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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Forty-third session**  
1–12 May 2023**Bahamas****Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights****I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.<sup>1</sup> It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

**II. Scope of international obligations and cooperation with human rights mechanisms**

2. The Committee on the Elimination of Discrimination against Women welcomed the ratification, in 2018, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It recommended that the Bahamas demonstrate its commitment to eliminating all forms of discrimination against women by withdrawing its reservations to articles 2 (a) and 9 (2) within a clear time frame in order to ensure the full applicability of the Convention on the Elimination of All Forms of Discrimination against Women.<sup>2</sup> The Special Rapporteur on violence against women, its causes and consequences, made a similar recommendation.<sup>3</sup>

3. The same Committee encouraged the Bahamas to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>4</sup> The Special Rapporteur on violence against women made a similar recommendation.<sup>5</sup>

4. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that the Bahamas accede to the Convention relating to the Status of Stateless Persons and to the Convention on the Reduction of Statelessness.<sup>6</sup>

5. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that the Bahamas ratify the Convention against Discrimination in Education.<sup>7</sup>

6. The Special Rapporteur on violence against women visited the Bahamas in December 2017.<sup>8</sup>

7. The Bahamas made a financial contribution to the Office of the United Nations High Commissioner for Human Rights in 2020.<sup>9</sup>



### **III. National human rights framework**

#### **1. Constitutional and legislative framework**

8. The Special Rapporteur on violence against women reported that neither the principle of equality between women and men nor the prohibition of sex-based discrimination were enshrined in national legislation. She indicated that article 26 of the Constitution of the Bahamas did not prohibit discrimination on the basis of sex and was in contradiction with article 15 of the Constitution, which was interpreted in a manner that allowed formal legal discrimination against women. The absence of a provision on equality between women and men enshrined in the Constitution and the Government's reservations to the Convention on the Elimination of All Forms of Discrimination against Women were a serious concern with regard to the domestic legislative framework. The Special Rapporteur deeply regretted that the two constitutional referendums aimed at ending gender inequality that were held in the previous decade had been rejected by voters. She encouraged the Government to work on other possible ways to bring its legal framework into line with its international obligations.<sup>10</sup>

9. The Committee on the Elimination of Discrimination against Women expressed a similar concern and recommended setting a clear time frame for a constitutional reform to expand constitutional protection from discrimination, ensuring that a comprehensive review of existing legislation was conducted and that a comprehensive definition of discrimination against women was put forward and integrated into all national laws.<sup>11</sup> It reiterated that recommendation in July 2021.<sup>12</sup>

10. The same Committee expressed concern about the lack of a comprehensive law addressing violence against women and the delay in finalizing and adopting the draft bill on gender-based violence.<sup>13</sup> The Government noted that it had endeavoured to implement as many of the provisions of the draft bill as possible through policy changes.<sup>14</sup> The Committee recommended accelerating the adoption of the comprehensive draft bill and the draft national strategic plan to address gender-based violence. It also recommended adopting, without delay, the amendments to the Sexual Offences Act expressly criminalizing marital rape, removing any temporal limitations to the right to file a complaint for marital rape in the draft amendment to the Act and establishing a sex offender register and registry.<sup>15</sup> The Special Rapporteur on violence against women expressed similar concerns. She considered it necessary to bring the national legal framework, including the Constitution, into line with the international framework provided by the Convention on the Elimination of All Forms of Discrimination against Women and other human rights instruments.<sup>16</sup>

#### **2. Institutional infrastructure and policy measures**

11. The Committee on the Elimination of Discrimination against Women recommended that the Bahamas establish a national human rights institution with a broad mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).<sup>17</sup> The Special Rapporteur on violence against women made a similar remark.<sup>18</sup>

### **IV. Promotion and protection of human rights**

#### **A. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

##### **1. Equality and non-discrimination**

12. The United Nations High Commissioner for Human Rights reported on the deeply worrying discriminatory public declarations against Haitians, as well as messages of xenophobia and intolerance in the media. The High Commissioner expressed concern that such narratives might lead to further stigmatization of or violence against migrants and minorities.<sup>19</sup> The Committee on the Elimination of Racial Discrimination requested the Bahamas to provide information on measures taken to ensure equal protection of the security

and integrity of victims or potential victims of racial discrimination by adopting measures for preventing racially motivated acts of violence against them.<sup>20</sup>

13. The same Committee also requested the Bahamas to provide information on the legal framework and the policies in place to eliminate racial discrimination and to review governmental, national and local policies and to amend, rescind or nullify any laws and regulations that had the effect of creating or perpetuating racial discrimination wherever it existed.<sup>21</sup>

## **2. Right to life, liberty and security of person, and freedom from torture**

14. The Special Rapporteur on violence against women reported that the murder rate in the Bahamas had more than doubled between 2006 and 2016 and was among the highest in the Caribbean. She recommended that the Bahamas strictly regulate the acquisition, possession and use of firearms.<sup>22</sup>

15. The same Special Rapporteur expressed concern that the Carmichael Road detention facility did not comply with international standards, including the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). She underlined that authorities should make renewed efforts to reduce overcrowding, promptly improve hygienic conditions and protect the rights of migrants, including by adopting legal safeguards to prevent arbitrary detention. The Special Rapporteur considered that a monitoring visit by the Working Group on Arbitrary Detention might contribute to assisting the Bahamas in fulfilling its human rights obligations.<sup>23</sup>

## **3. Administration of justice, including impunity, and the rule of law**

16. The Committee on the Elimination of Discrimination against Women expressed concern about the significant backlog in the court system of cases of violence against women and girls.<sup>24</sup> The Special Rapporteur on violence against women expressed a similar concern.<sup>25</sup> The Committee recommended strengthening the judicial system with regard to women's rights and gender equality and raising awareness in order to eliminate the discrimination and stigmatization faced by women and girls who claimed their rights. It also recommended ensuring that the police and courts addressed complaints from women and girls about gender-based violence in an expeditious, efficient and gender-sensitive manner.<sup>26</sup> The Special Rapporteur indicated that specialized courts, such as a sexual offences court, could alleviate judicial backlogs.<sup>27</sup>

## **4. Fundamental freedoms and the right to participate in public and political life**

17. UNESCO recommended that the Bahamas decriminalize defamation and place it within a civil code in accordance with international standards, and continue to strengthen the independence of broadcast licensing and ensure independence in the appointment of their members.<sup>28</sup>

18. The Special Rapporteur on violence against women expressed concern about an increasingly hostile discourse targeting human rights defenders in the Bahamas. She underlined that protecting human rights defenders against retaliation, harassment, threats and discrimination was essential for them to contribute effectively to the elimination of gender-based violence against women and to promote human rights in general. She recommended supporting the work of human rights non-governmental organizations, including by allocating them appropriate financial resources and protection from any kind of retaliation or intimidation as a consequence of their human rights work.<sup>29</sup>

19. The Committee on the Elimination of Discrimination against Women remained concerned about the low participation of women in political and public life. It recommended that the Bahamas establish concrete goals and time frames for strengthening the equal participation of women in public and political life at all levels and create the conditions necessary for the achievement of such goals, and that it adopt measures to ensure de jure and de facto gender parity within political parties and encourage women to stand for election at the national and local levels.<sup>30</sup>

## 5. Right to marriage and family life

20. The Committee on the Elimination of Discrimination against Women expressed concern that section 50 of the Marriage Act provided for a minimum marriage age of 15 years and allowed for exceptions to be granted for marriages involving those as young as 13–15 years of age. It recommended enforcing the application of the minimum age of marriage of 18 years in law and practice, without exception.<sup>31</sup>

21. The same Committee remained concerned that there were no legal provisions governing de facto unions, which might deny women protection and redress in cases of separation. It recommended reviewing the legal system governing marriage and family relations, with a view to extending existing legal provisions to couples living in de facto unions.<sup>32</sup>

22. The same Committee expressed concern about the little progress made in the creation of a unified court system and the establishment of a family court. It recommended accelerating the establishment of a unified court system, with family courts and alternative dispute resolution support services, in accordance with the recommendations of the Family Court System Committee, and allocating adequate human, financial and technical resources for the establishment of the system within a clear time frame.<sup>33</sup>

23. The same Committee also expressed concern that mothers, in particular single mothers, carried a disproportionate burden of caring for children owing to cultural factors and the absence of an enforcement mechanism for the payment of child maintenance. It recommended strengthening the provision of parental education to parents, families and the general public aimed at promoting the shared responsibility of both parents for the care and maintenance of children, reviewing the legislation and procedures for child maintenance and urgently addressing challenges to ensure that single mothers received child maintenance in a timely manner.<sup>34</sup>

## 6. Prohibition of all forms of slavery, including trafficking in persons

24. The Committee on the Elimination of Discrimination against Women welcomed the establishment of the Inter-Ministry Committee on Trafficking in Persons and the Trafficking in Persons Task Force. It remained concerned, however, about the low number of trafficking cases brought before the courts and the lack of research on trends in and the extent of trafficking in women and girls in the country. The Committee recommended intensifying the enforcement of the Trafficking in Persons (Prevention and Suppression) Act 2008, increasing the financial resources of the programmes of the Inter-Ministry Committee and Task Force and accelerating the establishment of a secretariat to deal with trafficking in persons. It also recommended building the capacity of the judiciary, law enforcement officers, border police, social workers and health-care professionals for the identification and early referral of women and girls who were victims of trafficking.<sup>35</sup> The Special Rapporteur on violence against women made a similar recommendation.<sup>36</sup>

25. The Committee on the Elimination of Discrimination against Women remained concerned about the criminalization of prostitution through the Sexual Offences and Domestic Violence Act and recommended decriminalizing prostitution and addressing the root causes of the exploitation of women and girls in prostitution.<sup>37</sup>

26. The Special Rapporteur on violence against women indicated that the economy of the Bahamas, largely dependent on tourism, left certain groups vulnerable to trafficking for sexual or labour exploitation.<sup>38</sup>

## 7. Right to work and to just and favourable conditions of work

27. UNESCO encouraged the Bahamas to raise the minimum age of employment to 16 years in the Employment Act to align it with the end of compulsory education.<sup>39</sup>

28. The Committee on the Elimination of Discrimination against Women remained concerned about legislation that limited the application of the principle of equal pay for work of equal value. It was particularly concerned about the disproportionately high unemployment rate among women, notwithstanding their higher level of educational attainment, the continued occupational segregation in the labour market and the concentration

of women in low-wage jobs in the formal and informal sectors, and the large amount of unpaid and unrecognized work done by women.<sup>40</sup> The Special Rapporteur on violence against women indicated that the opportunities for women to occupy high-level positions should be significantly improved.<sup>41</sup>

29. The Committee on the Elimination of Discrimination against Women recommended enacting appropriate legislation to guarantee the principle of equal pay for work of equal value in all areas of work, intensifying efforts to create an enabling environment for women to become economically independent and ensuring that women doing unpaid work were eligible for retirement and other work-related benefits. In addition, it recommended ensuring the effective enforcement of the legal provisions protecting against sexual harassment and violence against women in the workplace.<sup>42</sup>

## **8. Right to an adequate standard of living**

30. Several special rapporteurs called upon the Bahamas to halt the demolition of approximately 600 homes at two informal settlements on Abaco Island that would put at risk of homelessness a community comprising mainly persons of Haitian origin and migrants. The special rapporteurs indicated that the planned forced evictions and demolitions constituted a serious violation of the right to adequate housing and would result in arbitrary internal displacement. The special rapporteurs recalled that the Supreme Court of the Bahamas had already granted court orders to halt evictions in informal settlements on New Providence, the main island of the Bahamas. They urged the country to follow due legal process and respect existing judicial orders, and ensure that its internal policies were implemented in full compliance with international human rights standards.<sup>43</sup>

## **9. Right to health**

31. The Special Rapporteur on violence against women indicated that a new law on gender-based violence against women could ensure the removal of the inconsistency in place between the age for sexual consent, 16, with that for receiving contraceptive and other health services without requiring parental consent, 18. A new law should ensure that girls aged 16 could receive adequate sexual and reproductive health services without parental consent.<sup>44</sup> The Committee on the Elimination of Discrimination against Women recommended integrating into the school curriculum, and public awareness-raising campaigns, age-appropriate education on sexual and reproductive health and rights and ensuring that girls from 16 years of age had free and adequate access to contraceptives and sexual and reproductive health services.<sup>45</sup>

32. The Special Rapporteur on violence against women indicated that abortion was criminalized under section 295 of the Penal Code. She believed that the absence of legal provisions allowing abortion might lead women to seek unsafe and illegal abortions.<sup>46</sup> The Committee on the Elimination of Discrimination against Women expressed concern about the possible impact that unsafe abortion might have on the rate of maternal mortality.<sup>47</sup> It recommended decriminalizing abortion in all cases, legalizing abortion in cases of rape, incest and severe fetal impairment, providing women with access to high quality post-abortion care, strengthening efforts to reduce the high maternal mortality rate and addressing factors that exacerbated maternal mortality.<sup>48</sup>

33. The same Committee expressed concern about the prevalence of newly diagnosed cases of HIV/AIDS among women and recommended implementing strategies to combat HIV, in particular preventive policies, and a baseline to determine the prevalence of HIV.<sup>49</sup>

## **10. Right to education**

34. UNESCO encouraged the Bahamas to enshrine the right to education and the principle of non-discrimination in education in the legal framework.<sup>50</sup>

35. The Committee on the Elimination of Discrimination against Women expressed concern about the insufficient measures taken to ensure access to high-quality education for all girls, delays in the revision of the Education Act and curriculum reform and the concentration of women and girls in traditionally female-oriented fields of study. The Committee recommended ensuring that girls in the Family Islands and girls from

disadvantaged communities, including girls of Haitian descent, had equal access to high-quality education at the primary and secondary levels, accelerating the revision of the Education Act and curriculum reform and eliminating negative stereotypes and structural barriers to the enrolment of girls in non-traditional fields of education.<sup>51</sup>

36. The same Committee expressed concern about the placement of pregnant girls in special schools operated by the Providing Access to Continued Education Foundation and the lack of practical measures to ensure their re-entry and retention in schools after childbirth. It recommended adopting a policy to ensure that pregnant women and girls remained in school during their pregnancy and that young mothers returned to school after childbirth to complete their education.<sup>52</sup>

## 11. Development, the environment, and business and human rights

37. The Committee on the Elimination of Discrimination against Women recalled the vulnerability of the Bahamas to serious environmental and climate change and natural disasters and the disproportionate effect thereof on women. It recommended ensuring that women were represented in decision-making processes at all levels with regard to the development and implementation of policies on disaster risk reduction, post-disaster management and climate change.<sup>53</sup>

## B. Rights of specific persons or groups

### 1. Women

38. The Committee on the Elimination of Discrimination against Women welcomed the elevation of the Bureau of Women's Affairs to the Department of Gender and Family Affairs within the Ministry of Social Services and Urban Development.<sup>54</sup> It recommended strengthening the authority and the regulatory and oversight roles of the Department and ensuring its autonomy for improved effectiveness in the execution of its mandate and strengthening the participation of civil society organizations with all national mechanisms.<sup>55</sup> The Special Rapporteur on violence against women made a similar recommendation.<sup>56</sup>

39. The same Committee remained deeply concerned about the persistence of deep-rooted patriarchal attitudes and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society. It highlighted that stereotypes were also the root causes of violence against women and expressed concern at the fact that the Bahamas had not taken sustained measures to modify or eliminate discriminatory stereotypes against women. The same Committee recommended ensuring the effective implementation of the prohibition of discrimination on the basis of sex and gender through appropriate enforcement mechanisms and sanctions and adopting an action plan to prevent and eliminate all forms of discrimination against women and girls.<sup>57</sup>

40. The Special Rapporteur on violence against women encouraged the Bahamas to target men and boys in awareness-raising campaigns and to engage men in changing and eliminating patriarchal stereotypes portraying women as inferior to men. She added that ending violence against women required the support of every stakeholder, not only State officials, but also the Church, the media, community representatives and the private sector.<sup>58</sup>

41. The Committee on the Elimination of Discrimination against Women welcomed the establishment of the Domestic Violence and Counselling Unit, the appointment of the National Task Force for Gender-Based Violence, the development of a draft national strategic plan to address gender-based violence and the establishment of the Sexual Offences Unit in the Department of Public Prosecutions. However, it expressed concern about the high prevalence of gender-based violence against women and girls.<sup>59</sup>

42. The Special Rapporteur on violence against women stated that violence against women and girls was often seen as a private matter in the Bahamas, in which the State should not interfere. She highlighted that the underreporting of human rights abuses against women had extraordinarily adverse consequences for victims and society as a whole and underlined that the prosecution of allegations of gender-based violence was essential to making the public aware that, henceforth, there would be zero tolerance for violence against women.<sup>60</sup>

43. The Committee on the Elimination of Discrimination against Women recommended that the Bahamas ensure that cases of gender-based violence against women and girls were effectively investigated and prosecuted and that penalties imposed on perpetrators were commensurate with the gravity of the crimes committed, and that it provide adequate assistance, protection and rehabilitation to women and girls who were victims of violence.<sup>61</sup> The Special Rapporteur on violence against women encouraged the police of the Bahamas to increase the number of women police officers, especially those deployed on the ground to deal with cases of domestic violence.<sup>62</sup>

44. The same Special Rapporteur reported that coerced intimate partner sexual intercourse, or marital rape, and other forms of intimate partner violence were a serious problem in the Bahamas. She underlined that domestic violence within intimate partner relationships was still largely a private matter, with low levels of reporting. She recommended revising or adopting new criminal law provisions to prohibit marital rape.<sup>63</sup>

45. The same Special Rapporteur underlined the deficit in places of refuge for women victims of violence, especially for women and girls who lived outside the capital city. She considered that an appropriate number of shelters was urgently needed; at least one shelter place for every 10,000 inhabitants could serve as a benchmark. The Special Rapporteur recommended establishing an appropriate number of State-funded shelters for women victims of violence, especially in the Family Islands, and ensuring that there was a fully funded national helpline available 24 hours a day, 7 days a week.<sup>64</sup>

46. The Committee on the Elimination of Discrimination against Women expressed concern about the disproportionate level of poverty among women and the discontinuation of the Renewing, Inspiring, Sustaining and Empowering programme, aimed at reducing the number of Bahamians living at or below the poverty level. It recommended that the Bahamas ensure that women in need would not suffer any adverse effects from the discontinuation of the programme and that it be replaced with a suitable new cash transfer programme focused on providing assistance to disadvantaged groups of women and girls. It also recommended adopting a gender perspective in the context of structural adjustments and trade liberalization.<sup>65</sup> The Special Rapporteur on violence against women had a similar concern.<sup>66</sup>

## 2. Children

47. The Committee on the Elimination of Discrimination against Women expressed concern about the prevalence of corporal punishment as a widely accepted means of disciplining children at school and at home. It recommended prohibiting it, in law and in practice, in schools and at home and strengthening awareness-raising programmes, in order to promote non-violent forms of child-rearing and discipline.<sup>67</sup> The Special Rapporteur on violence against women expressed a similar concern and reported that the Early Childhood Care (National Standards) Regulations (2015) prohibited the use of corporal punishment in day-care centres and preschools but did not prohibit it in elementary, secondary or senior schools. Furthermore, the legal framework did not prohibit corporal punishment by parents on their children. The Special Rapporteur believed that the Child Protection Act should be strengthened and that the abolition of corporal punishment in all places should be explicitly incorporated into domestic civil and criminal legislation. She recommended adopting appropriate legislative and educational measures to protect children from all forms of violence, such as corporal punishment, in all places, including in schools and at home.<sup>68</sup> UNESCO made a similar recommendation.<sup>69</sup>

48. The Committee on the Elimination of Discrimination against Women expressed concern about the number of children involved in child sexual abuse material. It recommended taking all measures necessary to eliminate such acts, including in the context of tourism.<sup>70</sup>

## 3. Persons with disabilities

49. The same Committee expressed concern about the limited access for girls with disabilities to inclusive education. It recommended taking measures to develop an inclusive education strategy for all girls with disabilities.<sup>71</sup>

50. The same Committee also expressed concern about the limited opportunities for women with disabilities to participate in the labour market and recommended adopting temporary special measures to increase such participation.<sup>72</sup>

#### **4. Lesbian, gay, bisexual, transgender and intersex persons**

51. The Special Rapporteur on violence against women reported that lesbian, gay, bisexual and transgender persons suffered hostility, discrimination and violence because of their sexual orientation or gender identity. Given the current stigmatization of homosexuality in Bahamian society, there was a concern that the discrimination they faced could influence police attitudes, thereby having an impact on sexual assault investigations. The Task Force for Gender-Based Violence had noted that crimes against lesbian, gay, bisexual and transgender individuals, such as rape, sexual assault and domestic violence, were among the most unreported and undocumented crimes.<sup>73</sup>

52. The Committee on the Elimination of Discrimination against Women expressed concern about the high reported incidence of hate crimes against lesbian, bisexual and transgender women and intersex persons, which remained culturally accepted and underreported.<sup>74</sup>

#### **5. Migrants, refugees and asylum-seekers**

53. UNHCR underlined that the Bahamas faced a complex phenomenon of mixed migration movements as it was a country of both destination and transit for migrants. It encouraged the Bahamas to strengthen its capacity to properly manage those movements. UNHCR also highlighted the need for cooperation among Caribbean countries to manage data collection and analysis on migration and mixed movements as well as to establish protection-sensitive entry systems, reception arrangements, mechanisms for the profiling and referral of asylum-seekers and vulnerable migrants, and long-term solutions.<sup>75</sup>

54. UNHCR indicated that the Bahamas had not yet adopted national legislation governing refugee status determination. There had been an ad hoc government refugee status-determination procedure since 2007. The lack of legislation or regulations resulted in significant gaps in the identification and protection of refugees and insufficient guarantees against refoulement. UNHCR underlined that asylum-seekers were kept in prolonged detention while they waited for government decisions on their cases. The average length of detention varied significantly by nationality, the willingness of other Governments to accept their nationals back in a timely manner, and the availability of funds to pay for repatriation.<sup>76</sup> The Special Rapporteur on violence against women also expressed serious concern about the situation of refugees, asylum-seekers and trafficked persons.<sup>77</sup>

55. UNHCR encouraged the Bahamas to pursue alternatives to detention for asylum-seekers and refugees, to ensure that any restriction on their freedom of movement was applied only under those circumstances where it was necessary, reasonable and proportionate, and that detention of any person in need of international protection was neither arbitrary nor indefinite. UNHCR recommended that the Bahamas pursue alternatives to detention for migration management and establish legal and procedural safeguards to ensure that asylum-seekers who entered irregularly were not subjected to arbitrary detention. It also recommended ensuring that the detention of asylum-seekers and refugees was used as a last resort and where justified under international law.<sup>78</sup>

56. UNHCR strongly encouraged the Bahamas to formalize the role of the Refugee Administration Unit, adopt procedures for the identification and referral of asylum-seekers and train government officials on those procedures. UNHCR recommended adopting national legislation defining refugee status and eligibility for refugee protection, as well as adopting procedures to determine the identity of refugees, the travel documents and permits required and the role of UNHCR.<sup>79</sup>

57. Several special rapporteurs indicated that there had been reports of undocumented migrants experiencing ill-treatment in detention, before being deported. Families had been separated as a result. They called upon the Government to review its migration policy, which included the widespread use of detention and expulsion of migrants.<sup>80</sup>



58. UNHCR reported that the maritime smuggling of Haitians had become increasingly frequent in the previous year as Haiti dealt with multiple humanitarian and security challenges. It also underlined that there were written agreements for the expedited removal of individuals arriving irregularly from Cuba and Haiti. UNHCR underlined that the implementation of those agreements in the context of an ad hoc approach to asylum raised concerns about adequate guarantees against refoulement. Furthermore, provisions in those agreements were in contradiction with the international obligations of the Bahamas under the Convention relating to the Status of Refugees.<sup>81</sup>

59. In October 2019, the United Nations High Commissioner for Human Rights expressed concern about the deportation from the Bahamas to Haiti of 112 Haitian migrants, including people from the Abaco Islands, which had been badly affected by Hurricane Dorian in September 2019. The High Commissioner called upon the Government to refrain from deporting individuals who lacked documentation, without the individual assessments and due process guarantees to which they were entitled under international law.<sup>82</sup>

60. The Committee on the Elimination of Discrimination against Women recommended that the Bahamas adopt specific legislation, incorporating a gender dimension, to govern refugee and asylum-seeking processes; apply a gender-sensitive approach to receiving asylum-seeking women and considering asylum claims so that such women were protected from exploitation and abuse while in custody and had access to appropriate health care and other services; take less coercive alternative measures when addressing women seeking asylum or refugee status or who had entered the country irregularly, and use detention only as a last resort; take measures to improve the social and economic situation of refugee, asylum-seeking and migrant women and women of Haitian descent in order to eliminate their vulnerability to multiple and intersecting forms of discrimination and violence, and provide them with access to basic services; and ensure that a gender-sensitive approach was applied to the asylum claims of women and girls and provide refugee, asylum-seeking and migrant women with free legal counselling on the procedures available for obtaining legal status in the Bahamas and documents relating to nationality.<sup>83</sup>

61. The Special Rapporteur on violence against women indicated that many migrant women and women of Haitian descent lived in poor and densely populated shanty towns, where they were confronted with an array of challenges, including discrimination on the grounds of gender and ethnic origin. In addition to the discrimination they faced, many did not have identity documents or national passports, which hampered their ability to obtain work or housing. Their low socioeconomic status and social exclusion exposed them to multiple and intersecting forms of violence, including domestic violence. During her visit, the Special Rapporteur was made aware of the implementation of measures purportedly aimed at curbing irregular migration, which resulted in the detention and swift deportation of hundreds of individuals, disproportionately targeting the community of Haitian descent, some of whom might have been born in the Bahamas.<sup>84</sup>

62. The same Special Rapporteur indicated that the lack of legal status of migrant women put them in a vulnerable situation, thus increasing the risk of gender-based violence. In that context, it was particularly urgent for the authorities to speed up the immense backlog of nationality applications for Bahamian-born individuals of Haitian descent so as to prevent gender-based violence against migrant women and reduce their vulnerability and exposure to poverty and exploitation.<sup>85</sup>

## 6. Stateless persons

63. UNHCR underscored that nationality in the Bahamas was acquired according to the principle of *jus sanguinis*, although the Constitution made different provisions for how Bahamian men and women conferred citizenship to a child born abroad or to a foreign spouse. The Bahamas was one of two countries in the Western hemisphere that discriminated on the basis of gender in its nationality laws. As a result, there were several instances in which statelessness might arise.<sup>86</sup> The Special Rapporteur on violence against women expressed a similar concern and recommended amending the nationality laws.<sup>87</sup> UNHCR recognized the efforts made by the Government of the Bahamas to put an end to the issue of inequality on citizenship transmission in the country.<sup>88</sup> The Special Rapporteur strongly encouraged the

authorities to pass an unequivocal law allowing women to pass their nationality on to their children on an equal footing with men.<sup>89</sup>

64. UNHCR recommended that the Bahamas develop special facilitated naturalization proceedings to guarantee citizenship to persons identified as stateless and introduce a statelessness-determination procedure to identify statelessness persons and afford them protection.<sup>90</sup> The Committee on the Elimination of Discrimination against Women expressed a similar concern and recommended introducing a statelessness-determination procedure to identify stateless women and children.<sup>91</sup>

65. UNHCR recommended that the Bahamas, in accordance with its obligations under the Convention on the Rights of the Child, amend its Constitution to introduce a safeguard against statelessness in the case of foundlings and children born in the territory of the Bahamas who would otherwise be stateless. It also recommended continuing the dialogue on constitutional reform to ensure gender equality in the conferral of Bahamian citizenship, in accordance with its obligations under the Convention on the Elimination of All Forms of Discrimination against Women.<sup>92</sup>

66. The United Nations High Commissioner for Human Rights welcomed the court ruling, made in May 2020, regarding the country's citizenship laws as a positive step towards promoting gender equality and reducing statelessness. The Supreme Court had ruled that anyone born in the Bahamas was entitled to citizenship at birth if at least one of their parents was a citizen of the country, irrespective of whether the parents were married. The High Commissioner encouraged the Government to build on that ruling and to take the necessary legislative, policy and procedural steps to eliminate discrimination on the basis of gender in the nationality laws.<sup>93</sup> The Committee on the Elimination of Discrimination against Women recommended that the Bahamas take further legislative steps to ensure that Bahamian women could transmit their nationality to non-Bahamian spouses.<sup>94</sup>

#### Notes

- 1 [A/HRC/38/9](#), [A/HRC/38/9/Add.1](#) and [A/HRC/38/2](#).
- 2 [CEDAW/C/BHS/CO/6](#), paras. 6 (a) and 10.
- 3 [A/HRC/38/47/Add.2](#), para. 73 (b) and (c).
- 4 [CEDAW/C/BHS/CO/6](#), para. 53.
- 5 [A/HRC/38/47/Add.2](#), para. 29.
- 6 UNHCR submission for the universal periodic review of the Bahamas, p. 5.
- 7 UNESCO submission for the universal periodic review of the Bahamas, para. 21 (i).
- 8 [A/HRC/38/47/Add.2](#), para. 1.
- 9 See <https://www.ohchr.org/sites/default/files/Documents/AboutUs/FundingBudget/VoluntaryContributions2020.pdf>.
- 10 [A/HRC/38/47/Add.2](#), paras. 12, 35, 36 and 72. See also [CEDAW/C/BHS/FCO/6](#), paras. 2–5.
- 11 [CEDAW/C/BHS/CO/6](#), paras. 11–12 (a) and (b). See also [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FBHS%2F45297&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FBHS%2F45297&Lang=en).
- 12 See [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FBHS%2F45297&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FBHS%2F45297&Lang=en).
- 13 [CEDAW/C/BHS/CO/6](#), para. 23 (b). See also [A/HRC/38/47/Add.2](#), para. 12; and [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FBHS%2F45297&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUCS%2FBHS%2F45297&Lang=en).
- 14 [CEDAW/C/BHS/FCO/6](#), para. 21.
- 15 [CEDAW/C/BHS/CO/6](#), para. 24 (b) and (c).
- 16 [A/HRC/38/47/Add.2](#), paras. 38, 41, 47–50 and 69.
- 17 [CEDAW/C/BHS/CO/6](#), para. 18. See also [CERD/C/BHS/QPR/15-21](#), para. 7.
- 18 [A/HRC/38/47/Add.2](#), para. 54.
- 19 See <https://www.ohchr.org/en/press-briefing-notes/2019/10/press-briefing-note-bahamas>.
- 20 [CERD/C/BHS/QPR/15-21](#), para. 18 (a).
- 21 *Ibid.*, paras. 5 and 6 (d).
- 22 [A/HRC/38/47/Add.2](#), paras. 13 and 73 (n).
- 23 *Ibid.*, para. 45.
- 24 [CEDAW/C/BHS/CO/6](#), para. 23 (f).

- 25 [A/HRC/38/47/Add.2](#), para. 66.
- 26 [CEDAW/C/BHS/CO/6](#), para. 14 (a) and (b). See also [A/HRC/38/47/Add.2](#), para. 68.
- 27 [A/HRC/38/47/Add.2](#), para. 67.
- 28 UNESCO submission, paras. 22–23.
- 29 [A/HRC/38/47/Add.2](#), paras. 64 and 74 (g).
- 30 [CEDAW/C/BHS/CO/6](#), paras. 29–30.
- 31 *Ibid.*, paras. 45 and 46 (a).
- 32 *Ibid.*, paras. 45 and 46 (b).
- 33 *Ibid.*, paras. 45 and 46 (c).
- 34 *Ibid.*, paras. 45 and 46 (d).
- 35 *Ibid.*, paras. 25–26 (a) and (b). See also [CEDAW/C/BHS/FCO/6](#), paras. 23–26 and 31; and [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUACS%2FBHS%2F45297&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUACS%2FBHS%2F45297&Lang=en).
- 36 [A/HRC/38/47/Add.2](#), paras. 21–22.
- 37 [CEDAW/C/BHS/CO/6](#), paras. 27–28 (a) and (b).
- 38 [A/HRC/38/47/Add.2](#), para. 21.
- 39 UNESCO submission, para. 21 (v).
- 40 [CEDAW/C/BHS/CO/6](#), para. 35.
- 41 [A/HRC/38/47/Add.2](#), para. 25.
- 42 [CEDAW/C/BHS/CO/6](#), para. 36.
- 43 See <https://www.ohchr.org/en/press-releases/2021/05/un-experts-urge-bahamas-halt-plans-demolish-600-homes#:~:text=%22We%20urge%20the%20Government%20of,migrants%2C%22%20the%20experts%20said>.
- 44 [A/HRC/38/47/Add.2](#), para. 41.
- 45 [CEDAW/C/BHS/CO/6](#), para. 38 (a) and (b).
- 46 [A/HRC/38/47/Add.2](#), para. 40.
- 47 [CEDAW/C/BHS/CO/6](#), para. 37 (d).
- 48 *Ibid.*, para. 38 (c) and (d). See also [A/HRC/38/47/Add.2](#), para. 73 (i).
- 49 [CEDAW/C/BHS/CO/6](#), paras. 37 (e) and 38 (e).
- 50 UNESCO submission, para. 21 (ii).
- 51 [CEDAW/C/BHS/CO/6](#), paras. 33 (a) and (b) and 34 (a)–(c). See also UNESCO submission, paras. 11–12.
- 52 [CEDAW/C/BHS/CO/6](#), paras. 33 (d) and 34 (d).
- 53 *Ibid.*, paras. 47–48 (a).
- 54 *Ibid.*, paras. 5 (a) and 15. See also [A/HRC/38/47/Add.2](#), para. 47, and [CEDAW/C/BHS/FCO/6](#), paras. 6, 7 and 22.
- 55 [CEDAW/C/BHS/CO/6](#), para. 16 (c) and (f). See also [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUACS%2FBHS%2F45297&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FUACS%2FBHS%2F45297&Lang=en).
- 56 [A/HRC/38/47/Add.2](#), para. 74 (a).
- 57 [CEDAW/C/BHS/CO/6](#), paras. 12 (c) and (d) and 21–22.
- 58 [A/HRC/38/47/Add.2](#), paras. 57 and 70.
- 59 [CEDAW/C/BHS/CO/6](#) para. 23. See also [A/HRC/38/47/Add.2](#), paras. 15, 55 and 71.
- 60 [A/HRC/38/47/Add.2](#), paras. 12 and 65.
- 61 [CEDAW/C/BHS/CO/6](#), paras. 24 (e) and (g).
- 62 [A/HRC/38/47/Add.2](#), para. 53.
- 63 *Ibid.*, paras. 14, 16, 39 and 73 (h).
- 64 *Ibid.*, paras. 58, 59 and 74 (e).
- 65 [CEDAW/C/BHS/CO/6](#), paras. 39–40.
- 66 [A/HRC/38/47/Add.2](#), para. 24.
- 67 [CEDAW/C/BHS/CO/6](#), paras. 23 (e) and 24 (d).
- 68 [A/HRC/38/47/Add.2](#), paras. 18, 42 and 73 (j).
- 69 UNESCO submission, para. 21 (iv).
- 70 [CEDAW/C/BHS/CO/6](#), paras. 27 and 28 (c).
- 71 *Ibid.*, paras. 33 (e) and 34 (e).
- 72 *Ibid.*, paras. 35 (d) and 36 (e).
- 73 [A/HRC/38/47/Add.2](#), para. 23.
- 74 [CEDAW/C/BHS/CO/6](#), para. 23 (a).
- 75 UNHCR submission, p. 4.
- 76 *Ibid.*, pp. 1–3.
- 77 [A/HRC/38/47/Add.2](#), para. 45.
- 78 UNHCR submission, p. 4.

- <sup>79</sup> Ibid., pp. 3–4. See also [A/HRC/38/47/Add.2](#) para. 73 (k).
- <sup>80</sup> See <https://www.ohchr.org/en/press-releases/2021/05/un-experts-urge-bahamas-halt-plans-demolish-600-homes#:~:text=%22We%20urge%20the%20Government%20of,migrants%2C%22%20the%20experts%20said.>
- <sup>81</sup> UNHCR submission, pp. 1 and 3.
- <sup>82</sup> See <https://www.ohchr.org/en/press-briefing-notes/2019/10/press-briefing-note-bahamas>.
- <sup>83</sup> CEDAW/C/BHS/CO/6, para. 44.
- <sup>84</sup> [A/HRC/38/47/Add.2](#), paras. 19–20.
- <sup>85</sup> Ibid., para. 43.
- <sup>86</sup> UNHCR submission, p. 5.
- <sup>87</sup> [A/HRC/38/47/Add.2](#), paras. 37 and 73 (f) and (g).
- <sup>88</sup> UNHCR submission, p. 3.
- <sup>89</sup> [A/HRC/38/47/Add.2](#), para. 37.
- <sup>90</sup> UNHCR submission, p. 6.
- <sup>91</sup> CEDAW/C/BHS/CO/6, paras. 31 and 32 (c).
- <sup>92</sup> UNHCR submission, p. 5. See also [CERD/C/BHS/QPR/15-21](#), para 19 (a).
- <sup>93</sup> See <https://www.ohchr.org/en/press-briefing-notes/2020/06/press-briefing-note-bahamas>.
- <sup>94</sup> CEDAW/C/BHS/CO/6, para. 32 (b).
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