

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
UA BHS 1/2018

2 January 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the human rights of migrants; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 33/30, 34/21 and 34/35, and.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the crackdown, detention and deportation of irregular migrants, including through police's excessive use of force.

The situation of migrants, mainly of Haitian origin, and their treatment as well as the Bahamas's immigration policies, have already been the subject of a communication dated 24 March 2015 (see A/HRC/30/27, case no. BHS 1/2015). We regret that no response has been received from your Excellency's Government to date.

According to the information received:

On 11 October 2017, Prime Minister Hubert Minnis announced before the House of Assembly, that "those migrants who are here illegally must leave by December 31, 2017, after which period they will be aggressively pursued and deported. This applies to all nationalities."

It has been alleged that since the announcement the authorities have launched an aggressive crackdown on migrant communities, targeting mainly the Bahamians-Haitian community. Migrants, including migrant women and migrant children, some of whom were born in the Bahamas, got detained upon failure to produce the documentation required by the authorities. It has been alleged, that during police raids, migrants suffered abuses resulting from police's excessive use of force.

It has further been reported that the Bahamas Immigration Department has stepped up roadblocks. There have been accounts of discrimination based on race and appearance, as well as allegations of violence at the hands of officers at these

roadblocks. Reportedly, immigration officers demand proof of status in the country from individuals and detain them upon failure to produce such papers.

Once under State custody, immigration authorities have reportedly taken migrants to the Carmichael Road Detention Center, where migrants are allegedly held for long periods of time – sometimes even years – without access to attorneys and without ever taking them before a court. Furthermore, the Center reportedly lacks proper hygienic conditions and sufficient and adequate medical treatment for detainees. There are allegations of serious overcrowding with detainees lacking access to legal assistance. Civil society organizations are not granted access to the detention center.

It has further been reported that children born to migrant parents are not allowed to register for citizenship before their 18th birthday. Therefore, many of those detained and facing summary deportation without a hearing could be Bahamas citizens in waiting. By removing them from the country, with no possibility to return, their right to citizenship may be denied.

Allegedly, detainees have been expelled in large numbers to the countries that the immigration authorities consider as the country of origin, without the possibility to appeal against their deportation order.

Without making any judgment as to the accuracy of the information made available to us, we express grave concern by which the announcement and the crackdown on migrants is in contravention of The Bahamas' international human rights obligations.

We are particularly concerned over the collective expulsion of migrants, in possible violation of the non-refoulement principle, which is enshrined in customary law, and the lack of due process guarantees granted to migrants on a non-discriminatory basis. We would like to recall to Your Excellency's Government the para. 10 of the GA res. 62/156 which "urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification". The above allegations further appear to be in contravention of the right to seek asylum, the right not to be arbitrarily deprived of liberty, the right to liberty and to personal security and integrity; to equality before the law without distinction as to race, colour, or national or ethnic origin such as guaranteed by Articles 2, 9, 10, 12, 14, 26 of the International Covenant on Civil and Political Rights (ICCPR), and Article 5 of the International Convention for the Elimination of All forms of Racial Discrimination (ICERD), respectively ratified by the Bahamas in 2008 and 1975.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Kindly explain how The Bahamas migration policies and the announcement of measures to be taken against irregular migrants after 31 December 2017 are in accordance with your international human rights obligations. In particular, please provide further information as to how in-depth individual assessments are carried out, which would allow authorities to accurately identify the protection needs of migrants, including irregular migrants.
3. Kindly explain what measures are being implemented to avoid racial profiling in immigration operations.
4. Please explain whether any investigation on allegations of excessive use of force and racial profiling in immigration operations has been initiated and what the results of such investigations are.
5. Kindly explain on what legal grounds migrants are detained in the Camichael Road Immigration Detention Center and please indicate how many migrants, including migrant children, are detained in the Center and in the safe house. Please explain whether and what alternatives to detention have been developed.
6. Please explain what measures are in place to ensure the best interest of the child, including migrant children, and how they are properly assessed by relevant authorities.
7. Kindly explain what due process guarantees are in place for migrants, including irregular migrants, which are facing a deportation order, including the right to be heard by relevant authorities, the right to

interpretation and translation, the right to legal representation, as well as access to an effective remedy to appeal a deportation decision.

8. Kindly explain how many migrants have been expelled so far and please explain their whereabouts.
9. Kindly explain whether a post-return monitoring mechanism has been put in place.
10. Kindly explain what measures Your Excellency's Government intends taking to avoid the risk of statelessness, in light of its international human rights obligations.
11. In the absence of refugee legislation, please explain the procedures for the identification and referral of asylum seekers, and please explain how you ensure that no one entitled to refugee status, a victim of trafficking, anyone born in The Bahamas with a right to Bahamian nationality is expelled.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We would also like to inform your Excellency's Government that we may publicly express our concerns regarding the abovementioned situation in the future, as we believe the wider public should be alerted to his situation. The press release will indicate that we have been in contact with Your Excellency's Government to clarify the issues in question.

We would further like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Felipe González Morales  
Special Rapporteur on the human rights of migrants

E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia  
and related intolerance