

The Bahamas¹ is party to the core human rights instruments, albeit with reservations to Article 2(a) and 9 of the CEDAW and Article 2 of the CRC. Notably, CEDAW Article 9 is considered “central to the object and purpose of the Convention” and CRC Article 2 is the general anti-discrimination clause and one of the four Guiding Principles of the Convention. The Bahamas is not a State Party to the 1954 or 1961 Statelessness Conventions. Of particular concern is the continuing **gender discrimination** against women in their ability to pass on nationality; the use of **arbitrary detention and deportation** of persons at risk of statelessness; the **lack of a statelessness determination procedure (SDP)**; and the **human rights consequences** generated by statelessness.

Gender discrimination

The Bahamas has largely failed to follow through with the majority of recommendations that it “accepted” during the previous UPR cycle. It continues to discriminate against Bahamian women married to foreigners in their ability to confer nationality to their spouses or children born abroad, and against unmarried Bahamian men in their right to pass on their nationality to their children. These denials amount to violations of Article 9 of the CEDAW and 7 of the CRC. At a 7 June 2016 referendum, the Bahamian public resoundingly voted against removing these gender discriminatory provisions from the Bahamian Constitution (and also voted against enshrining “sex” as a prohibited ground for discrimination within the Constitution). Notwithstanding this result, Prime Minister Dr. Hubert A. Minnis, who was elected in 2017, announced that The Bahamas Nationality Act will be amended to eradicate gender discrimination in relation to conferral of nationality on children. Despite these positive overtures, no discussion regarding the removal of the country’s reservations to Articles 2(a) and 9 of CEDAW has taken place.

Arbitrary detention and deportation

The Minnis Administration gave notice to all undocumented persons resident in The Bahamas that they have until 31 December 2017 to regularise their status or face detention and deportation. There have been reports of immigration roundups (constituted by night-time raids and roadblocks) taking place prior to the deadline, targeting primarily those of Haitian heritage, but also impacting those from elsewhere. Those who cannot provide documentation of their legal residency are sent to the Carmichael Road Detention Center. The Bahamas has no SDP, and therefore, even those who are stateless (or at risk of statelessness) are detained for the purpose of deportation. Even children born in The Bahamas are detained for deportation with their undocumented parent(s). Moreover, detained persons can be held for several weeks or months and are denied due process rights.

Infringement of human rights

In addition to violations to freedom of movement, due process, family unity, work and equality, the right to a nationality of children born in The Bahamas who are detained and deported with their undocumented parent(s) is also at risk. They do not have Bahamian nationality and it is unclear whether they will be able to obtain proof of Haitian citizenship once deported to Haiti. The right to education of those not in detention was jeopardised by a 2014 immigration policy, which, in contravention of the CRC, made school access only available to children who were “legally” present in the country² and who had a school permit.³ Although the Minister of Foreign Affairs recently stated that school principals should admit children regardless of their “immigration” status, it is unclear if this has actually reversed the 2014 immigration policy.

Proposed recommendations

- I. Remove all reservations to CEDAW and sign the CEDAW Optional Protocol. Remove its reservation to CRC Article 2.
- II. Take steps to ensure that all children and adults who have been denied access to Bahamian citizenship due to gender discriminatory nationality laws are granted nationality and, in the interim, that they fully enjoy their other human rights on a non-discriminatory and equal basis.
- III. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.
- IV. Introduce a fair and effective statelessness determination procedure in line with international standards, and ensure that it is accessible to all persons in The Bahamas regardless of their legal status.

¹ The full UPR submission of the Institute and Global Campaign for Equal Nationality Rights on gender discrimination in Bahamas’ nationality law is available here: http://www.institutesi.org/UPR29_Bahamas.pdf

² <http://www.tribune242.com/news/2014/sep/18/new-rules-tackle-illegal-immigration/>.

³ <http://www.tribune242.com/news/2017/sep/25/schools-told-admit-migrant-pupils/>.