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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Bahamas**

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## **Introduction**

1. The purpose of this National Report is to describe the status of human rights in the Commonwealth of The Bahamas. This National Report outlines the human rights commitments of the Government of The Bahamas and informs on the domestic framework in support of these commitments.
2. The Bahamas has a long-standing, clear policy of respect for the fundamental human rights of all individuals. The Constitution of The Bahamas, as well as domestic legislation provides both protection of human rights and avenues of redress for any individual suffering abuse or compromise of their fundamental human rights.
3. Each year the Government of The Bahamas facilitates domestic and international assessments on the nature and scope of human rights violations reported in the country. Reports of violations are investigated, and where appropriate, corrective action taken. Respect for human rights has been specifically integrated into the training programmes of uniform branches of the public service.
4. The Bahamas is the second oldest Parliamentary Democracy (1729) in the western hemisphere. Full adult suffrage was achieved in 1962 when women were first enfranchised. Majority Government was won in 1967 and political independence achieved in 1973. The Bahamas enjoys a vigorous participatory democracy with voter participation in general elections frequently exceeding 90 per cent of eligible voters.
5. The Government of the Commonwealth of The Bahamas believes that the protection, promotion and preservation of human rights are essential elements of social and economic development. Further, The Bahamas' accession to international human rights instruments has served to reinforce the democratic ideals of the country and assisted in strengthening domestic human rights legislation.
6. The Bahamas, supporting the Universal Declaration of Human Rights, accepts that the accession of the majority of States to international human rights instruments provides an important benchmark from which to measure the observance of human rights internationally.
7. In this regard, The Bahamas welcomes the reporting and review processes as a means to effectively monitor implementation of human rights obligations and notes the critical benefit of such exercises as a means by which Member States can actively assess and improve on existing measures to promote and protect these rights.
8. According to the United Nations Development Programme (UNDP), The Bahamas is regarded as a high human development country. The Bahamas ranked 53 out of 177 countries for human development with a score of 0.771 in 2011. Within the English-speaking Caribbean, The Bahamas comes second only to Barbados, which ranked 47 with a score of 0.793 for 2011.

## **I. Methodology and consultation process**

9. To encourage national dialogue, the Government of The Bahamas has systematically addressed concerns relating to long-term social and economic development goals. The Government of The Bahamas has encouraged national discussions so as to prompt the development of Bahamian solutions to Bahamian concerns.
10. Over the past decade, issues regarding social development have taken on increased importance. In response, successive Governments have engaged in discussions with civil society to address the plethora of social issues confronting Bahamian society. The

Government of The Bahamas has promoted the development of civil society by encouraging “town hall” type meetings and consultations on a wide range of issues impacting Bahamian society. The 2005 enactment of the Non-Governmental Organisations Act provides for the establishment and registration of non-governmental organisations (NGOs) in The Bahamas.

11. As indicated by the relevant provisions of the Universal Periodic Review (UPR), the Commonwealth of The Bahamas submits this National Report for the United Nations Human Rights Council to augment existing reports which were submitted in relation to other human rights instruments and Committees. The Government of The Bahamas has fulfilled its pledge to involve civil society in aspects of human rights promotion.

12. Weekly inter-Ministerial Meetings were conducted to draft The Bahamas 2012 National Report, as well as consider The Bahamas’ implementation of Recommendations emanating from The Bahamas’ UPR Review in 2008. Participation included, *inter alia*, relevant Stakeholders from the Office of the Attorney General, the Ministry of Foreign Affairs and Immigration, the Ministry of Education and the Ministry of Social Services.

## **II. The normative and institutional framework**

### **A. Fundamental rights and the Constitution**

13. The Bahamas’ Constitution entered into force on 10 July, 1973. The Constitution establishes requirements for citizenship and guarantees respect for fundamental human rights including freedom of conscience, expression and assembly, protects the privacy of the home and prohibits deprivation of property without compensation and/or due process of law. The Bahamian Constitution (Chapter III, art. 28) prescribes the judicial process to be observed in the event of a violation of rights whether by the State or by a private individual.

14. Protection of fundamental rights and freedoms of individuals is enshrined in Chapter III, Articles 15-27 of the Constitution. Specifically, Article 15 reads: “Whereas every person in The Bahamas is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

- Fundamental rights and freedoms of the individual;
- Protection to right of life;
- Protection from inhumane treatment;
- Protection from slavery and forced labour;
- Protection from arbitrary arrest or detention;
- Provisions to secure protection of law;
- Protection of privacy, home and other property;
- Protection of freedom of conscience;
- Protection of freedom of expression;
- Protection of freedom of assembly and association;
- Protection of freedom of movement;
- Protection from discrimination on the grounds of race, etc.;

- Protection from deprivation of property.

## **B. Constitutional Reform Commission**

15. Though the Government of The Bahamas maintains the Constitution as the Supreme Law of the land, it has noted the recommendations of international organisations relative to certain provisions which may be considered discriminatory.

16. The Government reinstated the Constitutional Reform Commission in August 2012, and has mandated that it present recommendations for Constitutional Reform no later than March 2013. A Referendum on Constitutional issues is expected in May or June 2013.

## **C. International human rights instruments**

17. The Bahamas has observed and respected international law since achieving Independence in 1973. With specific regard to human rights, The Bahamas has been party to both treaty law, and to customary international law, which is binding upon all States in the international community.

18. The Bahamas has contributed to the development of international standards on human rights issues through its participation in various international and regional institutions such as the United Nations (UN), the Caribbean Community (CARICOM) and the Organization of American States (OAS). The latter has promoted the adoption of the Inter-American Democratic Charter, which frames measures for human rights in the context of annual human rights discussions of the OAS.

## **D. The role of human rights in national legislation**

19. Where international human rights instruments have become integral features of the Bahamian political and social landscape, they have contributed to the development of national dialogue on the importance and necessity of respect for the fundamental human rights of all individuals.

20. The Bahamas recognises its challenges to harmonise the integration of its international obligations and national legislation; efforts are ongoing to streamline the process. In an effort to facilitate national implementation of international Conventions and Treaties, the Government of The Bahamas conducts comprehensive consultations with Government and private stakeholders prior to, during and after ratification to ensure, insofar as possible, the successful coordination of international and national legislation.

## **E. Legislation**

### **Domestic**

21. The Parliament of The Bahamas enacts legislation to enhance the social and economic wellbeing of the Bahamian people and to strengthen respect for the dignity of the individual. Examples of such legislation enacted include:

Capital Punishment (Procedure) Act, Ch. 94; Child Protection Act ; Court of Appeal Act, Ch. 52; Criminal Justice (International Co-operation) Act, Ch. 105; Criminal Law (Measures) Act, Ch. 101; Criminal Procedure Code, Ch. 91; Education Act, Ch. 46; Emergency Powers Act, Ch. 34; Emergency Relief Guarantee Fund Act, Ch. 35; Employment Act, Ch. 321A; Evidence Act, Ch. 65 ; Execution of Documents

(Handicapped Persons) Act, Ch. 67; Extradition Act, Ch. 96; Geneva Conventions (Supplementary) Act, Ch. 95; Genocide Act, Ch.85; Guardianship and Custody of Infants Act, Ch.132; Habeas Corpus Act, Ch. 63; Health and Safety at Work Act, Ch. 321C; Immigration Act, Ch. 191; Industrial Property Act, Ch. 324; Industrial Relations Act, Ch. 321; Inheritance Act, Ch. 116; International Child Abduction Act, Ch. 137 ; Maintenance of Emigrants Children Act, Ch. 128; Maintenance Orders (Facilities for Enforcement) Act, Ch.127; Matrimonial Causes Act; Status of Children Act, Ch. 130; Supreme Court Act, Ch. 53, the Sexual Offences and Domestic Violence Act), the Sexual Offences (Amendment) Act, 2008, the Domestic Violence (Protection Orders) Act, 2007.

### **International**

22. The Bahamas is an independent democratic State and has been a responsible member of the international community since attaining independence in 1973. The Government of The Bahamas is a State party to, *inter alia*, the following international human rights instruments:

The International Convention on the Prevention and Punishment of the Crime of Genocide; The International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Prevention of the Crime of Genocide; Convention on the Nationality of Married Women; The Slavery Convention; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institution and practices Similar to Slavery; International Agreement for the Suppression of White Slave Traffic; Convention on the Political Rights of Women; International Convention on the Suppression and Punishment of the Crime of Apartheid; International Convention Against Apartheid in Sports; The Convention on the Rights of the Child, The Convention on the Elimination of All Forms of Discrimination Against Women; Convention Relating to the Status of Refugees; Protocol Relating to the Status of Refugees; Hague Convention of 25th October 1980 on the Civil Aspects of Child Abduction; Amendment to Article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination; and Inter American Convention on the Punishment and Eradication of Violence Against Women ‘Convention of Belem do Para.’ United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (The Protocol to prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Protocol Against The Smuggling of Migrants by Land, Sea and Air; and the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition); ILO Convention 5, Minimum Wage; ILO Convention 7, Minimum Age (Sea); ILO Convention 11, Right of Association (Agriculture); ILO Convention 19, Equality of Treatment (Accident compensation); ILO Convention 26, Minimum Wage-Fixing Machinery; ILO Convention 50, Recruiting of Indigenous Workers; ILO Convention 64, Contracts of Employment (Indigenous Workers); ILO Convention 95, Protection of Wages; ILO Convention 105, Abolition of Forced Labour; ILO Convention 11, Discrimination (Employment and Occupation; ILO Convention 117, Social Policy.

23. The Bahamas is pleased to inform that subsequent to its last Review, the Government signed and ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in December 2008.

24. Following the submission of The Bahamas’ Fifth National Report on its implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2011, the Bahamas withdrew its reservation to Article 16 (1)

(h) of the Convention, on marriage and family law, which called for equal property rights for both spouses.

#### **The Caribbean Community (CARICOM)**

25. At the regional level, The Bahamas, as an active Member State of the Caribbean Community, has ratified the Charter of Civil Society. The Charter was endorsed by CARICOM as a regional benchmark for the rights, freedoms and obligations of the Caribbean people. Through the Pan-American Partnership against HIV/AIDS (PANCAP), The Bahamas has also participated, *inter alia*, in several Workshops and Programmes to address Caribbean-centric issues such as HIV/AIDS and Gender-Based Violence.

26. In early July 2012, The Bahamas was represented at the 33<sup>rd</sup> Regular Meeting of the Conference of Heads of Government of the Caribbean Community in Saint Lucia, where Heads of Government and Government Representatives “emphasised the need for concerted action, at all levels, to address the increasing challenge of child abuse, in particular, sexual abuse” and “noted the need for a holistic approach to the issue, including parenting education, public sensitisation, and legislative reform to better protect children and to deal appropriately, not only with perpetrators but also with those who support abuse”.

27. These concerns were further discussed at the 23<sup>rd</sup> Meeting of the Council for Human and Social Development (COHSOD) of CARICOM, held 10 – 11 July, 2012 in Guyana, where emphasis was placed on violence against children, including sexual abuse.

### **F. Proposed domestic legislation**

28. The Government keeps under review the reform and enhancement of existing legislation and the enactment of new laws so as to remain in the forefront of countries advocating for the advancement of human rights practices internationally. The Government has under active review legislation to improve the provisions of law relating to: the administration of justice, protection and guardianship of children, education, national health insurance, improved protection for the handicapped, emergency relief assistance, land and estate administration, industrial relations, and immigration.

29. In preparation for The Bahamas’ accession to the United Nations Convention on the Rights of Persons with Disabilities, the Government is in the process of consultative review for draft legislation on Disability, which is expected to be submitted to Cabinet at the end of 2012.

### **G. National jurisprudence**

30. Since 1729, The Bahamas has had a long and proud tradition of parliamentary democracy. Its legal system is based on English common law and is supported by a series of courts. The Magistrate’s Court is the small claims court. The Supreme Court, equivalent to the High Court, is presided over by the Chief Justice in conjunction with eleven other justices and has unlimited jurisdiction. Appeals from the Supreme Court are sent to The Bahamas Court of Appeal and those from The Bahamas Court of Appeal are sent to the Privy Council in London, England.

31. The Office of the Attorney-General and Ministry of Legal Affairs is responsible for ensuring that proposed legislation conforms with the domestic and international human rights obligations of The Bahamas.

## H. Civil society and non-government organisations (NGOs)

32. The participation of civil society in the political life of The Bahamas dates back to 1950 and the creation of the Citizens' Committee to combat racial discrimination. Since that time, civic organizations and NGOs have been established to address a wide array of social and developmental issues from disabilities and addictions to social assistance and environmental conservation. The following provide a cross section of such organisations:

Abilities Unlimited, Alcoholics Anonymous, Amnesty International, Bahamas Alliance for Blind & Visually Impaired, Bahamas Association for Social Health (BASH), The Bahamas Historical Society, The Bahamas National Network for Positive Living, The Bahamas National Trust, Bahamas Red Cross, Grand Bahama Human Rights Association, Nazareth Centre Training Centre for the Disabled, The Nature Conservancy, Prison Fellowship International, ReEarth Bahamas Reef Environmental Education Fund (BREEF), Salvation Army Institute for the Blind, and Young Women's Christian Association.

33. The Bahamas also enjoys extensive involvement with trade unions in almost every sector in the economy. Trade unions are very active and are arguably the most vibrant of the country's civil society, with The Bahamas Trade Union Congress and the National Congress of Trade Union, as trade centres. Notably, several trade unions, including the National Congress of Trade Unions, are led by female Presidents:

Airport, Airline & Allied Workers Union, Bahamas Financial Services Union, Hotel Catering & Allied Workers Union, Bahamas Union of Teachers, Union of Central Banks, Union Of Tertiary Educators of The Bahamas, National Congress of Trade Unions of The Bahamas.

## I. Policy measures

34. Successive Governments of The Bahamas have pursued policies which support respect for fundamental human rights. Any alleged violation of the rights of an individual has recourse through the Bahamian Judicial System.

35. With regard to individuals convicted in a Bahamian Court of Law, Article 91 of the Constitution provides for the Advisory Committee on Prerogative of Mercy to consider claims of inhumane treatment resulting from conviction(s).

36. The Constitution provides for independent oversight of the Public Service of The Bahamas through the following Service Commissions: the Judicial and Legal Service Commission, the Public Service Commission, and the Police Service Commission. Each Service Commission operates in accordance with the provisions of the Constitution and is responsible for the appointment, promotion and discipline of public officers free from political influence.

37. The Bahamas enjoys a free and independent press. The Government monopoly of broadcast media ended in 1992 with the enactment of a clear policy in support of greater press freedom and access to information by members of the public. Public consultations have increasingly become an instrument of governance in The Bahamas particularly with regard to the decisions impacting international trade and national development issues.

38. Recently, the Government has sought to institutionalise certain human rights specific Policies. Consultation on The Bahamas' draft National Gender Policy is on-going by Government Agencies, NGOs and private stakeholders. Similarly, a draft Policy on Inclusive Education is under review by the Office of the Attorney General.

39. The Office of the Attorney General is also responsible for carrying out regular training exercises with the Royal Bahamas Police Force (RBPF) to promote awareness of relevant legislation pertaining to sexual offences and domestic violence. In this regard, special attention has been given to the effective implementation of Protection Orders.

### Courts

40. “Swift Justice”, sometimes referred to as ‘integrated justice’, is a new initiative which facilitates collaboration between the institutions and agencies within the justice system including probation, the police, the courts, the prison and the Office of the Attorney General. Importantly, members of the Swift Justice Advisory Committee are representatives from families of victims of violent crimes.

41. There are some critical benefits for transformation within the integrated Swift Justice programme: representatives from each of the partnership agencies meet with the Attorney-General weekly to ensure improved communication and effective implementation of plans and responsibilities.

42. The Swift Justice programme also facilitates accountability. The Advisory Committee is well positioned to proactively identify and respond to the lack of performance or weaknesses in the system as well as strength transparency within the Office of the Attorney General.

43. The Office of The Attorney-General and the Ministry of Legal Affairs is presently engaged in consultations that will lead to a Family Court system. In 2008 a Family Court System Committee was appointed with the mandate:

- “to explore and propose immediate practical solutions for family matters as they are presently administrated by the court system and also to consider the extent to which limitations of space and insufficiency of appropriately trained **support staff adversely affects the disposition of family members.**”
- This Committee was also called to address the creation of special procedural tracks within a family court system so that, while a matter would be required to be initiated in a proper court, as prescribed by the Rules Committee ...that matter or any part of it may be referred by the presiding judge to the court at another level along the track without the parties having to initiate a new application. These tracks would remain open in either direction until the matter is finally disposed of. The need for the creation of these special procedural tracks arises from an acute awareness that within the family court system there are ancillary matters in which parties find that the several issues in the same dispute require the intervention of different courts. It has been found expensive and inconvenient for parties to have to initiate claims in different courts for jurisdictional and procedural reasons.

44. The principal aim of a family court system seeks to fill the gaps and inadequacies of the legal system as it relates to ‘family law’ matters. Such a system would recognize within its jurisdictional limits the needs of the local family, and, would seek to develop an indigenous jurisprudence that is reflective of those needs.

45. Given this policy directive, such a court system would have an obvious multi-disciplinary approach, seeking to incorporate both legal and social services into its daily operations, with its main objective being the prevention of the breakdown of the family unit and the protection of the welfare of the members of the family, especially children.

46. Another important feature of this specialised court is that it houses an Alternative Dispute Resolution Support Services component, through Mediation and Counseling Services, which creates a multi-door court system singularly located in the same building. This new improvement caters to the unique needs of our archipelagic nation. Additionally,



the premises will enable easy access by all parties; the Court will sit so as to promote mediation rather than an adversarial approach. Counselling rooms will be available as will a “child friendly” space in the Court.

47. A Task Force will be appointed to review over twenty (20) pieces of legislation, and the Rules promulgated thereunder, that relate to family matters, with a mandate to streamline and treat family matters as matters of urgency.

48. In November 2011, amendments to the Evidence Act provided for the use of live television links to receive evidence from persons who are unable to be physically present at court proceedings, and further provided for the admissibility of video recordings of testimony from child witnesses or other vulnerable persons such as the elderly, under certain circumstances.

49. The amendment also provides for remand hearings to take place via video-link, which officials say will “eliminate” the need for detainees on remand to be transported from the Remand Facility at Her Majesty’s Prison, Fox Hill, for hearings downtown.

50. It is anticipated that these initiatives will alleviate the backlog of courts cases in The Bahamas.

### **III. Promotion and protection of human rights in The Bahamas**

#### **A. Racism**

51. The Bahamas has been an ardent advocate in international struggles against racial discrimination as was evident from its participation, through the Commonwealth of Nations, to confront the minority Apartheid Governments in Zimbabwe and South Africa during the closing decades of the last century.

52. The example of peaceful racial co-existence which has typified life in The Bahamas since 1967 is evidence of the commitment of the people and of successive Governments of The Bahamas to eschew the racist practices of the past and to develop a country where people of all races, religions and ethnic origins live and work in harmony.

53. To date, there have no reports of complaints on the basis of racial discrimination. The Office of the Attorney General is responsible for liaising with several relevant Agencies, including the Ministry of Social Services, to ensure, insofar as possible, exhaustive investigations of such complaints take place.

#### **B. Children**

##### **Legislation**

54. The Children and Young Persons (Administration of Justice) Act, was repealed and replaced by the more comprehensive Child Protection Act enacted in October 2009. This legislation was specifically guided by the Convention on the Rights of the Child (CRC). Section 4 (c) of the Act states that the child has the right “to exercise, in addition to all the rights stated in this Act, all the rights set out in the United Nations Convention on the Rights of the Child subject to any reservations that apply to The Bahamas and with appropriate modifications to suit the circumstances that exist in The Bahamas with due regard to its laws.”

55. In addition, the Child Protection Act increased the age of criminal responsibility for children from seven (7) years of age to ten (10) years of age.

### **Policies/Programmes**

56. A National Committee for Families and Children has been appointed by the Ministry of Social Services to ensure that all provisions of the Child Protection Act are fully implemented. Provisions which have been identified as priority include proper housing and the establishment of educational, psychological and other relevant programmes for children residents of the Simpson Penn Centre for Boys and the WillaMae Pratt Centre for Girls, as well as the use of Minor Advocates.

57. In November 2011, the Ministry of Foreign Affairs conducted a series of media broadcasts to promote awareness of the Hague Convention, its application and how eligible persons could apply for redress through the Ministry. As the National Authority for the Hague Convention, the Ministry is also reviewing the adoption of the Respect of Intercountry Adoption (Hague Adoption Convention).

58. Under The Bahamas Urban Renewal 2.0 programme, which seeks, among other things to focus on youth, fight against crime, and build stronger communities, the Prime Minister has directly called on the Citizens Advisory Committee to identify all disabled children in communities to appropriately address their specific needs.

### **Education and curricula**

59. Within the national education framework, the Student Services Section of the Ministry of Education has developed relevant courses which speak to themes that include: self identity, independence and cooperation, compassion, cultural heritage, loyalty, citizenship, national pride, self discipline and respect.

60. In an effort to develop a strong sense of self worth and identity in students as well as to promote tolerance and acceptance for others, this section also strives to develop a greater sense of caring and love for self and others through all of its programmes. Cognizant of these underlying principles, the Student Services Section, in conjunction with Agencies such as the Bahamas National Pride Association and the Guidance and Counseling Association, stage events which are held during school and after school hours. Events include: World AIDS Day, Universal Children's Day, Debates, Youth Parliament, World Food Day, Commonwealth Day and Bahamian History Month.

61. The Family Life and Health Education (FLHE) Curriculum and the Civics Curriculum promote teaching and learning experiences that focus on the rights and privileges of individuals and groups in society as members of the family, community and citizenry.

62. The Primary HFLE Curriculum is based on the CARICOM HFLE Regional Framework and is divided into four themes: Self and Interpersonal Relationships, Sexuality and Sexual Health, Nutrition and Physical Activity and Managing the Environment. Similar themes are explored in the Civics and Family and Consumer Sciences curriculum in our Junior High and Secondary Schools.

## **C. Women**

63. Bahamian women were enfranchised in 1962. The first woman was appointed to the Senate in 1967 and to the Cabinet in 1968. The first female was elected as a member of the House of Assembly in 1982. In 1992, five (5) women were elected to the House of Assembly. Three (3) women were appointed to the Cabinet that same year. Since that time women have served in the elected post of Speaker of the House of Assembly and as President of the Senate. By 2001 women comprised 50 per cent of all Members of the Senate. Women have held senior Cabinet posts with responsibility for each of the following

portfolios: Education, Health, Social Services, Labour, Foreign Affairs, Attorney General, Legal & Justice, Immigration, Housing and National Insurance, National Security, and Transport. A woman was appointed Governor-General for the first time in 2001.

64. Protection of fundamental human rights enshrined in The Bahamas Constitution apply equally to men and women. However, separate Constitutional Provisions concerned with the transfer of nationality from parent to children and to the award of nationality to foreign born spouses of Bahamian citizens accord privileges to Bahamian men that are not afforded to Bahamian women.

65. Successive Governments have developed and implemented gender-neutral policies relative to professional access to education, health, and social services and to employment. Women are prominently evidenced in all professions in The Bahamas. A woman has served as President of the Chamber of Commerce and several Bahamian women have served as heads of international and governmental financial institutions operating in and from The Bahamas. The posts of Chief Justice and President of the Court of Appeal have both been filled by a female jurist and several women now serve as Supreme Court Justices and senior public officers.

### **International obligations**

66. In adherence to its commitments under the CEDAW, the 1995 Beijing Platform for Action, the Convention of Belem do Para and other international Conventions ratified by The Bahamas, the Government has acted to guarantee equality and non-discrimination in the treatment of women. In 2011, The Bahamas was a co-sponsor, for the second time, of the UN Resolution on "*Women and Political Participation*".

### **National machinery**

67. The Bureau of Women's Affairs monitors developments in The Bahamas with a view to ensuring that the rights of women are protected. The work of the Bureau is supported by the Women's Unit in the Ministry of Youth, Sports and Culture, the Domestic Violence Unit of the RBPF and by a number of NGOs and civic organizations including Zonta and Rotary Clubs, the Council of Women in The Bahamas and The Bahamas Crisis Centre.

### **Domestic legislation**

68. Recent amendments and new legislation further promote the equality of women in society. In particular, the Domestic Violence (Protection Orders) Act, 2007 is a landmark piece of legislation revolutionising the intimate partner violence in the country. The Act provides a comprehensive definition of domestic violence, criminalizes stalking and harassment and empowers the courts to mandate intervention with batterers. Previously, the law governing the abuse of wives was set out in the Sexual Offences and Domestic Violence Act, Ch. 99.

69. Under the 2008 Sexual Offences (Amendment) Act punitive measures for sexual offences were substantially increased. Rape is now punishable by life imprisonment, while voyeurism, sexual harassment and pornography have become criminal offences. The Bahamas has also removed the law of primogenitor with regard to inheritance.

70. According to Section 6 of the Matrimonial Causes Act 1979: "If a husband shall be convicted summarily or otherwise of an aggravated assault upon his wife, the court or magistrate before whom he shall be so convicted may, if satisfied that the future safety of the wife is in peril, and with the consent of the wife order that the wife shall be no longer bound to cohabit with her husband [and] shall have the force and effect in all respects of a judicial separation on the ground of cruelty and such order may further make provision in

respect to: the maintenance of the wife [and] the maintenance and custody of any children of the family”

### **Gender-based violence**

71. In addition, the Government, through the Bureau of Women’s Affairs, has created several initiatives to combat violence against women. These include:

- The Domestic Violence Act (Protection Orders) Act, and empowers the courts to mandate intervention with batterers;
- A 24hr. hotline operated by The Bahamas Crisis Centre;
- Workshops, Seminars and Speak Outs on gender related issues;
- The establishment of Steering Committee for The Bahamas National Gender Policy;
- Review of the Health and Family Life Education curriculum with a view to incorporate gender sensitisation;
- The establishment of a RBPF Sexual Offences Unit and Domestic Violence Unit with relevant training for Officers in these Units;
- Legal clinics sponsored by Sorority groups to educate women on their rights;
- Extensive use of the media to promote awareness and education of gender based issues;
- The establishment of a cariMAN branch in the Bahamas , a regional NGO spearheaded by men working with women organizations to end gender based violence;
- A draft 2012 – 2017 Strategic Plan for the Management, Prevention and Elimination of Family Violence.

72. Statistically, The Bahamas ranks favourably on international standards of gender equality and empowerment. In 2011, The Bahamas held a Gender Inequality Index (GII) of 0.332, (compared to 0.381 in 2000), ranking The Bahamas 54 out of over 170 countries. An alternative composite index which seeks to measure gender equality is the Gender Empowerment Measure (GEM). Compared to a GEM value of 0.696 and corresponding country ranking of 20 between 2007 and 2008, the women of The Bahamas have since enjoyed improved equality in political and economic spheres. The latest available data indicates that The Bahamas ranks 19 out of 177 countries, with a GEM value of 0.652, and is second only to Barbados, which ranks 18, in terms of highest GEM values for the Caribbean region.

73. On 20 July, 2012, a Delegation from The Bahamas defended both its Combined National Report (Initial – Fourth) and Fifth National Report to the CEDAW Committee. The participation of The Bahamas in this context marked an unprecedented level of commitment from The Government to the issue of gender equality. In this regard, the Government has pledged, *inter alia*, to enhance the Bureau of Women’s Affairs to a Department, strengthening human and financial capacities, as well as to submit a National Gender Policy to Cabinet by the end of 2012. A UN Workshop was held September 2012, to incorporate CEDAW Recommendations emanating from The Bahamas’ National Reports in the Policy.

## **D. Disability**

74. The Government remains committed to addressing the needs of all persons in The Bahamas, and is especially cognizant of the need to supply provisions for disabled persons. As such, the Ministry of Social Services, through Disability Affairs provides the following:

- Financial assistance to parents of children with disabilities under 16 to help with disability-related needs such special medication/medical and/or assistive/adaptive equipment.
- Monetary travel assistance for surgery abroad.
- Financial assistance to persons with prosthetic needs.
- Monetary grants to disability-related non-governmental organizations.
- Financial assistance wheelchairs, and other assistive/adaptive equipment to enable independence.
- Disability-related educational seminars and brochures.
- Media interviews.

## **E. Migration**

75. Migration is a global phenomenon. Economic trends reveal that individuals are willing to migrate, legally or illegally, in order to improve their quality of life. While the Government of The Bahamas acknowledges the need for temporary and long-term migration into The Bahamas to meet domestic labour needs, successive Governments have maintained that migration must be legal, standardised and designed first and foremost to meet the needs of The Bahamas and its citizens.

76. The Bahamas has been, and is, the recipient of large numbers of illegal migrants either seeking employment in The Bahamas or seeking to move clandestinely to the United States of America. The Bahamas has long informed the international community of its incapacity to effectively process the heavy, unsanctioned influx of illegal migrants, the majority of which migrants originate from Haiti.

77. In addition, a growing number of Cuban nationals have been found illegally in The Bahamas since the 1990s. When discovered these persons are detained and processed for repatriation if they do not meet standards of eligibility for asylum.

78. The Bahamas has maintained a policy of detention and repatriation of illegal migrants found in The Bahamas. This policy applies to all illegal migrants found in The Bahamas, irrespective of their race, colour or place of origin. All persons living in The Bahamas have free access to education, health and social services without regard to their immigration status.

### **Refugees and detainees**

79. Undocumented and/or illegal migrants found in The Bahamas are interviewed by appropriately trained personnel from the Department of Immigration. In keeping with protocols developed in consultation with the United Nations High Commissioner for Refugees (UNHCR), persons found to have a well-founded fear of persecution upon their return to their country of origin have been granted refugee status or received assistance with relocation to a third country. Individuals who do not meet the standards of political refugee are repatriated to their country of origin. Every effort is taken by the Government to improve the efficiency of detention, interview and repatriation exercises connected to

illegal migrants found in The Bahamas. The establishment of an Immigration Detention Centre has, for example, permitted the Government to remove immigration detainees from incarceration in Her Majesty's Prison System while they await repatriation.

### **Haiti**

80. It has been the historic view of the international community that a stable Haiti would encourage the return of Haitian nationals living abroad, thus restoring the human capital lost by the exodus of migrants.

81. A Joint Declaration was signed by The Bahamas and Haiti 1 October, 2009 in which both Governments agreed to take practical steps on several salient bilateral matters pertaining to illegal migration, repatriation, trade, economic stimulation and capacity building in the Northwestern part of Haiti, among other things. Importantly, the Declaration reaffirmed the commitment of The Bahamas to respect the human rights of illegal Haitian migrants and make provisions to facilitate the visa application process and encourage the security of Haitian migrants.

82. In February 2011, the Ministry of Foreign Affairs expressed its interest in reestablishing with the Government of Haiti the Joint Commission Framework Agreement for Bilateral Cooperation to review the 2009 Draft Framework Agreement for Bilateral Cooperation between the Governments. This draft Framework would address cooperation in the areas of technical assistance, trade and investment, migration and regularization. Similarly, a Memorandum of Understanding (MOU) for agricultural trade was considered.

83. In this regard, the Government of The Bahamas remains committed to supporting Haiti in its endeavours to become a stable, social and economically secure nation.

## **F. Trafficking in persons (TIP)**

84. The Commonwealth of The Bahamas is an archipelagic nation spread over some 100,000 square miles of ocean straddling major shipping lanes between the United States, the Caribbean and South America. The Bahamas has become a transit area for persons clandestinely migrating to the United States, particularly economic immigrants from Haiti and Cuba. Successive Governments of The Bahamas have been challenged with the illicit transit into and through its borders. The Government cooperates with regional partners as mandated by international conventions, and very specifically with the US Government Agencies, in joint and multilateral efforts to restrict the illicit transit traffic of migrants, arms and drugs via The Bahamas.

### **Legislation**

85. The Trafficking in Persons (Prevention and Suppression) Act 2008, adopts the broad definition of "Trafficking in Persons" as set out in the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Girls, supplementing the United Nations Convention on Transnational Crime. This Act specifically prohibits trafficking in persons in all aspects, and is applicable to men, women and children.

86. The Criminal Evidence (Witness Anonymity) Act, 2011 includes as "Qualifying Offences" crimes committed under the 2008 Trafficking in Persons Act. The Criminal Evidence (Witness Anonymity) Act 2011 also provides for the protection of the identity of witnesses during the investigation of criminal offences and criminal proceedings and matters connected therewith. In addition, the 2008 Trafficking in Persons Act also allows for cases to be tried via videolink to protect victims of trafficking in persons who are witnesses in cases before the court.

87. The Criminal Procedure Code (Amendment) Act, 2011 (Section 185), which allows the Court to receive any relevant representation from the victim before handing down a sentence is applicable to victims under The Trafficking in Persons Act. Specific provisions under this Act also allow victims to make impact statements.

#### **Public policies and victim protection programmes**

88. The Justice Protection Act 2006 established the Witness Protection Programme. Victims of trafficking in persons who are witnesses or potential witnesses to an offence charged under The Trafficking in Persons Act may be considered for entry into the Witness Protection Programme, if such victims are at risk for having violence perpetrated against them as a result of their involvement in trafficking.

89. The Witness Care Programme launched by the Government in February 2011 and managed through the Witness Care Unit (WCU) of the Office of the Attorney General, serves as a single point of contact for victims of crime, including victims of trafficking in persons. The WCU provides information to victims about the progress of their cases at every stage of the criminal justice system. It also provides a wide range of support services to victims and their families.

90. In 2011, the Government established Inter-Ministry Committee on Trafficking in Persons (TIP Committee), which commenced its functions in November 2011. The TIP Committee is the coordinating body for policy matters relating to trafficking in person and is comprised of senior Government officials from the Ministries of National Security, Foreign Affairs, Finance, Social Services, and Health and the Office of the Attorney General and Ministry of Legal Affairs, the RBPF, the RBDF, the Departments of Immigration and Customs. In addition, NGOs and faith-based organizations are invited to participate in the work of the Committee. The TIP Committee makes policy recommendations to the Government to strengthen national initiatives to prevent, suppress and punish trafficking in persons.

91. The Trafficking in Persons Task Force (TIP Task Force) was established in March 2012, as an operational body to address trafficking in persons cases, from the identification of a victim to the prosecution of an alleged trafficker. Government Agencies that comprise the Task Force are: the Office of the Attorney General and Ministry of Legal Affairs, the Ministries of National Security, Foreign Affairs, Health and Social Services, the RBPF, the RBDF, and the Departments of Immigration and Customs. TIP Task Force members also include representatives from relevant NGOs and community and faith-based organizations.

92. The Specialized Team of Prosecutors for Trafficking in Persons Matters in the Office of the Attorney General and Ministry of Legal Affairs works closely with the TIP Task Force, and in particular the RBPF, so as to prepare appropriately for the successful prosecution of the alleged trafficker(s).

93. The Sexual Offences Unit of RBPF is a specialized Unit with established procedures for dealing with victims of sexual crimes including victims and potential victims of trafficking for the exploitation of the prostitution of others. There is a Specialized Team of Prosecutors in the Office of the Attorney General and Ministry of Legal Affairs which provides legal advice to the RBPF Sexual Offences Unit during the course of investigations to assess the cogency and admissibility of the evidence collected for trial.

94. The Recruits Trafficking Awareness Training programme of the RBPF is specifically structured to provide knowledge on the Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons and to provide expertise in victim identification. The awareness programme is being extended to all training exercises throughout the Police Force.

95. The partnership between the Bureau of Women's Affairs and The Crisis Centre (a NGO) established the Crisis Centre as a focal point for victims of trafficking in persons. The Crisis Centre operates a hotline for victims of domestic violence, which is also available to victims of trafficking in persons. The Government provides an annual subsidy to The Crisis Centre.

96. The Bureau of Women's Affairs, in collaboration with the International Organization for Migration (IOM), have hosted a series of Counter Trafficking in Persons Workshops in keeping with the Governments initiatives for capacity building in this area.

97. Public Service Announcements (PSAs) are being prepared by the Bureau of Women's Affairs to raise awareness of trafficking in persons. To further promote awareness, The Bahamas, with the support of the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), also participated as a pilot country in an anti-trafficking in persons public awareness campaign with Wendy's Bahamas, a franchise of Wendy's fast food chain. The campaign was launched in May 2012.

98. The Links Safe House, a NGO residential facility which provides shelter for victims of domestic violence, is also open to victims or potential victims of trafficking in persons. The Links Safe House is provided an annual subsidy by Government. Support services for victims or potential victims of trafficking in persons can also be sought through The Red Cross and a range of faith-based Organizations.

99. The Government is in the process of drafting a National Plan against Trafficking in Person. Aspects of this draft Plan, including guidelines for Officials in anti-trafficking activities, are widely implemented in activities to prevent, suppress and punish trafficking in persons.

100. The UNHCR/IOM *Model Joint Screening Form* is among the documents the Department of Immigration uses to identify and screen victims and potential victims of trafficking in persons.

## **IV. National priorities and commitments of The Bahamas**

### **Combating discrimination through education**

101. The Government recognises the need to bring awareness to human rights issues specifically catered to The Bahamas' historical, cultural and socio-economic context and feels strongly that education is a fundamental forum for such promotion.

102. Education receives the largest percentage of the national budget on an annual basis. Sections 12, 13 and 14 of the Education Act state that the Minister responsible for education and training has a duty, within the limits of his/her resources, to ensure efficient primary and secondary education to all Bahamians. All children resident in The Bahamas are granted free access to education from kindergarten to grade 12. The children of illegal immigrants are not discriminated against in this regard.

103. Guidance counselors proactively schedule programmes in schools to sensitize students to human rights education, particularly in terms of discrimination based on gender and race. Programmes such as "Super Me" in the primary and preschools and "Boyz to Men" and "Character Counts" in the high contribute to sensitizing students on anger management, conflict resolution, peer pressure, effective communication, individual differences and relationships. These programmes seek to instill the fundamental values and socialisation in students necessary to promote respect and dignity.



104. Programmes through the guidance and counseling department of schools are ongoing and seek to cultivate tolerance and respect in our students. Underlying all of these programmes is a strong social instruction geared towards human rights education.

105. The Ministry of Education partners with the following agencies and organization to realize its objective of educating and exposing students to the fundamental rights of others. The Bahamas Union of Teachers (BUT), the Crisis Centre, CARIman, Churches, the OAS, the National Council for Disability, Resources and Education for Autism and related Challenges (REACH) and the Bahamas Association for Disability.

#### **Human rights Sensitivity training for educators**

106. In the Teacher Education Programme at the College of The Bahamas (COB), students preparing to become teachers are exposed to human rights education in several of their core courses. Topics surrounding the following areas are presented and discussed: diversity in the classroom, rights of students and teachers, the teaching of immigrants and respecting individual differences in the classroom.

107. Students training to be teachers at the COB are also mandated to take two levels of a foreign language, which provide access to the mother tongue of foreign nationals present in schools. Second language course options are: Spanish, French, Mandarin and Creole. Reflecting the high density of students who may be first or second generation Nationals of Haiti, study in Creole is particularly encouraged. Students studying to become teachers are also required to take Social Sciences courses, which introduce young teachers to an extensive human rights education.

108. The Ministry of Education has a mentoring programme for all first year teachers entering the system. The programme sets out as one of its goals the improvement of the teaching profession through the exposure of best practices. The Mentoring Programme has as its backdrop principles from the Commonwealth of Learning's Teacher Protocol and Eligibility.

109. A component within this programme specifically emphasises the human rights of students and the activities and implications surrounding it. Teachers are presented with the legislation, namely the Education Act, Ministry of Education policy documents and other relevant literature that outline the rights, regulations and policies relative to the educational system in The Bahamas. For existing teachers in the system there are similar events that occur across districts and are put on by district offices.

## **V. Challenges and constraints**

110. The principal constraints impacting the human rights environment in The Bahamas lie with the constitutional requirement for a referendum to amend provisions of the Constitution which discriminate against women. As a developing Small Island Developing State (SIDS), The Bahamas experiences challenges with its capacity to enforce and report on the many Conventions and Treaties to which it is party. Specifically, additional training and sensitizing of persons on the observance of, respect for and protection of the rights of the individual are required.

### **A. Illegal immigration and the Carmichael Detention Centre**

111. The Carmichael Detention Centre has significantly improved the conditions under which immigration detainees are housed in The Bahamas. The Centre is manned by

Immigration Officers and security is provided by the RBDF. Nevertheless, complaints regarding the operation of the facility arise from time to time.

112. The Bahamas Government continues to be challenged by the cost associated with housing and maintaining illegal immigrants as well as their repatriation.

113. Since 2000, the Government of The Bahamas has repatriated over 67, 600 persons who entered The Bahamas illegally. The Government has acknowledged the heavy volume of activity within the Department of Immigration, and as such, has increased its budget between its 2011 and 2012 from over fifteen and a half million dollars to almost nineteen million dollars.

114. The Bahamas joined the international community in efforts to support Haiti after its devastating earthquake in 2010. For several weeks following the earthquake, The Bahamas put a hold on all repatriation of Haitian Nationals, which is noticeably evident in repatriation rates for the year; 1,556 Haitian Nationals were repatriated in The Bahamas in 2010 compared to 4,931 in 2009.

115. The Government regularly participates with private NGOs, such as the Red Cross and the Salvation Army, to facilitate the transmission of provisions and counsel to detainees.

116. The Department of Immigration, guided by recommendations from the UNHCR and other international human rights organisations, is in the process of reviewing current regulations and protocols with a view to identify and address areas of improvement.

117. Current consideration is being given to the construction of an additional building at the Carmichael Detention Centre to alleviate housing and maintenance issues.

## **B. The Bahamian prison system**

118. The Bahamas has a single prison – Her Majesty’s Prison in Fox Hill. The prison compound comprises a remand centre for detainees awaiting trial, a female prison compound and minimum and maximum security facilities, the latter including a unit housing convicted murderers.

119. Financial constraints have led to serious over-crowding at Her Majesty’s Prison, a matter addressed by the construction of an Immigration Detention Centre outside of the prison compound and the construction of an 80 cell remand centre. The construction of the remand centre was essential for the implementation of the plan of the Government to ensure the separation of persons held on remand from convicts. The Fox Hill Prison, in addition to over-crowding, suffers from structural deficiencies. A programme is presently underway to install flush lavatories in all prison cells.

120. The Government actively seeks and welcomes any technical assistance which may assist in the development and promotion of human rights in The Bahamas.

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