



2008 Human Rights Reports: The Bahamas

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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The Commonwealth of the Bahamas is a constitutional, parliamentary democracy with a population of approximately 360,000, including an estimated 30,000 undocumented Haitians. Prime Minister Hubert Ingraham's Free National Movement (FNM) regained control of the government in May 2007 elections that observers found to be generally free and fair. The civilian authorities generally maintained effective control over security forces.

The government generally respected the human rights of its citizens. There were problems in some areas, including complaints of abuse by police and prison and detention center guards; poor detention conditions; poor functioning of the judicial system, leading to delays in trials and lengthy pretrial detention; violence against women and children; and discrimination against persons of Haitian descent.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, there were killings by police. Police investigated such incidents and referred them to a coroner's court when necessary for further evaluation.

On March 5, police shot a Nassau man in disputed circumstances. The victim later died, and the case was under investigation at year's end.

The September 2007 case in which a police officer shot and killed a resident of Andros Island was pending at year's end, although news reports raised questions about the disposition of the case, and there was no coroner's inquest as had been anticipated.

Two police shootings in November 2007, one at a Nassau crime scene and the other involving a psychiatric patient killed on hospital grounds, remained under investigation at year's end.

On January 8, the police officer who shot and killed a man on Bimini Island during a December 2007 altercation was charged with manslaughter, without a coroner's inquest, and released on bail pending trial.

There were no new developments since a coroner's court recommended murder charges against prison guard Sandy Mackey, who allegedly killed an inmate in 2006 in retribution for the death of a fellow officer during a prison escape.

The coroner's court reportedly faced a backlog of more than 150 cases, including six police shootings. In a typical

example, the results of a coroner's inquest into a 2004 fatal police shooting were reported on December 3, after a jury ruled the incident an accident.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution prohibits such practices, but human rights monitors and members of the public expressed concern over continued instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority.

Authorities brought charges against two officers in connection with the June 2007 beating of a suspect, Desmond Key, who died in a hospital on January 19. The officers were released on bail, and trial procedures continued at year's end.

No information was available about the outcome of charges placed in February 2007 against seven defense force members for beating a man on the island of Inagua in 2006.

The Privy Council in the United Kingdom upheld the government's use of flogging as a punishment, which human rights observers considered inhuman and degrading punishment.

Prison and Detention Center Conditions

Conditions at Fox Hill Prison, the country's only prison, remained harsh for many prisoners. Overcrowding was a major problem in the men's maximum-security block. Originally built in 1953 to hold 450 inmates, it held approximately 700 of the country's 1,400 prisoners. The remaining prisoners were held in medium- and minimum-security units that were at intended capacity. The prison remand area, built to hold 300 prisoners awaiting trial, was insufficient to hold the approximately 600 prisoners awaiting trial, leaving many pretrial detainees confined in cells with convicted prisoners in the maximum-security unit. Male prisoners in the maximum-security unit were crowded into poorly ventilated cells that generally lacked regular running water. Prisoners lacked beds, slept on concrete floors, and if not participating in work programs were locked in small cells 23 hours per day, often with human waste. Maximum-security inmates were allowed outside for exercise four days a week for one hour per day. Inmates complained of inadequate potable water, lack of medical care, and poor treatment.

There continued to be allegations of abuse by prison guards. Local attorneys and human rights observers asserted that the prison's internal affairs unit lacked the independence needed to investigate impartially allegations of abuse and misconduct; it conducted no investigations during the year. In 2006 the unit recommended that one officer be prosecuted for abuse of an inmate, which was pending at year's end.

The government continued funding improvements in prison facilities and prisoner rehabilitation programs. Prison officials continued to offer technical and vocational programs to eligible prisoners.

Conditions for women prisoners were less severe than for men; however, women did not have access to the same work-release programs available to male prisoners.

The prison has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending on 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 held at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

The Carmichael Road Immigrant Detention Center held up to 500 detainees (with tent space for an additional 500), and women and men were held separately. Haitians and Jamaicans were the most commonly interdicted migrants. The highest occupancy during the year was approximately 600. Observers complained of continuing abuse by guards, although immigration officials claimed that no such complaints were filed during the year. Human rights groups expressed concern that complaint investigations were handled internally without independent review and oversight. 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 except during weekly visitation. Despite the possibility of being held for months, children did not have access to education.

Neither domestic nor international human rights groups made any requests to visit the detention center or prison during the year. However, organizations providing aid, counseling services, and religious instruction had regular access to inmates.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, although police occasionally were accused of arresting and detaining persons arbitrarily.

Role of the Police and Security Apparatus

The Royal Bahamas Police Force (RBPF) maintains internal security, and the small Royal Bahamas Defense Force (RBDF) is responsible for external security, security at the Carmichael Road Detention Center, and some minor domestic security functions such as guarding foreign embassies and ambassadors. The Ministry of National Security oversees the RBPF and the RBDF.

A police officer involved in shooting or killing a suspect is automatically placed under investigation. The Police Complaints and Corruption Branch, which reports directly to the deputy commissioner without any independent oversight, 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 attorneys and human rights observers expressed concern that the Police Complaints and Corruption Branch lacked the independence needed to investigate impartially allegations of abuse and misconduct and that the perceived lack of impartiality discouraged full reporting of complaints.

There were 300 complaints against police through December 19, compared with 249 in 2007. Of these 300 cases, authorities resolved 139, 60 awaited judicial determination of a complainant's pending case, and 101 were under investigation. Of the 139 completed matters, 17 were referred to a police tribunal, 11 were resolved informally, warnings were requested in four cases, officers were discharged in three cases, and the rest were withdrawn (20), unsubstantiated (33), unfounded (8), had insufficient evidence (39), or did not require further action (4). Information on the nature of the complaints was unavailable, but in the past included assault, unethical conduct, unlawful arrest, and stealing. The number of criminal charges filed, if any, was not reported.

Arrest and Detention

In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause

exists. The law provides that a suspect must be charged within 48 hours of arrest. Arrested persons appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Police can apply for a 48-hour extension upon simple request to the court and for longer extensions with sufficient showing of need. Some persons on remand claimed they were not brought before a magistrate within the 48-hour time frame. The government generally respected the right to a judicial determination of the legality of arrests.

There is a functioning bail system. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally preferred 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 extended detention and prosecution.

Attorneys and other prisoner advocates continued to complain of excessive pretrial detention due to the failure of the criminal justice system to try even the most serious cases in a timely manner. The constitution provides that suspects can be held for a "reasonable period of time" before trial. Government officials stated that approximately 600 of the 1,400 prisoners at Fox Hill Prison were awaiting trial. Available government statistics suggested that approximately 100 prisoners had been held on remand without trial for more than two years. In September the minister of national security reported that 13 persons had been on remand for five years or more. This was recognized as a major problem in the justice system, as criminals accused of serious crimes made bail, often to commit more crimes, while many others were held indefinitely without trial. The minister also stated that more than one-third of those charged with murder during the previous 30 months were free on bail for a previous murder indictment.

The authorities detained illegal immigrants, primarily Haitians, until arrangements could be made for them to leave the country or they obtained legal status. The average length of detention varied significantly by nationality, willingness of governments to accept their nationals back in a timely manner, and availability of funds to pay for repatriation. Haitians usually were repatriated within one week, while Cubans were held for much longer periods. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill Prison, where they often remained for weeks or months after serving their sentences, pending deportation.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of five years. Trial by jury is available only in the Supreme Court, which handles most major cases. Magistrate's court decisions may be appealed to the Court of Appeal; the Privy Council in the United Kingdom is the final court of appeal.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial and view government evidence. Defendants have a right to appeal. There is a functioning system of bail, but individuals who could not post bail were held on remand indefinitely.

The judicial system had a large and steadily expanding backlog of cases, numbering as high as 8,700, which included hundreds of cases of the most serious types of violent crime. In July the newly appointed attorney general ordered an audit to determine the actual scope of the problem. Delays reportedly lasted five years or more. Local

legal professionals attributed delays to a variety of longstanding systemic problems, such as slow police investigation, inefficient prosecution strategies, lack of judicial capacity, lengthy legal procedures, staff shortages, and judicial inefficiency compounded by financial and space constraints. In November the government passed a bill to expand the possibilities for plea bargaining in order to speed trials and begin to address the backlog in the judicial system.

Defendants may hire an attorney of their choice, but the government provided legal representation only to destitute suspects charged with capital crimes, leaving large numbers of defendants without adequate legal representation. Lack of representation contributed to excessive pretrial detention, as some accused lacked the means to pursue the case toward trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, and there is access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

While the law usually requires a court order for entry into or search of a private residence, 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 of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views without significant restriction.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. However, the Plays and Films Control Board rates and censors entertainment.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

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.

The practice of Obeah, a version of voodoo, is illegal, and those convicted of practicing it were liable to three months' imprisonment.

Societal Abuses and Discrimination

There were no reports of societal violence or discrimination and no reports of anti-Semitic acts. The local Jewish community numbered approximately 200 persons.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and the government did not use it.

Protection of Refugees

Although the country is a signatory to both the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the government has not established a consistent system for providing protection to all refugees and asylum seekers. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. Applications for political asylum were adjudicated on a case-by-case basis at the cabinet level. The authorities did not grant asylum during the year.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The UNHCR reviewed the interview records of cases provided to it and offered recommendations on certain cases.

Local and international human rights observers criticized the government for failing to screen potential asylum applicants adequately. Those requesting asylum screening often lacked access to legal counsel. Human rights observers claimed that the government detained Cuban migrants for excessive periods. The government asserted that all migrants who claimed asylum were interviewed and screened adequately by trained immigration officials.

Stateless Persons

The government has not effectively implemented laws and policies to provide certain habitual residents the opportunity to gain nationality in a timely manner and on a nondiscriminatory basis. Children born to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father do not automatically acquire citizenship. Bahamian-born persons of foreign heritage must apply for citizenship during the year after their 18th birthday, sometimes waiting many years for a government response. Human rights activists claimed that the narrow window for

application, difficult documentary requirements, and long waiting times created generations of de facto stateless persons, i.e., those without citizenship in any country. Following rule changes instituted with government assent, individuals born in the country to Haitian parents were no longer required to pay the college tuition rate for foreign students while waiting for their request for citizenship to be processed. There were no reliable estimates of the number of stateless persons.

On November 19, the Immigration Department announced the initial results of an audit of approximately 2,000 outstanding residence and citizenship claims conducted in August 2007. The audit found that 86 persons, including 47 Haitians, were approved and 22 applications were denied, and more than 700 cases remained pending. However, the remaining claims, more than half the total, remained in different procedural categories or were regarded as incomplete.

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 based on universal suffrage.

Elections and Political Participation

The two principal political parties are the governing FNM and the opposition Progressive Liberal Party (PLP). In May 2007 national elections generally considered free and fair, the FNM won 23 of 41 seats in the House of Assembly and formed the new government under Hubert Ingraham. The election campaign under the incumbent PLP, however, was marred by instances of violence, the influential state-owned electronic media's alleged favoritism toward government candidates, and allegations of vote-buying.

The PLP lost the elections and unsuccessfully pursued court cases challenging the election results in three constituencies. On January 21, a court ruled in the new government's favor in the first of three challenges after a recount confirmed the disputed candidate's victory. On December 11, a court-ordered recount in the second case confirmed the victory of the government candidate. The third case reportedly was abandoned.

The House of Assembly had five elected female members; there were nine appointed female senators, including its president, in the 16-seat Senate. There was one woman in the new 19-member cabinet after two women, one also a senator, were appointed to other positions following cabinet changes in July.

Information on racial background was not collected, but there were several members of minorities in prominent positions in parliament and the cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year. Both hiring and procurement practices under the then incumbent PLP government came under intense scrutiny in the media and in parliament in 2007, with official corruption alleged.

An Organization of American States (OAS) expert committee released a report on government implementation of the Inter-American Convention against Corruption in December 2007. The exhaustive report noted the absence of whistleblower protections and insufficient transparency in government hiring of public servants and said that public contracting provisions "are inadequate in ensuring transparency."

Senior public officials, for example senators and members of parliament, were subject to financial disclosure under the Public Disclosure Act. Antibribery legislation designates the attorney general responsible for combating government corruption.

The RBPF operated a complaints and corruption branch, but no data were available regarding the number of corruption complaints received or investigations undertaken during the year. The OAS report found the RBPF mechanism to be inadequate in light of the government's obligations under the convention.

Media representatives criticized the lack of laws providing for public access to government information. Members of the local press also complained that the government failed to provide regular, open access to information, including information regarding alleged human rights violations. Specifically, press and local human rights groups complained that the government was not forthcoming about alleged human rights abuses by police and prison and detention center guards, citing a lack of transparency in investigations and publication of investigative reports.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, place of origin, political opinion, or creed, and the government generally enforced these provisions. However, the constitution and the law contain provisions that discriminate against women.

Women

Rape is illegal, but the law does not address spousal rape. The maximum penalty for a first-time offender is seven years' imprisonment, and in the case of a second or subsequent conviction, the penalty is 14 years' imprisonment. On November 26, parliament passed legislation increasing the maximum penalty to life imprisonment. According to the RBPF, there were 114 rapes reported during the year, a decrease from 136 in 2007. Prosecutions and convictions on rape charges were common.

Violence against women continued to be a serious, widespread problem. The law prohibits domestic violence, and the government generally enforced the law. However, domestic violence laws do not provide penalties separate from other crimes of assault and battery and do not effectively criminalize sexual violence within a marriage. On December 1, the Domestic Violence Act of 2007 came into force, but it was too early to assess its impact. The police reported that six of 54 killings recorded through September 23 were related to domestic violence. Women's rights groups cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes. The police recognized domestic violence as a high priority, provided specialized training for all incoming officers, and offered continuing training in domestic 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 continued public awareness campaigns highlighting the problems of abuse and domestic violence. The Ministry of Labour and Social Development's Department of Social Services, in partnership with a private organization, operated a safe house to assist battered women.

Prostitution is illegal and was not a widespread problem. There are no laws specifically addressing sex tourism. Police officials acknowledged that sex entertainment was a developing industry but did not consider sex tourism a problem.

The law prohibits criminal "quid pro quo" sexual harassment and authorizes penalties of up to B\$5,000 (\$5,000) and a maximum of two years' imprisonment. Civil rights advocates complained that criminal prohibitions were not enforced effectively and that civil remedies, including a prohibition on "hostile environment" sexual harassment, were needed.

The law 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 than for women with foreign spouses to confer citizenship on their children. The law does not include gender as a basis for protection from discrimination. Women were generally free of economic discrimination, and the law provides for equal pay for equal work.

Children

The government claimed child welfare and education were priorities but did not allocate sufficient funding to maintain and improve standards. Some public schools lacked basic educational materials and were overcrowded.

Both the government and civic organizations conducted public education programs aimed at child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. The RBPF operated a hot line regarding missing or exploited children.

The Department of Social Services reported that cases of child abuse increased during the year, and in some categories surpassed previous year's totals. Child neglect cases, for example, numbered 226 by August, which already exceeded the total for 2007. The ministry believed that only a minority of cases were reported.

The law requires all persons having contact with a child they believe to have been physically or sexually abused to report their suspicions to the police. Sexual exploitation of children through incestuous relationships occurred, and observers generally acknowledged that a small number of children were involved in illicit or unlawful activities. The ministry may remove children from abusive situations if the court deems it necessary. The ministry provided services to abused and neglected children through a public-private center for children, through the public hospital family violence program, and through a nonprofit crisis center.

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 found foster homes for some children, and the government hospital housed abandoned children with physical disabilities when foster homes could not be found.

Trafficking in Persons

On November 26, parliament passed legislation specifically addressing trafficking in persons for the first time. The law also prohibits prostitution and the procurement of persons for purposes of prostitution either in or outside the country by force, threats, intimidation, or the administering of drugs. The maximum penalty for trafficking in persons is life imprisonment.

There were reports that persons were trafficked within, to, or from the country, but the full nature and extent of the problem were undetermined. The previous lack of a legal prohibition rendered it difficult to measure accurately the extent of trafficking within the vulnerable illegal migrant communities. It was too early to assess the impact of the new legislation and how it will be implemented and enforced in order to prosecute perpetrators, protect and assist

victims, or prevent trafficking.

According to limited reports, men, women, and children may be trafficked for the purpose of labor exploitation. Local sources indicated that labor exploitation of undocumented Haitians could be widespread, and some immigrants may be subjected to conditions of involuntary servitude. Employers could coerce migrants to work long hours for no pay or below the minimum wage by withholding documents or threatening arrest and deportation. Migrant workers usually do not have access to labor protections under local law.

A 2005 International Organization for Migration report on human trafficking suggested a link between irregular migration and forced labor for domestic servitude, agriculture, and construction. Some commercial sexual exploitation of women and minors has been identified.

Local observers previously complained that the law does not protect trafficking victims, who might be fearful of pressing complaints due to emphasis on immigration enforcement. The new legislation details provisions for assistance and protection for victims, including witness protection and special immigration procedures for nonresidents to facilitate investigation and prosecution.

Persons with Disabilities

There is no specific law protecting persons with physical or mental disabilities from discrimination in employment, education, access to health care, or in the provision of other state services. Although the law mandates access for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement, and very few buildings and public facilities were accessible to persons with disabilities. 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 social development ministry's Disability Affairs Unit worked with the Bahamas National Council for Disability, an umbrella organization of nongovernmental organizations that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of such persons. A mix of government and private residential and nonresidential institutions provided education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

National/Racial/Ethnic Minorities

The country's racial and ethnic groups generally coexisted in a climate of peace and mutual respect without overt racial or other tensions. However, anti-Haitian prejudice and resentment regarding continued Haitian immigration was common. According to unofficial estimates, between 10 and 25 percent of the population were Haitians or persons of Haitian descent, making them the largest ethnic minority. Many persons of Haitian origin lived in shantytowns with limited sewage and garbage services, law enforcement, or other infrastructure. Haitian children generally were granted access to education and social services, but interethnic tensions and inequities persisted.

Lawyers for an illegal Haitian resident in Nassau, whom an RBDF officer shot and injured in May 2007, continued their civil suit seeking damages against the officer, the commander of the RBDF, and the attorney general for false arrest, false imprisonment, assault and battery, and malicious prosecution, even though the man was subsequently deported.

Members of the Haitian community complained of discrimination in the job market, specifically that identity and work permit documents were controlled by employers seeking leverage by threat of deportation. Some also complained of tactics used by immigration officials in raids of Haitian or suspected Haitian communities.

Other Societal Abuses and Discrimination

Societal discrimination against homosexuals occurred, with some persons reporting job and housing discrimination based upon sexual orientation. Although homosexual relations between consenting adults are legal, there was no legislation to address the human rights concerns of homosexuals, lesbians, bisexuals, or transgendered persons. In 2006 the Constitutional Review Commission found that sexual orientation did not deserve protection against discrimination.

Three killings of reportedly gay individuals during the year, following sensationalistic media reporting of gay links in two high-profile murders in Nassau in November 2007, added to the atmosphere of societal intolerance. These killings were still under police investigation at year's end.

Stigma and discrimination against persons with HIV/AIDS was high. Violence against persons with HIV/AIDS was not reported, although the May victim in one of the unsolved gay killings was the most prominent HIV/AIDS activist in the country. His death drew much media attention and caused the HIV/AIDS center to close for three months because press attention deterred those seeking information and treatment. Children living with HIV/AIDS also faced discrimination, and teachers often were not told that a child was HIV positive for fear of verbal abuse from both educators and peers. The government maintained a home for orphaned children infected with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law allows workers to form and join unions without previous authorization or excessive requirements, and those laws were applied in practice. Almost one-quarter of the workforce (and 80 percent of the workers in the important hotel industry) belonged to unions. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions.

The law provides for the right to strike, and while workers exercised this right in practice, the government has the right to intervene in the national interest to assure delivery of essential services. The law requires that before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Ministry of Labor and Social Development must approve a strike ballot. Surprise labor actions by employees of the telecommunications monopoly August 11-12 disrupted downtown Nassau and Freeport. Employers and government officials viewed the demonstrations as unsanctioned and illegal strikes, and disciplinary action was taken against workers involved, according to media reports.

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 law prohibits antiunion discrimination, and employers can be compelled to reinstate workers illegally fired for union activity. This law was generally enforced. Under the law, labor disputes first are filed with the labor ministry and then, if not resolved, are transferred to an industrial tribunal. The tribunal's decision is final and can be appealed in court only on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees. Employees at a salt plant went on strike August 8, citing, among other reasons, dissatisfaction with the referral of their grievances to the tribunal.

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. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor, including by children, there were reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

Although the law prohibits the employment of children under the age of 14 for industrial work or work during school hours, some children worked part-time in light industry and service jobs. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors. The labor ministry is responsible for enforcing these laws and did so adequately.

e. Acceptable Conditions of Work

The government sets minimum wages in a transparent and tripartite manner. The minimum wage for government employees, set in 2000, was B\$4.45 (\$4.45) per hour. A minimum wage for the private sector was established in 2002 at B\$4.00 (\$4.00) per hour. The labor ministry was responsible for enforcing the minimum wage but did not do so effectively. Undocumented migrant workers often earned less than the minimum wage. The minimum wage did not provide a decent standard of living for a worker and family.

The law provides for a 40-hour workweek, a 24-hour rest period, and time-and-a-half payment for hours worked beyond the standard workweek. These standards were enforced effectively.

The labor ministry is responsible for enforcing labor laws and had a team of inspectors that conducted on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints, although inspections occurred infrequently. The ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards. It was uncertain whether these inspections effectively enforced health and safety standards, although the ministry actively sought international assistance during the year to improve performance. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.