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## **Report of the Working Group on the Universal Periodic Review\***

### **Nauru**

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\* The annex to the present report is circulated as received.

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its tenth session from 24 January to 4 February 2011. The review of Nauru was held at the 1st meeting, on 24 January 2011. The delegation of Nauru was headed by Mathew Batsiua, MP, Minister for Health, Justice and Sports. At its 5th meeting, held on 26 January 2011, the Working Group adopted the report on Nauru.
2. On 21 June 2010, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Nauru: Hungary, Malaysia and Switzerland.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Nauru:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/10/NRU/1 and A/HRC/WG.6/10/NRU/1/Corr.1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/10/NRU/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/10/NRU/3).
4. A list of questions prepared in advance by the Czech Republic, Denmark, France, Latvia, Maldives, Slovenia, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to Nauru through the troika. These questions are available on the extranet of the UPR.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. Mr. Batsiua, MP, Minister for Health, Justice and Sports introduced the Nauruan delegation and acknowledged with gratitude the support of the Secretariat of the Pacific Community. The delegation of Nauru stated that Nauruan people had traditionally respected fundamental beliefs, which today were translated into international fundamental rights and freedoms. However, Nauru, the world's smallest independent Republic, was not without its own issues and challenges.
6. The Constitution of Nauru was the source of its fundamental human rights principles. In 2004, the Government embarked upon a comprehensive review of the Constitution, which involved a very extensive public awareness and consultation campaign. It resulted in two draft laws, which received the unanimous support of the Parliament in 2009. The second of these Bills, upon being passed by Parliament, needed to be further endorsed through a referendum. However, in February 2010, voters rejected the proposed amendments, which would have significantly amended Part II of the Constitution, containing the bill of rights provisions. It would have notably protected the rights of disabled persons and environmental rights, prohibited the death penalty, guaranteed children's rights, recognized the right to receive education and health, and enshrined the right to receive maternity leave and the right to access information.
7. Nauru mentioned that the failure of the referendum was currently under review and being analysed by a Standing Committee of Parliament known as the Constitutional Review Committee. The head of the delegation stated that he thought that the rejection of the

referendum amendments likely had more to do with the complexity and number of amendments than with any concern on the part of Nauruans with the proposed changes. Nauru was committed to exploring alternative approaches which might yet see a successful referendum.

8. In the meantime, Nauru was pushing forward with those constitutional amendments which did not require approval through a referendum. The relevant Bill was tabled in Parliament in December 2010. It was hoped that it would enter into force at the time of the next general elections. In their current form, the amendments introduce the concept of a leadership code and create the office of Ombudsman. The powers of the President and Cabinet during times of emergency would be tightened.

9. The delegation stated that the State of Emergency, declared in June 2010, was lifted on 1 November 2010. Nauru looked forward to a period of stability in the remaining two years and the 2011 legislative agenda would aim to address the need for major reform in several sectors. This included the progress of the review of the Nauruan Criminal Code, much of which has remained unchanged since 1899. With the assistance of the Government of Australia, this major project was expected to take three years and to introduce significant changes in how Nauru addressed sexual offences and those arising from domestic violence. The decriminalization of homosexual activity between consenting adults was under active consideration as part of this review.

10. Nauru was conscious that human rights concerns were not resolved by laws alone and that it had to address the social, economic and political impediments to effective enjoyment of civil rights. The country size created significant financial and capacity constraints in the Government's efforts to meet these objectives.

11. Since the submission of its national report, Nauru had been able to fill the position of Chief Justice and to appoint a second Supreme Court Judge although there was still a concern about the lack of affordable legal services available to the public. Free legal assistance was available for those charged with criminal offences only, through the creation of the position of Public Defender.

12. With the aid of development assistance, particularly from New Zealand, Nauru was endeavouring to address the issue of capacity in the legal sector.

13. Nauru's economy was gradually recovering as a result of major economic and governance reforms, but remained heavily reliant on foreign aid. Nauru had been seeking to promote greater sustainability, but this was difficult due to the environmental devastation caused by mining and the lack of arable land. Nauru continued to nurture the private sector as a means of promoting development and economic growth. However, Nauru did not have a regular commercial bank available for its citizens which had been an elusive goal for successive Nauru Governments. Notwithstanding the challenges it faced, Nauru had notably established the Nauru Entrepreneurship Development Centre, which provided training and skills development in the establishment and operation of small business.

14. In 2005, Nauru finalized its National Sustainable Development Strategy (NSDS), a 25-year strategic plan, which was reviewed and revised in 2009. The theme was "Partnership for a better quality of life", recognizing that this was a shared responsibility of Government, civil society and the private sector. Broad consultations were held to ensure the NSDS would reflect the priorities of the people of Nauru.

15. One of the NSDS priorities was to achieve "a stable, trustworthy, fiscally responsible government with transparent and accountable parliamentarians, cabinet and public service". This goal will require essential governance, policy and institutional reforms.

16. There was still considerable concern relating to the standard of living of Nauruans, particularly issues such as unemployment, inadequate income, housing and access to clean drinking water and fresh food. The Government was endeavouring to address these issues through community-based programmes.

17. Education was compulsory and free but Nauru was very concerned about the reportedly high rates of truancy and the Department for Education had implemented policies to address this issue. While, because of the financial crisis, older children were being taken out of school to care for younger siblings, Nauru was hopeful that, as the economic situation improved, families would ensure that their children stay in school for as long as possible.

18. An Education Bill was scheduled to be tabled at the next Parliament's session, which notably proposed to make education compulsory until the age of 18, increase the hours of school and pursue many other positive changes under the principle of providing decent education to children and young people.

19. Nauru stated that specific groups, such as senior citizens and persons with disabilities, now received financial assistance.

20. Nauru noted the international concern about its failure to ratify many international human rights treaties. Nauru had signed most of them and many of the legislative obligations already found expression in existing laws. However, it was the burden of reporting that most concerned Nauru. Therefore, Nauru urged the United Nations to seriously review the reporting obligations and would like to contribute to the current review. It would notably suggest that some of the reporting obligations be undertaken on a regional basis, rather than in Geneva owing to the costs involved.

21. The Department of Foreign Affairs and Trade had recently established an inter-ministerial Working Group on Treaties tasked to review Nauru's existing international obligations and to recommend action as regards ratification of treaties to which Nauru was not yet a party. The Working Group would be looking at the recommendations from the UPR Working Group, and it was likely that the treaties mentioned will be given individual consideration in 2011.

22. Nauru informed the Council about inaccuracies in the United Nations records on the various international human rights instruments that Nauru had signed in 2000.

23. Due to its recent history with hosting migrant processing centres, the signature of Refugees Convention was presently under active consideration by the Cabinet. Nauru was also prepared to consider agreeing to the visit request from the Working Group on Arbitrary Detention and would be prepared to consider extending a standing invitation to the special procedures of the Human Rights Council.

24. Nauru stated that the impacts of climate change included a notable sea-level rise, which posed an immediate and serious threat to food security, human health and could cause displacement. The vast majority of the island's population lived on the coast, which was on average 3 to 4 metres above sea level. Unfortunately there was little that Nauru could do to halt the global emission of greenhouse gases, and it called on major emitters to recognize its right to survival and to make significant cuts as a matter of urgency. Nauru was committed to enacting environmental rights as human rights.

25. The mining of phosphate over the last century had caused significant environmental damage on Nauru, which was endeavouring to do what it could through the Nauru Rehabilitation Corporation. In January 2010, the Government collaborated with the Pacific Applied Geoscience Commission on a survey on the impact of the mining industry on the communities close to the processing plant. Nauru hoped that, when available, the results from the survey would guide it in its efforts to improve the quality of life for these

communities, as Nauru remained very concerned about the overall impact of environmental pollution on the population.

26. The delegation, in its conclusions, reiterated its commitment to improving and realizing human rights. As a tiny nation facing enormous challenges, Nauru was slowly recovering from recent financial devastation, envisaged positive progress on the human rights situation and looked to work with its partners, both at home and internationally to this end.

27. Nauru thanked all States which had submitted advance questions.

## **B. Interactive dialogue and responses by the State under review**

28. During the interactive dialogue, 30 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report. A number of delegations welcomed the participative approach taken to the drafting of the national report and the commitment shown by Nauru to the universal periodic review mechanism.

29. Algeria noted that Nauru's commitment to human rights manifested itself in an active contribution to regional mechanisms in the areas of immigration, refugees and internally displaced persons, and climate change, as well as measures benefiting vulnerable groups. It called on the international community to contribute to capacity-building, in light of Nauru's limited financial and human resources. Assistance in the area of international legal norms would be of particular importance. Algeria made recommendations.

30. Cuba noted that the population of Nauru was faced with a number of difficulties resulting from the international economic crises, serious environmental problems, climate change and other consequences of the unjust international economic order. Nevertheless, Nauru had made considerable efforts to limit the negative impact of these circumstances on human rights. In addition to steps aimed at economic recovery, Nauru had taken measures to fight domestic violence and promote the representation of women in government. It had also created a National Youth Council, undertaken literacy programmes and improved its health infrastructure. Cuba made recommendations.

31. China noted with appreciation that Nauru had established a comprehensive constitutional review process and had made efforts to advance the domestic legislation process. In recent years, Nauru had made commitments and taken action to strengthen the protection of vulnerable groups. However, due to geographical constraints and lack of capacities and financial resources, Nauru was faced with considerable challenges with regard to its development and in the human rights area. Issues such as climate change, the environmental impact of phosphate mining, eliminating violence against women, facilitating access to justice, strengthening food security, reducing of poverty and improving health standards remained major challenges. China called on the United Nations system and its members to positively consider Nauru's request for technical and financial assistance.

32. Morocco noted with satisfaction the adoption in 2005 of a National Sustainable Development Strategy, which aimed at reforms in governance and in the political and institutional area, with a view to improving the quality of life. Morocco also took note of legislative measures to strengthen human rights protection, including the adoption of laws on freedom of information and the protection of persons with mental disabilities. Morocco also welcomed the 2009 law on the penitentiary system, which provided for protections for detainees and offered them training opportunities. Morocco further appreciated efforts to strengthen the role of women in society and fight domestic violence. Morocco made recommendations.

33. Brazil was pleased to learn of measures aimed at reviewing the Constitution, with positive impact in areas such as women's and children's rights, the right to life, economic and social rights, freedom of information and political participation. Brazil regretted however that despite all efforts, the review had not been approved by referendum. It warned that persistence of the political stalemate could jeopardize the promotion and protection of fundamental rights and freedoms. Brazil commended Nauru for its review of the Criminal Code, which, amongst others, would decriminalize sexual relations between consenting adults of the same sex. Brazil also recognized positive steps with regard to women's rights, but noted with concern the high incidence of violence against women, particularly domestic violence. Brazil made recommendations.

34. The delegation of Nauru welcomed the fact that most of the statements were in support of Nauru. Regarding women and children, Nauru tried to address most of these issues through the constitutional review. Although the constitutional referendum failed, all the measures for the advancement of the rights of women and children were very much supported and were not controversial matters. The Government and the Parliament were looking at ways to introduce legislation in this regard that could be allowed under the current circumstances.

35. With regard to the national human rights institution, Nauru had discussed the matter at length. The biggest obstacle towards establishing such an institution was again resources and expertise. In its struggle to regain financial and economic situation, Nauru recognized that there were probably other institutions which took precedence such as the Ombudsman Office, the Leadership Code and tribunal. A national Ombudsman Office might be created through the parliamentary amendments to the Constitution. Because of human and financial constraints, a proposal was still under consideration for this office to have a dual function.

36. Domestic violence against women and children was a problem in Nauru and the Government was taking positive steps and gave more focus on this issue by establishing the Domestic Violence Unit, which combined various departments to look at this matter. Nauru was interested in trying to formulate policies and actions in this field. In prisons, for example, young offenders and women were physically separated after the building of new facilities.

37. Nauru was aware of the lack of a focal point for children issues. There were many issues such as children and disability issues which were cross-sectoral, as they did not relate to one ministry. Nauru needed a better arrangement in place in this regard.

38. Slovenia welcomed the efforts undertaken by Nauru to improve the human rights situation of its people, in spite of challenges. In particular, it noted efforts to fight domestic violence, empower women, improve the quality of education, address unemployment and draft a new Criminal Code. With regard to the negative outcome of the referendum on constitutional reform, Slovenia asked which of the envisaged rights clauses could still be approved by the parliament. Slovenia made recommendations.

39. Hungary noted with satisfaction that despite the impact of climate change Nauru had proved its commitment to the Millennium Development Goals. Hungary welcomed the ratification of the Convention on the Rights of the Child without reservations, but noted that no reports had been submitted yet to the Committee on the Rights of the Child. Hungary was concerned about the low proportion of boys enrolled in secondary education, and about the high rate of school truancy. It also expressed concern about the lack of specific legislation on violence against women. At the same time, Hungary appreciated efforts made to curb that situation and also welcomed that Nauru had signed Convention on the Elimination of All Forms of Discrimination against Women. Hungary made recommendations.

40. Spain welcomed Nauru's intention to decriminalize sexual relations between consenting adults of the same sex and encouraged it to continue its efforts to prevent discrimination on the ground of sexual orientation or gender identity. Spain made recommendations.

41. Canada commended Nauru for its commitment to the promotion and protection of human rights. In particular, it commended Nauru for steps taken to combat corruption, by enacting anti-money laundering legislation and closing its offshore banks, and for making the elimination of domestic violence a national priority. Measures taken with regard to the latter had included the establishment of a safe house for women and children victims of domestic violence, conducting awareness campaigns and instituting a Domestic Violence Unit within the Nauru Police Force. Canada welcomed Nauru's participation in various regional mechanisms and encouraged further cooperation with international mechanisms. Canada made recommendations.

42. Azerbaijan noted that Nauru was not yet a party to key international human rights treaties, including the International Covenant on Civil and Political Rights and its Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture, but welcomed the intention of Nauru to be bound by these instruments. Although Nauru had not yet ratified the Convention against Torture, its legislation was in compliance with it. Azerbaijan noted with interest the establishment of a Domestic Violence Unit and asked about measures taken to combat violence against women. Azerbaijan made recommendations.

43. France noted with satisfaction that Nauru was a party to the Convention on the Rights of the Child and the Rome Statute of the International Criminal Court, and that it had signed, although not ratified, most of the international instruments for the promotion and protection of human rights. France welcomed the fact that no execution had taken place in Nauru since its independence in 1968, and that Nauru had signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims at the abolition of the death penalty. France noted that Nauru could still improve its cooperation with the United Nations human rights mechanisms. France made recommendations.

44. Nauru thanked all delegations and welcomed the comments made. With regard to Convention on the Elimination of All Forms of Discrimination against Women, Nauru had committed itself to ratify the Convention. Nauru signed Convention on the Rights of the Child but still faced resource and capacity constraints to submit its initial report. Nauru requested UNICEF assistance and welcomed comments and recommendations made in this regard.

45. Nauru stated that there was a chapter on domestic and sexual violence in the new draft criminal code. This code will be considered soon by the Government before being tabled before the Parliament. This approach would be more effective for Nauru instead of having many different laws.

46. Freedom of information laws were also considered. They were widely supported and would be easily brought into place.

47. The suggestions made for a human rights based environment programme was something that Nauru was certainly interested to further look into. Nauru did not have the capacity to develop such programmes but welcomed ideas and suggestions in this regard.

48. Malaysia was encouraged to note that despite many challenges Nauru had demonstrated its commitment and determination in improving the socio-economic and human rights situation in the country. It welcomed the National Sustainable Development Strategy and its recent review, which aimed at achieving a positive future for Nauru and a



better quality of life for Nauruans. Malaysia noted that Nauru had planned to reopen the detention centre for asylum-seekers who had attempted to enter Australia by boat without a visa; it asked what benefits the centre would bring to Nauru and its population. Malaysia made recommendations.

49. The United Kingdom of Great Britain and Northern Ireland acknowledged the capacity and resource challenges facing Nauru in its efforts to address its human rights obligations, especially in light of the increasing impact of climate change. It asked about the intentions of Nauru with regard to the continuation of the dialogue with civil society in the follow-up to the universal periodic review. The United Kingdom welcomed the work undertaken in tackling domestic violence, in particular the establishment of the Domestic Violence Unit and the safe house for women. However, the United Kingdom noted that it would also welcome specific laws in this area, as a signal that violence and discrimination against women would not be condoned. It commended Nauru for undertaking a review of its Criminal Code and expressed interest in learning more about future efforts by the Government to provide an operational and accessible justice system. The United Kingdom made recommendations.

50. Germany welcomed the establishment of a work programme, undertaken in 2010 in cooperation with Office of the United Nations High Commissioner for Refugees (UNHCR), to complete a situation analysis, provide policy and legal advice, assist drafting legislation, regulations and standard operation procedures, and conduct joint awareness-raising workshops and specialized training of officials. Germany requested to receive more detailed information about the outcome, regarding in particular legislative projects and workshops relating to awareness-raising. Germany made recommendations.

51. Slovakia commended Nauru's participation in various Pacific regional mechanisms. It also noted positively the criminalization by Nauru of torture and inhuman or degrading treatment, despite not being a party to the Convention against Torture. Slovakia was concerned about reports on widespread domestic violence and commended Nauru for the establishment of a safe house for victims of domestic violence and the creation of a Domestic Violence Unit in the police force. Slovakia expressed concern about the extent of child abuse. While commending the provision of free compulsory education up to the age of 16 and the recent renovation of the school infrastructure, it was concerned about the level of truancy. Slovakia made recommendations.

52. Ghana noted the enactment in 2009 of the Correctional Service Act, which prescribed a more human approach to imprisonment and provided for the protection of prisoners' human rights as well as rehabilitation and training. Ghana lauded the ongoing review of the Criminal Code with the aim of introducing a modernised code in accordance with the Universal Declaration on Human Rights. Ghana also noted the limitations mentioned in the national report, in particular problems with access to justice, limited capacity of the legal profession, extreme vulnerability to the impacts of the climate change and heavy reliance on foreign aid. Ghana made recommendations.

53. The United States of America commended Nauru for lifting the state of emergency in place for much of 2010 and welcomed the renewed dialogue between the President and members of Parliament. It remained concerned over the lack of effective mechanisms for addressing and curtailing domestic violence, but it commended Nauru for highlighting this need in its national report and making the elimination of domestic violence a national priority. The United States asked whether Nauru planned to expeditiously ratify the International Covenant on Civil and Political Rights and strongly encouraged the Government to make freedom of association and expression hallmarks of Nauruan democracy. The United States made recommendations.

54. Nauru was looking at the ratification of the International Covenant and formed a working group to look at all the treaties and provide the Government with recommendations on what could realistically be done either immediately or at a later stage.

55. The Nauru delegation highlighted that women's representation was quite good in the public services. However, the political representation was not the same, as there has been only one female MP since the independence of Nauru. During the constitutional review, it was felt by many, including women, that having a preferential seat for women in Parliament to redress this shortage was not the best way to proceed. There were female senior Government officials, as evidenced by the delegation but the problem lay with female political representation.

56. Regarding the centres for asylum-seekers, the delegation recalled that Nauru contributed towards a regional solution to this problem. Nauru wanted to contribute to handling a situation which was affecting people in difficult situation and saw its contribution as humanitarian in nature. Consideration of the ratification of the Refugee Convention was dealt with by the working group mentioned earlier.

57. Poland noted that Nauru had not become a party to core international human rights instruments yet, but welcomed the opportunity given to the civil society to provide feedback on the draft national report. Poland made recommendations.

58. Maldives stated that it was important to understand and appreciate the challenges Nauru was facing in fully promoting and protecting human rights because of its small size and its capacity constraints. Despite that, Nauru was making significant efforts and had also made some impressive achievements in the field of human rights. Maldives made recommendations.

59. Italy took note of the National Action Plan for Women, the establishment of a Domestic Violence Unit by the Nauru Police Force and a safe house for victims of domestic violence. Nonetheless, it remained concerned at the lack of specific legislation on violence against women and at the delay in the accession to the Convention on the Elimination of All Forms of Discrimination against Women after its signature in 2000. Italy was also concerned at the frequency and persistency of sexual abuse of children. Italy made recommendations.

60. Chile noted that, as stated in the national report, Nauru was facing important challenges especially on poverty and food security, for which international assistance was needed. Chile stated that the international community and the United Nations should merge their efforts to meet Nauru's request for assistance, particularly with regard to the elaboration of strategies to eradicate domestic violence. Climate change also posed an existential threat which undermined the whole set of human rights. Chile made recommendations.

61. New Zealand took note of Nauru's delegation suggestions regarding potential improvements to the reporting obligations. Noting that there was no specific law on violence against women, New Zealand commended Nauru for stating in its national report that eliminating violence against women was a national priority. New Zealand enquired about steps being taken towards accession to the Convention on the Rights of Persons with Disabilities and about how Nauru intended to ensure its people's enjoyment of their human rights, including access to information. New Zealand made recommendations.

62. Australia commended Nauru for its work in raising awareness on women's issues domestically, and noted Nauru's signature of, and intention to ratify Convention on the Elimination of All Forms of Discrimination against Women. It welcomed the establishment of a National Plan of Action on Women, of a safe house for women and children victim of domestic violence, and the establishment of a Domestic Violence Unit in the Police Force.

While being concerned that domestic violence and sexual harassment remained significant issues, Australia commended Nauru for its commitment to decriminalize homosexuality. Australia was pleased to be working in partnership with Nauru on approaches to these challenges. Australia made recommendations.

63. Sweden noted that homosexuality was still illegal in Nauru and asked the delegation to elaborate on what actions were being taken to promote the rights of sexual minorities and whether the Government intended to ratify core international human rights treaties, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Sweden stated that credible reports showed that Nauru had allowed Australian refugee camps in its territory and asked the delegation to elaborate on the status of refugees and asylum seekers, including if there was any plan to ratify and implement the 1951 United Nations Refugee Convention. Sweden made recommendations.

64. Argentina welcomed the active participation of Nauru in various regional mechanisms dealing with refugee issues. Argentina made recommendations.

65. Bolivia stated that Nauru had been colonized since 1888 until its independence in 1968. Unfortunately, colonizing powers were not interested in the welfare of Nauruans but exclusively in the intensive exploitation of phosphate mines. As a result, Nauru was now facing very serious environmental problems. Phosphate mining ravaged the natural environment of the island, provoking contamination of water, air and land and altering the culture and the lifestyle of its inhabitants, who were suffering serious diseases like diabetes and heart troubles, mainly due to malnutrition. This situation had very grave consequences on the enjoyment of human rights. Bolivia made recommendations.

66. Latvia was pleased to note the consultation of the civil society in the preparation of the national report. It appreciated the openness with which Nauru had approached the UPR dialogue and, in particular, the positive response given regarding the issue of standing invitations to the special procedures of the Human Rights Council. Latvia made a recommendation.

67. Trinidad and Tobago commended the Government of Nauru for its 25-year National Sustainable Development Strategy, which sets out the necessary reforms in policy and existing institutions, guided by the principles of good governance. Trinidad and Tobago noted the envisaged reform of the Constitution and appreciated steps taken to promote human rights while pursuing national economic development objectives. It believed that the establishment of the Domestic Violence Unit and of a safe house, and public awareness campaigns were the right steps in a larger strategy to deal with violence against women. Trinidad and Tobago made recommendations.

68. Mauritius understood the challenges and constraints faced by Nauru, particularly in its slow recovery from a severe economic crisis and the impact of the climate change. Mauritius asked whether a new referendum, following that of February 2010 on constitutional amendments, would be carried out, provided that the current political stalemate was resolved. Mauritius made recommendations.

69. Israel applauded Nauru's efforts to initiate a constitutional review process, which sought to further include rights such as the right to privacy and personal autonomy, health services, education, women's and children's rights and the rights of persons with disabilities, among other rights, into the Constitution. Israel also noted that despite financial crises, limited financial resources and its vulnerability to the climate change, Nauru has succeeded in maintaining a democratic and tolerant society. Israel made recommendations.

70. Nauru reiterated that remarks and recommendations made were taken aboard in good spirit. Regarding access to information, the Cabinet was deliberating on specific laws,

particularly freedom of information bills. If the constitutional referendum had been adopted, it would have provided for public access to information. An access-to-information law will be tabled before the Parliament within the coming years. Information was currently provided to Nauruans to a cost, which was not meant to generate revenues but was purely administrative.

71. As regards the Convention on the Rights of Persons with Disabilities, it was new and was recently discussed in the region. Nauru had no problem in supporting it and the working group will look at this Convention. There was no focal point on disabilities in Nauru but it was a cross-sectoral issue. Nauru was looking at properly addressing the rights to access relevant services by persons with disabilities, as evidence in the most recent project on infrastructure building. Nauru has the “Able Disable” centre, which is a school for persons living with disabilities. The Education Bill referred to the special needs of people with disabilities in education.

72. Nauru had focal points from the Regional Rights Resource Team, who were in charge of teaching human rights and awareness to members of the public.

73. Regarding access to government information, Nauru had a Government information office which was responsible for ensuring awareness among the general population on the Government plans and activities.

74. Nauru recognized the importance of partnership with the civil society and the private sector, as it was the case in the National Sustainable Development Strategy. Nauru stated that homosexuality remained illegal, as the current criminal code dated back from 1899. There was a clear intent by the Government supported by the population to amend most of those laws and correct that situation.

75. Nauru did not agree with allegations regarding violations of the rights of refugees, as every attention was given to ensure the rights of these persons through the provision of services to them in an efficient and consistent manner. There were no restrictions to their freedom of movement and attention and care was provided to those people. In addition, the ratification of the Convention on Refugees was currently under consideration.

76. Nauru recalled that the Parliamentary Standing Committee was dealing with the political stalemate on the referendum. A survey was being conducted among a sample of 1,000 voters (a large sample in Nauru’s context) to try to determine why people voted the way they did. This committee will continue its work over the coming months. There was nothing stopping the Government from doing what could be done through the Parliament, including the Bill on Access to Information or the Education Bill. These bills were generally well supported.

77. There would be deliberation in the committee about a new referendum. However, such a referendum required a majority of two thirds to pass and therefore, much thought was needed prior to its organization. In the meantime, Nauru could progress through bills such as the current Passport Bill, which would allow for travel documents for refugees. This bill was to be adopted during the February session.

78. Nauru thanked all delegations.

## **II. Conclusions and/or recommendations**

79. **The following recommendations will be examined by Nauru which will provide responses in due time, but no later than the seventeenth session of the Human Rights Council, in June 2011:**

79.1. **Become party to the core human rights instruments (New Zealand);**

- 79.2. Look into the possibility of progressively acceding to or ratifying the major human rights conventions, starting with the International Covenant on Civil and Political Rights (ICCPR) (Algeria);
- 79.3. Ratify ICPPR (United States of America);
- 79.4. Ratify ICCPR and sign and ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR) (United Kingdom);
- 79.5. Promptly ratify and implement in national laws the outstanding core human rights treaties, including ICESCR and ICCPR and its two optional protocols (Sweden);
- 79.6. Consider ratifying the following international instruments: the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); ICESCR; ICCPR; the Convention on the Rights of Persons with Disabilities (CRPD) and its protocol; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its protocols; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its protocol; the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; and ILO fundamental conventions (Brazil);
- 79.7. Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which has already been signed by the Government (Hungary);
- 79.8. Ratify CEDAW (Canada; Azerbaijan);
- 79.9. Continue towards ratification and implement of CEDAW (Australia);
- 79.10. Ratify CEDAW in parallel with enacting and implementing specific legislation to fight violence against women, with the possible assistance of the Pacific Island Forum Secretariat (Hungary);
- 79.11. Ratify CEDAW and meanwhile continue efforts to review existing legislation, policy and practice to ensure protection for the rights of women (New Zealand);
- 79.12. Consider the early ratification of CEDAW (Trinidad and Tobago);
- 79.13. Ratify the two International Covenants as well as CAT, CEDAW, CERD, CRPD and the International Convention for the Protection of All Persons from Enforced Disappearance (CED), with their respective optional protocols, including the two Optional Protocols to CRC (Spain);
- 79.14. Study the possibility of being party to the following international instruments: ICCPR, ICESCR, CEDAW, CAT and CED (Argentina);
- 79.15. Ratify the United Nations Convention against Transnational Organized Crime (Canada);
- 79.16. Ratify CAT and align fully the definition of the crime in its domestic law with that in the Convention (Canada);
- 79.17. Complete its international commitments by ratifying those instruments which it has already signed, and initiate the process for the signing and subsequent ratification of CED and CRPD (France);
- 79.18. Sign and ratify CRPD (Mauritius);

- 79.19. Ratify the Optional Protocol to CRC on the sale of children, child prostitution and child pornography, CEDAW, ICERD and ICESCR (Israel);
- 79.20. Ratify the main international human rights treaties whose ratification is still pending, like the Optional Protocols of CRC and CEDAW (Chile);
- 79.21. Confirm its progress relating to the death penalty by definitively abolishing the death penalty and by ratifying the Second Optional Protocol to ICCPR (France);
- 79.22. Ratify the Optional Protocol to CRC on the sale of children, child prostitution and child pornography (United Kingdom);
- 79.23. Submit the initial report to the Committee on the Rights of the Child, ratify the CRC Optional Protocols and complete the accession to the two International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, to ICERD and CAT (Italy);
- 79.24. Ratify ICCPR and its Optional Protocols, ICESCR and its Optional Protocol, CEDAW and its Optional Protocol, CAT, ICERD, two Optional Protocols to CRC, 1951 Convention relating to the Status of Refugees and its 1967 Protocol as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia);
- 79.25. Accede to the remaining core international human rights instruments such as ICCPR, ICESCR, CAT, CEDAW and ICERD (Poland);
- 79.26. Consider ratification of the Rome Statute of the International Criminal Court and the Convention on the Prevention and Punishment of the Crime of Genocide (Poland);
- 79.27. With the assistance of OHCHR, move to speedily accede to all those human rights conventions to which it is currently a signatory (Maldives);
- 79.28. Continue its efforts with a view to approving the constitutional reform package (Brazil);
- 79.29. Review related laws to provide for a better protection and promotion of women's rights (Slovakia);
- 79.30. Look into the possibility of creating a national human rights institution (Algeria);
- 79.31. Examine the possibility of establishing a national human rights institution (Morocco);
- 79.32. Consider establishing an independent national human rights institution in accordance with the Paris Principles (Poland);
- 79.33. Designate and empower one or more government officials to coordinate the Government's efforts to protect children (United States of America);
- 79.34. Consider opening, with international donor support, a small permanent mission in Geneva, using the facilities provided by the newly opened Commonwealth Small Island States office (Maldives);
- 79.35. Continue its efforts on the promotion and protection of human rights and main freedoms (Azerbaijan);
- 79.36. Take all necessary measures to ensure the full and equal enjoyment of human rights by all human beings (Sweden);

- 79.37. Continue its efforts aimed at promoting and protecting the rights of children (Brazil);
- 79.38. Continue its efforts to address domestic violence, promote the empowerment of women, improve the quality of education, address unemployment and to draft a new criminal code that would, inter alia, decriminalize sexual activity between consenting adults of the same sex (Slovenia);
- 79.39. Seek to integrate human rights perspectives in its National Development Strategy, in particular as regards domestic violence (Mauritius);
- 79.40. Develop, within the United Nations and regional mechanisms, a mitigation and management plan for disasters, with a human rights approach, in accordance with what has been suggested by the Office of the United Nations High Commissioner for Refugees (Chile);
- 79.41. Institute human rights education and training of members of civil society as well as of the public service and State-owned entities (Hungary);
- 79.42. Positively consider extending a standing invitation to special procedures of the Human Rights Council (Slovenia);
- 79.43. More effectively cooperate with the United Nations mechanisms by extending a standing invitation to the special procedures, by responding to the their visit and information requests, and by regularly submitting its reports to the treaty bodies (France);
- 79.44. Extend a standing invitation to the UN human rights Special Procedures so that they can visit the country and assist the country within its human rights reforms (Maldives);
- 79.45. Extend an open and standing invitation to the United Nations special procedures (Chile);
- 79.46. Take the necessary actions to implement its commitment to extend a standing invitation to the special procedures of the Human Rights Council, and invite all other countries to follow this commendable example (Latvia);
- 79.47. Extend an open and standing invitation to all special procedures and respond positively to the visit request by the Working Group on Arbitrary Detention (Spain);
- 79.48. Give a positive response to the visit request of the Working Group on Arbitrary Detention (Canada);
- 79.49. Take steps towards meeting its obligations for timely submission of periodic reports for those instruments to which it is already party (New Zealand);
- 79.50. Submit reports to the Committee on the Rights of the Child as soon as possible (Hungary);
- 79.51. Submit its first report on compliance with the Convention on the Rights of the Child, in line with its commitment as stated in the national report (Ghana);
- 79.52. In order to help overcome the problem of the heavy burden of treaty reporting, work with OHCHR to develop a common core document which, in conjunction with treaty-specific list of issues, will help to streamline treaty reporting (Maldives);

- 79.53. As indicated within the national report, seek technical assistance from OHCHR in the areas of effective implementation and reporting obligations of international human rights instruments (Israel);
- 79.54. Strengthen efforts to promote and protect the rights of women, young persons and disabled persons, which are very vulnerable groups in the country (Cuba);
- 79.55. Adopt a comprehensive specific law on gender equality and gender violence (Spain);
- 79.56. Ensure that the National Sustainable Development Strategy consider, in particular, the role of women in national development, including their participation in the political process, at all levels (Trinidad and Tobago);
- 79.57. Abolish the death penalty and ratify the Second Optional Protocol to ICCPR (Spain);
- 79.58. Adopt measures to fight domestic violence and promote the role of women in public life (Algeria);
- 79.59. Prioritize domestic policies and resourcing aimed at eliminating violence against women and promoting non-discriminatory working relationships and respect for diversity in the workplace (Australia);
- 79.60. Strengthen further its efforts in adopting and implementing efficient measures to eliminate domestic violence (Slovakia);
- 79.61. Continue working with the aim to eradicate all forms of violence against women (Argentina);
- 79.62. Complete the ongoing review of the criminal code with the aim of promoting and protecting women's rights, include provisions dealing with violence against women, particularly domestic violence, and ratify CEDAW (Italy);
- 79.63. Strengthen the national plan of action for women, including by drafting a specific law on violence against women, and further improve its laws to protect and promote women's rights (Malaysia);
- 79.64. Take further measures to prevent and combat violence against women and consider the enactment of a specific law (Brazil);
- 79.65. Include in its Criminal Code provisions that offer specific protections for women against domestic violence (Canada);
- 79.66. Criminalize violence against women and provide significant penalties under the law for that crime (United States of America);
- 79.67. With the support from the international community, draft legislative bills on domestic violence and on child abuse (Maldives);
- 79.68. Create and implement a national action plan for the elimination of domestic violence and child abuse with the technical assistance of specialized agencies and programmes of the United Nations system (Israel);
- 79.69. Establish stronger laws against perpetrators of child abuse and to increase penalties and sentencing in courts (Italy);
- 79.70. Strengthen its laws prohibiting physical abuse of children, including sexual exploitation (United States of America);



- 79.71. Strengthen its efforts to fight sexual abuse of children within the framework of adopting a programme for the promotion of the rights of the child (Spain);
- 79.72. Adopt and implement appropriate measures to combat sexual abuse of minors (Slovakia);
- 79.73. Seek the assistance of the international community in its efforts to expand and strengthen its legal and judicial sectors (Maldives);
- 79.74. Present a bill for a new Criminal Code which would decriminalize sexual activity between consenting adults of the same sex as outlined in the national report (United Kingdom);
- 79.75. Recognize the principle of non-discrimination, which prohibits discrimination on any ground, including sexual orientation, and to abolish the law that criminalises homosexuality without delay (Sweden);
- 79.76. Establish mechanisms to increase the population's access to government information (Canada);
- 79.77. Continue with the efforts of introducing freedom of information through ordinary legislation as a matter of priority (Germany);
- 79.78. Establish freedom of information laws, including by amending the Official Information Act of 1976, and increase access to Internet (Italy);
- 79.79. Reduce the voting age from 20 years to 18 years (Maldives);
- 79.80. Continue its efforts and take the necessary measures to address the lack of women representation in Parliament (Morocco);
- 79.81. Strengthen programmes to fight poverty (Algeria);
- 79.82. Continue its efforts to attain food sovereignty on the basis of food diversification (Bolivia);
- 79.83. Continue to implement strategies and plans for the socio-economic development of the country, including in the environmental area (Cuba);
- 79.84. In view of the increasing challenges posed by climate changes, develop a human rights-based climate change adaptation strategy (Canada);
- 79.85. Increase cooperation with the relevant United Nations bodies and other regional and international organizations in its efforts to mitigate the harms from environmental degradation and adapt to the effects of climate change on its citizens (Malaysia);
- 79.86. Develop a rights-based national action plan that provides a framework to address the challenges of climate change, including disaster management and mitigation (United Kingdom);
- 79.87. Continue its efforts, through the United National Framework Convention on Climate Change and other forums, to remind the international community, especially developed countries and other major emitting states, of their obligations to protect and promote human rights in Nauru by reducing greenhouse gas emissions to safe levels (Maldives);
- 79.88. Strengthen its efforts to protect the rights of all persons to enjoy the highest possible level of physical and mental health, and take concrete measures to strengthen free and effective access to health for children and adults with mental disabilities (Spain);

- 79.89. Continue to implement programmes and measures to improve the enjoyment of the right to education and the right to health (Cuba);
- 79.90. Continue pursuing efficient educational policies to ensure a better future for its children (Slovakia);
- 79.91. Continue promoting education at all levels, bearing in mind the cooperation of friendly countries (Bolivia);
- 79.92. Adopt measures to assure to all persons with disabilities access to educational and vocational training programmes, in consultation with these persons and their representatives (Spain);
- 79.93. Promote recovery and conservation of traditional knowledge in order to restore ancestral heritage (Bolivia);
- 79.94. Undertake education programmes on a human rights-based handling of asylum-seekers and refugees and build institutional capacity for the development of a national refugee status determination procedure (Germany);
- 79.95. Promptly take effective measures to safeguard the rights of refugees and asylum-seekers, including not to let other countries violate the rights of refugees and asylum-seekers in the territory of Nauru (Sweden);
- 79.96. Continue its efforts in the areas of population awareness programmes, and training of public officers on the rights of asylum-seekers and refugees (Argentina);
- 79.97. Engage civil society in the follow-up of the UPR (Poland);
- 79.98. Seek to work in partnership with other Pacific Island States in order to join forces in addressing human rights issues (Slovenia);
- 79.99. Engage members of the international donors and seek technical assistance and capacity building to address the problem of food security and access to clean and fresh water (Malaysia);
- 79.100. Seek international cooperation, particularly from Germany, the United Kingdom of Great Britain and Northern Ireland, Australia and New Zealand, to eliminate the effects of the environmental pollution and to create employment what contributes to fight against poverty (Bolivia);
- 79.101. Continue to boost the fulfilment of their climate responsibilities by industrialized countries, which are the main cause for global warming (Bolivia);
- 79.102. Seek appropriate technical assistance, from the international community or development partners, regarding international reporting obligations, including overdue ones, and capacity building for training of local staff and for the implementation of international commitments within domestic legislation as highlighted in paragraph 113 of the national report (Mauritius).
80. Conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.

## Annex

### **Composition of the delegation**

The delegation of Nauru was headed by the Hon. Mathew Batsiua MP, Minister for Health, Justice and Sports and composed of the following members:

- Mrs. Charmaine Scotty, Secretary for Home Affairs;
  - Ms. Barina Waqa, Legal Officer, Department of Justice & Border Control;
  - Mr. Lionel Aingimea, Senior Trainer, Secretariat of the Pacific Community/Regional Rights Resource Team.
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