

# BAHAMAS

## EXECUTIVE SUMMARY

The Commonwealth of The Bahamas is a constitutional, parliamentary democracy. 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. Security forces reported to civilian authorities.

The most serious human rights problems were complaints of abuse by police and a poorly functioning judicial system, leading to delays in trials, lengthy pretrial detention, and witness intimidation.

Other human rights problems included poor detention conditions; corruption; violence and discrimination against women; sexual abuse of children; and discrimination based on sexual orientation, HIV status, or ethnic descent.

The government took action against police officers accused of abuse of power, and there was not a widespread perception of impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings. However, there were occasional reports of fatal shootings by police. Police investigated all such incidents and referred them to a coroner's court for further evaluation. In addition, all deaths in police custody go before the coroner's court.

Authorities reported three fatalities in police operations during the year: one shooting while police were executing a search warrant, another during an armed robbery, and the third during a physical altercation with officers.

On February 18, an autopsy report showed that police shot in the back and killed Dudley Jyvonne Collie Jr. from a distance in July 2010, despite an assertion by police that he was shot in the left shoulder and side after pointing a gun at them. After a police investigation, the matter was sent to the coroner's court in April. Any action to be taken against the police officer will be determined when the

coroner's inquest is complete. In the meantime, a family member filed a civil suit against the police department.

On January 28, a news article quoted former assistant commissioner of police Paul Thompson as agreeing with public opinion that the police were "a bit too trigger happy." He suggested they be issued tasers to reduce police-related shootings.

The coroner's court resolved 1,278 cases during the year and faced a backlog of 846 cases, including a few pending cases involving police shootings.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

Although the constitution prohibits such practices, citizens made numerous reports alleging instances of police abuse of criminal suspects. Former police officials acknowledged that use of excessive force was a problem within the Royal Bahamas Police Force (RBPF).

A newspaper editor and an attorney published an Op-Ed piece asserting that they previously represented numerous clients who were tortured by the RBPF in order to extract confessions, and that they believed the RBPF used torture to obtain confessions on a regular basis.

In January detention center guards fired rubber bullets into an angry crowd to regain control after a brawl broke out among detainees.

In August when authorities arraigned two brothers on murder charges, their attorney claimed that while the brothers were in custody, police beat them with aluminum bats and put plastic bags over their heads in order to extract involuntary statements. In addition their attorney said that police withheld food from the brothers.

Citizens filed 120 assault complaints against 137 police officers through October, and the deputy commissioner of police said 66 investigations had been closed. No information was available about the outcome of those investigations.

## **Prison and Detention Center Conditions**

Conditions at Fox Hill Prison, the country's only prison, remained harsh and unsanitary 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 700 of the country's 1,300 prisoners. To address overcrowding in the Remand Center at the same site, stemming from processing backlogs within the judicial system, approximately 300 detainees awaiting trial were housed in the maximum-security block while they awaited trial. The remaining prisoners were held in medium- and minimum-security units that were at intended capacity.

Due to overcrowding in the maximum-security block, three or four male prisoners were forced to live in cells originally intended for one or two prisoners. Others remained in poorly ventilated and poorly lit cells that lacked regular running water. In 2010 authorities installed composting toilets in an attempt to move away from the unsanitary practice of removing human waste by bucket called "slopping." However, these toilets were ineffective and were subsequently removed, and slopping resumed. Maximum-security inmates were allowed outside for exercise four days a week for one hour per day.

Four reverse osmosis units installed at various prison housing units allowed each inmate to extract a minimum of one gallon of potable water during exercise time each day, free of charge. In addition, bottled water was available for purchase from the inmate commissary.

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 did not have a separate section for juvenile offenders between the ages of 16 and 18 but used a classification system to attempt to separate them from the most dangerous adults. Offenders younger than 16, along with children made wards of the court by their parents, were held at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls. After five boys escaped from the Simpson Penn Center in October, the minister of state for social development declared that the center was not adequately staffed but asserted that the government would hire more staff to remedy the situation.

Generally prisoners and detainees had reasonable access to visitors and were permitted religious observance. Organizations providing aid, counseling services, and religious instruction had regular access to inmates. At their request, prisoners

are entitled to an audience with the superintendent or a designee to lodge complaints. The superintendent was available to hear the complaints of prisoners every day of the week except Sundays. The government said that there were 20 complaints to judicial authorities about situations in the prison, mostly related to a desire to be placed in the day-release work program, a shortage of recreational equipment, and greater access to dental facilities. Officials stated that they investigated all credible allegations. Authorities conducted 43 preliminary inquiries and 25 investigations of staff and inmates. There were three inmate deaths during the year.

The highest occupancy at the Carmichael Road Immigrant Detention Center during the year was 455 persons. The center was originally a school and was converted into a detention center in the mid-1990s to accommodate the increase in number of illegal migrants. When the center initially opened, it consisted of four dormitories, each with a 50-bed capacity. Two of those dormitories burned down, limiting the current facility to two dormitories with the capacity for 100 detainees. The dormitories were gender-segregated and secured using locked gates, metal fencing, and barbed wire. When the dormitories are at maximum capacity, detention center staff utilize the floor of the main hall in the medical building to accommodate up to another 50 individuals with sleeping space. Any additional detainees sleep outside.

As of December 8, there were 109 detainees (86 men, 17 women, and six children). Authorities held six detainees for more than 18 months and four others for more than 12 months. Haitians and Jamaicans were the most commonly interdicted migrants. In October authorities temporarily transferred 65 detainees to the Fox Hill Prison after a Haitian migrant tested positive for cholera. No further cases were reported. The center transferred child detainees intercepted without their parents to a hostel separate from the detention center. Child detainees with a parent were held in the women's dormitory at the detention center.

Authorities reported no complaints from detainees during the year. However, detainees did not have access to an ombudsman or other means of submitting uncensored complaints, although they did have access to public pay telephones. Earlier in the year, as a result of a well malfunction, there were unsanitary conditions in the toilet and shower facilities, as well as a lack of potable water. Authorities subsequently remedied these conditions, and in December drinking water was available from a tap in the men's facility. The bathroom sinks in the women's facility were not functioning but the toilets and shower were in working order. Women drew their drinking water from the shower.

The government introduced additional bureaucratic procedures for some nongovernmental organizations (NGOs) to gain access to the detention center, making it difficult to visit detainees on a regular basis. Human rights organizations complained that donations made to the detention center did not appear to be utilized for the benefit of detainees.

#### **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 (PCCB), which reports directly to the deputy commissioner, is responsible for investigating allegations of police brutality or other abuse. 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. The PCCB had 21 staff members to process complaints against police officers.

In addition to the PCCB, the government established an independent body--the Police Complaints Inspectorate Office (PCIO)--on New Providence and Grand Bahama islands in 2010 to investigate complaints against police. The PCIO, which is composed of five citizens, met eight times during the year to consider 60 complaints against officers, most of which were assault and unlawful arrest cases. No information was available on the outcome of the PCIO proceedings.

There were 287 complaints against police during the year, compared with 385 in 2010. Of these cases, the PCCB recommended 34 to the Police Tribunal, informally resolved 16, found five to be unsubstantiated, determined that 31 were unfounded, and concluded that 21 had insufficient evidence. Complainants

withdrew 37 cases; the remainder were pending. The Police Tribunal processed 21 of the 34 complaints sent to it with the following outcomes: It fined 10 officers, dismissed two officers from the force, recommended six officers for dismissal, and reprimanded three officers. The complaints included assault, unethical behavior, unlawful arrest, stealing, damage, neglect of duty, missing property, causing harm, threats of death, threats of harm, and harassment.

### **Arrest Procedures and Treatment While in Detention**

In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. Serious cases, including suspected narcotics or firearms offenses, do not require warrants where probable cause exists. The law provides that authorities must charge a suspect 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 age 18 have the right to communicate with a parent or guardian.

There was a functioning bail system. Individuals who could not post bail were held on remand until they faced trial. 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, in view of possible delays in court cases and harsh conditions in 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, which new crime legislation passed in October defined as two years. Government officials stated that approximately 600 of the 1,300 prisoners were awaiting trial. To begin to address the overcrowding issue, in October authorities introduced a new electronic ankle bracelet surveillance system in which they released select suspects awaiting trial with the ankle bracelet in place on the understanding that the person would adhere

to strict and person-specific guidelines defining allowable movement within the country. The prison had 150 persons enrolled in the program and the capacity to enroll up to 2,000.

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 to two weeks, 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. Some detainees complained that they missed flights for which they had purchased their own tickets because they were not released when detention center managers told them they would be.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. However, sitting judges are not granted tenure, and some law professionals asserted that judges were incapable of rendering completely independent decisions due to lack of job security.

#### **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. Defendants can elect to use a jury in criminal cases; serious offenses such as murder and fraud automatically go to a jury.

Although defendants generally have the right to confront witnesses, a law termed the Witness Protection Act passed in October allows, in some cases, for witnesses to testify anonymously against accused perpetrators. The prime minister advocated for the bill in response to more than 19 cases of intimidation or killing of witnesses, saying it was necessary because the “care of victims and witnesses of crime is causing ‘serious damage’ to the successful prosecution of criminals.”

As in previous years, a significant backlog of cases waiting to be tried by the Supreme Court remained a problem. Delays reportedly lasted five years or more. To begin to address the issue, the government added a fifth criminal trial justice and court at the Supreme Court level. Local legal professionals attributed delays to a variety of longstanding systemic problems, such as slow and limited police investigations, inefficient prosecution strategies, limited forensic capacity, lengthy legal procedures, and staff shortages in the Prosecutor's Office.

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 their 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**

#### **Status of Freedom of Speech and Press**



The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective--albeit extremely backlogged--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 credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the 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**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **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 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 did not systematically

share its prescreening notes with the UNHCR but did seek UNHCR advice on specific cases of concern.

### **Protection of Refugees**

Access to Asylum: The government has not established a consistent system for providing protection to all refugees and asylum seekers. When they occurred, applications for political asylum were adjudicated on a case-by-case basis at the cabinet level. The authorities received 11 asylum requests, of which none were granted during the year but two were still in progress at year's end.

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 trained immigration officials interviewed and adequately screened all migrants who claimed asylum.

### **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 a 12-month window following 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. However, the government did not consider many of these individuals stateless, because they were often eligible for the citizenship of their parents and could apply for Bahamian citizenship on their 18th birthday.

There were no reliable estimates of the number of de facto stateless persons. Such persons often faced waiting periods of several years for the government to decide on their nationality applications and, as a result, lacked proper documentation to secure employment, housing, access to health services, and other public facilities during this period.

Individuals born in the country to non-Bahamian parents were eligible to apply for certificates of identification that entitled them to work authorization, access to

grade school-level education, and a fee-for-service healthcare insurance program. Human rights advocates criticized the health insurance program as having unrealistic payment requirements that prohibited widespread access. Individuals born in the country to non-Bahamian parents were not required to pay the college tuition rate for foreign students while waiting for their request for citizenship to be processed.

### **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**

Recent Elections: In 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. During the year, a Boundary Commission redrew the lines for voting districts in preparation for the next elections in 2012. Members of the opposition Progressive Liberal Party and Democratic National Alliance (DNA) accused the FNM of gerrymandering and a biased process. Local civil society members criticized the government for lack of transparency in campaign finance, potentially exposing politicians to unethical influence by major contributors. There is no legislation in place to regulate election finance, which means that politicians are not required to declare campaign contributions and are not bound to utilize contributions for campaign purposes.

Participation by Women and Minorities: 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. However, there were some reports of government corruption during the year.

A preliminary audit report in July of the Education Loan Authority (ELA) suggested that large sums of money were used for personal reasons by ELA officials and were either misreported or unreported. In June RBPF officers demanded a forensic audit of the force's financial accounts, claiming abuse and misuse of the accounts for several years. Authorities arrested 12 persons, including six employees in the Road Traffic Department, for fraudulently registering vehicles in a scam that caused B\$10 million (\$10 million) in losses.

Because the government estimated that it loses about B\$100 million (\$100 million) a year due to corruption in the Department of Customs, in June laws were amended so that customs officers found complicit in scams could be prosecuted more swiftly.

Senior public officials, such as senators and members of parliament, were subject to financial disclosure under the Public Disclosure Act. However, not all of them complied with the requirement. In September a DNA candidate called on Prime Minister Ingraham to comply with the requirement, since in February 2010 Ingraham said he was among the group of politicians who had not complied with the law on yearly public disclosures. Antibribery legislation designates the attorney general as responsible for combating government corruption.

Media representatives criticized the lack of laws providing for public access to government information. Members of the local press also continued to complain 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.

Government Human Rights Bodies: A governmental commissioner with ombudsman-like duties enjoyed the government's cooperation and was considered effective.

## **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 consists of 700 islands and cays, 30 of which are inhabited. Information in this report 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 and Domestic Violence: Rape is illegal, but the law does not protect against 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 rape offenses, including a first-time offense, is life imprisonment. Survivors reported 107 rapes during the year, for which authorities initiated 40 prosecutions. The minister for national security noted that annual rape figures through October 11 showed an increase of 38 percent compared with the previous year.

Violence against women continued to be a serious, widespread problem. Assailants killed a record number of 16 women during the year, compared with 10 in 2010. A local NGO that offers an abuse hotline reported receiving a "tremendous" increase in calls relating to intimate partner violence and domestic abuse. Domestic abuse law prohibits domestic violence as a crime separate from assault and battery, and the government generally enforced the law. In January police announced that complaints of domestic violence could no longer be withdrawn without first going before a magistrate to do so. (In the past police stopped investigations if a complainant withdrew the complaint.) Assistant Commissioner Hulan Hanna stated that police made the adjustment to better combat the high levels of domestic abuse in the country.

Women's rights groups cited some reluctance on the part of law enforcement authorities to intervene in domestic disputes. The Bahamas Crisis Center worked

with police by providing them with a counselor referral service to utilize when encountering rape victims.

The government operated a toll-free hotline in New Providence and Grand Bahama, run by trained volunteers at the Bahamas Crisis Center, 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.

Sexual Harassment: 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. No information was available about the number of reports of workplace sexual harassment during the year. 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.

Reproductive Rights: 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. Authorities removed pregnant teens from government educational institutions and placed them in a special school operated by the Providing Access to Continued Education Foundation until after the birth of their children. The Maternal and Child Health Unit of the Ministry of Health provided information pamphlets on maternal and child health to clinics. A government Web site provided information for maternal and child health-care services provided by various clinics throughout the country. 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.

Discrimination: 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**

Birth Registration: Children born to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father 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.

Child Abuse: 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 for those children up to age 18.

The Department of Social Services reported 636 cases of child abuse during the year. They included 141 cases of physical abuse, 41 cases of neglect, 10 cases of abandonment, and 11 cases of incest. In addition the RBDF reported 110 cases of adults having unlawful sexual intercourse with children 15 years old and younger. Although the Ministry of Foreign Affairs reported no charges of rape or unlawful sex against teachers during the year, the press reported two teachers on Andros island were under investigation by the Ministry of Education for sex with teenage girls. In July authorities charged a police constable with raping a 13-year-old girl.

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. The law provides penalties for the rape of persons between the ages of 14 and 16 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.

Sexual exploitation of children through incestuous relationships occurred, and anecdotal reports continued to suggest 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 a court deems it necessary. The ministry provided services to abused and neglected children through a public-private center for children, the public hospital family violence program, and the Bahamas 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.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. The law considers any association or exposure of a child to prostitution or a prostitution house as cruelty, neglect, or ill treatment of a child. Additionally, the offense of having sex with a minor carries a penalty of life imprisonment. 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.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

### **Anti-Semitism**

There were no reports of anti-Semitic acts. The local Jewish community numbered approximately 200 persons.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/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 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 Disability Division within the Ministry of Labor and Social Development reported providing the following services during the year: disability allowances to disabled persons; financial assistance to procure prosthetics, wheelchairs, hearing aids, and other assistive devices; regular prosthetic committee meetings; annual government grants to NGOs serving the disabled community; crisis intervention counseling; and Braille classes.

In May the media reported allegations of patient abuse at the Sandilands psychiatric facility. Orderlies were accused of violently abusing institutionalized patients, and nurses were said to be too afraid to speak out.

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. However, anti-Haitian prejudice and resentment regarding Haitian immigration was widespread. 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.

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.

In February immigration and RBDF officers were accused of using excessively aggressive tactics including crowbars and maul hammers to damage property and beat Haitian immigrants.

Haitians also claimed that authorities stole cell phones and money from them on a regular basis.

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

Societal discrimination against gay men and lesbians occurred, with some persons reporting job and housing discrimination based upon sexual orientation. Although same-sex sexual activity between consenting adults is legal, the law defines the age of consent for same-sex couples as 18 years, compared to 16 years for heterosexual couples. No domestic legislation addresses the human rights concerns of lesbian, gay, bisexual, and transgender (LGBT) persons. The 2006 Constitutional Review Commission found that sexual orientation did not deserve protection against discrimination.

In June a father told the press that the rape and murder of his daughter, who was a lesbian, may have been a hate crime. The police investigated but could not prosecute as a hate crime since no such law existed.

The July murder of photographer Sharvado Simmons remained unsolved, but some members of the LGBT community believed he was killed by a group of men seeking retribution for a previous incident where Simmons solicited and deceived one of the men while dressed “in drag.”

### **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. Freedom of Association and the Right to Collective Bargaining**

The law protects the right of workers to form and join independent unions, participate in collective bargaining, and conduct legal strikes, and it prohibits antiunion discrimination.

Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions, but other public sector workers are permitted to join unions. Employers can apply to have union recognition revoked if a collective agreement is not reached after 12 months.

Employers can be compelled to reinstate workers illegally fired for union activity. 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.

The government effectively enforced labor laws, including the right to form and join independent unions and to strike. Unions and employers negotiated wage rates without government interference. The ministry reported various forms of labor violations during the year, all of which it stated were resolved in a timely manner.

The Ministry of Labor and Social Development reported that worker organizations were not affiliated with government or specific political parties and that it did not receive any reports of threats of violence targeting union leaders by employers. Workers occasionally filed disputes with the authorities involving "union-busting" charges, and the ministry asserted that it consistently upheld the applicable labor statutes to protect worker rights. There were reports of violations of collective bargaining rights from some unions, and in some cases the courts ruled in favor of the plaintiffs and compensated them accordingly.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, and the Ministry of Labor and Social Development asserted that no cases of forced labor were reported during the year. However, local NGOs maintained that exploited workers often did not report their circumstances to government officials for fear of the threat of deportation.

There were reports that non-Bahamian laborers suffered abuses at the hands of their employers, who were responsible for endorsing their work permits on an annual basis. Specifically, local sources indicated that employers reportedly obtained B\$1,000 (\$1,000) work permits for non-Bahamian employees and then required them to “work off” the permit fee over the course of their employment or otherwise risk losing the permit and their ability to work legally within the country.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children under age 14 for industrial work or work during school hours. Children under age 16 may not work at night. There was no legal minimum age for employment in other sectors. Occupational health and safety restrictions apply to all younger workers.

The Ministry of Labor and Social Development is responsible for enforcing laws regulating working hours for children, as well as occupational health and safety restrictions.

Some children as young as 12 years old worked part time in service jobs in the evenings after school.

### **d. Acceptable Conditions of Work**

The minimum wage was B\$4.45 (\$4.45) per hour for hourly workers, B\$35 (\$35) per day for daily workers, and B\$150 (\$150) per week for weekly-paid workers.

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. The law stipulates paid annual holidays and does not provide for compulsory overtime.

The government sets health and safety standards. According to the Ministry of Labor and Social Development, the law protects all workers, including migrant workers and undocumented workers in areas including wages, working hours, working conditions, and occupational and safety standards.

The ministry was responsible for enforcing labor laws, including the minimum wage, 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 to improve performance. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

No workplace fatalities were reported during the year. The only major industrial accident reported involved a tornado touching down at Freeport Container Port that resulted in three deaths.