

# Escazú Agreement Toolkit for Women Land Defenders and Frontline Communities



**ANTIGUA & BARBUDA**

## 1. Introduction

This resource is designed to help women land defenders navigate the domestic laws of Antigua and Barbuda to achieve the protections of [the Escazú Agreement](#), formally known as the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean.

Named after the city in Costa Rica where it was adopted in March 2018, the Escazú Agreement represents a landmark achievement in the pursuit of environmental justice, transparency, and sustainable development across the Latin American and Caribbean region. With its focus on promoting environmental democracy, protecting environmental defenders, and ensuring public participation in decision-making processes, the agreement addresses critical gaps in environmental governance and strengthens the rights of citizens to a healthy environment.

Through its main objectives, the Escazú Agreement aspires to guarantee the full and effective implementation of the rights to: access to information; access to participation; and access to justice on environmental matters. Twenty-four countries have signed the agreement, [with fifteen parties ratifying it](#).

The Escazú Agreement is a legally binding agreement that does not allow for revisions by any of its Parties and takes into account impacted populations and environmental defenders as a central focus.

**The aim of the toolkit is to support the transformative potential of this historic Agreement to build a thriving and equitable future for all, including those courageous individuals defending our lands and ecosystems.**

Created in service to women land defenders and environmental activists who often face threats and violence for their advocacy work, each section in the toolkit can be read and used independently. Following Section 1, the introduction, Section 2 features the rights of the defenders and the domestic law that protects them. Section 3 lists the violations the defenders might face and briefly explains how to use the rights from Section 2 to support legal action. Lastly, Section 4 features where to find accessible in-country legal support.

## 2. Know your rights in Antigua and Barbuda

### 2.1 Right to Life

Antigua and Barbuda is a Parliamentary democracy with a [Constitution](#) that outlines the supreme law of the State. The Constitution enshrines many of the fundamental rights declared in the Universal Declaration of Human Rights, including the right to life. Constitution, Chapter II, Section 4.1 provides that “[n]o person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a crime of treason or murder of which he has been convicted.” Additionally, Chapter II, Section 3, protects all persons’ right to “life, liberty, security of the person, the enjoyment of property and the protection of the law[.]”

### 2.2 Right to Freedom of Expression and Peaceful Assembly

Chapter II, Section 3 of the Constitution entitles every person in Antigua and Barbuda to “the fundamental rights and freedoms of the individual” regardless of their “race, place of origin, political opinions or affiliations, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest[.]” The rights expressly listed under this provision include the right to “freedom of conscience, of expression (including freedom of the press) and of peaceful assembly and association[.]”

Freedom of expression includes the freedom to hold opinions, and receive and disseminate information and ideas without interference (Constitution, Chapter II, Section 12.2). Expression includes written and oral communications, signals, signs, symbols, recordings, broadcasts, printed publications, photographs, and other means of artistic expression.

There are limited exceptions to the right to freedom of expression, which include reasonable restrictions in the interest of public safety, public order, public health, defence and public morality, and to protect the reputations, rights, and freedoms of other persons (Constitution, Chapter II, Section 12.4).

Similarly broad protections of the right to freedom of assembly are enshrined in the Constitution, Chapter II, Section 13.

### 2.3 Right of Petition and Due Process

Chapter II, Section 15 of the Constitution provides that “[a]ny court or other authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any persons before such a court or other authority, the case shall be given a fair hearing within a reasonable time.” In practice, while minor criminal or petty cases (the majority of first-instance cases) are subject to the jurisdiction of local magistrates, under Chapter IX, Section 119 of the Constitution, any citizen of Antigua and Barbuda can directly petition the High Court for a violation of Constitutional rights or to challenge the validity of legislation with respect to the Constitution. The Registrar of the High Court can be reached at +1 (268) 462 3725, or reached by email at [hctanu@candw.ag](mailto:hctanu@candw.ag).

If you need legal aid or assistance, the Government's Office of Legal Aid and Assistance can be contacted at +1 (268) 562-4933.

You can appeal adverse decisions from the High Court or a magistrate to the Court of Appeal. You can appeal adverse decisions from the Court of Appeal to the Joint Committee of the Privy Council of the United Kingdom. Depending on the right, and how serious the violation is, you may either automatically appeal, or appeal with the permission of the Court. The forms for appeal to the Privy Council can be found at the following address: <https://www.jcpc.uk/procedures/court-forms.html>.

## 2.4 Right to legal counsel and effective remedies

Any person who is arrested or detained has the right to be informed orally as well as in writing as soon as reasonably practical and in a language the person understands of the reason for their arrest or detention (Constitution, Chapter II, Section 5.2). Such persons have the right, at their own expense, to retain without delay a legal practitioner of their own choice and to hold private communications with the legal practitioner (Constitution, Chapter II, Section 5.3).

Persons charged with a criminal offence have the right to a fair hearing within a reasonable time by an independent and impartial court established by law (Constitution, Chapter II, Section 15.1). Such person “shall be permitted to defend himself before the court in person or by a legal practitioner of his own choice.” (Constitution, Chapter II, Section 15.2).

A person who is arrested or detained for purposes of bringing them before a court in execution of a court order or upon reasonable suspicion of the commission of a criminal offence must be brought before the court within 48-hours after their detention (excluding Sundays and public holidays) or be released (Constitution, Chapter II, Section 5.5).

If a person is arrested or detained on suspicion of having committed or being about to commit a crime and they are not tried within a reasonable time, they must be released either unconditionally or on reasonable conditions (such as those necessary to ensure that they appear for a later trial date) (Constitution, Chapter II, Section 5.6).

A person who is unlawfully arrested or detained shall (subject to certain defences) be entitled to compensation from the person who made the arrest or any authority on whose behalf they were acting. There are certain exceptions to the right to compensation for unlawful detention, including the immunity of judges and police officers acting pursuant to the order of a judge, magistrate, or a justice of the peace (Constitution, Chapter II, Section 5.7). However, the 1967 Police Discipline Regulations provide that it is an offence for an officer to use “unnecessary violence to any prisoner or other person with whom he may be brought into contact in the execution of his duty.”

## 2.5 Right to a Healthy Environment

Unlike in other countries, the right to a healthy environment is not expressly enshrined in the Constitution. However, Antigua & Barbuda was the first signatory to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the “Escazú Agreement”) in September 2018, which aims to promote environmental sustainability and protection through several means, including public participation, access to justice, and the right to information, among other things.

## 2.6 Right to Access to Environmental Information

The Physical Planning Act of 2003 (“PPA”) provides that no person shall commence or shall carry out development of land except in accordance with a development permit (see Part IV, Section 17). Applications for development permits must be made through the Town and Country Planner and are publicly available.

Under Schedule 3 of the Physical Planning Act of 2003, the government must conduct an Environmental Impact Assessment (“EIA”) when it approves construction of: an airport, port, or harbor; a power plant; an oil or petroleum refinery or pipeline; an incinerator; a wastewater treatment or water purification plant; an industrial estate development project; a cement or other hazardous materials storage or manufacture facility; a drilling, quarrying, sand mining or other operation; a land reclamation project; or a hotel or resort. The process is intended to afford interested parties an opportunity to comment on applications for development permits, which must then be considered by the Development Control Authority (“DCA”) in reaching a decision on the application.

The Environmental Protection and Management Act (“EPMA”) establishes that if a developer proposes a project that is either situated in a protected area or may result in a negative impact on the environment, the Director of the Department of the Environment must assess whether an EIA is required. If the Director determines an EIA is required for a project, he must publicly register that project in the Environment Registry. The Environmental Registry is intended to administer information on the environment, and is available to the public via <http://www.registry.environment.gov.ag>.

The EPMA further requires that owners of any commercial or industrial facility must publish an Environmental Management Plan, which details all environmental and socioeconomic impacts of the facility, if the facility discharges waste into the environment, or handles, processes, controls, or produces or hazardous substances.

## 2.7 Right to Participate in Environmental Decisions

There is a statutory requirement to have an EIA (for example, under the Physical Planning Act) for particular types of major projects such as the construction of an airport. However, the EPMA sets rules for when the Government is mandated to invite public participation in decision-making processes. Section 120 determines that public comment and participation are only mandatory when a provision of the Act specifically requires public comments and participation. The EPMA does not include either the environmental impact assessment process or the environmental management plan analysis as actions that require public comments or participation. Accordingly, public participation remains subject to the discretion of the Director. Interested parties may appeal decisions on permit applications, including on the basis of environmental concerns. Further, as noted above, Antigua and Barbuda are party to the Escazú Agreement, and Article 7 of the Agreement provides for public participation in the environmental decision-making process.

In 2024, the Privy Council decided *Mussington v. DCA*, which confirmed that interested individuals have the right to challenge improper or deficient environmental decisions, or construction or development that the government approves without a proper environmental impact assessment.

## 2.8 Rights of Human Rights Defenders

Although domestic legislation does not provide specific protection for human rights defenders, the Inter-American Court of Human Rights, interpreting the American Convention on Human Rights (CADH), has held States responsible for the violation of the rights declared in Principle 10 of the Rio Declaration on Environment and Development. These rights include access to environmental information, access to decision-making processes, and access to effective remedy and redress.

Furthermore, Article 9 of the Escazú Agreement defines protections for human rights defenders in environmental matters, specifically providing that member States must “protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system.”

## 2.9 Women's Rights

The Constitution prohibits discrimination on the basis of a person's sex, among other things (Constitution, Chapter II, Section 14). Similarly, the 2005 Equal Opportunity Act bars discrimination on the basis of race, gender, class, political affinity, and place of origin.

The Sexual Offences Act of 1995 is the primary legislation that addresses sexual harassment and violence. It defines rape as a male person having sexual intercourse with a female person, not his wife, while either knowing she has not consented or recklessly disregarding that consent. The Act also prohibits marital rape, offences against children, incest, indecent assault, prostitution, and other sexual offences.

## 2.10 Other Rights

**LGBTQ Rights.** In 2022, the Eastern Caribbean Supreme Court struck down provisions of the Sexual Offences Act that criminalized same-sex intimacy. Nevertheless, LGBTQ individuals may still be targeted for their sexual orientation, and general societal advancement of LGBTQ rights within the country remains slow.

## 3. Violations and Threats Faced by Environmental Defenders

As a general matter, make sure that, if you are going to protest, people know where you are at all times – keep people close to you apprised of your location as frequently as possible.

### 3.1 Murder

If you witness someone killed, you should immediately get to a safe place, and then call the police – dial 911 or 999 for the emergency hotline.

Give the police any observations you have about the perpetrator and write down everything you can remember once you are in a safe place – memory fades quickly. The Prosecutor's Office will determine whether there is sufficient evidence to press criminal charges against the alleged perpetrator.

If you are concerned about potential attacks or experiencing life-threatening situations during your activism, consider informing the police of your concern. The police headquarters can be contacted at +1 (268) 462-0125. If you need to report a crime, the Criminal Investigation Unit can be reached at +1 (268) 462-3913.

Crime Stoppers Antigua provides an anonymous tipline and online form to report a crime. It can be found at <https://crimestoppersantigua.org/contact-us/>, and the telephone number is +1 (268) 800-8477.

- The High Court may hear Constitutional claims arising out of a murder immediately, rather than a magistrate.
- You have the right to appeal any final and adverse decision in criminal or civil proceedings interpreting the Constitutional protection of the right to life or physical security to the Court of Appeal of the Eastern Caribbean Supreme Court.
- You also have the right to appeal any final and adverse decision of the Court of Appeal regarding the interpretation of the Constitutional right to life or physical security to the Privy Council.

### 3.2 Physical Attacks

If you are attacked while protesting, your first priority should be to get to safety. Once safe, if you need it, make sure you receive medical attention immediately. Medical documentation of your injuries will most likely be important in a court case, so make sure to take pictures of any harm you suffered as evidence.

Report an attack to the police emergency number (dial 911 or 999) – they will refer it to the Prosecutor's Office, who will determine whether there is sufficient evidence to bring criminal charges against the perpetrator.

You may be able to obtain monetary compensation from your attacker by filing a civil claim against them for assault.

If you were attacked to stop you from exercising your free speech, free expression, or free assembly rights, you may be able to bring a Constitutional claim against your attacker, especially if your attacker was a government agent.

### 3.3 Murder and Physical Attacks by Law Enforcement

With respect to physical attacks by police and law enforcement – Section 4 of the Constitution provides certain exceptions to the prohibition on the deprivation of life and physical security. Such deprivation may be legally justified by law enforcement to:

- defend another person or property from violence;
- make an arrest;
- suppress a riot or insurrection; or
- prevent the commission of a crime.

There is no independent body that oversees allegations of offences by the police.

The Professional Standards Department of the Police may hear outside complaints against officers. Individuals typically make those complaints to the Police Commissioner, who refers them to the Professional Standards Department. However, in 2015, the Police Commissioner was suspended for a failure to adequately respond to such complaints. This highlights that internal review of police department misconduct may not be an effective remedy.

You may also submit complaints against the police or government entities to the Office of the Ombudsman (currently Dr. Marion Blair, [officeombudsman@ab.gov.ag](mailto:officeombudsman@ab.gov.ag)) under the Ombudsman Act of 1994. Complaints may be made through the following procedure:

- *First*, make a complaint directly to the offending government department or Statutory Body, giving them a chance to correct the alleged injustice;
- *Second*, if the responsible government department does not address the problem, lodge a formal complaint with the Ombudsman;
- *Third*, the Ombudsman will investigate your complaint;
  - They have the power to compel witnesses and make evidentiary findings;
- *Fourth*, the Ombudsman will inform you of their conclusions from the investigation;
- *Fifth*, if the Ombudsman finds wrongdoing, they will make formal recommendations to the public authority about how to remedy your complaint.

### 3.4 Sexual Harassment and Abuse

#### Initial Steps:

If you have been sexually assaulted or abused, the first step is to contact the police to report your assault. Make sure you are safe – contact local resources, friends, or family to ensure that you have a secure place to recover.

If you are able, write down what happened. Your memory is most accurate immediately following an incident, and a record close to the time of the assault is often usable as evidence in a court proceeding.

Try to take contemporaneous photographs, too, and seek medical attention – photographs and medical records may be admitted as evidence in a court case. If there are witnesses, make sure you know their names and how to contact them in case you need them to corroborate your evidence.

**Judicial Remedies:**

The first step toward pursuing justice through the courts against your attacker is to report your assault to the police. That assault will be investigated by the police, and referred to the Prosecutor, who will determine if a criminal case should be brought.

In 2019, Antigua and Barbuda launched the Sexual Offences Model Court, a set of specialized court procedures intended to improve sensitivity and access to justice for survivors bringing cases before the High Court. The new features include:

- fast-tracking of sexual offence cases;
- specialized training for court officials and prosecutors to deal with sensitive issues arising from sexual offences;
- the option of video conferencing to reduce pressures and trauma on testifying survivors; and
- improved survivor support services.

The court hears claims involving rape and sexual assault privately, and typically keeps the identities of the persons involved confidential.

In a criminal claim of sexual assault or rape, the court can convict the accused even without corroborating evidence – you therefore should not feel that you cannot bring a claim because of a lack of witnesses.

**Administrative Remedies:**

If your attacker was a police officer or other government official, you may also submit complaints of sexual harassment, victimization, or discrimination as outlined in Section 3.3 above. Investigations undertaken by the Ombudsman are usually private, meaning the Ombudsman will keep your identity confidential.

Note: While victims of sexual abuse in Antigua and Barbuda have recourse to the judicial system, the Human Rights Committee has highlighted that historically, enforcement of sexual offence laws within the country is low. Take advantage of local and community resources in a crisis situation to ensure an appropriate response by officials. The Directorate of Gender Affairs has set up the Support and Referral Center (tel: +1 (268) 463-5555), which provides a 24-hour hotline for medical intervention, psychological support, and legal advice for survivors of sexual violence.

### 3.5 Criminalization of Protest and Restrictions to the Freedom of Expression

The Public Order Act of 1972 outlines the legal steps to follow to conduct a public meeting, march, or protest.

Under Section 4 and 10 of the Public Order Act of 1972, two days before a meeting, march, or protest, you must apply to the Commissioner of Police for a permit.

The permit must declare:

- the names of the organizers;
- the place of the meeting or start and end point of the march;
- the time of the meeting or march;
- for a march, the estimated number of persons participating; and
- the name of speakers who will address the meeting or march, and whether they are citizens or non-citizens.

The police, per Section 17 of the Public Order Act, may deny permitting for a meeting or march if “serious public disorder would be occasioned by the holding of public meetings or marches in Antigua and Barbuda

or any area thereof and that it would be in the interest of public safety and necessary for the preservation of public order”

If you are denied a permit, you may, per Section 40 of the Public Order Act, appeal in writing within seven days of the denial to the Minister charged with the responsibility for maintenance of law and order. The decision of the Minister is final.

The police may also order a march or meeting to disperse – anyone who refuses such an order may be guilty of an offence.

The police may subject protestors to search if they have “reasonable cause” to suspect that a protestor has a weapon. However, the police may not remove any of your clothing or have a male officer search a female protestor – these are violations of Section 37.

While defamation is not a criminal offence, Section 34 of the Public Order Act makes it a criminal offence to make any false statement concerning any public official that is likely to bring that person into public ridicule or undermine public confidence in the conduct of public affairs. Keep this in mind when making speeches or other remarks at a demonstration.

Violations of the right to expression implicate a Constitutional right (Sections 12 and 13 of the Constitution), and therefore you may make a complaint directly to the High Court, as outlined in Section 3.1 above.

For complaints made concerning conduct (e.g., threats or intimidation) by the police or government officials, you may submit your complaint to the Ombudsman in accordance with the procedure outlined in Section 3.3 above.

### 3.6 Threats, Intimidation, and Defamation

The Constitution guarantees you the right to freely assemble and freely express yourself, and any violation of those rights is a Constitutional one. That means you should be able, within the framework of the Public Order Act, to engage in peaceful protest and discourse.

If you are intimidated while protesting, or otherwise feel that you were stopped from exercising your rights, the first step is to document everything – take videos of the individual who was impeding your free speech, collect witness information, and make sure you have a record of everything that occurred.

- Recording a voice memo to yourself immediately following an incident or otherwise recording a confrontation is a helpful way to make sure you (and potentially the court) recall exactly what happened. If you can, livestream it, so that a record exists outside of just your phone – that way, if someone tries to destroy your phone or the police attempt to confiscate it, you will still have the evidence you need.
- When attending a protest, turn facial and fingerprint recognition off on your phone – the only way to access it should be through a six-digit (at least) passcode. The police can use your face/fingerprint to unlock your phone, otherwise, making it easier to access your data.
- If there is an incident between you and the police, and the police attempt to seize your phone, make sure that you lock it before giving it to them. Phone passcodes are essentially impossible to crack, but if your phone is unlocked when the police seize it, they will be able to access the data inside of it.

Seditious libel (sedition involves inciting people to rebel, or otherwise taking steps to agitate against the State – it can be a broad tool of suppression of anti-government voices, if wielded improperly by the government) remains a criminal offence in Antigua and Barbuda. For a first offence of seditious libel, the court may sentence you to up to one year of imprisonment, and a \$3,000 fine. For a second offence, the court may sentence you to up to two years of imprisonment.

Defamation, however, is no longer a criminal offence – the government decriminalized it through the Defamation Act of 2015.

Defamation remains a tort (a non-criminal offence that is typically brought by one private individual against another), though. Defamation is publishing (by speech, written, or electronic means), with either the knowledge that the matter is false, or reckless disregard for its truth, any matter that is injurious to another person and is untrue. It is only punishable by civil (monetary) penalties rather than criminal penalties (prison time).

See Section 3.8 below for discussion of the Electronic Crimes Act of 2013, which imposes criminal liability on certain messages sent through electronic means, including threats and harassment.

For complaints made concerning conduct (e.g., threats or intimidation) by the police or government officials, you may submit your complaint to the Ombudsman in accordance with the procedure outlined in Section 3.3 above.

### 3.7 Arbitrary Detention

Detainees must be brought before a court within 48 hours of detention. However, the police may request an extension.

If no extension is filed and you are not released or brought before a court within this time limit, the government is legally obligated to release you (see Articles 5(5)-5(6) of the Constitution).

If you are detained and mistreated, under Section 7 of the Prison Act you can submit a complaint to the Superintendent of Prisons, and that report will be forwarded to the Prison Visiting Committee for investigation. The Committee is not only responsible for investigating individual complaints, but also periodically inspecting prison conditions and reporting on issues to the Governor-General and Superintendent of Prisons.

If you are detained unlawfully or without cause, Section 5(7) of the Constitution provides that you may be entitled to compensation from the person who detained you. This is a Constitutional question, and so may be brought directly to the High Court through the procedure outlined above in Section 3.2.

**Note:** Prison conditions at the only prison in Antigua and Barbuda, His Majesty's Prison, are poor, and overcrowding is a major problem. These conditions may be an independent human rights violation to pursue if you find yourself improperly detained.

### 3.8 Denial of Access to Environmental Justice

Section 106 of the EPMA permits a private party to institute proceedings against a person whom they reasonably suspect is responsible for a violation of the Act.

Section 46 of the EPMA requires that if an EIA is ordered over a project, that EIA must be published in the Environment Registry (although, as noted above in Section 2, the timing of the obligation to publish is unclear). However, if the Director chooses not to conduct an EIA, or determines one is not necessary, then information about the project may not be published.

However, only “any person or group of persons who has a specific interest in the claimed violation of the Act or any other person or group of persons who can satisfy the court that the proceedings are justifiable in the public interest” has standing (meaning you have a legally valid interest in an issue and can bring it to the court's attention) to bring such a claim. In 2024, the Privy Council of Antigua and Barbuda issued a ruling (Mussington) that residents of the country have the right to challenge actions taken without a proper environmental impact assessment or proper permitting, and can have a “specific interest” in violations of the EPMA. This means that Antiguan and Barbudans can challenge government action for a lack of transparency or accountability.

### 3.9 Denial of Access to Environmental Information

Section 6(1) of the Freedom of Information Act of 2004 guarantees “every person the right to receive and disseminate information and ideas without interference,” and specifically gives individuals the right to receive information held by public authorities to “enhance good governance through knowledge, transparency, and accountability.”

The National Environmental Data and Information System conducts reports and assessments on environmental indicators and development in Antigua and Barbuda. Access to these reports may be legally required under the Freedom of Information Act of 2004.

Under Sections 9(1)-9(2) of the Freedom of Information Act of 2004, every public authority must designate one of its officers as an information officer, and the public has the right to obtain information from that officer and make complaints to that officer if such information is withheld from the petitioner.

There is also an Information Commissioner, appointed by the Governor-General on the recommendation of the Prime Minister and Parliament, to whom citizens may apply to for enforcement if a public authority fails to comply with a valid request for information. The current Information Commissioner is Joycelyn Palmer. She was appointed in 2019.

### 3.10 Digital Surveillance, Hacking and Information Theft, and Online Harassment

The Data Protection Act of 2013 protects individuals' personal data from both the government and other private individuals.

Section 5 of that Act prohibits both public and private entities from processing an individual's personal data unless the individual has consented to that processing, subject to limited exceptions. These exceptions include compliance with a legal obligation, criminal investigation, protection of the individual, etc. A comprehensive list of exceptions is available in Section 19).

The Electronic Crimes Act of 2013 establishes certain electronic crimes, for activities like hacking and misuse of electronic communications. The Act criminally prohibits individuals from accessing an electronic system, network, or data without permission of the owner of that network. Section 4 prohibits sending an electronic message that is either “offensive or threatening” or “for the purpose of causing annoyance, insult, intimidation, enmity or hatred.”

Activists should therefore be careful of messages sent via electronic means that are critical of the government, as the government could use this Act to suppress free speech.

If you believe your rights have been violated under this Act, you may submit a complaint to the Information Commissioner. The Information Commissioner is bound by confidentiality principles under Section 26 of the Data Protection Act – they cannot disclose information submitted to them in the form of a complaint. You may appeal an adverse decision of the Information Commissioner to the Eastern Caribbean Supreme Court.

If you are accused of a crime under the Electronic Crimes Act, Section 23 sets the general penalty for violations under this Act as a fine of up to \$50,000 and imprisonment of three years for a summary conviction; and a fine of up to \$100,000 and imprisonment of up to five years for a conviction on indictment. For a corporate entity or publicly owned company, the penalty is up to \$200,000 for a summary conviction, and \$500,000 for a conviction on indictment.

For petitions concerning conduct by the police or government officials, you may submit your complaint to the Ombudsman in accordance with the procedure outlined in Section 3.3.

### 3.11 Lack of Free Prior and Informed Consent to Land Development

The Barbuda Land Act of 2007 provides that the people of Barbuda own the land of the Country collectively. It also precludes the sale of Barbudan land, but permits the Crown to lease the land for residential, commercial, and other purposes.

Any development that costs over \$40m (deemed a “Major Development”) must have the consent of the people to proceed. Accordingly, the people of Barbuda also have the right to comment on Major Developments, and Major Developments need majority approval of the Barbudan people as well as approval of Parliament and the Cabinet to proceed.

Under the *Mussington*<sup>1</sup> decision, if you have real grounds to believe a construction project is proceeding without appropriate consent or without proper environmental surveying, you may have standing to challenge that construction or development in a court of law.

### 3.12 Right to Remedy Environmental Violations

The EPMA, in conjunction with several other Antiguan laws (including the Marine Areas Preservation and Enhancement Act of 1972, the Fisheries Act and Regulations of 2006 and 2013, and the Barbuda Coastal Zoning and Management Regulations of 2014), all provide a robust set of regulations laying out wildlife, water, and environmental protections in Antigua and Barbuda.

Part XIV of the EPMA delineates specific offences and penalties for those offences. For example:

- Section 109 prohibits emission of pollution into waterways;
- Section 110 prohibits discharge of pollution into the atmosphere without appropriate approvals; and
- Section 111 prohibits actions toward wildlife, including hunting or trading protected animals, harvesting or trading protected plants, and hunting or harvesting in Protected Areas, which are laid out in Schedule IV of the EPMA.

Schedule X of the EPMA lays out the potential penalties for such violations – serious violations entail fines up to US\$ 50,000 and/or imprisonment for up to five years. Corporate actors, too, are subject to these penalties, and Schedule X establishes that fines and prison time must be at least doubled for violations by corporations.

As discussed briefly in Section 3.8 above, under Section 106 of the EPMA, if a private individual observes an environmental violation outlined in the EPMA, they may, with a court's permission, file a claim against the violator(s) in court. If the court finds that either the individual bringing the claim has a special interest in the alleged violation or the proceedings are justifiable in the public interest, then the court is able to decide the claim. Furthermore, the recent *Mussington* decision appears to clarify who has the right to bring such claims to court – in the coming years, it will be important to test the limits of what kinds of environmental violations the court is willing to consider. If the violation is by a corporate actor, any individual who was a director or officer of the company at the time of the violation may be held liable for that violation, pursuant to Section 107 of the EPMA.

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<sup>1</sup> Available at <https://caselaw.nationalarchives.gov.uk/ukpc/2024/3>.

#### 4. Resources to Defend the Rights of Environmental Defenders

Although there is no absolute entitlement to legal aid in Antigua and Barbuda, the Ministry of Justice and Legal Affairs has a [Legal Aid and Advice Center \(LAAC\)](#) that provides legal assistance to vulnerable people. According to the LAAC website, assistance is available for limited matters and is not necessarily free of cost. If you want to seek help from LAAC, the website informs that you should first contact the Centre at:

Mon-Thur: 8:00am – 4:30pm and Fri: 8:00am -3:00pm

Tel: (268) 562-4764, (268) 562-4933, (268) 462-0017/9 Ext. 238

Fax: (268) 562-4765

Email: [legalaid@antigua.gov.ag](mailto:legalaid@antigua.gov.ag)

Another possibility to access legal assistance is through programs of the Bar Association. According to Section 5(g) of the Legal Profession Act of 2008, one of the purposes of the Bar Association is to “provide independently or with the government a legal aid programme to qualifying members of the public.”

In case of sexual harassment or abuse, and as mentioned in section 3.4, you can contact the [Support and Referral Center](#) of the Directorate of Gender Affairs, a 24-hour hotline offering support for medical intervention, psychological support, and legal advice for survivors of sexual violence at +1 (268) 463-5555.

Lastly, considering the functions of the Ombudsman mentioned above, bringing environmental disputes to the Ombudsman may be a viable route to access environmental justice.

This toolkit has been developed by the [Women's Earth and Climate Action Network \(WECAN\)](#) with support from the [Cyrus R. Vance Center for International Justice](#).

Since 2018, WECAN has been advocating for the ratification and implementation of the Escazú Agreement. We are organizing and collaborating with women leaders in Latin America and the Caribbean (LAC) to ensure that the solutions, experiences, and leadership of women land defenders are centered in the process of implementation. [Find more resources including legal analyses and reports on our website here.](#)

This toolkit was prepared by a partnering law firm. The information provided in this toolkit is for educational and informational purposes only. While every effort has been made to ensure the accuracy and completeness of the content, it should not be construed as legal advice or relied upon as a substitute for professional legal counsel.

