



General Assembly

Distr.
GENERAL

A/HRC/WG.6/3/BHS/1
12 September 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Third session
Geneva, 1-15 December 2008

**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 ***

Bahamas

* The present document was not edited before being sent to the United Nations translation services.

Summary

1. The purpose of this State report is to describe the status of the human rights environment in the Commonwealth of the Bahamas. This State report outlines the human rights commitments of the Government of the Bahamas and informs on the domestic legal 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. Bahamas 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 of 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.

Introduction

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.
6. The Government of the Bahamas advises that accession to international human rights instruments has served to reinforce the democratic ideals of the country and assisted in strengthening domestic human rights legislation.
7. The Bahamas 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.
8. The Bahamas supports the principles articulated in the Universal Declaration of Human Rights and in the other international human rights instruments. The Government believes that the international human rights instruments ratified/ signed/acceded to have contributed to the enhancement of social order in the country.

I. METHODOLOGY AND CONSULTATION PROCESS

9. As indicated by the relevant provisions of the Universal Periodic Review (UPR), the Commonwealth of the Bahamas submits this State 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. This draft report was forwarded to recognized human rights organizations in the Bahamas prior to its submission to the United Nations Human

Rights Council. Regrettably, time constraints have not permitted for the feedback received from human rights organizations to be integrated into this report.

10. The Government of the Bahamas realizes the imperative of civil society's participation in the development of an amicable human rights environment in the Bahamas. Hence, the Government, by way of its Ministries and agencies, has consulted with various civil society groups in relation to the status of the human rights environment in the Bahamas. With respect to this State report, consultations are ongoing.

II. THE NORMATIVE AND INSTITUTIONAL FRAMEWORK

A. Introduction

11. The Government of the Commonwealth of the Bahamas addresses this report to the United Nations Human Rights Council and members of the international community so as to comment upon its obligations under the Universal Periodic Review.

12. 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.

13. As a means to encourage national dialogue on the nature and scope of Bahamian democracy, the Government of the Bahamas has systematically addressed developmental concerns that have the potential to thwart long-term development goals. The Government of the Bahamas has encouraged national discussions so as to prompt the development of Bahamian solutions to Bahamian concerns. Social discourse has centered on expectations and means of meeting these with a view to creating a favorable social environment.

14. Tourism is the engine of the Bahamian economy. Financial Services is an important second economic pillar of the economy. Hence, the Bahamian economy is dominated by services; comparatively small inputs also come from the agricultural and industrial sectors. Both tourism and financial services are heavily dependent on the provision of high quality service to clients irrespective of racial, ethnic, cultural or religious differences. Consequently, large segments of the Bahamian population are involved in industries that require them to interact with persons from around the world.

15. The Government of the Bahamas recognizes that while endogenous solutions are useful for addressing domestic concerns, these issues also benefit from international support and guidance, particularly when these serve to confirm that the Bahamas has satisfied its international obligations.

B. Fundamental rights and the constitution

16. The Bahamas Independence Constitution entered into effect 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 the violation of rights whether by the State or by a private individual.

17. Protection of fundamental rights and freedoms of individuals is enshrined in Chapter III, articles 15-27 of the Constitution. 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:

- (a) Life, liberty, security of the person and the protection of the law;
- (b) Freedom of conscience, of expression and of assembly and association; and
- (c) Protection for the privacy of his home and other property and from deprivation of property without compensation.

The subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

C. International law

18. The Bahamas has observed and respected international law since achieving Independence in July, 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.

19. The Bahamas has contributed to the development of international benchmarks on human rights through its participation in the United Nations and in other international institutions such as the Organization of American States (OAS). The latter has promoted the adoption of the Inter-American Democratic Charter. The Charter has helped frame human rights benchmarks addressed in annual human rights discussions.

D. The role of human rights in national legislation

20. 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.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE BAHAMAS

A. Introduction

21. The Bahamian Constitution provides for equal protection for all people in the Bahamas and provides for governmental institutions to implement these protections.

B. Constitution

22. Specific provisions of the Constitution of the Bahamas relating to fundamental human rights include those set out in Chapter III (articles 15-27) for example. The Constitution addresses the following areas:

- (a) Fundamental rights and freedoms of the individual;
- (b) Protection to right of life;

- (c) Protection from inhumane treatment;
- (d) Protection from slavery and forced labour;
- (e) Protection from arbitrary arrest or detention;
- (f) Provisions to secure protection of law;
- (g) Protection of privacy, home and other property;
- (h) Protection of freedom of conscience;
- (i) Protection of freedom of expression;
- (j) Protection of freedom of assembly and association;
- (k) Protection of freedom of movement,
- (l) Protection from discrimination on the grounds of race, etc.;
- (m) Protection from deprivation of property;
- (n) Enforcement of fundamental rights.

C. Legislation

1. Domestic

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

Acquisition of Land Act, Ch. 252
Administration of Estates Act, Ch. 108
Adoption of Children Act, Ch. 131
Affiliation Proceedings Act, Ch. 133
Bail Act, Ch. 103
Capital Punishment (procedure) Act, Ch. 94
Children and Young Persons (Administration of Justice) Act, Ch. 97
Computer Misuse Act, Ch. 107A
Copyright Act, Ch. 323
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

Ionising Radiation (Workers Protection) Act, Ch. 319

Juries Act, Ch. 59

Listening Devices Act, Ch. 90

Magistrate's Act, Ch. 54

Maintenance of Emigrants Children Act, Ch. 128

Maintenance Orders (Facilities for Enforcement) Act, Ch.127

Parliamentary Elections Act, Ch. 7

Preliminary Inquiries (Special Procedure) Act, Ch. 92

Proceeds of Crime Act, Ch. 93

Riots (Claims Tribunal) Act, Ch. 185

Status of Children Act, Ch. 130

Supreme Court Act, Ch. 53

Transfer of Offenders Act, Ch. 102 and

Wills Act, Ch. 115

2. International

24. The Bahamas is a State Party to the following International Humanitarian Law and Other Related Treaties:

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;

Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;

Geneva Convention Relative to the Treatment of Prisoners of War;

Geneva Convention Relative to the Protection of Civilian Persons in Time of War;

Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts;

Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts;

Convention on the Rights of the Child;

Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on their Destruction;

The Ottawa Treaty;

Inter-American Convention on Mutual Assistance in Criminal Matters;

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);

Comprehensive Nuclear Test Ban Treaty;

ILO Convention 5, Minimum Wage;

ILO Convention 7, Minimum Age (Sea);

ILO Convention 11, Right of Association (Agriculture);

ILO Convention 12, Workmen's Compensation (Agriculture);

ILO Convention 14, Weekly Rest (Industry);

ILO Convention 17, Workmen's Compensation (Accidents);

ILO Convention 19, Equality of Treatment (Accident compensation);

ILO Convention 22, Seamen's Articles of Agreement;

ILO Convention 26, Minimum Wage-Fixing Machinery;

ILO Convention 29, Workmen's Compensation (Occupational Diseases);

ILO Convention 50, Recruiting of Indigenous Workers;

ILO Convention 64, Contracts of Employment (Indigenous Workers);

ILO Convention 65, Penal Sanctions (Indigenous Workers);

ILO Convention 81, Labour Inspection;

ILO Convention 88, Employment Services;

ILO Convention 94, Labour Clauses (Public Contracts);

ILO Convention 95, Protection of Wages;

ILO Convention 97, Migration for Employment;

ILO Convention 105, Abolition of Forced Labour;

ILO Convention 11, Discrimination (Employment and Occupation);

ILO Convention 117, Social Policy;

ILO Convention 144, Tripartite Consultation (International Labour Standard);

ILO Convention 147, Merchant Shipping (Minimum Standards);
ILO Convention 185, Seafarers' Identity Documents (Revised); and
ILO Maritime Labour Convention.

25. The Bahamas has become a signatory of the following International Humanitarian Law (IHL) instruments:

- (a) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, Opened for Signature at Paris on 13th January 1993 (not yet ratified); and
- (b) Inter- American Convention Against Terrorism (2002).

3. Additional international obligations

26. The Government of the Commonwealth of the Bahamas has also committed itself to improving conditions throughout the international community, and has signed/ratified/acceded to the following multi-lateral treaties:

- (a) Inter-American Treaty of Reciprocal Assistance (Rio Treaty);
- (b) The Convention on the Prevention and Punishment of Crimes Against Internationally Protected persons, Including Diplomatic Agents;
- (c) Convention for the Suppression of Unlawful Seizure of Aircraft;
- (d) International Convention for the Suppression of the Financing of Terrorism, New York;
- (e) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal;
- (f) Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- (g) International Convention Against the taking of Hostages adopted by the United Nations General Assembly;
- (h) The Council of Europe Convention on the Transfer of Sentenced Persons,
- (i) Treaty Banning Nuclear Weapon Tests in the Atmosphere and in Outer Space and Underwater;
- (j) Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco Treaty) Opened for Signature at Mexico City;
- (k) Treaty on Principles Governing the Activities of States in the Exploration and use of Outer Space including the Moon and other Celestial bodies;
- (l) Treaty on the Non-Proliferation of Nuclear Weapons;
- (m) Convention on the Prohibition of the Use of Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction;
- (n) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction 1972;
- (o) Inter-American Convention Against Illicit Traffic, Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Material 1997;

- (p) Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea Bed and the Ocean Floor and In the Subsoil Thereof;
- (q) Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies;
- (r) Treaty Banning Nuclear Weapon Tests in the Atmosphere in Outer Space and Underwater;
- (s) IAEA Convention on Physical Protection of Nuclear Material;
- (t) ICAO Protocol for Suppression of Unlawful Acts of Violence at Airports Serving International Aviation Supplementary to the Convention for the Suppression of Unlawful Acts Against Safety of Civil Aviation;
- (u) International Convention for the Suppression of Terrorist Bombings; and
- (v) Convention on the Marking of Plastic Explosives for the Purpose of Detection.

D. Proposed domestic legislation

27. 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 the advancement of human rights practices internationally.

28. 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, health insurance, improved protection for the handicapped, emergency relief assistance, land and estate administration, industrial relations, and immigration.

E. National jurisprudence

29. The Bahamas has a long and proud tradition of parliamentary democracy dating back to 1729. 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, which is equivalent to the High Court, is presided over by the Chief Justice and eleven other justices and has unlimited jurisdiction. Appeals from the Supreme Court are to the Bahamas Court of Appeal. Appeals from the Bahamas Court of Appeal are to the Privy Council in London, England.

30. 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.

F. Human rights infrastructure

31. The Bahamas is an independent democratic State; The Bahamas has been a responsible member of the international community since attaining independence in 1973. The Government of the Bahamas has signed/ratified/acceded to the following human rights instruments:

- (a) The International Convention on the Prevention and Punishment of the Crime of Genocide;
- (b) The International Convention on the Elimination of All Forms of Racial Discrimination;

- (c) Convention on the Prevention of the Crime of Genocide;
- (d) Convention on the Nationality of Married Women;
- (e) Slavery Convention;
- (f) Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institution and practices Similar to Slavery;
- (g) International Agreement for the Suppression of White Slave Traffic;
- (h) Convention on the Political Rights of Women;
- (i) International Convention on the Suppression and Punishment of the Crime of Apartheid;
- (j) International Convention Against Apartheid in Sports;
- (k) The Convention on the Rights of the Child,
- (l) The Convention on the Elimination of All Forms of Discrimination Against Women;
- (m) Convention Relating to the Status of Refugees;
- (n) Protocol Relating to the Status of Refugees;
- (o) Hague Convention of 25th October 1980 on the Civil Aspects of Child Abduction;
- (p) Amendment to Article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination; and
- (q) Inter American Convention on the Punishment and Eradication of Violence Against Women 'Convention of Belem do Para.'

32. The Bahamas Government will soon accede to the following human rights instruments:

- (a) The International Covenant on Civil and Political Rights; and
- (b) The International Covenant on Economic, Social and Cultural Rights.

33. At the regional level, the Bahamas as a responsible member of the Caribbean Community ratified the Charter of Civil Society. The Charter was endorsed by CARICOM as a regional benchmark for the rights, freedoms and obligations of Caribbean people.

G. Human rights institutions

34. In compliance with its international human rights obligations, the Bahamas has submitted its State reports to the following United Nations Human Rights Treaty Monitoring Bodies:

- (a) The Committee on the Elimination of All Forms of Racial Discrimination;
- (b) The Committee on the Rights of the Child.

H. Policy measures

35. 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.

36. 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).

37. 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 a 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.

38. The Bahamas enjoys a free and independent press. The Government monopoly of broadcast media was ended in 1992 and the Government of the day enunciated 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.

I. Racism

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

40. 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.

J. Women

41. Bahamian women were enfranchised in 1962 and a woman was first appointed to the Upper Chamber of Parliament (the Senate) in 1967 and to the Cabinet in 1968. A woman, a member of the Opposition Party of that day, was first elected as a member of the House of Assembly in 1982. In 1992 five women were elected to the House of Assembly representing the new governing party. Three 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. Since 1992 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 (Head of State) for the first time in 2001.

42. Protections of fundamental human rights enshrined in the Bahamas Constitution apply equally to men and women though 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. A national referendum to remove this Constitutional discrimination was defeated in 2002.

43. Constitutional discrimination notwithstanding, successive Governments have developed and implemented gender-neutral policies with regard to 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 financial institutions operating in and from the Bahamas. The post of Chief Justice and that of President of the Court of Appeal have both been filled by a female jurist. Additionally, several women now serve as Supreme Court Justices. Women feature prominently among senior public officers; a female has served as Secretary to the Cabinet and several women have served and others serve today as Heads of Bahamian Diplomatic and Consular offices internationally.

44. In adherence to its commitments under the Convention on the Elimination of Discrimination Against Women (CEDAW), the 1995 Beijing Platform for Action, the Inter-American Convention on the Punishment and Eradication of Violence Against Women (Convention of Belem do Para) and other international conventions ratified by the Bahamas, successive Governments have acted to guarantee equality and non-discrimination in the treatment of women.

45. 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 Community Affairs, the Domestic Violence Unit of the Royal Bahamas Police Force and by a number of non-governmental organizations (NGOs) and/or civic organizations including Zonta and Rotary Clubs, the Council of Women in the Bahamas and the Bahamas Crisis Centre.

46. While gender neutral, legislation strengthening Family and Child Protection laws, enhancing Sexual Offences and Domestic Violence legislation and removing the law of primogenitor with regard to inheritance, have been seen as especially targeted to promote the equality of women in society.

47. The Gender-related Development Index (GDI) is a composite index that measures the level of inequalities between men and women. In the 2007-2008 United Nations Human Development Report, the Bahamas attained a GDI value of 0.841 which ranked the Bahamas 48th out of 177 countries with data. The GDI value suggests that women have been empowered in the Bahamas.

48. An alternative composite index which seeks to measure gender inequality is the Gender Empowerment Measure (GEM). For 2007-2008 the Bahamas was ranked 20th out of 177 countries with a GEM value of 0.696. The Bahamas ranked first in its tier of high human development in the percentage of female legislators, senior officials and managers (46 per cent) and seventh in the percentage of female professional and technical workers (60 per cent). Another impressive measurement on the GEM Index is the ratio of estimated female to male earned income for The Bahamas. The Bahamas was fifth in its tier (0.70) which was equal to that of Italy. It is to be noted that The Bahamas scored a higher overall score in the GEM ranks (20) just ahead of Italy which was 21.

49. In addition to other international instruments that the Bahamas has ratified which are itemized under the heading III.C – Legislation, other conventions ratified by the Bahamas that also address issues pertinent to the status of women include:

(a) International Convention on the Prevention and Punishment of the Crime of Genocide;

(b) International Convention on the Elimination of All Forms of Racial Discrimination;

- (c) Convention on the Rights of the Child;
- (d) ILO Convention 45 Underground work (women);
- (e) ILO Convention 87 Freedom of Association and protection of the Right to Organize Convention;
- (f) ILO Convention 98 Right to Organize and Collective Bargaining Convention,
- (g) Forced Labour Convention;
- (h) Abolition of Forced Labour Convention;
- (i) ILO Convention 100, Equal Remuneration Convention;
- (j) ILO Convention 103, Maternity Protection Convention- Revised;
- (k) ILO Convention Discrimination (Employment and Occupation);
- (l) ILO Convention 138 Minimum Age Convention;
- (m) ILO Convention 182 – Worst Forms of Child Labour Convention;
- (n) Convention on the Political Rights of Women;
- (o) Convention on the Nationality of Married Women; and
- (p) Hague Convention on the Civil Aspects of Child Abduction.

K. Smuggling in persons

50. The Commonwealth of the Bahamas is an archipelagic nation spread over some 100 thousand 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 of America, particularly economic immigrants from Haiti and Cuba. Successive Governments of the Bahamas have been challenged to control the illicit transit of the Bahamian archipelago by migrants and others. The Government cooperates with regional partners as called for by international conventions, and very specifically with the agencies of the Government of the United States, in joint and multilateral efforts to restrict the illicit transit traffic of migrants, arms and drugs via the Bahamas.

L. Trafficking in persons

51. Representatives of the Government of the Bahamas have participated in training workshops concerned with the prevention of human trafficking that have been facilitated by the Government of the United States of America and the International Organization for Migration (IOM).

52. The Bahamian Parliament is expected to consider in the near future, legislation that will, when enacted, strengthen the hand of the law in dealing with human traffickers who violate Bahamian law in pursuit of their illegal transport of undocumented persons into and through the Bahamas.

M. Refugees/Asylum

53. The Government of the Bahamas ratified the Convention relating to the Status of Refugees and the related Protocol of 1967 in 1993, and has prepared draft legislation meant to bring the domestic laws of the Bahamas into conformity with the requirements of the Convention relating to the Status of Refugees and the related Protocol of 1967.

54. Undocumented and/or illegal migrants found in the Bahamas are interviewed by appropriate personnel from the Department of Immigration. Following protocols developed in consultation with the United Nations High Commissioner for Refugees, persons found to have a well-founded fear of persecution should they return to their country of origin have been granted refugee status or assisted with relocation to a third country. Individuals who do not meet the standard of political refugee are repatriated to their country of origin. Every effort is taken by the Government to improve the efficiency of the 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.

IV. IDENTIFICATION OF ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

A. Achievements and best practices

55. The Bahamian Constitution enshrines protection for fundamental human rights. Protection of those rights is provided by the legal and judicial system of the Bahamas which is based on Statute and Common law. The Bahamas has signed/acceded/ratified a bevy of international human rights conventions and treaties in support of respect and protection of fundamental human rights. During the 1960s the Bahamas Government enfranchised women, peacefully brought an end to minority government; and began to develop and implement policies which guarantee equal access to education, health and social services by all residents of the Bahamas.

B. Actions of public authorities

56. The Constitution of the Commonwealth of the Bahamas established independent entities such as (a) The Judicial and Legal Service Commission, (b) The Public Service Commission, (c) The Public Service Board of Appeals, and (d) The Police Service Commission and empowered them to oversee the recruitment, appointment, promotion and discipline of public servants.

C. Combating discrimination

57. The Bahamas is home to a diverse range of persons from around the world. The majority of Bahamians are descendants of African slaves brought to the islands during the early colonial period of Bahamian history. A significant minority are the descendants of the European colonial population. These populations were augmented by new immigrant groups during the last century including Europeans (Greeks), Chinese, Lebanese, Syrian and Blacks, largely from other Commonwealth Caribbean countries.

58. The Bahamas has developed and implemented policies designed to improve the social and economic standing of the long disadvantaged black majority. Care is taken to safeguard the rights of the minority white population and to protect the interests of international investors whose business interests formed the backbone of the Bahamian economy. Issues pertaining to the social, political and economic inequality among segments of the population, which permeated the social fabric of the Commonwealth of the Bahamas prior to independence, were a motivating factor for post-independence Bahamians to build a society which could overcome a colonial legacy of racial separation and inequality.

D. Civil society

59. The participation of Civil Society in the political life of the Bahamas dates back to 1950 and the creation of the Citizens' Committee, with an agenda to combat racial discrimination. Since that time, civic organizations and NGOs have been established to address a wide cross section of social and developmental issues from disabilities, to addictions, social assistance and environmental conservation. Among these number the following:

Abilities Unlimited

Alcoholics Anonymous

Amnesty International

Bahamas Association for Social Health (BASH)

Bahamas Red Cross

Columbus House

Crisis Center

Grand Bahama Human Rights Association

Nazareth Centre

Training Centre for the Disabled

ReEarth

Bahamas Reef Environmental Education Fund (BREEF) and

The Nature Conservancy

The Government of the Bahamas has promoted the development of civil society encouraging "town hall" type meetings and consultations on a wide range of issues impacting Bahamian society. The enactment of the Non-Governmental Organizations Act in 2005 provides for the establishment and registration of non-governmental organizations in the Bahamas.

E. International commitments

60. The Bahamas Government has consistently acted to meet its international commitments notwithstanding financial constraints which limit its financial contribution to international initiatives in support of the international human rights agenda.

V. CHALLENGES AND CONSTRAINTS

A. Introduction

61. The Government of the Bahamas is resolved to promote and protect the fundamental human rights of all residents of the Bahamas and to support international initiatives that support and promote human rights and combat discrimination in all its forms.

B. Fundamental human rights in the Bahamas

62. The fundamental human rights of all persons are recognized in the Bahamian Constitution (Chapter III, Articles 15-27). The legal and judicial system provides protection and redress in connection with allegations of abuse of human rights.

C. Human rights education

63. Respect for human rights is included in the social studies curriculum of government operated schools. In response to increased allegations of abuse of rights by some members of the uniform services, specific training in human rights observance and protection have been integrated into police, defense force and immigration officer training programmes. The Women's Affairs Unit monitors and reports on aspects of community life which militate against the full enjoyment of human rights by women.

D. Domestic/International reports

64. The Government of the Bahamas has facilitated investigations of allegations of human rights abuses to be undertaken by international human rights entities.

65. The Commonwealth of the Bahamas has not had a visit with a Special Rapporteur on human rights issues. However, the provision in Bahamian law for corporal punishment to be administered as a penalty by order of a Court resulted in the citing of the Bahamas in the United Nations Human Rights Council's Implementation of General Assembly resolution 60/251 of 15 March 2006 (A/HRC/4/33/Add.1). This report recorded, "...reliable and credible allegations of torture and other cruel, inhuman or degrading treatment"¹ occurring in the Bahamas. In the report, Special Rapporteur Manfred Nowak advised that his concern centered on the case of Alutus Newbold, who upon conviction for burglary, attempted rape and causing harm on an eighty-seven year old lady in her residence, was sentenced to eight lashes and twenty-four years imprisonment.

66. Local human rights associations have also voiced their opposition to the mandatory capital punishment sentence on conviction for a murder charge. It is to be noted that a vocal segment of Bahamian society strongly support a penalty of capital punishment for convicted murderers.

67. The Government of the Bahamas accessed the services of international organizations/agencies to research a number of social and economic conditions to better inform the development of government policies to improve conditions and support development. These include:

(a) The Bahamas Living Conditions Survey (2001);

(b) The International Organization for Migration's Report on Haitian Migrants in the Bahamas (2005); and

(c) The United Nations 2007-2008 Human Development Report.

68. According to the Human Development Indices of the 2007-2008 United Nations Human Development Report the Bahamas is regarded as a high human development country. The report ranks the Bahamas 49th out of 177 countries with available data in both the Human Development Index (HDI), and in the Human Development Index Trends. The reports revealed that the HDI value for the Bahamas was 0.845; the HDI value trends indicate that the Bahamas is progressively improving its HDI values.

E. Undocumented migration/Migration

¹ United Nations Human Rights Council's Implementation of General Assembly resolution 60/251 of 15 March 2006 (A/HRC/4/33/Add.1), p. 4.

69. 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, orderly and designed first and foremost to meet the needs of the Bahamas and its citizens.

70. The Bahamas has historically recruited individuals to meet the unmet needs of the Bahamian economy from around the Region, i.e. the English speaking Caribbean and Haiti. In particular public service workers, including legal professionals, teachers, police and prison officers, have been recruited from the English-speaking Caribbean. Farm labourers are predominantly recruited from Haiti.

71. However, the Bahamas has long been 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, also in pursuit of employment. The Bahamas has long informed the international community of its inability to continue to receive and assimilate the unplanned influx of large numbers of illegal migrants. The majority of such migrants originate from Haiti. An important second source of illegal migrants is the English-speaking Caribbean. Especially since the 1990s, a growing number of Cuban nationals have been found illegally in the Bahamas. When discovered these persons are detained and processed for repatriation if they do not meet the standard of political refugee.

72. The Bahamas rejects allegations sometimes levied in the international community, which suggest that the Bahamas discriminates against Haitian nationals living in the Bahamas. The Bahamas has long 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, regardless to their race, colour or place of origin. It is to be noted that Haitians, as all other international persons, living in the Bahamas, have free access to education, health and social services without regard to their immigration status.

F. Constraints

73. The principal constraints impacting the human rights environment in the Bahamas are firstly, the constitutional requirement for a referendum to amend offending provisions of the Constitution which discriminate against women; and secondly, the strong opposition among the Bahamian people for the abolition of capital punishment. It is noted that a referendum seeking to remove the offending articles of the Constitution that discriminate against women was defeated in 2002.

G. The Bahamian prison system

74. The Bahamas has a single prison – Her Majesty’s Prison at 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.

75. Financial constraints have led to serious over-crowding at Her Majesty’s Prison, a matter which has begun to be 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 Government’s plan to ensure the separation of persons held on remand from convicts.

76. 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.

77. The Immigration 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 Royal Bahamas Defence Force. Nevertheless, complaints regarding the operation of the facility arise from time to time. The Centre has been plagued by a number of “break-outs” and by protests from detainees complaining over the length of their detention, the quality of food available and/or the unsatisfactory access to visitors, including members of the foreign press. Most protests have been made by Cuban nationals. Cuban detainees were implicated in an uprising which resulted in the destruction of one of the dormitory structures by fire.

78. The Bahamas Government continues to be challenged by the cost associated with housing and maintaining illegal immigrants and by the cost for their eventual repatriation.

Table. Repatriation costs for the Government of the Commonwealth of the Bahamas²

<i>Period</i>	<i>Costs (\$ million)</i>
January - December 2000	1.4
January - December 2001	1.03
January - December 2002	1.2
January - December 2003	.678
January - December 2004	.521
January - December 2005	.720
January - December 2006	1.3
January - December 2007	1.1
Total	7.949

Source: Department of Immigration

80. Since 2000, the Government of the Bahamas has repatriated 47,270 persons who entered the Bahamas illegally. In 2007, some B\$1,094,732 was expended on the repatriation of 6,996 persons.

VI. NATIONAL PRIORITIES AND COMMITMENTS OF THE BAHAMAS

A. Education

81. 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. In fact, 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.

² These costs reflect expenses incurred for the repatriation via aircraft of persons found illegally in the Bahamas. The Government has not included other variable costs such as salaries, and other maintenance expenses which would reflect a fuller scope of costs associated with securing the borders of the Bahamas on an annual basis.

82. The social studies curriculum of government operated secondary schools includes courses in civics designed to familiarize students with their civic responsibilities, create an awareness of local and international socio-economic conditions and promote tolerance. Course material includes information on problems associated with racism and discrimination relating to gender, religion, nationality, origin and race.

VII. EXPECTATIONS OF THE STATE

A. Capacity building

83. Recurring complaints against some members of the uniform services indicates a need for additional training and sensitizing of officers on the observance of, respect for and protection of the rights of the individual. Such programmes are under development to facilitate and support capacity building initiatives in the Royal Bahamas Police Force (RBPF), the Royal Bahamas Defence Force (RBDF), and in the Prison and Immigration Services.

B. Requests for technical assistance

84. The Bahamas has determined to seek technical assistance in human rights training in support of its plans to enhance human rights related training.
