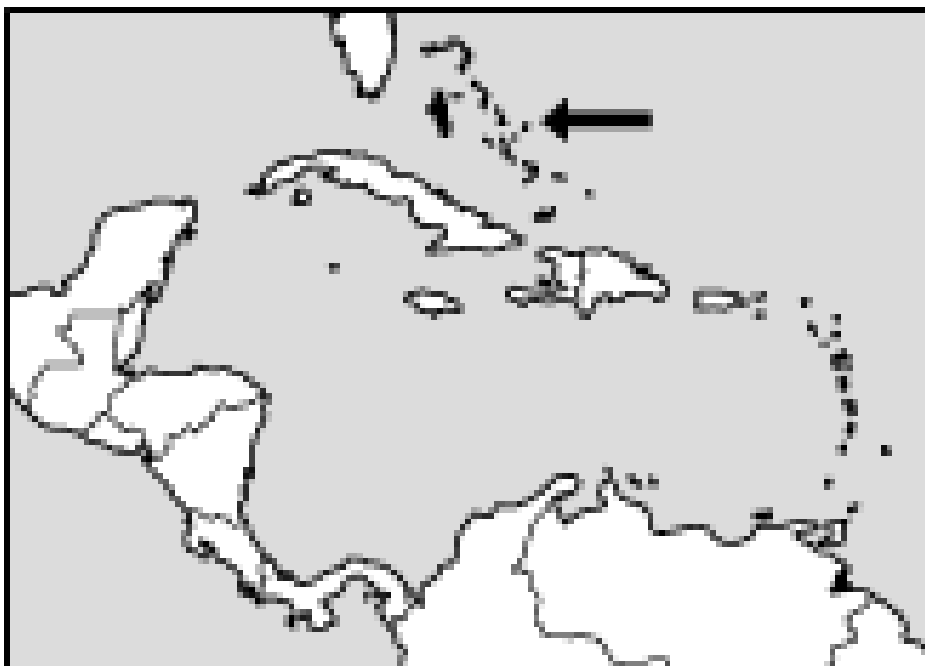


# **BAHAMAS**

## **Forgotten Detainees?**

### **Refugees and Immigration Detainees: Appeals for Action**

#### **Introduction**



The Commonwealth of The Bahamas consists of approximately 700 islands, stretching from the coast of Florida almost to the shores of Haiti. Only about 30 of the islands are inhabited, and the majority of the population is concentrated on the islands of New Providence (Nassau) and Grand Bahama (Freeport).

In August 2002 an Amnesty International delegation visited the Carmichael Immigration Detention Centre in the Bahamas (and other centres of detention) and spoke with Government Ministers and immigration officials. Since then the organisation has continued to monitor the treatment of those detained at the Centre. This report documents a summary of the organisation's key findings and recommendations for action.

This appeals case is published in conjunction with the report *BAHAMAS: Forgotten Detainees – Human Rights in Detention* (AMR 14.005.2003, November 2003). For more information see <http://www.amnesty.org>.

## **Amnesty International's key findings**

Amnesty International has longstanding concerns regarding the treatment of refugees and asylum-seekers in the Bahamas. Successive administrations have failed to ensure that this vulnerable group is protected to the extent required by international law. Government and civil society have recently acknowledged the problems that exist in the Bahamas for prisoners detained in HM Prison Fox Hill. The problems afflicting immigration detainees detained at the Carmichael Detention Centre have received far less attention.

The Carmichael Detention Centre in Nassau, New Providence, holds non-Bahamian nationals arrested for breach of immigration law provisions. Those detained include asylum-seekers. On 13 August 2002 the centre held 212 detainees of which 40 were female.

Amnesty International's key findings regarding conditions at the Carmichael Detention Centre include:

- Food and drink provision is inadequate; detainees appear to be supplied with only two nutritionally inadequate meals and allege they are not provided with drinking water
- Some detainees did not have mattresses and had to sleep on the floor.
- The detainees appeared to lack lavatory paper, soap, toothbrushes or toothpaste, towels and soap powder.
- Detainees are not allowed the space to exercise (although this could be provided in the large flat ground surrounding the four huts where detainees are detained).
- Detainees alleged that visiting rights had been restricted and that visits lasted five minutes. Access to the telephone is restricted to those detainees who can pay for it.
- There have been allegations of ill-treatment including sexual abuse.
- Medical care appears insufficient.
- The detention and treatment of children in the Centre breaches the Bahamas' international legal obligations and is cause for serious concern.

In Amnesty International's view, prolonged, arbitrary detention, the poor conditions observed at the Centre and reports of ill-treatment, amount in many cases to cruel, inhuman or degrading treatment.

Amnesty International believes that urgent action is needed to end arbitrary detention of immigration detainees, investigate reports of ill-treatment and torture and better protect the rights of asylum-seekers and other migrants. The organisation is especially concerned about the rights of children; detained for inordinately long periods of time without regard to any of their rights, particularly rights to education, exercise and contact with family, with the likelihood of a severely detrimental effect on the children concerned.

# **amnesty international**

## **Children & Families in Detention: Punished for Committing no Crime**



Children detained alongside female detainees line up for roll call ©Amnesty International.

Amnesty International is seriously concerned about the treatment of children detained in the Carmichael Detention Centre. In the organisation's view, their conditions of detention amount to cruel, inhuman and degrading treatment and places the Bahamas in serious breach of the UN Convention on the Rights of the Child.<sup>1</sup> Amnesty International is calling for urgent measures to be taken to improve this situation.

The organisation's key findings regarding the treatment of children are:


- Children's development is adversely affected the secure nature of the Detention Centre and by the uncertainty surrounding length of stay.
- Children are detained alongside adults. Because of this, they are at risk of abuse.
- Families are split up in detention. Children under 14 are detained with female detainees and male children over the age of 14 are detained with adult men. They are prohibited from contacting relatives detained in adjoining huts. Some detainees told Amnesty International that they had been punished for attempting to talk to family members detained elsewhere in the Centre.

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<sup>1</sup> An international convention ratified by all states (except the USA and Somalia) including the Bahamas.

- Children, some of whom may spend many months in detention, are not provided with any form of education.
- No play or leisure areas are available for children. Televisions and books, reportedly previously allowed, have been removed.
- Children have reportedly been denied access to adequate mental and physical health care.
- Detained children contact with the outside world is limited and social interaction restricted. This severely limits their personal, social and learning experiences.
- Many parents, in common with other detainees, report difficulty in accessing competent legal advice and are unable to obtain timely information about the reason for their detention or the progress of their cases, heightening insecurity and anxiety.

**PLEASE WRITE TO:**

 Deputy Prime Minister and Minister for National Security The Hon. Cynthia Pratt P.O. Box Nassau THE BAHAMAS Fax: (242)	Minister for Labour & Immigration The Hon. Vincent Peet PO Box 3008 Nassau THE BAHAMAS Fax: (242)	Minister for Education The Hon. Alfred Sears PO Box N3913 Shirley Street Nassau THE BAHAMAS Fax: (242) 322 8140
<p>▶ Urge the Government to instigate an immediate review on the use of detention for children at the Carmichael Detention Centre with a view to ensuring compliance with the UN Convention on the Rights of the Child and other relevant instruments. The detention of children should cease. The review should ensure that in any case detention is used only as a last resort and for the shortest possible time.</p>		
<p>▶ Urge the Government to ensure that pending the removal of children from detention:</p>		
<p>✓ Children and their families are moved to appropriate facilities with well-trained staff equipped with the skills to meet the unique needs of children.</p>		
<p>✓ Detained children at the Carmichael Detention Centre are granted immediate and unconditional access to parents (or guardians.)</p>		
<p>✓ The practice of detaining children with adults (apart from family members) immediately ceases.</p>		
<p>✓ Children have immediate and unconditional access to decent and humane conditions including to basic needs, healthcare, suitable pre-school, school-age and adult education at the level provided in Bahamian schools, health, play and recreational facilities.</p>		
<p>✓ Links should be initiated with relevant outside voluntary and statutory agencies, including schools and education facilities, to facilitate this process and explore how barriers to provision can be tackled.</p>		

# **amnesty international**

## **Victimizing the Vulnerable: Allegations of Ill-treatment and Sexual Abuse at Carmichael Detention Centre**



Soldiers patrol the inside of the Carmichael Detention Centre ©Amnesty International.

Amnesty International is very concerned at reports that some detainees at the Carmichael Detention Centre have allegedly been victims of physical or, in some cases, sexual abuse whilst in detention. Amnesty International interviewed detainees extensively at the centre and believes that the reports received are credible. Reports of ill-treatment were brought to the attention of the authorities who thus far have failed to respond to requests for information on investigations.

- Some detainees alleged that they had been beaten by Royal Bahamas Defence Force soldiers with batons or tamarind branches. Several named the same officer and cited one shift in particular.
- Other detainees alleged that they had been forced to sit out in the hot midday sun for extended periods and to eat food off the ground, reportedly as a punitive measure for perceived infractions of 'rules'.
- Amnesty International received allegations of the rape of two female detainees and sexual abuse of others, including of male staff watching women naked. There were also allegations of 'consensual' sexual conduct between female detainees and male guards. Amnesty International considers that in any form of custodial environment, allegedly 'consensual' sexual relations cannot be truly

consensual because of the power that staff have over inmates, and that staff-inmate sexual contact should be prohibited regardless of inmate consent.

**PLEASE WRITE TO:**

- |   |   |   |
|---|---|---|
| <p>✉ Deputy Prime Minister and<br/>Minister for National Security<br/>The Hon. Cynthia Pratt<br/>P.O. Box 3217<br/>Nassau<br/>THE BAHAMAS</p> | <p>Minister for Labour &amp; Immigration<br/>The Hon. Vincent Peet<br/>P.O. Box 3008<br/>Nassau<br/>THE BAHAMAS</p> | <p>Minister for Foreign Affairs<br/>The Hon. F. Mitchell<br/>P.O. Box 3746<br/>Nassau<br/>THE BAHAMAS</p> |
|---|---|---|
- ▶ Urge the Ministers to investigate all allegations of sexual violence and ill-treatment. They should:
    - ✓ Protect detainees, witnesses and those conducting investigations from violence and intimidation that may arise in the context of an investigation.
    - ✓ Give detainees immediate access to independent, impartial and competent medical and legal experts and copies of relevant laws and regulations.
    - ✓ Accept independent medical or psychiatric reports as admissible evidence to an investigation and open detention records for scrutiny by detainees and their lawyers.
    - ✓ Bring those responsible for human rights violations, including those who order them, to justice.
    - ✓ Provide victims with compensation and rehabilitation even if they are not longer in the Bahamas.
  - ▶ Urge Ministers to end cross-gender guarding of female detainees by male officials. The practice of guarding within the Detention Centre by Bahamas Defence Force personnel should also be reviewed.
  - ▶ Urge Ministers to ensure that all forms of ill-treatment abuse are explicitly prohibited in line with international human rights standards and law, including physical and sexual assault and rape and all sexual contact between staff and detainees.
  - ▶ Urge Ministers to create an independent Inspectorate Body to monitor the Centre and hear confidential complaints from detainees and staff.

## Q&A: Refugees

### ***"10 minutes to flee". What is a refugee?***

- \* Refugees flee their homes because of serious human rights abuses.
- \* They are forced to abandon their homes, friends and livelihoods.
- \* Most refugees are women and children.

### ***"Illegal immigrants" and refugees***

- \* Those who enter a country in violation of national immigration laws still have fundamental human rights which must be respected.
- \* Refugees have additional safeguards under international law because of their particular situation of heightened vulnerability.

### ***Are refugees arriving without visas illegal entrants?***

- \* A person fleeing persecution is entitled to apply for asylum in another country.
- \* This is a basic human right that all people are entitled to.
- \* Refugees often have no real choice but to arrive in the Bahamas without proper documentation in order to seek safety. Many have had to leave their countries in haste. Oppressive authorities may actively prevent normal exit from their countries.
- \* If asylum seekers in detention are suspected of committing a criminal offence, they should be formally charged, have access to counsel, appear before a judge and be brought to justice before an independent tribunal.
- \* According to the United Nations High Commissioner for Refugees the detention of asylum seekers should normally be avoided and should not be automatic or unduly prolonged.

### ***Economic migrants or refugees?***

- \* Amnesty International acknowledges that many people seeking to come to the Bahamas may be economic migrants and that the country has limited economic resources. Amnesty International also acknowledges that the Bahamas has a right to maintain immigration control.
- \* The Government has given financial assistance to Haiti and recognised the need to address the root causes of mixed flows and to establish legal routes for those seeking work in the Bahamas.
- \* However these welcome measures are not a substitute for the right to seek asylum. Nor should any measures taken by the Government inhibit the enjoyment by economic migrants of their fundamental human rights.

### ***"I'm afraid refugees will soon overrun the Bahamas"***

- \* Around the world, the burden of assisting refugees is borne mostly by the world's poorest nations. For example, currently Iran and Pakistan each host over a million Afghan refugees each year. In 2002, only four persons were recommended for refugee status in the Bahamas.

## Q&A

### When is detention of asylum seekers permitted under international law?

- \* International human rights law requires that Governments do not detain people automatically or beyond a reasonable length of time.
- \* The UNHCR *Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers* emphasise that in the case of asylum-seekers, detention "may exceptionally be resorted to as long as this is clearly prescribed by a national law which is in conformity with the general norms and principles of international human rights law."
- \* Instances where initial detention of some individuals may be necessary and permissible could include the verification of identity.
- \* However there is always a presumption against detention and alternatives to detention should always be considered (such as reporting requirements or open centres).
- \* In any case, if detained, asylum-seekers should be entitled to minimum procedural guarantees.
- \* Minors who are asylum-seekers should **not** be detained.
- \* Particular attention should be given to vulnerable categories including unaccompanied elderly persons, pregnant or nursing women and torture or trauma victims.
- \* Being stateless and therefore not having a country to which claim can be made for travel documents should not lead to indefinite detention.

### What is "arbitrary detention"?

- \* Arbitrary detention occurs when someone is held in custody in violation of international human rights standards - or when detention results from legislation or practices that violate these standards.
- \* According to the *UN Working Group on Arbitrary Detention*, the holding of immigrants and asylum seekers in prolonged administrative custody without the possibility of administrative or judicial remedy may amount to arbitrary detention.
- \* The *UN Working Group on Arbitrary Detention* has said that guarantees are needed to prevent such detention from being arbitrary including, *inter alia*, communication with the outside world, access to a judicial authority and provision of information about applicable internal regulations.
- \* The UNHCR *Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers* emphasise that "for detention of asylum-seekers to be lawful and not arbitrary, it must comply not only with the applicable national law, but with Article 31 of the Convention and international law... be exercised in a non-discriminatory manner and must be subject to judicial or administrative review to ensure that it continues to be necessary in the circumstances, with the possibility for release where no grounds for its continuation exist."

## **AI's Key Recommendations to the Bahamas**

### **Asylum-seekers and immigration detainees**

- Codify Refugee Convention and international human rights standards into law
- Immediately end arbitrary detention and introduce safeguards for detention
- End use of detention for asylum-seekers save in exceptional circumstances
- End ill-treatment and torture in detention
- Introduce special protection for children and families
- Embark on public education campaign

### **Prison conditions and treatment**

- Tackle overcrowding through legislative, judicial and other measures
- Urgently phase out the use of 'slopping out'
- Allow all prisoners access to adequate food, water, sanitation, washing facilities, health care, clean clothing and bedding, exercise, visits and rehabilitation activities
- Detain untried and convicted prisoners and children and adults separately
- Improve investigation of allegations of ill-treatment and deaths in custody
- Improve working conditions for prison officers and management

### **Policing**

- Review laws and policy to ensure compliance with international human rights standards
- Train RBDF officers in procedures on use of force and firearms, arrest, detention and interrogation
- Improve organisational culture in line with human rights standards
- Introduce sufficient oversight and accountability to investigate alleged abuses.