

# **THE BAHAMAS 2021 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

The Commonwealth of The Bahamas is a constitutional parliamentary democracy. Prime Minister Philip Brave Davis's Progressive Liberal Party won control of the government on September 16. International observers found the electoral process 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 credible reports of degrading treatment of prisoners by prison officers and the existence of a criminal libel law, although it was not enforced during the year.

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

## **Section 1. Respect for the Integrity of the Person**

### **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.

### **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.

In April a correctional officer reported that two prison officers beat a male prisoner, resulting in hospitalization. There were four recorded cases of physical abuse by correctional officers. Two officers in these cases had disciplinary charges levied against them. The evidence in the remaining two cases was deemed insufficient to go to trial, according to the government.

Law enforcement investigated four alleged cases of rape at the government's only safe house for victims of domestic violence, which was also used to hold migrant detainees who are women and children. Two investigations resulted in the discharge of the immigration officers involved. Prosecutors dropped a third case because the alleged victim declined to press charges. Prosecutors dropped a fourth case when the accuser died from COVID-19.

#### **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, and inadequate medical care. 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 BDCS men's maximum-security block. The facility was designed to accommodate 1,000 prisoners but was chronically overcrowded. Juvenile pretrial detainees were held with adults at the BDCS remand center, a minimum-security section of the prison. At the end of November, eight juveniles were incarcerated.

Due to COVID-19, authorities suspended the ability of family members to bring meals to prisoners. Authorities also limited food sales by independent vendors.

Prisoners reported infrequent access to nutritious meals and long delays between daily meals. Maximum-security cells for men measured approximately six feet by 10 feet and held up to six persons with no mattresses 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 bare ground. Sanitation was a general problem, and cells were infested with rats, maggots, and insects. The government claimed to provide access to toilets and showers one hour a day to prisoners in maximum-security areas. The women's facilities were generally more comfortable, with dormitory-style quarters and adequate bathrooms.

Individuals detained in jails complained they were denied access to medical care and food. The availability of and access to medical and psychological care were 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. Correctional officers and civil society accused prison management of contributing to COVID-19 outbreaks by failing to quarantine COVID-19-positive prisoners from the general population and failing to provide prisoners with timely access to the vaccine.

While the law prohibits persons serving a prison sentence from voting, persons who are detained but not convicted are permitted to vote. Individuals in the main prison who were detained but not convicted, however, were denied the ability to vote in the September election.

**Administration:** The Internal Affairs Unit and a disciplinary tribunal at the BDCS facility were responsible for investigating any credible allegations of abuse or substandard conditions. The prison commissioner was placed on leave beginning October 1 pending an investigation into several allegations including poor management of the Department of Corrections, the unapproved release of a prisoner, and gross negligence concerning the transmission of COVID-19 between prisoners.

**Independent Monitoring:** The BDCS facility stated it was not granting access to visitors, including human rights organizations, due to COVID-19 protocols. Independent observers, including the Office of the UN High Commissioner for Refugees (UNHCR), were restricted to virtual meetings with detainees who were

held at the migrant detention center and the government's safe house.

#### **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.

In August the Court of Appeals increased the amount of compensation due to a Kenyan national found by the Supreme Court in 2020 to have been unlawfully detained at the migrant detention center for six years and four months. The individual was to receive \$750,000 instead of the \$641,000 originally awarded to him in December 2020.

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

The government respected the right to a judicial determination of the legality of arrests. Police 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 by showing sufficient need.

The constitution provides the right for those arrested or detained to retain an attorney at their own expense; the Public Defender's Office and local law professors and alumni provide free legal representation to defendants on a limited basis. Access to legal representation was inconsistent, including for detainees at the detention center. Minors receive legal assistance only when charged with offenses heard by the Supreme Court; otherwise, there is no official legal representation of minors before the courts.

A functioning bail system exists. Individuals 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.

**Pretrial Detention:** Attorneys and other prisoner advocates complained 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 condition that the persons adhere to strict guidelines defining their movements within the country.

The Department of Immigration detained irregular migrants, primarily Haitians, until they were repatriated or 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. The COVID-19 pandemic initially impeded repatriation flights, but repatriation flights to Haiti resumed on October 3.

### **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, estimated by the chief justice at 12 to 18 months.

### **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 to protect the witnesses from intimidation or retribution. Defendants have the right to not be compelled to testify or confess guilt. They have the right to appeal.

Defendants may hire an attorney of their choice. The government provided free legal representation, but only on a limited basis, leaving large numbers of defendants without adequate legal representation. Lack of representation contributed to excessive pretrial detention, as some suspects lacked the means to advance their cases toward trial.

Numerous juvenile offenders appeared in court with a child-welfare social worker who was court-appointed to protect the juvenile's interests (guardian ad litem). Conflicts arose when the magistrate requested the social worker to prepare a probation report and include a recommendation on the sentence for the child. In essence the social worker tasked with safeguarding the welfare of the child was also tasked with recommending an appropriate punishment for the child, a conflict of interest.

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, 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, in addition to hiring five new justices to help alleviate the backlog.

Local legal professionals 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 was an independent and impartial judiciary in civil matters, and there was access to a court to file lawsuits seeking damages for, or relief from, 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.

While the law usually requires a court order for entry into or search of a private residence, a police inspector or 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**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution provides for freedom of expression, including for members of the press and other media, 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, including for members of the media. Independent media were active and expressed a wide variety of views without restriction.

New press guidelines released by the Prime Minister's Office in October drew criticism from local journalists, who called them "unnecessary" and "inappropriate." According to the guidelines, journalists "should" wear business attire and use specific titles when addressing ministers. The guidelines limited simultaneous accreditation to two journalists and two videographers per media house and required that journalists who requested "specific responses to issues" communicate with the press secretary by 6 p.m. the night before the briefing. The government stated the guidelines were intended to ensure timely responses to

journalists' questions, expand access to new voices in journalism, and facilitate the observance of COVID-19 health protocols.

**Libel/Slander Laws:** The law criminalizes both negligent and intentional libel, with a penalty of six months' imprisonment for the former and two years' imprisonment 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 and the Right to Leave the Country**

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**

In April the government demolished 10 residential structures housing internally displaced citizens and migrants on the hurricane-ravaged island of Abaco. Before the government continued with its plan to remove more than 200 total structures, the Supreme Court issued an injunction, which remained under appeal. Officials



made little to no effort to shelter the displaced residents. In one instance media reported that police confiscated personal property, including generators and small refrigerators. Nongovernmental organizations (NGOs) requested that the items be returned where proof of ownership existed, but the government did not respond.

In response to the demolition orders, the special UN rapporteur for human rights of internally displaced persons urged the government to “immediately cease further evictions and housing demolitions,” calling them “a serious violation of the human right to adequate housing.”

## **f. Protection of Refugees**

The government sometimes cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees, stateless persons, and other persons of concern.

**Access to Asylum:** 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 50 asylum seekers during the year. Access to asylum in the country was informal, since there is no legal framework under which legal protections and practical safeguards can be implemented. The lack of refugee legislation, formal policy, and a point of contact in the government complicated UNHCR’s work to identify and assist asylum seekers and refugees.

Government procedure required the Department of Immigration to forward approved applications to the cabinet for a final decision on granting or denying asylum. The government met with UNHCR to discuss pending asylum cases, including 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.

**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 that the agreement heightened the risk of oppression of

detainees and their families by the Cuban government.

**Abuse of Migrants and Refugees:** The government provided COVID-19 medical assistance to all, regardless of immigration status. For months, however, the government required individuals to present Bahamian identification to register for the COVID-19 vaccine; the government later lifted the requirement. The government's lack of clear guidance enabled rumors and fear to spread among migrants that presenting oneself for vaccination would result in deportation. Migrants accused police and immigration officers of soliciting bribes. Human rights organizations alleged bias against migrants, particularly those of Haitian descent, including through eviction notices in informal settlements.

### **g. Stateless Persons**

Not all individuals born in the country are automatically afforded 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 long-term residents the opportunity to gain nationality in a timely manner and on a nondiscriminatory basis. There was little progress in advancing legislation intended to address the issue of statelessness.

Under the constitution, Bahamian-born persons of foreign heritage must apply for citizenship during a 12-month period following their 18th birthday, but applicants sometimes waited many years for a government response. The short period for application, difficult documentary requirements, and long waiting times left multiple generations of persons, primarily persons of Haitian descent, without a 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 lacked 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 who had a legitimate claim to Haitian citizenship 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. The lack of a passport also prohibited students from accessing higher education outside the country.

In two separate cases, persons born in The Bahamas to non-Bahamian parents were still awaiting the government's determination on their nationality – one had waited 19 years and another 21 years – after submitting their applications. In both situations the individual relied on their employer to sponsor and renew their work permits each year to maintain legal status.

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 education and health insurance. Belonger permits were readily available. 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. Community activists alleged some schools continued to discriminate by falsely claiming to be full to avoid admitting 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; to change them would require a constitutional referendum.

### **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 government's sudden announcement of a snap election in September immediately closed the voter registry, effectively excluding any citizen who had not yet registered to vote.

## **Elections and Political Participation**

**Recent Elections:** On September 16, Prime Minister Philip Davis took office after his Progressive Liberal Party defeated the incumbent Free National Movement in a snap general election in September. The Progressive Liberal Party won 32 of the 39 parliamentary seats, with 56 percent of the popular vote. The incumbent Free National Movement won the remaining seven seats. Election observers from the Organization of American States, Caribbean Community, and Commonwealth Secretariat found the election to be generally free and fair. Critics argued, however, that the abrupt announcement of the early election, which immediately suspended the voter registration process, disenfranchised those who had not yet registered, particularly youth and first-time voters. Furthermore, critics complained that holding the election during the COVID-19 pandemic led to historically low voter turnout (65 percent of registered voters, compared with more than 80 percent in other recent elections).

**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. While a record seven women were elected to Parliament, fewer than 20 percent of the candidates presented by the two major parties were women. Leadership from both parties noted difficulties in recruiting female candidates. Other observers cited obstacles such as patriarchal traditions, expectations of personal attacks, and inflexible attitudes regarding gender roles.

## **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 reports of government corruption during the year where officials sometimes engaged in cronyism and accepted 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 contained no requirement to engage in open public tenders. In February the government passed the Public Procurement Bill (2020) to improve transparency and accountability in the public procurement process.

Corruption in the BDCS and the Carmichael Road Detention Centre was a long-standing problem, with allegations by both detainees and officials. There were widespread, credible reports that immigration officials solicited bribes to prevent detention or grant release. Human rights organizations and media reporting alleged that officials demanded payment in exchange for telephone calls and sanitary napkins.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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. The government had yet to establish an ombudsman, although legislation was pending. The Ministry of Social Services had a council to investigate abuses directed at women, children, and persons with disabilities.

## **Section 6. Discrimination and Societal Abuses**

### **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 unless 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 sentence was 14 years in prison. The government generally enforced the law effectively, except at the detention facility and the safe house (see section 1.c.).

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 did not implement long-standing civil society recommendations to address gender-based violence.

The government generally enforced the law on gender-based violence, although women's rights groups cited reluctance by police 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 managed a WhatsApp hotline during the year.

**Sexual Harassment:** Sexual harassment was a serious problem. The law prohibits sexual harassment in employment and authorizes moderate penalties and a maximum of two years' imprisonment. The government generally enforced the law effectively; however, sexual harassment was underreported. The government did not have any permanent programs on sexual harassment but conducted educational campaigns.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Barriers affecting access to contraception included limited access to sexual and reproductive health services on all but the two most-populated islands (New Providence and Grand Bahama) and sociocultural stigma regarding premarital sex. The age for heterosexual consent is 16 (18 for homosexual consent), but the age for receiving contraception and other health services without requiring parental consent is 18. The government provided limited access to sexual and reproductive health services for survivors of sexual violence, including the provision of emergency contraception.

**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 citizenship only through the adoptive father.

Women were generally free from economic discrimination within public service, 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 within the public sector; however, it did not enforce the law within the private sector. Pay discrepancies rendered female defendants less able to afford legal representation.

## **Systemic Racial or Ethnic Violence and Discrimination**

The constitution and laws protect racial and ethnic minorities from violence and discrimination. The government generally enforced these laws effectively. 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 ethnic tensions and inequities persisted.

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.

The government enforced 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 and that expedited deportations did not allow time for due process.

During the COVID-19 pandemic, the government subsidized persons with the right to work through short- and long-term food assistance, housing assistance, and assistance for children in elementary schools. The government provided school lunches through community centers for families affected by job loss during the pandemic, regardless of immigration status.

## **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 were 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. The ministry also operated a 24-hour national abuse hotline.

In January a video surfaced of apparent child abuse in a government-owned children's facility. After an investigation, the government charged six employees of the children's facility with child cruelty.

**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 commercial sex or an establishment where commercial sex takes place as cruelty, neglect, or mistreatment. The offense of having sex with a child carries a penalty of up to life imprisonment. Child pornography is illegal. A person who produces child pornography is subject to life imprisonment; conviction for 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 Equal Opportunities Act 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. All policy and legislation documents were provided at a government bureau for persons with disabilities in braille, large print, and MP3 downloadable formats.

The law affords equal access for students, but only as resources permit, as decided by individual schools. There were several segregated schools for children with disabilities in Nassau; however, on less-populated islands, children with learning disabilities often lacked adequate access. The government tried to facilitate distance learning for students with disabilities during the COVID-19 pandemic but faced problems in providing equal access. A mix of government and private residential and nonresidential institutions provided education, training, counseling, and job placement services for adults and children with disabilities.

Several persons with disabilities submitted complaints concerning the lack of parking spaces available near buildings for persons with disabilities, as persons without disabilities were using the spaces with impunity. The government was unable to enforce the Equal Opportunities Act due to a lack of inspectors to monitor parking availability and to ensure that new building specifications aligned with accessibility requirements.

The lack of accessible transportation for persons with disabilities was a long-

standing problem, particularly on the public bus service. As a result persons with disabilities had to spend more money on private transportation options, which were not regulated by the government. Additionally, concerned citizens filed complaints about the exploitation of children with disabilities forced into street soliciting by their parents or legal guardians.

The government designated a full day of voting for specific groups, including persons with disabilities, one week ahead of the general election.

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

The law prohibits discrimination in employment based on HIV and AIDS status. Public school protocols advised personnel how to treat the wounds of all children in a way that eliminated the need to know the child's HIV or AIDS status. While the societal attitude to HIV and AIDS improved considerably, there were episodes of discrimination.

### **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, queer, or intersex (LGBTQI+) individuals based on 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 LGBTQI+ individuals faced social stigma and discrimination and did not believe they were adequately protected by law enforcement authorities. There was generally low social tolerance for same-sex relationships. There was widespread condemnation of well known citizens who identified as homosexual or who supported the LGBTQI+ community. Homophobic epithets were both common and socially acceptable.

## **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 register with the Ministry of Labour and Immigration (hereafter Ministry of Labour); the registrar has authority to refuse registration. Union representatives said the registration process caused delays but was otherwise not a barrier to union formation. By law employers may be compelled to reinstate workers illegally fired for union activity. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions, although police used professional associations to advocate on their behalf. 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 Ministry of Labour. If not resolved there, 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.

There are significant restrictions on the right to strike. To proceed with a strike action, the law first requires negotiations between the employer and union leaders. If there is a stalemate, the union must notify the minister of labor at least two days before a vote to strike. The employer and union leaders sometimes engaged for months before the minister got involved. The minister of labor can supervise a secret strike ballot. The government has the authority to intervene in a strike action to ensure the delivery of essential services and uphold the "national interest." Workers who engage in illegal strikes can be subject to imprisonment for up to two years.

The government generally respected freedom of association and the right to collective bargaining, and so did most private-sector employers. 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 entities 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 Ministry 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 were generally commensurate with penalties for similar violations. Administrative and judicial procedures were subject to lengthy delays and appeals. The ministry 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 took no significant action to combat forced labor and did not enforce the law in all sectors. Penalties for forced labor were commensurate with those for analogous crimes, such as kidnapping.

Isolated incidents of forced labor occurred. Local NGOs noted that exploited workers often did not report their circumstances to government officials due to fear of deportation and ignorance of available resources. Irregular migrants, especially domestic employees and agricultural workers, were vulnerable to forced labor, particularly in outlying 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 work permits on an annual basis. The risk of losing the permit and the desire to work legally within the country were 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 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 ages 14-17 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 ages 14-17 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 were considered dangerous, although it intervened when children were working in dangerous environments, such as selling peanuts at a dangerous intersection. The government did not have a list of light work activities permitted for children ages 12 and older.

The government generally enforced the law. The penalties for violating child labor laws on forced labor were generally commensurate with those for analogous crimes.

Incidents of child labor occurred in the informal sector. Children worked on family farms and as street vendors. The Ministry of Labour lacked sufficient inspectors to follow up on reports of child labor.

#### **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 pay in the private sector. Persons with disabilities faced discrimination in hiring and access to the workspace. While the law allows victims to sue for damages, most lacked the financial resources to counter wealthy defendants in court. The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. There was a significant backlog of cases, with delays reportedly lasting years. The government suspended jury trials due to the COVID-19 pandemic, hindering its efforts to address the backlog.

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

**Wage and Hour Laws:** The minimum wage was 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 limit on overtime.

**Occupational Safety and Health:** The government set health and safety standards appropriate to the main industries. According to the Ministry of Labour, the law protects all workers, including migrant workers, with respect to wages, working hours, working conditions, and occupational health and safety standards. Workers cannot remove themselves from situations that endanger health or safety without jeopardizing their employment.

The Ministry of Labour is responsible for enforcing labor laws, including minimum wage, work hours, safety, health, and child labor. The ministry enforced the law inconsistently, especially in the informal sector. Ministry inspectors conducted random site visits to enforce occupational health and safety standards and to investigate employee concerns and complaints. Inspections occurred infrequently. Penalties for violations of occupational health and safety laws were commensurate with those for crimes such as negligence.

In response to the COVID-19 pandemic, the Ministry of Labour conducted additional workplace inspections to enforce compliance with the Ministry of Health's COVID-19 workplace guidelines. Inspectors have the right to conduct unannounced visits and levy fines, but the ministry sometimes announced inspection visits in advance. Employers generally cooperated with inspectors to implement safety standards. Some employees who worked in the construction, agriculture, hospitality, engineering, and informal sectors endured hazardous conditions. In addition officials at the main prison complex complained of a lack of hazard pay for working close to inmates with communicable diseases, including HIV, AIDS, and COVID-19.

**Informal Sector:** The law protects all workers and calls for decent work standards

for all, even outside legal employment structures. Where informal work contravened labor laws, the government effectively enforced the law. The informal sector accounted for an estimated 25 percent of the country's GDP. The primary job sector in the informal segment consisted of home-based workers, such as hair braiders, clothing vendors, domestic workers, beauticians, tailors, and seamstresses. Persons in the informal sector were typically not employed, were self-employed, or worked more than one job. Many irregular migrants worked in landscaping and agriculture.