



JOINT SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE (CCPR)

144 SESSION, 23 JUNE - 25 JULY

THE BAHAMAS: ISSUES RELATED TO IMMIGRATION DETENTION

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ABOUT THE GLOBAL DETENTION PROJECT (GDP)

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

ABOUT THE CENTRO PARA LA OBSERVACIÓN MIGRATORIA Y EL DESARROLLO SOCIAL EN EL CARIBE (OBMICA)

The Caribbean Migrants Observatory (OBMICA) has 14 years of investigative work on migrations that concern the Dominican Republic from a gender perspective and a rights approach, working in networks and towards policy advocacy, to generate positive public opinion and public policies favorable to the human rights of migrant populations in the Caribbean.

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BAHAMAS: ISSUES RELATED TO IMMIGRATION DETENTION

This submission has been prepared by the Global Detention Project (GDP), the Centre for Migration Observation and Social Development in the Caribbean (OBMICA), and Louby Georges (independent expert in the Bahamas) for consideration by the Human Rights Committee (CCPR) (“the Committee”) ahead of its adoption of the List of Issues Prior to Reporting (LOIPR) for the Bahamas.

Below, we set out a summary of our concerns in relation to the Bahamas’ implementation of the ICCPR, specifically in the context of immigration detention and the violation of the rights of migrants, asylum seekers, and refugees.

1. Legal context

Bahamas’ immigration provisions, contained in its **1967 Immigration Act**, are notably strict, providing criminal penalties—including incarceration—for infractions including unauthorised entry and stay (Article 19.2).

According to Section 9 of the Immigration Act, when immigration and police officers suspect that an individual is a non-Bahamian and has committed an offence under the Act, they are authorised to arrest the individual immediately and without a warrant.

Any person who has been charged but not yet convicted of immigration-related violations is held in administrative immigration detention at the country’s Immigration Detention Centre, commonly referred to as [Carmichael Road Detention Centre](#). When the detainee is taken before a court, they are given the option of paying a fine or serving a custodial sentence—after which they are deported. In 2024, the Working Group on Arbitrary Detention (WGAD) reported receiving “testimony that money had been stolen during arrest by the authorities, thus preventing some individuals from paying fines and resulting in custodial sentences for immigration-related offences.”¹

Statistics provided by the country’s immigration authority indicate that criminal-related immigration incarceration and pre-trial detention remain heavily used enforcement tools in the Bahamas. According to the country’s immigration authority, 1,985 people were convicted before courts in 2023 for violating the Immigration Act—with “illegal landing” the most common offence, following by “overstaying.” In 2022, 988 were prosecuted.²

¹ Working Group on Arbitrary Detention, “Visit to the Bahamas – Report of the Working Group on Arbitrary Detention,” 24 July 2024, <https://docs.un.org/en/A/HRC/57/44/Add.2>

² Bahamas Department of Immigration, “2023 Annual Report,” <https://www.immigration.gov.bs/wp-content/uploads/2024/07/DOI-Annual-Report-23.pdf>

2. Article 2: Non-discrimination

Reports indicate that Bahaman authorities disproportionately target specific nationalities for immigration-related enforcement measures, in particular Haitians, in violation of the country's responsibilities under the ICCPR. Haitians appear to be frequently indiscriminately apprehended on the street and arrested. Discriminatory documentation practices also leave persons of Haitian descent, who were born in the country, particularly vulnerable to detention and deportation. While such persons are not treated as foreigners, they are also not treated as citizens. In particular, they are not routinely issued identity documents that can prove their legal status in the country, leaving them facing a continual threat of arrest and deportation.

Concerns regarding these practices were recently highlighted by the WGAD, which noted "the use of profiling and other potentially discriminatory practices in migration control activities."³ Observers in the Bahamas have likewise noted that the tone and language employed by immigration officials and police officers when interacting with foreigners, particularly Haitians, are marked by a presumption of guilt regarding alleged immigration violations. Officials tend to speak to migrants in an accusatory manner, undermining the dignity of those individuals.

Ultimately, for the Bahamas to ensure that its treatment of asylum seekers and migrants are in line with its obligations under the convention, it must make a concerted effort to change the behaviours and attitudes of its officials, as well as of the general public, concerning this vulnerable segment of its society.

3. Article 9: Right to liberty and freedom from arbitrary arrest or detention

Article 14: Right to fair trial and due process

Migrants, refugees, and asylum seekers are frequently detained without legal basis or judicial oversight. While the Immigration Act provides that detainees are to be brought before a court within 48 hours to evaluate their continuing detention, deportation, or release, there have been numerous cases of detention exceeding this time limit, which is a clear failure of the country to uphold the fundamental right to liberty and security of person, enshrined in Article 9.

In June 2023, Ghanaian citizen Joseph Amihere was awarded substantial damages by the Supreme Court for false imprisonment, battery, and assault after being arbitrarily detained for nearly seven years.⁴ In another 2023 case, the Privy Council awarded damages to Douglas Ngumi, a Kenyan migrant, who was arbitrarily detained for nearly seven years at Carmichael Detention Centre.⁵ As the Working Group on Arbitrary Detention noted in its Revised Deliberation No. 5 on Deprivation of Liberty of Migrants: "indefinite detention of individuals in the course of migration proceedings cannot be justified and is arbitrary" (paragraph 26).⁶

³ Working Group on Arbitrary Detention, "Visit to the Bahamas – Report of the Working Group on Arbitrary Detention," 24 July 2024, <https://docs.un.org/en/A/HRC/57/44/Add.2>

⁴ Eyewitness News, Ghanaian man awarded \$751,000 after nearly seven years of unlawful imprisonment, June 21, 2023, available at: <https://ewnews.com/ghanian-man-awarded-751000-after-nearly-seven-years-of-unlawful-imprisonment>

⁵ The Nassau Guardian, "Pinder says detention center reforms saving taxpayers millions," April 11, 2023, available at: <https://thenassauguardian.com/pinder-says-detention-center-reforms-saving-taxpayers-millions/>

⁶ Working Group on Arbitrary Detention, "Revised Deliberation No.5 on deprivation of liberty of migrants," 7 February 2018, <https://www.refworld.org/legal/resolution/unwgad/2018/en/120413>

Furthermore, contrary to the Bahamas' obligations under Article 14 of the ICCPR, immigration detainees commonly experience barriers in accessing legal representation. During its 2024 visit, the Working Group on Arbitrary Detention spoke to detainees who reported that they were not provided interpreters upon arrival and were unaware of their rights, including their right to legal assistance. The Working Group notes: "While migrants are entitled to a writ of habeus corpus, in practice, they are effectively denied such access through lack of access to counsel and lack of procedural knowledge."⁷

4. Article 6: Right to life

Article 7: Right not to be tortured or subject to cruel, inhuman or degrading treatment or punishment

Article 10: Humane treatment of all people deprived of liberty

The conditions in which migrants, refugees, and asylum seekers are detained in the Bahamas prompts cause for concern. Carmichael Road Detention Centre has repeatedly been criticised due to persistent overcrowding, lack of sanitation and nutrition, and restrictions on communications with family (they are permitted just two to five minutes for a telephone call).⁸ The authors of this submission have also documented reports of abuse—such as the case of a 40 year-old pregnant Jamaican woman who claimed to have been sexually abused and assaulted in the centre in late 2023⁹—and share concerns regarding a lack of access for independent bodies to monitor detention facilities and investigate abuses.

Similar criticisms have also been levelled at the Fox Hill Prison, where people convicted for immigration violations are incarcerated.¹⁰

Contrary to its obligations under International Law, including under the ICCPR, the Bahamas' continues to fail to ensure that no person is returned to a country where their life or freedom would be threatened. The State has conducted numerous deportation operations involving Haitians, including in August 2024 when 124 Haitians were forcibly deported.¹¹ Given that returned Haitians may face "life-threatening security and health risks, and further displacement in the country,"¹² their removal from the Bahamas constitutes *refoulement* and exposes them to severe risks.

⁷ Working Group on Arbitrary Detention, "Revised Deliberation No.5 on deprivation of liberty of migrants," 7 February 2018, <https://www.refworld.org/legal/resolution/unwgad/2018/en/120413>

⁸ Working Group on Arbitrary Detention, "Revised Deliberation No.5 on deprivation of liberty of migrants," 7 February 2018, <https://www.refworld.org/legal/resolution/unwgad/2018/en/120413>

⁹ The Tribune, "Police Say Jamaican Woman's Assault at Detention Centre Claim Still Under Investigation," 3 January 2024, <https://www.tribune242.com/news/2024/jan/03/police-say-jamaican-womans-assault-detention-centr/>

¹⁰ See, for example, Inter-American Commission on Human Rights, Report No. 459/21, Case 12.071, Merits (Publication), Cuban and Haitian Nationals detained at and deported from the Carmichael Road Detention Center, Commonwealth of the Bahamas, December 31, 2021.

¹¹ BahamasLocal, "124 Haitian Nationals Repatriated," 28 August 2024, <https://www.bahamaslocal.com/newsitem/321406/>

¹² UNHCR, "UNHCR calls on States to refrain from forced returns of Haitians," 3 November 2022, <https://tinyurl.com/yy3zhzjr>

5. Recommendations

The authors of this submission urge the Committee to raise the following questions and concerns related to immigration detention in the List of Issues to be addressed by the Bahamas in its state report:

- The Bahamas' overly broad and punitive immigration laws can result in the arbitrary detention of non-citizens. Are there plans in place to reform these provisions to ensure that the country adheres to its commitments under the convention?
- There is a need to adopt policies facilitating prompt judicial review of detention and deportation decisions, access to legal counsel, and interpretation services.
- More steps must be taken to eliminate racial profiling and discriminatory practices, as well as to facilitate more effective issuance of identity documents to all residents regardless of nationality or origin.
- The Bahamas needs to improve efforts to prevent refoulement and it should be urged to implement more effective risk assessment screening to ensure that unlawful deportations do not take place.
- The country should be urged to ensure that detention conditions meet the highest standards, and that there are adequate oversight and independent accountability mechanisms to prevent harmful detention situations, including establishing independent bodies to monitor detention centres and investigate abuses.
- Does the country have any plans to improve training for law enforcement, immigration officials, and detention staff to ensure compliance with human rights obligations? Officials should be encouraged to employ objective and professional language, and to avoid emotive, accusatory language when working with migrants.
- The Bahamas should be encouraged to improve the involvement of civil society, community organisations, and migrant groups in reform processes. We encourage the committee to enquire about whether authorities foresee providing a larger role for community actors in an effort to minimise use of detention and other harmful and expensive enforcement measures.