

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

17 November 2014
AI Index: AMR 14/001/2014

Bahamas: Allegations of human rights violations in implementation of new immigration policy

Amnesty International is seriously concerned that the implementation of a new immigration policy in the Bahamas purportedly aimed at curbing irregular migration is allegedly leading to human rights violations. There have been reports of arbitrary detentions being carried out by immigration officials and that the Haitian-Bahamian community has been disproportionately targeted. There are also fears that those detained may be deported without due process.

The new policy was announced by the Minister of Foreign Affairs and Immigration in the lower house of the Bahamian Parliament on 17 September. However, the full text of the policy has in fact yet to be made public, creating uncertainty about its details and arbitrariness in its implementation.

Among the proposed new measures announced, as of 1st November everyone living in the Bahamas is required to have a passport of the country of their nationality. This extremely short deadline has made it very difficult for people to obtain a passport from their country of birth, potentially making thousands fall into a situation of irregular migration.

The new policy also announced that "certificates of identity", identity documents previously eligible to minors born in the Bahamas of non-citizen parents, would no longer be issued or renewed. As these documents are necessary to prove eligibility to apply for Bahamian citizenship, their removal could potentially leave thousands stateless.

According to reports, in the early hours of 1 November an operation to enforce the new policy was carried out by officials from the Department of Immigration across the island of New Providence, where the capital Nassau is located. The authorities have claimed that 77 people were detained as irregular migrants, but some press reports and estimates by local civil society put that number at

several hundreds. The vast majority of those arrested were Haitians or Bahamians of Haitian descent.

Many of those arrested were subsequently released when family members presented documentation to the authorities proving their regular status to reside and/or work in the Bahamas. However, many may still be in detention despite possessing documents showing their regular status, as many people were allegedly not given the opportunity to show their documentation proving their regular status to reside or work in the country. There have been allegations that immigration officials forced themselves into people's houses in order to arrest them.

There were also media reports of 40 people being detained from their places of work in a similar operation between 7am and noon on 7 November in downtown Nassau.

In his announcement to Parliament, the Foreign Minister stated that "there is so much criminality involved in immigration that these new rules and procedures are necessary in order to get on top of this problem." Amnesty International is disturbed at the Bahamian authorities' use of language which appears to stigmatize migrants and Bahamians perceived to be migrants, including children, and may stoke discrimination and xenophobia in the country.

Amnesty International recognizes the particular challenges faced by the Bahamas as a major transit point for Caribbean migrants, due to its geographic spread and close location to the United States of America. Amnesty International also recognizes the sovereign power of states to control their borders and to decide conditions for granting nationality. However, the organization stresses that no policy of border controls or nationality can be at the expense of the international human rights obligations of the state.

Amnesty International believes that all individuals, including migrants who are in an irregular situation, should have individual access to fair and transparent procedures prior to expulsion or deportation, which should include the possibility to submit reasons against the expulsion or deportation and the possibility to have the case reviewed by an independent judicial authority. The Bahamas should ensure that the fundamental human rights of all migrants are protected prior to and during any process of expulsion or deportation.

Background information

According to the Bahamian Constitution, anyone born in the Bahamas after July 1973 (the year of country's independence) whose parents are not Bahamian citizens is able to apply for Bahamian citizenship at age 18. Before that they are eligible to apply for a "certificate of identity" which serves as a travel document to travel abroad. On their 18th birthday "certificate of identity" holders can then apply for Bahamian citizenship as per the Constitution.

It is believed that several thousand people, the vast majority of them of Haitian origin, are still waiting for their naturalization process to be completed, many of them several years after they have applied. For those still waiting to be granted Bahamian citizenship, this document is the only form of identification they have. Even then, without Bahamian citizenship they face many restrictions in their everyday lives - they have limited access to the job market and are unable to open a bank account.

In the Bahamas, anyone arrested on the suspicion of not holding regular migrant status must be charged before a magistrate and then tried, with the decision subject to an appeal. It is Amnesty International's understanding that this due process is rarely observed and many are arbitrarily deported. Amnesty International believes that irregular migration status should be treated as an administrative offence and therefore not subject to criminal charges and punishment, and detention of migrants should always be a measure of last resort.