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Bahamas, The

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 Perry Christie's Progressive Liberal Party (PLP) regained control of the Government after May elections that observers found to be generally free and fair. The judiciary was generally independent.

The national police force maintains internal security, and the small Royal Bahamas Defence Force is responsible for external security and some minor domestic security functions such as guarding foreign embassies and ambassadors; both answer to civilian authority. There continued to be reports that the police occasionally committed human rights abuses.

The country has a developing market-based economy that depends primarily on tourism, which accounts for 60 percent of the gross domestic product. The country's population is approximately 305,000. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While many citizens enjoyed relatively high income levels, there was considerable underemployment and poverty. The unemployment rate was estimated at 9.1 percent during the year.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remained harsh. The police occasionally used arbitrary arrest and detention. Lengthy pretrial detention and delays in trials were problems. Violence and discrimination against women and violence against children also were problems. Discrimination against persons with disabilities and persons of Haitian descent persisted. Bahamas was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

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 or otherwise abused suspects. Many of the charges of abuse involved beatings to extract confessions. There were no formal complaints involving beatings to extract confessions filed during the year; however, in April a Nassau man alleged that two police officers pulled him from his home and beat him without provocation. The victim displayed visible bruises to the media. At year's end, the matter was under active investigation by the police complaints unit. Human rights monitors and members of the public continued to express concern over such instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority, and pledged to address any wrongdoing by police officers. According to officials, defendants' rights were protected by trial judges (see Section 1.e.).

The Police Complaints and Corruption Branch, which reports directly to the Deputy Commissioner of Police, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the Attorney General. Local human rights observers doubted the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believed that many incidents of improper police behavior were unreported. An independent civilian was supposed to be appointed to oversee the complaints and corruption branch; however, at year's end the Government had not selected anyone for this position. This civilian would report directly to the Minister of National Security and consult with the Police Commissioner. Police officials insisted that their investigations were fair and thorough. There were 398 complaints against the police during the year, compared with 428 in 2001. Of these 398 cases, 170 remained under investigation at year's end, and 88 resulted in disciplinary action. Examples of disciplinary action included suspension without pay, fines, and dismissal. No officers were dismissed during the year because of alleged human rights abuses. Police officials believed that continuing turnover in personnel was a contributing factor in disciplinary cases. There were approximately 2,200 officers.

Corporal punishment is permitted by law with some restrictions; however, it has not been used for several years. For example, caning was permitted at police stations but only if performed by a sergeant or higher ranking official. Cat-o'-nine-tails were allowed at prisons but have not been used for several years.

Conditions at Fox Hill, the only prison, continued to improve but remained harsh. Overcrowding was a major problem. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, held more than 700 of the prison's total of more than 1,400 inmates. The remaining prisoners were housed in medium- and minimum-security units that were at, or above, intended capacity. Male prisoners were crowded into poorly ventilated cells that generally lacked regular running water. Most prisoners lacked beds. Many of them slept on concrete floors and were locked in their cells 23 hours per day. With the opening of a new maximum-security wing in August, prison officials hoped to alleviate overcrowding and separate prisoners being held "on remand" (detention pending trial or further court action) from convicted prisoners. All inmates were screened for infectious diseases, and prison officials estimated that approximately 7 percent of the incoming prison

population was infected with the HIV virus. There were occasional escapes from Fox Hill prison (see Section 1.d.).

Organizations providing aid, counseling services, and religious instruction had regular access to inmates. The Government provided limited funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials instituted some technical and vocational programs, and correctional officers were undergoing instruction to become certified trainers, although the process was hindered by resource constraints. Modern training facilities are equipped with new computers, and the prison also offered some educational and literacy programs for prisoners.

Women were held separately from male prisoners. The prison's female population was around 40 inmates, considerably less than the female unit's full capacity of 200. Conditions for women were less severe, and the facilities had running water.

The new maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. Offenders younger than that, along with children made wards of the court by their parents because of "uncontrollable behavior," were housed at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

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 arrested and detained persons. In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. The law provides that a suspect must be charged within 72 hours of arrest. The Government generally respected 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 72 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Arrested persons may hire an attorney of their choice, and the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believed that this lack of representation risked hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there was no statistical evidence to indicate that this was more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tended not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities considered foreign offenders more likely to flee if released on bail. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, 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 continued to complain of excessive pretrial detention (see Section 1.e.). The Constitution mandates that suspects can be held for a "reasonable period of time" before trial, giving considerable flexibility. It was not unusual for a murder suspect to be held 2 years before trial and on occasion up to 4 years.

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. In the detention center, which can hold up to 600 detainees, women and men were housed separately. The highest occupancy at any one time was approximately 350. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. In addition to Haitians and Cubans, immigration authorities also housed illegal migrants from China, Equador, Venezuela, India, and Nigeria. Average length of detention varied dramatically by nationality and availability of funds to pay for repatriation. Cuban immigrants tended to have longer stays that reached 7 months and averaged 3.5 months. Many detainees were provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally were deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison where they may remain for weeks or months after serving their sentences, pending deportation.

Exile is illegal and was not practiced during the year.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision 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; the Privy Council in London is 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. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judicial system had a large backlog of cases, and delays reportedly lasted as long as 2 years. To reduce the backlog, the Government continued 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 and published a report in 1999 proposing modifications in the system to facilitate case flow management, including the disposition of cases within 6 months of initial filing.

Despite these measures to improve efficiency, complaints persisted of excessive pretrial detention, outdated record keeping, delayed justice for victims, and a failure to update new laws in the books. Some judges have been brought in from abroad; while familiar with English common law, they lacked experience regarding local 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.

In 1999 the final appeals court, the Privy Council, ruled that death-row inmates appealing their sentences must be given the chance to be heard by bodies such as the U.N. Human Rights Committee (UNHRC) and the Inter-American Commission on Human Rights (IACHR). Death-row inmates have petitioned the UNHRC or IACHR, but the Government, while it accepts the Privy Council's ruling, has not agreed that it will be bound by UNHRC or IACHR recommendations.

There were no reports of political prisoners.

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

The Constitution prohibits such actions, and the Government generally respected 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 also may authorize the search of a person (which 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 Constitution provides for freedom of speech and press, and the Government generally respected this right in practice.

Three daily and several weekly newspapers, all privately owned, expressed a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines were readily available.

There is a government-run radio station and five privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas, presented a variety of views, although opposition politicians claimed, with some justification, that their views did not receive as extensive coverage as those of the Government.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally grant such permits.

The law permits private associations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There was no separation of church and State in the country, and the Constitution explicitly calls for respect for Christian values; however, there were no allegations of violations of religious freedom during the year.

For a more detailed discussion see the [2002 International Religious Freedom Report](#).

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

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

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

There was no legislation governing the processing of asylum seekers, and applications for political asylum were supposed to be adjudicated on a case-by-case basis at the cabinet level. Trained immigration officials screened asylum applicants, and the UNHCR reviewed the interview records and offered advice on certain cases. Local and international human rights observers criticized the Government for failing to screen potential asylum applicants adequately. These organizations claimed that some Haitians with a legitimate fear of persecution were repatriated without having the opportunity to make a claim for asylum. 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, and on December 20, the Bahamian and Haitian Governments signed an agreement to share repatriation costs of illegal Haitian immigrants. They are all interviewed by immigration officials and given the opportunity to claim asylum. The Government signed a repatriation agreement with Cuba in 1998. The Royal Bahamian Defence Force brings all migrants intercepted at sea back to port.

The Department of Immigration reported that 5,462 Haitian, 68 Cuban, and 74 Dominican Republic citizens had been repatriated, out of a total of 6,368 repatriations. A total of 54 persons requested asylum during the year, and of these, 2 were recommended for refugee status.

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 exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The country is a constitutional, parliamentary democracy with 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 Progressive Liberal Party and the opposition Free National Movement (FNM). In May the PLP won 30 of 40 seats in the House of Assembly and formed the new Government under Perry Christie. The FNM won only six seats and independents won four. 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 were no legal impediments to participation by women in government and politics. The 40-seat House of Assembly has 8 elected women members and 7 appointed women Senators, including the President of the Senate. Cynthia Pratt was the country's first woman Deputy Prime Minister and first woman Minister of National Security. Women also headed the Ministry of Transportation and Aviation, the Ministry of Financial Services and Investment, and the Ministry of Social Services and Development.

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

A wide variety of domestic and international human rights groups generally operated without government

restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

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

The Government generally respected 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 contained certain provisions that discriminated against women.

Women

Violence against women continued to be a serious, widespread problem. Government crime statistics did not separate domestic violence from other incidents of violence. The Government operated a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who were on call to respond in the event of a crisis. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. In November 2000, the Department of Social Services in partnership with a private company established, for the first time, two safe houses to assist battered women. The Domestic Court, which exclusively addresses 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. Rape, including spousal rape, was a crime. Prosecutions and convictions on rape charges were common and the maximum penalty frequently was applied. However, advocates for women's rights saw a need to improve the effectiveness of enforcement of the court's orders. They cited 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. The police recognized domestic violence as a high priority and provided specialized training to several hundred officers in mandatory classes for all incoming officers as well as in ongoing training. Women's rights activists noted the new training the police had received and believed that it was a positive development.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favored 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 continued to push for an amendment to the Constitution and related laws to redress this situation. In 2001 Parliament passed legislation to amend the Constitution and eliminate this discrimination; however, the amendment (along with four other proposed constitutional changes) was defeated soundly in a referendum after the PLP and much of the local religious community opposed it. The Government promised to consult with the citizens before again moving forward with this legislation, but no firm timetable had been established to do so.

Women participated fully in society and were well represented in the business and professional sectors.

Children

The Government claimed child welfare and education are a priority but they lacked sufficient funding. The public schools, in particular, lacked basic educational materials, and facilities were overcrowded and

substandard. Public education was compulsory for children through the age of 16, and most children attended school until this age.

Both the Government and civic organizations conducted intensive public education programs aimed at the problem of child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. In 2001 there were 101 reports of sexual abuse of minors, 13 reports of incest, 18 reports of physical abuse, 83 reports of child neglect, and 9 cases of child abandonment. More recent statistics were unavailable.

The law requires that all persons who have contact with a child they believe to be abused sexually report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurred quite frequently. The police referred reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against perpetrators. The Department may remove children from abusive situations if the court deems it necessary. The highly publicized death of a 4-year-old boy, and subsequent arrest of his father, focused renewed attention on this issue.

Persons with Disabilities

Although the 1973 National Building Code mandates certain accommodations for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement. There was no overarching disability act. There were housing units in Nassau designed specifically for persons with disabilities, but very few buildings and public facilities were accessible to persons with disabilities. The code also failed to mandate accommodations in new private buildings, which often lacked accessibility as well. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward their need for training and equal opportunity. They noted that there was no general 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 worked with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations (NGOs) that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and nonresidential institutions provided a range of education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

National/Racial/Ethnic Minorities

Unofficial estimates suggest that between 20 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens resided in the country legally, some observers believed that similarly large numbers were in the country illegally. Haitian children were granted access to education and social services. Children born of non-Bahamian parents or to a Bahamian mother with a non-Bahamian father in the Bahamas do not automatically acquire citizenship.

Although Haitians and Bahamians of Haitian descent generally were well integrated into society, interethnic tensions and inequities persisted. Some members of the Haitian community complained of discrimination in

the job market, and resentment of continued Haitian immigration was widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians were scarce. Some leaders of the Haitian community approved of the Government's approach to the repatriation of illegal migrants and pointed 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, and the Government generally respected these rights in practice. 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 exercised the right of association extensively, with almost one-quarter of the work force (and 80 percent 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, and the National Congress of Trade Unions--along with individual labor unions, all functioned independently of government or political party control.

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 enforced labor laws and regulations uniformly throughout the country.

In order to resolve trade disputes more quickly, in 1996 Parliament amended the Industrial Relations Act to establish an industrial tribunal. According to the act, labor disputes first are 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 can only be appealed in court on a strict question of law. Some employers complained that the industrial tribunal was 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 exercised their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiated wage rates without government interference.

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. Workers have the right to strike, and it was generally respected in practice; however, the Government has the right to intervene in the national interest to assure delivery of essential services. Unions threatened several work stoppages against both public and private employers during the year.

Freeport was 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 asserted that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which owned the harbor, airport, and many

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor by all persons, including children, and such labor did 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 was no legal minimum age for employment in other sectors, and some children worked part time in light industry and service jobs. On June 14, the Government ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor.

e. Acceptable Conditions of Work

The Minimum Wage Act, passed in December 2001, established a minimum wage for the private sector of \$3.50 (B\$3.50) an hour or \$150 (B\$150) a week for the first time. In 2000 the Government established a minimum wage of \$4.66 (B\$4.66) per hour for all hourly and temporary workers throughout the public sector. In view of the high cost of living, these minimum wages did not provide more than a subsistence living for a worker and family. The act reduces the regular workweek from 48 hours to 40 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 was responsible for enforcing labor laws and has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occurred infrequently. The Ministry normally announced inspection visits in advance, and employers generally cooperated 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 remove themselves from dangerous work situations without jeopardy to continued employment.

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 to, from, within, or through the country, and the Government did not prosecute any cases against traffickers.