

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 342,400, 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; a poorly functioning 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 in the performance of their duties. 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.

In June a coroner's jury delivered a verdict of accidental death in the 2007 police killing of a resident of Andros Island.

The coroner's court received the case of the 2007 police killing of two armed men who failed to stop when fleeing the scene of a crime. An investigation continued into another 2007 incident involving an individual killed by police at Rand Memorial Hospital on Grand Bahama.

At year's end a magistrate's court was hearing the case against the police officer who shot and killed a man on Bimini Island in 2007.

Although a coroner's court recommended manslaughter charges against prison guard Sandy Mackey, who allegedly killed an inmate in 2006, Mackey died before he could be charged, and the matter was closed.

The coroner's court continued to face a heavy backlog. In 2008 the coroner's court had a backlog of more than 150 cases, including six police shootings.

#### 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.

In May a 15-year-old boy allegedly hanged himself in a holding cell while in police custody, according to media reports. A police autopsy was performed in June that determined hanging was the cause of death. The family alleged foul play, and after public pressure to revisit the case, a coroner's inquest began in November. The doctor who performed the autopsy testified that the boy's injuries were "consistent with a hanging" and "inconsistent with a beating." The family alleged that the hanging was a cover-up for a beating. The inquest continued at year's end.

In August authorities opened an investigation in the case of police officer Dwight Williamson, accused of raping a 15-year-old girl at the police station on August 11. Police escorted Williamson to a magistrate's court on October 1 to be arraigned.

On December 8, a judge heard the case of police constable Daniel Paul Smith, alleged to have had nonconsensual sex with a 19-year-old girl while on duty on September 28. Charged with rape, authorities suspended him, placed him on half-

pay, and required him to report to the police weekly.

In November a magistrate sent to the hospital a man charged with serial rape after he showed the judge welts on his torso and alleged police brutality. He claimed that he had been beaten by detectives into signing a statement; the resulting medical report was placed in his court file.

Amnesty International (AI) reported that Emmanuel McKenzie, chairman of an environmental organization, was harassed and assaulted by police and defense forces during a fundraising event in April 2008. AI stated that no investigation was initiated.

There were other allegations of police beatings and brutality throughout the year. Victim's families and community activists claimed that many officers had their cases thrown out of court or dropped by the Attorney General's Office. In addition many officers waited years for their court date, only to return to work without having their names cleared.

On December 3, a magistrate ruled that the prosecution had established a prima facie case against police officer Vaughn Pratt, arrested in 2007 and accused of having sex with two minors. The prosecution closed its case on June 23; the police suspended Pratt pending the outcome of the trial.

Authorities brought charges against two officers in connection with the 2007 beating of a suspect, Desmond Key. The officers were released on bail; after an investigation, authorities charged both officers with causing grievous harm. When Key died, the charges were upgraded to manslaughter, and the case was before a magistrate's court at year's end.

On June 12, authorities closed without prosecution a case involving a foreign journalist allegedly beaten by Defense Force guards at the Immigration Detention Center in 2006.

On July 1, a court acquitted the seven defense force members charged with 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.

#### 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 624 of the country's 1,319 prisoners. The remaining prisoners were held in medium- and minimum-security units that were at intended capacity. A remand center held 265 detainees. Male prisoners in the maximum-security unit were crowded into poorly ventilated and poorly lit 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. 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.

During the year authorities installed toilets in cells, added a medical facility and exercise yard within the remand facility, as well as a well-equipped health diagnostic unit and a pharmacy. They also created a classroom within the maximum-security facility to provide educational programs to high-risk offenders who could not attend classes within the correctional training institute. That facility had water treatment units installed and the dental unit renovated and refurbished.

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.

Conditions for female 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 664. Observers complained of continuing abuse by guards, although immigration officials stated 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.

The government made improvements to the Carmichael Road center during the year, including benches for seating and recreation, cable television, bunk mattresses, fans, and 100 roll-away mattresses for overflow. Two nurses conducted medical screening of detainees on a weekly basis; authorities issued care packages upon entry into the facility and installed a washer and dryer and additional pay phones for detainee use.

AI as well as local media wrote and released reports throughout the year alleging systemic abuse of detainees at the Carmichael Road center. In February the media reported that three Cuban detainees went on a hunger strike to protest conditions at the center. In an expansive interview with a local daily newspaper in June, an anonymous former officer at the center alleged widespread abuse of detainees that included killings. Media reports also claimed that detainees exchanged sex for food due to insufficient rations.

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. Some 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.

The complaints commission began an investigation after a police officer was accused of savagely beating his girlfriend in May. The police commissioner said that criminal charges and disciplinary action would be considered at the conclusion of the investigation. In June authorities arraigned four police officers on armed robbery and extortion charges, two of whom pleaded not guilty to the extortion charges; the other two were not required to enter a plea to the armed robbery charges. Authorities remanded the two alleged armed robbers to the Central Police Station, released the two alleged extortionists on bail, and ordered them back to court at a future date. In early November authorities arrested two police officers for an unauthorized raid on a bar but kept them on active duty while deciding whether to discipline them. If they are disciplined, they could face a court martial or a criminal trial.

There were 257 complaints against police through October, compared with 300 in 2008. Of these cases, 55 were sub judice, and 202 were under active investigation at year's end. Authorities resolved 184 cases, recommended 44 to the Police Court of Inquiry, found 46 to have insufficient evidence, ruled 37 cases unsubstantiated, found 8 cases required no further action, informally resolved 15 cases, dropped five cases as unfounded, executed one warning, made one recommendation for counseling and one reprimand, and dropped one case because the officer died. Complainants withdrew 25 cases. The overwhelming number of complaints involved allegations of assault, followed by unethical behavior, unlawful arrest, stealing, missing property, damage, unnecessary violence, threats of harm, causing harm, neglect, unlawful sexual intercourse, indecent assault, and threats of death.

#### Arrest Procedures and Treatment While in 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. The constitution provides the right for those arrested or detained to retain an attorney at their own expense; volunteer legal aides were sometimes available. Minors under the age of 18 have the right to communicate with a parent or guardian.

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.

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 581 of the 1,319 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. This was recognized as a major problem in the justice system, as criminals accused of serious crimes made bail, while many others were held indefinitely without trial. The minister also stated in 2008 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 handle only crimes with a maximum sentence of five years' imprisonment. Trial by jury is available only in the Supreme Court, which handles most major cases. Magistrate's court decisions may be appealed to the Judicial Committee of the Privy Council in the United Kingdom, which 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 bail system, but individuals who could not post bail were held on remand indefinitely. Defendants can elect to use a jury in criminal cases; serious offenses such as murder and fraud automatically go to a jury.

The judicial system had a large and steadily expanding backlog of cases, numbering as high as 8,700 in 2008, which included hundreds of cases of the most serious violent crime. In July 2008 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. According to media reports, the attorney general decided to drop some old criminal cases in which the evidence supporting the charges was either not substantive or so degraded that a conviction would be unlikely, to allow his prosecutors to focus on the most pressing cases.

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.

In November arguments concluded in the Court of Appeals over the constitutionality of the Listening Devices Act, but no ruling was made before year's end.

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

The government did not impose restrictions on public access to the Internet. There were no 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. According to the International Telecommunication Union, there were 32 Internet users per 100 inhabitants in 2008.

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 2009 *International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://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 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 government suspended the practice of systematically sharing its prescreening notes with the UNHCR but did seek UNHCR advice on specific cases of concern.

In April the government denied political asylum to Haitian national Anderson Pierre, stating he did not qualify for refugee status under the 1951 convention. Assaultants killed Pierre upon his return to Haiti. He had served as a bodyguard and driver for a commissioner in the Aristide government, and his wife claimed they fled Haiti after several attempts on their lives.

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 born outside of the Bahamas 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. The narrow window for application, difficult documentary requirements, and long waiting times created generations of de facto stateless persons. Individuals born in the country to Haitian parents were not 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.

In November 2008 the Immigration Department announced the initial results of an audit of approximately 2,000 outstanding residence and citizenship claims conducted in 2007. The audit found that 86 persons, including 47 Haitians, were approved, 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, alleged favoritism by the influential state-owned electronic media 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.

The House of Assembly had five elected female members; there were five appointed female senators, including its president, in the 14-seat Senate. There was one woman in the cabinet.

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

#### Section 4 Official Corruption and Government 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 political parties were subject to corruption allegations concerning the inappropriate transfer of government-owned land. The opposition party also charged the FNM government with corruption in relation to a controversial relocation of the container port. In July authorities suspended 16 customs officials over allegations that included falsifying documents, bribery, stealing, and evasion of customs duties. Police investigations into government contract corruption in the wake of 2004 hurricanes Frances and Jeanne continued at year's end.

In January authorities charged a former PLP senator with conspiracy and abetting an alleged extortion attempt. At year's end she faced retrial on September 6, 2010. In July authorities investigated a former PLP treasurer who was indicted on

money laundering charges in a foreign jurisdiction.

Senior public officials, such as 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, which received 11 corruption reports during the year: it sent one to the police tribunal, found that one was unsubstantiated, recommended criminal charges in one case, and had eight cases under investigation at year's end.

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 5 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.

The Data Protection Act of 2003 created a "commissioner" with ombudsman-like duties.

The government generally cooperated with international governmental organizations.

#### Section 6 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 prohibitions. However, the constitution and the law contain provisions that discriminate against women.

The country is made up of 700 islands and cays, 30 of which are inhabited. Information reflects the situation in the highly populated areas on New Providence and Grand Bahama. Limited information was available from the lesser populated out-islands.

#### Women

Rape is illegal, but the law does not address spousal rape, except if the couple is separating, in the process of divorce, or if there is a restraining order in place. The maximum penalty for all offenses, including a first-time offense, is life imprisonment. According to the RBPF, there were 90 rapes reported by October, a decrease from 114 reported in 2008. Prosecutions and convictions on rape charges were common.

Violence against women continued to be a serious, widespread problem. The law prohibits domestic violence as a crime separate from assault and battery, and the government generally enforced the law. The police reported that seven of 87 killings recorded through December 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 hotline 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 Labor and Social Development's Department of Social Services, in partnership with a private organization, operated a safe house to assist battered women. The ministry's Bureau of Women's Affairs was responsible for promoting and protecting women's rights.

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.

Couples and individuals generally could decide freely and responsibly the number, spacing, and timing of their children, and were not subject to discrimination, coercion, or violence regarding these choices. Access to family planning was universally available to persons age 18 and older and to younger persons with the consent of an adult. Pregnant teens

were removed from government educational institutions and placed in a special school, Providing Access to Continued Education, until after the birth of their children. Women had access to maternal health services. According to UN data, skilled personnel attended 99 percent of births, and 98 percent of mothers received prenatal and postpartum care. Services were available on a nondiscriminatory basis, although some illegal immigrants did not receive postpartum care because they had no fixed address.

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

Children born to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father born outside of the Bahamas do not automatically acquire citizenship. Otherwise, citizenship is acquired by birth in the country. There is universal birth registration; all births must be registered within 21 days of delivery. All residents, regardless of immigration status, had free access to education and social programs.

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 hotline regarding missing or exploited children. The Child Protection Act of 2007 included increased penalties for child abuse, mandatory reporting to police of all forms of child abuse, a provision for fathers of children born out of wedlock to pursue custody of the children, and a provision for mothers of children born out of wedlock to pursue maintenance of those children up to age 18.

The Department of Social Services reported that cases of child abuse increased during the year, and in some categories surpassed previous year's totals. From January through August, 355 child abuse cases were reported, while neglect cases for the same period were down slightly from 2008 to 217. The ministry believed that only a minority of cases were reported.

The law prohibits statutory rape of persons under the age of 16; victims between the ages of 14 and 16 carry penalties of up to 14 years' imprisonment, with harsher penalties involving persons under age 14. While a victim's consent is insufficient defense against allegations of statutory rape, it is sufficient defense if an individual can demonstrate that the accused had "reasonable cause to believe that the victim was above 16 years of age," provided the accused was under age 18.

Child pornography is against the law. A person who produces it is liable to life imprisonment; dissemination or possession of it calls for a penalty of 20 years' imprisonment.

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 anecdotal reports suggested that this was a particular problem in the out-islands. 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

In December 2008 parliament enacted 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 would be implemented and enforced to prosecute perpetrators, protect and assist victims, and prevent trafficking.

According to limited reports, men, women, and children may be trafficked for the purpose of labor exploitation.

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. The Foreign Ministry and the Women's Affairs Bureau have the lead on antitrafficking efforts, and the International Organization for Migration (IOM) met with an interagency committee that included various NGOs that work on assistance issues.

In November the IOM conducted antitrafficking training for government personnel in New Providence and Grand Bahama. Various law enforcement officers, social workers, and NGOs participated. Training included train-the-trainer components, sensitization, awareness, indicators, and referral as well as a discussion of the new law and jurisdiction of the various agencies involved.

The State Department's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### 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. However, provisions in other legislation address the rights of persons with disabilities, including a prohibition of discrimination on the basis of disability. 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. The Haitian community was characterized by high poverty, high unemployment, poor educational achievement, and poor health conditions. Haitians generally had difficulty in securing citizenship, residence, or work permits.

Lawyers for an illegal Haitian resident in Nassau, whom an RBDF officer shot and injured in 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. The economic recession led to an increase in resentment against the Haitian population and a tendency to blame Haitians for rising crime rates.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

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

Authorities brought charges in one of three killings of reportedly gay individuals in 2008, but the jury could not reach a verdict in the case of Troyniko McNeil (alleged to have murdered handbag designer Harl Taylor). A retrial was set for July 12, 2010, and he was released on B\$30,000 (\$30,000) bail. There were no new developments in the investigations into the other killings by year's end.

One 16-year-old male rape victim alleged that investigators treated his case poorly because he was gay. He claimed that

he had to wait hours to report his case or be seen by a medical examiner, and that the investigating authorities treated the case as a "joke." However, in early December a court convicted a man for having "unnatural intercourse" with the victim.

#### Other Societal Violence or Discrimination

Stigma and discrimination against persons with HIV/AIDS was high, but there were no reports of violence against persons with HIV/AIDS. Children 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 7 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.

##### b. The Right to Organize and Bargain Collectively

Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Employers can apply to have union recognition revoked if a collective agreement is not reached after 12 months. 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. After a massive sick out by the Bahamas Nurses Union over a health insurance dispute, the government announced it would prosecute doctors who falsified sick notes. The nurses returned to work, but the issue remained unresolved at year's end.

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.

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 2008 IOM World Migration Report stated that smuggling rings continued to take advantage of the demand for labor by bringing in irregular migrants from Haiti. Some commercial sexual exploitation of women and minors was also identified.

##### 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.

