



# General Assembly

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### **Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21**

#### **Antigua and Barbuda\***

The present report is a summary of 3 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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\* The present document was not edited before being sent to United Nations translation services.



## **I. Information provided by stakeholders**

### **A. Background and framework**

N/A

### **B. Cooperation with human rights mechanisms**

N/A

## **II. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **A. Equality and non-discrimination**

1. ADF International (ADF) considered important to encourage children and adolescents an appreciation for the equality of men and women via educational programs. ADF also estimated necessary empowering the family to be the starting point for true gender equality and appreciation for the equal rights of women and men.<sup>2</sup>

### **B. Right to life, liberty and security of the person**

2. Child Rights International Network (CRIN) noted with concern that life imprisonment, including detention during Her Majesty's pleasure, and corporal punishment were both lawful penalties for offences committed while under the age of 18.<sup>3</sup>

3. CRIN regretted that persons convicted of offences committed while they were under 18 could be sentenced to life imprisonment. The Treason Act specified life imprisonment as a punishment for treason and the Government had interpreted that this applied to any person, including someone under the age of 18. Also, in prohibiting the death penalty for persons convicted of murder committed while under the age of 18, article 3 of the Offences against the Person Act prescribes in lieu detention "during Her Majesty's pleasure". There were no limits placed on the duration of detention and the Government had interpreted that this allowed for the possibility of life imprisonment for children.<sup>4</sup>

4. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) recalled that, during the first UPR review of Antigua and Barbuda, in 2011, the Government rejected recommendations to prohibit all corporal punishment of children.<sup>5</sup> GIEACPEC indicated that Antigua and Barbuda received recommendations from CRC as well to prohibit corporal punishment.<sup>6</sup>

5. CRIN reported that corporal punishment was lawful as a sentence under the criminal law. A number of laws allowed whipping as part of, or as an alternative to, punishment only if the offenders under the age of 16, including the Offences Against the Person Act (for child stealing and making or possessing gunpowder with intent to commit a crime), the Railway Offences Act 1927 (e.g. obstructing a railway), and the Magistrate's Code of Procedure (for unspecified offences). The Juvenile Act, referring to the Magistrate's Court

Act, also allows for persons under 18 at the time of the offence to be sentenced to whipping.<sup>7</sup>

6. CRIN added that, according to the Corporal Punishment Act, as amended in 1967, a juvenile may be sentenced by a High Court or a Magistrate's Court to be whipped with up to 12 strokes. Persons under 18 can be whipped but not flogged, using a tamarind rod applied to the buttocks. Women cannot be sentenced to whipping or flogging. The Act states that corporal punishment may be ordered in addition to other punishment on any person convicted of certain offences of grievous bodily harm, being armed, robbery and assault.<sup>8</sup>

7. GIEACPC noted that corporal punishment of children in Antigua and Barbuda was not only lawful as a sentence for crimes but also in all other settings – the home, alternative care, day care, schools and penal institutions. Thus, to achieve prohibition would require the enactment of legislation clearly prohibiting corporal punishment in all of these settings.<sup>9</sup>

8. CRIN stated that it had been unable to obtain statistical information relating to the sentencing of children to life imprisonment, detention “during Her Majesty's pleasure” or corporal punishment in Antigua and Barbuda. However, it manifested that, in 2013, the Government stated that no whipping of juveniles had been carried out in the last three decades at least, though it remained a possible punishment prescribed in law. There were several reports of children being whipped in the mid to late 1990s.<sup>10</sup>

9. In light of the clear international human rights consensus against the imposition of life imprisonment and corporal punishment of children and the recent report of the UN Special Rapporteur on torture recognising that life imprisonment and lengthy sentences of children are grossly disproportionate and amount to a form of cruel and inhuman punishment,<sup>11</sup> CRIN recommended that the Government enact and enforce legislation explicitly prohibiting corporal punishment and life imprisonment, including detention during Her Majesty's pleasure, as a penalty for any offence committed while under the age of 18; and immediately review the sentence of any person sentenced to life imprisonment for an offence committed while under the age of 18 to ensure that no one serves a life sentence for an offence committed while a child.<sup>12</sup> GIEACPC recommended that Antigua and Barbuda clearly prohibit all corporal punishment of children in all settings including the home and as a sentence for crime, and explicitly repeal the right “to administer reasonable punishment” in the Juvenile Act 1951.<sup>13</sup>

10. ADF considered that pervasive violence was a serious concern in Antigua and Barbuda and that child abuse was a major issue. More than 200 cases of domestic violence were reported annually (in a total population of approximately 91,000). Moreover, ADF recalled that the insensitive attitudes of police were highlighted in the Government's 2013 Status of Women report to UN Women.<sup>14</sup>

11. ADF stated that the Government should take measures to ensure the effective implementation of the Domestic Violence Act (1999) and the Sexual Offences Act (1995), and send clear signals to perpetrators of violence that all crimes would be prosecuted. ADF regretted that the Sexual Offences Act did not acknowledge marital rape, except for instances of separation. ADF added that a zero tolerance policy for child abuse and child pornography, in addition to scaled-up efforts to stop trafficking, were imperative.<sup>15</sup>

12. ADF recommended that Antigua and Barbuda increase efforts to ensure accurate and timely data collection on domestic violence, and other crucial public safety issues; and combat crime and human rights violations in the country to improve the safety and wellbeing of the population, with a focus on women and children.<sup>16</sup>

### **C. Administration of justice and the rule of law**

13. CRIN reported that the main laws governing juvenile justice were the Magistrate's Code of Procedure Act 1892, the Juvenile Act 1951, the Juvenile Court Act 1948 and the Corporal Punishment Act 1949. The Juvenile Act defines a child as under 14, a juvenile as under 16 and a young person as 14 or 15. The Magistrate's Code of Procedure Act, as amended in 2004, defines a child as under 14 for criminal matters and under 18 for quasi-criminal and civil matters. Persons aged between 14 and 18 are designated young persons. CRIN added that children could be held criminally responsible from the age of 8.<sup>17</sup>

14. CRIN indicated that a model Child Justice Bill was drafted in 2007 by the Organisation of Eastern Caribbean States (OECS) and had been seen by the Ministry of Social Transformation and the Ministry of Legal Affairs. The Bill defines a child as a person under 18 and sets the minimum age of criminal responsibility at 12. The Bill does not include corporal or capital punishment among permitted sentences, though nor does it explicitly prohibit such sentences. The Bill would explicitly prohibit life imprisonment. CRIN stated that the Bill was circulated to relevant agencies for review but this review was put on hold.<sup>18</sup> GIEACPC noted that, as at June 2015, the Child Justice Bill was ready for its first reading in Parliament and added that, in reporting to the Committee on the Rights of the Child in 2013, the Government had stated its intention to adopt the draft legislation designed under the OECS framework and that this that this would harmonise legislation with the CRC and CEDAW.<sup>19</sup>

15. CRIN recommended that Government raise the minimum age of criminal responsibility.<sup>20</sup>

### **D. Right to health**

16. ADF recommended that the Government dedicate resources to advances in healthcare services, infrastructure, and education to improve maternal health.<sup>21</sup>

17. ADF stated that the high adolescent birth rate (49.3 in 2012) was a significant issue of concern in Antigua and Barbuda. ADF considered that education on responsible sexual behaviour in conjunction with parents, in addition to community and religious leaders, was of vital importance and that women should have access to information that emphasizes knowledge-based education about their bodies and facilitates full informed consent, healthy behaviours, and responsible decision-making. ADF reported that, according to the Antiguan Ministry of Gender Affairs, Pap smears and other critical medical tests were not provided free of charge, making them difficult to access for poor women. ADF observed that increased resources dedicated to women's health and a focus on high quality maternal healthcare were necessary to ensure respect for the rule of law and lasting health for women and children in Antigua and Barbuda.<sup>22</sup>

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*Notes*

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org).

*Civil society*

## Individual submissions:

ADF	ADF (Alliance Defending Freedom) International, Geneva (Switzerland);
CRIN	Child Rights International Network, London (United Kingdom of Great Britain and Northern Ireland);
GIEACPC	Global Initiative to end all Corporal Punishment of Children, London (United Kingdom of Great Britain and Northern Ireland).

<sup>2</sup> ADF, para. 19.

<sup>3</sup> CRIN, para. 1.

<sup>4</sup> CRIN, paras. 4-5.

<sup>5</sup> GIEACPC, para. 1.1. For the full text of the recommendations see A/HRC/19/5, recommendations 69.9 (Slovenia), 69.10 (Uruguay), 69.11 (Uruguay), 69.12 (Spain), 69.13 (Brazil), 69.14 (Chile) and 69.15 (Hungary).

<sup>6</sup> GIEACPC, page 1.

<sup>7</sup> CRIN, para. 6. See also GIEACPC, page 2.

<sup>8</sup> CRIN, para. 7.

<sup>9</sup> GIEACPC, page 2.

<sup>10</sup> CRIN, paras. 8-10.

<sup>11</sup> See report A/HRC/28/68, para. 74.

<sup>12</sup> CRIN, para. 12.

<sup>13</sup> GIEACPC, para. 1.3.

<sup>14</sup> ADF, para. 15.

<sup>15</sup> ADF, para. 17.

<sup>16</sup> ADF, para. 21.

<sup>17</sup> CRIN, paras. 2-3.

<sup>18</sup> CRIN, para. 11.

<sup>19</sup> GIEACPC, para. 2.2.

<sup>20</sup> CRIN, para. 12.

<sup>21</sup> ADF, para. 21.

<sup>22</sup> ADF, paras. 12-14.

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