

**The Bahamas**  
**Stakeholder Report on the Death Penalty for the United Nations Universal Periodic Review**

**Submitted by The Advocates for Human Rights,**  
a non-governmental organization in special consultative status  
**The World Coalition Against the Death Penalty**  
and  
**The Greater Caribbean for Life**

for the 42nd Session of the Working Group on the Universal Periodic Review  
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Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition Against the Death Penalty.

**The World Coalition Against the Death Penalty** (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

**The Greater Caribbean for Life** (GCL) is an independent, not-for-profit civil society organization that was established in Port of Spain, Trinidad on October 2, 2013 to unite Caribbean abolitionist organizations and individuals. The region comprises 25 countries, including 13 Caribbean islands, the Caribbean states of South America (Columbia, Venezuela, and the Guyanas), the countries of Central America and Mexico, in addition to Puerto Rico, and the US, British, Dutch and French Caribbean territories. In the struggle against the death penalty, GCL reflects the greatest respect to the right to life. GCL has members in 16 Caribbean States and territories. This initiative began on October 19, 2011, when a group of organizations and individuals from countries of the Greater Caribbean opposed to the application of capital punishment, participated in an International Conference in Madrid on the Death Penalty in the Greater Caribbean. The Conference was organized by the Community of Sant'Edigio. GCL was constituted with the purpose of campaigning for and working towards the permanent abolition of

the death penalty in the Greater Caribbean; supporting Caribbean abolitionist activists and organizations in this region; and collaborating with the international abolitionist community.

## EXECUTIVE SUMMARY

1. The Bahamas, which has a *de facto* moratorium on the death penalty, has not executed anyone since 2000.<sup>1</sup> The last time that the Bahamas sentenced someone to death was in 2012, commuting the accused's sentence in 2016.<sup>2</sup> More recently, politicians and the public have expressed support for the death penalty. The Bahamas noted previous UPR recommendations to declare a formal moratorium or abolish the death penalty.<sup>3</sup>

### I. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

2. During its 2018 Universal Period Review, the Bahamas received 10 recommendations related to the death penalty, 15 recommendations related to acceptance of international norms, 1 recommendation related to the administration of justice and the right to a fair trial, and 3 recommendations related to public awareness-raising campaigns.<sup>4</sup>

#### A12 Acceptance of international norms

##### **Status of Implementation: Partially Accepted, Partially Implemented**

3. While a number of countries commended the Bahamas' willingness to accede to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, they urged the Bahamas to ratify both the CAT and its Optional Protocol.<sup>5</sup> Likewise, many countries urged the Bahamas to make the moratorium on death penalty formal by abolishing it and by signing and ratifying the Second Optional Protocol to the International Convention on Civil and Political Rights.<sup>6</sup>
4. The Bahamas accepted the recommendations to ratify the CAT.<sup>7</sup> Before the last UPR cycle, the Bahamas' Constitution prohibited torture and ill-treatment, its Evidence Act forbade the use of confessions or evidence obtained by torture or ill-treatment, and the country had signed the Convention in 2008. The Bahamas ratified the Convention on May 31, 2018 and signaled in June 2018 that it should review its Penal Code, Criminal Procedure Code, and other relevant legislation involving state officials to ensure that they are in compliance with the Convention.<sup>8</sup> The Bahamas have yet to amend these laws accordingly.
5. The Bahamas noted recommendations to ratify the OP-CAT and the Second Optional Protocol to the ICCPR, stating in its response that a *de facto* moratorium exists, that it continues to recognize the death penalty's lawfulness on a discretionary basis and subject to conditions laid down in case law as a punishment for the crimes of murder and treason.<sup>9</sup> It also asserted that "the last mandated execution took place" in 2000 "even in the absence of a formal moratorium."<sup>10</sup> The Bahamas has not yet ratified the OP-CAT.<sup>11</sup> Likewise, it has not ratified the Second Optional Protocol to the ICCPR.<sup>12</sup>
6. In addition, countries such as Germany, Indonesia, Slovenia, and Ukraine called for the creation of a national human rights institution or Ombudsperson.<sup>13</sup> The Bahamas accepted these recommendations, stating that the Ombudsman Bill (2017) was laid before Parliament on October 23, 2017 for review.<sup>14</sup>
7. Under the Paris Principles, countries are called to create NHRIs which are meant to act as independent, nonpolitical bodies that investigate allegations of human rights violations and

make recommendations for remediation to the appropriate governing body.<sup>15</sup> An NHRI can, for example, find violations of an individual's rights after they are sentenced to death.<sup>16</sup>

8. The Ombudsman Bill would establish a national human rights institution that is meant to investigate any allegations of “maladministration” and make recommendations to “any authority concerning any administrative action that formed the subject of the investigation and generally, about ways of improving its administrative practices and procedures.”<sup>17</sup> The bill, after being presented to Parliament, was tabled in 2017 and has not yet been debated.<sup>18</sup> Because the Bahamas does not have an NHRI, individuals face additional barriers to reporting violations of human rights occurring in Bahamian prisons and detention centers.<sup>19</sup>

#### **A41 Constitutional and legislative framework**

##### **Status of Implementation: Not Accepted, Not Implemented**

9. Senegal recommended that the Bahamas develop a new constitutional revision project in order to amend its Constitution in a way that better promoted human rights,<sup>20</sup> which the Bahamas noted.<sup>21</sup>
10. The Constitution of the Bahamas specifically allows for the death penalty.<sup>22</sup> In 2012, the Bahamas established a Constitution Reform Commission to conduct a comprehensive review of its Constitution and presented recommendations to the Prime Minister of the Bahamas.<sup>23</sup> The country held a constitutional referendum in June 2016 to address some of the Commission's recommendations, all of which were defeated.<sup>24</sup> The Constitution Reform Commission's recommendations did not include the abolition of death penalty because of its general support by the public, and the Commission even recommended that the Constitution be amended to prevent any challenges or appeals to a death sentence.<sup>25</sup> There have been no reports of the Bahamas considering further revisions to the Constitution.

#### **A54 Awareness Raising and Dissemination**

##### **Status of Implementation: Accepted, Not Implemented**

11. South Korea and Trinidad and Tobago recommended that the Bahamas enact legislation requiring human rights education for security personnel, law enforcement, and judges, to promote compliance with international human rights law.<sup>26</sup>
12. Spain recommended the Bahamas carry out a broad awareness-raising campaign, disseminating information about alternatives to the death penalty, with the aim of moving toward its abolition.<sup>27</sup>
13. Although the Bahamas accepted two<sup>28</sup> out of the three recommendations,<sup>29</sup> there are currently no reported human rights awareness-raising campaigns addressing either detention conditions or the death penalty.

## D23 Death penalty

### **Status of Implementation: Not Accepted, Not Implemented**

14. Despite the fact that the Bahamas has not carried out an execution since 2000,<sup>30</sup> and courts have not sentenced anyone to death since the last Universal Periodic Review,<sup>31</sup> maintaining the country's de facto moratorium,<sup>32</sup> the death penalty remains legal in the Bahamas. Public opinion appears to be divided on the topic, with some notable figures in the Bahamas speaking out against the death penalty,<sup>33</sup> while some groups call for the implementation of the death penalty.<sup>34</sup>
15. A number of states recommended that the Bahamas abolish the death penalty or called for a *de jure* moratorium.<sup>35</sup> The Bahamas noted the recommendations, stating that a *de facto* moratorium already exists, and reaffirmed that the Bahamas' current position on the death penalty is that "it continues to recognize its lawfulness, on a discretionary basis and subject to conditions laid down in case law, as a punishment for the crimes of murder and treason." The Bahamas also underlined that the last execution took place seventeen years prior to the 2018 report, even in the absence of a formal moratorium.<sup>36</sup>
16. The Bahamas' legal code allows the death penalty by hanging to be prescribed as punishment in cases of murder,<sup>37</sup> treason,<sup>38</sup> and genocide.<sup>39</sup> Additionally, the Bahamas Anti-Terrorism Act of 2004 reiterates that the death penalty applies to terrorist acts that result in death or "serious bodily harm."<sup>40</sup>
17. The Bahamas prohibits application of the death penalty to juveniles, pregnant women,<sup>41</sup> and any person with an intellectual or psycho-social disability that "substantially impaired his or her mental responsibility for his acts in doing or being a party to the killing."<sup>42</sup>
18. The Governor-General may grant a pardon, respite from, commutation, remittance, or stay of execution.<sup>43</sup> Any time a person is sentenced to death, the Advisory Committee on the Prerogative of Mercy and its leading Minister advise the Governor-General as to the decision to grant mercy.<sup>44</sup> Unless authorized by the Provost Marshall, only a handful of persons (the Provost Marshall, goaler, chaplain, and medical officer) are allowed to be present at the execution, which is then announced via a declaration posted outside of the prison.<sup>45</sup> The family of the accused is not guaranteed notification of execution or access to the body after execution.

## D26 Conditions of detention

### **Status of Implementation: Accepted, Not Implemented**

19. In the third UPR cycle, the Report of the Working Group noted that there is a case backlog and people accused of crimes experience long periods of pretrial detention in overcrowded jails, and the general prison population experiences poor detention conditions.<sup>46</sup> The Bahamas received recommendations to improve detention conditions and to consider alternatives to pretrial detention.<sup>47</sup> The Bahamas accepted both recommendations.<sup>48</sup>
20. The Nelson Mandela Rules create a list of minimum requirements for prisons and detention centers and call for the provision of adequate food, water, and healthcare for people in detention.<sup>49</sup>

21. Persons who are sentenced to death in the Bahamas are subject to the same conditions as individuals serving other sentences. The Bahamas detains any person who is sentenced to death in either a civil prison, an overseas establishment, in unit detention quarters, or in service custody until his sentence is executed.<sup>50</sup>
22. Since the last cycle, reports continue of overcrowding, poor nutrition, and inadequate medical care in prisons.<sup>51</sup> Specifically, reports indicated that male in detention did not receive timely access to food, had to remove human waste by bucket, had restricted access to toilets, and were forced to stay in overcrowded and infested cells.<sup>52</sup> Local scholars reported violence both among detained persons and perpetrated by security personnel.<sup>53</sup> Conditions worsened during the COVID-19 pandemic, as detained people who were COVID-19 positive were not quarantined and did not receive timely medical care, and detained persons had little to no access to vaccines.<sup>54</sup> The Bahamas has denied these allegations,<sup>55</sup> but local attorneys have supported these allegations by saying that the prison conditions are “frightening.”<sup>56</sup>

### **D51 Administration of justice & fair trial**

#### **Status of Implementation: Supported, Partially Implemented**

23. The United States recommended that the Bahamas address the backlog in the criminal legal system that results in long pretrial detention in overcrowded jails and detention conditions (e.g. by using an online tracking system) and consider alternatives to pretrial detention.<sup>57</sup> The Bahamas supported this recommendation.<sup>58</sup>
24. The Bahamas Constitution grants the accused access to counsel at all phases of criminal proceedings.<sup>59</sup> The Constitution also guarantees “a fair hearing within a reasonable time by an independent and impartial court established by law.”<sup>60</sup> All defendants are presumed innocent until proven guilty, and enjoy (i) the right to be promptly and adequately informed of the charges against them; (ii) to a fair and free public trial without undue delay; (iii) to be present at the trial; (iv) to have adequate time and facilities to prepare a defense; (v) to receive free assistance of an interpreter; (vi) to present their own witnesses and evidence; and (vii) to have a jury trial when charged on information in the Supreme Court.<sup>61</sup>
25. In practice, defendants lack adequate legal representation.<sup>62</sup> Although the government does provide free legal counsel, it has only limited resources to do so, and as a result some defendants who cannot afford their own counsel are not provided with legal aid.<sup>63</sup> Some of the accused even lack the ability to advance their case to trial, resulting in excessive pretrial detention.<sup>64</sup> As mentioned in paragraph 19, the Bahamas has also had chronic, long-lasting backlog in cases awaiting trial,<sup>65</sup> which has become increasingly worse since the government suspended jury trials due to the COVID-19 pandemic.<sup>66</sup> Contributing to the backlog have been issues of inaccurate handling of evidence, case docket issues, and issues in witness, jury member, and defendant testimony scheduling.<sup>67</sup>
26. The Bahamas took steps to implement a digital case-management system and to hire new justices to address the backlog.<sup>68</sup>
27. Amnesty International has reported additional concerns regarding the insufficient protections in place for witnesses, weak forensic capacities, crime lab delays in processing

evidence, and lack of mental health assessments for the accused.<sup>69</sup> One or more of these factors can easily contribute to a miscarriage of justice in a capital case.

## II. RECOMMENDATIONS

28. The authors of this joint stakeholder report suggest the following recommendations for the Government of the Bahamas:

- Abolish the death penalty and replace it with a sentence that is fair, proportionate, and respects international human rights standards.
- In the meantime, impose an official, *de jure* moratorium on the death penalty, effective immediately.
- In the meantime, amend the Penal Code to restrict the possibility of being sentenced to death to only the most exceptional circumstances, and the most heinous crimes (*e.g.*, further define to which types of murders the death penalty applies).
- Ratify the Second Optional Protocol to the ICCPR and the Optional Protocol to the Convention against Torture.
- Require human rights training for all security officers and law enforcement working at detention facilities, with a particular focus on the Nelson Mandela Rules.
- Promulgate the Ombudsman Bill (2017) and establish a national human rights institution in accordance with the Paris Principles.
- Collaborate with abolitionist civil society organizations in the region to conduct a comprehensive public awareness-raising campaign to educate the public about international human rights standards and the efficacy of alternatives to the death penalty, the death penalty's failure to provide any unique deterrent effect on violent crime.
- Step up funding for the detention facilities to ensure conditions are consistent with the Nelson Mandela Rules, with particular emphasis on water and sanitation, food and other basic necessities, prison-based health services, and safety of people living in detention.
- Ensure that all defendants have access to adequate and timely legal counsel immediately on arrest and throughout all subsequent criminal proceedings, including on appeal and in any mercy, clemency, or related proceedings.
- Provide enhanced funding and human resources to legal aid to ensure that defendants who have limited financial means to defend themselves are afforded complete and effective legal assistance, including well qualified legal counsel and funding for carrying out an investigation to gather evidence for the defense, including expert witnesses, giving priority to any person at risk of being sentenced to death.

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<sup>1</sup> Cornell Center on the Death Penalty Worldwide, *Commonwealth of the Bahamas (Bahamas)*, Cornell University School of Law, available at <https://deathpenaltyworldwide.org/database/#/results/country?id=4/> (last updated August 23, 2013).

<sup>2</sup> Candia Dames, *Death Row Nearly Empty*, *The Nassau Guardian* (August 27, 2012).

<sup>3</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at p. 13, 105.52 Establish a moratorium on the death penalty, as a step towards complete abolition of this practice (Australia); 105.53 Abolish the death penalty (Côte d’Ivoire); 105.54 Abolish the death penalty, as a continuation of the de facto moratorium applied by the Bahamas (France); 105.55 Impose a countrywide moratorium on the death penalty that immediately halts all sentences and executions, with a view to complete abolition of the death penalty (Iceland); 105.56 Take formal steps to abolish the death penalty, including by declaring an official moratorium on its use and by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (Ireland); 105.57 Consider fully abolishing the death penalty (Italy); 105.58 Continue working for the full abolition of the death penalty as a measure aimed at the recognition of the protection of human rights (Mexico); ¶ 105.59 Establish a formal moratorium on executions and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, with a view to abolishing the death penalty (Namibia).

<sup>4</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 10-17.

<sup>5</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 10–11, ¶ 105.3 In connection with the recommendation made in the second cycle review of the Bahamas in 2013, ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Afghanistan); ¶ 105.9 Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment and its Optional Protocol (Italy); ¶ 105.11 Deposit the instrument of ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as soon as possible (Denmark); ¶ 105.12 Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment and its Optional Protocol (France, Germany); ¶ 105.13 Accelerate consultations related to the ratification of the Convention against Torture (Georgia); ¶ 105.14 Continue taking steps towards the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Indonesia); ¶ 105.15 Continue efforts regarding the ratification of international instruments, particularly the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and regarding the human rights protection mechanisms (Morocco); ¶ 105.16 Accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to the Rome Statute, as previously recommended (Slovenia); ¶ 105.17 Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Belgium); and ¶ 105.22 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Sierra Leone).

<sup>6</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 10–11, ¶¶ 105.01 Building on the existing de facto moratorium on the death penalty, make this moratorium official through ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (Ukraine); ¶ 105.02 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and consider the repeal of provisions allowing for the death penalty (United Kingdom of Great Britain and Northern Ireland); ¶ 105.04 Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Portugal); ¶ 105.5 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Germany); ¶ 105.6 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Montenegro); and ¶ 105.32 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Belgium) (Chile).

<sup>7</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at pp. 2-3.



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<sup>8</sup> Convention Against Torture Initiative, *The Bahamas in Focus*, (last visited September 29, 2022), available at <https://cti2024.org/the-bahamas-in-focus/>

<sup>9</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 2.

<sup>10</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 2.

<sup>11</sup> U.N. Treaty Collection, *Status of Treaties - 9. b) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (last updated September 29, 2022), available at [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9-b&chapter=4](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4).

<sup>12</sup> U.N. Treaty Collection, *Status of Treaties - 12. Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty* (last updated September 29, 2022), available at <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-12.en.pdf>.

<sup>13</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at p. 12, ¶105.39 Implement as soon as possible plans to establish a national human rights institution in compliance with the Paris Principles (Germany); ¶105.40 Step up efforts in establishing a national human rights institution in line with the Paris Principles (Indonesia); ¶105.41 Establish the Office of Ombudsman with A status in accordance with the Paris Principles (Slovenia); and ¶105.42 Implement the plans on the establishment of the Office of Ombudsman (Ukraine).

<sup>14</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 3.

<sup>15</sup> U.N. General Assembly Res. 48/134, Annex, *Principles relating to the Status of National Institutions (The Paris Principles)*, available at <https://www.legal-tools.org/doc/b38121/pdf/>.

<sup>16</sup> Reuters, *Indonesia ombudsman finds rights violations in execution of Nigerian* (July 28, 2017), available at <https://www.reuters.com/article/us-indonesia-execution/indonesia-ombudsman-finds-rights-violations-in-execution-of-nigerian-idUSKBN1AD100>.

<sup>17</sup> Ombudsman Bill (2017), available at <https://www.bahamas.gov.bs/wps/wcm/connect/6fed274b-777f-4b02-8609-5f5559d46173/Ombudsman+Bill%2C+2017.PDF?MOD=AJPERES>

<sup>18</sup> Neil Hartnell, *Bahamas 'struggling with the execution' in corruption fight*, *The Tribune* (March 8, 2022), available at <http://www.tribune242.com/news/2022/mar/08/bahamas-struggling-execution-corruption-fight/>.

<sup>19</sup> U.N. General Assembly Res. 48/134, Annex, *Principles relating to the Status of National Institutions (The Paris Principles)*, available at <https://www.legal-tools.org/doc/b38121/pdf/>.

<sup>20</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at p. 14, ¶¶ 105.85.

<sup>21</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 5.

<sup>22</sup> The Constitution of the Commonwealth of the Bahamas, June 20, 1973, ch. 3, art. (1).

<sup>23</sup> *Report of the Constitutional Commission into a Review of The Bahamas Constitution*, Government of the Bahamas (July 2013), at p. 1, available at [Constitution+Commission+Report+2013\\_8JULY2013.pdf](https://www.bahamas.gov.bs/Constitution+Commission+Report+2013_8JULY2013.pdf) (bahamas.gov.bs).

<sup>24</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 2, 5.

<sup>25</sup> *Report of the Constitutional Commission into a Review of The Bahamas Constitution*, Government of the Bahamas (July 2013), at p. 136 ¶¶ 15.92-.93, available at [Constitution+Commission+Report+2013\\_8JULY2013.pdf](https://www.bahamas.gov.bs/Constitution+Commission+Report+2013_8JULY2013.pdf) (bahamas.gov.bs).

<sup>26</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at p. 14, ¶105.87 Keep up the legislative reform on human rights and education in accordance with international standards on education (Republic of Korea); ¶105.88 Improve its public education and awareness, as well as assess all of its initiatives (Trinidad and Tobago).

<sup>27</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review–

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The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at p. 13, ¶105.61.

<sup>28</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 5, 105.87 and 105.88.

<sup>29</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 4, 105.61.

<sup>30</sup> Greater Caribbean For Life, *Bahamas*, available at <https://gcforlife.org/member-states/bahamas/>

<sup>31</sup> World Coalition Against The Death Penalty, *Bahamas*, available at <http://worldcoalition.org/pays/bahamas/>; see also World Population Review, *Countries With The Death Penalty 2022*, available at <https://worldpopulationreview.com/country-rankings/countries-with-death-penalty>

<sup>32</sup> Amnesty International Global Report, *Death Sentences And Executions (2020)*, pp. 16, 19, available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/ACT5037602021ENGLISH.pdf>

<sup>33</sup> Eye Witness News, *Former BCC president comes out against capital punishment* (July 26, 2019), available at <https://ewnews.com/former-bcc-president-comes-out-against-capital-punishment> (“I am no longer a supporter of that kind of dealing with our crime problem,’ [Former Bahamas Christian Council (BCC) President Bishop Simeon Hall] told Eyewitness News Online. ‘If government feels it’s best to go forward and ask the Bahamian people, then that’s their right. The majority of the Bahamian people are pro-capital punishment, but I am not.’”; “[P]rominent attorney Fred Smith said yesterday that as a human rights activist he is completely opposed to the death penalty.”).

<sup>34</sup> Eye Witness News, *Former BCC president comes out against capital punishment* (July 26, 2019), available at <https://ewnews.com/former-bcc-president-comes-out-against-capital-punishment> (““The majority of the Bahamian people are pro-capital punishment...”; “Amid calls from domestic and international organizations for an abolishment of capital punishment in The Bahamas, Attorney General Carl Bethel said in March that capital punishment is not going anywhere.”; “Prime Minister Dr. Hubert Minnis reiterated support for the measure a year ago.”; “In July 2018, Attorney General Carl Bethel said the government was considering enacting constitutional changes to preserve capital punishment as an effective penalty under the law, noting that several decisions of the Privy Council had rendered the penalty to be essentially ineffective.”); Our News, *BCC President: The Punishment Should Fit The Crime* (August 18, 2022), available at <https://ournews.bs/bcc-president-the-punishment-should-fit-the-crime/> (“Bahamas Christian Council President Bishop Delton Fernander said that he believes “the punishment should fit the crime.” Fernander’s comments came after members of the Coalition of Child Advocates called for capital punishment to be enforced in light of the murder of the 21-year-old Omar Davis Jr.”); The Tribune, *Fringe group calls for executions* (July 28, 2022), available at <http://www.tribune242.com/news/2022/jul/28/fringe-group-calls-executions/> (“Fringe activists Citizens For Justice Bahamas yesterday expressed outrage at the level of violence in the country and called for criminals to be “removed” through state executions where convictions are successful.”; “Among [Citizens For Justice Bahamas’] recommendations were to enforce the law. ‘Our laws on capital punishment are not being enforced. Cold-blooded murderers are heartless and have no fear of God, man, police or any authority. They must be removed from society, the biblical way, through state killings for convicted murderers, nothing less. Our legislators must pass laws that that would ensure that persons convicted of murder, not be allowed to escape the death penalty by the Privy Council, as is the case now... We must take some drastic measures immediately, if we’re serious about resolving this issue rather than always attempting to be politically correct in the eyes of foreign agencies, human rights activists, the United Nations and the European Union. Capital punishment, which was established by the Most High God to deal with intentional murder, has been discontinued in many jurisdictions. “We must also legislate much harsher penalties for persons convicted of rape, sexual assault of minors and illegal firearm possession.”).

<sup>35</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 10 and 13, 105.1 Building on the existing de facto moratorium on the death penalty, make this moratorium official through ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (Ukraine); 105.52 Establish a moratorium on the death

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penalty, as a step towards complete abolition of this practice (Australia); 105.53 Abolish the death penalty (Côte d'Ivoire); 105.54 Abolish the death penalty, as a continuation of the de facto moratorium applied by the Bahamas (France); 105.55 Impose a countrywide moratorium on the death penalty that immediately halts all sentences and executions, with a view to complete abolition of the death penalty (Iceland); 105.56 Take formal steps to abolish the death penalty, including by declaring an official moratorium on its use and by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (Ireland); 105.57 Consider fully abolishing the death penalty (Italy); 105.58 Continue working for the full abolition of the death penalty as a measure aimed at the recognition of the protection of human rights (Mexico); ¶ 105.59 Establish a formal moratorium on executions and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, with a view to abolishing the death penalty (Namibia); and 105.60 Abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Portugal).

<sup>36</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at pp. 2 and 4.

<sup>37</sup> Penal Code of the Bahamas, ch. 84, § 291, 1927.

<sup>38</sup> *Id.* at ch. 84, § 389, 1927.

<sup>39</sup> Genocide Act of the Bahamas, ch. 85, 1969.

<sup>40</sup> Bahamas Anti-Terrorism Act 2018, art 3(1), Act No. 27 of 2018, August 10, 2018.

<sup>41</sup> Capital Punishment Procedure of the Bahamas, ch. 94, art. 15(1), 1926.

<sup>42</sup> Penal Code of the Bahamas, ch. 84, § 305, 1927.

<sup>43</sup> The Constitution of the Commonwealth of the Bahamas, June 20, 1973, ch. 6, art. 90.

<sup>44</sup> *Id.* at ch. 6, art. 92.

<sup>45</sup> Capital Punishment Procedure of the Bahamas, Ch. 94, §§ 8, 9(2).

<sup>46</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 9, ¶ 96.

<sup>47</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 14, ¶ 105.62 Improve prisoners' detention conditions, health care and nutrition at the Bahamas Department of Corrections in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules (Canada); 105.76 Create an accurate and transparent online case tracking system, in order to ensure that all criminal defendants are afforded fair trial guarantees and equality before the courts consistent with the international obligations of the Bahamas, and consider release from custody and alternatives to pretrial detention (United States of America).

<sup>48</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at pp. 4–5.

<sup>49</sup> U.N. Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), U.N. General Assembly Res. 70/175 (Jan. 8, 2016), Annex, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/443/41/PDF/N1544341.pdf?OpenElement>.

<sup>50</sup> Defence (Execution of Sentences of Death) Regulations of the Bahamas, Ch. 211, Third Schedule, § 3, 1984.

<sup>51</sup> On file with The Advocates for Human Rights.

<sup>52</sup> *Ibid.*

<sup>53</sup> William J. Fielding et al., Conclusions: a Path Forward, in Our Prisoners: A Collection of Papers Arising from a 2016 Survey of Inmates at the Bahamas Department of Correctional Services Facility at Fox Hill (2019), at pp. 184.

<sup>54</sup> U.S. Department of State, *The Bahamas 2021 Human Rights Report, by the U.S. Bureau of Democracy, Human Rights and Labor* available at <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bahamas/>.

<sup>55</sup> Nassau Tribune, *Murphy denies prison maltreatment* (April 12, 2021), available at <http://www.tribune242.com/news/2021/apr/12/murphy-denies-prison-maltreatment/>.

<sup>56</sup> Nico Scavella, *Local Attorney backs US report on prison conditions*, Nassau Tribune (March 15, 2019), available at <http://www.tribune242.com/news/2019/mar/15/local-attorney-backs-us-report-prison-conditions/>.

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<sup>57</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, U.N. Doc. A/HRC/38/9 (April 3, 2018), at pp. 14, ¶ 105.76 Create an accurate and transparent online case tracking system, in order to ensure that all criminal defendants are afforded fair trial guarantees and equality before the courts consistent with the international obligations of the Bahamas, and consider release from custody and alternatives to pretrial detention (United States of America).

<sup>58</sup> U.N. Human Rights Council Rep. of the Working Group on the Universal Periodic Review—The Bahamas, addendum presented by the State under Review, U.N. Doc. A/HRC/38/9/Add. 1 (June 18, 2018), at p. 5.

<sup>59</sup> The Constitution of the Commonwealth of the Bahamas, June 20, 1973, ch. 3, art. 19(2).

<sup>60</sup> *Id.* at ch. 3, art. 20.

<sup>61</sup> The Constitution of the Commonwealth of the Bahamas, June 20, 1973, ch. 3, art. 20.

<sup>62</sup> Amnesty International, *Death Penalty in the English-Speaking Caribbean: A Human Rights Issue*, AMR 05/001/2012, November 30, 2012.

<sup>63</sup> *Id.*

<sup>64</sup> On file with The Advocates for Human Rights.

<sup>65</sup> Amnesty International, *Death Penalty in the English-Speaking Caribbean: A Human Rights Issue*, AMR 05/001/2012, November 30, 2012.

<sup>66</sup> On file with The Advocates for Human Rights.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Amnesty International, *Death Penalty in the English-Speaking Caribbean: A Human Rights Issue*, AMR 05/001/2012, Nov. 30, 2012.