



人权理事会
第十届会议
议程项目 6

普遍定期审议

普遍定期审议工作组报告*

巴 哈 马

增 编

接受审议国对结论和/或建议的意见、自愿承诺和答复

* 本文件在送交联合国翻译部门之前未经编辑。

一、对有关巴哈马的普遍定期审议的 建议和/或结论的意见

1. 巴哈马联邦政府正式审查了在其普遍定期审议进程中提出的结论和建议，这些结论和建议载于联合国人权理事会普遍定期审议工作组的报告(A/HRC/10/70)。¹

2. 关于在普遍定期审议进程中提出的结论和建议，巴拿马政府愿通报人权理事会，迄今为止，下列建议已得到执行和/或落实：

1. 2008年12月4日，巴哈马常驻联合国代表/大使保莉特 A. 贝瑟尔博士阁下代表巴哈马政府签署了《经济、社会、文化权利国际公约》和《公民权利和政治权利国际公约》，巴哈马政府于2008年12月23日批准了这两项公约，这两项公约将于2009年3月23日生效；
2. 2008年12月16日，巴哈马常驻联合国代表/大使保莉特 A. 贝瑟尔博士阁下签署了联合国《禁止酷刑及其他残忍、不人道或有辱人格的待遇或处罚公约》；
3. 巴哈马政府系统地审查所有各项主要人权文书，以期在巴哈马政府法律改革优先事项的范围批准或加入这些文书；²
4. 巴哈马政府尚未采用以种族歧视为由加重情节的刑事立法；³
5. 《巴哈马宪法》无条件地保证全国所有个人的基本权利和自由。作为宣传和执行这些宪法条款的手段，巴哈马政府着手审查可能开展的宣传运动，以及补充现行法律的额外机制，这些法律可以促进巴哈马社会更加容忍；⁴
6. 巴哈马政府通过国家全部、检察院和法律事务部以及劳动和社会发
展部，继续努力克服各种社会弊病，如强奸和大量的性犯罪，⁵ 这些社会弊病困扰巴哈马社会，⁶ 是国际社会大量关注的原因。经修订的1991年《性犯罪和家庭暴力法》就解决这些问题作出了规定。⁷ 此外，关于强奸问题，每天都播出各种公共教育节目，非政府组织也宣传有关资料；
7. 巴哈马政府通过劳动和社会发
展部正在最后定稿尚未完成的有关《儿童权利公约》的定期报告，该报告打算论及和澄清儿童权利委员会以及在巴哈马普遍定期审议进程中提出的所有关注问题和/或建议；

8. 巴哈马政府愿通报人权理事会，导致法院案件大量积压的一些拖延是由于向全国所有人提供宪法保护而引起的。在巴哈马，法律面前人人得到公正和平等对待，因此，我国最高法律《宪法》保证被控告的每一个人都有足够的时间和设施准备其辩护。

制定并正在实施两项举措，以减少法院的积压案件；即在法院民事庭和刑事庭以及替代争端解决会议的“点名”工作。“点名”工作全年例行进行，查明大部分时间已过的未决事项，并设法使这些事项得到最终解决。

内阁目前正在审议一部新的《遗嘱检验法》。这一立法的目的是使巴哈马法院的工作现代化和简单化。还有计划实施全时的商业法院和社区法院。⁸ 预期在家庭法院部门也可能有所改革；预期将实施新的程序轨道，以简化听取请诉书的程序，使其更加有效。

除了这些努力之外，巴哈马政府还规定了一些具体的矫正措施，检察院和法律事务部正在予以实施，以提高效率；⁹

9. 巴哈马政府愿通报人权理事会，巴哈马正在调查特别报告员、非政府组织和民间社会组织成员就 Carmichael Road 拘留中心提出的关注问题。

巴哈马政府意识到国际社会关注 Carmichael Road 拘留中心被关押者提出的指控，巴拿马政府继续落实各种机制，改善该设施中所有被关押者的条件。实际上，移民部(负责该设施的管理)部长设立了一个由政府官员、民间社会成员组成的委员会，¹⁰ 调查该设施中被关押者提出的所有申诉。

委员会调查了最近提出有关申诉，有人说该设施的条件低于标准，还有人指称遭到警卫的虐待。提出了若干建议，其中有些已经被接受。还有一些正在考虑之中，等待有关安全和资源影响的评估。

移民部着手开展一项运动，增加其与该设施所关押人员、以及国内外人权活动者关系的透明度，这项运动应该会使所有有关行为者关系得到改善。

记录将会表明，巴哈马政府历来积极地与定期访问巴哈马的联合国难民事务高级专员(难民署)代表一道努力。巴哈马政府与难民署代表之间的

上一次会议于 11 月 14 日举行，¹¹ 在会上向巴拿马政府通报了为履行其义务而需要就 Carmichael Road 拘留中心采取的必要矫正措施。

因此，目前实施的改进反映了难民署的讨论和建议，难民署将在下一次访问巴哈马期间予以审查；

10. 巴哈马政府开始系统分析其在人权培训和能力建设方面所需的技术援助要求，通过内部审查确定巴哈马在履行其人权义务方面所需的援助水平。巴哈马政府明确表示¹² 希望获得国际社会、特别是联合国各机构的额外支助。¹³

因应最近关于一些居民在在拘留中心遭到安全官员人身虐待申诉的新闻报道，一个由政府和民间社会代表组成的实况调查小组于 2009 年 3 月 9 日访问了该中心。

没有发现有关指称的任何证据，但小组确实提出了一些建议，以改善拘留中心的环境，这些建议目前正在落实之中；和

11. 作为国际社会负责的一员，巴哈马政府重申打算分享在妇女权利、赋予妇女权力以及酌情在种族主义问题方面的经验、最佳做法和教益。巴哈马政府打算继续积极努力，通过与国际组织、国际论坛一道努力以及在可能的情况下通过与其他国家的双边关系，争取改善人权状况。

二、对经过审查的巴哈马普遍定期审议进程中 提出的建议和/或结论的意见

1. 巴哈马政府审查了阿尔及利亚、澳大利亚、德国和加拿大等国提出的要求，关于设立一个独立机构，能够按照《巴黎原则》促进和保护人权，该机构要有充分的资源、对儿童敏感并能够以及时的方式提供补救。尽管巴哈马政府了解上述各国提出的关注，但巴哈马政府无法提出一个预定时间表，说明是否及何时将建立一个国家人权机构。¹⁴ 正如上节第 8 项所述，巴哈马政府正在经历一个全面的进程，改进现行法律、政策以及全国各重要实体的结构，为使全国更多的机构能够有效运作，这些工作十分重要；¹⁵
2. 请参看上节第 8 项；

3. 教育部尚未按照世界人权教育方案 2005-2009 年行动计划制定一项全面的国家人权教育战略。但是，教育部¹⁶审查了巴哈马整个教育系统中的缺陷，更新了有关人权教育的事项以期在整个巴哈马社会提高文化意识的问题。尽管如此，教育部目前正在努力争取按照要求在 2009 年底之前履行巴哈马政府的国际义务；
4. 巴哈马政府正在努力采用一种彻底的办法，减少监狱拥挤现象¹⁷及其对巴哈马社会的影响。巴哈马政府认为，长期而言，缓解监狱拥挤现象的唯一解决办法必须是多维度、全面和整体的办法。因此，巴哈马政府结合目前法律改革进程，启动了一个进程，缓解各种助长该国监狱人口众多的社会因素；¹⁸
5. 巴哈马政府目前无法向人权理事会所有特别报告员发出长期有效的邀请。但是，巴哈马政府十分愿意在逐案的基础上处理所有关注问题；关于增加与条约机构的对话和及时向条约机构提交报告问题，巴哈马政府采取了一种更为积极的办法，这种办法将使巴哈马政府能够履行其国际义务；¹⁹
6. 虽然巴哈马代表团在普遍定期审议进程中向人权理事会保证打算在整个巴拿马联邦提高刑事责任年龄，但目前修正案的这一修订将是检察院和法律事务部目前正在实施的法律改革进程的一个固有部分；²⁰和
7. 巴哈马提交消除种族歧视委员会的国家报告目前正在最后定稿，该报告将涉及加拿大牵头提出的消除种族歧视委员会关于移民、难民和寻求庇护者问题的建议。

三、没有得到巴哈马支持的建议

3. 巴哈马政府赞赏人权理事会成员国在普遍定期审议进程中提出的建设性的批评意见和最后建议。巴哈马代表团告知“三架马车”²¹和各成员国，这些考虑目前对巴哈马政府而言不可行。²²

4. 巴哈马政府愿意通报，巴哈马将在关于巴哈马的下一次普遍定期审议进程中报告关于这些建议的情况。

四、关于巴哈马在普遍定期审议届会上 所作自愿承诺和其他承诺的意见

5. 巴哈马政府对谈判的形式感到高兴，谈判基于与“三架马车”、相关各代表团和秘书处的互动式对话。巴哈马政府认为，普遍定期审议进程的最终草案反映了巴哈马政府与参与普遍定期审议进程的其他行为者之间的讨论情况。参加普遍定期审议进程的巴哈马代表团承认该代表团、“三架马车”、以及参与普遍定期审议进程的各国之间良好的工作关系。

6. 报告草案第 7 段提到 2009 年 12 月 3 日 A/HRC/WG.6/3/L.2 号文件，其中报告说，巴哈马打算修订《警察法》，以允许对针对警察成员的申诉和调查进程进行民事监督。《警察法》规定充分保障确保充分调查所有针对警察的申诉的一些重点如下：

“78. (1) 部长将任命一个机构，称为申诉督察组(下称“督察组”)，履行本法规定的职能。

“79. 督察组的职能如下：

- (a) 审查根据本法所设申诉和腐败事务处对申诉的调查和裁决，以确保调查公正进行；
- (b) 时常或根据要求向部长报告；和
- (c) 审查申诉和腐败事务处的报告。

“80. (1) 为了履行这些职能的目的，督察组有权：

- (a) 要求下列部门和人员提供任何资料、文件或物品：
 - (一) 专员；
 - (二) 申诉和腐败事务处；
 - (三) 提出申诉的任何人；
 - (四) 针对其提出申诉的警察部队的任何成员；或
 - (五) 督察组认为能够提供帮助的任何其他人；
- (b) 在审查申诉的情况下：
 - (一) 要求所有或任何当事方及证人面对督察组；
 - (二) 要求提供其认为对审查申诉必要的资料、文件或物品。

(2) 督察组还可以向申诉和腐败事务处提供必要的指导，以确保彻底和公正。

“81. (1) 专员应当为了本法的目的而继续保持警察中的一个人称申诉和腐败事务处的单位，在本法中称为“事务处”。

(2) 事务处应负责：

(a) 调查任何公众对警察成员的申诉；

(b) 向督察组和专员提交：

(一) 每个季度末的一份事务处工作进度报告；

(二) 关于所有调查的最终报告；和

(c) 专员可能不时向其指派的职务。

(3) 对针对警察成员申诉的每一项调查都应在此种申诉提出之时起六个月内完成，或在更长的期限内完成，但不得超过一年。

(4) 事务处应当由助理总监或助理总监以上级别的警官领导，除非申诉针对的是一名级别高于事务处处长级别的警官，在此种情况下，专员应当任命一位级别高于申诉所针对警官的级别的警官来调查有关申诉。

(5) 专员应当确保向事务处提供充分的工作人员和设施，接受记录和调查申诉。”²³

7. 我们很高兴地报告，警察法修正案已经巴哈马议会颁布，目前正在准备实施。

五、关于普遍定期审议进程结果的意见

8. 巴哈马政府对普遍定期审议进程的结果感到高兴，因为它使巴哈马能够积极地与人权理事会和各成员国讨论其成就、最佳做法、挑战和限制因素，这些都必须在日常基础上有效地加以管理。作为一个小岛屿发展中国家，巴哈马政府不断面临各种问题，这些问题能够加以解决，否则就会妨碍发展前景。巴哈马政府意识到，改善人权环境是一个重要的因素，能够有助于巴哈马的发展和与国际社会的互动。巴哈马政府认识到，履行其在所有条约和国际组织方面的义务十分重要；并打算将普遍定期审议进程(与其他条约机构一道)用作一种催化剂，促进改善巴哈马所有人的人权状况。

9. 巴哈马政府希望重申，其承诺尊重人权和法治、有关原则和价值观，巴哈马政府以其为指导和特点，我们对其十分珍视。

注

¹ These conclusions and/ or recommendations were listed on pages 16 -17, paragraph 52 (1-11).

² The Attorney-General and Minister of Legal Affairs Senator the Hon. Michael Barnett indicated during a speech to mark the opening of the legal year that law reform will be among the list of priorities for the Government of The Bahamas during 2009. In fact the Attorney-General stated that, “Every statute will be subject to review, from the Penal Code to the law relating to the licensing of shops and restaurants. As we continue to develop a modern society, we must review our laws to ensure that they reflect the needs and realities of a 21st Century Bahamas.”

The Government of The Bahamas would also like to inform the HRC, that discussions relating to acceding to other human rights instruments are conducted on an ongoing basis.

³ This was recommended by Djibouti. This recommendation will be examined during the current process of legal reform currently being employed.

⁴ On 19 February 2009 the Ministry of Labour and Social Development held a symposium on “Strengthening the Family: A Holistic Approach to Family Wellness”, which brought together persons from the Government, civil society and non-governmental organizations to discuss appropriate measures to improve social cohesion throughout Bahamian society.

⁵ Since 2000, the police have recorded:

- (a) 942 instances of alleged rape and 305 cases of attempted rape;
- (b) 1,787 cases of unlawful sexual intercourse;
- (c) 141 reported cases of incest.

⁶ The Government of The Bahamas has implemented mechanisms aimed at preventing sexual offenders from committing violence against persons throughout The Bahamas.

For example, persons found guilty of having unlawful sexual intercourse with children under 16, are required to notify the police of their current place of work, or any educational, sporting or civic activities that they are involved in. Persons found guilty of producing, receiving or disseminating child pornography have specified sentences for summary offences (which can be tried by magistrates to avoid the long process of holding preliminary inquiries and waiting for Supreme Court dates).

⁷ In addition to these efforts, the Ministry of Foreign Affairs, the Attorney General’s Office and Ministry of Legal Affairs, the Ministry of National Security and the Ministry of Finance are currently in discussions to determine how the Government of The Bahamas can strengthen civil society organizations such as The Bahamas Crisis Centre (which is a non-profit, ideologically independent organization primarily pledged to respond to the needs of all victims of sexual, physical and psychological abuse). The Bahamas Crisis Centre has established the following services: initial intake, crisis counseling, individual therapy, marital therapy, family therapy, group therapy, a rape survivor advocacy and a dedicated 24 hour hotline.

⁸ The Community Courts are intended to bring judicial services nearer to the people they are intended to benefit.

⁹ The Attorney General and Minister of Legal Affairs has begun a comprehensive review of additional measures required to reduce the large backlog of cases before the courts. The Attorney General participated in an interview with the Nassau Guardian (24 February 2009), as a means to inform persons throughout The Bahamas about how the Government of The Bahamas intends to resolve the large number of outstanding cases. In this interview the Attorney General indicated that the Government of The Bahamas is actively pursuing replacement judges to fill vacancies on the Court of Appeal. The Attorney General also revealed that cases which have been outstanding for some time are currently under review. The Attorney General also stated that during 2009 there will be two criminal courts operating full time in New Providence and one in Grand Bahama, Stipendiary and Circuit Magistrates will be appointed to serve in the Family Islands in the Central and Southern Bahamas; and that Parliament's enactment of the Criminal Procedure Pleas Discussion and Plea Agreement Act will provide for plea bargaining.

¹⁰ This committee was comprised of the Director of the Department of Immigration, the Commodore of the Defence Force, representatives of the Department of Social Services, members of the clergy, and a distinguished psychologist who are all responsible for submitting a comprehensive report on the conditions at the Carmichael Road Detention Centre. This report will be instrumental in developing adequate safeguards to protect all persons at the facility, and to ensure the facility is in compliance to satisfy all international and domestic obligations for the Government of The Bahamas.

¹¹ The UNHCR representative toured the Carmichael Road Detention Centre along with other areas/settlements with large numbers of migrants.

¹² Verbally (during The Bahamas' UPR process) and in writing (The Bahamas' State reports for its UPR, CERD, CEDAW, and CRC).

¹³ As a result of The Bahamas UPR Session, the Government of The Bahamas was able to obtain technical assistance from the Government of Turkey to participate in the United Nations Institute for Training and Research (UNITAR) training session which was developed as a comprehensive regional capacity development training for Member States of the Caribbean Community (CARICOM) that was held on 8-12 December 2008 in Paramaribo, Republic of Suriname.

¹⁴ Due to the current legal reform process along with severe economic constraints arising from the current economic climate throughout the international community.

¹⁵ The Government of The Bahamas would like to inform the HRC that as soon as the current process has been finalized and improved, the Government of The Bahamas will work towards obtaining the technical expertise of various United Nations Agencies and international organizations during its process of developing a National Human Rights Institution in conformity with the Paris Principles.

¹⁶ This is the Government Ministry responsible for overseeing all aspects of education throughout the Commonwealth of The Bahamas.

¹⁷ New legislation currently in force throughout The Bahamas empowers courts to subject persons convicted of crimes with punitive sentences less than three years to receive electronic monitoring instead of being remanded in prison. The Government of The Bahamas has decided that not everyone who breaks the law needs to be in prison if there are other ways that society can punish them. In addition, the Government has developed protections for all actors involved with electronic monitoring. Firstly, a judge must agree that electronic monitoring is appropriate in lieu of a portion of the term of imprisonment. Secondly, the accused person must apply for it, and thirdly, the prosecutor has to agree.

¹⁸ The Attorney-General and Minister of Legal Affairs, Senator the Hon. Michael Barnett indicated during a speech to mark the opening of the legal year that, “The Council [National Advisory Council] agreed with the Government that crime was at an unacceptably high level, but that it had been at a high level for some time. The problem did not occur overnight and the solution will not come quickly. The solution rests with all persons in The Bahamas being outraged by the problem, and doing their part, individually and collectively, to rid our communities of it. . . It [National Advisory Council] expressed serious concern about the criminal justice system, the slowness in moving cases through the system. . . The remedying of these systematic problems in the criminal justice system must be given the greatest priority, but care must be taken to avoid temptation that law enforcement is the panacea to our crime problem. To arrest more and more people, and place them before a justice system that is simply not working, will increase the backlog in the courts and could cause further deterioration to the tenuous relationship between the public and police. Indeed, the response to the crime problem goes far beyond improvements to law enforcement and the criminal justice system.”

¹⁹ Due to inherent financial, human resource and technical capacity constraints, the Government of The Bahamas has been unable to submit its periodic reports in a timely manner. The Government of The Bahamas was able to submit its UPR State report on time and is presently finalizing its State reports for CERD, CEDAW and the CRC, respectively, which should be submitted by the end of March 2009. Once these three outstanding human rights reports have been submitted to their respective treaty bodies, the Government of The Bahamas will have resolved all issues relating to its outstanding human rights reporting obligations.

²⁰ Please refer to number 8 in the previous section for additional information.

²¹ Djibouti, Malaysia and the Netherlands.

²² Senator the Hon. Michael Barnett, Attorney General of The Bahamas and Minister of Legal Affairs informed the Working Group during the adoption of The Bahamas’ State report that, “Mr. President, we have taken due note of the various recommendations made by members. Many of them we have undertaken to implement. Many of them we have already started to implement. Others require further consideration as to how best their objectives may be achieved. Some of them, however, we are unable to accept at this time. Indeed, Mr. President, even with respect to those recommendations that we have been unable to support, our reservation in some is based upon the language and not in the purpose of the recommendation. Nonetheless, we accept the spirit and sincerity with which all recommendations have been made. However, the process continues. The work of the Human Rights Council and the support of member states are essential to further progress in enhancing human rights both in The Bahamas and around the world.”

²³ The Royal Bahamas Police Force Act, Part XII – Police Complaints.