



**OPENING STATEMENT BY
SENATOR THE HONOURABLE CARL WILSHIRE BETHEL
ATTORNEY-GENERAL**

**THIRD CYCLE (29TH SESSION) OF
THE UNIVERSAL PERIODIC REVIEW OF
THE COMMONWEALTH OF THE BAHAMAS**

**17TH JANUARY, 2018
HUMAN RIGHTS COUNCIL
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN
RIGHTS
GENEVA, SWITZERLAND**

Introduction

Excellencies, Members of the Human Rights Council, representatives of civil society, ladies and gentlemen — good afternoon.

Mr. President, first of all, on behalf of my delegation, I congratulate you on your election as President of the Human Rights Council for this 12th cycle. I also wish to congratulate the members of the Bureau.

I would also like to extend sincere thanks and appreciation to His Excellency Ambassador Joaquin Maza Martelli, former President, for his able leadership of the Council during the previous cycle, leaving a legacy of creating a system for the improvement of better management of the Council's workload.

My thanks also to the Troika selected for The Bahamas-Chile, Qatar and Senegal- for the assistance rendered to my delegation in this process.

It is indeed an honour and a pleasure for me to represent the Commonwealth of The Bahamas at this Third Cycle of the Universal Periodic Review (UPR) and 29th Session of the UPR Working Group.

Mr. President, at the national level, our participation in this process is symbolic of the significance which The Bahamas attributes to the promotion and protection of fundamental freedoms and human rights and of its commitment to the principles of the United Nations and other international bodies that seek to promote and protect such rights. On behalf of myself, members of my delegation and my country, I wish to reaffirm The Bahamas' commitment and support for the work of the Human Rights Council (HRC) and its Universal Periodic Review (UPR) mechanism.

Before I commence my opening remarks, it is appropriate to begin by thanking the Office of the High Commissioner for Human Rights and all contributing Members of the Voluntary Fund for Participation, for facilitating The Bahamas' involvement in this Review.

Let me now introduce the other Members of The Bahamas' Delegation, who are as follows: Mr. Frank Davis, Minister Counsellor/Deputy Permanent Representative & Charge d'affaires; Ms. Jewel Major, Chief Counsel within the Office of the Attorney-General and Ministry of Legal Affairs; Ms. Alicia Gibson, Assistant Counsel in the Office of the Attorney-General and Ministry of Legal Affairs and Ms. DeAndra Cartwright, Foreign Service Officer within the Ministry of Foreign Affairs, joined by members of the Permanent Mission of the Commonwealth of The Bahamas to the United Nations and other International Organizations.

Background

Mr. President, the contemporary history of The Bahamas begins with a quest for religious freedoms. Throughout the centuries, the people who settled these islands have adopted a respect for human rights and the rule of law, which continues to thrive today.

Mr. President, this reveals the long association of this beautiful archipelago in the Atlantic with respect for the fundamental rights and freedoms of all humanity, a concept which our founding fathers thought important enough to enshrine in our Constitution, the supreme law of the land, as an ideal for future generations. Thus, the procedure we are embarking on today is only a continuation of a historical journey of national commitment to advancing human rights.

Approach

Mr. President, I should now like to indicate the manner in which I will approach my remarks. Firstly, I will outline a few general considerations which have important legal and institutional implications for the implementation of human rights on the domestic level. Secondly, I will update the Council on the thematic areas of concern and specific recommendations made to The Bahamas during the course of the UPR and from other human rights treaty bodies. Thirdly, I will respond to the advance questions posed by some Member States of the Council, to the extent that these are not answered in the general traverse of the thematic areas.

Constitutional and legislative framework

Mr. President, there are two jurisprudential issues which need to be mentioned at the outset, as they form an important part of the legal and institutional framework of the human rights environment in The Bahamas.

Firstly, The Bahamas is a Constitutional Democracy, which Constitution entrenches many of its provisions, especially those related to fundamental rights and freedoms. These require special procedures, parliamentary majorities and referenda for their change or amendment thus making constitutional change very difficult, no matter how vital the proposed changes may be.

Secondly, the dualist nature of our legal system requires the transformation of international conventions into domestic law to render them applicable in the domestic system. However, in a small state with limited resources, this can pose serious obstacles to the effective and efficient domestication of international human rights. Nevertheless, the Government is committed to this process and is determined to improve the domestication of such instruments.

Constitutional Commission

This august body was advised at the second cycle of the UPR that in August of 2012, the Government re-constituted the Constitutional Reform Commission to conduct a comprehensive review of the Constitution of The Bahamas, and to recommend changes to the Constitution.

In July of 2013, the Constitutional Commission submitted its recommendations to the Government of The Bahamas. Some of the recommendations that were submitted concerning the rights of the individual are:

- The amendment of the citizenship provisions to achieve gender-neutrality and full equality between men and women with respect to the acquisition or transmission of their nationality.

- The expansion of the definition of discrimination in Article 26 of the Constitution to include “sex” as a prohibited ground.

Other changes or administrative actions which the Commission recommended for fast-tracking but which the Commission indicated can be accomplished by ordinary legislation or executive action are:

- The establishment of a Working Group or Commission on Citizenship and Nationality to consider further questions relating to nationality, citizenship and status in The Bahamas, with a view to preparing recommendations for constitutional and other reforms that may be required.
- The establishment of the public office of an Ombudsman or Complaints Commissioner.
- Provision of a system of public defenders as well as a suitable system for the provision of Legal Aid.

Mr. President, it should be observed that on the 7th June, 2016 a Constitutional referendum was held to address some of the recommendations of the Commission with a view to effecting Constitutional change by seeking to amend certain fundamental rights provisions to promote gender equality generally and also with particular reference to spousal entitlements and the conferral of Bahamian nationality upon children. However, the referendum questions were each defeated by large margins.

Mr. President, the constitutional referendum was clear evidence of democracy being displayed within The Bahamas. However, the Government is still left with the task of developing legal mechanisms to protect our citizens by promoting gender equality and the equality in the transmission of citizenship.

As a result, in November 2017, the Prime Minister of the Commonwealth of The Bahamas, who is committed to promoting the fundamental rights and freedoms of the individual, announced our Government's intent to draft an amendment to the Bahamas Nationality Act.

Mr. President, the proposed amendment to the Bahamas Nationality Act has the goal of promoting gender equality in that it will provide a mechanism whereby the minor child of a Bahamian male or female wherever born, in or out of wedlock, will be entitled to be registered as a Bahamian upon application by the parent(s). The government has also announced a major initiative to systematically and expeditiously address the issue of statelessness in The Bahamas, which I will speak about in more detail momentarily.

Mr President, the Government of The Bahamas is committed to ensuring that the other recommendations of

the Constitutional Commission are addressed in due course.

Thematic Areas of Concern

A. Recommendations not accepted

Mr. President, I now turn to the recommendations that we have received during these cycles, which The Bahamas did not accept during the last review period. They are as follows:

(i) Death penalty

Mr. President, the Government of The Bahamas is aware of the longstanding recommendation for the establishment of a moratorium on executions and/or the abolition of the death penalty in The Bahamas.¹

¹ Response to the questions from the United Kingdom and Northern Ireland, Germany and Belgium

Mr. President, The Bahamas maintains its position on the retention of the death penalty. In fact, one of the recommendations submitted by the Constitutional Commission, after consultation, was the retention of the death penalty. The Bahamas continues to recognize the lawfulness of the death penalty as a punishment for the crimes of murder and treason, on a discretionary basis and subject to the conditions laid down in the case law.

That said, The Bahamas is not considering any immediate action to establish a formal moratorium on the death penalty, The last mandated execution took place seventeen years ago, even in the absence of a formal moratorium.

Mr. President, there have been open debates concerning the death penalty usually instigated by an annual march sponsored by civil society for the enforcement of the death penalty. The arena for debates regarding the death penalty is held on the daily talk shows, where both the

views for retention and abolition are expressed. The University of The Bahamas has over the years hosted discussion on the validity of the death penalty. It should also be noted that during the educational campaign leading up to the Constitutional referendum there was much discussion and debate on this topic.²

Mr. President, The Bahamas has no immediate intention to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights which aims at the abolition of the death penalty.³

(ii) Corporal Punishment

Mr. President, since the enactment of the Bahamas Correctional Services Act in 2014, corporal punishment as a disciplinary measure for prisoners was repealed.

² Response to the question from Germany

³ Response to the questions from United Kingdom of Great Britain and Northern Ireland and Belgium

Additionally, the Early Childhood Care (National Standards) Regulations, 2015, was enacted and prohibits the use of corporal punishment in day care centres and pre-schools.

Mr. President, presently, corporal punishment is still allowed in elementary, secondary and senior schools but only be administered by the Principal or Administrator.

It may only be inflicted in the case of continued or grave circumstances and after a full inquiry has been carried out, and not in the presence of other students. Female students should be punished by a female administrator, and a male students by a male administrator, wherever possible.

In addition, corporal punishment must be accurately documented in all cases (within the same day). It should related to the offence and must be adapted to fit the

individual child and should be preceded by a conference with parents and students, where necessary.

In addition, parents have the discretion to exercise corporal punishment upon their children who are under the age of sixteen for misconduct or disobedience to any lawful command. However, it should be observed that The Bahamas does not in any way condone physical abuse of a child and all forms of abuse are punishable under the laws of The Bahamas.

Mr. President, during the 72nd session (2017) The Bahamas supported the annual resolution on the rights of the child, which included the following: *"To take measures to promote constructive and positive forms of discipline and child development approaches in all settings, which and to adopt all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and human rights"*

(iii) Rome Statute of the International Criminal Court

Mr. President, the Rome Statute of the International Criminal Court continues to be under active review by the Office of the Attorney-General and Ministry of Legal Affairs.⁴

(iv) Sexual Orientation

Mr. President, The Bahamas has received a number of recommendations concerning discrimination on the grounds of sexual orientation and gender identity.

In the Preamble of the Constitution of The Bahamas reference is made to The Bahamas' respect for Christian values. In our Christian nation we believe that the "family" is the foundation of a strong Nation and by law, "Marriage in The Bahamas is the union of a man and a woman."⁵

⁴ Response to questions from Slovenia

⁵ Response to question from United Kingdom of Great Britain and Northern Ireland

Mr. President, although sexual orientation and gender identity is not included as prohibited grounds of discrimination in the Constitution and there is no legislation which prohibits discrimination in specific areas (such as employment), the Government continues to assert that there have not been any instances recorded of any legal discrimination against persons based on sexual orientation or gender identity.

Mr. President, neither has there been any formal reports lodged of discrimination on the basis of sexual orientation to the Royal Bahamas Police Force, the Labour board, The Ministries of Education and Health and there are no cases before the judiciary.

Mr. President, leading up to the Constitutional Referendum in 2016 the transgender community held a press conference, without interference, expressing their views on the proposed amendments to the Constitution. The LGBTQI community within the Bahamas has a

platform and members represent their groups on a number national and regional organizations.

It should be noted that The Bahamas is generally supportive of efforts to combat all forms of discrimination against persons and to promote tolerance. During the 71st session (2016) of The Human Rights Council, The Bahamas supported the resolution that adopts the annual report on the Human Rights Council, which included, through Human Rights Council resolution 32/2, the mandate for an independent expert on protection against violence and discrimination based on sexual orientation and gender identity.

Persons who are in the process of gender reassignment are currently provided with psychological assistance from the Ministry of Health. Consideration might be given to other forms of assistance, however, as this issue remains highly controversial in popular discourse, a cautious and modulated approach has been adopted.

Mr. President, persons who are in same sex relationships are able to avail themselves of the regular protection and remedies available under the law in respect of violence or assault or property rights. And, it should be noted that consensual relations in private between adults of the same sex has been lawful in The Bahamas since 1991.

B. Acceptance of international norms

I now turn to look at some of the thematic considerations that have arisen from the UPR process and associated reviews.

Mr. President, The Bahamas is pleased to inform that subsequent to its last Review in 2013, the Government signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on September 28th, 2015.

Also, on September of 2015 The Bahamas ratified two Optional Protocols to the Convention on the Rights of the Child: the Optional Protocol on the Involvement of Children in Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Mr. President, in relation to the ratification and implementation of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), The Bahamas is pleased to report that on 16 January, 2018 we received authorisation from the Cabinet of The Bahamas to ratify the UNCAT and will be taking the necessary steps to do so.

Mr. President, at this time The Bahamas is not in a position to ratify the First Protocol to the International Convention on Civil and Political Rights (ICCPR) and the Third Optional Protocol to the Convention on the Rights of

the Child (CRC) both of which makes provision to receive complaints from persons within the jurisdiction.

And with respect to the accession of the Optional Protocol on the Convention on the Elimination of Discrimination Against Women, we are unable to accede until we are in a position to remove the reservation to Article 29, and therefore render the complaints process effectual.

Also, The Bahamas is not in a position to ratify the Second Optional Protocol to the International Convention on Civil and Political Rights (ICCPR) which seeks the abolition of the death penalty which remains lawful in The Bahamas for certain crimes.⁶

The Bahamas' National Reporting and Cooperation Mechanism (NRCM) is presently reviewing and will draft an opinion for the government on the possible ratification of the *Convention on the Protection of the Rights of All*

⁶ Response to questions United Kingdom of Great Britain and Northern Ireland and Belgium

Migrant Workers and Members of Their Families and the *The Convention for the Protection of All Persons from Enforced Disappearance*.

C. Cooperation with treaty bodies

(i) Reporting Obligations

Mr. President, The Bahamas acknowledges that there continues to be technical, financial and legal challenges in its ability to meet its reporting obligations, due mainly to the difficulty and delays in obtaining data from national institutions, the high cost in time and resources and the lack of technical capacity in producing such reports.

While we still have a lot of ground to make up in this regard, the fact that we are taking our reporting obligations seriously is evidenced by the establishment of the Bahamas' National Reporting Cooperation Mechanism (NRCM) in June 2015.⁷ The NRCM was established to:

⁷ Response to Questions from Portugal

- design a master framework for the scheduling, preparation and submission of the required reports for each treaty;
- design a procedure for the delegation of recommendations forwarded by the Treaty Committees;
- formulate a strategy for the implementation of the recommendations accepted to all responsible agencies;
- determine and develop a monitoring device for the recommendations implemented and;
- keep abreast with any human right violations occurring or that may be perceived to be occurring.

Mr. President, The NRCM is led by the Office of the Attorney-General and the Ministry of Foreign Affairs is the

deputy. The NRCM is comprised of representatives from approximately nine different government agencies and two persons from Civil Society organisations. All of the persons around the table have been appointed by the Permanent Secretaries within their ministries or on the recommendation of respected civil society organisations. The approach used to formulate this body was very strategic. A number of training sessions were held, geared towards the education, engagement and empowerment of the NRCM members.

The NRCM has been successful in drafting a master framework for the scheduling, preparation and submission of the required reports. They are presently putting a lot of energy into determining the best method to obtain

information required for the preparation of the convention reports enabling a timely submission.

Mr. President, the Sixth National Report on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was submitted in April of 2017.

We presently have drafts for the outstanding reports for several human rights instruments, namely the International Convention on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC) , the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of Persons with Disabilities (CRPD). We commit to submitting most of these reports within the coming months.

The reports on the International Convention on Economic, Social and Cultural Rights (ICESCR) and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography are currently being drafted.

(ii) Technical assistance

Mr. President, as a result of the Government's request for technical assistance in February 2014, a workshop and training was held providing assistance on "*The Reporting Process and Implementation of The United Nations Treaty Body System*". Thirty-six (36) persons representing various government ministries and civil society attended.

Mr. President, The Bahamas agreed to participate in a Case Study conducted by the United Nations Human Rights Office of the High Commissioner. The study was based on *State engagement with International Human Rights Mechanisms*. The study was completed in 2015 and published in 2016. The purpose of the study was to

assist State parties and other actors to share knowledge, information and relevant good practices regarding national reporting and coordinating mechanisms and focused on the experiences of different countries in establishing a national reporting and coordinating mechanism for reporting to United Nations human rights bodies and following up the implementation of the decisions and recommendations of these bodies.

Further, in July 2015 The Bahamas nominated four Officers to be trained by the Office of The High Commissioner for Human Rights (OHCHR) Regional Workshop on the UPR.

In November, 2015 one of our Officers was invited to speak and be an expert and resource person at the Regional Workshop on the UPR held in Novotel Suva, Fiji.

In December of 2015, The Bahamas sent two Officers to an OHCHR-sponsored Training of Trainers Programme for

the English Speaking Caribbean Countries, Canada and the United States of America on the UN Human Rights Conventions.

There was a training planned for the Principals of the Ministry of Education in November 2016 on the United Nations Human Rights Conventions and their obligations. Due to hurricane Matthew which struck in October 2016 it was postponed and it is proposed to be rescheduled some time this year.

D. Cooperation with special procedures

Mr. President, in June 2013 a Standing Invitation was submitted to the special procedures body. As a result, in December 2013 the Special Rapporteur on Trafficking in Persons visited The Bahamas and published a report on 5 June, 2014.

Also, more recently, the Special Rapporteur on Violence against Women, its Causes and Consequences visited The Bahamas in December 2017. A preliminary report was shared at the conclusion of her visit. The Bahamas welcomes the final report to be presented to the Human Rights Council during June 2018.

E. National Human Rights Institution (NHRI)

Mr. President, concerning the recommendations for the creation of national human rights institution, The Bahamas is proud to announce that after a strenuous review of the best practices and experiences of countries within the region and elsewhere, has tabled the Ombudsman Bill, 2017.⁸

The Office of the Ombudsman will be created to provide a direct source of relief, where people have legitimate

⁸ Response to question from Germany

grievances due to the actions or inactions of the Government or any agency of the Government.

The Government has recently indicated that a Bill establishing a first-ever Integrity Commission of The Bahamas (known as the Bill for An Act to Provide for the Establishment of A Body To Be Known as the Integrity Commission (Long Title) was tabled in the House of Assembly.

The Bill seeks to accomplish a number of objectives, including, promoting and enhancing ethical conduct for Parliamentarians, Public Officials and other persons; to provide measures for the prevention, detection and investigation of acts of corruption; and to repeal the Public Disclosures Act and provide for matters connected therewith.

The Bills establishing the Integrity Commission and the Ombudsman Bill are a part of the government's proposed Anti-Corruption agenda.

F. Awareness raising and dissemination

Mr. President, the Government remains fully committed to educating its populace on human rights issues, including introducing such training in the primary and secondary school curriculum.

The Government has also facilitated Orange Day to commemorate the International Day to End Violence Against Women to raise awareness on violence against women and girls along. The 16 days of Activism to eliminate violence against women has also be observed, which is carried out in partnership with several NGOs.

The Government has worked in tandem with UNHCR to celebrate World Refugee Day and raise awareness on

human rights issues relative to asylum seekers and refugees. In commemoration last year, a panel discussion was facilitated by the University of The Bahamas, the local UNHCR Office and the Migration Working Group and saw representatives from the Office of the Attorney General & Ministry of Legal Affairs, Rights Bahamas, UNHCR and The Bahamas Red Cross engage in an informative session.

There are a number of programmes and events to raise awareness for the protection and rights of children, which we have highlighted in detail in our country report.

The Disabilities Commission distributes pamphlets to the public with the objective of promoting the rights of persons with disabilities.

Mr. President, these national efforts are augmented by the work of several civil society rights organizations, which

lobby and champion human rights and often conduct legal clinics or seminars.

G. Administration of justice and fair trial

(i) Swift Justice

Mr. President, in its second reporting cycle, The Bahamas indicated how the “Swift Justice” Initiative was established to proactively identify and respond to the lack of performance or weaknesses in the judicial system as well as strengthen transparency.

The Bahamas is pleased to provide statistics to illustrate the effectiveness of this initiative. In 2015, 232 matters were disposed before the Supreme Court. This was 114 more cases than in 2012.

At the last reporting session in 2013 we announced that we were aiming to reduce the time for the presentation of the Voluntary Bill of Indictment to 30 days. The time for

presentation of the Voluntary Bill of Indictment decreased from 344 days in 2012, to 68 days in 2016, we are pleased to announce that although we have not yet met our goal, we are well on the way to achieving it.

(ii) Tackling the backlog

Mr. President, in an effort to tackle the backlog of cases, a Backlog Task Force was established to closely review all outstanding cases and make determinations on how they should proceed. Since 2013, the Office of the Attorney-General has made more progress on tackling the backlog of criminal cases than at any time in the last two decades.

Mr. President, The Bahamas is proud to announce that there are ten (10) criminal courts operating in the Bahamas Supreme Court. This represents an increase from six (6) courts in operation in 2012. All the courts are outfitted with internet and video conferencing capacity to

promote access to justice. This means that witnesses out of the jurisdiction or in one of our family islands can now routinely give evidence by video conference; saving money and eliminating delays.

(iii) Public Defenders

Mr. President, The Bahamas is pleased to report that it established the Office of Public Defenders in January, 2017. The Office is specifically dedicated to defending the accused, and easing the reliance on the Crown brief system, this assures the defendants the protection of the law and equal access to justice and reduces the delay caused by the inability of defendants to secure counsel.

(iv) Witness Care

Mr. President, the Witness Care Division operates under a new system of keeping in regular contact with witnesses and has a defined Witness Care Road Map. Increased

protections are in place for witnesses through new witness protection and witness anonymity legislation and policies. Increased protections are in place for witnesses through new witness protection and witness anonymity legislation and policy.

(v) Family Court

Mr. President, in relation to the recommendations on establishing a Family Court; a Task Force was appointed to review over twenty (20) pieces of legislation, and the Rules promulgated thereunder, that relate to family matters, with a mandate to streamline and treat family matters as matters of urgency and in a family friendly way.

Mr. President, presently, there is a court that is dedicated to family matters with a Judge who has been trained in matters related to divorce, adoption and international child abduction.

(vi) Complaints against Police Officers

Mr. President, concerning reports of excessive use of force by police officers, it should be highlighted that measures taken to prevent the recurrence of further abuse are addressed through training police officers to use reasonable force at all times.

Mr. President, at the previous cycle, The Bahamas indicated that there is a Complaints and Corruption Branch that is responsible for investigating complaints made by members of the public against members of the Police Force.

During 2015 there were 188 complaints made by members of the public against police officers in New Providence and the Southern Bahamas. In 2016, there was a total of 167 complaints reported in New Providence and the Southern Bahamas. There was an 11.17%

decrease in complaints made in 2016 in comparison to 2015.

On the other hand, during 2015 there were 30 complaints made against police officers in Grand Bahama and the Northern Bahamas. In 2016, there was a total of 41 complaints reported. In this instance there was a 26.83% increase in complaints made in 2016 in comparison to 2015.

Mr. President, the Government acknowledges that there are deficiencies in the Complaints and Corruption Branch, due to lack of oversight. Therefore, The Bahamas is currently reviewing the Branch as a part of its reform agenda on anti-corruption.

It is also important to note that members of the Police Force are also subject to the jurisdiction of the civil courts.

H. Children

(i) Rights related to name, identity, nationality

Mr. President, The Bahamas is pleased to announce that we are currently in the process of drafting an amendment to the Bahamas Nationality Act to provide for all minor children of Bahamian males or females, born anywhere in the world, regardless of their parent's marital status, to be granted Bahamian nationality upon application.

The Bahamas is pleased to report that in 2014 and 2016 , through the mobilization of the Registrar General's e-services, our family islands were able to obtain certified copies of birth certificates, death and marriage documents. Residents can now retrieve these documents locally instead of having to incur the expense of travelling to the Capital to do so.

(ii) Right to education – general

Mr. President, the Government supports the efforts of all post-secondary persons who have the option to access higher education. Being fully cognizant that the area of higher education is diverse, the Government in so far as its resources permit, and with civic and corporate partnership seeks to make adequate provisions to support individual pursuits for lifelong learning and the sustainable development of The Bahamas and the global community. In an effort to provide access to education, the Government has offered various scholarships.

Further, The Bahamas employs 'Open Schooling', which is complimented by Distance Education. Under the Ministry of Education there is a Distance Learning Unit, Learning Resources Section which seeks to enhance education and provide education to all.

Mr. President, it should be highlighted that the Government offers compulsory and free education to all persons in the country between the ages of five to sixteen

years without any racial, ethnic, national, religious or gender bias.

Mr. President, the Government fully understands that the funding of education is of central importance as it consumes a substantial amount of the country's economic resources. The academic expenditure for the 2010–2015 academic years was between 13%–15% of public spending.

It should be noted that a percentage of the expenditure is used to promote human rights. For example, the Ministry of Education has a mentoring programme for all first year teachers entering the system. The programme sets out as one of its goals the improvement of the teaching profession through the exposure of best practices. The programme has an component that specifically emphasises the human rights of students and the activities and implications surrounding it.

Mr. President, resources have also been expended to provide proper and adequate facilities and programmes for children with disabilities.

I. Women

(i) Department of Gender and Family Affairs

Mr. President, the Bureau of Women's Affairs was upgraded to the Department of Gender and Family Affairs in October 2016 within the Ministry of Social Services and Community Development. It's evolution was further buttressed with budgetary increase from \$100 thousand to \$350 thousand. Its mandate is to coordinate, advocate and inform policy for and on behalf of women and girls, men and boys as well as the family unit thereby generally improving the quality of life for communities throughout The Bahamas.

(ii) Gender-based violence

Mr. President, the Department of Social Services, through the establishment of its Domestic Violence and Counselling Unit (DVCU) in 2014, has placed great value on the importance of helping victims of violence and their children through direct intervention and services.

Mr. President, we are pleased to report that in July, 2013, the Government of The Bahamas appointed a National Task Force for Gender-Based Violence to oversee the development of a national strategic plan to address gender-based violence. The Task Force completed and submitted its “Strategic Plan to Address Gender-Based Violence” in August 2015.

In February 2016, the Government approved a national Strategic Plan to address Gender-Based Violence (GBV). The Strategic Plan addresses all forms of violence, as it relates to women and girls throughout the country.

Mr. President, in April 2016, officials from the regional UN Women office sponsored a two-day session to, inter alia, familiarize key stakeholders, including senior government administrators, with the proposed results-based framework for the implementation of activities proposed in the plan.

To date, the Department of Gender and Family Affairs has begun to implement GBV related activities in the Year 1 Implementation Plan of the Strategic Plan to Address Gender Based Violence. Activities in the implementation plan include prevention, response and accountability measures to combat Gender Based Violence (including domestic violence) in The Bahamas.

The first year implementation of the Strategic Plan calls for the roll out of several GBV prevention, response, and accountability projects/activities. Chief among the activities are several of the 10-Low Hanging Fruit contained in the Year 1 Implementation plan. These include the following:

- *“Reclaiming Our Boys” Project*: A violence prevention programme targeting young men. A three-day training of trainers workshop was held in February 2017. A proposal for rollout of the programme within schools is pending.
- *National GBV Awareness Campaign*: Launched in February 2017 with a focus on sexual harassment (the target audience is high school students), the Department took its sexual harassment awareness raising efforts to Grand Bahama in May 2017. The intention is to continue these efforts throughout the Family Islands.
- *National Early Intervention Programme for Children Exposed to Violence (merged with the Programme for Sexually Abused and Abusive Children)*: A programme designed and implemented by Civil Society (the Bahamas Crisis Centre), the first phase of this project has been subject to oversight and monitoring by the Department of Gender and Family

Affairs – which has recommended that support continue to be provided to the project.

The Department of Gender and Family Affairs plans to continue implementing relevant initiatives outlined in the Strategic Plan to Address Gender-Based Violence.

Mr. President, to address gender-based violence, the Government provides grants to non-governmental and religious organizations to facilitate their work in support of victims of violence including through shelters and counselling services. For example, the Crisis Centre receives \$30,000 per annum, the Links Safe House receives \$75,000 per annum, the Salvation Army receives \$75,000 per annum and Great Commission Ministries receives \$73,000 per annum. The Bahamas African Methodist Episcopal (AME) Conference receives \$20,000 per annum.

(iii) Marital Rape

Mr. President, we are aware of the concerns of the Council and human rights treaty bodies with respect to marital rape. The former Attorney-General of The Bahamas, in 2013, informed that a Bill was tabled to amend the Sexual Offences and Domestic Violence Act to criminalize marital rape where the couple is living together. Consultation with civil society indicated that public opinion was strongly against the Bill, which was subsequently withdrawn.

However, the Government is now pleased to report that we have drafted an amendment to the Sexual Offences Act which provides for the offence of “aggravated spousal sexual abuse”. The new clause provides that a complaint under this section must be made within one year after the cause of the complaint arose. The clause further provides that a defendant spouse will not be prosecuted without the consent of the Attorney-General.

Mr. President, it should be noted that although the proposed offence is not labeled as “marital rape” it still has all of the elements of the offence of rape.

The draft Bill follows the tenor of the pre-existing Law which treats instances of marital rape where there are ongoing divorce proceedings, or a decree of judicial separation, or a separation agreement, as being offences of “spousal sexual abuse”. Marital rape in the context of a subsisting marriage will now be criminalised as “aggravated spousal sexual abuse”.

The draft Bill has been circulated to religious leaders and civil society advocates for comments in advance of formal publication by way of Tabling the same in Parliament. I can confirm that responses received from the religious community and civil society as late as yesterday have been supportive of the proposed amendment to the Law.

J. Persons with disabilities

Mr. President, the Government is cognizant of the need to protect the rights of persons with physical or mental disabilities. In collaboration with the private sector, the Government has been active in efforts to provide support and promote a high quality of life for persons with disabilities and their participation in national development.

Toward this end, we are pleased to report that the Government of The Bahamas has enacted the Persons with Disabilities, (Equal Opportunities) Act, 2014. The Act promotes the rights and equal opportunities for all persons with disabilities. The Act also establishes the National Commission for Persons with Disabilities.

Key provisions of the legislation are:

(i) to cause persons with disabilities to be treated equally and fairly when applying for or engaging in any type of employment;

- (ii) to ensure that all persons with disabilities are granted access to education;
- (iii) all public and private buildings are accessible to any person with a disability; and to
- (vi) develop a public transportation system that caters their needs.

Mr. President, The Bahamas is also pleased to report that it has signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on 24 September, 2013.

L. Detention

Mr. President, in 2014, The Bahamas Department of Correctional Services, formerly Her Majesty's Prison, was renamed by virtue of the enactment of the Correctional Services Act. The purpose of this change was to divert from a penal approach to a correctional approach, and to provide for the modernization of the law governing the

custody and rehabilitation of inmates, in line with international standards. There are ongoing training initiatives for Corrections Officers to move towards correctional and additional business initiatives for the inmates.

Mr. President, the Bahamas' National Reporting Cooperation Mechanism, which I spoke about earlier, visited the Department of Correctional Services in December, 2017 and reported that while there seems to be a will to change the services offered to the inmates, the infrastructure was still penal in nature. One of the main challenges that my country faces is the lack of funds to upgrade the infrastructure. However, we are currently reviewing our options in hopes of providing better facilities for the inmates.

Mr. President, The Bahamas is pleased to announce that The Bahamas Department of Correctional Services has incorporated the United Nations Rules for the Treatment of

Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the “Bangkok Rules”, as part of its programme to enhance the conditions of detainees.

M. Migration

Mr. President, I now turn to issues relative to migration.

(i) Carmichael Road Detention Centre

In relation to the Carmichael Road Detention Centre, I would like to inform that since the last review period there has been construction of additional buildings at the Carmichael Road Detention Centre to alleviate housing and maintenance issues.

Mr. President, I had the opportunity to visit the Carmichael Road Detention Centre in December 2017 and I can report that the conditions, while improving, are still

not where we would wish to see them. There is some evidence of wear and tear at the premises and the Government has been made aware that a substantial amount of the destruction at the premises has been initiated by the detainees, however, the Government continues to work on ways to address these challenges.

Much work has been done to establish a full time medical facility at the Centre which has significantly reduced the spread of communicable diseases, such as Scabies.

Mr. President, I would also like to report that women detainees with children are kept in separate accommodations, in keeping with international standards. In 2014, the Department of Immigration (DOI) established a safe house for this purpose outside the Carmichael Road Detention Centre. There is a fully-equipped multi-family accommodation with adequate outdoor recreation space for children.

(ii) Rights of Migrants

Mr. President, The Bahamas is pleased to announce that the Immigration (Detention Centre) Regulations, 2018 has been drafted and human rights issues are enshrined in these regulations. The Regulations clearly identify the welfare, privileges and duties of detainees, including, but not limited to, clothing, food, education and religion. The Regulations also provide for the right of the detainees to outside communication which includes access to legal representation.

Once the Regulations are approved they will be Tabled in Parliament and thereby enacted into Law.

(iii) Refugees and asylum seekers

Mr. President, The Bahamas has been identified as a transit country for many decades and is now developing into a destination country for mixed migratory movements.

Due to the unrest that is developing throughout the world we know that this migratory flow is going to continue. As a result, the Migration Working Group, along with the Department of Immigration developed the Standard Operating Procedures (SOPs).

Mr. President, the Standard Operating Procedures (SOPs) have been formulated for the protection of refugees and asylum seekers seeking refugee and asylum status within The Bahamas. It should be noted that during the period of 2012-2017, twenty-seven (27) asylum seekers were recognized as refugees.

Mr. President, The Bahamas Government is proud to announce that it is the very first country within the Caribbean region to develop International Civil Aviation Organization (ICAO) machine-readable 1951 Convention Travel Documents for refugees.

Mr. President, Amendments to the Immigration Act are being finalised which will on the one hand increase penalties for persons who harbour or employ undocumented workers, but which, on the other hand, will also provide clear legal remedies to the undocumented migrant, by limiting the time-frames in which they may be administratively detained by an immigration officer pending deportation, requiring judicial oversight thereafter, and mandating that - upon any claim to some constitutional entitlement - the matter must be referred forthwith to a Magistrate (planned to be stationed in a courtroom in the Detention Centre) who shall, if it is shown that there is a case which could be made, refer the matter to a Supreme Court Judge.

(iv) Migration Working Group

Mr. President, in 2015 the Migration Working Group was established to collaborate with stakeholders and focus on the challenges of mixed migration; asylum seekers,

refugees, stateless persons and irregular migrants and the effective implementation of The Bahamas' obligations as a party to various United Nations human rights treaties relating to migration.

In April 2017, the Migration Working Group, in conjunction with the the local United Nations High Commission for Refugees (UNHCR) representative held a training session on the SOPs for the Refugee Unit and senior Immigration Officers within the Department of Immigration. Additionally, there is an upcoming training for the Department of Immigration in February, 2018.

Mr. President, the Migration Working Group also evaluated UNHCR's 10 Point Plan of Action and the Brazil Plan of Action and has been working towards the implementation of their obligations.

The Migration Working Group also spearheaded the planning and execution of the Caribbean Migration

Consultations (CMC) meeting held in The Bahamas in December, 2017. One of the agenda items at this meeting was the triennial review of the implementation of the Brazil Plan of Action.

(v) Statelessness

Mr. President, on the issue of Statelessness, the Migration Working Group is presently reviewing the two UN Conventions that speak to the Status and the Reduction of Statelessness and is also engaging in the conversation on the extent of the issue of “statelessness” within The Bahamas.

Mr. President, The Government also plans to introduce an Independent Review Committee, chaired by a retired Chief Justice, to review all pending applications for citizenship in an effort to clear the backlog that currently exists, allowing those applicants who qualify to receive and enjoy citizenship in appropriate cases. The Committee will make recommendations in all cases to the Immigration

Board and the Minister, which recommendations will ordinarily be followed unless there are compelling reasons, usually of public safety or national security, to refuse to follow the recommendation.

Mr. President, in November 2014 the Government implemented a policy providing for all children up to eighteen years of age to obtain a believer's permit. However, there was much debate surrounding the use of the believer's permit and its possible implications. It should be highlighted that the intent of the believer's permit was to give some form of status/documentation to children who were born in The Bahamas to immigrant parents, thus reducing the number of persons rendered stateless. The Government is giving consideration to extending the age limit to apply for a believer's permit. The plan is to extend the time so that the permit will subsist pending the outcome of an application for citizenship pursuant to the Constitution, even if the process extends beyond several years.

(vi) Regional Cooperation

Mr. President, the Caribbean Migration Consultations (CMC) was formally launched in January 2016, at a meeting held in Belize City with the participation of eight Caribbean countries: Belize, Cayman Islands, Turks and Caicos, The Bahamas, Trinidad and Tobago, Jamaica, Guyana and Aruba.

For the first time in history, a platform specifically dedicated to the discussion of refugee and migration-related issues and to further the region's commitment to refugee protection and border management in the Caribbean region took place in December 2016 in Port of Spain, Trinidad and Tobago.

Mr. President, the Government is pleased to report that the Second Meeting of the Caribbean Migration Consultations (CMC) - Refugee Protection was hosted by the Government of the Commonwealth of The Bahamas from 4-6 December, 2017 with the logistical and technical support of the United Nations High Commissioner for Refugees (UNHCR). Representatives of eighteen Governments of the Caribbean and the United States of America participated, as well as representatives of the International Organization for Migration (IOM), CARICOM and the CARICOM Implementing Agency for Crime and Security (IMPACS). The Bahamas Red Cross and Bahamas Civil Society were also in attendance.

Mr. President, the Government of The Bahamas believes that the value and vision of the CMC is paramount to the Caribbean's response to migration management and border security. It provides the opportunity for the promotion of more consistent approaches towards refugee

protection and migration issues, strengthened partnerships, increased capacity-building and innovative ways of responsibility sharing.

N. Prohibition of slavery, trafficking

Mr. President, The Bahamas as an archipelagic nation comprise 100,000 square miles of ocean, straddling major shipping lanes between the United States of America, the Caribbean and South America. Geography has made The Bahamas a destination and transit country for men, women, and children from other Caribbean countries, South and Central America, and Asia seeking a better life or subjected to sex trafficking and forced labor, including in domestic servitude and in sectors with low-skilled laborers.

Vulnerable populations include migrant workers who arrive voluntarily to work as domestic employees and laborers,

but may be recruited or deceived by traffickers who lure victims with fraudulent recruitment practices, such as false promises of employment through advertisements in foreign newspapers.

Mr. President, the Government of The Bahamas has been constantly challenged by illicit transit into and through its borders. However, the Government cooperates with regional partners as mandated by international conventions and very specifically with the United States of America government agencies in joint and multilateral efforts to restrict the traffic of migrants, arms and drugs via The Bahamas.

Despite this challenge, I am proud to announce that The Bahamas has maintained a Tier 1 ranking for the third year in the 2017 Trafficking in Persons Report released by the U.S. Secretary of State on 27 June, 2017.

Mr. President, the Government continues to demonstrate serious and sustained efforts through strong collaboration across multiple government agencies, facilitating the prosecution of traffickers and protection of victims. In 2017 the Government initiated eleven (11) new labor and sex trafficking investigations, screened thirty-seven (37) potential trafficking victims, identified five (5) victims, and initiated one (1) new prosecution, which ended in a conviction in December 2017. The Government also increased funding for victim assistance and expanded procedures to include identification and interviewing guidelines to cover labor trafficking victims.

Mr. President, the Government also enacted amendments on 31st March, 2017 to the Criminal Procedure Code and the Trafficking in Persons (Prevention and Suppression) Act to allow prosecutors the option to prosecute trafficking cases directly before the Supreme Court without the necessity of going first to a lower Magistrate's Court; and created a new offense that

criminalizes the organizing, engagement in, or directing another to engage in, trafficking in persons.

The Government also funded and delivered training to 270 officials on the Bahamian anti-trafficking law, trafficking indicators, victim referral and assistance, and trafficking investigations and prosecutions, and shared best practices on multi-disciplinary response to trafficking with regional colleagues.

Mr. President, the Government also increased efforts to protect victims. Authorities continue to implement a formal victim-centered protocol to guide front-line responders in identifying trafficking victims and referring them to services. The National Trafficking Commission funded and trained member agencies and ministries in their roles in identifying and protecting victims and making referrals.

Mr. President, during 2016-2017 the Government spent approximately \$59,450 Bahamian dollars on trafficking

victims' care. The Government also provided subsidies of \$180,000 Bahamian dollars to non-Governmental Organizations (NGOs) that provide services to trafficking victims, among other vulnerable groups. The Government granted one (1) foreign victim relief from deportation. Authorities assist trafficking victims in prosecutions by providing lodging, food, stipend, clothing and other basic necessities, medical assistance and psychological counseling, immigration relief, legal assistance, support during court proceedings, and witness protection, which may include police protection, as needed. Bahamian law permits victim testimony via live television links and for the reading of written statements into evidence.

Mr. President, the Government increased prevention efforts, taking steps to inform the public and potential victims about trafficking. The Government's inter-ministerial Committee to coordinate anti-trafficking policy meets regularly, as does the Government's

anti-trafficking taskforce, which is charged with ensuring operational coordination on trafficking cases.

The Government continues to conduct a nationwide public awareness campaign to educate students, vulnerable populations, faith communities, the public, and government officials about human trafficking through the use of pamphlets in English and Creole to inform potential victims of their rights and available resources, public service announcements on television and radio throughout the country, and a museum exhibit.

The Government partnered with NGOs to implement its 2014-2018 national anti-trafficking strategy and detailed action plan that outlines efforts related to Government infrastructure, prevention, victim and witness protection, investigation and prosecution, and partnerships.

The Government also formalized its policy in the Department of Labor's 2017-2019 Strategic Plan to raise

awareness and advise foreign nationals of their labor rights, limits on recruitment fees, and prohibition against document retention, in addition to the current practice of sending letters to foreign nationals with work permits, which explain the definition of trafficking and advise employers of the prohibition against document retention. The Department of Labor raised awareness in the business community, distributed pamphlets about labor trafficking and workers' rights, advised potential job seekers about potential fraud in the cruise ship industry, screened for indicators of trafficking when inspecting work sites, and identified a foreign national as a labor trafficking victim during the reporting period.

Position of Human Rights Defenders[6]

Mr. President, The Bahamas' Constitution guarantees freedom of expression and opinions, and human rights defenders in The Bahamas are accorded full respect and

allowed to actively defend such rights without any restrictions or hindrance by Government.

Code of Conduct regarding Security Council action against genocide, crimes against humanity, or war crimes

We have not signed on to the Code of Conduct. However, The Bahamas consistently votes in the General Assembly against genocide, crimes against humanity and war crimes, wherever it appears in various resolutions.

Alongside the majority of delegations, The Bahamas has supported resolutions pertaining to the ICC as an expression of its support for the work of the ICC in the four main crimes identified in the Rome Statute, namely, genocide, crimes against humanity, war crimes and crimes of aggression.⁹

Implementation of the UPR recommendations & the SDGs

⁹ In response to the advanced question from Lichtenstein.

One of the responsibilities of the National Reporting Cooperating Mechanism is to engage with the National Development Plan 2040 - consultative meetings consistently take place. The Plan provides a roadmap for the future development of The Bahamas and includes a comprehensive policy framework, one which will guide Government decision making and investment over the next 25 years.

In fact, the country localizes the Sustainable Development Goals, under the 2030 agenda, within the National Development Plan. As the National Development Plan was formulated, the synergy between the NDP and the SDGs was encouraged. There is a strong relation between the two where each of the Plan's goals is paired to the related SDG target. Work continues on the execution and implementation of the Plan.¹⁰

Conclusion

¹⁰ In response to the advance question from Brazil.

Mr. President, in conclusion, I wish to reassure you and the Members of the Council of the Government's commitment to the promotion and protection of human rights and fundamental freedoms and to the work of the Council and the Office of the High Commissioner for Human Rights. Participating in this method of review gives us all the unique opportunity and privilege to undertake individual and multilateral review. It is hoped that all members will continue to respond to the challenge of meaningful and relevant implementation of Human Rights obligations. The Bahamas looks forward to its interaction with the Council today and to the work ahead in fulfillment of its international obligations. We are open to hearing your comments and recommendations.