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**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

Bahamas*

The present report is a summary of 2 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

Constitutional and legislative framework

1. Although the last execution in the Bahamas took place in January 2000, as indicated by Amnesty International (AI), death sentences continue to be handed down by the courts.² 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 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.³ In November 2007, the Bahamas voted against UN General Assembly resolution 62 calling for a global moratorium on executions. According to AI, following the vote, the Bahamian Prime Minister spoke publicly of his hope for a return to executions in the country.⁴ AI recommended to repeal all provisions allowing for the death penalty and immediately declare a moratorium on all executions.⁵

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Implementation of international human rights obligations

1. Right to life, liberty and security of the person

2. AI expressed concern 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.⁶ AI recommended to 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.⁷

3. AI also expressed concern at the high incidence of violence against women in the Bahamas, including domestic violence and sexual assault.⁸ 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, as cited by AI.⁹ 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.¹⁰

4. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment of children is lawful in the home and in the schools. Under provisions for “justifiable force”, the Penal Code (article 110) allows a parent or guardian to “correct his or her legitimate or illegitimate child ... for misconduct or disobedience to any lawful command”, and states that “no correction can be justified which is unreasonable in kind or in degree”. The Penal Code states that delegation of a parent’s or guardian’s “authority for correction” is presumed in the case of teachers (article 110).¹¹

5. According to GIEACPC, in the penal system, corporal punishment appears to be unlawful as a sentence for crime under an amendment to article 118 of the Penal Code. There is however, no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.¹² Corporal punishment is lawful in alternative care settings under article 110 of the Penal Code. A Child Protection Bill 2006 – intended to replace the Children and Young Persons

(Administration of Justice) Act – recognises children’s right “to exercise, in addition to all the rights stated in this Act, all the rights set out in the United Nations Convention on the Rights of the Child” but this is “subject to any reservations that apply to The Bahamas and with appropriate modifications to suit the circumstances that exist in The Bahamas with due regard to its laws” (article 4c). The Bill does not include corporal punishment among permitted sanctions for juveniles convicted for crime, but it does not explicitly prohibit corporal punishment in any setting, and it does not repeal article 110 of the Penal Code which allows for “justifiable force” to “correct” a child.¹³

2. Migrants, refugees and asylum-seekers

6. AI also expressed concern about the discriminatory treatment of migrants from a third country, indicating that the International Organization for Migration (IOM) has estimated there to be 30,000-60,000 nationals of this country in the Bahamas, out of a total population of 330,000.¹⁴ During 2007, 6,996 migrants were reported to have been deported, of whom 6,004 were nationals of this country. Some migrants are reported to have been ill-treated during the deportation procedure. On 8 April 2006, 187 nationals from this country deported, 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. On 4 May 2007, a migrant of this neighbouring country was shot in the thigh by a member of the Royal Bahamian Defence Force (RBDF) as a vehicle containing a group of suspected irregular immigrants was intercepted during an operation in the capital, Nassau. A court found that there was no evidence that the man had resisted arrest, as had been claimed, and that the RBDF did not have the legal authority to conduct such an operation without immigration officers present.¹⁵ AI recommended to 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.¹⁶

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

7. AI welcomed steps taken by the Bahamian government, including the passing of the Domestic Violence Protection Order Act, in March 2007, which strengthens existing legislation, including by strengthening the rights to restraining orders.¹⁷ AI recommended to ensure the full and effective implementation of the Domestic Violence Protection Order Act as well as to further amend existing legislation to ensure that marital rape is outlawed.¹⁸

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

8. AI reported that 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, have taken part in the audit to have their citizenships applications reviewed; however, the results have yet to be made public.¹⁹

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A.

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.

Civil society

AI	Amnesty International, London (UK)*
GIEACPC	Global Initiative to End All Corporal Punishment of Children,

² Amnesty International, page 3.

³ Amnesty International, page 3.

⁴ Amnesty International, page 3.

⁵ Amnesty International, page 4.

⁶ Amnesty International, page 3.

⁷ Amnesty International, page 4.

⁸ Amnesty International, page 3.

⁹ Amnesty International, page 3.

¹⁰ Amnesty International, page 3.

¹¹ Global Initiative to End All Corporal Punishment of Children, page 2.

¹² Global Initiative to End All Corporal Punishment of Children, page 2.

¹³ Global Initiative to End All Corporal Punishment of Children, page 2.

¹⁴ Amnesty International, page 4.

¹⁵ Amnesty International, page 4.

¹⁶ Amnesty International, page 4.

¹⁷ Amnesty International, page 4.

¹⁸ Amnesty International, page 4.

¹⁹ Amnesty International, page 4.
