



January 6, 2015

Dr. Emilio Álvarez Icaza
Executive Secretary
Inter-American Commission on Human Rights

***Re: Thematic Hearing Request on Migratory Policies and
Discrimination Against Persons of Haitian Descent in The Bahamas***

Esteemed Dr. Álvarez Icaza,

The Grand Bahama Human Rights Association (GBHRA), the Caribbean Institute for Human Rights (ICADH) and the Robert F. Kennedy Human Rights (RFKHR) write to request a hearing during the 154th Period of Sessions of the Inter-American Commission of Human Rights over the ongoing human rights abuses, and procedural violations which characterize The Bahamas government's new immigration enforcement policy launched on November 1st, 2014.

A. Objective

The objective of this hearing request is to address the human rights violations resulting from The Bahamas' implementation of a new immigration policy on November 1, 2014. Without formally introducing any amendments to the regulatory framework, on September 17, 2014, Minister of Foreign Affairs & Immigration Fred Mitchell announced new immigration restrictions with regard to work permit procedures and authorization for non-residents to stay in The Bahamas. In his official press statement, Minister Mitchell explained:

[w]e will as of 1st November require all persons who live in The Bahamas to have a passport of the country of their nationality. Those people who have been born here will get a particular residence permit which will allow them to work and live here until such time as their status pursuant to any application under the terms of the constitution is decided. This will also allow access of children to school.¹

¹ *Statement by Foreign Affairs Minister Hon. Fred Mitchell on new Immigration policies, Sept. 17, 2014, BahamasIslandsInfo.com, available at* http://www.bahamaislandsinfo.com/index.php?option=com_content&view=article&id=19026:state

However, Minister Mitchell clarified that “[t]his will not apply to the children of those who are here illegally.”² He also announced that the government will no longer issue “Certificates of Identity to non-nationals” born in The Bahamas.³

Until November 1, 2014, the government of The Bahamas issued Certificates of Identity to persons born in the country to foreign parents. The legal status of an individual’s parents was not a limiting factor for receiving a Certificate of Identity. In many cases, this Certificate became an individual’s only identification document, allowing him or her to attend public schools and receive basic social services. However, under the new policy, these Certificates previously issued by the State are no longer valid. All persons, including those who had already obtained a Certificate of Identity are now required to present a valid passport from their parents’ nationality and proof of authorization to stay in the country.

Additionally, the government is also now requiring all persons to apply for a new document of authorization to stay in the country, called a “Belonger’s Permit.” In order to apply for this authorization, the applicant must submit at least thirteen different documents, including official documents of their parent’s nationality.⁴ It is not clear what procedures have been adopted to ensure a fair examination of all applications – let alone economic accessibility and feasibility for applicants – and there has been no public education to raise awareness about this new requirement.

Since the implementation of this new policy, the immigration authorities, along with the Royal Bahamas Defence Force and the Royal Bahamas Police Force (hereafter, “the Police”), began raiding communities and collectively detaining persons suspected of having irregular residency status. According to information gathered from local organizations, as well as from personnel from the Haitian embassy in The Bahamas, on November 1, 2014, the immigration authorities apprehended approximately 400 persons. Approximately 225 of these were either Bahamian citizens or had legal authorization to stay in the country; therefore, after a few days they had to be released.

After November 1, government authorities continued to conduct immigration raids, specifically targeting communities and places with a high presence of Haitian migrants. During the course of the past weeks, several news reports have highlighted the collective apprehension of Haitians and Bahamians of Haitian descent.⁵ Also, it was reported that

ment-by-foreignaffairs-minister-hon-fred-mitchell-on-new-immigrationpolicies&catid=34:Bahamas%20National%20News&Itemid=147

² *Ibid.*

³ *Ibid.*

⁴ See “Belonger’s Permit.”

⁵ See e.g. Bahamas facing immigration problem, AP, Dec. 6, 2014, available at <http://www.nationnews.com/nationnews/news/60360/bahamas-facing-immigration;ThousandsDeportedunderNew>

Bahamas Immigration Laws, TeleSur, Nov. 17, 2014, available at <http://www.telesurtv.net/english/news/Thousands-Deported-under-New-Bahamas-Immigration-Laws-20141117->

the government was detaining small children, some of them without their parents.⁶ Detainees complained of verbal and physical abuse, as well as discriminating behavior and mistreatment of women and children. Some of the detainees were born in The Bahamas and had applied for citizenship, but were still waiting for a response on their applications at the time of their apprehension.

On November 3, the Haitian Ambassador to The Bahamas, Antonio Rodrigue, raised his opposition to the new migration policy and denounced the detention of small children at Carmichael Road Detention Center, as “a practice against international law, specially the Convention on the Rights of Children.”⁷ The Haitian Ambassador also affirmed that the Bahamian authorities did not provide his office with a written official copy of the new migration policies.⁸ In fact, no written official policy has been published.

This new immigration policy has resulted in violations of the right to personal liberty, due process and access to justice, the right to humane treatment, and the principles of non-discrimination and equality before the law, all of which are protected under Articles I, II, XVIII, XXV and XXVI enshrined of the American Declaration on the Rights and Duties of Man, with which The Bahamas is obligated to comply as an OAS Member State. Furthermore, The Bahamas has a special obligation to protect women and children and the new immigration policy has resulted in compound violations of their human rights.

B. Motivation

Amidst reports of indiscriminate raids and arrests and ill-treatment of immigration detainees at Carmichael Road Detention Center, as well as the roundup of persons suspected to be irregularly residing in The Bahamas, we are motivated to request a hearing before the IACHR to address the human rights violations resulting from the implementation of this new immigration policy.

A thematic hearing on this topic would also allow us to highlight the intersectionality of discrimination based on race, nationality, and socio-economic status by law enforcement and in the Bahamian justice system. It would also allow us to analyze the recent negative developments in The Bahamas against regional trends in the treatment of migrants and afro-descendants – in particular the treatment of Haitian migrants and persons of Haitian descent in the Caribbean.

This is not the first time an appeal of this nature has been made to the Honorable

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⁶ Jacqueline Charles, New Bahamas immigration policy detains children, Miami Herald, Nov. 3, 2014, available at

<http://www.miamiherald.com/news/nation-world/world/americas/article3546305.html>.

⁷ Haitian Ambassador on Immigration Raids, NB12, available at

<https://www.youtube.com/watch?v=wqUrhSRgU>.

⁸ Haitian Ambassador calls weekend Immigration exercise unchristian and inhumane, ZNSNetwork, available at

<https://www.youtube.com/watch?v=RIfmCtH2Nfl>.

Commission. In 1987, Frederick R.M. Smith, along with other human rights activists, presented a petition on similar grounds to the Inter-American Commission on Human Rights (See documents, attached). Indeed, what is now occurring in The Bahamas is a part of a decades-long pattern of human rights abuses, periodically exacerbated by successive governments' intent on stoking the fires of popular anti-migrant sentiment to achieve political ends.

C. Summary of Information to be Presented

1. Overview of the Immigration Situation in The Commonwealth of The Bahamas

2. Description of the new policy as “two innocuous administrative measures”

In his speech before the OAS Permanent Council on December 16, 2014, Minister Mitchell described the new immigration policy as “two innocuous administrative measures.”⁹ This is a clearly misleading characterization of the recent efforts to impose new immigration procedures without enactments in parliament, illegally and indiscriminately rounding up, detaining and deporting suspected illegal immigrants and children born in The Bahamas and entitled to citizenship in a manner which violates their fundamental rights under the Bahamas Constitution.

3. Stipulation that all persons should keep documents on them and that non-nationals who live in The Bahamas must hold the passport of their nationality

These arbitrary requirements, which have no basis in law, amount to depriving people of their presumption of innocence, freedom of movement and circumvention of a right specifically guaranteed by the Bahamas Constitution: the right of children born to foreigners in The Bahamas, to apply for Bahamian citizenship after their 18th birthday.

Already, many children to whom this right should apply have been rounded up and removed from the country, most likely never to return, before being afforded the chance to apply.

Many likewise have been in the process of applying, and – worst of all – some have been removed from the country_who applied at the prescribed time, but have been waiting for a reply from the government of The Bahamas.

4. Claim that detentions are on a case by case basis, based on reasonable suspicion

⁹ December 16, 2014 – Special Meeting, OASVideos, https://www.youtube.com/watch?v=987ERE_b_xw.

The GBHRA has collected countless testimonials from Haitians and Haitian-Bahamians about indiscriminate raids on entire communities and checkpoints set up at busy intersections.

These practices amount to casting a net over large groups of people, in violation of their most fundamental rights under The Bahamas Constitution and international law, with a view to sorting citizen from alleged illegal migrant after the fact.

In addition, other aspects of international and constitutionally mandated due process are being violated, including the right to legal counsel, the right to apply for bail, the right to trial and the presumption of innocence.

5. Targeting of Haitians and tacit encouragement of widespread discrimination

Although the Bahamas government insists that the new policy is aimed at no particular ethnicity or nationality, the fact is that the majority of those affected, including the victim of wrongful and illegal detention, beatings and other forms of abuse, have been those of Haitian background.

As a result of the government's disregard of the rule of law, an atmosphere of casual discrimination against Haitians is taking root throughout the public service and wider society.

It is felt that such attitudes have the implicit, if not explicit approval of the government; many feel they are just following Minister Mitchell's lead.

The GBHRA intends to present testimonials of individuals who have been subjected to unusual and unwarranted scrutiny by National Insurance Board officials, have received illegal fees for the treatment of children in the public healthcare system, and have been denied access to public schools.

6. Mischaracterization of conditions at the main migrant detention center

The Carmichael Road Detention Center, since its inception, has been notorious for overcrowding, inhumane and unsanitary conditions, repeated claims of abuse and neglect, lack of medical care and lavatory facilities, insufficient and poor quality food and water, woefully limited accommodations which see up to five detainees sharing a single mattress with no blankets and many others sleeping on the floor of dormitories or even outside, exposed to the elements.

Repeated requests for tours of the facility by members of the local press and human rights groups such as the GBHRA have been denied.

Minister Mitchell himself has publicly acknowledged that there is no basis in law for

the existence of the Carmichael Detention Center. Please see attached press clipping date December 18, 2014.

7. Claims of physical abuse, mistreatment and unlawful detention since Nov. 1, 2014

Details of numerous specific claims of inhuman and degrading treatment, beatings, mental and sexual abuse meted out by Immigration Department and Royal Bahama Defense Force officers over the last several weeks have been widely covered in the local press. Minister Mitchell himself has admitted that the Immigration Department is in possession of at least one formal complaint of such treatment. Many of those who have complained of mistreatment are not in fact migrants, but rather Bahamian citizens illegally detained on tenuous and indefensible grounds.

D. Presenters

Should the Honorable Commission grant this request for a thematic hearing, the requesting organizations will present testimony documenting human rights abuses and stories from individuals directly affected by The Bahamas' new immigration policies, as well as, testimony from international experts outlining the relevant international legal framework and best practices.

E. Conclusion and Petition

The GBHRA, ICADH and RFKHR, respectfully urge the IA Commission's urgent attention to this request. This illegal and ill-advised policy, and the culture of systematic discrimination which underlies it, threaten to visit severe repercussions upon Bahamian society for generations to come, and may even threaten peace, stability and the rule of law in the very near future.

We look forward to making a presentation before the Inter-American Commission on Human Rights during the March 2015 session.

Sincerely,

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President, Grand Bahama Human Rights Association



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