

# **THE BAHAMAS 2020 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

The Commonwealth of The Bahamas is a constitutional parliamentary democracy. Prime Minister Hubert Minnis's Free National Movement won control of the government in 2017 elections international observers found to be free and fair.

The Royal Bahamas Police Force maintains internal security. The Royal Bahamas Defence Force is primarily responsible for external security but also provides security at the Carmichael Road Detention Centre (for migrants) and performs some domestic security functions, such as guarding embassies. Both report to the minister of national security. Civilian authorities maintained effective control over the security forces. There were no reports of significant abuses by the security forces.

Significant human rights issues included degrading treatment of prisoners and harsh prison conditions. Libel is criminalized, although it was not enforced during the year.

The government had mechanisms in place to identify and punish officials who commit human rights abuses.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings during the year.

The government reported 12 cases of shooting incidents involving police, including from previous years, pending with the coroner's court. In a case in which an off-duty police officer allegedly shot and killed a man in Exuma District, the Royal Bahamas Police Force dismissed the officer and took him into custody. He was charged with manslaughter and denied bail.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits torture and cruel, inhuman, or degrading treatment or punishment. At times citizens and visitors alleged instances of cruel or degrading treatment of criminal suspects or of migrants by police or immigration officials. Individuals detained in jails complained they were denied access to medical care and food and were degraded through name-calling and homophobic slurs.

Impunity was not a significant problem. The government had mechanisms in place to identify and punish officials who commit human rights abuses. In June the police commissioner and the coroner's court disagreed regarding who should investigate police-involved shootings.

### **Prison and Detention Center Conditions**

Conditions at the government's only prison, the Bahamas Department of Correctional Services (BDCS) facility commonly known as Fox Hill Prison, were harsh due to overcrowding, poor nutrition, inadequate sanitation, poor ventilation, and inadequate medical care, although the government initiated some improvements. Conditions at the Carmichael Road Detention Centre for migrants were adequate for short-term detention only.

Physical Conditions: Overcrowding, poor sanitation, and inadequate access to medical care were problems in the men's maximum-security block, while inadequate access to clean drinking water was an issue in the men's maximum-security block, remand, and the women's block. The BDCS facility was designed to accommodate 1,000 prisoners but held 1,617 inmates as of December. Juvenile pretrial detainees were held with adults at the BDCS remand center, a minimum-security section of the prison.

The government stated it complied with its legal obligations to provide for showering, exercise, doctor visits, lawyer visits, and visitation. Among male inmates, only those in the medium- and minimum-security wards were allowed to exercise daily with the exception of weekends and holidays. Due to COVID-19, authorities limited nonprison food vendor sales and suspended meals brought by family members. Prisoners reported infrequent access to clean drinking water and an inability to store potable water due to a lack of storage containers. Maximum-security cells for men measured approximately six feet by 10 feet and held up to

six persons with no mattresses, running water, or toilet facilities. Inmates removed human waste by bucket. Prisoners complained of the lack of beds and bedding. Some inmates developed bedsores from lying on the bare ground. Sanitation was a general problem, with cells infested with rats, maggots, and insects. Ventilation was also a problem, and some inmates complained of mold and mildew. The government claimed to provide prisoners in maximum-security areas access to toilets and showers one hour a day. The women's facilities were generally more comfortable, with dormitory-style quarters and adequate bathrooms.

The availability of clearly labeled, prescribed pharmaceuticals and access to physician care was sporadic. Prisoners consistently complained that prison authorities did not take their health concerns seriously. Sick male inmates and male inmates with disabilities had inadequate access to the medical center. One inmate, who requested assistance for a series of medical complications, died at BDCS in October. The inmate's family had been permitted to provide him with nutritional supplements and healthy meals until the COVID-19 pandemic forced the prison to restrict visitors. Absent outside support and adequate prison care, the inmate died in his cell.

In February a correctional officer beat a prisoner, causing a leg injury that required surgery. The government stated it charged the officer with use of unnecessary force and referred the matter to a disciplinary tribunal at the Department of Correctional Services.

Despite the suspension of visitations due to the COVID-19 pandemic, inmates were allowed to remain in contact with relatives via the inmate telephone system, the prerelease unit, and the chaplain's office.

At the Carmichael Road Detention Centre in June, a group of detained Haitian migrants, frustrated at their prolonged detention, damaged fencing and conducted a short hunger strike. The government had suspended repatriation flights to Haiti due to the COVID-19 pandemic. Ten days after the protest, however, the government repatriated 75 migrants to Haiti, the first deportation since March. Eight asylum seekers remained detained for approximately one year while they awaited a government decision on their cases.

Administration: The Internal Affairs Unit and a disciplinary tribunal at the BDCS facility are responsible for investigating any credible allegations of abuse or substandard conditions. Despite media reports of abuse at BDCS, the government stated there were no instances of abuse or mistreatment.

Independent Monitoring: Human rights organizations reported the government did not grant requests for access to the maximum-security block of the BDCS facility. Independent observers, including the Office of the UN High Commissioner for Refugees (UNHCR) and the Bahamas Red Cross, were regularly able to visit the primary detention center and speak with detainees held at the government's safe house for mothers and children, including asylum seekers and refugees. The UNHCR office was vacant for the first half of the year due to staff turnover.

Improvements: The government took steps to improve prison conditions, including by introducing biodegradable bags for proper waste disposal, constructing 100 bunk beds, and installing flooring, air conditioning, and masonry in parts of the maximum-security area. In addition inmates noted repairs to water flow during the year and a reopened prison library. At the Carmichael Road Detention Centre, the government replaced floor tiles in all dormitories.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrest and detention, and the government generally observed these requirements. The constitution provides for the right of persons to challenge the lawfulness of their arrest or detention in court, although this process sometimes took several years.

#### **Arrest Procedures and Treatment of Detainees**

Police officers generally obtained judicially issued warrants when required for arrests. Serious cases, including suspected narcotics or firearms offenses, do not require warrants where probable cause exists. The law states authorities must charge a suspect within 48 hours of arrest. Arrested persons must appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them, although some persons on remand claimed they were not brought before a magistrate within the 48-hour period. Police may apply for a 48-hour extension upon simple request to the court and for longer extensions with sufficient showing of need. The government respected the right to a judicial determination of the legality of arrests. The constitution provides the right for those arrested or detained to retain an attorney at their own expense; volunteer legal aides were available only for serious felonies being tried in the Supreme Court. Access to legal representation was inconsistent, including for detainees at the detention center. Minors receive legal assistance

only when charged under offenses before the Supreme Court; otherwise, there is no official representation of minors before the courts.

A functioning bail system exists. Individuals who were unable to post bail were held on remand until they faced trial. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, foreign suspects generally preferred to plead guilty and pay a fine.

As of July there were 73 complaints against police for abusing detainees, compared with 72 such complaints during same period in 2019. As a result of investigations, two officers were reduced in rank and one was required to resign. Other actions were pending the completion of investigations.

Pretrial Detention: Attorneys and other prisoner advocates continued to complain of excessive pretrial detention due to the failure of the criminal justice system to try even the most serious cases in a timely manner. The constitution provides that authorities may hold suspects in pretrial detention for a “reasonable period of time,” which was interpreted as two years. Authorities released selected suspects awaiting trial with an ankle bracelet on the understanding the person would adhere to strict and person-specific guidelines defining allowable movement within the country. Of the 1,617 inmates, 37 percent (598 inmates) were in pretrial detention.

The Department of Immigration detained irregular migrants, primarily Haitians, while arranging for them to leave the country or until the migrant obtained legal status. The average length of detention varied significantly by nationality, by the willingness of other governments to accept their nationals back in a timely manner, and by the availability of funds to pay for repatriation. Authorities aimed to repatriate Haitians within one to two weeks, but the COVID-19 pandemic impeded routine repatriation flights.

The government continued to enforce the law requiring noncitizens to carry their passport and proof of legal status in the country. Some international organizations alleged that enforcement focused primarily on individuals of Haitian origin, that the rights of children were not respected, and that expedited deportations did not allow time for due process. There were also widespread credible reports that immigration officials solicited and accepted bribes to prevent detention or to grant release. One individual, claiming he was born in The Bahamas, said authorities apprehended him and held him at the Carmichael Road Detention Centre for migrants before he bribed several officials to release him.

Activists for the Haitian community acknowledged alleged victims filed few formal complaints with government authorities and attributed this to a widespread perception of impunity for police and immigration authorities and fear of reprisal.

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

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Procedural shortcomings and trial delays were problems. The courts were unable to keep pace with criminal cases, and there was a continued backlog.

#### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants enjoy the right to a presumption of innocence until proven guilty, to be informed promptly and in detail of the charges, to a fair and free public trial without undue delay, to be present at their trial, to have adequate time and facilities to prepare a defense, to receive free assistance of an interpreter, and to present their own witnesses and evidence. Although defendants generally have the right to confront adverse witnesses, in some cases the law allows witnesses to testify anonymously against accused perpetrators in order to protect themselves from intimidation or retribution. Defendants have the right to not be compelled to testify or confess guilt and the right to appeal.

Defendants may hire an attorney of their choice. The government provided legal representation only for serious felonies being tried in the Supreme Court, leaving large numbers of defendants without adequate legal representation. Lack of representation contributed to excessive pretrial detention, as some accused lacked the means to advance their cases toward trial.

Numerous juvenile offenders appear in court with an individual who is court-appointed to protect the juvenile's interests (*guardian ad litem*). A conflict arises when the magistrate requests "information" regarding a child's background and requests the child-welfare social worker to prepare a probation report to include a recommendation on the sentence for the child. In essence the government-assigned social worker tasked with safeguarding the welfare of the child is also tasked with recommending an appropriate punishment for the child.

A significant backlog of cases was awaiting trial, with delays reportedly lasting years. The government suspended jury trials due to the COVID-19 pandemic, hindering its efforts to address the backlog. Once cases went to trial, they were often further delayed due to poor case and court management, such as inaccurate handling or presentation of evidence and inaccurate scheduling of witnesses, jury members, and defendants for testimony. The judiciary took concrete steps toward procuring and implementing a digital case-management system to help alleviate the backlog.

Local legal professionals also attributed delays to a variety of long-standing systemic problems, such as inadequate coordination between investigators and prosecutors, insufficient forensic capacity, outdated file management, lengthy legal procedures, and staff shortages in the Prosecutor's Office and the courts.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

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

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, and the government generally respected these prohibitions. Immigration enforcement activities slowed greatly due to the COVID-19 pandemic, but there were sporadic reports of abuse. In one instance police were reportedly involved in a physical altercation with a 16-year-old boy inside his residence during an immigration operation in an informal settlement on New Providence.

While the law usually requires a court order for entry into or search of a private residence, a police inspector or more senior police official may authorize a search without a court order where probable cause exists to suspect a weapons violation or drug possession.

## **Section 2. Respect for Civil Liberties, Including:**

**a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression. Independent media were active and expressed a wide variety of views without restriction.

Libel/Slander Laws: The law criminalizes both negligent and intentional libel, with a penalty of six months' imprisonment for the former and two years for the latter. The government did not apply the criminal libel law during the year.

**Internet Freedom**

The government did not restrict access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authorization.

**Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

**b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

**c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

**d. Freedom of Movement**

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

**e. Status and Treatment of Internally Displaced Persons**



Nongovernmental organization (NGOs) claimed the government did not adequately accommodate the approximately 8,000 residents of Grand Bahama, Abaco, and the surrounding cays displaced by Hurricane Dorian. The government housed more than 2,000 persons, including many undocumented migrants--mostly Haitian--in temporary shelters on New Providence. The government allowed international and local NGOs access to the displaced migrants. Although all shelters were closed by July, the government stated it continued to provide food and rental assistance to some hurricane evacuees.

#### **f. Protection of Refugees**

The government sometimes cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, stateless persons, and other persons of concern. The government provided COVID-19 medical assistance to all, regardless of immigration status. It requested the assistance of NGOs in translating written COVID-19 health guidance for migrants who speak Creole, Spanish, Chinese Mandarin, and Tagalog.

Abuse of Migrants, Refugees, and Stateless Persons: Migrants continued to accuse police and immigration officers of soliciting bribes. Human rights organizations alleged that bias against migrants, particularly those of Haitian descent, continued, including through eviction notices in informal settlements. The government generally enforced its immigration policies equally on all irregular migrants, regardless of nationality or origin.

Refoulement: The government had an agreement with the government of Cuba to expedite removal of Cuban detainees. The announced intent of the agreement was to reduce the amount of time Cuban migrants spent in detention; however, concerns persisted the agreement allowed for information-sharing that heightened the risk of oppression from the Cuban government of detainees and their families. The government did not force asylum seekers or refugees to return to countries where they were likely to face persecution or torture.

Access to Asylum: The effects in September 2019 of Hurricane Dorian continued to have an impact on access to asylum as the government tried to accommodate thousands of individuals displaced by the storm, including hundreds of irregular migrants, while simultaneously enforcing its immigration laws.

While the law does not provide protection for asylum seekers, the government may issue special refugee cards allowing them to work. It did not issue any such cards to the approximately 30 asylum seekers during the year. Access to asylum in the country is informal since there is no legal framework under which legal protections and practical safeguards could be implemented. The lack of refugee legislation or formal policy and an official government point of contact complicated UNHCR's work to identify and assist asylum seekers and refugees.

According to the government, trained individuals were available to screen applicants for asylum and refer them to the Department of Immigration and the Ministry of Foreign Affairs for further review. Government procedure requires the ministry to forward approved applications to the cabinet for a final decision on granting or denying asylum. The government was slow to respond to repeated written requests from UNHCR for a meeting to discuss pending asylum cases, including for eight asylum seekers who were detained at Carmichael Road Detention Centre for more than one year.

Authorities did not systematically involve UNHCR in asylum proceedings but allowed UNHCR to interview detained asylum seekers.

### **g. Stateless Persons**

Not all individuals born in the country are automatically afforded Bahamian citizenship. For example, children born in the country to non-Bahamian parents, to an unwed Bahamian father and a non-Bahamian mother, or outside the country to a Bahamian mother and a non-Bahamian father do not acquire citizenship at birth. The government did not effectively implement laws and policies to provide certain habitual residents the opportunity to gain nationality in a timely manner and on a nondiscriminatory basis. There was little progress in advancing legislation intended, in part, to address the issue of statelessness.

Under the constitution Bahamian-born persons of foreign heritage must apply for citizenship during a 12-month window following their 18th birthday, but an applicant sometimes waited many years for a government response. The narrow window for application, difficult documentary requirements, and long waiting times left multiple generations of persons, primarily Haitians due to their preponderance among the irregular migrant population, without a confirmed nationality. Government policy allows individuals who missed the 12-month window to gain legal permanent resident status with the right to work, but some

Haitian residents had difficulty applying because they did not have the necessary documents.

There were no reliable estimates of the number of persons without a confirmed nationality. The government asserted a number of “stateless” individuals had a legitimate claim to Haitian citizenship but refused to pursue it due to fear of deportation or loss of future claim to Bahamian citizenship. Such persons often faced waiting periods of several years for the government to decide on their nationality applications and, as a result, in the interim lacked proper documentation to secure employment, housing, and other public services.

In one case a man born in the country to non-Bahamian parents was still awaiting the government’s determination on his nationality status 22 years after submitting his application. The man relied on his employer to sponsor and renew his work permit so he could maintain legal status. He was unable to obtain a driver’s license or health insurance.

Minors born in the country to non-Bahamian parents were eligible to apply for “belonger” status that entitled them to reside in the country legally and access public high-school-level education and fee-for-service health-care insurance. Belonger permits were readily available. The lack of a passport prohibited students from accessing higher education outside the country. The government does not bar children without legal status from government schools. To facilitate online instruction during the COVID-19 pandemic, the Ministry of Education provided computer tablets to students enrolled in the government-subsidized school lunch program, including children without legal status. Those who had not registered for the lunch program were unable to join their classmates in the virtual classroom. Community activists alleged some schools continued to discriminate by falsely claiming to be full in order to avoid having to admit children of Haitian descent.

The law denies mothers the right to confer nationality to their children on an equal basis with men. Specifically, women with foreign-born spouses do not automatically transmit citizenship to their spouses or children. Many of the provisions that preclude full gender equality in nationality matters are entrenched in the constitution and would require a constitutional referendum to change.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. The long-standing lack of a fully implemented freedom of information act continued to limit citizens' access to information necessary to inform their political decision making.

### **Elections and Political Participation**

Recent Elections: Prime Minister Hubert Minnis took office after the Free National Movement (FNM) defeated the incumbent Progressive Liberal Party (PLP) in a general election in 2017. The FNM won 35 of the 39 parliamentary seats, with 57 percent of the popular vote. The PLP won the remaining four seats. Election observers from the Organization of American States and embassies found the elections to be generally free and fair.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups in the political process, and they did participate.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There was limited enforcement of conflicts of interest related to government contracts. There were isolated reports of government corruption during the year where officials sometimes engaged in corrupt practices, including accepting small-scale "bribes of convenience," with impunity.

Corruption: The campaign finance system was largely unregulated, with few safeguards against quid pro quo donations, creating a vulnerability to corruption and foreign influence. The procurement process was susceptible to corruption, since it contains no requirement to engage in open public tenders. Nevertheless, the government routinely issued open public tenders. The government encouraged value added tax-registered businesses to sign up for the electronic bidding platform, which the Ministry of Finance introduced in 2019 to increase public procurement transparency.

The government reported no new cases of corruption in the executive, legislative, and judicial branches. The trial for a bribery case against a former high-level government official, scheduled to begin in March, was delayed due to COVID-19.

A second trial for a money-laundering case against a former official was also delayed due to the pandemic. The trials had yet to be held by year's end.

Corruption in the Bahamas Department of Correctional Services and the Carmichael Road Detention Centre was a long-standing problem, with allegations by both detainees and officials.

Financial Disclosure: The Public Disclosure Act requires senior public officials, including senators and members of Parliament, to declare their assets, income, and liabilities annually. The government gave extensions to all who were late to comply. The government did not publish a summary of the individual declarations, and there was no independent verification of the information submitted.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

#### **Women**

Rape and Domestic Violence: Rape of men or women is illegal, but the law does not protect against spousal rape unless the couple is separated or in the process of divorce, or if there is a restraining order in place. The maximum penalty for an initial rape conviction is seven years in prison. The maximum sentence for subsequent rape convictions is life imprisonment; however, the usual maximum was 14 years in prison. The government generally enforced the law effectively.

Violence against women worsened during the COVID-19 pandemic due, in part, to lockdowns and curfews that prevented victims from seeking safe havens or other assistance. The government cited a 23 percent increase in recorded sexual offenses through September 30. The government conducted awareness campaigns and signaled it was pursuing stronger legislation. It did not implement long-standing civil society recommendations to address adequately gender-based violence but signaled it was pursuing legislation.

The law addresses domestic violence under the Sexual Offenses Act. The government generally enforced the law, although women's rights groups cited reluctance on the part of law enforcement authorities to intervene in domestic disputes. The Ministry of Social Services sponsored temporary, privately owned safe-house shelters, but there was a shortage of transitional housing. The Bahamas Crisis Centre provided a counseling referral service, operated a toll-free hotline, and added a WhatsApp hotline during the year.

Sexual Harassment: The law prohibits sexual harassment in employment and authorizes moderate penalties and a maximum of two years' imprisonment. The government does not have any permanent programs on sexual harassment but conducted educational and awareness-raising campaigns and activities.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The law does not prohibit discrimination based on gender. Women with foreign-born spouses do not have the same right as men to transmit citizenship to their spouses or children (see section 2.g., Stateless Persons). In addition a child adopted by a married Bahamian couple may acquire Bahamian citizenship only through the adopted father, not the adopted mother.

Women were generally free from economic discrimination, and the law provides for equal pay for equal work. The law provides for the same economic legal status and rights for women as for men. The government generally enforced the law effectively.

## **Children**

Birth Registration: Children born in the country to married parents, one of whom is Bahamian, acquire citizenship at birth. In the case of unwed parents, the child takes the citizenship of the mother. All children born in the country who are noncitizens may apply for citizenship upon reaching their 18th birthday. All births must be registered within 21 days of delivery.

Child Abuse: The law stipulates severe penalties for child abuse and requires all persons having contact with a child they believe has been physically or sexually abused to report their suspicions to police; nonetheless, child abuse and neglect remained serious problems, exacerbated by the COVID-19 pandemic.

The Ministry of Social Services provided services to abused and neglected children through a public-private center for children, the public hospital's family violence program, and The Bahamas Crisis Centre. It also operated a 24-hour national abuse hotline.

Child, Early, and Forced Marriage: The legal minimum age for marriage is 18, although minors may marry at 15 with parental permission.

Sexual Exploitation of Children: The minimum age for consensual heterosexual sex is 16. The law considers any association or exposure of a child to prostitution or a prostitution house as cruelty, neglect, or mistreatment. The offense of having sex with a minor carries a penalty of up to life imprisonment. Child pornography is against the law. A person who produces child pornography is subject to life imprisonment; dissemination or possession of child pornography calls for a penalty of 20 years' imprisonment.

The penalties for rape of a minor are the same as those for rape of an adult. While a victim's consent is an insufficient defense against allegations of statutory rape, it is a sufficient defense if the accused had "reasonable cause" to believe the victim was older than age 16, provided the accused was younger than age 18.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The local Jewish community consisted of approximately 500 persons. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with disabilities, including their access to education, employment, health services, information, communications, public buildings, transportation, the judicial system, and other state services. The government did not enforce these provisions effectively. The law affords equal access for students, but only as resources permit, as decided by individual schools. There were several special-needs schools in Nassau; however, on less-populated islands, children with learning disabilities often lacked adequate access. Special-needs schools on Grand Bahama and Abaco were severely affected by Hurricane Dorian.

A mix of government and private residential and nonresidential institutions provided education, training, counseling, and job placement services for adults and children with disabilities. Children with disabilities attended school through secondary education at a significantly lower rate than other children. They attended school with nondisabled peers or in specialized schools, depending on local resources. The government tried to facilitate distance learning for students with disabilities during the COVID-19 pandemic but faced problems in providing equal access.

### **Members of National/Racial/Ethnic Minority Groups**

According to unofficial estimates, between 30,000 and 60,000 residents were Haitians or persons of Haitian descent, making them the largest ethnic minority. Many persons of Haitian origin lived in informal settlements with limited sewage and garbage services, law enforcement, and other public services. Authorities generally granted Haitian children access to education and social services, but interethnic tensions and inequities persisted after thousands of persons of Haitian descent were displaced by Hurricane Dorian in September 2019.

Members of the Haitian community complained of discrimination in the job market, specifically that identity and work-permit documents were controlled by employers seeking advantage by threat of deportation. After Hurricane Dorian, the government offered to replace lost immigration documents, including work permits, free of charge.

### **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law does not provide antidiscrimination protections to lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals on the basis of their sexual



orientation, gender identity, gender expression, or sex characteristics. Consensual same-sex sexual conduct between adults is legal. The law defines the age of consent for same-sex individuals as 18, compared with 16 for heterosexual individuals. NGOs reported LGBTI individuals faced social stigma and discrimination and did not believe they were adequately protected by law enforcement authorities.

### **HIV and AIDS Social Stigma**

The law prohibits discrimination in employment based on HIV and AIDS status. The public school HIV/AIDS protocol advised teachers on how to treat open wounds of children and negated the need for teachers and administrators to know the HIV status of a child. While the societal response to HIV and AIDS improved considerably, there were episodes of discrimination and breaches of confidentiality.

## **Section 7. Worker Rights**

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

The law provides for the right of workers to form and join independent unions, participate in collective bargaining, and conduct legal strikes. The law prohibits antiunion discrimination. To be recognized, trade unions must be registered with the Department of Labour. By law employers may be compelled to reinstate workers illegally fired for union activity. Members of the police force, defense force, fire brigade, prison guards, and--according to a union leader--casino workers may not organize or join unions, although police used professional associations to advocate on their behalf in pay disputes. To be recognized by the government, a union must represent at least 50 percent plus one of the affected workers.

By law labor disputes must first be filed with the Department of Labour. If not resolved, disputes are transferred to an industrial tribunal, which determines penalties and remedies, up to a maximum of 26 weeks of an employee's pay. The tribunal's decision is final and may be appealed in court only on a question of law.

The government generally respected freedom of association and the right to collective bargaining, and most--but not all--employers in the private sector did as well. The government did not restrict union activity or use targeted layoffs during the COVID-19 pandemic for union busting. Union leaders, however, complained the government did not consult them on policy decisions that affected redundancy,

furlough, and nonpayment to staff. One union leader said some government and quasi-government entities also did not consult with unions or the Ministry of Labour, as legally required, before deciding which employees to make redundant during layoffs caused by the pandemic.

The government generally enforced the law, although the Department of Labour stated the government, in coordination with labor unions, relaxed labor laws and standards due to the COVID-19 pandemic. Penalties for violating labor laws varied by case but are generally commensurate with those for other similar violations. Administrative and judicial procedures were subject to lengthy delays and appeals. The Department of Labour provided its annual report to Parliament during the national budget debate but did not include updated statistics on enforcement.

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

The law prohibits all forms of forced or compulsory labor. The government generally enforced the law. Local NGOs noted exploited workers often did not report their circumstances to government officials due to fear of deportation and lack of education regarding available resources. Penalties for forced labor are commensurate with those for analogous serious crimes, such as kidnapping.

Irregular migrants were vulnerable to forced labor, especially among domestic employees, in the agricultural sector, and particularly in the outlying Family Islands. There were reports that migrant laborers, often of Haitian origin, were vulnerable to compulsory labor and suffered abuse at the hands of their employers, who were responsible for endorsing their work permits on an annual basis. Specifically, local sources indicated employers required migrant labor employees to “work off” the work permit fees, which increased during the year. The risk of losing the permit and the ability to work legally within the country was reportedly used as leverage for exploitation and created the potential for abuse.

Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits all of the worst forms of child labor. The law prohibits the employment of children younger than age 14 for industrial work and any work during school hours or between the hours of 8 p.m. and 6 a.m. Children between

ages 14 and 17 may work between the hours of 8 p.m. and 6 a.m. but only in hotels, restaurants, food stores, general merchandise stores, and gas stations. Children between ages 14 and 17 may work outside school hours under the following conditions: on a school day, for not more than three hours; in a school week, for not more than 24 hours; on a nonschool day, for not more than eight hours; and in a nonschool week, for not more than 40 hours. The government did not have a list of jobs that are considered dangerous, although it intervened when children were performing permissible jobs in dangerous environments (e.g., selling peanuts at a dangerous intersection). Occupational safety and health restrictions apply to all minors. The government does not have a list of light work activities that are permitted for children age 12 and older.

The government generally enforced the law effectively. The Department of Labour received no reports of significant violations of child labor laws. The penalties for violating child labor laws on forced labor are generally commensurate with those for analogous serious crimes.

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment based on race, skin color, national origin, creed, sex, marital status, political opinion, age, HIV status, and disability, but not based on language, sexual orientation, gender identity, religion, or social status. The government did not effectively enforce the law, and penalties were not commensurate with laws related to civil rights. Women's pay lagged behind men's, and persons with disabilities faced discrimination in hiring and access to the workplace. While the law allows victims to sue for damages, many citizens were unable to sue due to a lack of available legal representation and the ability of wealthy defendants to prolong the process in courts.

#### **e. Acceptable Conditions of Work**

The minimum wage is above the established poverty income level.

The law provides for a 40-hour workweek, a 24-hour rest period, and time-and-a-half payment for hours worked beyond the standard workweek. The law stipulates paid annual holidays and prohibits compulsory overtime. The law does not place a cap on overtime. The government set health and safety standards appropriate to the main industries. According to the Department of Labour, the law protects all workers, including migrant workers, in areas including wages, working hours,

working conditions, and occupational health and safety standards. Workers do not have the right to refuse to work under hazardous conditions.

The Department of Labour is responsible for enforcing labor laws, including the minimum wage, work hours, safety, health welfare, and child labor, and it enforced the law inconsistently, especially in the large informal sector. The Labour Inspection Section of the Department of Labour conducted random onsite visits to enforce occupational health and safety standards and investigate employee concerns and complaints. Inspections occurred infrequently, although the Department of Labour was increasing the number of inspectors. Penalties for violations of occupational health and safety laws are commensurate with those for crimes like negligence. In response to the COVID-19 pandemic, the Department of Labour stated it conducted additional workplace inspections to enforce compliance with the Ministry of Health's COVID-19 workplace guidelines. Inspectors had the right to conduct unannounced visits and levy fines, but the department sometimes announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards. Employees who worked in the construction, agricultural, hospitality, engineering, and informal sectors endured hazardous conditions. In addition officials at the BDCS prison complained of a lack of hazard pay for working close to inmates with communicable diseases, including HIV/AIDS and COVID-19.