



**International Convention on  
the Elimination  
of All Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Fourteenth periodic reports of States parties due in 2002**

**Addendum**

**Bahamas\***

[29 August 2003]

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\* This document contains the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of the Bahamas, due on 4 September 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998, 2000 and 2002 respectively, submitted in one document. For the thirteenth and fourteenth periodic reports (submitted in one document) of the Bahamas and the summary records of the meetings at which the Committee considered those reports, see document CERD/C/88/Add.2 and CERD/C/SR.1189.

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\* Annexes to this report can be consulted in the files of the secretariat.

## **Introduction**

1. The Government of the Commonwealth of the Bahamas submits its abridged periodic report on the legislative, judicial, administrative and other measures taken during the period beginning 1983 and ending on 31 July 2003 as a means to give effect to the International Convention on the Elimination of All Forms of Racial Discrimination.
2. The last periodic report (constituting the third and fourth reports due on 5 August 1980 and 5 August 1982 respectively) was submitted to the Committee on the Elimination of Racial Discrimination (CERD) in June 1982 and discussed at the twenty-seventh session of the Committee in August of the same year.
3. The information contained in this report is set out in accordance with the revised general guidelines adopted by the Committee on 9 April 1980 and incorporating the additional guidelines for the implementation of article 7 adopted at the twenty-fifth session on 17 March 1982 and as revised at the forty-second session on 19 March 1993, at the fifty-fifth session on 16 August 1999 and at the fifty-seventh session on 21 August 2000.

## **Reporting process**

4. The present report that covers 20 years proved to be an extremely challenging exercise. Its compilation involved 14 government ministries and departments with specific mandates to honour the Convention as it pertained to their implementation obligations. The Ministry of Foreign Affairs was charged with coordinating the compilation of the data required by the reporting guidelines formulated by CERD as noted above.
5. The following laws of the Commonwealth of the Bahamas are cited in the body of the report: (a) The Bahamas Independence Order and the Constitution of the Commonwealth of the Bahamas; (b) The Law Reform and Revision Act, chapter 3; (c) The Penal Code, chapter 84; (d) The Broadcasting Act, chapter 305; (e) The Genocide Act, chapter 85; (f) The Criminal Procedure Code, chapter 91; (g) The Extradition Act, chapter 96; (h) The Suppression of the Taking of Hostages Act, chapter 87; (i) The Industrial Relations Act (emphasis on chapters 296 and 321); and (j) The Parliamentary Elections Act 1992. Should the Committee require copies of legislation these may be requested through the Ministry of Foreign Affairs, Nassau, the Bahamas.
6. The Ministry will continue to compile the necessary information and update the report, where necessary in advance of the Committee's March 2004 session when the situation in the Commonwealth of the Bahamas will be examined.

## **Reservations to the Convention**

7. On 10 July 1973 the Government of the Commonwealth of the Bahamas notified the Secretary-General of the United Nations that in principle, it acknowledged that treaty rights and obligations of the former colony of the Bahamas, for which the United Kingdom was responsible, would be inherited upon independence, by virtue of international law.

8. Pursuant to that note, the then Minister of Foreign Affairs, the Hon. Paul L. Adderley, informed the United Nations Secretary-General in a "Letter of Continuity" that the Government of the Bahamas declared that it considered the Convention to be in force in respect of the Bahamas, in virtue of the United Kingdom's ratification and pursuant to customary international law. In the same note and as it related to CERD the following explanation was given by the Government:

"Firstly, the Government of the Commonwealth of The Bahamas wishes to state its understanding of Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. It interprets Article 4 as requiring a party to the Convention to adopt further legislative measures in the fields covered by sub-paragraphs (a), (b) and (c) of that Article only in so far as it may consider with due regard to the principles embodied in the Universal Declaration set out in Article 5 of the Convention (in particular to freedom of opinion and expression and the right to, or variation of existing law and practice in these fields) is necessary for the attainment of the ends specified in Article 4. Lastly, the Constitution of the Commonwealth of The Bahamas entrenches and guarantees to every person in the Commonwealth of The Bahamas the fundamental rights and freedoms of the individual irrespective of his race or place of origin. The Constitution prescribes Judicial process to be observed in the event of the violation of any of these rights whether by the State or by a Private individual. Acceptance of this Convention by the Commonwealth of The Bahamas does not imply the acceptance of obligations going beyond the Constitutional limits nor the acceptance of any obligation to introduce Judicial process beyond these prescribed under the Constitution."

9. In connection with the foregoing, the United Kingdom had previously made reservations to article 4 which condemns propaganda promoting racial discrimination and requires legislation making it an offence by law. The United Kingdom's reservation was to the effect that the new legislation would only be required if the rights specified in article 5 of the Convention, in particular, the right of freedom of peaceful assembly and association, were not provided for in the existing legislation.

10. The Commonwealth of the Bahamas acceded to the Convention on the Elimination of All Forms of Racial Discrimination on 4 September 1975.

### **Acceptance of amendments**

11. The Government of the Commonwealth of the Bahamas accepted the amendments to article 8 of the Convention, depositing its instruments of acceptance on 31 March 1994. This article speaks of the establishment of "a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems".

## I. GENERAL INFORMATION

### A. Land and people

#### Location/land

12. The Bahamas is a 100,000 sq mil. archipelago situated off the Atlantic Ocean comprising some 3,000 islands, small cays and rocks. Of these, only about 70 are inhabited, forming 22 island groupings. Some areas consist of just one island, e.g. San Salvador, while others consist of a number of islands and/or cays like the Berry Islands. The archipelago stretches over 500 miles between the United States of America's south-east State of Florida and north of the island of Hispaniola, on which the islands of Haiti and the Dominican Republic are situated, and lies between latitudes 20°-27° north and longitudes 72°-79° west. The total land area is 5,353 sq mil. The waters surrounding the Bahamas are virtually free of pollution and silt, making them among the clearest and most colourful in the world. Bordered on the west by the great "ocean river" known as the "Gulf Stream", the islands have a near-perfect climate. The highest land elevation, Como Hill, is 206 feet and situated on Cat Island. The "Tongue of the Ocean", some of the deepest water in the world, is situated east of the island of Andros, the largest of the Bahamian islands.

#### People

13. Prior to documented history, what was to become the Bahamas was inhabited by aborigines of Mongol descent. Their roots dated back to the first great migration from the Old World to the New. During the last ice age up to 100,000 years ago, ancestors of the original Bahamians came to the Americas by way of a land bridge that once linked Alaska with Siberia. The first Bahamians, about whom there is tangible evidence, were the Lucayan Amerindians, a gentle, peaceful people whom Christopher Columbus met when he invaded their island homelands on 12 October 1492, and who were brutally exterminated by the Spaniards. The word "Lucayan" comes from Lukku-cairi, or island people. The Lucayans were considered excellent farmers, good potters, weavers of cotton fibres, expert divers and skilled navigators in dugout canoes of their own invention. Only recently have their community sites been excavated and their artefacts retrieved from caves which were sometimes used as burial vaults.

14. By 1520, Spanish slavers carried off the entire population of the Bahamas, probably about 20,000 Lucayans. The islands remained uninhabited until the late 1640s when the Eleutheran Adventurers resettled them. Around 1656, New Providence (Sayle's Island) was first settled and within five years it had over 900 settlers. Over the next 125 years the population remained fairly small, barely reaching 4,000. In 1783 the first group of Loyalists arrived in Nassau from Florida, and by 1789 the population of the colony was approximately 11,300.

15. The present inhabitants of the Bahamas include the majority black descendants of seventeenth and eighteenth century slaves and the white descendants of the Eleutheran Adventurers and the Loyalists. Nationals from Asia, the Americas, Africa, the Caribbean and European countries comprise a smaller minority.

16. The official language of the Commonwealth of the Bahamas is English. There is also a form of “Bahamian dialect” English that is spoken and comprehended by most Bahamians. With a significant Haitian immigrant population, “Creole”, a form of broken French, is widely spoken among that group. Other languages such as Spanish, French and German are also taught within the educational system at the primary, secondary and tertiary levels.

### **Socio-economic and cultural indicators of the population**

17. The Bahamian economy is based principally on tourism and financial services with comparatively small inputs from the agricultural and industrial sectors. In the tourism sector, the Bahamas has capitalized on its bounteous white sand beaches, warm turquoise seas and balmy climate. These, together with casino gambling, form the basis of a well-developed tourist industry. In 2002, the Bahamas welcomed 4.4 million visitors to its shores.

18. The financial services sector was fostered by a favourable tax climate. Nassau, the capital city situated on the island of New Providence with its excellent climate, modern facilities, good communications and proximity to the United States, was fertile soil for a vibrant banking and finance industry. As of December 2000, there were 410 institutions licensed to carry on banking and/or trust business under the Banks and Trust Companies Regulation Act, either within or from the Commonwealth of the Bahamas.

19. The Bahamas are characterized by uneven development and distribution of resources. Most economic activity is carried out in the two major population centres, New Providence on which the capital Nassau is located and Grand Bahama on which the nation’s second city, Freeport, is located. The growth of the Bahamian economy has fluctuated during the decade of the 1990s with the highest annual growth of 5.9 per cent noted in 1999. In 2002, growth was estimated at 1 per cent. The per capita income reached a high of B\$ 13,582 in 2000, third only behind that of Canada and the United States of America and in the North American region and highest among all countries in the Caribbean and Latin America.

### **Population and vital statistics of the Commonwealth of the Bahamas**

20. The most recent census of population and housing, conducted in 2000, counted the population at 303,611; 147,715 males and 155,896 females. The sex ratio was 950, that is, for every 1,000 females there were 950 males. Between the decades 1990 and 2000, the population increased by 19 per cent resulting in an average annual growth rate of 1.8 per cent. The population in 2000 occupied 88,107 households resulting in an average household size of 3.4.

21. The population is still a relatively young one with more than one quarter (29.4 per cent) under the age of 15. This figure represents a decline under the 1990 proportion of 32.2 per cent. Persons 65 years of age and over increased their share of the population from 4.8 per cent in 1990 to 5.1 per cent in 2000. Information relating to pertinent demographic and economic data for selected years can be found in annex I of the report.

### **Population distribution**

22. The Bahamas, like many countries of the world, has what is often referred to as a mal-distribution of population, i.e. the population is widely and unevenly dispersed. Because the country is not one solid land mass, the uneven distribution is more acute as the people are dispersed among numerous islands and cays as shown in table 2 attached to the report as annex II. The largest island of Andros accounts for 4.3 per cent of the area of the Bahamas but only housed 2.5 per cent of the population in 2000, a decline from 4 per cent in 1980. In contrast, New Providence, the capital, accounts for a mere 1.5 per cent of the land area but accommodated 69 per cent of the people in 2000. The two major islands of New Providence and Grand Bahama house 85 per cent of the country's total population.

23. New Providence has a density of 2,655 persons per square mile. The entire island is considered an urban centre. This, combined with the Freeport portion of Grand Bahama, is considered the urban area (approximately 80 per cent). The country, therefore, can be considered as 80 per cent urban and 20 per cent rural.

24. Table 2 also illustrates the growth of the islands between the censuses of 1990 and 2000. Six islands experienced a decline in population during the period, with the small Ragged Island experiencing the largest decline of 19.1 per cent. On the other hand, some islands experienced significant growth in their numbers with the extreme being San Salvador, where the population more than doubled.

25. In the Bahamas there are no recent records of the distribution of population by race or ethnic group. Such data are not collected on any of the major administrative forms nor are they collected in the decennial census of population and housing or the periodic surveys undertaken by the Statistical Office. As previously noted, Blacks comprise the majority of the Bahamas' ethnic make-up. This includes native-born Bahamians and other nationals of black-African origin such as those from the African continent, the Caribbean, and, especially, from the island of Haiti whose nationals constitute the largest minority (documented and undocumented) ethnic group in the archipelago, accounting for 7 per cent of the population.

26. Table 3 attached as annex III provides information on the population by citizenship. According to the results of the 2000 Department of Statistics census report, Bahamians (this incorporates all ethnicities) accounted for 87 per cent of the inhabitants, with Haitians, as mentioned above, accounting for the second largest group represented. North Americans accounted for 1.9 per cent and citizens from all other Caribbean countries represented 1.7 per cent of the population. Among all ethnic groups represented, Haitian nationals were the only group that represented an increase in its share of the population between the period 1990 and 2000.

### **Composition of heads of household by gender**

27. The 2000 census revealed that while men head the majority of families on every island, 36 per cent of the 88,107 households in the Bahamas are headed by females - with lows of 19 per cent in Spanish Wells and 23 per cent in Abaco, and highs of 39 per cent in New Providence and 42 per cent in Mayaguana. Statistics further revealed that the number of

households headed by women is growing at a faster pace than those headed by men. Especially interesting in the data was the fact that households of the majority Haitian immigrant population and Haitian-Bahamian homes are, in the main, headed by males.

### **Fertility**

28. The crude birth rate in the Bahamas has been declining steadily over the years, reaching a low of 17.4 per cent in the year 2000. Similarly, the total fertility rate has declined from 2.8 per cent in 1980 to 2 per cent in 2000 (reflecting the fact that women are having fewer children).

29. The Department of Statistics reports that since the Department began publishing vital data in 1976, 55 per cent of live births recorded annually were to unwed mothers, a trend which rose to a high of 62 per cent for three consecutive years - 1983, 1984 and 1985 - before falling to between 56 per cent and 59 per cent and then settling at 57 per cent in 1992. A low of 54 per cent that was achieved in 1995 has not been sustained and the number of out of wedlock births recorded in 1999 was 58 per cent. The Department further reports that of the 165,463 live births recorded in the Bahamas during the past 29 years (1970 to 1999), 75,186 or 45 per cent were born in wedlock. The remaining 90,027 or 55 per cent were born out of wedlock. It is also interesting to note that 15 per cent of total annual births are to teenage mothers and that one out of every five births to an adolescent mother is a second or third birth.

### **Mortality**

30. The crude death rate has stabilized at 5.3 per cent in 2000. Significant declines have also been noted in the infant mortality rate that decreased from 30 per cent in 1980 to 14.8 per cent in 2000. The maternal mortality rate in 2000 was estimated at 37.8 per cent per 100,000 live births.

31. Fifty per cent of deaths in the Bahamas are the result of strokes, diabetes, injuries (accidental and intentional) and certain cancers. In 2000, the three major causes of death in the Bahamas were identified by health officials as diseases of the heart that accounted for 22 per cent of all deaths, AIDS (15.1 per cent) and cancer (13.8 per cent). With regard to AIDS, it is the greatest killer of young people between the ages of 15 and 44 years. There is also growing concern about the increase in the number of injuries and deaths relating to violent crimes in the country.

### **Life expectancy at birth**

32. Bahamians are enjoying longer lifespans according to the most recent data. Since 1980, both males and females have experienced an increase of several years in their life expectancy. The years for males increased from 64.3 in 1980 to an estimated 71 in 2000. For females, who the statistics show are outliving men by some six years, the figure increased from 72.1 in 1980 to 77 in 2000.



## **Literacy rate**

33. According to the latest data provided by the Let's Read Bahamas secretariat, 85 per cent of Bahamians are literate and the remaining 15 per cent illiterate. Literacy, in this regard is premised on the number of students completing sixth grade. More than 95 per cent of Bahamian students complete sixth grade, albeit a good percentage of these are not all functionally literate.

## **B. General political structure**

### **Type of government**

34. The Governor-General is the Queen's representative in the Bahamas. The Bahamas became a sovereign independent country on 10 July 1973. As a former British colony, it was decided that the Bahamas would retain Queen Elizabeth II as its head of State. The Governor-General, who is appointed and serves at Her Majesty's pleasure, signs bills into law after they are passed by the House of Assembly and the Senate, opens Parliament, and gives the annual Speech from the Throne, as prepared by the Prime Minister. Like the Queen, the Governor-General never presents any personal views or opinions.

### **Legislature**

35. The bicameral, or two-house, legislative branch consists of the Senate and the lower House of Assembly. They are physically located in Parliament Square in downtown Nassau - the House in the western building and the Senate in the centre building. The Supreme Court building is located behind the Senate.

36. The House of Assembly, dating back to 1729, is the most powerful segment of government. It makes the laws of the Bahamas and must consist of at least 38 elected representatives of the people. There are currently 40 members in the Parliament. They serve five-year terms, unless the Prime Minister dissolves the House before that time. The House of Assembly corresponds to the United Kingdom's House of Commons and observes many of the same traditions.

37. The Senate has 16 members, 9 appointed by the Governor-General on the advice of the Prime Minister, 4 on the advice of the leader of the opposition and 3 on the advice of the Prime Minister after consultation with the leader of the opposition. This arrangement provides for the opposition to have no fewer than four members in the Senate and to claim up to three more based on its numerical strength in the House of Assembly.

38. By law, the House of Assembly must have at least 38 elected members. This number may be increased on the recommendation of the Constituencies Commission, which is charged with reviewing electoral boundaries at least every five years.

39. A law begins as a bill introduced to the House of Assembly. It is read three times, debated, and, if passed, it is sent to the Senate. The bill is read three times in the Senate, debated and, if passed, sent to the Governor-General. Upon his or her signature the bill comes into law.

### **The executive**

40. The executive branch consists of a Cabinet of at least nine members, including the Prime Minister and the Attorney-General. All ministers are required to be Members of Parliament. In addition, the Prime Minister and the Minister of Finance must be members of the House of Assembly, and up to three ministers can be appointed from among the senators.

### **The judiciary**

41. Chapter VII, articles 93 to 103 of the Constitution of the Bahamas provides for an independent judiciary, along with the right of appeal to Her Majesty's Privy Council in the United Kingdom. British common law forms the basis of the Bahamas' judicial system, although there is a large volume of Bahamian statute law. The judicial system is comprised of the Court of Appeals, the Supreme Court, magistrates' courts and Her Majesty's Privy Council.

42. The highest tribunal in the country is the Court of Appeals, which sits on a full-time basis throughout the year. Five judges, including the sitting president, three resident judges and one non-resident judge, are appointed by the Governor-General. Functionally, they are usually leading judges of the Commonwealth, the members of which need not have any former ties with the Bahamas.

43. The Supreme Court, which has general, civil and criminal jurisdiction, is presided over by a Chief Justice or one of the other 10 justices, who are appointed by the Governor-General in accordance with article 94 (1) of the Constitution. In addition there is a Supreme Court and two resident justices in the nation's second city of Freeport on the Island of Grand Bahama who deal with the Northern Bahamas, which includes the islands of Bimini, Abaco and Grand Bahama.

44. With regard to magistrates' courts, there are 14 situated on the island of New Providence and 4 on Grand Bahama. These courts are presided over by stipendiary and circuit magistrates, including the chief magistrate, a deputy magistrate who sits in Freeport and two senior magistrates who exercise summary jurisdiction in criminal matters and in civil matters involving amounts not exceeding B\$ 5,000.

45. With reference to the other "out islands", appointed administrators exercise summary jurisdiction in criminal matters of a less serious nature and civil matters involving amounts not exceeding B\$ 400. There are also 16 Justices of the Peace (lay magistrates) that are appointed to hear minor offences in New Providence.

46. Also provided under the Constitution are a Public Service Commission, Public Service Board of Appeal, a Judicial and Legal Service Commission and a Police Service Commission.

### **C. General legal framework within which human rights are protected**

47. Recognition of the entitlement to human rights and fundamental freedoms is contained in article 15 of the Constitution (see paragraph 52 below), which provides that race is no bar to the entitlement of every person in the Bahamas to life, liberty, security of the person, protection of the law, freedom of conscience, expression, assembly and association, as well as protection for the privacy of his home and other property and from the deprivation of the same without adequate compensation.

## II. INFORMATION RELATING TO SPECIFIC ARTICLES OF THE CONVENTION

### Article 2

#### A. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 2, paragraph 1

##### Constitution/common law

48. The Government of the Commonwealth of the Bahamas remains acutely aware that the repugnant practices of racism and racial discrimination in all its manifestations should have no place in the contemporary world and when the opportunity presents itself, condemns such practices wherever and whenever they occur.

49. It has also been the long-standing view of the Government of the Bahamas as far as the elimination of racial discrimination is concerned, that by virtue of its supreme law, the Constitution of the Bahamas (The Bahamas Independence Order 1973) prohibits the creation of laws that facilitate discrimination of this kind, and also discourages the treatment of any person(s) in any discriminatory manner. This policy has extended to other areas of the law such as the Employment and Extradition Acts, to name a few (see references to these acts below). The Supreme Court of the Commonwealth of the Bahamas hears and provides remedies for matters that reveal the unlawful contravention of this position.

50. The Constitution of the Bahamas defines discrimination as “affording different treatment to different persons attributed wholly or mainly to their respective description by race, place of origin, political opinions, colour or creed, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description”. The Constitution also states unequivocally that, “no person shall be treated in a discriminatory manner by any person acting by virtue of any public law or in the performance of the functions of any public office or any public authority”.

51. There is no national legislation against racial discrimination, save as provided by: (a) articles 15 and 26 of the Constitution of the Commonwealth of the Bahamas; (b) the Genocide Act (No. 29) of 1969; and (c) the suppression of the white slave traffic under the Extradition Act, 1870 as extended by Royal Order.

52. Articles 15 to 27 (Bill of Rights) of the Constitution of the Commonwealth of the Bahamas guarantee to every person their fundamental rights and freedoms. Article 15 specifically provides protection from discrimination on the grounds of race, colour, creed, etc. Article 15 further entitles all persons in the Bahamas to the fundamental rights and freedoms irrespective of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

- (a) Life, liberty, security of the person and the protection of the law;
- (b) Freedom of conscience, of expression and of assembly and association; and

(c) Protection for the privacy of his home and other property and from deprivation of property without compensation.

### **Prohibition of racial discrimination**

53. Prohibition against racial discrimination is contained in article 26 of the Constitution that provides that no law shall make any provision that is either of itself or in effect discriminatory, and prohibits the discriminatory treatment of persons by any other person by virtue of any law or in the performance of the functions of any public authority.

54. Article 26 (1) clearly states that, "Subject to the provisions of paragraphs (4), (5) and (9) of this article, no law shall make any provision which is discriminatory either of itself or in its effect." This is augmented by article 26 (2) which states that, "Subject to the provisions of paragraphs (6), (9) and (10) of this article, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public authority. The definition of the term "discriminatory manner" is outlined in article 26 (3) and includes references regarding different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed.

55. There are exceptions to the above provisions as they relate to revenue, employment, adoption and other matters. Such exceptions are outlined in articles 26 (4), 26 (5), 26 (6) and 26 (7). Article 26 also addresses issues of discrimination relating to a number of land matters. These matters are detailed in paragraph 8 (a) and (b) and include, inter alia, issues "in respect of conveyance or lease or agreement, for or in consideration of, or collateral to, a conveyance or lease of any freehold or leasehold hereditaments which have been offered for sale or lease to the general public".

56. Articles 16 to 25 and 27 provide added protection in areas such as protection of the right to life; protection from inhumane treatment; protection from servitude; protection from arbitrary arrest and detention; protection of the law; protection for privacy of the home and other property; freedom of conscience; protection of freedom of assembly and association; protection of freedom of movement; and protection from deprivation of property.

57. Regarding the enforcement of fundamental rights, article 28 (1) of the Constitution stipulates that "If any person alleges that any provision of articles 16 to 27 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress."

58. The Government of the Bahamas accepts the fact that definition of racial discrimination in the Convention is wider in scope than definition of the term "discriminatory" in the Constitution in that the Convention refers also to fundamental freedoms in the economic, social, cultural or any other fields of public life, whereas in the Constitution there is no explicit reference to discrimination in these fields of human activity. Note should be taken, however, that what may be implied or inferred may not necessarily, in fact, be the case. For example, the

term “persons” in article 26 (3) of the Constitution embraces “all persons” and the descriptive terms of race, colour, creed, etc., are not exhaustive. In fact, article 28 (1) of the Constitution reinforces this point as “any person” alleging infringement of their fundamental rights, has recourse to the Supreme Court of the Bahamas.

59. In the light of the foregoing, it is the position of the Government of the Commonwealth of the Bahamas that in practice the term “discriminatory” as defined in the Constitution is sufficiently comprehensive to encapsulate the definition of racial discrimination as enshrined in the Convention, as the fundamental freedoms of the individual are among entrenched provisions of the Constitution.

60. It should be noted that in order to change or amend the definition of the term “discriminatory” in the Constitution, there has to be a constitutional amendment. The procedures pursuant to such a recommendation are laid out in article 54 of the Constitution. Any amendment to the Constitution, however, could be a complicated process as was proven in 2001, when a national referendum was held to amend certain articles (see details below in paragraphs 174-180).

**(a) Measures taken to give effect to the undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation**

61. Measures have been taken more recently in the field of employment to give effect to the undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure all public and private authorities and public and private institutions act in conformity with this obligation.

62. By virtue of the Employment Act of 2001, which governs the relationship of all employers/employees in the Bahamas, employers or persons acting on their behalf are prohibited from discriminating against an employee or applicant on the bases of race, creed, sex, marital status, political opinion, disability, age or HIV/AIDS. These obligations are clearly addressed in section 6 (a) and (b) of the Act.

63. Further elaboration of the efforts undertaken to prevent discrimination in the workplace can be found below in paragraph 200.

**(b) Measures taken to give effect to the undertaking not to sponsor, defend or support racial discrimination by persons or organizations**

64. The Government of the Bahamas is unequivocally opposed to, and does not sponsor, defend or support racial discrimination by any persons, organizations or countries. This was clearly demonstrated during the era of the abhorrent system of apartheid, when the Bahamas was among the strongest of opponents calling for its demise. The Bahamas’ efforts in this regard are detailed below under article 3.

65. While no legislative or other measures have been taken by the Bahamas in support of this position in accordance with its undertaking under the Convention, there is a clear understanding that the Government of the Bahamas will never promote or encourage such forms of activities, nor encourage its citizens to engage therein.

**(c) Measures taken to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists**

66. Presently there are no governmental, national or local policies, laws or regulations operating in the Bahamas, which have the effect of creating or perpetuating racial discrimination.

67. Article 52 (1) of the Constitution gives the Parliament of the Bahamas the authority to make laws for “the peace, order and good government of the Bahamas”. Where laws are created by the Parliament that are in any way inconsistent with the provisions of the Constitution as it relates to racial discrimination or any other provision, according to article 2 of the Constitution, which recognizes the Constitution as the supreme law of the Bahamas, such resulting legislation would be deemed void, and would be struck down by any Supreme Court hearing arguments on such a matter.

68. In 2000, the Government commenced the process of constitutional reform with the primary objective of “deepening of democracy, the fortifying of provisions against racial bias and discrimination and strengthening of the judicial system”. Please refer to paragraphs 174-180 of the report regarding this matter.

**(d) Measures taken to give effect to the undertaking to prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization**

69. Protection against discrimination on the grounds of race etc., by any person, group or organization is covered under article 26 of the Constitution. Article 26 (1) states that, “Subject to the provisions of paragraphs (4), (5) and (9), no law shall make any provision which is discriminatory either of itself or in its effect.”

70. This article has and remains the guiding principle by which the Government of the Bahamas enforces the law regarding those persons, groups or organizations that seek to attempt to practise or promote a discriminatory agenda. All Bahamians who feel that they are being discriminated against in any form have the right, under the Constitution, to seek redress through the court system.

**Industrial Tribunal and fair labour standards**

71. The Bahamas Industrial Tribunal (BIT) established in April 1997, is mandated with wide powers to resolve conflicts in the workplace, including power to reinstate and levy damages. The Tribunal hears disputes in both essential and non-essential services. These hearings are usually heard in public at the Nassau headquarters and the regional office on the island of Grand Bahama. Its composition includes a president at the Nassau headquarters, and two vice-presidents, one in Nassau and one at the regional office in Freeport, Grand Bahama. Two

panels, of six persons each, representing workers and employers, assist the Tribunal in its work. Members on the panel are recommended by their union or employer association and appointed by the Director of Labour for a three-year term.

72. Tribunal hearings are informed and follow normal court practice, with evidence followed by cross-examination. The service is free, and parties may represent themselves.

73. All Bahamians and non-Bahamians alike who have a legitimate complaint in the workplace, whether related to discrimination issues or not, can seek redress before the Tribunal.

**(e) Measures taken to give effect to the undertaking to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division**

74. See paragraphs 244-251 below regarding measures taken by the Government in recent times to promote multiracial organizations and movements.

**B. Information on the special and concrete measures taken in the social, economic, cultural and other fields to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms, in accordance with article 2, paragraph 2, of the Convention**

**(a) Status of women**

75. The Bahamas became a signatory to the Convention on the Elimination of All Forms of Discrimination against Women in October 1993 and the Convention entered into force on 5 November 1993. Upon accession to the Convention, the Bahamas was forced to enter reservations with regard to the provisions of three articles: 2 (a) which requires that national constitutions not discriminate against women; 9 (para. 2) that States parties grant women equal rights with men with respect to the nationality of their children; and 16 that requires States parties to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women ... [t]he same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration”.

76. Notwithstanding the above, the Government of the Bahamas is committed to the full participation of women in all sectors of the community and has promoted and provided an enabling environment for women to contribute to the development of the country.

77. An important milestone in this regard was the establishment in 1981 of a Women’s Desk with the mandate to assist in promoting the development of women in the Bahamas. The Women’s Desk was renamed the Bureau of Women’s Affairs (BWA) in 1995 and is currently within the portfolio of the Minister of Social Services and Community Development.

78. BWA has worked in the past in collaboration with the National Women's Advisory Council to meet the multifaceted needs of all women in the community. Their initiatives have been supported by non-governmental women's organizations in the country.

79. Women in the Bahamas are free to enter and engage in any field or endeavour and have complete and free access to all public services.

80. With respect to citizenship issues, the introduction of spousal permits in 1997 has permitted foreign spouses of Bahamian men and women to seek employment in any area of the Bahamian economy without the need for a job-specific work permit. The spousal permit does not solve all difficulties because in cases where a woman has been married for five years, the complaint is still that there is no equal right for a male spouse to apply for citizenship, nor an automatic right to work and reside so long as the marital status subsists. A Constitutional Review Commission has now been appointed headed by a former Attorney-General to canvas this amongst other issues.

81. The participation of women is especially evident in their representation in politics. Since receiving universal suffrage in 1962, Bahamian women have consistently outnumbered their male counterparts in exercising their right to vote in all the eight general elections. This was again evident in the general elections held on 2 May 2002, when females accounted for over 52 per cent of the total votes cast.

82. With regard to the 2002 general elections, of the 133 candidates contesting the elections for seats in the Parliament (Lower Chamber), 31 were women. Of that number, 8 were elected. As a result, females now comprise 20 per cent of the Parliament. Within the Cabinet, 25 per cent are females holding such positions as Deputy Prime Minister and Minister of National Security (first time in the nation's history), Minister of Financial Services and Investment, Minister of Social Services and Community Development and Minister of Transport and Aviation. Females also now comprise 43 per cent of the Senate (Upper Chamber) where the President is also female. On 13 November 2001 Bahamians witnessed the appointment of the first female Governor-General in an independent Bahamas, H.E. Dame Ivy Dumont.

83. At the executive level, females hold or have headed a number of key positions that include among others that of Chief Justice, President of the Court of Appeal of the Supreme Court, Financial Secretary, Permanent Secretaries in 11 of the 15 government ministries, Chief Medical Officer, Director of Legal Affairs and Director of Education. A list of women in executive positions (ministries and State institutions) is available in the secretariat.

84. Regarding the issue of discrimination, up to 31 January 2002, there existed some discrimination in law as it pertained to women inheriting from an individual who died intestate. Additionally, the Constitution of the Bahamas continues to favour men in the granting of citizenship to their foreign-born spouses and as a result, women are unable to confer citizenship to minor children born to foreign spouses.

85. In 2001, the Government of the Bahamas commenced consultations among the citizenry with the intention of amending the Inheritance Act. During these consultations, BWA, in partnership with various local non-governmental women's organizations, promoted legal literacy among women to ensure that they were aware of the impact of key legislation upon them. This



exercise led to an informed discussion on the proposed amendment of the Inheritance Act. On 1 February 2002, the amendment to the Inheritance Act came into effect, thereby removing the rule of primogeniture and ensuring that all children, regardless of their sex, inherit equally from a parent's estate in the absence of a will.

86. On 27 February 2002, the Government of the Bahamas held a referendum to amend the Constitution that addressed among other issues, that of citizenship. Of a population of 310,000, 135,480 were registered to vote in the referendum and 54.8 per cent of those voting were women. While the referendum was defeated by a large margin, the general feeling was that it was not a rejection of equal rights for women, but rather the result of a process that did not permit civil society sufficient time to debate and internalize the proposed changes. A Constitutional Commission has been appointed to review the issues of constitutional change including the question of gender equality.

87. In the context of the United Nations, the Bahamas participated at the highest level in the Fourth World Conference on Women held in Beijing, China, on 4-15 September 1995. The Beijing Declaration, the outcome document of the Conference, has been among the guiding principles shaping the Government's policies on women's issues. The Government fully supports the language contained in paragraph 9 of the Declaration to "Ensure the full implementation of the human rights of women and of the girl child as an inalienable, integral and indivisible part of all human rights and fundamental freedoms".

88. In addition, each year, women in the Bahamas join their female counterparts worldwide in celebrating International Women's Day that is commemorated on 8 March. There are commemorative services, lectures and exhibitions, highlighting the advancement and various contributions of women in the Bahamas over the years.

89. Women's groups in the country are now being encouraged by the Minister of Social Services and Community Development to join the National Organization of Women's Associations in the Bahamas (NOWAB). Among the objectives of NOWAB are to establish a non-profit organization of women's organizations, which will network to become a worldwide distribution centre of dissemination of information and ideas and offer assistance to Bahamian women; and to champion causes and address issues of concern to women.

**(b) Bahamas activities regarding racial discrimination in the context of the United Nations and the Organization of American States**

**(i) United Nations fiftieth anniversary celebrations**

90. September 2003 will mark the Commonwealth of the Bahamas' thirtieth year as a Member State of the United Nations. Membership status was gained at the forty-third session in September 1973. Thirty years later, the Government of the Commonwealth of the Bahamas remains firmly committed to the purpose and principles enshrined in the United Nations Charter and on the premise on which the Organization was founded - "to save succeeding generations from the scourge of war".

91. During the fiftieth anniversary celebrations of the United Nations in 1995, the Rt. Hon. Hubert A. Ingraham, former Prime Minister of the Commonwealth of the Bahamas, led the Bahamas delegation to the special commemorative session held at United Nations Headquarters in New York. During that session the Prime Minister decried racial intolerance and ethnic hatred.

92. The Minister of Foreign Affairs, the Hon. Frederick Mitchell, in the succeeding Government reaffirmed the commitment of the Government at the fifty-seventh session of the United Nations General Assembly and the principles of the Universal Declaration of Human Rights.

**(ii) World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance**

93. The Bahamas was an active participant in the preparatory process and was represented at the Conference that took place in Durban, South Africa, from 31 August to 8 September 2001 in the person of its Deputy Permanent Representative to the United Nations.

94. The Government joined other nations in supporting the adoption of the outcome Declaration of the Conference and its attached Programme of Action and, in that regard, will undertake all efforts to follow and implement the recommendations contained in both documents.

95. The Government of the Bahamas fully shares the view contained in paragraph 77 of the Declaration that “universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for promoting equality and non-discrimination in the world”.

96. In March 2001, the Government of the Bahamas joined over 80 other heads of State in signing the Vision Declaration for the Conference, “Tolerance and Diversity: A Vision for the 21st Century”. H.E. Sir Orville Turnquest, in his capacity as head of State signed the Declaration on the Government’s behalf. The signing ceremony was widely publicized, so as to apprise all Bahamians of the importance of the Declaration and, at the same time, bring to their attention the convening of the Conference.

97. It will be recalled that the Declaration was the initiative of Mrs. Mary Robinson, High Commissioner for Human Rights and Secretary-General of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Bahamas fully supports the tenets of the Declaration calling for “full recognition of the dignity and equality of all, and full respect for their human rights”.

**(iii) Organization of American States**

98. The Bahamas became a member of the Organization of American States (OAS) in September 1983. During its almost 20 years of membership, the Bahamas, through its Permanent Delegation to OAS has participated, and continues to participate actively in the work of the General Assembly and the various councils of the organization, focusing especially on

those issues relating to drugs, human rights, migrants and Haiti. This is demonstrated even more so in its attendance and representation at the highest level, at the regular sessions of the organization that are held annually in June.

99. The fiftieth anniversary celebrations of the organization in 1998 (which actually commenced in 1997) took the form of both preparatory and commemorative events. The preparatory events included seminars, issuance of commemorative stamps, publication of a book highlighting milestones in the history of the hemisphere and other cultural events. The commemorative events highlighted those events or ceremonies that were held in collaboration with those planned by the Government of Colombia, the host country for the special ceremonies that took place in April 1998.

100. The Bahamas' participation in the fiftieth anniversary included representation at the commemorative event, at which time its then Ambassador to OAS, H.E. Sir Arlington G. Butler signed the Commemorative Act, reiterating the Bahamas' support and commitment to the purpose and principles enshrined in the organization's charter. In addition, the General Post of the Bahamas issued a series of commemorative stamps in honour of the anniversary celebrations.

#### **(iv) Religious tolerance**

101. Article 22 of the Constitution, the supreme law of the land, provides for the protection of freedom of conscience for the citizens of the Bahamas. The article states that:

“(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this article the said freedom includes freedom of thought and of religion, freedom of change of his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.”

102. The Bahamas is considered a deeply religious country. Christianity dominates and the Church is influential in Bahamian society, including government affairs. In addition church news and events are prominently positioned in all the local daily publications. The Bible is preached at face value and references and quotations are common in just about every aspect of daily living. Furthermore, events and celebrations often include a church service as part of the festivities.

103. According to the 2000 census, in New Providence, the three largest denominations are Baptist (35 per cent), Anglican/Episcopalian (15 per cent) and Roman Catholic (14 per cent). In addition to Christianity, the Government of the Bahamas permits all forms of religion to be practised in the country, among which are the Baha'i Faith, Christian Science, Greek Orthodox Church, Jehovah's Witnesses, Judaism, Muslim/Islamic, Latter-day Saints (Mormon) and Rastafarianism. All peoples of the aforementioned religious groups are allowed to practise their faith freely and without fear or intrusion.

### Article 3

**Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 3 of the Convention, in particular, to the condemnation of racial segregation and apartheid and to the undertaking to prevent, prohibit and eradicate all practices of this nature in territories under the jurisdiction of the reporting State**

104. Although not specifically addressing racial segregation and apartheid, the Constitution does prohibit the hindering of the free movement of any person, including the hindering of an individual's right to reside in any part of the Bahamas. As enshrined in article 25 (1), "Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement, and for the purpose of this article the said freedom means the right to move freely throughout the Bahamas, the right to leave the Bahamas and immunity from expulsion therefrom ...".

105. The Bahamas is a free and open society where all Bahamians enjoy the inalienable right to reside and fully take advantage of all opportunities that are available to them. There does not exist, nor does the Government condone any form of policy that promotes separation based on, inter alia, race, ethnicity, religion or disability. In the last five decades, the Bahamas has witnessed a dramatic increase in the number of nationals of different races entering the country (see paragraphs 200-204 and 247-251 below). While some nationals, for obvious reasons, have decided to congregate in specific areas of the islands, it is not out of any policy mandated by the Government, but rather the choice of those nationals involved. These new immigrants are free to and do assimilate into the mainstream Bahamian populace, albeit more so in the context of their economic and social survival.

#### **Bahamas' stand against apartheid**

106. The Bahamas was a major player in the fight against the abhorrent system of apartheid, exercising its influence at the State, regional and international levels to repudiate all political and economic ties with the South African regime by the British Commonwealth of Nations of which the Bahamas is a member.

107. At the local level, through the broadcast and print media, the Government of the Bahamas made its position clear that there would be no further trading relations with South Africa or any companies transacting business in South Africa, while oppressive policies continued in the country. South Africans were denied free travel access to Bahamian territory. Exceptions to this rule were made only on humanitarian grounds or in cases where access to the Bahamas by South Africans could not be demonstrably seen to contradict the Government's opposition to apartheid. Additionally, all other ties for example, of an educational, social or scientific nature, were similarly suspended indefinitely.

108. The Bahamian Government also strongly encouraged the active participation of non-governmental organizations in the fight against apartheid. The locally formed Bahamas Committee on Southern Africa (BCOSA) and the New Providence and Grand Bahama human rights associations were the principal private organizations in the Bahamas concerned with action to combat racism and racial discrimination.

109. BCOSA at the time had been particularly vocal in its condemnation of racism and racial discrimination, generally, and of apartheid, in particular. The Committee was also instrumental in enhancing public awareness of the plight of persons who suffer from racial persecution sanctioned by Governments. The Committee further promoted the belief that apartheid violated the basic human rights of the individual, including the right to self-determination. The Committee also consistently supported the United Nations call for the end to apartheid and for mandatory sanctions against the Pretoria regime. In 1988 the Committee organized a march to commemorate the seventieth birthday of the then anti-apartheid leader and the first black President in a post-apartheid South Africa, Mr. Nelson Mandela. In September of the same year, the Committee held a public seminar to discuss issues facing South Africa and Namibia.

110. Human rights associations play an instrumental role in stimulating public interest in the problems facing illegal immigrants in the Bahamas and in recent times have been party to court actions and public demonstrations in support of the rights of aliens. The associations have also organized public meetings and seminars aimed at apprising the general public of the evils of racial discrimination. These activities are undertaken without any interference by the Government.

111. At the regional level, the Government of the Bahamas supported the related efforts of the Caribbean Community (CARICOM), in particular its stand against apartheid in sports.

112. The Bahamas is a State party to the International Convention on the Suppression and Punishment of the Crime of Apartheid. During the international campaign to eradicate the system of apartheid, the Bahamas fully supported all regional and international activities in line with the goals and objectives of the programme of the Decade for Action to Combat Racism and Racial Discrimination.

113. In the international arena and in particular at the United Nations, the Bahamas played an active role and supported fully all resolutions passed that aimed to eliminate the scourge of apartheid. The Bahamas also contributed regularly to a number of United Nations apartheid funds that focused on the dismantling of apartheid and biennially contributed to the Trust Fund or the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. Contributions to the United Nations Educational and Training Programme for Southern Africa and the United Nations Trust Fund for Publicity against Apartheid further reaffirmed the Government's commitment to concrete measures against apartheid.

114. In May 1981 the Bahamas Government as well as members of BCOSA, maintained contact with the (Bahamas/United Nations) Special Committee against Apartheid and were represented at the (United Nations) Conference on Sanctions against South Africa that took place in November of 1981. BCOSA also made monetary contributions to assist in the fight against the racist oppression of black South Africans by the South African Government. BCOSA was also actively involved in educating the Bahamian public on the evils of racism and racial discrimination, particularly the system of apartheid.

115. The Bahamas is also a State party to the Gleneagles Agreement of Commonwealth member States in 1977 on apartheid in sport and the International Convention against Apartheid in Sports. In tandem with these agreements, the Government of the Bahamas discouraged its

nationals from participating with South African athletes in sporting events and did not give South African athletes residing in that country or representing that country leave to enter the Bahamas to take part in sporting competitions.

116. In October 1985 the Government of the Bahamas played host to the Commonwealth Heads of Government Meeting (CHOGM), at which time the Commonwealth Accord on Southern Africa (the Nassau Accord) on apartheid was agreed to. This Accord called for the dismantling of apartheid in South Africa within six months and for sanctions to be imposed on failure to do so. Under the chairmanship of the late Prime Minister of the Bahamas, the Rt. Hon. Sir Lynden Pindling, CHOGM appointed the Eminent Persons Group to promote dialogue for change and non-racial democracy in South Africa. Sir Lynden also chaired the Commonwealth mini-summit in London that followed CHOGM, at which the majority agreed to intensify economic pressure on the Pretoria regime. The Government of the Bahamas at the time also wholeheartedly agreed that international cooperation was the most effective way to curtail the advancement of apartheid.

#### **Article 4**

##### **A. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 4 of the Convention, in particular measures taken to give effect to the undertaking to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, racial discrimination**

##### **(a) Dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination**

117. While provision has not been made in Bahamian law for an offence that punishes the dissemination of ideas based on racial superiority or hatred, provision has been made under the law of libel (Penal Code, chap. 84) for the punishment of persons that disseminate ideas that result in an individual being exposed to general hatred due to things written, printed, painted or in effigy form or by any other means other than solely by gesture, spoken words or other sounds.

118. Section 316 of the Penal Code states specifically that, "A person is guilty of libel who, by print, writing, painting, effigy or by means otherwise than solely gestures, spoken words, or other sounds unlawfully publishes any defamatory matter concerning another person, either negligently or with intent to defame that other person." Section 317 (1) addresses the matter of defamation which imputes to a person any crime or misconduct in any public office, etc.; and section 318 (1) addresses the issue of what is considered committing libel as it relates to publishing in the context of, inter alia, printing, writing, exhibition, reading and recitation.

119. In the event that libel was negligently committed, the offender is subject to face a six-month sentence of imprisonment (the definition of "negligence" is contained in section 13 of the Penal Code). In accordance with section 315 (2) of the Penal Code, where such libel was intentionally done, the offender is given a maximum sentence of two years' imprisonment (the definition of intent is contained in section 12 of the Penal Code).

120. The Penal Code also provides the Governor-General, with the power by Order, to prohibit the importation of any publication(s), including past or future issues of any agency or institution that in his opinion would be contrary to the public. These powers are laid out in section 397 (1) of the Code. Section 397 (2) further provides that persons who import, publish, sell or offer for sale, distribute or reproduce publication(s) or any extract thereof, shall be guilty of an offence and liable on a first offence to two years' imprisonment or a fine of B\$ 1,000 or both and for a subsequent offence to imprisonment for three years, and the publication or extract forfeited to Her Majesty. By section 397 (3), persons found in possession of prohibited publications without lawful authority or any extract thereof shall be guilty of an offence and liable for a first-time imprisonment for one year or to a fine of B\$ 500 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication or extract therefrom shall be forfeited to Her Majesty.

**(i) Violence or incitement to acts of violence**

121. Where persons are the victim of violent threats or acts, the provisions of the Penal Code may be utilized for the prosecution of person(s) accused of such threats or violent actions. Section 208 of the Code provides the definition for what constitutes a threat, violence or the use of obscene language against a person and further states that any person found guilty of such acts would be liable to a fine of B\$ 150.

**(ii) Threat of harm**

122. Section 24 of the Penal Code defines unlawful harm as that "which is intentionally or negligently caused without any of the justifications mentioned in Title VII of the Code".

123. In accordance with section 203 of the Penal Code, "Whoever threatens any other person with unlawful harm, with intent to put that person in fear of unlawful harm, shall be liable to imprisonment for one (1) month." It should also be noted that where an individual has received a threat and is of the view that the alleged offender "Is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act which may probably occasion a breach of the peace or disturb the public tranquillity", he/she may give such information on oath with a view to having a magistrate bind such person(s) over to keep the peace, and his distance from the aggrieved individual. Section 264 of the Criminal Procedure Code also speaks to this issue.

124. Sections 264, 21 (1), 133, 266, 23 (1), 269, 270, 23 (1), 272, 289, 293, 292, 290, 291 of the Criminal Procedure Code provide the definitions and charges for assault, causing harm, causing a wound, causing grievous harm, maim or dangerous harm, manslaughter, attempted murder and murder, respectively.

**(iii) Riotous behaviour in a public place**

125. The definition of what constitutes a riot under the laws of the Bahamas is contained in section 78 (1) of the Penal Code. By law, a group comprising three or more persons together in any public or private place commencing or attempting to execute any common purpose with, among other things, violence, obstructing or resisting the execution of any legal process of

authority, or facilitate, by force or by show of force or of numbers, the commission of any crime would be guilty of a riot. By section 412, “Whoever does any act with intent to provoke a riot is guilty of a misdemeanour.”

126. Likewise, under section 411, “Whoever takes part in an unlawful assembly shall be liable to imprisonment for one (1) year.” Section 79 (1) defines unlawful assembly as “an assembly of three or more persons, who with intent to carry out any common purpose, assemble in such a manner, or so conduct themselves when assembled, as to cause persons in the neighbourhood of such assembly to fear, on reasonable grounds, that the persons so assembled will disturb the peace tumultuously, or will, by such assembly, needlessly and without reasonable occasion provoke other persons to disturb the peace tumultuously”.

127. The penalty for those found guilty of taking part in a riot or unlawful assembly is laid out in section 413 of the Code. In addition, and in accordance with section 8, “This Code applies to every person who is in the Bahamas at the time of his doing any act or making any omission which constitutes an offence.”

**(iv) The Convention on the Prevention and Punishment of the Crime of Genocide**

128. The Bahamas is a party to the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, and insofar as any person commits any act of violence against any group of persons in accordance with the provisions of the Genocide Act, chapter 85, that individual will be punished in accordance with the Act’s provisions. The offences, conviction and sentencing process are set out in sections 3 (1) and 3 (2) of the Act, respectively. The definition of the term “genocide” is contained in the schedule (section 3) of the Act.

**(v) Financing of racist activities**

129. The Bahamas does not support the financing of any racist activities, and expects that all persons and institutions would seek to act in accordance with the provision of the Constitution regarding racism, and avoid any financing of racial activity.

130. As for legislation to specifically address this area, there is none.

**(b) Declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and to recognize participation in such organizations or activities as an offence punishable by law**

131. By article 24 of the Constitution, all citizens of the Bahamas and non-Bahamians legally residing in the Bahamas are free to organize themselves for activity purposes. Provision, however, has been made in the aforementioned article for laws that restrict this right in the interest of defence, public safety, public order, public morality or public health.

132. Notwithstanding the foregoing, no provision has been made in Bahamian law to declare illegal or indeed to prohibit organizations that promote and incite racial discrimination, nor to punish those involved in such organizations.



133. In spite of the absence of legislation in this area, the Government of the Bahamas does not encourage or support the creation of any such organizations that seek to promote or incite racial discrimination in the Bahamas.

134. Except with his/her consent, no person in the Commonwealth of the Bahamas shall be hindered in the enjoyment of his/her freedom of peaceful assembly and association, that is to say, his/her right to assemble freely and associate with other persons and in particular to form or belong to political parties (see paragraphs 186-193 below on political rights), or to form or belong to trade unions (see paragraphs 205-210 below on the right to form trade unions).

**(c) Not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination**

135. Under the provisions of the Broadcasting Act chapter 305 (sect. 19 (1)) the minister responsible may by notice prevent coverage of certain types of matter via radio or television by the country's local television and radio corporation (the Broadcasting Corporation of the Bahamas). This would include those matters which promote or incite racial discrimination.

**B. Information on appropriate measures taken to give effect to general recommendations I of 1972, VII of 1985 and XV of 1993, on article 4 of the Convention, by which the Committee recommended that the States parties whose legislation was deficient in respect of the implementation of article 4 should consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 4 (a) and (b) of the Convention**

136. As noted above, the Government of the Commonwealth of the Bahamas does not encourage or support the creation of any such organizations that seek to promote or incite racial discrimination in the Bahamas. Nor does it support the financing of any activities with a racist agenda, such as those based on segregation. In addition, there have not been any reports of any groups or organizations operating in the Bahamas that have a platform promoting racial discrimination and its related activities.

137. No specific measures however have been taken to date by the Government of the Bahamas to supplement Bahamian law in conformity with the requirements of article 4 (a) and (b) of the Convention. While the Bahamas has legislation that is able to address the punishment of persons who disseminate information with a view to bringing about the general hatred of a person, consideration is being given to enhancing its legislative provisions to include the punishment of persons that seek to disseminate information that brings about racial hatred in particular. Further consideration is also being given to implementing legislation that specifically addresses racially motivated acts of and incitement to violence, as present legislation more or less addresses crimes of violence or threats of harm in a general context. The Government is also cognizant of the need for the implementation of laws that punish organizations that are formed with a view to promoting or inciting discrimination, and in that regard would consider addressing such issues in its review of existing legislation.

**C. Information in response to decision 3 (VII) adopted by the Committee on 4 May 1973 by which the Committee requested the States parties:**

- (a) To indicate what specific penal internal legislation designed to implement the provisions of article 4 (a) and (b) has been enacted in their respective countries and to transmit to the Secretary-General in one of the official languages the texts concerned, as well as such provisions of general penal law as must be taken into account when applying such specific legislation**

138. While there has been no specific legislation enacted to address article 4 (a) and (b) of the Convention, the Government of the Bahamas does not promote the publication of material of a propaganda nature, that advocates ideas based on theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempts to justify or promote racial hatred and discrimination in any form. This also applies to organizations that might be formed for such purpose.

139. As noted in paragraphs 132-135 above, there are provisions under the Constitution that address the issue of freedom to all Bahamians to organize themselves and while there are no laws as such to declare illegal or indeed to prohibit organizations which promote and incite racial discrimination, nor to punish those involved in such organizations, there has not been any history of such organizations being formed in the Bahamas.

140. Again as noted in paragraph 136 above, under the provisions of the Broadcasting Act, chapter 305, the minister responsible may by notice prevent coverage of certain types of matters via radio or television by the country's local television and radio corporation that it may deem as promoting or inciting racial discrimination.

- (b) Where no such specific legislation has been enacted, to inform the Committee of the manner, and the extent to which the provisions of the existing penal laws, as applied by the courts, effectively implement their obligations under article 4 (a) and (b), and to transmit to the Secretary-General in one of the official languages the texts of those provisions**

141. In the absence of specific legislation regarding the implementation of article 4 (a) and (b) of the Convention, those provisions of the Constitution of the Bahamas are applicable.

142. Also, and as previously mentioned in paragraphs 118-121, there are provisions under the law of libel (Penal Code, chap. 84) for the punishment of persons who disseminate ideas that may result in an individual being exposed to general hatred owing to writings, printed, painted or in effigy form or by any other means other than solely by gesture, spoken words or other sound.

143. The Penal Code also provides the Governor General, with the power by Order, to prohibit the importation of any publication(s), including past or future issues of any agency or institution that in his opinion would be contrary to the public interest (section 397 (1) of the Penal Code).

## Article 5

**Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 5 of the Convention, taking into consideration general recommendations XX on article 5 of the Convention (1996) and XXII regarding refugees and other displaced persons (1996), in particular, measures taken to prohibit racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law notably in the enjoyment of the rights listed**

### **A. The right to equal treatment before the tribunals and all other organs administering justice**

144. The Magistrate's Court, the Supreme Court, the Court of Appeal, the Judicial Committee of the Privy Council, and the Industrial Tribunal (whose primary concern is the hearing of employment-related matters) are among the organs in the Bahamas responsible for the administration of justice.

145. These entities are subject to the provisions of the Constitution of the Bahamas and are therefore charged with the dual responsibility of ensuring that whatever the nature of the matter (whether of civil or criminal concern) both in the application of the relevant laws of the Bahamas and the treatment of all persons appearing before them (whether of Bahamian citizenry or otherwise) such persons are treated equally and all matters heard in the absence of any form of discrimination. Where persons are of the view that their constitutional rights have been violated based on their race or otherwise, they may seek redress at the Supreme Court.

#### **(a) Criminal matters**

146. This theme of equal application of the law to all persons is exhibited in the provisions of the Penal Code, chapter 84 (the Code), whose content addresses a number of criminal offences along with the corresponding punishment. Section 8 of the Penal Code provides for the application of the code to "every person who is in the Bahamas at the time of his doing any act or making any omission which constitute an offence".

147. Article 19 (1) of the Constitution provides that no person shall be deprived of his personal liberty save as authorized by law in a number of instances, which include his being brought before a court in the execution of a court order and his being reasonably suspected of having committed or being about to commit a criminal offence. The remaining reasons for deprivation of liberty are provided under articles 19 (3).

148. What is clear is that all persons arrested or detained for a criminal offence, if not released, are to be brought without undue delay before a court of law, and tried within a reasonable period of time; failure to ensure this would entitle such persons to be released with or without condition.

149. Regarding the equal treatment of persons charged with any criminal offence before any of the above-mentioned entities, the provisions of article 20 (1) of the Constitution are clear, such persons shall be afforded a fair hearing, within a reasonable time by an independent and

impartial court established by law. The provisions of this article go further (art. 20 (2)) ensuring that every person charged with a criminal offence is presumed innocent of the said charge(s) until having been proven or pleaded guilty, is advised when reasonably practicable in his/her own language of the charge(s) against him/her, given adequate time and facilities to prepare his/her defence, to either defend himself/herself either in person or through legal counsel during his/her trial, to examine witnesses for the prosecution and to present witnesses of his/her own at that time, to have the assistance of an interpreter where necessary, to be tried by jury, and to be present for his/her own trial, barring misbehaviour that would negate this right.

150. Articles 20 (3), 20 (4), 20 (5), 20 (6) and 20 (7) of the Constitution provide for any person charged before the courts of the Bahamas to be provided with a copy of the record of proceedings in his/her case, that such persons will not be deemed guilty of an act or omission not an offence at the time of its conduct. Further, that such persons shall not receive a more severe sentence than that available at the time of the offence, nor be retried for an offence of which he/she has already been acquitted or convicted except by Order of an appellate court. Article 20 (6) further provides that no person shall be tried for a criminal offence for which he has been pardoned, nor be compelled at his own trial to give evidence. If at day's end it has been determined by a court of law that any person has been arrested or detained unlawfully, he is entitled to compensation according to the provisions of article 19 (4).

151. Redress could be sought at first instance in the Supreme Court (article 28 of the Constitution or under common law), by any person wishing to be compensated for wrongful arrest and detention by any civilian(s) and or member(s) of the Royal Bahamas Police Force alike.

**(b) Civil matters**

152. Article 20 (8) of the Constitution makes it clear that matters civil in nature are, just as those of a criminal nature, to be heard before an independent and impartial court and given a fair hearing within a reasonable time.

153. The process for determining any civil right or obligation is a public one so that persons can for themselves see that it may be publicly determined whether or not there is indeed equality for all persons in the Bahamas before the courts. Article 20 (9) states in this regard that "All proceedings instituted in any court for the determination of the existence or extent of any civil rights or obligation, including the announcement of the decision of the court, shall be held in public."

154. Regarding the matter of extradition, the provisions of the Extradition Act, chapter 96, also seek to protect any individual who, it appears, will be prosecuted or punished merely because of his/her race and not an extraditable offence. Section 7 (1) of the Act states that:

"A person shall not be extradited under this Act to an approved State or committed to or kept in custody for the purposes of such extradition if it appears to the Minister, to the court of committal or to the Supreme Court on an application for habeas corpus:

“(b) That the request for extradition, though purporting to be on account of an extraditable offence, is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions;”

155. Similar provision is made in the Suppression of the Taking of Hostages Act, chapter 87. Section 7 (1) of that Act states that:

“Notwithstanding sections 4 to 6 of the Extradition Act, a person whose surrender is sought in respect of any act of omission that amounts to an offence in section 5 shall not be surrendered from the Bahamas to another country if it appears to the aforesaid minister or to the court before which that person is brought or to any court of judge to apply for a writ of habeas corpus - that:

“(a) The surrender of the offender who they purport to have been sought in respect of such a crime, was sought for the purpose of prosecuting or punishing him on account of his race, ethnic origin, national or political opinion; or

“(b) If the offender surrenders he may be prejudiced at his trial, punished or detained or restricted in his personal liberty by reason of his race, ethnic origin, religion, national or political opinion.”

**(c) Supervision and training of judicial officers in the avoidance of racial discrimination**

156. While courses designed to prepare judicial officers in this area do not exist in the Bahamas, such persons are, as are all other non-judicial persons, expected to govern themselves and the conduct of any matters in which they are involved in accordance with the provisions of the Constitution and any other law relating to racial discrimination.

**B. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution**

**(a) Information on the incidence of racially motivated criminal offences, their investigation and punishment**

157. Article 16 of the Constitution provides that no person shall be deprived of his/her life unless with respect to a sentence of court following his conviction for a criminal offence. This provision therefore allows for the hanging of an individual following a conviction for murder. It should be noted that no executions have taken place in the Bahamas since January 2000 and that the Privy Council in a related jurisdiction has ruled on a law similar to that of the Bahamas that the death penalty in its mandatory form is *ultra vires* to the Constitution. An appeal on the point is going to the Privy Council from the Bahamas.

158. By article 16 (1), “No person shall be deprived intentionally of his life in execution of the sentence of a court in respect of which a criminal offence of which he has been convicted.” In addition a person, will not, however, have been deemed to be deprived of his life according to this article, if he dies as a result of the use of force reasonably justifiable by law.

159. Article 16 (2) states that, “A person shall not be regarded as having been deprived of his life in contravention of this article if he dies as a result of the use, to such extent and in just circumstances as are permitted by law, of such force as is reasonably justifiable.” The provisions of this article are further laid out in clauses (a) (b) (c) and (d).

160. Protection from inhumane treatment and protection from slavery and forced labour are outlined in articles 17 (1 and 2) and 18 (1, 2 and 3 (a)-(d)), respectively.

161. The Constitution of the Bahamas also provides for protection (art. 19 (1, (a)-(g)) from arbitrary arrest and detention of persons. Such arrests should be in accordance with the execution of a court sentence or order of court where such person has been convicted of a criminal offence, or in execution of court order to secure the fulfilment of a legal obligation, from the bringing of that person before a court in execution of court order, upon a person reasonably suspected to have committed or about to commit a criminal offence, for the education and welfare of a person under 18 years of age, for the prevention of the spreading of contagious diseases, or for the prevention of lawful entry into the Bahamas or securing the expulsion or extradition of a person from the Bahamas.

162. Any person, whether a government official or otherwise that inflicts violence or bodily harm against a person is subject to the Penal Code of the Bahamas (mentioned above) and may be prosecuted and punished accordingly.

163. Police officers who participate in acts of violence against individuals are subject to criminal prosecution or alternatively, police disciplinary action, which can include fines, reduction in rank and dismissal from the police force.

164. There is a Police Complaints Unit within the Royal Bahamas Police Force that works in tandem with a Civilian Complaints Committee. These work to address complaints against members of the Royal Bahamas Police Force. In addition, persons with complaints against the police that involve physical violence or bodily harm may seek remedies of civil damages under the provisions of article 28 of the Constitution as well as the common law.

#### **(b) Police force and pension regulations**

165. The Government of the Commonwealth of the Bahamas subscribes to the belief that all residents of the Bahamas have the right to be free of the fear of crime at all times. It therefore vigorously pursues the objective of reducing crime, particularly violent crimes.

166. The Royal Bahamas Police Force is the institution with responsibility for the promotion of public safety. Its mandate is clearly defined in the Police Act. Its responsibilities include: the maintenance of law and order, the preservation of peace, the prevention and detection of crime, the apprehension of offenders and the enforcement of all laws with which it is charged.

167. A Police Service Commission, established under article 118 of the Constitution, recommends the appointment, discipline and removal of senior police officers. Members of the Police Commission are appointed by the Governor-General acting on the advice of the Prime Minister, following consultation with the Leader of the Opposition, by instrument under the

Public Seal. Article 119 of the Constitution empowers the Commissioner of Police to make appointments to the junior ranks of the police force, after consultation with a Police Promotion Board.

168. Articles 19, 20 and 21 of the Constitution provide for all residents of the Bahamas to be protected from arbitrary arrest or detention; to have entitlement to the right to a fair trial within a reasonable time in accordance with established law and to be protected against the invasion of personal privacy, the privacy of home or other property.

**(c) Prison reform**

169. In the area of prison reform, the Government in 2002 established a Prison Reform Commission to undertake a comprehensive study of the country's prison system, whose inmates include both Bahamians and other nationals. The Commission has reported and the report has been presented in Parliament. The principal recommendations of the report advised on physical and institutional changes that would serve to improve the living conditions of inmates and promote their rehabilitation and successful return to normal society.

170. Specific attention was drawn in the Prison Reform Commission's report to the role that basic and vocational education must play in the rehabilitation of inmates. Education was considered to be pertinent as the absence of educational opportunities was found to be a significant factor in the inmate population.

**(d) Illegal immigrants and discrimination**

171. For over 40 years the situation of nationals from different countries entering the Commonwealth of the Bahamas illegally has posed and continues to pose major challenges, especially pertaining to their detention, maintenance and repatriation. In the last year alone, over B\$ 1.2 million was spent on detention, maintenance and repatriation. Traditionally, nationals of Haiti were the major group ending up on the shores of the islands of the Bahamas, but in recent times, nationals from countries from every continent are now being identified. This situation impacts tremendously on the social and economic fibre of Bahamian society, in that resources that could be allocated for other developmental and social activities are diverted to addressing the current situation of illegal immigrants.

172. Notwithstanding the above, the Government of the Commonwealth of the Bahamas is cognizant of the fact that while these illegal immigrants are detained, it has a legal obligation under international conventions and treaties to which it is a party, to provide for the protection and care of these individuals until they are repatriated. In that regard, the Government in 1995 completed the Carmichael Road Detention Centre capable of housing over 500 illegal immigrants. Prior to that, illegal immigrants were housed at the Government's Fox Hill Prison. The Detention Centre is fully staffed and administered by a cadre of officers from the major law enforcement and health agencies namely, the Royal Bahamas Police and Defence Forces, Department of Immigration and Ministries of Health and Social Services and Community Development. The Department of Immigration and the Ministry of Social Services and Community Development have a "cost-sharing" arrangement for underwriting the cost of the basic needs of detainees. Those immigrants awaiting deportation are housed in dormitories for both males and females and families.

173. They are also fed twice daily and have access to the grounds for recreation purposes. In addition, family members who travelled to the Bahamas are not only allowed to visit, but also to provide their relatives with food and other basic essentials. For fiscal year 1995/96, the Government of the Bahamas expended in excess of US\$ 110,000 to house and feed the detainees. The 2003/04 budget of the Bahamas has made provision for a detention centre at Inagua.

### **C. Constitution**

174. When the Bahamas attained independence from the United Kingdom on 10 July 1973, a Constitution representing the supreme law of the land went into effect.

175. The Constitution proclaims the Bahamas as a sovereign democratic State, establishes requirements for citizenship and guarantees fundamental human rights such as freedom of conscience, expression and assembly. It also protects the privacy of the home and prohibits deprivation of property without compensation and/or due process of law.

176. By an Act of Parliament, the Constitution can be amended but there are two categories of provisions - entrenched and specially entrenched - that can be amended only by prescribed voting formulas and with approval by the electorate in a referendum.

177. The entrenched provisions of the Constitution comprise those relating to the establishment of the Bahamas Public Service and qualifications for Members of Parliament. For these entrenched provisions to be amended, there must be a two-thirds majority vote in both houses of Parliament and by referendum.

178. Citizenship, fundamental rights, establishment and powers of Parliament, the Cabinet and the judiciary are addressed in the specially entrenched provisions. Amendments to these provisions must be by a three-quarters majority vote in Parliament and by referendum. On 27 February 2002, history was made in the Bahamas when the first-ever referendum on constitutional reform took place. The five proposed amendments to the 1973 Constitution that were passed by the House of Assembly and the Senate, were intended to: remove all forms of discrimination against women with regard to their ability to pass nationality to their children and spouses; entrench in the Constitution a Teaching Service Commission; entrench in the Constitution the position of an independent Parliamentary Commissioner; create an independent Boundaries Commission; and increase the retirement age of judges of the Supreme Court and Court of Appeals. All of the foregoing proposals were soundly rejected by the electorate.

179. In furtherance of its commitment to the Bahamian people to amend the Constitution following more than a quarter of a century of independence, the Government in 2000 commenced the process of constitutional reform. Primary among its objectives at that time were the deepening of democracy, the fortifying of provisions against bias and discrimination and strengthening of the judicial system.

180. In 2002, the Government appointed a non-partisan Constitutional Review Commission charged with the responsibility of engaging in the widest possible national dialogue. The findings of the Commission are to be circulated for discussion and consultation with the Bahamian people, at the end of which the bills will be put in final form for presentation in



Parliament. Among those issues of the Constitution that will be recommended to the Commission for amendment are those pertaining to the issue of human rights “to incorporate as a protected right the right to vote and participate in free and fair elections coupled with the concept of Freedom of the Press which will enshrine the principles that the media shall be free from arbitrary intervention by the State and that equal access to television and radio be guaranteed during national elections”.

**(a) Charter of Civil Society**

181. The Government of the Bahamas remains committed to consulting its people on all matters of national importance. This becomes even more critical as the country examines its role and fulfils its obligations to other member States on a bilateral, regional and multilateral level.

182. The Charter of Civil Society (CCS) is an outcome of the proposals of the West Indian Commission (WIC) that were adopted by the Conference of Heads of Government of the Caribbean Community (CARICOM). The Charter sets out in precise terms the rights, freedoms and obligations of the Caribbean people, as well as the duties and obligations of Governments to provide effective ways for the meaningful participation of all the people in their Government. The Association of Caribbean Community Parliamentarians (ACCP) was also established to provide a forum for Governments, opposition and civil society to discuss, at the regional level, matters of concern to the entire community.

183. In accordance with the provisions of CCS, the first formal meeting of civil society in the Bahamas was held with the Minister of Foreign Affairs at his ministry in June 2002. The outcome of that meeting led to the Bahamas’ participation in the CARICOM Regional Conference of Civil Society Organizations. At the second meeting of the group following their participation in the regional conference, it was decided that regular meetings of civil society with government ministers should be convened and that such meetings were to be hosted by the Minister of Foreign Affairs. Pursuant to the first meeting, a group known as Civil Society Bahamas (CSB) was formed.

184. In addition to meetings in New Providence, meetings have been held on the island of Grand Bahama. For 2003, CSB has plans to hold meetings with citizens’ groups in other islands of the Bahamas.

185. The Inter-American Development Bank (IDB) provided assistance to the Government of the Bahamas to host the first meeting in 2002 and has made a commitment to provide funding for the hosting of meetings in other islands of the Bahamas.

**D. Political Rights**

186. As noted previously, the Bahamas is a constitutional monarchy with a bicameral system of Government. There is an elected House of Assembly and an appointed Senate. Election to the House of Assembly is based on universal adult suffrage where all citizens over the age of 18 are eligible to vote in free and fair elections. Elections are held every five years for single member constituencies based on the first-past-the-post system.

187. The Bahamas' parliamentary system is based on the Westminster model. Both Afro-Caribbean and Caucasian Bahamians sit as representatives of the people. Notwithstanding his/her ethnic background, a person must be a Bahamian citizen in order to vote or contest a parliamentary seat in national elections.

188. Prior to the formation of political parties in the Bahamas in 1953, all candidates for political office ran as independents. This situation has since changed, and in the last 20 years there have existed at least 13 different political parties the most predominant being the United Bahamian Party (UBP) 1964-1967 (during the period of self government); the Free National Movement (FNM) that held power from 1992 to 2002; and the Progressive Liberal Party (PLP) that held power from 1967 to 1992 and regained power once again in the general elections of 2 May 2002 for a five-year term that is to expire in 2007. A number of independent candidates also contested these elections with four being successful in the general elections of May 2002.

189. The rules regarding qualifications for membership to the Bahamas' House of Assembly are outlined in article 47 (chap. V, part III) of the Constitution. These rules, which make no reference to race or ethnicity, specify that a candidate must be: (a) a citizen of the Bahamas; (b) age 21 or over; and (c) ordinarily resident in the Bahamas for at least a year prior to the election. Conversely, the rules governing entitlement to be registered as a voter for a constituency in an election are laid out in articles 8 and 9 (part III - Registration of voters) of the Parliamentary Elections Act of 1992, which came into force on 10 January 1992. This Act repealed the Representation of the People's Act. Only Bahamian citizens are entitled to vote in parliamentary elections.

190. Article 23 of the Constitution guarantees that no person, Bahamian or non-Bahamian, shall be hindered in the enjoyment of his/her choice of freedom of expression. In the case of Bahamian citizens, no citizen shall be prohibited from exercising his/her right to vote provided the provisions of the Parliamentary Elections Act 1992 are satisfied. On the issue of the right to vote in elections, the principle of adult suffrage (one man one vote) is enshrined in Section 19 of the aforementioned Act. No provision, however, has been made in the laws of the Bahamas for any aspect of proportional representation.

191. In addition, articles 24, 25 and 26 of the Constitution guarantee that every person, Bahamian or non-Bahamian, living in the Bahamas, has the constitutional right to form or join a political party of his/her choice without fear of recrimination or condemnation; the right to peacefully associate with any group or organization; freedom of movement; and protection from discrimination on the grounds of race etc., respectively.

192. While persons of varying nationalities may play an integral role in forming or being a part of any political party, as previously mentioned, they must among other things become citizens of the Bahamas if they desire to enter as candidates for election to the Bahamas' House of Assembly, either as an independent candidate or candidate of any political party, or merely to vote, as only a citizen of the Bahamas is able to exercise voting rights in the country.

193. As for indigenous persons, such individuals do not form part of Bahamian society.

**(a) Local government**

194. As noted in part I, General information, the Commonwealth of the Bahamas is a 100,000 square mile archipelago State comprising some 3,000 islands, small cays and rocks, of which 70 are inhabited, forming 22 island groupings.

195. As a means to ensure that all its citizens are fully represented in the political process of the country and have a direct role in the day-to-day affairs of their respective communities, and without the central Government's influence in 1996 the Government of the Bahamas instituted a system of local government in the major and most populated of the islands of the Bahamas - the Family Islands. The system was formally institutionalized with the enactment on 5 March 1996 of the Local Government Act. The Act outlines, inter alia, the operational and structural aspects of the system, and the rules and regulations governing elections and registration of voters. In fact, section 6 of the Act stipulates that the process of local government is to "facilitate the election of members of the Town Committees and District Council with a view to empowering them to maintain the local infrastructure within their communities". Section 9 (1) of the Act sets out in detail the various functions to be undertaken by the Town Committees/District Councils.

196. As expected, there were problems in the early implementation of the system. However, it has been generally concluded that it has provided the communities with the capabilities of effectively entering into contracts for the proper management of public utilities within their respective settlements.

197. With regard to elections, the first local government elections were held in 1996. Such elections are community based and a person's standing in a particular community usually impacts his/her ability to be elected. Political party affiliation may sometimes influence the outcome of elections, but not to the same extent as in national elections. Articles 17, 18, 21 and 22 of part V of the Act address issues pertaining to registration of voters and conduct of elections; election of committee members; eligibility for election as committee members; and persons not qualified to stand for committee members, respectively.

198. A major achievement of local government was in 2000 when the Ministry of Foreign Affairs, in conjunction with the then Ministry of Local Government, commenced the issuance of Bahamian passports at administration offices in all the Family Islands. The introduction of this service to the Family Islands has proven valuable and released a significant amount of pressure on the central Government that prior to 2000 was solely responsible for this function.

**E. Other civil rights**

199. Protection of fundamental rights and freedoms of individuals is enshrined in chapter III, articles 15-27 of the Constitution. Article 15 specifically states that:

"Whereas every person in the Bahamas is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedom of others and for the public interest, to each and all of the following, namely:

"(a) Life, liberty, security of the person and the protection of the law;

“(b) Freedom of conscience, of expression and of assembly and association;  
and

“(c) Protection for the privacy of his home and other property and from deprivation of property without compensation.”

#### **F. Economic, social and cultural rights**

##### **(a) Right to work**

200. There is no specific legislation that guarantees the right to work in the Commonwealth of the Bahamas. There have been no reported cases of discrimination on the basis of race, ethnicity or gender, in the workplace in the Bahamas in recent times. Through its enactment by the Parliament of the Bahamas on 31 December 2001, the Employment Act entered into force in the Commonwealth of the Bahamas, repealing at the same time a number of previous pieces of legislation governing the workforce. These include, among others, the Fair Labour Standard Act (chap. 295), Employment of Children Prohibition Act (chap. 291), Female Employees (Grant of Maternity Act) (chap. 8 of 1988) and the Industrial Relations Act (chap. 296, sect. 53E).

201. On the matter of discrimination, section 6 of the Employment Act states in part that “No employer or person acting on behalf of an employer shall discriminate against an employee or applicant for employment on the basis or race, creed, sex, marital status, political opinion, age or HIV/AIDS by: (a) refusing to offer employment to an applicant for employment or not affording the employee access to opportunities for promotion, training or other benefits, etc.; (b) paying him at a rate of pay less than the rate of pay of another employee for substantially the same kind of work or for work of equal value performed in the same establishment; and (c) pre-screening for HIV status.” The foregoing is contingent on the fact that it does not affect any other law or contract term that stipulates a retirement age.

202. Furthermore, section 7 of the Act points out that section 6 shall “apply mutatis mutandis to disabled employees unless the employer can show that the job requirements relied on as grounds for hiring the disabled person at a lesser rate of pay are reasonable or the disabled person cannot be accommodated without undue hardship”.

203. With regard to measures taken in the Bahamas for the promotion and protection of human rights of persons belonging to minority groups whether indigenous populations or migrant workers, there exist in the Bahamas constitutional provisions for the protection of such individuals under chapter III of the Bahamas Independence Order 1973, which protects the fundamental rights and freedoms of individuals against inhumane treatment, slavery and forced labour or from arbitrary arrest or detention. At the same time there is individual association among others within the Commonwealth of the Bahamas. Migrant and other workers in the Bahamas are subject to the approval of work permits that are normally granted by the Ministry of Labour and Immigration for specified periods for occupations for which there are no Bahamians available.

204. With regard to the laws governing employment in the Bahamas, because the Government does not have an “open border” policy, the Bahamas’ Immigration Department is “strictly motivated” in its effort to promote its Bahamianization policy. The Government seeks to ensure

that wherever Bahamians are available, they will be given priority in job sectors over foreigners. If companies are allowed to hire foreigners, they are required to train Bahamians to replace those foreign employees by the time their contracts have expired. The Ministry's Department of Labour must issue labour certificates to all applicants before any work permits are issued to foreign workers entering the Bahamas to take up employment.

**(b) Right to form trade unions**

205. Protection of freedom of assembly and association that incorporates the right to form trade unions, is enshrined in article 24 of the Constitution. By this article, "Except with his consent, no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties, or to form or belong to trade unions or other associations for the protection of his interests."

206. In 1996, the Industrial Relations Act (chap. 296) was amended to establish the Bahamas Industrial Tribunal. Also in 1996, the Industrial Relations Act was further amended to enhance the process of the formation and recognition of trade unions. It also governs employer/employee relations in the Bahamas. The Act further sets out to promote good relations between employers and employees; i.e. to promote good industrial relations.

207. A Code of Industrial Relations Practice (COIRP) was established under section 40 of the Industrial Relations Act. The Code provides for practical guidance for the promotion of good industrial relations; for the grant of negotiating rights; and assisting employers and trade unions of employees to make effective collective agreements. Under the Code, there is also a mechanism for dispute settlement.

208. COIRP further recommends that industrial agreements contain provisions relative to the following: (a) wages and salaries; (b) hours of work; (c) public holiday and vacation entitlement and pay; (d) job performance appraisal; (e) redundancy and temporary lay-offs; (f) deduction of union dues; and (g) settlement of grievances. In addition, COIRP recommends that employers establish clear guidelines governing the relationship between management and its employees, and also that avenues and channels of communication are clearly established that would allow ventilation and discussion of issues of mutual concern.

209. It should be noted that while a large section of the Industrial Relations Act is dedicated to the relationship between trade unions and employers, workers who are not governed by a trade union, i.e. those who are not covered by an industrial agreement, are not afforded protection under the law. Notwithstanding, if an employee does not have a written contract of employment with his employer, he is still afforded some protection by the common law that provides and recognizes that certain terms and conditions of employment are to be implied in every written contract of employment.

210. The Bahamas is a signatory to all 18 core International Labour Organization (ILO) conventions, including Convention No. 98: (Right to Organise and Collective Bargaining). Therefore, the Government in its dual role as the largest regulator of industrial relations has a greater duty to follow established protocol and to promote industrial peace.

**(c) Right to housing**

211. The right to adequate and affordable housing for all citizens of the Bahamas irrespective of race, ethnicity or gender remains a top priority for the Government. The Government has made the availability of decent housing to all Bahamians a major policy goal and has pledged to double the rate of home construction. The Government further believes that “every Bahamian has the right to decent housing as in any civilized society”.

212. The Government of the Bahamas’ quest to develop a housing programme commenced in 1961 with the formation of the Bahamas Housing Corporation. Following the adoption of the Constitution in 1964, the Corporation was dissolved and succeeded by the Ministry of Housing. In 1965, the Department of Housing was created and since then has fallen within the portfolio of a number of ministries. It is presently within the Ministry of Housing and National Insurance.

213. The principal role of the Department of Housing is to provide affordable housing for low-and middle-income persons through the Government Guaranteed Mortgage Loan Programme. Under this programme, the minister responsible for housing encourages lending institutions to grant mortgage loans to persons who might normally not qualify for them from other financial institutions, by guarantee of reimbursement in the event of a defaulted mortgage. Lenders who participate in this programme are awarded approved lender status. The primary lender for the Government Mortgage Loan Programme is the Bahamas Mortgage Corporation that was established in 1983, primarily to provide mortgage loans under the guaranteed loan programme. In 1998, the Housing Act was amended to provide for an increase in the ceiling on government guaranteed loans from B\$ 60,000 to B\$ 100,000. The amendment also provided for the expansion of the term “dwelling house” to include multifamily units such as duplexes, triplexes and fourplexes. The Government presently provides over 100 rental units for low-income persons. Additionally, funds have been provided in the 2003/04 budget to construct an eight-rental unit complex.

214. The Government’s Urban Renewal Programme (URP) that came on stream shortly after the elections in May 2002 was first instituted on the island of New Providence, in areas such as the Farm Road and Bain and Grants Town constituencies (the Farm Road and Bain and Grants Town Projects). URP has since been extended to the southern islands of the Bahamas, marking the beginning of several initiatives to restore dilapidated houses in those designated islands. It is anticipated that over B\$ 100,000 will be spent on housing repairs. The Government has also given financial support to a Grand Bahama-based administrator to launch a similar project in the district of West End, Grand Bahama Island. A total of B\$ 1 million has been earmarked in the Government’s 2003/04 budget to assist in refurbishing government rental units, building more units and funding the aforementioned project.

215. URP has also adopted an Urban Renewal Commission with the specific mandate to identify housing, health, social, economic and educational needs for all citizens throughout the Bahamas. A total of B\$ 300,000 has been earmarked for URP in the Government’s 2003/04 budget.

216. In recent times there has been significant growth in the construction of private homes, of middle and upscale single-family residences, condominiums and second homes, including in many “Family Island” communities. In recognition of this fact, and building on the programme

started by the previous administration, all citizens who qualify are given duty-free concessions under the Family Island Development Act. While government housing policy is based on a “Bahamian-first” concept, other permanent residents living in the Bahamas do have the right to apply for government-owned houses if they so wish and are free to construct private housing if they have the financial means to do so. This is especially so under the Bahamas’ investment policy of “second homeowners” that encourages foreign nationals to purchase and construct homes in the country as a form of investment.

217. The Government also proposes to create, in the near future, an autonomous public housing corporation to address the acute housing shortage throughout the Commonwealth of the Bahamas.

**(d) Right to public health, medical care, social security and social services**

**(i) Public health and medical care**

218. The Government of the Bahamas is fully committed to the internationally accepted dictum that health care is a fundamental right. The Government further subscribes to the notion that primary health care must be accessible to residents on every inhabited Bahamian island. In addition the Government is of the view that quality health care must be universal in its application and in this regard is pursuing and ensuring its objectives from that perspective.

219. The mission statement of the Ministry of Health is “to ensure that the highest quality of services for health promotion, protection and care are accessible to all persons of the Bahamas in order to achieve optimal health”.

220. While there is no constitutional right to medical care in the Bahamas, section 4 of the Health Services Act (chap. 216) stipulates that medical and surgical attention and requisites shall be supplied by the Department of Health at public expense and without prejudice at a government-operated hospital or medical clinic to: (a) such poor and indigent persons as may need and apply for them; (b) the inmates and staff of the prisons and of the industrial schools; (c) the members of the police force; and (d) the patients in the leper asylum. Sections 5, 6 and 7 go on further to define the minister’s role in the prescribing of fees to be paid by persons who are admitted as paying patients for medical or surgical treatment and measures to be taken if such prescribed fees cannot be paid by the patient.

221. High-quality health care is available throughout the Bahamas through the government-owned Princess Margaret Hospital, the Sandilands Rehabilitation Centre, Sandilands Psychiatric Hospital and the Geriatric Hospital on the island of New Providence, the Rand Memorial Hospital on the island of Grand Bahama and a number of government-run clinics on the other islands. Additionally Bahamians and non-Bahamians alike have the option of seeking medical care at the privately owned Doctors Hospital and private walk-in clinics that must operate in conformity with the rules and regulations set by the Government for their day-to-day operations.

222. In 1972, the Government instituted the National Insurance Act, establishing for the first time in the Bahamas, a system of national social insurance. The consummation of this act, the National Insurance Programme (NIP), commenced on 7 October 1974. As a result, the

Workmen's Compensation Act (covering on-the-job injuries/diseases/death) and the Old Age Pension Act (providing assistance for senior citizens) were repealed, and their provisions were encapsulated in the new programme.

223. NIP is administered by the National Insurance Board of the Bahamas (NIB). It provides a wide range of benefits, long- and short-term, for qualified insured persons and their dependants, irrespective of race or ethnic background. Benefits are usually in the form of partial, income-replacing payments in times of sickness, invalidity, maternity, retirement and death. With regard to cases involving injury, disease or death arising out of employment, the programme further provides for free medical care and expenses. To be eligible for such assistance, all citizens in the public and private sectors, through their employers, must contribute weekly or monthly to the scheme. Inability to contribute to the scheme has not, however, prevented those less fortunate in society from obtaining benefits.

224. On 1 July 1999, the Public Hospitals Authority (PHA), a government corporation, was established. Governed by a chairman and 11 board members, PHA has direct responsibility for the ongoing development and management of the government-owned hospitals mentioned above, as well as the Grand Bahama Public Health Services.

225. In 2000, the Government introduced a National Health Service Strategic Plan for the period 2000-2004 that is geared to addressing the major health-care challenges to the further development of the country.

226. There are presently ongoing consultations between the Government and the private-sector insurance companies to put in place a system of national health insurance so that every Bahamian will have insurance coverage for major surgery and other medical services.

## **(ii) Social security and social services**

227. The Government of the Bahamas remains convinced that the "ultimate goal of social development must be to improve and enhance the quality of life of all people". This is a process that requires not only the sole efforts of any government but also the comprehensive and collective inputs of every stratum of society to reduce inequalities in society, thereby creating greater social stability and security. Along with political leaders, this includes, among others, the full participation of religious, social and economic leaders who are able to effectively communicate to the people, are sensitive to the customs and mores of the society and are prepared to give of their time and financial resources to the advancement of the nation.

228. The Bahamas has been privileged in the last decades to be among those countries where, given its strong tradition of democracy and social and economic stability, it has become the test case of success for small independent, developing nations. The country's economic indicators remain strong even though they have been challenged in the past few years. There exists a strong, sound and vibrant economy, anchored by the major industries of tourism and financial services. In addition, personal incomes are on the rise; there is healthy economic growth as well as low inflation, an advanced and modern telecommunication infrastructure, low unemployment and the growth of local industry and manufacturing sectors.



229. It is from this approach that the Government, through its Ministry of Social Services and Community Development, and other social partners such as the Bahamas Christian Council, the Bahamas Red Cross Society and non-governmental organizations, has embarked on a number of programmes that seek to address some of the more recent challenges to the social fibre of society.

230. Emphasis has been placed on improving the social conditions and meeting the needs of the aged, disabled, unemployed, expectant mothers, the bereaved, those who have lost their homes and the destitute. To this end, the Government is presently reviewing the operation of the existing social security system to upgrade, streamline and modernize it. Other initiatives, include, inter alia, improving the method and payment of old-age pension benefits; supporting private-sector organizations that care for the elderly; guaranteeing the rights of the disabled to education, health care, job opportunities, access to public buildings and low-cost housing, etc. Following consultations with employers and trade unions, there are plans to introduce a Families Bill containing provisions for maternity/paternity leave and flexible working schedules; and to establish a family division of the Supreme Court to settle family disputes.

231. In 2000, the United Nations convened the World Summit for Social Development from which emanated the Copenhagen Declaration on Social Development. The Bahamas was represented at the Summit at ministerial level, and fully supported the tenets of the outcome Declaration, believing that it provided an appropriate “blueprint” for action. The Declaration which sets out the interdependence of economic development, social development and environmental protection became a benchmark in determining government policies in promoting economic growth, improving social conditions and maintaining environmental integrity.

**(e) Right to education and training**

232. It is the Government’s view that every Bahamian is entitled to the opportunity to be educated so as to achieve a proper standard of living and full development as a human being; to develop the intellect, to understand readily, to cultivate the ability to communicate orally and in writing; to condition the will to live and work ethically.

233. The right to education and training is not guaranteed in the Constitution. Notwithstanding, in accordance with sections 12, 13 and 14 of the Education Act, the minister responsible for education and training has a duty within the limits of his/her resources, to ensure efficient primary and secondary education to all Bahamians. In recent times, expenditure on education in the Bahamas has constituted the single highest item in the national budget. In the 2003/04 budget that amount totalled B\$ 191 million. Over B\$ 20 million of that amount is to be spent on educational facilities, including B\$ 2 million on the government-operated College of the Bahamas.

234. Latest data show that there are currently 204 schools in the Commonwealth of the Bahamas. Of this, 160 (78 per cent) are fully maintained by the Government and 44 (22 per cent) are independent. On the island of New Providence, there are 50 government-owned and 28 independent institutions. In the remaining islands, commonly referred to as the Family Islands, there are 110 government-owned and 16 independent institutions.

235. Free education is available in government schools throughout the Bahamas. By law, students must attend school until age 16. There are no recorded data to distinguish the number of students currently enrolled in government-operated schools or independent institutions on the basis of a specific ethnic group. Likewise, there are no statistics to indicate variations in the levels of education and training between members of different ethnic groups. Although there are significant numbers of students of Haitian origin (this group comprises the largest minority grouping in the country), there are no data that chart their level of performance in the classroom vis-à-vis that of Bahamians and other nationals.

236. In 1993, the Ministry of Education, in consultation with the University of Cambridge Local Examinations Syndicate, introduced the Bahamas General Certificate of Secondary Education (BGCSE). The BGCSE covers a broad range of subjects in the areas of academic, technical and vocational courses. Grades are determined on a seven-point system (A-G) and are based on the United Kingdom's General Certificate of Secondary Education (GCSE). The BGCSE, however, is targeted to a wider range of abilities than the former General Certificate of Education (GCE) O (ordinary) levels. At the junior-high level, students, once they reach the ninth grade, take the Bahamas Junior Certificate (BJC) examinations. The exams cover nine subjects which are also graded on a seven-point system of A-G.

237. Independent (private) schools provide both primary and secondary education. The term "college" in the Bahamas connotes a fee-paying school rather than a university.

238. There are also private schools of continuing education that offer both secretarial and academic courses. The government-operated Princess Margaret Hospital offers a nursing course through the School of Nursing, at the College of the Bahamas' Oakes Field Campus.

239. With regard to the College of the Bahamas that came on stream in 1973, along with the Bahamas Technical and Vocational Institute (BTVI), these are two government-operated institutions offering higher education. In addition, the University of the West Indies maintains an administrative (regional) office and a representative in Nassau.

240. In recent times, there has also been a significant increase in private institutions offering tertiary level education and degrees. By law, these schools must be registered with the Ministry of Education, although prospective students must check each one to determine accreditation. In addition, a number of United States institutions offer higher education in the Bahamas. Among them are the University of Miami and Nova Southeastern University, which offer degree programmes and/or night classes held in Nassau.

241. In 2000, the Government introduced for the first time ever, a Government Guarantee Education Loan Programme at an interest rate of 8 per cent. This Programme has brought college and university training at institutions in the United States, Canada, the Caribbean, Europe and the Bahamas within the reach of over 800 Bahamian students (of all races) at a cost of over B\$ 4 million to date.

242. According to the latest data provided by the Let's Read Bahamas secretariat, 85 per cent of Bahamians are literate and the remaining 15 per cent illiterate. Literacy in this regard is premised on the number of students completing sixth grade. More than 95 per cent of Bahamian students complete sixth grade, albeit a good percentage are not all functionally literate. In

recognition of this fact, the Government continues to place emphasis on the importance of improved literacy as is evident from the attention given to the development of a number of community reading centres in the island. Additionally, and since 2000, the Government has embarked on a nationwide programme to computerize all government-operated schools, beginning with primary schools.

243. The Government of the Bahamas firmly believes that education and the teaching of the ills of racism and racial discrimination enhance students' awareness of such policies. Included in the social studies curriculum of government secondary schools, are civic courses that are designed to educate and familiarize Bahamian youths with their civic responsibilities and to create an awareness of local and international socio-economic conditions. Outlined in the curriculum are sections of programmes that address the problem of discrimination and racism relating to religion, nationality, origin and race. The Bahamian history syllabus for secondary schools fully addresses the struggle for majority rule in the Bahamas. This course provides students with a broad presentation of the problems and inequities that exist in countries where the policies of the Government do not reflect the racial composition of the people.

**(f) Right to equal participation in cultural institutions**

**(i) Youth and sports**

244. All activities pertaining to cultural and sporting activities fall within the purview of the Ministry of Youth, Sports and Culture. While there is no constitutional or legislative provision which guarantees such rights, there is absolutely no discrimination practised in the enjoyment of these rights.

245. The Government of the Bahamas is of the view that the future of the country is best served through the proper training and development of its youth of every racial and ethnic background. For that reason it has placed great importance on improving the health and education infrastructure of the country, promoting educational and training opportunities in government-operated schools throughout the Bahamas. This also includes institutions of higher learning such as the College of the Bahamas and BTVI.

246. Added attention has also been devoted to the creation and expansion of community out-reach programme initiatives to encompass a wide cross-section of the country's young people in positive, life-enhancing activities such as sports, music, dance and Junkanoo. In the light of the concerns regarding young persons who have become alienated from their communities and who find themselves engaged in antisocial, illegal or violent activities or with criminal elements, attempts are being made to rescue and reintegrate them back into society by implementing, inter alia, the recommendations set out in the 1995 Consultative Report on Youth Development, increasing support for after-school activities in sports, and developing community centres and peer-mentoring programmes.

**(ii) Cultural activities**

247. In the last two decades, there has been a tremendous change in the ethnic make-up of the Commonwealth of the Bahamas. As noted above, the predominant race of the country from its

inception was African with a minority of Europeans. While this situation remains for the most part, the infusion of nationals from Europe, Asia, Africa and the Americas has resulted in a very cosmopolitan society of peoples of diverse cultures and beliefs.

248. It is the general belief that a nation's level of development is measured by the attention it affords its most valuable citizens and by the care and respect it devotes to its history and culture. The Bahamas is proud of its history, a history that is blessed with a rich culture, a thriving folklore and a long tradition of talented artists. This is demonstrated through the various media in the form of local television and radio programmes and, more passionately, in the national Junkanoo festivals that take place in December and January respectively. At all times, Bahamians and non-Bahamians alike are encouraged to participate actively in these activities.

249. Cognizant of the ever-changing ethnic make-up of the country, a group of concerned citizens in 1993 formed the International Cultural Committee, as one of the national committees planning the fiftieth anniversary celebrations of the United Nations. At that time invitations were extended to representatives of nations who were resident in the Bahamas to be members of the Committee, at which time nationals of more than 40 countries responded. The Committee then decided that the best way to emphasize the international character of the United Nations was to showcase the cultures of the people living in the Bahamas. A weekend festival was planned and nationals representing countries such as India, Nigeria, the Philippines, the United Kingdom and the United States, wearing their national dress, sold ethnic food and drink, artworks and souvenirs and performed traditional dances and music. It was felt that the festival would afford an opportunity to those attending to learn about and appreciate the cultures of these countries, and thus promote international understanding.

250. In the light of the overwhelming success of the first cultural weekend, the Committee decided that the festival should be repeated during the third weekend of each October. To date, 7 weekend festivals have been held, and the number of participating countries has reached 53.

251. As a means of further promoting the cultural diversity of the country, and in order to create permanent premises to house and preserve the cultural legacies of the Bahamian people, the Government has embarked on initiatives such as the development of a National Art Gallery, a National Museum and a National Library. It is envisioned that once completed, works of all Bahamians, without prejudice, would be collected and displayed.

**(g) The right of access to places of service**

252. Article 26, paragraph 7, of the Constitution states that, "Subject to the provisions of sub-paragraph (4) (e) and of paragraph (9) of this article, no person shall be treated in a discriminatory manner in respect of access to any of the following places to which the general public has access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort."

253. In conformity with this provision of the Constitution, Bahamians and all other nationals throughout the Bahamas are not hindered in their movements and are free to traverse wherever they wish. This includes their access to those areas listed above and, in addition, to places of worship. There have been sporadic cases of reports by some Bahamians against private

ownership and their inability to have access to certain beaches on the island of New Providence, but such matters have been resolved between the Government and the persons concerned.

### Article 6

**A. Information on the legislative, judicial, administrative or other measures that give effect to the provisions of article 6 of the Convention, in particular measures taken to assure to everyone within the jurisdiction of the reporting State effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms**

254. Provision has been made in article 28 of the Constitution for the redress of allegations by an individual(s) that his constitutional rights have in some form or other been contravened. The court of first instance is the Supreme Court of the Commonwealth of the Bahamas, which may hear the matter and make the appropriate order, including a provision for damages to be paid to an aggrieved person.

255. As noted in article 28 (1), "If any person alleges that any of the provisions of articles 16 to 27 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress."

256. Article 28 (2) (a) (b) goes on to note that:

"The Supreme Court shall have original jurisdiction:

"(a) To hear and determine any application made by any person in pursuance of paragraph (1) of this article; and

"(b) To determine any question arising in the case of any person which is referred to it in pursuance of paragraph (3) of this article,

And may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of the said articles 16 to 27 (inclusive) to the protection of which the person concerned is entitled ... ."

257. Where other means of redress are available to a person contending contravention of his constitutional rights, the Supreme Court will refrain from exercising the powers given to it for the enforcement or securing of enforcement of any of the provisions of articles 16-27, allowing that person the opportunity to first explore and exhaust all other areas of redress.

258. The proviso of article 28 states that: "Provided that the Supreme Court shall not exercise its powers under this paragraph if it is satisfied that adequate means to redress are or have been available to the person concerned under any other law."

259. Allegations of racial discrimination as far as the Employment Act is concerned may therefore be dealt with at first instance by the Industrial Relations Act. Chapter 321, section 55 (c), of the Act states that, “The Tribunal shall have jurisdiction to hear and determine any other matter brought before the Tribunal in accordance with this Act.” The Tribunal also has the authority to provide compensation where allegations of a racial nature are proven to its satisfaction. Those provisions are outlined in section 58 (1) (c) of the Act.

**B. Measures taken to assure to everyone the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination**

260. See article 28 (2) above, which states that the Supreme Court remedies are available to “any person”, and the above-mentioned Industrial Tribunal reference.

**C. Information on the practice and decisions of the courts and other judicial and administrative organs relating to cases of racial discrimination as defined in the Convention**

261. While the courts of the Bahamas are able and willing to hear matters involving racial discrimination, there have, to date, not been any decided cases in this area.

**D. Information in connection with general recommendation XXXVI on article 6 of the Convention (2000)**

262. Information regarding general recommendation XXXVI will be forthcoming shortly.

**Article 7**

**Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 7 of the Convention, to general recommendation V of 13 April 1977 and to decision 2 (XXV) of 17 March 1982, by which the Committee adopted its additional guidelines for the implementation of article 7**

**A. Education**

263. See paragraphs 232-243 under article 5 above regarding this matter.

**B. Culture**

264. See paragraphs 244-251 under article 5 above regarding this matter.

**C. Information**

265. The Bahamas news media cherish their tradition of untrammelled reporting - subject to the law of libel and slander - protecting the interest of minorities and promoting national unity.

266. There are two government-owned television stations operated by the Broadcasting Corporation of the Bahamas. The first, ZNS TV-13 commenced broadcasting on 10 July 1977. The second station that telecasts from the nation's second city, Freeport, on the island of Grand Bahama began broadcasting on 5 November 1990.

267. There are 11 radio stations operating in the country. Four are government-owned and also operated by the Broadcasting Corporation. They include Radio Bahamas ZNS-1 that went on the air in 1936 as a short-wave station to provide weather information, particularly on hurricanes, emergency announcements, shipping news and messages to remote islands (Family Islands hamlets) of the Bahamas; ZNS-2 that commenced broadcasting in 1962; Power 104.5 FM; and the Northern Services, that operates in Freeport, Grand Bahama.

268. In order to allow for more objective reporting of news and other information in the country, and also as a means to provide its citizens with an alternative to the four government-owned stations, in 1992 the Government began granting licences to private entities to operate radio stations. This has resulted since 1993 in the opening of seven privately- and Bahamian-owned radio stations on the islands of New Providence (the capital); Freeport, Grand Bahama; Abaco; Spanish Wells and Eleuthera. These stations provide a variety of programmes ranging from news of national and international importance, culture, religious and public service. Talk shows that allow residents to call in and freely express their views on any topic were considered a watershed in the country and are particularly popular among the citizenry.

269. Cable Bahamas, a Canadian firm, was awarded a contract by the Government in 1994 to provide cable television services throughout the Bahamas. The company wired its first home on 7 March 1995, and by mid-2003 was serving 94 per cent of households on 16 islands. It offers programmes from leading television networks in the United States and parts of Europe. There is also a channel that offers taped proceedings of the work of the Bahamian Parliament as well as a channel offering local cultural news and religious programmes.

270. With regard to the print media, there are three major weekly local publications operated by private entities. These include *The Nassau Guardian* (1844) that also publishes a sister journal *The Freeport News*, *The Tribune* (1903) and *The Bahamas Journal* (1987). News stories featured in these publications are of both a local and global dimension. In addition, there are three biweekly tabloids, *The Punch* (1990), *The Confidential Source* (2001) and *The Abaconian* (1993) that also report on local and international events. Bahamians also have free access to international publications (books, magazines and newspapers) that are imported into the country from major cities and capitals.

271. The Government of the Bahamas also runs its own information service - Bahamas Information Services Department (BISD). BISD was established in 1974 under the Bahamas Information Services Department Act and functions under the general direction and control of a minister. Its primary functions are to explain the policies and activities of the Government to the public, to provide a central channel through which may flow information to and enquiries from the public, the press and other communication media, and, generally to advise the Government in relation to the dissemination of information about its work.

272. The media have long played an instrumental role in sensitizing Bahamians about matters pertaining to racism and racial discrimination. This trend continues and through the various media citizens, regardless of their status or gender, are kept abreast of developments in these areas as the Government seeks to foster an atmosphere of national unity.

273. The media also place positive emphasis on young people in the Bahamas. News reports regularly feature youth rallies, marches and even proceedings of an annual “youth parliament” that is convened in the month of May, which is designated “Glory of Youth Month”. The objectives of these reports are to promote national pride among youths, engender a sense of belonging and encourage youth partnership and development.

274. Women’s issues are also accorded a high priority in local media reporting. Their achievements as well as areas in which they need assistance are highlighted.

275. With respect to national unity, the media participate in the annual “One Bahamas” celebrations that take place at the end of each year, and which are supported by the head of State of the Commonwealth of the Bahamas, the Governor-General. The celebrations aim to weld a more cohesive nation under the theme “one God, one people, one nation”. The media are also actively involved in highlighting the events of the annual “International Weekend” that brings together representatives of the diverse national groupings living in the Bahamas.

276. In recent times, the Bahamas has been challenged by an ongoing flow of illegal immigrants, especially from the neighbouring Republic of Haiti. This constant inflow has generated great media coverage and has resulted in the local media approaching the issue with care, while being sensitized to the plight of these and other immigrants coming to the Bahamas.

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