

# ANTIGUA AND BARBUDA 2019 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 Labour Party won a majority of seats in March 2018 parliamentary elections. In their initial report, election monitors stated there were problems with the electoral process but concluded that the results "reflected the will of the people." As of November their final report had not been released.

Security forces consist of a police force; a prison guard service; immigration, airport, and port security personnel; the Antigua and Barbuda Defence Force; and the Office of National Drug Control and Money Laundering Policy. Police fall under the supervision 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.

Significant human rights issues included serious corruption and laws against consensual male same-sex sexual activity, although the laws against same-sex sexual activity were not strictly 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 built in 1735 and was grossly overcrowded. Some inmates had to sleep on cardboard on the floor. Remanded prisoners were sometimes held together with convicted prisoners, depending on the number of prisoners. Remanded inmates faced the harshest conditions, since their cells were the most overcrowded. Juvenile inmates were held in a separate detention center.

Cells were hot due to poor ventilation, and hygiene was inadequate. According to media reports, there were outbreaks of chicken pox, methicillin-resistant *Staphylococcus aureus* (MRSA), and scabies during the year. The prison had inadequate toilet facilities; prisoners used slop pails in cells. The men's section had no showers; inmates used buckets to wash themselves. Prison staff provided some feminine hygiene products to women, although most female inmates' families provided for this need. Conditions in the kitchen were unsanitary, and insects, rodents, and cats were present. The yard area had stray cats and rodents.

Inmates with mental disabilities were held in the prison 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.

Conditions at the police holding facility in Saint John's police station were also deficient. There were reports of rat and cockroach infestations. Media reported inmates threatened to sue due to inhuman conditions. Toilets were clogged and washroom floors were flooded by dark water with what appeared to be waste matter floating in it. Like Her Majesty's Prison, the building was old and in a state of disrepair.

Administration: Authorities investigated mistreatment in several ways, including by a prison welfare officer, an independent complaints committee, and a prisoner appointed to lodge complaints on behalf of other inmates. The independent Prison Visiting Committee expressed frustration with the lack of government action to implement its recommendations, leading to the resignation of several committee members.

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. The government generally observed these requirements.

#### **Arrest Procedures and Treatment of Detainees**

The law permits police to arrest a person without a warrant, based on a suspicion of criminal activity. 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. The law stipulates prisoners must be released if these time limits are not met. NGOs reported detainees 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. There is a functioning bail system. A person accused of murder cannot obtain bail.

Pretrial Detention: Some prisoners on remand remained in detention for up to four years before their cases came to trial, according to the director of the Office of Public Prosecutions.

#### **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. Defendants have a right to a timely trial and to be present at their trial. Defendants have the right to timely access to counsel. The government provides legal assistance at public expense to persons without the means to retain a private attorney, but only in capital cases. Defendants have free assistance of an interpreter if needed. They have the right to confront adverse witnesses and to present their own witnesses and evidence. Defendants may not be compelled to testify or confess guilt. Defendants have the right to appeal.

### **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 through domestic courts for human rights violations. They may apply to the High Court for redress of alleged violations of their constitutional rights. They may appeal adverse domestic decisions to the Eastern Caribbean Supreme Court.

### **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, Including Online Media: 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 critical of the ruling Labour Party.

Libel/Slander Laws: In contrast with 2018, there were no reports of new libel cases.

### **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.

### **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 <https://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.

### **e. Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. The government handles asylum requests on an ad hoc basis.

### **g. Stateless Persons**

Not applicable.

## **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 2018 elections the Antigua and Barbuda Labour Party won 15 of 17 seats in the House of Representatives, and Gaston Browne was subsequently named prime minister. The Caribbean Community Observation Mission and a Commonwealth Observer Group monitored the election. In their initial report, monitors noted the electoral boundaries had seen only minor adjustments since 1984, leading to large disparities in voter populations in different electoral districts. The monitors stated that despite problems with the electoral process, the results “reflected the will of the people.” As of November the final election report had not been released.

Participation of Women and Minorities: No laws limit 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, but the government did not implement the law effectively. Media reported several allegations of corruption against officials during the year. A culture of impunity for acts of official financial corruption existed at all levels of the government.

Corruption: Media and private citizens reported government corruption was widespread and endorsed at the highest levels of government. On a radio program in March, Prime Minister Gaston Browne explained how Antiguan politicians manipulated government contracts to include a “platform for theft,” stating ministers could “walk away with five million dollars, no questions asked.” In the same interview, Browne said he had no problem with politicians who “enrich themselves creatively.” Although the government took steps to improve public

financial management and transparency, citizens continued to express concern about oversight and use of funds raised by the Citizenship by Investment program. Of particular concern was the ability of international criminals and fugitives to acquire citizenship through the investment program to avoid prosecution and accountability.

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

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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, who is an independent authority appointed by parliament to handle complaints made by the public against police, government officials, and government offices. The ombudsman takes complaints, conducts investigations, and then makes recommendations to the relevant authorities.

### **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 rape of men 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 in prison. The government enforced the law effectively. The Directorate of Gender Affairs reported an increase in the number of rape survivors willing to contact the authorities as a result of a crisis hotline and the directorate's awareness campaign. A foreign tourist was extradited to Antigua in 2018 and convicted and sentenced during the year to 15 years in prison for

drugging and raping a woman. There were few resources to support sexual assault victims. In the case of children, counseling was provided and a child protection officer was assigned.

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

The government had 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 the country is a signatory of the Belem Do Para Convention that recognizes harassment as a form of violence. The law defines harassment as a crime and establishes a five-year maximum prison sentence for conviction. The Ministry of Labour reported it did not receive any reports of sexual harassment during the year.

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, but women often received less 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. The Ministry of Labour stated it was unable to adequately enforce the law.

## **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 problem. The law governs the investigation and assessment of child abuse cases. It includes provisions on child-care services and orders of care placing children in the care of government authorities. Although neglect and physical abuse were common, rape and sexual abuse of children were also problems, according to the government. The law stipulates a fine not exceeding \$20,000 Eastern Caribbean dollars (XCD) (\$7,400) 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-run or private children's home.

The government conducted public awareness and outreach concerning detection and prevention of child abuse. It offered training for foster parents on how to detect child abuse and how to work with abused children. The government's welfare office provided counseling services for children and parents, and it referred parents to the National Parent Counseling Center. A family court provided specialized management of child abuse, family, and welfare cases and allowed more rapid prosecutions than possible in a standard criminal court.

Early and Forced Marriage: The legal minimum age for marriage is 18 years for both men and women. Children between the ages of 16 and 18 may marry with parental consent; however, marriage when either partner was younger than 18 was rare.

Sexual Exploitation of Children: Child pornography is illegal and subject to fines of up to \$500,000 XCD (\$185,000) and 20 years in prison. The minimum age for consensual sex is 16 years. There were anecdotal reports of parents and caregivers subjecting children to sex trafficking.

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/reported-cases.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 <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits any form of discrimination based on disability and stipulates a penalty of \$10,000 XCD (\$3,700) or two years' imprisonment for violations. The law was effectively enforced. Persons with disabilities faced limited workplace access. Public areas, including government buildings, often lacked wheelchair accessibility. The government improved access to workplaces for persons with disabilities by revising building codes. It included persons with disabilities in youth education programs. The government did not, however, consult with citizens with disabilities before implementing some public works projects.

### **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' imprisonment. No laws specifically prohibit discrimination against the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community.

There were few reports of discrimination based on sexual orientation or gender identity. 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. HIV-positive persons reported several incidents of discrimination from health-care professionals and police. Anecdotal evidence suggested employers dismissed and discriminated against employees with HIV/AIDS.

The Ministry of Health supported local NGO efforts to register human rights complaints and to seek assistance in cases of discrimination against persons with HIV/AIDS. The ministry trained health-care professionals and police officers in antidiscrimination practices. The Ministry of Labour encouraged employers to be more sensitive to employees with HIV/AIDS and it conducted sensitivity training for employers who requested it. The ministry reported stigmatization of HIV-positive persons was a significant problem but 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, but it imposes 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 there any reports of violations of collective bargaining rights.

Workers who provide essential services (including water, electricity, hospital, fire, prison, air traffic control, meteorology, telecommunications, government printing office, and port authority) must give two weeks' notice of intent to strike. The International Labor Organization considered the country's list of essential services to be overly broad by international standards, 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 any private-sector worker 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 labor laws range from a minor fine to two months in prison and were adequate to deter violations. Government enforced the right of association and collective bargaining. Administrative and judicial procedures, however, 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. While the government enforced the law, it did not fully implement standard operating procedures on proactive identification and referral of forced labor victims. The labor code allows the labor inspectorate authority to enter residences to investigate allegations of

forced or compulsory labor. Forced child labor occurred in domestic service and the retail sector.

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 <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Laws contain definitions that collectively constitute the worst forms of child labor, but specific details are not in any single statute. The government enforced child labor laws effectively, and there were no reports of child labor law violations during the year.

The law stipulates a minimum working age of 16 years although work prohibitions do not apply to family businesses. In some circumstances children younger than 16 are eligible for employment with restrictions, such as working only during nonschool hours and working only a certain number of hours. Persons younger than 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 exists for the protection of those younger than 18.

The law requires the Ministry of Labour 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 Labour Commissioner's Office has an inspectorate that investigates child labor in the formal and informal sectors.

### **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, and 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 Ministry of Labour did not receive any discrimination complaints during the year.

The law does not prohibit employment discrimination based on religion, language, sexual orientation, 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 government does not have an established poverty level. Most 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 for overtime work at one and one-half times the employees' basic wage per hour after exceeding 40 hours in the workweek. The Ministry of Labour 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 has not developed 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, give the ministry the authority to require special safety measures, not otherwise defined in the law, for worker safety.

Labor inspectors from the Ministry of Labour and the Industrial Court are responsible for enforcement in the formal and informal sectors. The number of labor inspectors was not 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 inspections of working conditions and work permit violations. Workers in

construction, mechanics, and agriculture were particularly vulnerable to hazardous working conditions and accidents, especially when working with heavy machinery.