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Bahamas

Country Reports on Human Rights Practices

Bureau of Democracy, Human Rights, and Labor

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The Commonwealth of the Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II, the nominal head of state, is represented by an appointed Governor General. Prime Minister Hubert A. Ingraham's Free National Movement (FNM) has controlled the Government and Parliament since August 1992. The judiciary is independent.

The police and the small Bahamas Defence Force answer to civilian authority. There continue to be reports that police occasionally committed human rights abuses.

The economy depends primarily on tourism, which accounts for nearly two-thirds of the gross domestic product. Financial services, particularly offshore banking and trust management, are also a major source of revenue. While some citizens enjoy relatively high income levels, there is considerable underemployment and poverty. According to the Government's survey in May, the unemployment rate fell to about 7.8 percent.

The Government generally respects the human rights of its citizens; however, problems remain in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remain harsh. The police occasionally use arbitrary arrest, and lengthy pretrial detention and delays in trials are problems. Violence and discrimination against women, and violence against children also are problems. Discrimination against the disabled and persons of Haitian descent persists.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat and otherwise abused criminal suspects. Many of the charges of abuse involved beatings in order to extract confessions. Police officials continued to deny that there have been violations of defendants' rights. According to the officials, these rights are protected by the trial judge, who determines the admissibility of the defendant's statement as evidence at trial.

The Police Complaints and Discipline Unit, which reports directly to senior police officials, is responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant discipline within the police system or, in some instances, criminal prosecution by the Attorney General. Local human rights observers doubt the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believe that many incidents of improper police behavior go unreported. Police officials insist that their investigations are fair and thorough.

In 1998 the number of complaints against the police had dropped to 212 from 275 in 1997. Of that number, 15 resulted in disciplinary action, 76 were found to be unsubstantiated, 5 were withdrawn, and 116 were still under investigation at the end of that year. The acting Police Commissioner stated that the 1999 figures were expected to be lower than in 1998. Police officials believe that a continuing turnover in personnel is the contributing factor in disciplinary cases. There are approximately 2,200 officers to police a total population (excluding tourists) of 293,000.

Corporal punishment--abolished in 1984--was reinstated in 1991.

Conditions at Fox Hill, the only prison, continued to improve, but remain harsh and overcrowded. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, holds nearly 800 of the prison's total of over 1,400 inmates. The remaining prisoners are housed in medium- and minimum-security units, which are currently at, or above, maximum capacity. The prison's female population is around 40 inmates, considerably less than the female unit's full capacity of 200. Male prisoners are crowded into poorly ventilated cells that generally lack regular running water. There are no separate facilities for inmates being held on "remand" (detention pending trial or further court action), although some eventually are segregated in a medium security wing after being processed through maximum security. All inmates are screened for infectious diseases, and prison officials estimate that about 7 percent of the incoming prison population is infected with the HIV virus. Most prisoners lack beds. Many of them sleep on concrete floors and are locked in their cells 23 hours per day. Facilities for women are less severe and have running water. Organizations providing aid, counseling services, and religious instruction have regular access to inmates.

The Government has provided funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials have instituted some technical and vocational programs, and correctional officers are undergoing instruction to become certified trainers. Modern training facilities are equipped with new computers, and the prison also offers some educational and literacy programs for prisoners. The prison is constructing a new 80-cell maximum security building. This building, which is to have larger cells and more extensive plumbing, should provide some relief of the overcrowding in the existing block. Prison officials plan to renovate the current maximum security unit once the new building is in service.

Domestic and international human rights groups were able to visit the prison during the year.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, police occasionally arbitrarily arrest and detain persons.

In general, the authorities conduct arrests openly and, when required, obtain judicially issued warrants. The Government respects the right to a judicial determination of the legality of arrests.

Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Arrested persons appear before a magistrate within 48 hours (or the next business day for cases arising on weekends and holidays) to hear the charges against them. They may hire an attorney of their choice, but the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believe that this lack of representation risks hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there is no statistical evidence to indicate that this is more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tend not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities consider foreign offenders more likely to flee if released on bail. Judges sometimes authorize cash bail for foreigners arrested on minor charges, but in practice, foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Attorneys and other prisoner advocates continue to complain of excessive pretrial detention.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at the detention center located off Carmichael Road until arrangements could be made for them to leave the country, or they obtain legal status. Conditions at the detention center were Spartan, but the authorities do not hold most detainees for an excessively long period of time. Female and child detainees are housed together with the general population and are afforded little privacy. Because of a severe shortage of security personnel (8 guards for a detainee population that can range between 150 and 500), prisoners have vandalized much of the facility. Incidents of antagonism between detainees and guards are frequent. Most of these incidents occur among the Cuban detainees, a few of whom have been in custody for over a year. Haitians are usually repatriated within a few days. Many detainees are provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally are deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations are held at Fox Hill Prison where they may remain for weeks or months after serving their sentences, pending deportation.

In September Hurricane Floyd severely damaged the detention center. For safety reasons, the authorities had transferred detainees to facilities at Fox Hill Prison before the storm. A number of detainees escaped after the storm. At year's end, about 400 detainees were held in quarters formerly used by female inmates at Fox Hill; although physical conditions were better than those in the center, detainees complained of reduced privileges available in the prison compound. A new detention center was expected to open in the spring of 2000.

Exile is illegal and is not used.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and it is independent in practice.

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Its decisions may be appealed to the Court of Appeal, with the Privy Council in London being the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. Trials are fair and public. Defendants enjoy the presumption of innocence and the right to appeal. Defendants can confront and question witnesses against them and present evidence on their own behalf. However, the judicial system is plagued by a large backlog of cases, and delays reportedly can last as long as 2 years. To reduce the backlog, the Government has begun the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. The Supreme Court established a task force to recommend further reforms in the court system.

Despite these measures to improve efficiency, complaints persist of excessive pretrial detention, outdated record-keeping, delayed justice for victims, and a lack of updating laws on the books. Some judges have been brought in from abroad who are familiar with English common law, but lack experience regarding domestic law and procedures. There were isolated complaints of deviations from normal, fair court proceedings--particularly in civil matters--but there were no indications that this was a widespread problem.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary entry, search, or seizure, and the Government generally respects these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence, but a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation exists. Such an official may also authorize the search of a person (that extends to the vehicle in which the person is traveling) without a court order, should probable cause exist to suspect drug possession.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Government respects the constitutional provision for the right of free expression, and the political opposition criticizes the Government freely and frequently. Three daily and several weekly newspapers, all privately owned, express a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines are readily available.

There is a government-run radio station and four privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas (ZNS), presents a variety of views, although opposition politicians claim with some justification that their views do not receive as extensive coverage as those of the Government.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the authorities respect this right in practice. Groups must obtain permits to hold public demonstrations; the authorities generally grant such permits.

The Constitution provides for freedom of association, and the authorities respect this right in practice. The law permits private associations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation

The Constitution provides for these rights, and the Government respects them in practice.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There is no legislation to govern the processing of asylum seekers, and applications for political asylum are supposed to be adjudicated on a case-by-case basis at the cabinet level. The UNHCR has scaled back its involvement significantly since the beginning of 1998, leaving the screening of asylum applicants to trained immigration officials. Since this development, domestic and international human rights observers have criticized the Government for failing to screen potential asylum applicants adequately. These organizations have claimed that some Cubans with legitimate fears of persecution were repatriated without first having the opportunity to make a claim for asylum. However, UNHCR continues to review Bahamian interview records of Cuban detainees and offer advice. Although the repatriation agreement between the Bahamas and Haiti expired at the end of 1995, the Government continued to repatriate illegal Haitian immigrants based on the terms of that agreement. The Government signed a repatriation agreement with Cuba in 1998. During the year, the authorities repatriated 283 illegal Cuban immigrants and 2,886 Haitians. The authorities granted 21 persons (including 4 minors) first asylum.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Bahamas is a constitutional, parliamentary democracy with two major political parties and general elections at least every 5 years. An elected Prime Minister and Parliament govern. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote; voting is by secret ballot. The two principal political parties are the ruling Free National Movement and the opposition Progressive Liberal Party (PLP). The PLP led the country for 6 years of internal self-government from 1967 to 1973 and held power from independence in 1973 until 1992. The FNM won general elections in 1992 and 1997. The FNM holds 35 of 40 seats in the House of Assembly, and the PLP holds 5. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although it does pass legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There are no legal impediments to participation by women in government and politics, but women are underrepresented. The 40-seat House of Assembly has 6 elected female members, including the speaker of the House, and there are 6 appointed female Senators, including the government leader in the Senate. The Minister of Foreign Affairs, Janet Bostwick, also directs the Bahamian Bureau of Women's Affairs. Women also head the Ministry of Education and the Ministry of Labor, Immigration, and Training. The Chief Justice of the Supreme Court is a woman.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Individual human rights monitors and several domestic human rights groups, as well as representatives of international human rights organizations, operate freely, expressing their opinions and reporting their findings on alleged human rights

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Government generally respects in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contain certain provisions that discriminate against women.

Women

Violence against women continues to be a serious, widespread problem. Government crime statistics do not separate domestic violence from other incidents of violence. However, the Government established a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who are on call to respond in the event of a crisis. Throughout the year, the Government and private women's organizations conducted a public awareness campaign highlighting the problems of abuse and domestic violence. In May the Government authorized the Department of Social Services to establish two shelters, which is the first time that it has dedicated premises to assist battered women; they were projected to open in the spring of 2000. The Domestic Court, which deals exclusively with family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. However, advocates for women's rights see a need to improve the effectiveness of enforcement of the court's orders. They cite a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. While police training includes some presentations on domestic violence, law enforcement authorities admit that the problem has not been a top priority in training or resource allocation.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. Additionally, the law makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favor men over women. For example, when a person dies without a will, the estate passes to the oldest legitimate son, or in cases where there is no son, the closest legitimate male relative. Prominent women of all political persuasions continue to push for an amendment to the Constitution and related laws to redress this situation.

Women participate fully in society and are well represented in the business and professional sectors.

Children

The Government places a priority on maintaining adequate expenditures for child welfare and education. Public education is compulsory for children through the age of 16.

Awareness of parenting and responsibility for children has increased. However, child abuse and neglect remain serious problems, and cases of sexual abuse involving children age 14 and under are on the rise. The law requires that persons who have contact with a child they believe to be sexually abused must report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurs quite frequently. The police refer reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against the perpetrators. The Department may remove children from abusive situations if the court deems it necessary. In light of increasing awareness of children's issues, in April the Government announced that it would subsidize a home for sexually and physically abused children. Construction of the new facility started in October.

People with Disabilities

The Government has constructed additional housing units in Nassau designed specifically for the disabled, but very few buildings and public facilities are accessible to the disabled. Although the 1973 National Building Code mandates certain accommodations for the physically disabled in new public buildings, the authorities rarely enforce this requirement. The code also fails to mandate accommodations in new private buildings, which often lack accessibility as well. Advocates for the disabled complain of widespread job discrimination and general apathy on the part of private employers and political leaders towards their needs for training and equal opportunity. They note that there is no overarching legislation to implement and enforce equal opportunity policies in the workplace, educational institutions, or elsewhere.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance works with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations (NGO's) that offer services for the disabled, to provide a coordinated public and private sector approach to the needs of the disabled. A mix of government and private residential and nonresidential institutions provides a range of education, training, counseling, and job placement services for both physically and mentally disabled adults and children. There is still no disability act, but in December 1998, a government-sponsored conclave initiated a national task force to address issues facing the disabled. The task force drafted proposed legislation that it plans to introduce in 2000.

National/Racial/Ethnic Minorities

Unofficial estimates suggest that between 20 and 25 percent of the country's roughly 290,000 inhabitants are Haitians or Bahamians of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens reside in the Bahamas legally, some observers believe that similarly large numbers are in the country illegally. Although Haitians and Bahamians of Haitian descent are generally well integrated into society, interethnic tensions and inequities persist. Some members of the Haitian community complain of discrimination in the job market, and resentment of continued Haitian immigration is widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians are scarce. Leaders of the Haitian community approve of the Government's humane approach to the repatriation of illegal immigrants and point to the high number of ethnic Haitians in the public service.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides labor unions with the right of free assembly and association. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Workers exercise the right of association extensively, with almost one-quarter of the work force (and one-half of the workers in the important hotel industry) belonging to unions.

Three major umbrella labor organizations, the National Workers Council of Trade Unions and Associations, the Trade Union Congress (TUC), and the National Congress of Trade Unions, along with individual labor unions, all function independent of government or political party control.

The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Unions threatened several work stoppages against both public and private employers during the year. In order to resolve trade disputes more quickly, Parliament amended the Industrial Relations Act in 1996 to establish an industrial tribunal. According to the act, labor disputes are first filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross examination. The tribunal's decision is final and only is appealable in court on a strict question of law. Some employers complain that the industrial tribunal is biased

unfairly in favor of employees. All labor unions have the right to maintain affiliations with international trade union organizations.

b. The Right to Organize and Bargain Collectively

Workers freely exercise their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiate wage rates without government interference.

The Constitution and the Industrial Relations Act prohibit antiunion discrimination by employers. The act requires employers to recognize trade unions, and it requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government enforces labor laws and regulations uniformly throughout the country.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates assert that the port authority has allowed a Hong Kong-based company, which owns the harbor, airport, and many major hotels in Freeport, not only to monopolize industry but also to discourage unions.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor by all persons, including children, and such labor does not exist in practice.

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of children under the age of 14 for industrial work or work during school hours. Children under the age of 16 may not work at night. There is no legal minimum age for employment in other sectors, and some children work part time in light industry and service jobs. The constitutional prohibition of forced and compulsory labor, including that by children, is respected in practice (see Section 6.c.).

e. Acceptable Conditions of Work

The Fair Labor Standards Act permits the creation of a Wages Council to recommend the setting of a minimum wage, but the Government never has established such a council or a general minimum wage. However, in 1996 the Government established a specific minimum wage of \$4.12 (B\$4.12) per hour for all hourly and temporary workers throughout the public sector. In view of the high cost of living, this wage alone would not provide a decent standard of living for a worker and family. The act limits the regular workweek to 48 hours, provides for one 24-hour rest period, and requires overtime payment (time and a half) for hours beyond the standard.

The Ministry of Labor, responsible for enforcing labor laws, has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints, but inspections occur infrequently. The Ministry normally announces inspection visits in advance, and employers generally cooperate with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative employment for employees injured on the job but still able to work. The law does not provide a right for workers to absent themselves from dangerous work situations without jeopardy to continued

f. Trafficking in Persons

There are no laws that specifically address trafficking in persons; however, the Penal Code bans prostitution and prohibits the detention of persons against their will and for immoral purposes. There were no reports that persons were trafficked in, to, or from the country.

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