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**amnesty international**

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**Bahamas**  
**Submission to the**  
**UN Universal Periodic Review**  
**Third session of the UPR Working Group of the**  
**UN Human Rights Council**  
**December 2008**



## **Executive summary**

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:<sup>1</sup>

In section B, Amnesty International raises concern over shortcomings in legislation on the death penalty.

Section C highlights Amnesty International's concerns in relation to excessive use of force by the security forces, violence against women and migrants' rights.

In section D, Amnesty International makes a number of recommendations in the areas of concerns listed.

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<sup>1</sup> Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I, adopted 27 September 2007.

# Bahamas

## Amnesty International submission to the UN Universal Periodic Review

### Third session of the UPR Working Group, December 2008

#### **B. Normative and institutional framework of the State**

##### **The death penalty**

Although the last execution in the Bahamas took place in January 2000, death sentences continue to be handed down by the courts. In November 2007, the Bahamas voted against UN General Assembly resolution 62/149 calling for a global moratorium on executions. Following the vote, the Bahamian Prime Minister spoke publicly of his hope for a return to executions in the country.

In March 2006, the Judicial Committee of the Privy Council (JCPC) abolished the mandatory death sentence for those convicted of murder in the Bahamas. The UK-based JCPC, which is the highest court of appeal for the Bahamas, ruled that the mandatory death sentence is in violation of the Bahamian Constitution. The ruling has led to the review of the cases of at least 28 prisoners currently on death row.

Amnesty International opposes the death penalty in all circumstances as a violation of the right to life and the ultimate cruel, inhuman or degrading punishment.

#### **C. Promotion and protection of human rights on the ground**

##### **Excessive use of force by the security forces**

Amnesty International is concerned at reports of excessive use of force employed by the security forces in the Bahamas, including beatings and unlawful killings by members of the security forces, and by the slowness with which such cases are investigated and brought to trial.

Among these cases is that of Kenneth Russell who was shot dead by police during arrest on 3 September 2007 on the island of Andros. A coroner's inquest into whether justifiable force had been used has yet to be completed. In another case, Desmond Key died in January 2008, after seven months in a coma, after reportedly being beaten with a baseball bat by two police officers on 17 June 2007 in a Nassau police station. A Supreme Court trial is pending for the officers charged in connection with his beating. Two verdicts of manslaughter against police officers handed down by the coroner's court in March 2005 in regard to two further incidents involving the murder of a 16 year old girl in August 2003 and a 27 year old man in December 2002 have still to come to trial.

##### **Violence against women**

Amnesty International is concerned at the high incidence of violence against women in the Bahamas, including domestic violence and sexual assault. The Bahamas has the highest rate of reported rapes in the world, according to a Joint Report issued in March 2007 by the UN Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank. Official figures show that 135 rape cases were reported to the police in 2007, a sharp increase on the 72 cases reported in 2006. More than 16 percent of

the murders which occurred in the Bahamas in 2007 were a result of domestic violence. Marital rape is not criminalized in Bahamian law.

### **Migrants' rights**

Amnesty International is concerned about the discriminatory treatment of Haitian migrants in the Bahamas.

The International Organization for Migration has estimated there to be 30,000-60,000 Haitian nationals in the Bahamas, out of a total population of 330,000. During 2007, 6,996 migrants were reported to have been deported, of whom 6,004 were Haitian nationals. Some migrants are reported to have been ill-treated during the deportation procedure. On 8 April 2006, 187 Haitians, including children, on the island of Eleuthera were rounded up and detained. It was later found that 166 of them had legal documents and 27 also had permanent residence in the Bahamas. On 4 May 2007, a Haitian migrant was shot in the thigh by a member of the Royal Bahamian Defence Force (RBDF) when a vehicle carrying a group of suspected irregular immigrants was intercepted during an operation in the capital, Nassau. A court subsequently found that there was no evidence that the man had resisted arrest, as had been claimed, and that the RBDF did not have the authority to conduct such an operation without immigration officers present.

## **D. Recommendations**

Amnesty International welcomes steps taken by the Bahamian government, including the passing of the Domestic Violence Protection Order Act, in March 2007, which strengthens the rights to restraining orders in existing legislation.

In August 2007, the recently elected government started an immigration audit process aimed at implementing a policy providing for "timely, transparent and expeditious application processes" and the "regularization of the status of long-time residents". Nearly 2,000 people, the vast majority Haitian, have taken part in the audit to have their citizenships applications reviewed; however, the results have yet to be made public.

However, there are a number of key challenges that the government must address to uphold its commitment to promote and protect human rights, including as a member of the Human Rights Council:

### **Amnesty International calls on the government to:**

#### *The death penalty*

- Repeal all provisions allowing for the death penalty and immediately declare a moratorium on all executions;

#### *Excessive use of force by the security forces*

- Ensure that all complaints of excessive use of force by the security forces are subject to immediate, thorough and independent investigation and, if state agents are charged with misconduct, that their cases are brought to trial in an expeditious manner;

#### *Violence against women*

- Amend existing legislation to ensure that marital rape is outlawed;
- Ensure the full and effective implementation of the Domestic Violence Protection Order Act;

#### *Migrants' rights*

- Implement migration policies that protect human rights, including ratifying and implementing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.



**Appendix: Amnesty International documents for further reference<sup>2</sup>**

Bahamas: Urgent Action - Fear of intimidation/fear of excessive use of force: Members of the Millar's Creek Preservation Group; AI Index: AMR 14/001/2008, 13 May 2008

Bahamas: Privy Council abolishes mandatory death sentence; AI Index: AMR 14/001/2006, 9 March 2006

Bahamas: Urgent Action – Flogging; AI Index: AMR 14/005/2006, 13 October 2006

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<sup>2</sup> All of these documents are available on Amnesty International's website:  
<http://www.amnesty.org/en/region/americas/south-america/bahamas>