

## Antigua and Barbuda

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

Women and men are regarded equally under the provisions of the Constitution, with respect to marriage. Equal marriage rights are also conferred through the respective primary legislation (Marriage Act CAP. 261). All religious and customary marriages are required to be registered (Marriage Act CAP. 261 s. 52). However discriminatory practices are evident with respect to informal partnerships and de-facto unions, which are neither protected through the constitution nor other legal instruments.

Though again no formal definition is provided, forced marriage is prohibited through legislation, which provides for the prohibition of proceedings to compel marriage (Marriage Act CAP. 261 s. 61). Furthermore, there is no evidence to suggest that it is practiced, or that it is of prominent concern in Antigua and Barbuda. The Marriage (Prohibited Degrees of Relationship) Act, CAP. 263, Section 3 – also prohibits harmful practices against widows, with specific examples including marriages to the deceased’s siblings, children or parents being automatically deemed void.

#### b) Child marriage

Child marriage is null and void, with specific reference to persons aged under 15 years old (Marriage Act CAP. 261, s. 25). The legal minimum age of marriage for both women and men is 18 years, with exceptions afforded to both sexes between the ages of 15 and 17, conditional upon consent of a parent, guardian or judge (Marriage Act CAP. 261, s. 26). Persons who facilitate such a union are guilty of a misdemeanour, and upon conviction face up to two years imprisonment (Marriage Act CAP. 261 - section 57). The incidence of child marriage, however, is perceivably rare. Notably, there are no formal government statistics for marriages within those parameters (US Department of State, 2016)).

#### c) Household responsibilities

There is no existing legislation that differentiates sex as the head of the household, and there is no formal law requiring obedience of a wife. Women and men share the same rights to be legal guardians of their children irrespective of marital status. Women and men also equally have the right to choose where to live, and enjoy freedom of internal movement, foreign travel, emigration, and repatriation (The Constitution of Antigua and Barbuda section 8 (1)). Furthermore, there is no evidence to suggest that freedom of movement is generally a concern in Antigua and Barbuda. However, reports of human trafficking from neighbouring island nations has been duly recognized (US State Department (2016) Trafficking in Persons Report, Antigua and Barbuda).

#### **d) Divorce**

The right to initiate divorce is afforded equally to both sexes, on the grounds that marriage has broken down, the parameters of which include adultery, and physical or mental cruelty as to render cohabitation intolerable (The Divorce Act 1997, s. 7 (1 & 2)). Subsequently equal rights are afforded with respect to legal guardianship of their children. The 2017 preliminary CEDAW report further notes that women are more often awarded custody, but joint custody is common. “Every parent, including unmarried women and men, is entitled to have access once he or she provides maintenance to that child”. Additionally, there is relatively recent legislation that addresses for the first time the collection of maintenance fees. This is executed via an ‘attachment order,’ which is placed on the income or pension of the defaulter (Maintenance of and Access to Children Act, 2008, s. 18).

#### **e) Inheritance**

Male and female children, as well as male and female surviving spouses, share equal rights to inheritance of both land and non-land assets (The Intestates Estate Act, CAP 225, s. 4). A defined proportion of the estate must be given to specified categories of heirs, which include, but are not limited to the following: husband or wife with no next of kin, all is inherited by the spouse; husband or wife with next of kin and no children, two thirds inherited by spouse; husband or wife with one child, two thirds to the spouse and one third to the child; husband or wife with children, then one third to the spouse and two thirds to the children; no husband or wife with children, inheritance is distributed equally amongst children; no husband, wife or children, inheritance is given to surviving mother and/or father.

The law does not prohibit disinheritance of the surviving spouse. However, every will made by a man, or woman, shall be revoked by his, or her, marriage (Wills Act CAP. 473 s. 18).

## **2. Restricted Physical integrity**

### **a) Violence against women**

Antigua and Barbuda ratified the Convention of Belem do Para in 1998. Regional and international conventions however, do not take precedence over domestic legislation (Ratification of Treaties Act 1989: Section 3 (3)). The first report on the status of the Convention was prepared by the Directorate of Gender Affairs in 2016, and is currently under official review.

The primary legislation addressing domestic violence, is the recently updated Domestic Violence Act 2015, which repeals previous Acts. Antigua does not currently have a National Gender Policy in drafted or expired form (Antigua and Barbuda 2016 UPR, p. 7). Additional support and monitoring of the Act is provided however, through the 2013 – 2018 National Strategic Plan to End Violence Against Women, steered by the Directorate of Gender Affairs and an inter-ministry committee. Members of the Ministerial Advisory Committee are: Minister of Education, Sports, Youth and Gender Affairs (Chair); Minister of State, Ministry Legal Affairs; Minister of National Security;

Minister of Health. Members of the Director's Steering Committee include, the Chief Medical Officer, Commissioner of Police, and civil society representative amongst others. The directorate, along with other local and international monitoring bodies, describe the incidence of violence against women as pervasive.

There is no evidence to suggest that so-called honour crimes are practiced in Antigua and Barbuda.

While the law does not mandate special training for professionals who deal with sexual violence, such training is in fact provided to the police, nurses, counsellors, social workers and advocates (National Strategic Plan 2013 – 2018, p. 4) The resulting benefits of such programmes has included the establishment of the sexual offences unit within the police force, and The Sexual Assault Referral Centre (SARC) and a Sexual Assault Nurse Examiners.

Nationally and regionally, there exists an active and visible presence of Civil Society Organizations, with a notable few who mandated to serve the interests of women, as well as the LGBTI community. "There were limited reports of discrimination based on sexual orientation or gender identity in a variety of settings. Furthermore, there were no reports of violence committed against LGBTI persons due to their real or perceived sexual orientation" (US Department of State, Antigua and Barbuda 2016 Human rights report, 2016).

#### **b) Domestic violence**

Under the Domestic Violence Act 2015, any controlling or abusive behaviour that harms the health, safety or well-being of the applicant or any child in the care of the applicant and includes but is not limited to the following: physical abuse or threats of physical abuse; sexual abuse or threats of sexual abuse; emotional, verbal or psychological abuse; economic abuse; intimidation; harassment; stalking; damage to or destruction of property; or entry into the applicant's residence without consent, where the parties do not share the same residence (Domestic Violence Act 2015, s. 2 (1) ).

There are no formal shelters for survivors or those threatened by domestic violence. Alternatively, victims are offered placements with volunteers or temporarily housed in hotels and guest houses. "A grant from the United Nations Trust Fund established a one-stop centre for victims of violence that allows for immediate accommodation relief only" (Antigua and Barbuda UPR 2016, p. 4). Also recently established by the Fund is the financing of a National Gender-Based Violence Database.

There are presently no special tribunals to address sexual violence. However, in its most recent report to the Committee on the Rights of the Child, the Government of Antigua and Barbuda indicated that it intended to introduce legislation designed under the OECS Reform Project. The proposed legislation would cover childcare and protection, adoption, juvenile justice, domestic violence and institution of a family court. The country will serve as a pilot for a wider programme in the Eastern Caribbean sub-region, modelled on the present Family Court established in Trinidad and Tobago. The OECS Family Law and Domestic Violence Reform Project forms part of the wider Judiciary and Legal Reform Project of the Eastern Caribbean Supreme Court (ECSC,) aimed at increasing the capacity of the judicial system and related institutions to improve the administration of law and quality of justice. (Antigua and Barbuda 2016 UPR Report, p 5).

The Domestic Violence Act also does not specify legal assistance, though it is available through Legal Aid. Furthermore, the Legal Aid department presently only offers assistance with civil matters, and is used predominantly by women on issues of family matters such as domestic violence. However, while the service is subsidized it is not entirely free of cost.

### **c) Rape**

The laws addressing sexual violence include the Sexual Offences Act 1995, and the Offences Against the Person Act 1873. “A male person commits the offence of rape when he has sexual intercourse with a female person who is not his wife either - (a) without her consent where he knows that she does not consent to the intercourse or he is reckless as to whether she consents; or (b) with her consent where the consent (i) is extorted by threats or fear of bodily harm to her or to another; or (ii) is obtained by impersonating her husband; or (iii) is obtained by false and fraudulent representations to the nature of the act”. Under the Sexual Offences Act 1995, women are not able to commit the offence of “rape”, and penalties for unlawful carnal knowledge (sex with a minor) are less for women who commit these crimes than men who do the same. The Antigua and Barbuda 2016 UPR Report therefore concludes there is evidence of gender inequalities within the legislative framework.

It is also important to note that present legislation does not recognize marital rape as an offence except under certain circumstances pertaining to the separation or dissolution of the marriage (The Sexual Offences Act 1995 s. 4 (1)). Additionally, incidence is reported to be a “common phenomenon” (National Strategic Plan to End Gender Based Violence 2013 - 2018, p 11).

### **d) Sexual harassment**

There is no existing national law pertaining to sexual harassment. Antigua and Barbuda is however signatory to the Belem Do Para that recognizes harassment as a form of violence. Harassment is also recognized as such, within domestic legislation (Domestic Violence Act 2015, s. 2 (1)). There are also no formal statistics or official reports regarding sexual harassment. However, the Antigua and Barbuda CEDAW Report 2017 preliminary release p. 8, notes anecdotal evidence to suggest frequent occurrence, particularly within the context of the work place.

### **e) Female genital mutilation**

There is no evidence to suggest that female genital mutilation (FGM) is practiced in Antigua and Barbuda.

### **f) Abortion**

Abortion is rendered illegal through the Offences Against the Person Act 1873, Sections 56-57. The CEDAW committee in remark 258 expresses concern “about the continuing illegality...which would lead to unsafe abortions.” Conviction may result in imprisonment for a term not to exceed 10 years, and 2 years for a person who supplies the means. Exceptions are made in instances where there is a threat to the mother’s life only (Infant Life Preservation Act 1937, Section 2). There are no official records of abortions, and the preliminary report responds in noting that there has also never been a

conviction related to the offence (CEDAW 2017 preliminary report p.9. Notably, there is no action plan nor documentation of any concerted efforts to reverse or challenge this status.

### *More*

Human Trafficking is recognized as form of Gender Based Violence (GBV) in Antigua and Barbuda, and is a concern particularly for immigrant women. Antigua has a relatively large population from the Spanish-speaking Caribbean, and many of non-legal migrants are women employed as domestic workers with little or no state protection (Antigua and Barbuda UPR 2016, p. 4) Furthermore, there are a number of migrant women who are also made vulnerable to violence through involvement in sex work, which is illegal.

## **3. Restricted Access to productive and financial resources**

### **a) Secure access to land and assets**

Women face no legal restrictions regarding ownership, use, decision-making power, with regard to land and non-land assets, irrespective of marital status. The Antigua and Barbuda Constitution 1981 and Registered Land Act and do not list any restrictions or prohibitions, and evidence of discriminatory practices are not referenced in any of the major country reports. However, regarding access to property following dissolution of marriage, the Divorce Act does not offer provisions for the division of property, and as such is settled within the Common Law.

### **b) Secure access to formal financial resources**

Women and men enjoy equal legal rights and access to financial services though not explicitly subject in legislation. Cultural norms and practices persist however, with anecdotal reports of women being marginalized and disadvantaged. Additionally, according to a 2014 Caribbean Development Bank's gender assessment, access to credit for Barbudans was particularly problematic. Specifically noting that Barbudans are unable to use occupied lands as collateral, and that as of 2013, no local bank offered mortgages to this population on the basis of land ownership (CDB Gender Assessment, 2014).

### **c) Workplace rights**

The law mandates non-discrimination on the basis of sex in employment, and anyone found guilty of this offence and on summary conviction is liable to a fine of 3 000 dollars and to imprisonment for 12 months (Antigua and Barbuda Labour Code, s. C4 (1 & 2)). Despite this, cultural norms and practices again enable discrimination. For example, according to the preliminary report of the first Labour Force Survey (2015), the reality nationally is that women maintained a higher unemployment rate, and remained unemployed for longer periods once becoming economically inactive.

Antigua & Barbuda Labour Code Section E8 (1) also stipulates equal remuneration for work of equal value, noting, "no woman shall, merely by reason of her sex, be employed under terms of employment less favourable than the enjoyed by male workers employed in the same occupation

and by the same employer". However, monitoring and reporting mechanisms still need to be put in place regarding work place violations and abuses.

The law does not prohibit women from entering certain professions. Regardless, cultural norms and practices persist that foster the ideology of "men's work" and "women's work" (CEDAW Preliminary Report 2017, p. 17)

Regarding maternity leave, presently, 100% is provided to established staff in the Civil Service. All other staff are subject to the Labour Code, in which 100% is only paid for the first 6 weeks, and then 60% thereafter. Severe delays in payment by the Social Security board have also been cited as an issue for women.

## **4. Restricted Civil liberties**

### **a) Citizenship rights**

Women and men enjoy equal rights to acquire and retain nationality, and consequently have equal access to passports and the right to confer nationality to spouses and children. (Antigua and Barbuda Constitution 1981 Sections 112- 114) These rights remain applicable irrespective of marital status.

Married women and men share equal rights with respect to the registration of birth of their children. Unmarried women have additional rights to the registration of their children than unmarried men. (Births and Deaths (Registration) Act - section 26)

The Constitution of Antigua and Barbuda does not recognize intersectional discrimination. Section 14 prohibits discrimination on the grounds of sex, race, place of origin, political opinions, colour, or creed, but neither this nor other legislation addresses other discrimination based on disability, language, sexual orientation or gender identity, or social status. Additionally, as highlighted previously, concurrent legislation, such as the Sexual Offense Act and the Offenses Against Persons Act contain ingrained biases which may lead to discriminatory practices.

Women and men also enjoy equal freedom of movement and the right to foreign travel as afforded by the Constitution.

### **b) Voting**

The Constitution of Antigua and Barbuda section 40 (2) affords both women and men equal right to vote. Women enjoy full participation in the voting process, with no laws or practices that serve to restrict political participation, or access to information.

### **c) Political voice**

According to the 2016 UPR Report, "Although women participate fully in voting during elections and are very active in political parties, women are still severely underrepresented in political leadership positions". Additionally, there are no quotas or temporary special measures in place to address this issue.

The Constitution of Antigua & Barbuda - section 29 and 38 allow for women to hold public office at the legislative level. This remains for the executive level (The Constitution of Antigua & Barbuda - sections 69 and 70). Persons are appointed at the judiciary level by the CARICOM Community, and requirements are gender neutral. The present Chief Justice for the Eastern Caribbean Supreme Court is female, presiding over jurisdictions such as Antigua since 2012.

#### **d) Access to justice**

The Directorate of Gender Affairs functions as the national gender machinery and focal agency for gender and development. Included amongst their services is Court Advocacy, in which support during legal proceedings and protective order process is provided. Additionally, although not gender specific, legal aid is also accessible through legislation (The Legal Profession Act 2008, s. 5(g)).

There is no evidence to suggest that a woman's testimony is unequal in evidentiary weight as man's testimony in any type of court.

Generally, and within the broader Antiguan and Barbudan context, women are not considered to be at any systemic or institutionalized disadvantage to men. There remain however, many other gender-based obstacles facing women that result in inequality. (Caribbean Development Bank, Country Gender Assessment 2014). The Directorate of Gender Affairs further notes that discrimination against women exists largely due to cultural norms and practices and not because of legislation (Antigua and Barbuda CEDAW Preliminary Release 2017, p. 14)



## Sources

Antigua and Barbuda Constitution Order 1981 [http://www.ab.gov.ag/detail\\_page.php?page=27](http://www.ab.gov.ag/detail_page.php?page=27)

Antigua and Barbuda 2015 Labour Force Survey (2016) – Preliminary Release

CEDAW (2017) Preliminary Release, Antigua and Barbuda combined 4th, 5th, 6th and 7<sup>th</sup> reports  
<https://genderaffairs.gov.ag/uploads/1494248893ANTIGUA%20&%20BARBUDA%20CEDAW%20REPORT.compressed.pdf>

Concluding comments of the CEDAW (1997): Antigua and Barbuda Initial and second and third periodic report  
[http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING\\_COMMENTS/Antigua\\_and\\_Barbuda/Antigua\\_and\\_Barguda-CO-3.pdf](http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/CONCLUDING_COMMENTS/Antigua_and_Barbuda/Antigua_and_Barguda-CO-3.pdf)

Caribbean Development Bank Country Gender Assessment (2014)  
[http://www.caribank.org/uploads/2014/12/CGA-AB-Vol-I- JUNE-2014\\_FINAL.pdf](http://www.caribank.org/uploads/2014/12/CGA-AB-Vol-I- JUNE-2014_FINAL.pdf)

Domestic Violence Act (2015), <http://laws.gov.ag/acts/2015/a2015-27.pdf>

Strategic Action Plan to End Gender Based Violence, Antigua and Barbuda 2013 – 2018

The Directorate of Gender Affairs <https://genderaffairs.gov.ag>

United States Department of State (2016), Antigua and Barbuda Human Rights Report  
<https://www.state.gov/documents/organization/265768.pdf>

United States Department of State (2016), Trafficking in Persons Report  
<https://www.state.gov/j/tip/rls/tiprpt/2016/>

UN Women Caribbean Overview of Country Gender Equality Status  
<http://caribbean.unwomen.org/en/caribbean-gender-portal/antigua-and-barbuda>