

BAHAMAS¹

I. General Information

The Bahamas is a string of 700 islands (thirty of them inhabited) and 2,400 islets. It has a total surface area of 13,880 km². According to ECLAC, in 2005 the country's population was 323,000,² a 7.3% increase over 2000, and a 6.5% increase is projected for the year 2010. ECLAC's *Statistical Yearbook for Latin America and the Caribbean* reports that 90% of the population lives in urban areas.³ The same source states that in 2005 the age distribution of the country's population was as follows: 0-14, 28.3%; 15-34, 33.6%; 35-49, 20.6%; 11.2% between 50 and 64; and 6.2% over the age of 65.

Statistics suggest that in 2001, 9.3% of the population was living in poverty and 1% lived in extreme poverty.⁴ Bahamas is ranked 52nd on the High Human Development Index⁵ and earned a Gini score of 0.57.⁶ In 2003, the unemployment rate was 10.8%.⁷ It is estimated that 4.2% of Bahamians over the age of 15 were illiterate in 2005.⁸

In 2005, the country's GNP was US\$4.9 billion, which represented an increase of about 5.67% over the year 2000.⁹ Per capita GDP in 2002 was US\$15,800, or 2.7% higher than in the year 2000.¹⁰ The GDP per capita in 2004 (rated for purchasing power parity) was US\$ 17,843.¹¹

II. Judicial System Highlights

- The Judicial Branch budget for 2005 was US\$ 16,374,762.¹² This represents a 39% increase over 2000. The average annual rate of growth for the period was 12%.
- In 2006-2007, the Judicial Branch budget included a 13.1% increase for the Justice Department, a 12.6% increase for the Magistrates Courts, and a 10.8% increase for the Court of Appeal.¹³
- In 2006, there were 11.6 judges per 100,000 inhabitants.
- In 2005, the Attorney General was allocated a budget of US\$ 8,861,908.¹⁴
- That same year, the police force budget was US\$ 100,981,984.
- Also, there were 2,200 police officers, or 681.1 per 100,000 inhabitants.
- The incarceration rate for 2005 was 464.3 inmates per 100,000 inhabitants.

III. Institutions

1. Overall Structure and Operation of the Judicial System

Bahamas is a member state of CARICOM and the British Commonwealth. It has a common law

tradition and an adversarial justice system. The court of final appeal is the Judicial Committee of the Privy Council in the UK.

This country does not form part of the CARICOM Single Market and Economy (CSME) or the agreement for the Caribbean Court of Justice, and thus remains under the jurisdiction of the Judicial Committee of the Privy Council.

2. Judicial Branch¹⁵

2.1. Institutional Structure

The Bahamian Judicial Branch is composed of a Court of Appeal with unlimited jurisdiction over appeals of criminal, civil, constitutional and industrial relations cases.

It also has a Supreme Court with unlimited jurisdiction over criminal and civil cases and Magistrates Courts with jurisdiction limited by statute for hearing and deciding minor cases in the civil, criminal, family law, and juvenile areas.

The Industrial Relations Tribunal handles disputes between workers and employers.

Also, there are Family Island Administrators who serve as magistrates and exercise summary jurisdiction in minor criminal and civil matters involving damages that do not exceed US\$400.

¹ This chapter used information from the Introduction to the Caribbean Community contained in this document; the *Report on Judicial Systems in the Americas 2004-2005*; the *2005 Annual Report of the Supreme Court of the Bahamas*; "The Opening of the Legal Year – 10 January 2007"; the country's national Budget (Government of the Bahamas, <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>); *Country Reports on Human Rights Practices, 2005*, published by the U.S. Bureau of Democracy, Human Rights and Labor; the World Bank report "Doing Business" (2006); and data gathered via Internet.

2.1. Government and Management¹⁶

The Judicial and Legal Services Commission makes recommendations regarding the appointment of judges to the Governor General.

The Governor General appoints the Chief Justice and other judges upon the recommendation of the Prime Minister and in consultation with the opposition leader. He or she also appoints Supreme Court justices, registrars, and magistrates.

2.3. Reform Projects Underway

New Supreme Court civil procedures were implemented in July 2004 in order to streamline and reduce the level of formality in civil procedures, incorporating proactive case management faculties, pretrial conferences, and alternative dispute resolution mechanisms.

The introduction of alternative dispute mechanisms is noteworthy in this reform.

2.4. Human Resources

By late 2006, there were 38 judges in the Bahamas. Six worked in the Court of Appeal, 12 in the Supreme Court, and 20 in the Magistrates' Courts.¹⁷ This does not include members of the Industrial Relations Tribunal.

Based on data from 2006 that puts the country's total population at 327,000, there were 11.6 judges per 100,000 inhabitants that year.

2.5. Budget

In 2005, the Judicial Branch budget was US\$16,374,762.¹⁸ From 2000 to 2005 the budget grew by 39%, with an average annual growth of 12% for the period.

Table 1
Judicial Branch Budget

| | |
|------|-----------------|
| 2002 | US \$11,792,504 |
| 2003 | US \$12,141,269 |
| 2004 | US \$15,252,943 |
| 2005 | US \$16,374,762 |

Source: National Budget of the Bahamas.

In 2006-2007, the Judicial Branch budget included increases of 13.1% for the Justice Department, 12.6% for the Magistrates Courts, and 10.8% for the Court of Appeal.¹⁹

2.6. Case Movement

In 2005, of the cases heard by the Magistrates Courts in the judicial district of Grand Bahama, 41% were criminal, 30% were civil, 17% were transit-related, 8% involved juveniles, and 4% involved domestic disputes.²⁰

Between 1990 and 2005, 1,400 appeals of cases originally heard in the Magistrates Courts were filed in the criminal jurisdiction. Twenty-one were from 2005 and 12 were from 2004.

Hearings were held in 120 cases, with 112 found inadmissible and two accepted for consideration.

Between 1998 and 2005, 481 appeals of civil matters from the Magistrates Courts were filed, 38 from 2005 and 49 from 2004.

Hearings were held in 133 cases; among these, 1 was admissible and 116 were found inadmissible.

Between 1993 and 2005, the Supreme Court heard 186 criminal cases. Of these, 23 led to convictions and 18 to findings of not guilty. A decision was made to suspend the process in 97 cases. In addition, five cases were dismissed,

Table 2
Criminal Appeals from the Magistrates Courts

| Year | Cases filed | Cases handled through a hearing | Appeals allowed | Appeals rejected | Appeals dismissed | Postponements |
|-------------|-------------|---------------------------------|-----------------|------------------|-------------------|---------------|
| 2005 | 21 | 2 | 0 | 2 | 0 | 0 |
| 1990 - 2005 | 1,400 | 120 | 2 | 112 | 1 | 5 |

Source: Supreme Court, Annual Report 2005.

Table 3
Civil Appeals from the Magistrates Courts

| Year | Cases filed | Cases handled through a hearing | Appeals allowed | Appeals rejected | Appeals dismissed |
|-------------|-------------|---------------------------------|-----------------|------------------|-------------------|
| 2005 | 38 | 10 | 0 | 7 | 2 |
| 1998 – 2005 | 481 | 133 | 1 | 116 | 5 |

Source: Supreme Court, Annual Report 2005.

Table 4
Cases in the Criminal Division of the Supreme Court

| Year | Hearings Held | Convictions | Findings of Not Guilty | Nolle Prosequi | Dismissals | Taken under advisement | Retrial | Rejected | Bench warrants issued |
|-------|---------------|-------------|------------------------|----------------|------------|------------------------|---------|----------|-----------------------|
| 2005 | 11 | 1 | 4 | 6 | 0 | 0 | 0 | 0 | 0 |
| Total | 186 | 22 | 18 | 97 | 5 | 8 | 3 | 1 | 32 |

Source: Supreme Court, Annual Report 2005.

Table 5
Categories of Criminal Offenses Filed in 2002-2003

| Type of Crime | Result of the Appeal | | Total |
|---------------|----------------------|---------|-------|
| | Dismissal | Allowed | |
| Homicide | 2 | 3 | 5 |
| Armed Robbery | 4 | 2 | 6 |
| Manslaughter | 1 | 2 | 3 |
| Total | 7 | 7 | 14 |

Source: Court of Appeal. Annual Report, 2003.

eight taken under advisement, three forwarded for retrial, one was rejected, and in 32 cases bench warrants were issued.

Fourteen appeals of criminal cases involving serious matters were presented before the Court of Appeal in 2002 and 2003. Half were accepted and half dismissed. Six (42.8%) involved armed robberies, five (35.7%) murders, and three (21.5%) manslaughter.

3. Attorney General and Minister of Legal Affairs²¹

The Attorney General sets government policy in the area of justice, manages and coordinates government activities, and provides the State with legal advice and representation. The Attorney General's Office is comprised of the Department

of Legal Matters, the Director of Public Prosecutions, and the Department of Justice.

In 2005, the budget for the Attorney General's Office was US\$8,861,908.²² Between 2002 and 2005, the budget dropped by 2%, though the average growth rate was 1%.

Table 6
Budget of the Office of the Attorney General

| | |
|------|---------------|
| 2002 | US\$9,018,478 |
| 2003 | US\$7,052,573 |
| 2004 | US\$8,789,378 |
| 2005 | US\$8,861,908 |

Source: National Budget of the Bahamas.

In 2006-2007, the budget included a 21.3% increase for the Office of the Attorney General and Minister of Legal Affairs.²³

3.1. Office of the Director of Public Prosecution

This department, which falls under the Attorney General's Office, is comprised of the Director of Public Prosecution (DPP) and 21 attorneys and legal advisors. This division is responsible for public prosecution of criminal acts. Its most important responsibilities and activities are:

- To prosecute all criminal offenses before the Supreme Court and to supervise cases before magistrates;
- To file petitions for appeal in criminal matters, including appeals from the Magistrates' Court to the Supreme Court or the Court of Appeal, appeals from the Supreme Court to the Court of Appeal, and appeals from the Court of Appeal to the Privy Council;
- To participate in all proceedings for constitutional or judicial review of criminal matters on behalf of the Crown;
- To represent foreign governments in extradition proceedings based on treaties between the Bahamas and other nations; and
- To supervise the investigation and prosecution of cases of money laundering, as provided for in the Criminal Procedure Act of 2000.

4. Police²⁴

4.1. Institutional Structure

The Royal Bahamas Police Force is led by the Police Commissioner and is responsible for maintaining safety. It is under the purview of the Deputy Prime Minister and Ministry of National Security.

The Police Complaints and Discipline Unit handles and investigates complaints regarding the work of police officers. In 2005, the unit received 197 such reports.

In 2006, the police force established the following objectives:²⁵

- Training
- Reducing crime
- Increasing public safety and security on the roadways
- Increasing the efficiency of the Fire Department
- Improving community relations
- Management and accountability

4.2. Personnel

In 2005, the Police Force had 2,200 members, or 681.1 officers per 100,000 inhabitants.

4.3. Budget

In 2005, the Bahamian Police received a budget of US\$100,981,984. Of this amount, US\$7,006,044 went to investments.²⁶

The rate of growth between 2002 and 2005 was 15%, with an average annual increase of 5%.

Table 7
Royal Bahamas Police System Budget

| | |
|------|-----------------|
| 2002 | US\$ 88,171,535 |
| 2003 | US\$ 97,765,040 |
| 2004 | US\$ 97,602,354 |
| 2005 | US\$100,981,984 |

Source: Bahamas National Budget.

The 2006-2007 national budget included a 15.4% increase for the police.²⁷

IV. Criminal Procedure

1. Description

Criminal procedures are adversarial and guided by the principles of immediacy and the use of oral procedures.

2. Prison Situation²⁸

The Bahamas Prison Service forms part of the Ministry of National Security and is responsible for overseeing the country's prison system. According to *Country Reports on Human Rights Practices – 2004*, conditions at the country's only prison, Her Majesty's Prison at Fox Hill, are difficult and overcrowding is a problem.

In 2005 there were 1,500 inmates nationwide. This represents a rate of 464.3 inmates per 100,000 inhabitants. The pretrial custody section has a capacity of 300 but held 650 people who were awaiting trial. Some shared cells with inmates who had already been convicted.

2.1. Budget

In 2005, the prison system budget was US\$18,699,017, with US\$1,850,000 of this amount used for investments.²⁹ Between 2002 and 2005, this budget increased by 37%, with an average growth rate of 11%.

Table 8
Prison System Budget

| | |
|------|----------------|
| 2002 | US\$13,666,453 |
| 2003 | US\$14,991,657 |
| 2004 | US\$16,703,267 |
| 2005 | US\$18,699,017 |

3. Crime Rate

In 2006-2007, the national budget included a 7.1% increase for the prison service.³⁰ According to San Diego University’s *Comparative Criminology Tour of the World*, the Bahamas is a major transit point for South American cocaine and Jamaican marijuana en route to the U.S. This makes its banking industry vulnerable to money laundering and leads to high rates of property crime and violent crime. According to the same source, 16,301 crimes against property and 1,473 robberies were committed in the Bahamas in 1999 and 74 murders were committed in 2000. Crime rates per 100,000 inhabitants stood at 25 for murder, 5,473 for crimes against property and 495 for robbery. However, it is important to note that the crime rate began to drop in 2001, a year that ended with a total of 44 homicides. According to a comprehensive review of crime in the Bahamas in 2001 that was presented by the Police Commissioner, there was a significant drop of 17% in all major areas.³¹

The *Overseas Security Advisory Council* reports that crime in the Bahamas fell by 9% between 2003 and 2004. However, drug-related crime does continue to be a problem. Raymond Gibson, Superintendent of the country’s Drug Enforcement Unit, reported that 1,606 persons were arrested on drug-related charges in 2004, up from 1,432 in 2003.³²

V. Civil Procedure

Civil procedures are adversarial and are guided by the principles of immediacy and the use of oral procedures.

VI. Legal Profession

The legal profession in the Bahamas, including training and governance, is the same as in other Caribbean commonwealth nations with a common law tradition.

Licensed attorneys are considered counsel and attorney and officers of the Supreme Court. The executive instance of the Bahamas Bar Association is known as the Council, and it is responsible for deciding which applicants are qualified to practice law.³³

In 2006, 54 people were admitted as counsel and attorney, bringing the total members of the Bar to 832,³⁴ or a rate of 254.4 per 100,000 inhabitants.

VII. Reform Projects

There is an ongoing effort to reform the civil procedures of the Supreme Court. The goal is to streamline and de-formalize civil procedures. Proactive case management powers, pretrial conferences and dispute resolution conferences have also been introduced.

VIII. Websites

Court of Appeal of Bahamas
<http://www.courtofappeal.org.bs>

This Website provides information on the mission, operation, and organization of this court. It contains news, publications, job opportunities, links to related organizations and topics, and other sections. English language only.

Supreme Court of Bahamas
<http://www.courts.gov.bs>

Information on the mission, operation, and organization of the Supreme Court. The Website offers news, publications, links to related organizations and topics, and other sections. English language only.

Official Website of the Bahamas
<http://www.bahamas.gov.bs>

General information on the country and each of its islands. Government and government branches (Executive, Judicial and Legislative: functions, structure and organization). Directory. Business and finance. News, publications, and links. English language only.

Government of Bahamas

<http://www.bahamasnet.com/government>

This English-language Website contains the Constitution of the Bahamas as well as lists of ministers, senators and congress people. Links to tourist sites and information on the islands of the Bahamas.

Royal Bahamas Police Force

<http://www.rbpf.org>

Institutional information, news, history and police divisions. The Website's "Most Wanted" section and a mini-site for children are under construction. English language only.

IX. Directory**Deputy Prime Minister and Minister of National Security**

Churchill Building
Bay Street
P.O. Box N-3217
Nassau, N.P.
Phone: (242) 356-6792
Fax: (242) 356-6087

Attorney General and Ministry of Legal Affairs

Shirley Street
P.O. Box N-3913
Nassau, N.P.
Phone: (242) 502-0400
Fax: (242) 322-8491

Registrar of the Supreme Court

East Hill Street
3rd Floor, Post Office Building
P.O. Box N-3007
Nassau, N.P.
Phone: (242) 322-4348
Fax: (242) 356-4179

Royal Bahamas Police Force

P.O. Box N-458 East Street,
Nassau
Phone: (242) 322-4444
Fax: (242) 356-4084
<http://www.rbpf.org>

Bahamas Prison Service

Ministry of National Security
Her Majesty's Prison
Fox Hill
PO Box N-504
Nassau
Phone: (242) 364 4573
Fax: (242) 324 4941

Judicial and Legal Services Commission

Parliament Street & Bank Lane
P.O. Box N 8167
Nassau

Phone: (242) 322-3315

Fax: (242) 326-6463

Notes

- ² ECLAC, *Social Panorama of Latin America*, 2006.
- ³ ECLAC, *Statistical Yearbook of Latin America and the Caribbean 2005*.
- ⁴ CARIBANK, Annual Economic Review 2005. See <http://www.caribank.org>
- ⁵ The UNDP's Human Development Index classifies countries into three groups: high human development (rating of 0.8 or over), medium human development (rating of between 0.5 and 0.8) and low human development (rating of 0.5 or less). According to the 2006 version of the *Human Development Report*, 63 countries qualify for the first group, 83 for the second, and 31 for the third. See <http://undp.org>
- ⁶ The Gini Coefficient is used to measure concentration of wealth. It is expressed as a value between 0 and 1 where 0 represents perfect equality (everyone has the same income) and 1 represents absolute inequality (one person has all of the wealth and the rest have none). ECLAC, Poverty Statistics Seminar 7-9, Santiago de Chile.
- ⁷ CARIBANK, Annual Economic Review 2005. See <http://www.caribank.org>
- ⁸ ECLAC, *Statistical Yearbook of Latin America and the Caribbean 2005*.
- ⁹ World Bank, *World Development Indicators*. See <http://devdata.worldbank.org/data-query>
- ¹⁰ World Bank, *World Development Indicators*, *op. cit.*
- ¹¹ UNDP, *Human Development Report*, *op. cit.*
- ¹² National Budget, Government of the Bahamas. See <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>.
- ¹³ Ministry of Finance, *2006-2007 Budget Communication*, May 2006, pp. 37-38. See www.bahamas.gov.bs
- ¹⁴ National Budget, Government of the Bahamas. See <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>
- ¹⁵ This point is based on the 2005 Supreme Court Annual Report; the "Opening of the Legal Year – 10 January 2007"; *Report on Judicial Systems in the Americas 2004-2005*; and information on the judicial structure provided by the Government of the Bahamas. See <http://www.bahamas.gov.bs/>
- ¹⁶ *Ibid*, *op. cit.*, p. 6.
- ¹⁷ See <http://www.bahamas.gov.bs/bahamasweb/home.nsf>
- ¹⁸ National Budget, Government of the Bahamas. See: <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>
- ¹⁹ Ministry of Finance, *2006-2007 Budget Communication*, May 2006, pp. 37-38. See www.bahamas.gov.bs.
- ²⁰ Supreme Court, *Annual Report 2005*, p. 99.
- ²¹ This section is based on the *Report on Judicial Systems in the Americas 2004-2005*, *op. cit.*
- ²² National Budget, Government of the Bahamas. See <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>
- ²³ Ministry of Finance, *2006-2007 Budget Communication*, May 2006, pp. 37-38. See: www.bahamas.gov.bs

- ²⁴ This section is based on the U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices*, 2005.
- ²⁵ See <http://www.rbpf.org>
- ²⁶ National Budget, Government of the Bahamas. See <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>
- ²⁷ *Ministry of Finance, 2006-2007 Budget Communication*, May 2006, pp. 37-38. See: www.bahamas.gov.bs
- ²⁸ This chapter is based on the document published by the U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices – 2005*.
- ²⁹ Government of the Bahamas National Budget. See: <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/271F56591886027606256ED3005E617C>
- ³⁰ *Ministry of Finance, 2006–2007 Budget Communication*, May 2006, pp. 37-38. See: www.bahamas.gov.bs
- ³¹ JSCA, *Report on Judicial Systems in the Americas 2004-2005*, *op. cit.* and <http://www-rohan.sdsu.edu/faculty/rwinslow/namerica/bahamas.html>.
- ³² JSCA, *Report on Judicial Systems in the Americas 2004-2005*, *op. cit.* and <http://www.ds-osac.org/News/story.cfm?contentID=22237&print>
- ³³ Overview of the Bahamian Legal System. See: http://www.lexbahamas.com/overview_of_the_bahamian_legal_s.htm.
- ³⁴ “Opening of the Legal Year – 10 January 2007,” p. 10.