



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Bahamas and welcome your Government's constructive engagement during the 29th session of the UPR Working Group in January 2018.

As the final outcome report on the review of the Bahamas was recently adopted by the Human Rights Council at its 38th session, I am writing to follow up on a number of areas raised in two reports that my Office prepared for the review - the compilation of UN information and the summary of stakeholders' submissions - which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 54 countries, the Bahamas' presentation and responses, and the action taken by the Government to implement the 48 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I am particularly encouraged by the Bahamas' ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the two Optional Protocols to the Convention on the Rights of the Child: on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. I am also encouraged by legal amendments that, inter alia, criminalize organizing, engaging in, or directing trafficking in persons as well as by the adoption of the Vision 2040 National Development Plan.

The establishment of the National Reporting Cooperation Mechanism is an important step in reinforcing the country's institutional framework for human rights. I encourage the Bahamas to strengthen this institutional body in order to carry out comprehensive reporting and follow up in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend the Bahamas the use of the practical guide that my Office released in 2016 on this topic and which is available at: http://www.ohchr.org/Documents/Publications/IdR_PUB_16_3_NMRF_Practical_Guide.pdf.

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The Hon. Darren A Henfield
Minister of Foreign Affairs
Bahamas

I encourage the Bahamas to take steps towards the establishment of a national human rights institution in compliance with the Paris Principles and welcome its interest in receiving support from OHCHR in this regard.

I encourage the Bahamas to develop a national human rights action plan in order to achieve concrete results in the areas contained in the annex and to facilitate preparations for the fourth cycle of the UPR. The development of such a plan should include consultations with all stakeholders, in particular the NHRI and civil society organisations, and, where necessary, the support of international organisations, including the Office of the United Nations High Commissioner (OHCHR) and other United Nations entities, under the leadership of the UN Resident Coordinator.

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I encourage Bahamas to submit a mid-term report for the third cycle, by 2020.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist the Bahamas to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.



Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

cc: Mr. Carl Wilshire Bethel Attorney General and Minister of Legal Affairs of the Bahamas

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratification of the following international instruments: the Second Optional Protocol to the International Covenant on Civil and Political Rights (on the abolition of death penalty); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Elimination of All forms of Discrimination Against Women and; the International Convention for the protection of All Persons from Enforced Disappearance; the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1951; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on a communications procedure, and on the involvement of children in armed conflict; the ILO Convention 189 on Domestic Workers; the UNESCO Convention Against Discrimination in Education; the ILO Protocol to the Forced Labour Convention No. 29; and the Convention on the Non-Applicability of Statutory Limitations to War Crimes against Humanity. Withdrawal of the reservations to articles 2(a) and 9(2) made to the Convention on the Elimination of All forms of Discrimination Against Women.
- Incorporation of main human rights issues in a new constitutional revision.
- Enhancement of the national mechanism for reporting and follow up (national coordination, implementation and reporting mechanism) to the United Nations human rights recommendations; enhancement of the country's reporting to the treaty-bodies.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Adoption of anti-discrimination legislation, particularly regarding lesbian, gay, bisexual, transgender and intersex persons and members of ethnic minority groups including laws on redress to victims of discrimination; amendment of the definition of "discrimination" in order to include gender, sexual orientation, gender identity or expression as grounds within it; and inclusion of same-sex couples in the Domestic Violence (Protection Orders) Act;
- Equal remuneration for men and women for work of equal value, including work of an entirely different nature;
- Removal of reservation to Article 2 on the Convention on the Rights of the Child related to non-discrimination;
- Measures on the protection of minorities and indigenous peoples.

National Human Rights Framework

- Establishment of a national human rights institution in line with the Paris Principles;

Development, the environment, and business and human rights

- Promotion of social and economic sustainable development; mitigation of climate change and adaptation to these changes; attention to environmental issues and natural disasters.
- Accountability, transparency and efficiency in public services.

B. Civil and political rights

Right to life, liberty and security of person

- Full abolishment of death penalty; making official the existing de facto moratorium on the death penalty; creation of awareness-raising campaigns regarding alternatives to the death penalty and human rights standards;
- Prevention and fight against trafficking in persons; effective implementation of the Trafficking in Persons Act; establishment of a systematized and harmonized data-collection system on human trafficking; legal mechanisms and bilateral and multilateral agreements for the exchange of information, mutual legal assistance and safe returns in order to tackle the root causes of trafficking in persons; identification of victims and measures to protect them and provide them with medical, social, legal and rehabilitation services; provision of training to relevant authorities; establishment of a national referral mechanism whereby anyone may report potential victims; strengthening of the task force on trafficking with institutionalized mandate, sufficient budget and adequate planning; awareness-raising programs on trafficking in persons, including for domestic servitude, forced labour and sexual exploitation; and the prompt bringing to justice (investigation, prosecution, sanctioning) of those responsible for sale and trafficking of children, while ensuring victim protection.

Fundamental Freedoms

- Ensuring freedom of speech and association for civil society; adoption of legislation concerning freedom of information, in accordance with international human rights standards; decriminalization of defamation; independence of broadcast licensing in accordance with international standards.

Administration of justice, including impunity, and the rule of law

- Creation of an online case tracking system to ensure fair trial guarantees; access to adequate and timely legal counsel to all; alternatives to pre-trial detention; improvement of prisoner's detention conditions, health care and nutrition in line with the Nelson Mandela Rules; establishment of a system to administer juvenile justice in line with international law and standards.

C. Economic, social and cultural rights



- Progress in the fight against poverty; attention of the most vulnerable sectors; increase in access to quality health-care services, including maternal and reproductive health; incorporation of human rights standards into the national education system; legislative reform on human rights and education in line with international standards; and improvement of public education; effective implementation and enforcement of labour laws; protection of domestic; amendment of the Employment Act to protect domestic workers.

D. Rights of specific persons or groups

Women

- Preventing and combatting all forms of violence and discrimination against women and girls; comprehensive investigations and prosecutions in cases of domestic violence; criminalization of marital rape; adoption of legal actions and reinforcement of the legal framework to address discrimination and violence against women; implementation of the action plan to address gender-based violation; awareness-raising campaigns to combat violence against women;
- Guaranteed equality between men and women in accordance with international obligations; removal of gender discrimination in nationality provisions and the Constitution; eradication of discriminatory practices on gender and elimination of gender stereotypes; gender-neutral policies on access to education, health and social services; continuing implementation of gender-equality policies; and promotion of gender equality ensuring women's rights and freedoms.

Children

- Prohibition of corporal punishment for children in all settings and related awareness-raising campaigns; adoption of effective measures to protect children from abuse and neglect; adoption of the Model Guidelines for Sexual Offence Cases in the Caribbean Region.
- Harmonization of the minimum school-leaving age (16 years) and the minimum age for work (14 years)
- Ensuring all children's right to nationality and citizenship; amendment of national laws that do not allow children born to foreign nationals to register for citizenship before 18 years old to ensure equal nationality rights and that nationality can be passed on to Bahamian children regardless of whether or not their parent was born in the Bahamas after 1973; establishment of simplified naturalization procedures to ensure Bahamian-born children are granted citizenship within a reasonable period of time; ensuring women are able to pass their nationality to their children on an equal footing with men; and withdrawal of the reservation to article 9(2) of the Convention on the Elimination of all forms of Discrimination Against Women;

Migrants, asylum seekers and stateless people



- Protection of migrants from exploitation and trafficking; adopting alternatives to the detention of migrants; and ensuring that any deprivation of liberty or restrictions on the liberty or freedom of movement of migrants are exceptional measures that only take place when necessary, reasonable and proportionate to a legitimate purpose under international law and when in compliance with international obligations; normative framework to protect the processing of migrants, refugees, asylum seekers and suspected trafficking victims;
- Formalization of the mandate and authority of the Refugee Administration Unit, adopt procedures for the identification and referral of asylum seekers and train government officials on these procedures; apply a human rights-based approach to its immigration policy and abstain from criminalizing irregular migration; in the absence of a legal framework for asylum, strengthen guarantees against *refoulement* under international human rights law; facilitating full and open access to asylum procedures and other procedures for the protection of persons who have expressed fear of return to their country of origin, or who face a risk of torture, cruel, inhuman, degrading treatment or punishment, or other serious violations of their human rights thus ensuring respect for the principle of *non-refoulement*; and establish legislation to regulate the care of migrants and asylum seekers that enables the implementation of obligations under the Convention relating to the Status of Refugees and in general, in accordance with international human rights standards;
- Amendment of the Constitution with the purpose of introducing a safeguard against statelessness in the case of foundlings and children born in the territory of the Bahamas who would otherwise be stateless; establishment of a statelessness identification procedure which can provide them with protection; granting nationality to all children and adults who have been denied access to Bahamian citizenship due to gender discriminatory nationality laws;

Persons with Disabilities

- Harmonization of national legislation on the rights of persons with disabilities with the Convention on the Rights of Persons with Disabilities; establishment of a social protection policy on persons with disabilities; socialization and implementation of the Persons with Disabilities (Equal Opportunities) Act;
- Inclusion of persons with disabilities into the mainstream education system; modification of the Persons with Disabilities (Equal Opportunity) Act to incorporate an integrating and rights-based approach to the education of persons with disabilities; adoption of legal provisions guaranteeing the right to education of persons with disabilities without discrimination.