

# **SAINT KITTS AND NEVIS 2018 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Saint Kitts and Nevis is a multiparty parliamentary democracy and federation. Queen Elizabeth II is the head of state. The governor general is the queen's representative in the country and certifies all legislation on her behalf. The constitution provides the smaller island of Nevis considerable self-government under a premier. In the 2015 national elections, Team Unity, a coalition of three opposition parties, 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 (OAS) concluded the election was generally free and fair but called for electoral reform, noting procedural difficulties in the election process resulted in the slow transmission of results.

Civilian authorities maintained effective control over the security forces.

Human rights issues included child abuse and criminalization of same-sex activity between men, although the law was not enforced during the year.

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**

There were no reports that 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. A court may order that an accused person receive lashes if found guilty.

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

The St. Kitts prison remained overcrowded, and facilities were austere.

Physical Conditions: The country had two prisons. The prison on St. Kitts had an intended capacity of 160 prisoners but held 185 as of October. Most prisoners had beds, although some slept on blankets on the floor. In St. Kitts and Nevis, authorities occasionally held pretrial detainees together with convicted prisoners.

Administration: Authorities investigated credible allegations of mistreatment.

Independent Monitoring: Authorities generally permitted prison visits by independent human rights observers, although there were no known visits during the year.

Improvements: Cells for male inmates were plastered and painted during the year, and cells for female inmates were also renovated.

### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

### **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. On August 24, Governor General Sir S.W. Tapley Seaton extended police powers to defense forces for a period of six months, the maximum period allowed. The military and 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 is investigated by the Office of Professional Standards. Senior police officers investigated complaints against members of the police force and, when warranted, 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. 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. Detainees were allowed prompt access to a lawyer of their choice or one provided by the state. Free legal assistance was available for indigent defendants in capital cases only. Authorities permitted family members, attorneys, and clergy to visit convicted detainees once per month and those in pretrial confinement once per week.

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: Extended pretrial detention was a problem, with some detainees waiting two years or more for their trial only to see charges dropped due to lack of evidence. The government reviewed its procedures for arrest, treatment, and documentation of detainees and was in the process of digitizing prison records.

### **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, 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 may not be compelled to testify or confess guilt. 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. Defendants had free access to an interpreter.

## **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 there were no reports the government failed to respect these prohibitions. The defense force may carry out stop-and-search operations without a warrant.

## **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, and the government generally respected this right. An independent press, the judicial system, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Press and Media Freedom: Nongovernmental organizations (NGOs) and media reported the media climate was sensitive. Media outlets reported self-censoring to avoid problems with the government.

## **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 81 percent of citizens used 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 freedom of peaceful 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. For example, in February the government banned the opposition St. Kitts and Nevis Labour Party from using public facilities.

### **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**

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 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 were no reported requests for asylum during the year.

### **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 political parties, defeated the previously ruling Saint Kitts and Nevis Labour Party and won seven of the elected seats in the legislature. Team Unity leader Timothy Harris was elected prime minister. OAS observers 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 2017 Nevis held local elections in which voters elected Concerned Citizens' Movement candidate Mark Brantley 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 districts.

Political Parties and Political Participation: Individuals anecdotally reported that the government monitored the activities of opposition parties and citizens perceived to be aligned with the opposition or against the policies of the government.

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, and the government generally implemented the law effectively. There were no reports officials

engaged in corrupt practices with impunity, but there were allegations of government corruption during the year.

Corruption: Media and private citizens reported government corruption was a problem. Citizens continued to express concern about the lack of financial oversight of the Citizenship By Investment (CBI) program. To protect the privacy of economic citizens, the government did not make public the number of passports issued or the nationalities of the holders of these passports obtained under the CBI.

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.

## **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 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. Observers noted the desk received few reports of violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, which may have been more reflective of the reporting environment than of the desk's effectiveness.

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

### **Women**

Rape and Domestic Violence: The law classifies sexual violence, rape, and incest as serious offenses, provides protection for victims of domestic violence, and establishes appropriate penalties for perpetrators. The law prohibits rape of women but does not address spousal rape. St. Kitts and Nevis continued to utilize an "unnatural offenses" statute to address male rape. Anecdotal evidence suggested that rape, including spousal rape, was a serious problem. Penalties for rape range from two years' imprisonment for incest between minors to life imprisonment. Indecent assault has a maximum penalty of 10 years'

imprisonment. Those arrested and prosecuted for rape and indecent assault received strict sentences.

Violence against women continued to be a serious and underreported problem. The law criminalizes domestic violence, including emotional abuse, and provides penalties of up to \$13,500 East Caribbean dollars (XCD) (\$5,000) or six months in prison.

There was no crisis hotline. The Ministry of Gender Affairs continued to advocate for a more effective method of reporting domestic violence and sexual assault, including establishing a complaints and response protocol. The department also coordinated counseling for survivors of abuse and fielded officers who maintained contact with civil society organizations, prisons, and schools.

Sexual Harassment: Sexual harassment falls within the purview of the Protection of Employment Act, but no law explicitly addresses sexual harassment. Anecdotal evidence suggested 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 act during the year.

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

Discrimination: The law provides women the same legal status and rights as men, and the government effectively enforced it. The law requires equal remuneration, and women and men generally received equal salaries for comparable jobs. Women had equal access to leadership roles in the private and public sectors.

## **Children**

Birth Registration: Children acquire citizenship by birth in the country, and all children are registered at birth. Children born to citizen parents abroad may be registered by either parent.

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.

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 St. Christopher Children's Home served abused and neglected children and received quarterly funding and logistical support from the government.

The government offered counseling for both adult and child victims of abuse. Additionally, the government developed a media campaign to help coaches, parents, and students recognize abuse and maintained a program to provide youth and their families with life skills, counseling, parenting skills, and mentorship.

Early and Forced Marriage: The legal minimum age for marriage is 18 years for both men and women. Underage marriage was rare.

Sexual Exploitation of Children: NGOs reported that sexual exploitation and molestation of children remained a major problem. NGOs also reported that adolescent transactional sex remained a problem. The law sets the age of consent at 16 years. Having sexual relations with children under age 16 is illegal. 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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.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 some sex workers were victims of trafficking and that human smugglers regularly transited the country. Some smuggled victims were allegedly labor trafficked.

### **Persons with Disabilities**

The law does not explicitly prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities, and persons with disabilities experienced discrimination, particularly concerning accessibility. The law mandates access to buildings for persons with disabilities, but it was not consistently enforced. Children with disabilities attended school, although some parents of students with disabilities preferred to have their child stay at home. There was a separate school for students with disabilities. Although many local schools were able to accommodate students with physical disabilities, the public school system had limited resources for those students who wished to be mainstreamed.

The law allows authorities to declare persons with mental disabilities who commit crimes a menace to society and incarcerate them for life. 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 among adult men under an “unnatural offenses” statute, which carries a penalty of up to 10 years in prison. There were no reports the government enforced the law. No laws prohibit discrimination against a person based on sexual orientation or gender identity.

Negative societal attitudes towards LGBTI individuals impeded the operation of LGBTI organizations and the free association of LGBTI persons. Nonetheless, media reported some LGBTI organizations held outdoor, public gatherings without incident. Some considered sexual orientation a private matter; however, public displays were not common. Unofficial reports indicated violence and discrimination were problems. The government asserted it received no reports of violence or discrimination based on sexual orientation, including transgender. Some observers suggested this was because the country did not have an enabling environment for reporting. During the year the LGBTI community and police conducted gender-sensitization training.

## **HIV and AIDS Social Stigma**

Anecdotal evidence suggested societal discrimination against persons with HIV/AIDS occurred. The Ministry of Labor 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. 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 may negotiate or represent members. Employers generally recognized a union if a majority of workers voted to organize, although they are not legally obliged to recognize a union.

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 do not receive adequate protection against all acts of antiunion discrimination at the time of recruitment and throughout the course of employment.

Freedom of association and the right to bargain collectively generally were respected in practice. 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. Penalties were outdated and fines insufficient to deter violations. The Department of Labor provided employers with training on their rights and responsibilities during the year.

**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.

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

The law sets the minimum age for work at 16. Prohibitions do not apply to family businesses, and children ages 16 and 17 appear to lack legal protections from employment in dangerous conditions. 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. The law prohibits the worst forms of child labor, and a Special Victims Unit has been created by the police and Child Protections Services agency to carry out investigations on the worst forms.

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 Ministry of Labor relied heavily on school truancy officers and the Community Affairs Division to monitor compliance, which they did effectively. The ministry reported that investigations were infrequent in the informal sector, and fines and penalties were not always enforced.

**d. Discrimination with Respect to Employment and 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 law stipulates any employer who wrongfully terminates an employee is subject to a fine of not more than \$2,500 XCD (\$925). It was doubtful this was sufficient to deter discrimination in and of itself. The government effectively enforced discrimination laws and regulations.

**e. Acceptable Conditions of Work**

The government set the minimum wage at \$9.00 XCD (\$3.30) an hour in 2014. The official estimate of the poverty level income was \$7,330 XCD (\$2,710) for St. Kitts and \$9,790 XCD (\$3,630) for Nevis per year. 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 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 office was underresourced, and labor officers were unspecialized. 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. Based on anecdotal evidence, the number of labor inspectors was insufficient to enforce the law. Information on the adequacy of resources, inspections, remediation, penalties for violations, and sufficiency of such penalties was not available.

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.

Data on workplace fatalities and other accidents were unavailable.