

The Department of Gender Affairs has field officers who maintained contact with civil society organizations, prisons, and schools. The department reported that the government established a safe house for victims of abuse and began piloting gender sensitivity training for men. Counseling coordinated by the department was available for survivors of abuse. The National Council of Women was the lead civil society organization on women's rights.

Sexual Harassment: According to the Labor Ministry, sexual harassment falls within the purview of the Protection of Employment Act, but there is no law that explicitly addresses sexual harassment. Anecdotal evidence suggested that sexual harassment was a problem in the workplace, although the Ministry of Community Development, Culture, and Gender Affairs did not receive any cases under the Protection of Employment Act 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.

Discrimination: The law provides women the same legal status and rights as men, and the government effectively enforced the laws. 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. 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 including sexual molestation also remained prevalent and widespread. In many instances cases originally reported as neglect revealed other types of abuse upon further investigation. Sexual abuse and exploitation were problems, although the government believed that awareness increased.

In child abuse cases, the law allows children to testify against their alleged attackers using remote technologies such as Skype. Other solutions, such as placing a physical barrier in the courtroom, were also employed to assist victims. 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 in November. The Probation and Child Welfare Board was disbanded after the government change in 2015, and as of October, it had been reorganized with new members appointed during the year.

One home, the St. Christopher Children's Home, was in operation for abused and neglected children. The home was managed by a private board that received quarterly funding and logistical support from the government. The government noted a rise in runaway teenage girls in St. Kitts, some of whom were placed in this home.

The government offered counseling for both adult and child victims of abuse. Additionally, the government maintained a diversion program to provide youth and

their families with life skills, counseling, parenting skills, and mentorship. At-risk youth could participate in camps that provided opportunities for instruction in the creative arts, such as music and dance.

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

Sexual Exploitation of Children: NGOs reported that sexual exploitation and molestation of children remained a major problem. 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. In cases of pregnancy where the mother was under the age of consent, the mother often refused to name the father due to fear that if the father faced prosecution, she would have no financial support for herself and the child. 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. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

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

### **Trafficking in Persons**

While 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, human rights activists alleged that some sex workers were victims of trafficking, and in 2015 there was a credible allegation of labor trafficking.

### **Persons with Disabilities**

The law does not explicitly prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, air travel, transportation, access to health care, the judicial system, or the provision of other

services, and persons with disabilities experienced discrimination, particularly in regard to accessibility. The building code mandates access to buildings for persons with disabilities, but the code was not always followed or enforced. Children with disabilities attended school, although some parents of students with disabilities preferred to have their child stay at home due to the perception that public schools lacked adequate resources for students with disabilities. There was a separate school for students with disabilities, although many local schools were able to accommodate students with physical disabilities. The Special Education Unit organized information drives to educate the public about resources available for students with disabilities.

The law allows authorities to declare persons with mental disabilities who commit crimes a menace to society and incarcerate them for life; 32 such persons were reportedly incarcerated as of 2013. Ministry of Health nurses in the various district health centers provided support services to persons with mental disabilities, and the general hospital had a wing dedicated to caring for patients with mental disabilities.

### **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. 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 LGBTI community impeded the operation of LGBTI organizations and the free association of LGBTI persons. The government asserted it received no reports of violence or discrimination based on sexual orientation; however, unofficial reports indicated that violence and discrimination was a problem. Anecdotal evidence suggested that LGBTI persons were reluctant to report incidents of violence or abuse for fear of retribution or reprisal due to their sexual orientation or gender identity. LGBTI activists reported an increase in threats of blackmail and fear of discrimination.

### **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 enforced 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 labor laws and procedures are the same in both St. Kitts and Nevis.

The law provides for the right to form and join independent unions, or staff associations, which can negotiate better wages and benefits for union members, and the right to 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 staff associations have bargaining powers and dispute settlement rights; associations do not have collective bargaining rights but can negotiate or represent members.

In practice, but not by law, there were restrictions on strikes by workers who provide essential services, such as the police and civil servants. A union that obtains membership of more than 50 percent of employees at a company may 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. In case of termination, the government pays lost wages and severance pay to workers employed at least one year, based upon their length of service. Civil servants do not receive severance pay, but auxiliary workers, such as public works employees, do. The International Labor Organization Committee of Experts reported in 2015 that workers are not granted adequate protection against all acts of antiunion discrimination at the time of recruitment and throughout the course of employment.

The law does not prescribe remedies for labor law violations, and 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, although they are not legally obliged to recognize a

union. 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 Ministry of Labor, however, 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 years with regular hours, except in certain industries related to the hotel and entertainment sectors, where their employment is restricted. Other than those limitations, there are no provisions in law or regulation to protect individuals between 16 and 18 years old from working in hazardous conditions.

Most children under the age of 16 years who engaged in employment worked after school in shops and supermarkets or did light work in the informal sector.

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.

### **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, sexual orientation, gender identity or social status. The government effectively enforced those laws and regulations.

There were no reports of discrimination in employment and occupation based on the above categories.

### **e. Acceptable Conditions of Work**

The government set the minimum wage at \$9.00 XCD (\$3.33) an hour. The official estimate of the poverty level income was \$7,329 XCD (\$2,710) for St. Kitts and \$9,788 XCD (\$3,630) 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, but policy calls for employers to inform employees if they will be scheduled to work 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 accidents and dangerous incidents.

The Labor Commission settles disputes over occupational safety and health conditions. The commission undertook wage inspections and special investigations when it received complaints. It required employers found in violation to pay back up to a maximum of two years' wages. Eight labor officers served as labor inspectors. Information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties was not available. The office was underresourced, and labor officers were unspecialized.

The Ministry of Labor encouraged enforcement of labor 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.