

Dear Honourable Committee Members

The government of Antigua and Barbuda would like to thank the committee for its patience and understanding in this matter. We apologise for the delay in responding to the questions and also for the inordinate time that has elapsed without a report being submitted to the committee. It is most unfortunate what has transpired in the past but we look to the future and will use our best endeavours to ensure that your correspondence will be dealt with expeditiously when received. We respectfully suggest that correspondence should also be sent to the Ministry of Foreign as well the Permanent Missions.

The government would like to thank the committee for the time, effort and interest they have shown in Antigua and Barbuda. We welcome the questions and suggestions made to the country, as we realize that the question and suggestion assist us to improve our methods and standards so that all are citizens are treated with dignity and respect.

We accept that there is room for improvement and this process has alerted us to areas where improvement can be made, some improvements can be implemented more smoothly than others, particularly changes in our legislation. The comments and observations are duly noted.

Our aim to ensure that any form of torture or cruel, inhumane, degrading treatment or punishment is eradicated. Your questions, suggestions and recommendations will guide us and help us to achieve and maintain high

standards for the benefit of all our citizens regardless of their race, class, creed, sex, sexuality, political affiliation.

We wish to thank the committee once again for their gracious attitude and understanding.

Antigua and Barbuda

Responses to Questions relating to Women

The Superintendent of Prison has confirmed that there are no incidents of violence perpetrated by state officials or private individuals on women in prison. Women in the prison are kept separate and apart from male prisoners. Female prisoners are not attacked by any state official or private individuals. Private individuals are not in our prisons.

At the time of writing this report there were 14 females in prison and they are kept in separate quarters from male prisoners. Female prisoners have **always** been kept separate from male prisoners.

We have a sexual offences act which criminalizes unwanted sexual activity against any individual without their consent, be they male or female. There is no impunity for anyone who commits acts of violence in the prison against a female or male inmate.

It is incorrect to state that police officers who are accused of rape have been treated with impunity. Police officers are not above the law. The two cases that you refer to are being treated in the same manner as for civilians. The two officers have been charged and are in custody awaiting trial; the matters are indictable and will be heard by a judge and jury. The officers have not been returned to duty. The Commissioner of Police treats these matters very seriously as it affects the reputation of the police force and the public's confidence in the police force.

There are several significant programs and initiatives that have focussed on the elimination of sexual and gender-based violence. These include the establishment of a Sexual Offences Unit

within the Royal Police Force of Antigua and Barbuda in 2008. The Unit deals with all cases of sexual offences including those against women and children (male and female).

The Unit manages the investigations and the collection of forensic and other evidence to assist in the prosecution of the cases. The Unit is managed by seven officers who were specially trained in investigating sexual offences. A number of doctors, nurses and

social welfare officers have also been trained to assist the police in the management of the cases.

In 2010, 20 nurses were trained to become Sexual Assault Nurse Examiners (SANE). Their training emphasized the necessity for them to deal with clients in a gender-sensitive manner. Since its establishment, the Unit has made an extremely valuable contribution in improving the conviction rate of sexual offences cases.

In 2010, a Sexual Assault Referral Programme was established at Directorate of Gender Affairs to ensure that victims of sexual violence receive adequate care and services. The Directorate of Gender Affairs works closely with the police to make the process of reporting, treatment, and rehabilitation as stress-free and comprehensive as possible.

The Directorate of Gender Affairs continues to operate a 24hours a day, seven days a week telephone crisis hotline that responds immediately to the needs of its callers. Officers at the Sexual Offences Unit also worked closely with the Directorate of Gender Affairs in providing support and assistance to victims of sexual offences.

The Directorate of Gender Affairs had operated an informal 24hours Crisis Centre service for a number of years with no permanent place. Private houses were used from time to time to house victims of gender-based and sexual violence.

On the 3rd June 2017 the Directorate of Gender Affairs opened its Support and Referral Centre (SARC) with support from United Nations Trust Fund and UN Women Multi Country Office –Caribbean.

The centre is a one stop centre for victims of gender based violence. The SARC will ensure that the services are designed to take the needs and interests of women into consideration since they are affected disproportionately by gender based violence and

trafficking. However, the SARC will also provide services to all victims of violence which may also include children, men and families.

The SARC will be staffed by a Resident Counsellor,
Volunteer Counsellors,
Victims Advocates,
Intake Officers,
Police officer,
Legal Aid Lawyers,
Doctors,
Registered Nurses,
Sexual Assault Nurse Examiners

The centre was established to ensure that victims of sexual violence receive adequate care and services in the process of reporting, treatment, and rehabilitation as stress-free and comprehensive as possible. Victims of any form of sexual assault can be seen by the police, medical personnel, counsellor and generally get support and help at the centre this alleviates the need for the victim to have to go to different locations, and therefore lessens the trauma. Hygiene kits consisting of a change of clothes, towel and toiletries will be available free of cost.

Responses to Questions relating to Trafficking

Antigua and Barbuda has passed an amendment to the Trafficking in Persons Act (TIP) 2015, which strengthens the 2010 Act. We have established a Trafficking in Persons Prevention Act Committee which consists of the Permanent Secretary's in the Ministry of National Security, Foreign Affairs, in the ministry responsible for children, in the ministry for labour, representatives from the Attorney-General department, the Commissioner of Police, the Chief Immigration Officer, Comptroller of Customs, the Coast Guard, Director of Office of National Drug Control Policy and two persons nominated by non-governmental organizations or other relevant organizations with appropriate knowledge.

The TIP committee spearheads the national anti-human trafficking efforts. The Committee has many functions some of which are to formulate programmes and policies to prevent and suppress trafficking in persons including programmes rendering assistance to trafficked persons, advise the Minister and make recommendations to suppress trafficking.

Through educational programmes and working closely with stakeholders and monitoring the movement of people through our borders, Antigua and Barbuda, the TIP committee continues to educate the public about this heinous crime. The committee recently arranged for the placing of a large banner at the airport highlighting the need for everyone to be aware of trafficking as part of its educational process.

Recently(July 2017) the Education subcommittee of the TIP Committee arranged a Counter Human Trafficking Training, the training was attended by immigration officers ,labour officers, media personnel, coast guard, customs, welfare officers, police ,gender affairs. This was not the only training in Human Trafficking Awareness for officers from various ministries, last year officials from the IOM provided training in Human trafficking awareness for front line officers.

In September the TIP committee has its annual Trafficking in Persons Awareness Week. The week highlights human trafficking and encourages our citizens to play their part in eliminating this global threat. The committee encourages everyone to observe and participate meaningfully in this week of activities and other programmes aimed at eliminating human trafficking.

The committee calls upon businesses, national, community organizations, families and all Antiguan and Barbudans to support the national effort and report suspicious activities to the authorities.

Antigua and Barbuda is most disappointed that they were unsuccessful in the prosecution of the first trafficking case. The government is ready and willing to prosecute these cases as the information and evidence becomes available.

Responses to Questions relating to the Ombudsman

The Ombudsman has power to look into **any** complaints that is received from any member of the public against government ministries, government officials and statutory corporations. This includes complaints relating to torture, cruel and inhuman treatment.

Responses to Questions relating to the Police

Police can only arrest person without warrants as provided for in section 22 the Police Act Cap 330. If a minor commits an offence his parent or guardian will be informed and called to the station. Juveniles cannot be interviewed in the absence of their parent or guardian an adult must be present if an interview or statement is being taken. The majority of persons do enjoy the legal safeguards.

Persons who are arrested and charged must understand the matters for which they are charged. Interpreters are brought in to interpret for the police when they are investigating matters involving persons who do not speak English. We have persons whose first language is Spanish and we have a cadre of qualified interpreters to assist the police and courts provided primarily by the Venezuelan Institute located in Antigua and Barbuda.

In Antigua and Barbuda, police can detain persons in accordance with the law. When Persons are arrested they are taken to the police station and their name and alleged offence is recorded in the station diary. Persons are questioned in relation to the alleged charge(s). They will then be charged if the police are satisfied they have sufficient evidence for the charge, otherwise they will be released if the police determine they do not have sufficient evidence to support the alleged offence. If the person is charged they can be granted station bail depending on the type of offence, or alternatively they will be taken before a magistrate as soon as possible for the magistrate to deal with the issue of bail.

If citizens feel that they have been ill-treated or abused by the police they can bring legal action against the police in court. And citizens have exercised this option.

The Royal Police Force of Antigua and Barbuda has established an internal affairs division which is tasked with investigating complaints of police misconduct. At present there is no independent complaints body to deal with complaints against the police. This is something which must be looked at.

Responses to Questions relating to the Prison

The Constitution of Antigua and Barbuda mandates that persons must be informed of the offence for which they are being charged. Detainees, if that term is used in respect of persons who are arrested pending investigation, they are not medically examined as a matter of course. However if they present obvious signs of ill health or complain of not feeling well they can be taken to hospital by ambulance.

If the phrase detainee is used to refer to persons who are in prison then they have access to medical assistance. There is a nurse stationed at the prison and a doctor is assigned to the prison. There is a Visiting Committee for the prison which looks into the welfare and well being of prisoners. Prisoners have the right to see the Visiting Committee. The Visiting Committee consists of a member of the clergy, an attorney of not less than 10 years standing, and upstanding members of the community

The training given to nurses and doctors and their experience should alert them to non accidental injuries. Under our judicial system statements, confessions and admissions should be freely obtained and given. If a judge or magistrate is satisfied that the statements, confessions and admissions were obtained illegally, i.e. by duress by coercion, force etc the statements, confessions and admission will not be admitted into evidence and that can lead to a case being dismissed. Our judges are competent and receive training on many issues.

The State accepts that the prison is overcrowded and that conditions are not desirable. The issue of no running water has been addressed, a water stand pipe has not been placed in prison this will go some way to alleviating unsanitary condition and water has to be rationed as naturally at time has households.

The government is doing everything it can to improve the condition in prison some of the improvements include improving the conditions in the cells, the kitchen is being upgraded to improve overall the hygienic standards.

Responses to Questions relating to the Children

Over the last five years, the government of Antigua and Barbuda in partnership with the UNICEF Eastern Caribbean Office has taken active steps to protect children from all forms of abuse, neglect and exploitation. The Citizens Welfare Division, a Division within the Ministry of Health, Social Transformation and Consumer Affairs has the responsibility for the provision of child protection services.

We recognise that there is more to do if the children of Antigua and Barbuda are to be effectively safeguarded and protected, and that further development of the child protection system is needed. A Childcare and Protection Policy Committee was established to investigate and make recommendations to further improve the protection of children.

Currently there are only four residential homes: the Boys Training Centre (which takes boys in need of care and protection on order of the court), the Sunshine Home for Girls (run by the Salvation Army which takes girls, including 'difficult to place' teenagers), the Good Shepherd (initially run by St Vincent de Paul, and now by house parents taking girls) and Amazing Grace (an NGO home taking a very small number of disabled children).

We recognise that the Boys Training School is not ideal. The government has recently accessed funds to improve the facilities at the school and is in the initial stage of the renovation and refurbishment of the school. The Public Works department will advice and recommend on the best way forward. The administrative and management procedures at the school will have to be looked at holistically by all the relevant stakeholders, with a view to making recommendations for improving how the school is administered and managed.

Boys are only admitted to the training school on the order of a court. The arrest and detention of a child is conducted in accordance with the law. A child cannot be interrogated in the absence of their parent or responsible adult. Boys who have been found guilty sentenced are normally sent to the boys Training school. If a child is convicted of a very serious crime and it is deemed that it is not appropriate to send him to the Training school he will have to be sent to prison. Every effort is made to keep young offenders away from adult prisoners Boys can be sent to the Training school on remand when there is no other suitable place or person for the child to be placed with.

Each case must be looked at on its particular facts and merit; it cannot be “one fit “for all scenarios. If in the opinion of the judicial officer, based on the facts presented by the Citizens Welfare Division there is no other place for a boy but the Training school, then as a last resort the child will be placed there.

The Corporal Punishment Act is still on our books. There has been a shift in policy in schools; teachers can no longer administer corporal punishment in the school. If corporal punishment is to be administered it can only be carried out by the head teacher.

The Child Justice Act 2015 (CJA), the Child Care Act 2015 and the Adoption Act 2015 came into force on the 1st October 2016. A child is a person under the age of 18.

Section 23 of the CJA mandates that the police must keep a separate register of all children detained at the police station. The government is in the process of putting all the administrative requirements in place. We have a family court that deals with matters relating to children. Prior to the act juvenile matters were always heard in the juvenile court

The purpose of the CJA is to establish a criminal justice system for children accused of committing offences based on restorative justice and aims to protect the rights of the child. The system under the act diverts cases away from formal court procedures, to assessment of a child and an initial inquiry as compulsory procedures.

Children have to be assessed before they appear at an initial inquiry in respect of any apprehension. The purpose of the initial inquiry is to establish whether the matter can

be diverted from court. The objective of sentencing in the act is to rehabilitate and assist the child to grow and develop holistically and to deter the child from engaging in criminal and anti-social behavior.

Responses to Questions relating to the Death Penalty

The death penalty remains on our law books and it is not a penalty that the courts have exercised for decades. The Eastern Supreme Caribbean Court has stated through obiter dicta that they will only use the death penalty for the worst if the worst case; and the courts have not exercised that sentencing option for decades. The death penalty a very political issue.

The penalty for torture is life imprisonment under our Suppression of Torture, there is no other penalty. Torture is seen as a very serious act and the penalty reflects the seriousness. We understand the concern that has been raised. A single act of torture can last for life and it's difficult to assess and what are high or low levels of torture. Any guidance in this regard would be welcomed. It is noted that there is an absence of a statutory limitation on crimes of torture and this is something that should be addressed.

Our constitution provides that no one should be discriminated on grounds of race, class creed, religion, sex or sexuality and that principle is applicable to all our laws. Section 14(3) of the constitution states and the treaty is embodied in our national law; therefore all forms of discrimination are covered.

Responses to Questions relating to the Asylum/Refuges

The state has immigration laws and policy which must be adhered to protect its borders and keep its citizens safe. If an individual is seeking asylum, an investigation will have to be carried out to ensure that they are bona fide asylum seekers.

The records indicate that the individuals seeking asylum were all Syrian males. Some of the men had come into Antigua and Barbuda with a sponsor; however the immigration department had some concerns about the men. The sponsor then contacted the Red

Cross organization in Antigua. The Red Cross has signed a MOU with United Nations High Commission for Refugees to be a partner organization dealing with refugees. The Red Cross was very instrumental in assisting the men with their applications for refugee status and ensure that they were comfortable and being treated properly throughout the whole process.

The Eligibility committee that was established by the Governor-General conducted the review of the asylum applications and found that most men were bona fide asylum seekers. The committee was assisted by Ms. Jessica Eby, from the United Nations High Commission for Refugees, who present at the committees hearings.

The Eligibility committee recommended that a standing committee be permanently established to deal with refugee matters on an ongoing basis in Antigua and Barbuda; and that operational guidelines of best practice and standards be drawn up to govern all hearings on the part of the state under the Refugee Convention.

With the assistance of the United Nations High Commission for Refugees, that all 15 men have left Antigua and Barbuda. The comments regarding deficiencies in our policy and legislation have been duly noted and the recommendations and concerns will be taken into consideration

In our jurisdiction the punishment for torture is life imprisonment that reflects how abhorrent the nation finds the act of torture. Bearing in mind that torture as defined in the treaty is an act which one carried out by a public official as person acting in an official capacity which would seem to suffer these acts are carried by the state. We have a democratic society in Antigua and Barbuda and international law states that if an individual carries out torturous acts, they can escape liability by saying they were carrying out orders. Further, the victims of torture usually endure the physical and psychological effects for life. Since, there is no exhaustive or defnishing list as what is torture, how do you qualify what level of torture should be treated as less serious. If the committee had advice they can offer in this regard we would be grateful if the information could be forwarded to the state for consideration.

Pre-trial Detention

We do not have a crown court which deals with criminal matters all year round. We have a system of criminal assizes which are held three times a year. The DPP and his team do all that they can to ensure speedy trials, sometimes factors out of their control such as unavailability of witnesses, illness of witnesses and defendants can cause delays. A five year pretrial detention is not the norm it is more the exception than the rule.

Legal Aid

The State provides a lawyer at the expense of the State for persons who are charged with murder and do not have a lawyer because of the seriousness of the charge. Legal aid is provided by the State if there is a financial threshold.

Police Brutality

There are two cases which have become public attention namely, the case of Ms. Cephas, a blind man in Barbuda and Prince Warren a member of the LGBT community. Mr. Warren received injury to his eye during an arrest and the state provided him with financial assistance to seek medical services for his injury. The situation relating to Mr. Cephas is under investigation by the Commissioner of Police.

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