

# SAINT KITTS AND NEVIS

## EXECUTIVE SUMMARY

Saint Kitts and Nevis is a multiparty, parliamentary democracy and federation. In January 2010 national elections, Prime Minister Denzil Douglas's Saint Kitts and Nevis Labour Party (SKNLP) won six seats in the 11-seat legislature. Independent observers concluded that the election had no major irregularities and was generally free and fair but called for electoral reform. The constitution provides the smaller island of Nevis considerable self-government under a premier. In July voters in Nevis reelected Joseph Parry of the Nevis Reformation Party as premier. Security forces reported to civilian authorities.

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

Other human rights problems included the mental, physical, and sexual abuse of children and discrimination against the homosexual community.

The government took steps to prosecute and convict officials who committed abuses, but some cases remained unresolved. There was not a widespread perception of impunity for security force members.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that 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 prohibits such practices, and there were no reports that government officials employed them. However, due to regular reports of violent incidents involving police, law enforcement officials came under increased

scrutiny, and some citizens were afraid to report crime because of the heavy-handedness with which police carried out their duties. 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.

In February a 16-year-old girl accused two members of the Defense Force of rape. Authorities brought charges against the two men and set a trial date for January 2012. In November authorities arrested a police officer and charged him with the rape of a 14-year-old girl while she and her brother were being held in custody. That officer awaited trial at year's end.

### **Prison and Detention Center Conditions**

Prisons remained overcrowded and facilities austere. Built in 1840, the prison on St. Kitts had an intended capacity of 182 prisoners but held 298; some prisoners slept on mats on the floor, but all prisoners had access to potable water. A prison farm in Nevis had an intended capacity of 30 prisoners but held 47. Pretrial detainees occasionally were held together with convicted prisoners.

There were four female inmates and eight juveniles in prison in St. Kitts. Female inmates, including juveniles, were held in separate quarters. Authorities held male juveniles with adult prisoners due to a lack of space.

Prisoners and detainees had reasonable access to visitors, were permitted religious observances, and had reasonable access to complaint mechanisms and the ability to request inquiry into conditions. The government investigated and monitored prison conditions, and the prison staff periodically received training in human rights.

The government permitted prison visits by independent human rights observers, although no such visits were known to have occurred during the year.

### **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, including a paramilitary Special Services Unit, a drug unit, and a white-collar crimes unit, along with a coast guard and a small defense force. The governor general can authorize the defense force to patrol jointly with the police for periods up to six months, which he did in October to help combat youth gang violence. The military and the police report to the Anti-Crime Unit, which is under the prime minister's jurisdiction.

Senior police officers investigated complaints against members of the police force. When warranted, they refer them to an internal disciplinary tribunal for adjudication; penalties include dismissal, warnings, or other administrative action. During the year authorities investigated approximately 73 cases of complaints against police officers and internal disciplinary matters. Of those cases, 20 were under inquiry at year's end, while 32 were resolved by mediation, 13 were prosecuted, eight were convicted, and the others were withdrawn.

### **Arrest Procedures and Treatment While in Detention**

Police may arrest a person based on the suspicion of criminal activity without a warrant. The law requires that persons detained be charged within 48 hours or be released. If charged, a detainee must be brought before a court within 72 hours. There is a functioning system of bail. Family members, attorneys, and clergy were permitted to visit detainees regularly.

Detainees may be held for a maximum of seven days awaiting a bail hearing. Those accused of serious offenses are remanded to custody to await trial, while those accused of minor infractions are released on their own recognizance.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected this provision in practice.

### **Trial Procedures**

The constitution provides for a fair, speedy, and public trial, and these requirements generally were observed. 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. Juries are used at the High Court level for criminal matters only. Free legal assistance was available for indigent defendants in capital cases only.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters, including lawsuits regarding alleged civil rights violations.

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

The constitution prohibits such practices, and the government generally respected these prohibitions in practice. However, the defense force can carry out stop and search operations without a warrant.

The Interception of Communications Bill became law during the year, legalizing the interception of all telecommunications networks, including telephones and Internet transmissions. In response to public criticism, the government asserted the legislation would be used only to intercept criminal activities, pointing out that only a High Court judge can issue an interception order.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. However, during the 2010 federal elections, the opposition party claimed that government-controlled media unfairly favored the ruling party.

#### **Internet Freedom**

There were no government restrictions on access to the Internet, but the new law allows the government to monitor e-mail and Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

## **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 in practice.

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

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and was prepared to cooperate with other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. There was an honorary UNHCR liaison in the country.

## **Protection of Refugees**

Access to Asylum: The government has not signed the 1967 protocol to the 1951 Convention relating to the Status of Refugees. The government has not established a system for providing protection to refugees, and it did not routinely grant refugee status or asylum.

## **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voters elect 11 members of

the National Assembly, and the governor general appoints a three-person Senate, two on recommendation of the prime minister and one on the recommendation of the opposition leader.

### **Elections and Political Participation**

Recent elections: In the 2010 general elections, Prime Minister Denzil Douglas's SKNLP returned to office after winning six of eight Saint Kitts-assigned seats in the 14-seat National Assembly. The People's Action Movement (PAM) party won two seats. The Concerned Citizens Movement party won two of the three assembly seats assigned to Nevis. (Appointed senators held the remaining three seats.) International observers from the Commonwealth, the Caribbean Community, and the Organization of American States (OAS) concluded that the elections were generally free and fair but issued a number of recommendations for future elections.

The island of Nevis exercises considerable self-government, with its own premier and legislature and has the right to secede from the federation in accordance with certain enumerated procedures. In July Nevis held its local elections in which Joseph Parry was reelected as premier. OAS observers concluded that the elections were generally free and fair but noted the process could have been improved, reiterating its recommendations from the 2010 federal elections. Recommendations included improving and clarifying procedures for the conformation of the voter's registration list, revising and updating the electoral legal framework for overseas voters, increasing stakeholder engagement in the electoral process, and creating a voter information campaign to ensure voter confidence in the electoral process. The Caribbean Community Observer Mission report also noted irregularities with the voters' list, such as voters' names being removed and voters with voting cards being turned away at the polls because their names were not on the list. This report concluded that in one district "where from the observation it appeared that more electors were removed from the original voters' list than constituted the slim majority of the winning candidate, it is arguable that were these electors not removed the result might have been different." Due to the irregularities, the opposition party contested the election results, and a hearing date was scheduled for January 2012.

Participation of Women and Minorities: There was one woman in parliament--a cabinet minister. All four magistrates were women--three in St. Kitts and one in Nevis. In Nevis the appointed president of the House of Assembly was a woman.

#### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated media reports of government corruption during the year. The opposition PAM party continued to allege possible misconduct on the part of government officials.

Public officials are not subject to financial disclosure laws, and there is no agency responsible for combating government corruption. The Financial Intelligence Unit investigates reports on suspicious financial transactions, along with the police white-collar crime unit.

While no laws provide for public access to government information, the government maintained a Web site, aired briefings of weekly cabinet meetings on radio and parliament meetings by television and radio.

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

There were no governmental restrictions on human rights groups, and there were several organizations that worked with marginalized groups such as women, children, the mentally challenged, the elderly, and the disabled.

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

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

The constitution prohibits discrimination based on race, place of origin, birth out of wedlock, political opinion or affiliation, color, gender, or creed, and the government generally respected these prohibitions in practice.

##### **Women**

Rape and Domestic Violence: Anecdotal evidence suggested rape was a serious and pervasive problem in society but was not frequently reported due to victims' fear of stigma, retribution, or further violence. The law prohibits rape, but it does not address spousal rape. Penalties for rape range from two years' imprisonment for incest between minors to life imprisonment for statutory rape or incest with someone under 16. Indecent assault has a maximum penalty of seven years'

imprisonment. There were 19 cases of rape and 21 cases of indecent assault reported during the year. There were some prosecutions for rape during the year, but no information was available about outcomes.

Violence against women was also a serious and pervasive problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to EC\$13,500 (\$5,000) or six months in prison. Although many women were reluctant to file complaints or pursue them in the courts, the Ministry of Gender Affairs handled 197 cases of domestic abuse during the year. Authorities sent 78 cases to trial, obtained 51 convictions, and had the remainder under investigation or pending at year's end.

The ministry offered counseling for victims of abuse and conducted training on domestic and gender violence for officials in the police and fire departments, nurses, school guidance counselors, and other government employees. The ministry also worked with men's organizations to conduct training focused on sexual violence and conducted training in the prisons targeted towards those who battered women. The ministry maintained a hotline for domestic violence victims and worked through the churches, workplaces, radio programs, and other civil society groups to spread its campaign against sexual violence.

Sexual Harassment: The law does not specifically address sexual harassment, and it remained a problem. Complainants reported only two cases to the Ministry of Gender Affairs in 2010.

Reproductive rights: Reproductive rights were generally protected; couples and individuals had the right to decide the number, spacing, and timing of children. The National Family Planning Office provided information on contraception and support for reproductive rights on a nondiscriminatory basis. Skilled attendance at delivery and in postpartum care was widely available. A 2008 report by the UN Children's Fund indicated that skilled attendance at birth was 100 percent and estimated the contraceptive prevalence rate at 54 percent. Incidence of maternal mortality was not available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination: The role of women in society is not restricted by law but was circumscribed by culture and tradition. Despite this, the status of women has improved, particularly in the public sector. The Ministry of Gender Affairs reported that 62 percent of women in the civil service occupied public sector leadership positions. The ministry conducted programs addressing poverty and



health and promoting institutional mechanisms to advance the status of women and attain leadership positions for women. Although no legislation requires equal pay for equal work, women and men generally received equal salaries for comparable jobs.

## **Children**

Birth Registration: Children acquire citizenship by birth in the country, and all are registered at birth and equally able to access public education and public services. Children born to citizen parents abroad can be registered by either of their parents.

Child Abuse: Child abuse remained a major problem. According to the government, neglect was the most common form of abuse, while physical and sexual abuse remained prevalent and underreported. Authorities received a number of reports of sexual assaults against children during the year and brought charges in cases involving alleged sexual activity with minors (indecent assault). The government operated one children's home for abused and neglected children and offered counseling for both adult and child victims of abuse.

Sexual Exploitation of Children: The law sets the age of consent at 16. Under the statutory rape law, sexual relations with anyone under 16 are illegal, with penalties ranging from probation to life in prison. Child pornography is illegal and carries a penalty of up to 20 years in prison.

International Child Abduction: The country is a party to the 1980 Hague Convention on International Child Abduction but has been designated as noncompliant. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

## **Anti-Semitism**

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

## **Trafficking in Persons**

During the year there were no reports that persons were trafficked to, from, or within the country.

## **Persons with Disabilities**

While the law prohibits discrimination, it does not specifically cite discrimination against persons with disabilities. There was no reported discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The building code mandates access to buildings for persons with disabilities, but this code was not always followed or enforced.

Persons who are mentally ill and deemed a menace to society can be incarcerated for life; there were four such persons in the prison. Ministry of Health nurses in the various district health centers deal with persons with mental illness, and the General Hospital has a wing dedicated to caring for patients with mental illness.

## **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

There are no laws that prohibit discrimination against a person on the basis of sexual orientation. Same-sex sexual activity between men is illegal and carries penalties up to 10 years in prison. Same-sex sexual activity between women is not barred by statute.

Societal attitudes towards the lesbian, gay, bisexual, and transgender (LGBT) community impeded operation and free association of LGBT organizations and the openness of LGBT persons. The government asserted that it received no reports of violence or discrimination based on sexual orientation; however, unofficial reports indicated that this remained a problem. An LGBT minor was attacked multiple times during the year, resulting in serious injury. Anecdotal evidence suggested the attacks were a result of LGBT status.

## **Other Societal Violence or Discrimination**

Although no statistics were available, anecdotal evidence suggested that societal discrimination against persons with HIV/AIDS occurred.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law gives workers the right to form and join independent unions, to negotiate better wages and benefits for union members, and to strike. However, 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 “associations” that serve as unions. It was not clear if the rights of such associations differed from those of unions. Labor laws cover all workers, including migrant workers, domestic workers, and workers in specialized trade zones.

Restrictions on strikes by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom but not by law.

A union that obtains membership of more than 50 percent of employees at a company can apply to be recognized by the employer 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. However, the employer must pay lost wages and severance pay to workers employed at least one year, based upon their length of service.

The government generally protected the legal right of workers to form and join unions and bargain collectively. The government also protected the right to strike. Employers generally recognized a union if a majority of workers voted to organize. Worker organizations were independent of the government and political parties. There was no government interference in union activities, and employers did not use hiring practices such as subcontracting or short-term contracts to avoid hiring workers with bargaining rights. There was no evidence of employer interference or antiunion discrimination toward union functions.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits slavery, servitude, and forced labor by children, and the government effectively enforced such provisions. There were no reports that such practices occurred.

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

The minimum legal working age is 16. The Department of Labor relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they did effectively.

Children under age 16 worked in agriculture and domestic service. In rural areas, children often assisted in small family lots with livestock farming and vegetable production. Girls often engaged in domestic service. Such labor included children looking after younger siblings or ailing parents and grandparents, but rarely at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. In general society did not consider domestic work exploitive child labor.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.ilab/programs/ocft/tda.htm](http://www.dol.ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The government sets the minimum wage, which was EC\$8.00 (\$3.00) an hour. Average wages were considerably higher than the minimum wage. The law provides for a 40- to 44-hour workweek. The law provides for premium pay for work above the standard workweek. There was no legal prohibition of excessive or compulsory overtime. The law also calls for paid holidays.

While there are no specific health and safety regulations, the law contains general health and safety guidance for Department of Labor inspectors. The Labor Commission settles disputes over safety conditions. Workers have the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

In practice workers in the formal sector normally worked 40 hours in five days. Although not required by law, workers received at least one 24-hour rest period per week. According to the labor code, employees are entitled to time and a half when overtime is worked. Local custom dictated that a worker could not be forced to work overtime.

The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages. Eight labor officers also served as labor inspectors. Penalties were sufficient to deter violations. The Ministry of Labor encouraged enforcement of standards in the informal labor sector as well and worked in conjunction with the Social Security office to have those in the informal sector

register their businesses and become self-employed. Once a business is officially registered, employees begin to receive benefits along with regular inspections.