



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-ninth session
1–12 November 2021

Summary of Stakeholders' submissions on Antigua and Barbuda*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of seven stakeholders' submissions¹ to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations² and cooperation with international human rights mechanisms and bodies³

2. JS1 noted that Antigua and Barbuda received six recommendations to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. It recommended its ratification, as well as to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁴

3. JS3 recommended that Antigua and Barbuda ratify the reciprocal automatic jurisdiction of the International Court of Justice, the Protocol additional to the Geneva Conventions of 12 August 1949, relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 8 December 2005, and the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.⁵

* The present document is being issued without formal editing.



B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

Equality and non-discrimination⁶

4. JS1 noted that LGBTQ persons in Antigua had faced stigma and discrimination in their lives, forcing many to mask their sexual identity out of fear. Transgendered individuals have reported being threatened with violence by their families as a result of their sexual orientation and gender identity. Additionally, a gay man reported being threatened with sexual violence during a home burglary and another gay man detailed being a victim of physical homophobic violence. Transgendered women have also reported being particularly vulnerable to intimate partner violence. A transgendered woman also reported experiencing ridicule by random strangers and verbal which have left her fearing physical violence in the future.⁷

5. JS1 noted that there was no law in Antigua and Barbuda or court process under the Civil Procedure Rules for an individual to have their gender marker (indication of male or female on identification documents changed). However, it must be noted that there is no existing law that expressly prohibits an individual from changing their gender marker. JS1 submitted there is a void in the law.⁸

2. Civil and political rights

Right to life, liberty and security of person⁹

6. JS1 noted that there had been no executions in Antigua and Barbuda since 1991, and no person were currently on death row. While a de facto moratorium is in place, there is no official moratorium on capital punishment. During its 2016 Universal Periodic Review, the delegation stated that Antiguan society “was not yet ready to take a quantum leap to remove the death penalty from its legislation. The fact that it was on the statute books had given some sort of security to the population”. In December 2020 the government of Antigua and Barbuda voted against the UN General Assembly Resolution on a Moratorium on the Use of the Death Penalty.¹⁰

7. JS1 noted that under the Constitution, applicable legislation, and the Judicial Committee of the Privy Council JCPC, the death penalty remained available for aggravated murder and treason, although a lengthy delay in carrying out an otherwise lawful death sentence might result in mandatory commutation to a life sentence. Although legislation does not appear to stipulate how executions are to be carried out, the method used historically is death by hanging. The death penalty is not available for minors or pregnant women.¹¹

8. JS1 noted that Antigua and Barbuda had one prison, called “Her Majesty’s Prison.” Conditions at the prison have been severely criticized. As of 2018, the prison was “grossly overcrowded,” with poor ventilation and inadequate hygiene, and with conditions described as “harsh and life threatening.” The prison has a capacity of 150, but during the reporting period it held almost twice its capacity. There have recently been improvements, however, according to the superintendent’s office, as of 24 February 2021, there were 255 prisoners in Her Majesty’s Prison.¹²

9. JS1 noted that Antigua and Barbuda accepted recommendations during the 2016 Universal Periodic Review to request technical assistance from OHCHR to resolve the detention issues raised during the interactive dialogue, but JS 1 noted that no request from Antigua and Barbuda done so.¹³

10. JS1 noted that pursuant to the Criminal Procedure Act, people held under sentence of death must be confined separately from other people in detention. People under sentence of death are not entitled to visits without permission from the trial court. They are allowed visits only by prison guards, medical officers, and ministers of religion.¹⁴

11. JS3 noted that the constitution largely permits the taking of life in cases of arrest, escape, riot, insurrection, mutiny and to prevent the commitment of criminal offences (article 4) where the use of force, preferably of non-killing, non-maiming and non-violent force, shall always be avoided, or highly limited in all circumstances and shall be enshrined as such in the constitution. Instead of being permitted and an exception to the right life, so to say a “permit to kill”, in all occurring cases the use of force should be strictly restricted and limited and be subject to a totally independent control.¹⁵

12. JS3 noted that in June 2020, the Attorney-General stated that the government would address overcrowding at Her Majesty’s Prisons. JS 3 recommends that Antigua and Barbuda ensure that conditions of detention at Her Majesty’s Prison are in conformity with United Nations Standard Minimum Rules for the Treatment of Prisoners, including by reducing the overcrowding.

13. JS3 recommended to the government of Antigua and Barbuda to introduce alternatives to imprisonment for minor offences, with a view to reducing overcrowding and improving the situation of prisoners in general. This was supported, yet not implemented.¹⁶

14. JS3 recommended to increase the resources aimed at improving the conditions of prisons, especially in relation to health conditions and the separation of prisoners according to the type of crime committed and level of risk. This recommendation was noted, and not implemented.¹⁷

15. JS 1 noted that during its 2016 Universal Periodic Review, Antigua and Barbuda noted a recommendation to conduct awareness-raising campaigns in relation to the death penalty, specifically the lack of deterrent effect of capital punishment. There is no evidence suggesting the Government has implemented this recommendation.¹⁸

*Administration of justice, including impunity, and the rule of law*¹⁹

16. JS3 recommended to conduct a thorough review of criminal justice procedures in order to identify measures to reduce the length of detention without trial. This recommendation was noted, and not implemented.²⁰

17. GIEACPC had noted that the corporal punishment is lawful as a disciplinary measure in penal institutions. The Child Justice Act 2015 does not prohibit corporal punishment in institutions accommodating children in conflict with the law. Under the Act, children may be referred to a secure residential facility (art. 68); the Minister may make rules for the management of a secure residential facility (art. 10) but there is no specification that this excludes the imposition of corporal punishment. Similarly, the Act provides for children over 14 to be sentenced to imprisonment (art. 69) but does not prohibit corporal punishment in prisons.²¹

18. JS4 noted that it was recommended to build enough housing facilities so offenders under the age of 18 are housed separately from the general prison population. This recommendation was noted but not implemented. In 2018, the Cabinet was informed that the anticipated cost of the current repairs to the Boys Training School will amount to more than \$350,000. According to the Social Transformation Minister who has responsibility for the facility, much of the repair cost will be borne by the Juvenile Justice Programme of the Organisation of Eastern Caribbean States. The on-going repairs at the facility is intended to upgrade it to international standards.²²

19. GIEACPC noted that corporal punishment was prohibited as a sentence for crime in article 72 of the Child Justice Act 2015. However, provisions authorizing judicial corporal punishment for persons under 18 - in the Offences Against the Persons Act 1873, the Criminal Law Amendment Act 1887, the Railways Offences Act 1927, the Magistrates Code of Procedure Act 1949 and the Corporal Punishment Act 1949 - should be formally repealed.²³

20. JS3 noted that Civil Society Groups have made the recommendation that corporal punishment be prohibited. The age of criminal responsibility of minors remains a problem. The Juvenile Amendment Act 2017 raised the age of criminal responsibility from eight (8) to ten (10) years’ old. This age of criminal responsibility conflicts with the recommendation from the Committee on the Rights of the Child.²⁴

21. GIEACPC noted that Domestic Violence Act 2015 protected both adults and children in the home, and included a duty to report ill-treatment of children. However it did not prohibit all corporal punishment in childrearing nor repeal the common law right “to administer reasonable punishment”.²⁵

*Prohibition of all forms of slavery*²⁶

22. ECLJ noted that Antigua and Barbuda served as both a destination and transit country for human trafficking. Specifically, women are targeted for sexual exploitation in bars and night clubs. One member of the local Trafficking in Persons Prevention Committee, reported that “most of the human trafficking victims are women and most of the cases (...) are sexual exploitation. We have had one recent domestic servitude case and that too was a female”.²⁷

23. ECLJ noted that prosecution and investigations were difficult in Antigua and Barbuda since many of the victims came from other countries. In this regard, ECLJ recommended, Antigua and Barbuda to work both with victims and foreign agencies. Many of the victims who have been rescued return to their home country making it difficult for authorities to prosecute perpetrators.²⁸

24. ECLJ noted that in June of 2018 Antigua and Barbuda police forces arrested a woman for human trafficking. She was charged with four counts of human trafficking between 2017 and 2018. The charge came after operations were carried out against a night club she owned. Despite some prosecutions, however, Antigua and Barbuda has yet to secure one conviction of human trafficking.²⁹

25. JS3 noted that the Government has increased prevention efforts. In December 2019, the government amended the Trafficking in Persons Act to formally establish the Trafficking in Persons Prevention Committee (TPPC) under the Ministry of Public Safety and Labor with enforcement, research, and victim advocacy functions, as well as staff accountability. The enforcement unit includes officers from police, immigration, Coast Guard, and the Office of National Drug Control Policy offices, and reports to the TPPC. TPPC conducted a number of anti-trafficking trainings during the reporting year, reaching 92 police recruits and officers at the police academy and 25 police stationed at the dockyard in trafficking indicator.³⁰

3. Economic, social and cultural rights

Right to education

26. ADF International referred to sexual health and reproductive rights, sexual education and the Spotlight initiative.³¹

4. Rights of specific persons or groups

*Women*³²

27. JS4 noted that women and girls in Antigua and Barbuda remained in a special position of vulnerability to domestic violence, rape and sexual harassment. Section 3 (1) of the Sexual Offences Act does not recognise marital rape. It is in very limited circumstances that a husband can be prosecuted for sexual assault. Additionally, the penalty for sexual assault by a husband upon his wife is imprisonment for fifteen years.³³

28. JS 3 stressed that police officials have noted that domestic violence continues to be underreported to be an issue. News reports of homicides with a domestic violent component were reported in the year 2021. JS3 commended the provision of gender sensitive services under the “Big Love Buda” partnership between the Directorate of Gender Affairs and community-based group the Be Foundation.³⁴

29. IPPF expressed concern about women and girls becoming pregnant as a result of rape or incest, or were carrying fetuses with malformations incompatible with life outside the womb, were subjected to forced continuation of pregnancy in violation of numerous human rights, including life, freedom from torture, cruel, inhuman, or degrading treatment,

freedom from discrimination and gender-based violence, the right to health, which includes the right to sexual and reproductive health, the right to found a family and chose the number and spaces of children, and the rights to privacy, free development of the person and the benefits of scientific progress.³⁵

30. ADF International noted that Antigua and Barbuda's adolescent birth rate was relatively high: in 2018, there were 42 adolescent births (from girls aged 15-19 years) per 1,000. There has been a slow but consistent decline over the past 30 years.³⁶

31. ADF International noted earlier in October 2020, the World Health Organization, in cooperation with the Pan American Health Organization (PAHO), instituted an annual program called the 'Caribbean Adolescent Pregnancy Prevention Week' in order to 'draw attention to this important topic and help put an end to adolescent pregnancy' in the Caribbean. These organizations argue that 'restricted access to [CSE is] ... directly related to adolescent pregnancies.' However, ADF International submits the evidence presented in their report indicates that teenage pregnancies in the Caribbean are due to other factors, such as rape and the lack of education and child marriage.³⁷

32. JS3 noted that the Government of Antigua and Barbuda had prioritised access to justice and non-discrimination under the law. The Ministry of Legal Affairs has made amendments to local legislation in order to improve both rights of women and girls under the law and their access to justice. Some of these newly introduced and amended laws include the Domestic Violence Act (2015) which expands the definition of domestic violence under the law, and mandates that police offices file a report on every reported case of domestic violence among other measures. This would ensure that more women are able to seek redress under the law and makes it more likely for their cases to be heard within the court.³⁸

*Children*³⁹

33. JS3 noted that Children and adolescents remained at risk of abuse in Antigua and Barbuda. The Juvenile Act Section 5 (6) recognizes the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him. Therefore, this legislation allows for the administration of corporal punishment to children.⁴⁰

34. GIEACPC noted that corporal punishment of children in Antigua and Barbuda was lawful in the home, alternative care settings, day care, schools and penal institutions. Corporal punishment is lawful as a sentence for children convicted of an offence but some provisions authorising it are still to be formally repealed. The "right" of parents, teachers and others to administer "reasonable" punishment on a child is recognised under common law. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment can be considered "reasonable" or acceptable. The common law right to punish children should be explicitly repealed, and prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.⁴¹

35. GIEACPC⁴² noted that corporal punishment of children is lawful in the home. The right of parents, teachers and others with the lawful charge of a child "to administer reasonable punishment" had been confirmed in the Juvenile Act 1951 (art. 5). This Act was repealed by the Child Justice Act 2015 (in force 2016). However, while the new Act did not include similar confirmation of the right "to administer punishment", it did not explicitly repeal it: the right continues to be recognised under common law. Provisions against violence and abuse in the Childcare and Protection Act 2003, the Offences against the Person Act 1873 and the Domestic Violence (Summary Proceedings) Act 1999 do not include clear prohibition of corporal punishment.⁴³

36. GIEACPC noted that Children (Care and Adoption) Act 2015 defines parental responsibility with reference to the duties, powers, responsibilities, authority, rights and obligations and protects children from "abuse and neglect", but it does not prohibit corporal punishment.⁴⁴

37. GIEACPC noted that corporal punishment was lawful in alternative care and in day care settings under the common law right to administer “reasonable punishment”. The Children (Care and Adoption) Act 2015 states that a person authorised to provide care for a child shall “correct and manage the behaviour of the child” (art. 29(c)) and authorises the Minister to make regulations for “the management and discipline of an approved child care service” (art. 139(2)(m)) but it does not prohibit corporal punishment.⁴⁵

38. GIEACPC noted that corporal punishment as lawful in schools. Article 50 of the Education Act 2008 states that “degrading or injurious punishment shall not be administered” but that corporal punishment may be administered “where no other punishment is considered suitable or effective, and only by the principal, deputy principal or any teacher appointed by the principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Director of Education”; the punishment should be recorded in a punishment book. Article 51 provides for the Minister to abolish corporal punishment subject to Parliamentary approval.⁴⁶

*Persons with disabilities*⁴⁷

39. JS4 noted that persons living with disabilities continued to face accessibility barriers in their daily lives. During the outbreak of the coronavirus, accessibility to coronavirus messaging was reported as a problem by persons living with disabilities.⁴⁸

40. JS4 noted that in 2020 that a number of persons living with disabilities were displaced by severe flooding. Many of these persons has previously been pleading with the Government of Antigua and Barbuda for financial assistance and repairs to their home.⁴⁹

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

ADF International	ADF International, 1202 Geneva,(Switzerland);
ECLJ	European Centre for Law and Justice, Strasbourg (France);
GIEACPC	Global Initiative to End All Corporal Punishment of Children , London SE11 5RR, (United Kingdom of Great Britain and Northern Ireland);
IPPF	London, (United Kingdom of Great Britain and Northern Ireland).

Joint submissions:

JS1	Joint submission 1 submitted by: Advocates for Human Rights, Minneapolis (United States of America; on behalf of The World Coalition Against the Death Penalty The Greater Caribbean for Life;
JS2	Joint submission 2 submitted by: Center for Global Nonkilling, 1218 Grand-Saconnex, (Switzerland) on behalf of Conscience and Peace Tax international (CPTI);
JS3	Joint submission 3 submitted by: Eastern Caribbean Alliance for Diversity and Equality Castries,(Saint Lucia) on behalf of Women Against Rape (WAR) and The Eastern Caribbean Alliance for Diversity and Equality (ECADE).

² The following abbreviations are used in UPR documents:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

- ³ For the relevant recommendations, see A/HRC/33/13 of UPR WG report 2nd Cycle, paras Noted. 77.1, 77.3, 77.2, 77.21, 77.13, 77.8, 77.6, 77.10, 77.11, 77.12, 77.9, 77.48–77.52, 77.15, 77.7, 77.4, 77.16, 77.14, 77.20, 77.19, 77.5, 77.17, 77.18, 77.28, 77.30, 77.26, 77.29.
- ⁴ JS1, paras. 4 and 27.
- ⁵ JS 3, p. 9.
- ⁶ For the relevant recommendations, see A/HRC/33/13 of UPR WG report 2nd Cycle, para Supported 77.24 and paras Noted. 77.37, 77.39, 77.40, 77.42–77.47, 77.41, 77.38, 77.36, 77.35.
- ⁷ JS1, para. 27.
- ⁸ JS1, para. 28.
- ⁹ For relevant recommendations see A/HRC/33/13 of UPR WG report 2nd Cycle, paras Supported. 76.14, 76.29, 76.15. As well as paras Noted. 77.63, 77.61, 77.71, 77.62.
- ¹⁰ JS1, para. 19.
- ¹¹ JS1, para. 20.
- ¹² JS 1, para. 23.
- ¹³ JS 1, para. 24.
- ¹⁴ JS 1, para. 25.
- ¹⁵ JS 3, p. 6.
- ¹⁶ JS 3, para. 17.
- ¹⁷ JS 3, para. 19.
- ¹⁸ JS 1, para. 18
- ¹⁹ For relevant recommendations see A/HRC/33/13 of UPR WG report 2nd Cycle, paras. 76.10, 76.11. as well as, paras Noted 77.53, 77.54, 77.55, 77.56, 77.57, 77.59 77.60, 77.58
- ²⁰ JS 3, para. 18.
- ²¹ GIEACPC, para. 2.6.
- ²² JS 3, para. 24.
- ²³ GIEACPC, para. 2.7
- ²⁴ JS 3, para. 29.
- ²⁵ GIEACPC, para. 2.2
- ²⁶ For relevant recommendations see A/HRC/33/13 of UPR WG report 2nd Cycle, paras Supported. 76.26, 76.27, 76.28.
- ²⁷ ECLJ, para. 9.
- ²⁸ ECLJ, para. 10.
- ²⁹ ECLJ, para. 11.
- ³⁰ JS 3, para. 20.
- ³¹ ADF International, para. 20.
- ³² For relevant recommendations see A/HRC/33/13 of UPR WG report 2nd Cycle, paras. Supported. 76.12, 76.9, 76.19, 76.22, 76.23, 76.18, 76.17, 76.16, 76.20, 76.21.as well as paras. Noted 77.34, 77.64.
- ³³ JS 3, para. 25.
- ³⁴ JS 3, para. 25.2.
- ³⁵ IPPF, p. 3.
- ³⁶ ADF International, para. 18.
- ³⁷ ADF International, para. 21
- ³⁸ JS 3, para. 21.

- ³⁹ For relevant recommendations see A/HRC/33/13 of UPR WG report 2nd Cycle, paras. Supported. 76.8, 76.25. As well as paras. Noted 77.68, 77.27, 77.69, 77.70, 77.72, 77.73.
- ⁴⁰ JS 3, para. 29.
- ⁴¹ GIEACPC, para. 2.
- ⁴² GIEACPC, para. 2.1.
- ⁴³ GIEACPC, para. 2.6.
- ⁴⁴ GIEACPC, para. 2.2.
- ⁴⁵ GIEACPC, para. 2.3
- ⁴⁶ GIEACPC, para. 2.5
- ⁴⁷ For relevant recommendations see A/HRC/33/13 of UPR WG report 2nd Cycle, paras. Supported. 76.35, 76.34, 76.36.
- ⁴⁸ JSTMP4, Para. 26.
- ⁴⁹ JS4, para. 26.
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