



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights](#) » [2003 Country Reports on Human Rights Practices](#) » [Western Hemisphere](#) » [Bahamas, The](#)

Bahamas, The

Country Reports on Human Rights Practices

Bureau of Democracy, Human Rights, and Labor

2003

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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 2002 elections that observers found to be generally free and fair. The judiciary was independent.

The national police force maintains internal security, and the small Royal Bahamas Defence Force (RBPF) 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 security forces 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 10.8 percent during the year.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports of unwarranted police killings and that police occasionally beat and abused detainees. 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.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, there were reports of possibly unwarranted killings by the RBPF.

In February, the body of a young man was found on the Grand Bahama Freeway. The family of the victim made allegations of police mistreatment following the coroner's report that his wounds were not the result of a traffic accident as previously thought. Police claimed there was no evidence to support the family's assertion, and the matter remained before the Coroner's Court at year's end.

On August 7, a RBPF reserve police officer shot and killed a 16-year-old girl. Police asserted that the victim's friend brandished a weapon and fired, which resulted in return fire by the police. The supposed gun used by the victim's friend was not found. The Coroner's Court, which investigates cases involving sudden or unnatural deaths arising from accident or violence, was reviewing her death at year's end.

In December 2002, police officers shot and killed a young man who was fleeing a suspicious vehicle. Claiming the man was armed and reaching for a gun, police initiated the gunfire. Further investigation proved the victim was unarmed. At year's end, this matter remained before the Coroner's Court.

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 past allegations of abuse involved beatings to extract confessions; however, no formal complaints involving beatings to extract confessions were filed during the year. Two cases alleging police brutality from 2001 and 2002 were still waiting to be reviewed by the Coroner's Court. 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 (see Section 1.d.).

Conditions at Her Majesty's Prison at Fox Hill, the only prison, 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 800 of the approximate 1,500 total inmate population. The remaining prisoners were housed in medium- and minimum-security units that were at, or above, intended capacity. There was no appropriate or effective inmate classification system. Prisoners were initially assigned to the Maximum Security Unit before a housing determination was made as a means of "breaking them in" to prison life. Male prisoners were crowded into poorly ventilated cells that generally lacked regular running water, or toilet and laundry facilities. Most prisoners lacked beds. Many of them slept on concrete floors and were locked in small cells 23 hours per day. Food service operations were inadequate and unsanitary. Opened in August 2002, the new Remand Center provided some overcrowding relief. However, prison officials estimated that there were approximately 700 prisoners awaiting trial, many of whom were confined in cells with convicted prisoners.

Prison officials estimated that approximately 8 percent of the prison population was infected with the HIV

Approximately one-third of prisoners suffered from tuberculosis.

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. In December, the Ministry of National Security initiated a farming program for the prisoners to become more self-sufficient. Modern training facilities were equipped with new computers, and the prison also offered some educational and literacy programs for prisoners; however, less than 25 percent of inmates participated in these programs.

Women were held separately from male prisoners. The prison's female population was approximately 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. However, women did not have access to the technical or vocational programs available to male prisoners.

The new maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending upon the severity of their crimes. Offenders younger than 16, 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. On October 26, a fire set by a resident of the Center resulted in the deaths of three girls. The girls were locked in their rooms, and it was alleged that there were not adequate fire safety procedures in place to evacuate the children. At year's end, an investigation was underway.

At the Migration Detention Center on Carmichael Road, children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father. Despite the potential of being held for long stretches of time, these children did not have access to educational materials or a place to exercise and play.

Domestic and international human rights groups visited the prison and detention center during the year.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, police occasionally arrested and detained persons arbitrarily. In general, the authorities conducted arrests openly and, when required, obtained judicially issued warrants.

The RBPF is commanded by a Commissioner who is supported by a Deputy Commissioner, four Assistant Commissioners, and a Director of Human Resources. The Force is divided into three districts: Headquarters, New Providence/Southern Bahamas, and Grand Bahama/Northern Bahamas. In 2002, the RBPF had 2,694 members.

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. The Government appointed a four-person committee to oversee the complaints and corruption branch; members 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 302 complaints against the police during the year, compared with 398 in 2002. Of these 302 cases, 173 remained under investigation at year's end, and 59 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.

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 did not provide legal representation except to destitute suspects charged with capital crimes. Recent estimates by AI showed that approximately 40 percent of inmates were not represented by legal counsel at their trial. 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, in the last fiscal year the Government spent approximately \$150,000 (B\$150,000) on attorneys in legal aid matters in New Providence and Grand Bahama, although a legislated legal aid program did not exist.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. 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. Many foreign suspects paid bail and fled the country to avoid prosecution and extended detention.

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. It was not unusual for a murder suspect to be held 2 years before trial and on occasion up to 4 years. An AI report stated that, in August 2002, at least 735 of the over 1,000 prisoners at Fox Hill were awaiting trial.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at a detention center located off Carmichael Road until arrangements could be made for them to leave the country, or they obtained legal status. In the detention center, which can hold up to 500 detainees (with tent space for an additional 500), women and men were housed separately. The highest occupancy during the year was approximately 750 in May. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. Average length of detention varied dramatically by nationality and availability of funds to pay for repatriation. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison where they may remain often 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.

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.

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; however, a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

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 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 granted 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. The Constitution explicitly calls for respect for Christian values, and there were no allegations of violations of religious freedom during the year.

For a more detailed discussion, see the [2003 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 providing for the granting of asylum and/or refugee status to persons who meet the definition of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, and applications for political asylum were supposed to be adjudicated on a case-by-case basis at the cabinet level. The Government asserted that all migrants who claimed asylum were interviewed by trained immigration officials; however, this was disputed by AI. The UNHCR reviewed the interview records of cases they were provided and offered recommendations 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. Coupled with the lack of Creole-speaking immigration officers, Haitian migrants were often unaware of their right to claim asylum, resulting in limited requests for asylum screening. In addition, those requesting asylum screening often lacked access to legal counsel.

The Department of Immigration reported that 4,654 persons were repatriated to their home countries during the year. A total of 12 persons (all Cuban nationals) requested asylum; 6 of these cases were recommended for approval and were pending a response from Cabinet at year's end. The other six were denied.

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 PLP and the opposition Free National Movement (FNM). In May 2002, the PLP won 29 of 40 seats in the House of Assembly and formed the new Government under Perry Christie. The FNM won only seven 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 had 8 elected female members; there were 7 appointed female Senators, including the President of the Senate. A woman served as Deputy Prime Minister and Minister of National Security. Women also headed several other ministries.

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

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were 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 toll-free hot line in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. In 2000, the Department of Social Services, in partnership with a private company, established, for the first time, a safe house 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 and has a backlog of at least a few months. The court can and does impose various legal constraints to protect women from abusive spouses or companions. Advocates for women's rights saw a need to improve the effectiveness of enforcement of the court's orders.

Women's rights groups 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 for all incoming officers and offered continuing training in domestic violence. The police force has made efforts to increase awareness of domestic violence in the Family Islands.

Rape, including spousal rape, is illegal. The RBPF Central Detective Unit issued a Preliminary Report stating there were 111 rapes reported during the year, down 20 percent from 2002. The Police Force credited public outreach programs and the involvement of the Department of Social Services, the Crisis Center, and the Adolescent Clinic for this decrease. Prosecutions and convictions on rape charges were common, and the maximum penalty was frequently applied.

Prostitution is illegal. According to the Chief Superintendent of Police, there was at least one raid of a "strip tease" establishment in which prostitution was practiced. No minors were found to be involved in this instance.

The Constitution does not provide women 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. Prominent women of all political persuasions continued to push for an amendment to the Constitution and related laws to redress this situation. However, the introduction of a similar amendment in 2002 failed for a lack of popular support, largely due to opposition from religious leadership.

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

Children

The Government claimed child welfare and education are priorities, but lacked sufficient funding to maintain and improve standards. The public schools, in particular, lacked basic educational materials, and facilities were overcrowded and substandard. Public education is compulsory for children through the age of 16, and most children attend school until this age. Cultural biases often forced unwed pregnant teenagers out of public schools, and a quasi-governmental group sought to put these girls in an alternative school program. The Department of Social Services is responsible for abandoned children up to 18 years of age, but had very limited resources at its disposal. The government hospital housed 21 abandoned children for a few years because there was no effective foster care program in which to house them.

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.

The Central Detective Unit reported 145 cases of unlawful sexual intercourse with minors during the year. An additional 17 cases of incest were reported to the police. Further breakdown of these statistics was unavailable. The law requires that all persons who have contact with a child they believe to be sexually abused 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.

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 were housing units in Nassau designed specifically for persons with disabilities, but very few buildings and public facilities were

accessible to persons with disabilities. Parking for the disabled was provided in most parking lots. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

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 (approximately 10 percent of the total population) resided in the country legally, some observers believed that an equal or greater number 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, nonviolent inter-ethnic 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.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides labor unions with the right of free assembly and association, and workers exercised 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. Almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonged 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 (IRA) prohibit anti-union 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 IRA 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,

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 IRA 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 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 asserted that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

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.

e. Acceptable Conditions of Work

Effective July 1, 2000, the minimum wage for government employees was \$4.45 (B\$4.45) per hour. A minimum wage for the private sector was established in January 2002, at \$4.00 (B\$4.00) per hour. 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 2001 Minimum Wage Act, which reduced 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 is 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

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.

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