

**STATUS OF HUMAN RIGHTS IN BARBADOS
FOR THE 43RD SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in Barbados for the 43rd Session of the Universal Periodic Review (UPR).

Background

2. Barbados is an island located in the Caribbean with an estimated population of 302,674 people.¹ The country is predominately Christian, with approximately 66.4% of the population identifying as Protestant, 3.8% as Roman Catholic, 5.4% as other Christian, 1% as Rastafarian, 1.5% as other, 20.6% as none, and 1.2% as unspecified.²

3. Barbados' previous UPR was held on January 19, 2018.³ As a result of the review, Barbados received 137 recommendations, 64 of which it supported.⁴ One recommendation made by the Republic of Korea was that the government “[i]ncrease efforts to stop and prevent human trafficking, initially by fully enforcing existing laws and increasing funds to do so.”⁵ It was also recommended by Morocco that the government “[c]ontinue efforts to combat trafficking in human beings, in particular through appropriate care and programmes to assist victims and facilitate their reinsertion into society.”⁶ Both of these recommendations were supported by Barbados.

4. Despite Barbados providing for abortion past 12 weeks in cases of fetal abnormalities, there were no recommendations made to protect the life of the preborn. Further, there were no recommendations made regarding religious freedom.

Legal Framework

Human Trafficking

5. Fundamental rights such as life, liberty, and security of a person are inviolable rights under the Constitution of Barbados.⁷ Further, chapter III, section 14 of the Barbados Constitution provides, “[n]o person shall be held in slavery or servitude.”⁸

6. In 2016, Barbados passed the Trafficking in Persons Prevention Act (TIPPA), which broadened the scope of human trafficking and created heavier penalties for those convicted.⁹ Under Article 3 of the TIPPA, those guilty of human trafficking can face a fine of \$1,000,000, 25 years in prison, or both.¹⁰

7. Furthermore, Article 8 of the International Covenant on Civil and Political Rights (ICCPR), to which Barbados is a party, holds that “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹¹

8. Barbados is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹² Under Article 9 sec. 1 of this Protocol, states are responsible to create policies “[t]o prevent and combat trafficking in persons; and [t]o protect victims of trafficking in persons, especially women and children, from revictimization.”¹³

Abortion

9. Chapter 3, section 12 of the Constitution of Barbados, states that “[n]o person shall be deprived of his life intentionally. . . .”¹⁴ Contrary to this express provision, abortion is legal in Barbados in several circumstances. Under Article 4 of the Medical Termination of Pregnancy Act:

4. (1) The treatment for the termination of a pregnancy of not more than 12 weeks duration may be administered by a medical practitioner if he is of the opinion, formed in good faith

(a) that the continuance of the pregnancy would involve risk to the life of the pregnant woman or grave injury to her physical or mental health; or

(b) that there is substantial risk that if the child were born, it would suffer such physical or mental abnormalities as to be seriously handicapped.

(2) The written statement of a pregnant woman stating that she reasonably believes that her pregnancy was caused by an act of rape or incest is sufficient to constitute the element of grave injury to mental health required by subsection (1) (a).

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health of the pregnant woman as is required by subsection (1) (a), the medical practitioner must take into account the pregnant woman’s social and economic environment, whether actual or foreseeable.¹⁵

10. Abortions between weeks 12 and 20 are permitted “if 2 medical practitioners are of the opinion, formed in good faith, of the matters specified in paragraph (a) or (b) of section 4(1).¹⁶ Further, abortion is permitted beyond the 20th week of pregnancy “if 3 medical practitioners are of the opinion, formed in good faith, that the treatment to terminate the pregnancy is immediately necessary to save the life of the pregnant woman or to prevent grave permanent injury to the physical or mental health of the woman or her unborn child.”¹⁷

11. The Act does provide protections for conscientious objectors. Under Article 10 sec. 1, “no person is under any legal duty to participate in any treatment for the termination of a pregnancy to which he has a conscientious objection.”¹⁸

Human Trafficking

12. “The Caribbean has been identified as a source, transit and destination region for human trafficking.”¹⁹ In this region, victims are trafficked through Barbados and other

Caribbean islands, along with countries in Latin America.²⁰ “[O]ften sex traffickers from Guyana partner with pimps from Barbados to place migrants into jobs quite different from what they expected. Migrant workers from Jamaica, Guyana and the Dominican Republic may come to the island anticipating agricultural work only to end up in a massage parlor or brothel. Sadly, children are not exempt from this.”

13. However, the full extent of sex trafficking in Barbados is largely unknown because “victims often go unnoticed in the Caribbean because of a lack of information and limited training among law enforcement officials.”²¹ Furthermore, from 2018 to 2020, the number of vulnerable individuals screened for human trafficking dropped by 50% in Barbados. Screening of vulnerable individuals who have signs of “abuse or disconnection from friends and family” is a crucial step because human trafficking can be disguised as other crimes and can go undetected if there is a lack of proper screening.²²

14. In order to combat trafficking as well as to “determine the nature and extent of trafficking in the island,” Attorney General Dale Marshall created the Barbados National Action Plan to Combat Human Trafficking on March 29, 2021.²³ In addition, the government allocated \$125,000 for this plan.²⁴ The goal of this plan is to study the nature and extent of human trafficking in Barbados and use that information to focus on preventing human trafficking, protecting victims, prosecuting traffickers, and partnering with international groups.²⁵

15. Barbados is currently lacking in its efforts to prosecute human traffickers. Even with the TIPPA, Barbados has yet to secure a conviction. As of July 2022, the Sex Crimes and Human Trafficking Unit of the Barbados Police Services only has two human trafficking cases before the courts.²⁶ Additionally, the current law is lacking stringent sentencing requirements as punishment can result in imprisonment *or* a fine.

Abortion

16. According to abortion statistics in Barbados, it is estimated that from 2015-19, there were 5,200 unintended pregnancies annually.²⁷ Out of these unintended pregnancies, approximately 58% of them end in abortion. As we will demonstrate below, abortion is not healthcare and Barbados’ abortion laws are not only contrary to its Constitution, but also violate the principles enshrined in several human rights instruments, including the UN Charter, ICCPR, Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

17. International human rights law as enshrined in the UDHR and the ICCPR requires states to protect life. However, in Barbados, the killing of preborn children throughout pregnancy is permitted as long as medical practitioners approve. This is in direct contravention of the UDHR, which states that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” and that “[e]veryone has the right to life.”²⁸ Again, Article 6 of the ICCPR likewise states that “[e]very human being has the inherent right to life. This right shall be protected by law.”²⁹ Moreover, the preamble of the United Nations Charter states that “the peoples of the United Nations determined [. . .] to reaffirm faith in fundamental human rights, in the dignity and worth of the human person.”³⁰ It is important to note that not one of these documents contains a “right to abortion.”

18. Restricting access to abortion is not an extreme position. Barbados must understand that there is no international right to abortion, a fact that can be practically seen when looking

at different countries' abortion laws. Currently, out of the 193 U.N. Member States, twenty countries prohibit abortion altogether, forty-two countries only permit abortion where the mother's life is at risk, and fifty only allow abortion to preserve the health of the mother.³¹

19. In fact, the current legislation regarding abortion in Barbados is an extreme position. As stated above, there are no restrictions on abortions in cases of rape, incest, or fetal abnormalities, as long as two medical practitioners approve. Currently, out of 193 Member States of the U.N., only eleven countries allow abortion throughout pregnancy for social and economic grounds, including for rape, incest, or fetal impairment.³² Barbados' law regarding abortion at any time for fetal abnormalities is extremely concerning. Human life does not deserve death simply because that baby may be born with physical abnormalities. Medical advances have allowed for babies born with physical abnormalities to live long and healthy lives. For example, in 1983, the average life expectancy of a person born with Down syndrome was 25 years old. Today, that life expectancy is 60 years and continues to increase. The decision of whether a baby is allowed to live or be killed should not be based on prenatal tests that have been proven to be unreliable.³³

20. Since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to “reduce the recourse to abortion.”³⁴ and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”³⁵ The U.N. Member States not only recognized the harm of abortion, but also that abortion is not healthcare. Barbados must also understand that abortion is not healthcare, as it provides protections for conscientious objectors in its Medical Termination of Pregnancy Act³⁶ If abortion was truly healthcare then why would the legislature feel the need to allow for conscientious objections? The simple answer to this question is that it is because abortion is *not* healthcare. In fact, the law allowing abortion and, at the same time, providing for a conscientious objection is not only inherently contradictory but implicitly recognizes that abortion is one of the gravest of all offenses against human life because it entails the deliberate killing of an innocent human being, which offends the conscience.

21. Another reason that Barbados should not consider abortion as healthcare is because of the harmful risks it poses to women. In addition to protecting the lives of preborn children, Barbados also has a responsibility to protect women from the physical and psychological harms abortion can cause. These dangers have been well documented and it has been shown that abortion can result in the perforation of the uterus or the laceration of the cervix.³⁷ Abortion also deprives women of the health benefits that come from continuing pregnancy, such as the elimination of the protective effect a full-term pregnancy has against breast cancer.³⁸ Abortion can also mask other dangerous symptoms, like undiagnosed ectopic pregnancy.³⁹ In fact, the World Health Organization even acknowledges the complications of abortion in its newly published 2022 “Abortion care guideline.”⁴⁰

22. Furthermore, women who have undergone abortions have also been reported to experience negative psychological side effects, from shame to drug abuse to suicidal thoughts.⁴¹ All of these reasons show why Barbados must protect both women and preborn children from the devastation of abortion.

Recommendations

23. Though Barbados has made some efforts to address human trafficking, it must continue to make more advances. Barbados should create stricter punishments by omitting the fine-only option for those convicted of human trafficking. We encourage Barbados to

create shelters for victims and support systems for those affected by human trafficking.

24. We also ask that Barbados reform its abortion laws in order to protect life at all stages, including banning abortion for cases of fetal abnormalities. Such reformation of these laws by Barbados is a position supported not only by its own Constitution, but is one that is also held by the most widely accepted human rights treaties. Barbados would not be alone in taking this humane step, as countless other countries make it a priority to protect the lives of preborn babies.

¹ Barbados, THE WORLD FACTBOOK, Aug. 23, 2022, <https://www.cia.gov/the-world-factbook/countries/barbados/>.

² *Id.*

³ *Universal Periodic Review – Barbados*, UNHRC, Jan. 19, 2018, <https://www.ohchr.org/en/hr-bodies/upr/bb-index>.

⁴ *Barbados Infographic*, UNHRC, Jan. 19, 2018, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/BB/BARBADOS_Infographic_29th.pdf.

⁵ UPR of Barbados—Thematic List of Recommendations, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/BB/MatriceRecommendationsBarbados.docx>.

⁶ *Id.*

⁷ THE CONSTITUTION OF BARBADOS, chap. 3, para. 11, https://www.oas.org/dil/the_constitution_of_barbados.pdf.

⁸ *Id.*, chap. 3, para. 14.

⁹ Trafficking in Persons Prevention Act, BRB-2016-L-102713, Jun. 6, 2016.

¹⁰ *Id.*

¹¹ International Covenant on Civil and Political Rights, Dec. 16, 1976, 999 U.N.T.S. 171, art. 8.

¹² *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18.

¹³ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, Nov. 15, 2000, 2237 U.N.S.T. 319, 346-47,

<https://treaties.un.org/doc/Publication/UNTS/Volume%202237/v2237.pdf>.

¹⁴ THE CONSTITUTION OF BARBADOS, *supra* note 7, chap. 3, para. 12..

¹⁵ *Medical Termination of Pregnancy 1983-4* art 4.

¹⁶ *Id.* art. 5.

¹⁷ *Id.* art. 6.

¹⁸ *Id.* art. 10 sec. 1.

¹⁹ *Sex Trafficking Thrives Amid Poor Law Enforcement, Ignorance – Experts*, BARBADOS TODAY, Jan. 12, 2021, <https://barbadostoday.bb/2021/01/12/sex-trafficking-thrives-amid-poor-law-enforcement-ignorance-experts/>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Sandy Deane, “*Four – Ps*” *Plan to Fight Human Trafficking Unveiled*”, BARBADOS TODAY (Mar. 30, 2021), <https://barbadostoday.bb/2021/03/30/four-ps-plan-to-fight-human-trafficking-unveiled/>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Anesta Henry, *Human Trafficking Cases Identified by Police*, BARBADOS TODAY (Jul. 30, 2022), <https://barbadostoday.bb/2022/07/30/human-trafficking-cases-identified-by-police/>.

²⁷ *Country Profile Barbados*, GUTTMACHER INSTITUTE, <https://www.guttmacher.org/regions/latin-america-caribbean/barbados#:~:text=In%20Barbados%20in%202015–2019,broad%20social%20or%20economic%20grounds>.

²⁸ G.A. Res. 217 (III) A, *Universal Declaration of Human Rights*, pmbl., art. 3 (Dec. 10, 1948) (emphasis added).

²⁹ ICCPR, *supra* note 11, art. 6.

³⁰ U.N. Charter pmbl.

³¹ *The World’s Abortion Laws*, CTR. FOR REPROD. RTS., Feb. 23, 2021, https://reproductiverights.org/sites/default/files/WALM_2021update_V1.pdf.

³² *Id.*

³³ Dashiell Young-Saver, *The Misleading Math of Prenatal Tests*, NEW YORK TIMES, Feb. 10, 2022, <https://www.nytimes.com/2022/02/10/learning/lesson-plans/the-misleading-math-of-prenatal-tests.html>.

³⁴ Report of the International Conference on Population and Development, Cairo A/CONF/F.171/13/Rev.1 at 58 (5-13 Sept. 1994), [ny.un.org/doc/UNDOC/GEN/N95/231/26/IMG/N9523126.pdf?OpenElement](https://www.un.org/doc/UNDOC/GEN/N95/231/26/IMG/N9523126.pdf?OpenElement).

³⁵ U.N., *Report of the International Conference on Population and Development*, ¶ 7.24, U.N. Doc. A/CONF/F.171/13/Rev.1 at 58 (Sept. 5-13, 1994), https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/icpd_en.pdf (emphasis added).

³⁶ Medical Termination of Pregnancy 1983-4 art 10 sec. 1, *supra* note 15.

³⁷ Abortion & Pregnancy Risks, LA. DEP'T OF HEALTH, <https://ldh.la.gov/page/915> (last visited July 21, 2022).

³⁸ See Justin D. Heminger, *Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco*, 54 CATH. U.L. REV. 1273, 1288-89, 1290 n.119 (2005).

³⁹ See generally Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More, THE UNCHOICE, www.theunchoice.com/physical.htm (listing sequelae and referencing sources).

⁴⁰ WORLD HEALTH ORG., ABORTION CARE GUIDELINE 79 (2022), <https://www.who.int/publications/i/item/9789240039483>.

⁴¹ Priscilla K. Coleman, Ph.D., et al., Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences, JOURNAL OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115, 116-17 (2017), available at <https://www.jpands.org/vol22no4/coleman.pdf>.