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### **Draft 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 twenty-third session from 2 to 13 November 2015. The review of Nauru was held at the 4th meeting on 3 November 2015. The delegation of Nauru was headed by H.E. Mr David Adeang, Minister of Justice. At its 10th meeting held on 6 November 2015, the Working Group adopted the report on Nauru.

2. On 13 January 2015, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Nauru: Argentina, Kazakhstan, and Kenya.

3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to resolution 16/21, 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.6/23/NRU/1);

(b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/23/NRU/2);

(c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/23/NRU/3).

4. A list of questions prepared in advance by Belgium, Germany, Slovenia, Switzerland 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. The head of the delegation of Nauru, H.E. Mr. David Adeang, Minister of Justice, stated that every nation benefits from having a mirror held before it. Every nation has challenges, and can reach greater heights by participating seriously in the UPR. This process provides the vital opportunity to self-assess, to listen to others, and to more effectively address the concerns of individuals in our own country.

6. The Government of Nauru placed high importance on the UPR process given its success in allowing member states to be reviewed by its peers and more significantly tell their human rights stories to the international community. Additionally, Nauru viewed the UPR as an opportunity to engage in an open and frank dialogue with the international community about the state of human rights in the country. In this regard the Government of Nauru hoped that its responses to questions during the inter-active dialogue and its ongoing action in follow-up will prove that it takes its human rights obligations very seriously.

7. Nauru's national report and overall preparations for the UPR was the product of an open and consultative process, involving stakeholders from both inside and outside the Government. Additionally, the content of Nauru's Universal Periodic Review is a direct response to how Nauru have implemented accepted recommendations from the first cycle of reporting. Additionally, the creation of a dedicated human rights desk within the

Department of Justice and Border Control is a testament of the current government commitment to its human rights obligations.

8. The Government of Nauru has had to grapple with its own set of challenges relating to the promotion, protection and enjoyment of human rights. Some of these challenges were not part of the recommendations provided by the Council in the first cycle of reporting, but it is worth sharing them with this august body.

9. The Government of Nauru confirmed that the country's Regional Processing Centre that houses asylum seekers is now officially an 'open centre' 24 hours per day, seven days beginning on the 5 October 2015. This effectively means that detention has ended, and all asylum seekers are now free to move around the island at their "own free will". This measure has been in plan for a while, after already implementing a daytime open centre program, and has been waiting on confirmation of Australia's assistance in the transition. The new arrangements are simply an expansion of the existing open centre program, which has been in effect for 12 hours per day. Significant to note is that the Australian Government will be supporting Nauru with "safety, security and law enforcement", including providing more Australian police assistance through Australian Federal Police in this regard.

10. Additionally, to facilitate the new arrangements and ensure that asylum seekers are integrated into the community safely and cohesively, the Government of Nauru has now significantly increased the number of Community Liaison Officers (CLOs) from 135 to 320, which includes 30 refugees as settlement CLO to ensuring that refugees are assisted in their transition to the community. The increase in numbers of CLOs indicates the Government of Nauru's commitment to further ensuring that refugees are given the full support to becoming members of Nauruan community. The inclusion of refugees as CLOs was taken to ensure that cultural perspectives were met in ensuring safe transition in the community.

11. Refugees living in Nauru have complete access to all communications including phone, internet, email and a myriad of social media platforms.

12. Regarding social media, the Head of the delegation stated that certain internet sites have been restricted in the second quarter of 2015. These are sites that contain or have been maliciously used to publish and broadcast explicit, obscene and pornographic material involving young Nauruan boys and girls. This decision has been made by the Government in its efforts to protect its citizens and people from the abuse of the internet that has seen vulnerable individuals, especially young Nauruan girls, being maliciously targeted, harassed and even bullied.

13. It is also part of Governments' efforts to curb the "glorification" of criminal activities and offences against Nauruan women and children through the posting of distressing images and footage of these individuals in compromising and dehumanising positions. Additionally, the decision was not made overnight but over a period of several months of investigation, consultation and outreach to sites to rectify what is on their part, neglect of protection afforded to the Nauruan people, particularly women and children.

14. Furthermore, sites that are solely set up for the purpose of distributing explicit, obscene and pornographic contents will be permanently restricted. It has always been a crime in Nauru to obtain, sell or distribute such content and these closures are in line with our beliefs and fundamental objective of protecting our people particularly our children. Other sites such as Facebook that have been abused by malicious users are under temporary restriction until the necessary protection mechanisms are in place to ensure that Nauruans and members of our community are not left exposed and vulnerable to the actions of

criminals and cyber bullies. The ban was not designed to restrict asylum seekers in detention from communicating with the outside world as has been reported widely.

15. The position taken by the Government of Nauru is in line with Facebook community standards on the prohibition of pornography, bullying, harassment and content that promotes sexual violence or exploitation.

16. Recently, the Government of Nauru have come under a lot of criticism regarding the revocation of the passport of a Member of Parliament (MP). The Government of Nauru is of the view and strongly believes that the process of revocation was done to ensure that the natural course of justice will unfold until such a time the court rules that such passport can be returned and that justice is met. Additionally, the revocation of the passport of this individual charged with a crime, in line with the laws of Nauru, will allow that due process be carried out.

17. The Government of Nauru was pleased to announce that it officially completed its: a) CRC Report; b) CEDAW Report; c) Common Core Document. The Government of Nauru looked forward to receiving recommendations from the various treaty committee bodies with regards to its national reports and looked forward to working with national, regional and international partners on the implementation of the said recommendations. The CRC Initial Report contains an analysis on the status of children, law reforms in relation to children rights, implementation of children's rights in Nauru. The CEDAW report contains the initial commentaries on the status of women in Nauru. It provides an overview of the legal, civil, political, social and cultural status of women in Nauru. The Common Core Document discusses issues relating to Nauru's economic, social, cultural and political environment. It is envisaged that the CRPD report will be completed by the end of November 2015. In addition, the reports have been written in partnership with the Department of Justice and Border Control and other relevant government departments namely the Department of Women and Division of Child Protection Services.

18. The Head of the delegation stated that the new Criminal Code endeavours to provide more clarity in the characterization of offences and offers a more modernized view of addressing the various components of violence against women. It is envisaged that the current and urgent review of the Criminal Code 1899 provides the most suitable opportunity to incorporate a strong definition of domestic violence offence, which currently is non-existent. Domestic violence provisions would form part of the Criminal Code dealing with offences against the person. Additionally, work on stand-alone domestic violence legislation is underway with relevant partners and agencies. The Secretariat of the Pacific Community Regional Rights Resource Team (SPCRRRT) has been approached to provide guidance and support on the development of a stand-alone legislation for this purpose.

19. The Government of Nauru was also pleased to state that there has been an increase in the number of Nauruans seeking the assistance of the both the Office of the Director of Public Prosecutions (ODPP) and the Public Defender. Additionally, refugees have the protection of and access to the legal system. Both the ODPP and the Public Defender's Office have worked on decreasing the backlog of cases that has been mounting for a number of years and this is largely due to the increase in staff for both offices and more importantly a reporting and implantation system in place.

20. The Head of the delegation noted that too often have the people of Nauru been deprived of legal representation in a court of law, largely due to their inability to pay legal fees to their legal representatives. Established in 2014, the Public Legal Defender's Office offers free legal assistance in and out of court primarily in criminal cases, in an attempt to promote better access to justice for Nauruans. This has paved the way for a healthy legal

structure where no party is disadvantaged or left out. The Public Legal Defender's Office services are slowly being recognised and utilised by the people of Nauru. Consequently, the Public Defender's work includes giving free legal advice, drafting of family applications such as divorce petitions, legal representation of refugee persons who are charged with criminal offences and also assisting correctional inmates applying for parole.

21. Article 10 (3) (e) of the Constitution of the Republic of Nauru guarantees the right of legal representation, if justice so requires. The establishment of this office strengthens this Constitutional requirement to ensure justice is afforded to every accused person in court. Legal representation in court has become more accessible now, and this ensures that justice is not only done, but seen to be done.

22. Access to justice for women and children victims has greatly improved with the setting up of working groups with the Domestic Violence Unit of the Nauru Police Force and the women and family department counsellors ensuring that cases are brought to court and eventually to trial and the likelihood of conviction is high.

23. The Court is deemed to be doing its own functions and this has strengthened the rule of law with everyone being equal before the law irrespective of their status or standing. The rule of law has further been strengthened with the clear demarcation among law enforcement agencies and their respective powers.

24. The ODPP has strengthened its relationship with the police and this has been a big success for the office and one which the Government hopes to continuously foster.

25. Currently, the Nauru Supreme Court has three judges, rather than just one, removing the limitation of only one justice making all decisions. Additionally, members of the Nauru bench have tended to cases and are also currently dealing with cases that are constitutional and political in nature. The judiciary also holds office for a female judge of the Supreme Court and a female Resident Magistrate of the District Court.

26. The Government of Nauru is currently embarking on a nationwide consultation with regards the Leadership Code Bill and what it would mean for transparency and governance generally amongst leaders in Nauru. It is envisaged that the Leadership Code will bind the: a) Head of State; b) Speaker of Parliament; c) Chief Justice, d) Judges of the Supreme Court, e) Cabinet Ministers, f) Members of Parliament, g) Heads of Government Departments, h) Heads of Statutory Bodies, i) Heads of Government Commercial Companies and Board of Directors, and j) Heads of Church Organisations.

27. Finally, the Government of Nauru called on the United Nations to make the Convention related to the Status of Refugees 1967 and its Protocol to be elevated to be a core human rights treaty.

28. The Head of the delegation concluded assuring the Council that the Government of Nauru very much sees the UPR as part of its national endeavours to ensure systematic human rights work. The recommendations Nauru has received will be an important reference point in its continued work.

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

29. During the interactive dialogue, 40 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

30. Georgia stated that substantial work must still be done in different areas, inter alia, in international human rights standards and children's rights. Georgia made recommendations.

31. Germany welcomed the ratification of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Germany encouraged Nauru to continue its efforts to implement the various recommendations from the first cycle of the UPR and recognized the reporting burden Nauru is facing. Germany made recommendations.

32. Indonesia noted with appreciation the enactment of the Cyber Crime Act, the Adoption Act and the Education Act as amended, and the formulation of national policies on Disability, Women, Education, and the National Development Sustainable Plan. Indonesia welcomed the Nauru's Framework for Climate Change and Disaster Risk Reduction, and it encouraged the possible establishment of a national human rights institution. Indonesia made recommendations.

33. Ireland commended Nauru on addressing domestic violence as a national priority though it was concerned by reports that domestic violence against women is increasing and that very few cases are brought to Court. Ireland was also concerned at reports of physical and verbal assault against unaccompanied refugee minors who are released into the Nauruan community. Ireland made recommendations.

34. Kenya welcomed the adoption of a national women policy and a national policy on disability, and the ratification of CEDAW, CRPD and CAT. Kenya was concerned at reports of arbitrary detention of refugees, migrants and stateless persons. Kenya made recommendations.

35. Maldives noted that Nauru accepted 5 out of the 8 recommendations Maldives made in the first UPR cycle. Maldives recognized significant achievements towards legislative reforms, including the enactment of the Cyber Crime Act, the Adoption Act, the Education Act as amended, and the Refugee Act. Moreover, Maldives appreciated the adoption of the Nauru's Framework for Climate Change and Disaster Risk Reduction as an official policy to respond to the risks to sustainable development posed by climate change and natural disasters. Maldives made recommendations.

36. Montenegro welcomed the establishment of a working group on Treaties for ensuring submission of outstanding reports on the implementation of major human rights instruments. Montenegro inquired about the abolition of the death penalty. It enquired about the planned activities for the full implementation of the National Disability Policy as well as the adoption of relevant legislation and the mainstreaming CRPD across all the sectors. Montenegro made recommendations.

37. Morocco welcomed the accession to CEDAW and the adoption of a National Women Policy aimed at increasing the role of women in posts of responsibilities, eliminating all forms of violence and increasing gender parity in working places. It also encouraged the decision of Nauru to set up a strategy to adapt to climate change. Morocco made recommendations.

38. Namibia noted the challenges faced by Nauru and the adverse impact of climate change. Namibia commended Nauru's National Women Policy which was implemented recently. Nauru made recommendations.

39. Netherlands commended Nauru for steps taken to strengthen their legal national human rights framework, most notably toward the ratification of international human rights treaties. Netherlands raised concerns about the legal protection of human rights in Nauru, the level of violence against women and children and about a perceived lack of independence of the judiciary. Netherlands made recommendations.

40. New Zealand recognised the commitments undertaken by small island developing states in engaging in the processes of the Human Right Council. While noting encouraging developments, it remained concerned about the continued suspension of Opposition Members of Parliament and the resulting denial of political representation to their constituents. New Zealand made recommendations.

41. Panama welcomed Nauru's accession to CEDAW in 2011, to CRPD and CAT in 2012 following its first UPR. It also appreciated the establishment of a working group on Treaties, an important step in dealing with pending national reports before Treaty Bodies. Panama made recommendations.

42. Regarding recommendations about the ratification of the ICCPR, ICERD and ICESCR the delegation of Nauru stated that the consideration of this issue was in progress, while a Child Protection framework was already in place.

43. On recommendations on freedom of information, and more specifically on facilitating access to journalists', Nauru stated that it believes that media attitude should be marked by fairness and trust, with the ultimate goal of factual reporting. This has not been the case for Nauru in recent times in spite of efforts made by the Government on, inter alia, refugees matters. Irresponsible reporting fuels social disorder and has negatively affected relations between locals, refugees and asylum seekers. The Government has invited media to come to Nauru.

44. Nauru accepted recommendations related to amending the Criminal Code, abiding by human rights obligations and upholding the rule of law, guaranting freedom of information, opinion, expression, assembly and association.

45. Several recommendations spoke about refugees and asylum seekers detention: refugees processing is now done without detention: since the 5 October 2015 any sort of detention has ended and the Refugee Processing Centre is now open 24 hours a day: refugees and asylum seekers can freely move.

46. With regard to a recommendation made by Ireland, the delegation stated that, as part of the Education Act, school education is compulsory up to 18 years of age. Both refugees and Nauruans are liable to be taken to Court if they do not allow their children to attend school.

47. About a recommendation of Maldives, Nauru stated that it is embarking in the drafting of disability legislation after having ratified CRPD.

48. Concerning the abolition of the death penalty, the delegation of Nauru stated that this provision is part of the Constitution and, due to the reticence of the Nauruan people to revise the Constitution, the Government has decided to address the matter through the new Criminal Code removing the sentence of the death penalty for any type of crime.

49. Philippines lauded Nauru for taking steps towards the ratification of a number of international human rights instruments despite its financial and human resource constraints.



It noted the difficulties faced by Nauru to address the negative impacts of climate change to the human rights of its people. Philippines welcomed Nauru's commitment to the promotion and protection of the rights of the persons with disabilities. It raised concerns over reported abuses in immigration detention facilities. Philippines made recommendations.

50. Portugal welcomed the establishment of a national working group on Treaties. It welcomed the standing invitation for all Special Procedures extended after the first UPR cycle. It welcomed the recent ratification of CAT and its Optional Protocol. Portugal made recommendations.

51. Sierra Leone commended the various laws put in place since the first UPR cycle to strengthen human rights promotion and protection, as evidenced by the enactment of the Refugee Act of 2012 and the amended Education Act of 2015. It applauded the creation of the Division of Child Protection Services (2015) and the National Sustainable Development Strategy (2005-2015). It encouraged the Government to continue its efforts in reporting to Treaty Bodies and drafting new legislation on eliminating violence against women, developing disability acts, and addressing climate changes. Sierra Leone made recommendations.

52. Slovenia noted the positive developments in the country since the first UPR review, such as the accession to the CEDAW, the ratification of CAT and its Optional Protocol as well as the issuance of standing invitation to Special Procedures. However it raised concerns about alarming reports regarding the rights of asylum seekers, especially the rights of children. Slovenia made recommendations.

53. Solomon Islands noted the challenges that Nauru continued to face and commended the measures taken since the first UPR review in the legislative area. It noted the progress made with national policies and plans, particularly acknowledging the Disaster Risk Management Plan and the Disaster Risk Management Act and the role these measures played in the protection of human rights. Solomon Islands made recommendations.

54. Spain recognized the challenges and efforts to address climate change by setting up a Climate Change Unit. It welcomed the decision of the authorities to reform the Criminal Code to bring it into line with international obligations including on human rights. Spain made recommendations.

55. Switzerland welcomed the ratification of CAT, but remained concerned about the conditions of detention in processing centres for asylum seekers. It noted that Nauru still has not established a National Prevention Mechanism, despite the ratification in 2013 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. Switzerland made recommendations.

56. Timor-Leste acknowledged the progress made by Nauru in the field of human rights. It congratulated the government for the establishment of working group on Treaties, which is an important step to fulfil its international obligations. Timor-Leste commended the positive visit to Nauru by the Subcommittee on the Prevention of Torture. Timor-Leste made recommendations.

57. Trinidad and Tobago recognized Nauru's commitment towards the UN Sustainable Development Goals and the combat against the devastating global effects of climate change. It highlighted the accession to CEDAW, the CRDP, the drafting of a National

Disability Policy, and commended the National Sustainable Development Strategy. Trinidad and Tobago made recommendations.

58. United Kingdom of Great Britain and Northern Ireland welcomed positive steps made on the protection and promotion of women's rights and on the integration of refugees within the community. It hoped that the opposition MPs currently suspended will return to their duties soon. It noted with concern the restrictions on the use of social media, changes to the criminal code inhibiting political dialogue, and the critical importance of an independent judiciary. It hoped that defendants are able to choose their own counsel. It also suggested that Nauru reduce visa fees charged to visiting journalists. United Kingdom of Great Britain & Northern Ireland made recommendations.

59. United States of America reiterated that Nauru should consider ratifying the International Covenant on Civil and Political Rights. It supported the establishment of a Public Defender position, but remained concerned over lack of affordable, effective and available legal services. They supported Nauru's stated commitment to decriminalization of same-sex conduct between consenting adults, however are troubled that no action has been taken yet. United States of America made recommendations.

60. Uruguay welcomed accession of Nauru to CEDAW, the interdiction of corporal punishment for children in education centres, and the priority given to combat the scourge of domestic violence, including the creation of institutions such as the Unit and the Committee Against Domestic Violence. It took note of the visit of the High Commissioner for Refugees underscoring advances in the legal framework and determination of the refugee status. Uruguay made recommendations.

61. Venezuela (Bolivarian Republic of) highlighted legislative reforms and the ratification of international treaties including CRPD, CEDAW, CAT and OP-CAT and was pleased with the advances in school registration rates and the strategy against school absence in the framework of the Annual Operative Education Plan. It stated that the community of nations should provide support, cooperation and technical assistance in order to help Nauru to achieve its objectives. Venezuela (Bolivarian Republic of) made recommendations.

62. Algeria congratulated Nauru for the significant progress in human rights areas, noting the adoption and amendment to the legislation on citizenship, cybercrime, education, refugees and asylum seekers. Algeria welcomed the efforts made and steps taken, particularly in the framework of the National Youth Policy 2009-2015, the National Policy on Disability 2015, the National Policy on Women and the National Sustainable Development Plan 2005-1025. Algeria made recommendations.

63. Argentina congratulated Nauru for acceding to CEDAW in 2011 and CRPD in 2012, as well as for having ratified CAT the same year. Argentina made recommendations.

64. Armenia stated that despite some progress towards the promotion of the rights of women, women in Nauru were still reported to face several challenges, such as lack of accessible medical services. It encouraged the Government to provide the necessary medical facilities for women for early detection of health problems and appropriate medical intervention. It noted with appreciation the ratification of CRPD, CEDAW, CAT and OP-CAT. Armenia made recommendations.

65. About recommendations calling for the decriminalization of same-sex interaction, Nauru acknowledged that this is an emerging matter globally and, taking into account long

held social and religious feelings of the Nauruans, the Government believed that a national open consultation would be the best way to address this matter.

66. Regarding the treatment of refugees and asylum seekers, the delegation stated that the Government extends an invitation to all United Nations organizations and mechanisms and the media, to visit the country.

67. Nauru accepted recommendations for the ratification of ICCPR and ICESCR. Periodic reports for the CRC and CEDAW are ready while the CRPD report should be finalized at the end of November 2015. On free legal services for all, Nauru has already made clear that these services are now available through the Public Legal Defender's Office.

68. Australia welcomed the establishment of a Gender Violence and Child Protection Directorate and was pleased to assist Nauru's efforts to address gender violence and child protection through the support for a Gender-based Violence Counsellor. It encouraged Nauru to continue to uphold principles of democratic processes, including freedom of speech, the rule of law and recognized concerns including on press freedom, Internet censorship, and suspension of opposition MPs. Australia made recommendations.

69. Belgium welcomed the efforts made, particularly in strengthening the National Framework on Human Rights and the ratification of a number of Treaties. It inquired about the measures implemented to end violence against women and their results. Belgium also asked to justify the drastic increase in the rates applicable to the press for obtaining a visa. Belgium made recommendations.

70. Brazil welcomed accession by Nauru to CRPD and CEDAW. It recognized the publication of the first national study on violence against women and stated that challenges still remain in the field of gender and discriminatory practices against women. It asserted that domestic violence remains a concern and regretted the lack of a specific law to address this problem, to make sure that all criminal acts were investigated and perpetrators were prosecuted. It expressed concern about the conditions of asylum-seekers, including children, in Nauru. Brazil made recommendations.

71. Canada welcomed the steps taken by Nauru to strengthen its national human rights framework, most notably toward ratification of outstanding international human rights treaties, despite resource constraints. It encouraged Nauru to continue to strengthen the legal protection of human rights, particularly the elimination of gender-based violence by reviewing and implementing revisions to the Criminal Code. It asked that Nauru make public the report of the UN subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Canada made recommendations.

72. Chile welcomed advances to access and ratify international human rights instruments such as CAT and OP-CAT, as well as the reinforcement of Nauru national sectorial policies and its domestic legislation in areas such as education and citizenship. Chile made recommendations.

73. Costa Rica welcomed the work done by Nauru's Government in coordination with OHCHR to advance in its human rights commitments and be able to establish a national human rights institution. It considered that actions taken by Nauru from a human rights perspective regarding vulnerability to natural disasters and climate change, both at a national and regional level, would contribute to preparing the population to face these situations. Costa Rica made recommendations.

74. Cuba stated that despite challenges faced by Nauru, particularly the lack of capacity and resources, it continued making important progress in the search for a better compliance with its human rights obligations. It underscored the National Policy about Disabilities 2015, the National Policy for Young People 2009-2015 and the National Policy for Women 2014-2019, as examples of the importance that Nauru gave to improve enjoyment of human rights of its population. Cuba made recommendations.

75. Djibouti welcomed progress achieved in the promotion and protection of human rights. Djibouti made recommendations.

76. Fiji noted the Memorandum of Understanding signed by Nauru with the Government of Australia to implement a third-country processing regime, under which asylum seekers' claim to Australia could be processed in Nauru. It believed that this bilateral policy should be implemented in compliance with Nauru's international obligations. It acknowledged notice from the government aiming at expanding the opening of centre arrangements for asylum seekers, but stated that Fiji deprecated other restrictions on the right of asylum seekers, including their right to use internet to communicate, their right to be protected from sexual assaults and their rights to freedom of assembly, movement and expression. Fiji made recommendations.

77. France enquired about actions planned by the Government following the publication of the reports on the degrading and inhuman treatments in the Regional Centre for the Asylum-seekers, as these reports mention simulated drowning, rapes and violence, including against children. It also asked for clarification about the provisions regarding freedom of expression, particularly the prohibition of social networks, the imprisonment of opposition parliamentarians and the increase in the visa tax for journalists. France made recommendations.

78. Ghana noted that Nauru has ratified a significant number of international human rights instruments, including CEDAW, CRPD and CAT. Ghana made recommendations.

79. Mexico congratulated Nauru for the advances reached with regard to the past UPR cycle, underscoring efforts to combat domestic violence and the development of National Policy on Disabilities. It also welcomed the indefinite moratorium in force on the application of the death penalty, and expressed hope that the esteem given by Nauru to the right to life will translate into a reform that leads to the abolishment of the death penalty. Mexico made recommendations.

80. Nauru stated that it takes seriously its human rights commitments as a responsible member of the international community. Nauru does its best efforts to ensure safety and security to all communities, being they locals, expatriate workers, refugees and asylum seekers. These efforts include the upgrade of the Criminal Code, the Leadership code and the Stand Alone Domestic Violence Legislation.

81. Moreover, restrictions to access to social media were set temporarily in place to protect women and children from abuse, but the Government's intention is to find a way to implement this protection through the implementation of Cyber Crime Act, without restricting forms of expression through the social media.

82. On Climate Change, Nauru welcomed the invitation, made at the regional level, for vulnerable communities to relocate.

83. The suspension of Members of Parliament was dealt with by the Supreme Court upon request of the same MPs, and the Supreme Court has decided to revert to the Parliament. MPS should abide by the resolution of the Supreme Court.

84. Nauru participated in the UPR exercise with great openness and sincerity, and values all statements and recommendations it has received. The Government is dedicated to human rights and hopes to make human rights a genuine way of life, and has been reassured by the keen interest for Nauru emerged during the discussion. Finally, the delegation thanked all participants in its review for their contribution.

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

85. **The recommendations formulated during the interactive dialogue and listed below have been examined by Nauru and enjoy the support of Nauru:**

85.1. **Ratify the International Covenant on Civil and Political Rights (Montenegro); (United Kingdom of Great Britain and Northern Ireland); (Armenia);**

85.2. **Ratify the ICCPR and its two Optional Protocols (Slovenia); (Switzerland);**

85.3. **Consider ratifying the ICCPR and its Optional Protocols with a view of abolishing the death penalty (Namibia);**

85.4 **Ratify the ICCPR and ICESCR (Kenya); Ratify ICCPR and ICESCR (Algeria); Take the necessary steps to ratify the International Covenant on Civil and Political Rights and accede to the International Covenant on Economic, Social and Cultural Rights, as accepted during the previous Universal Periodic Review of Nauru (Canada);**

85.5. **Ratify the Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty (Montenegro); (Spain); Abolish permanently the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (France);**

85.6. **Ratify the International Covenant on Economic, Social and Cultural Rights (Armenia);**

85.7. **Study the possibility of ratifying ICERD (Panama); Consider ratifying ICERD (Morocco);**

85.8. **Ratify the ICCPR and ICERD signed since 2001, as well as the ICESCR, ICRMW and ICPPED (Sierra Leone);**

85.9. **Consider ratifying the ICCPR without further delay in order to demonstrate Nauru's earnest commitment to respect the civil and political rights of all those within its borders (United States of America);**

85.10. **Take steps to ratify the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination (Ghana);**

85.11. **Ratify ICERD; ICESCR and its Optional Protocol and the three Optional Protocols to the CRC (Portugal);**

- 85.12. **Ratify ICERD and ICESCR (Trinidad and Tobago);**
- 85.13. **Consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);**
- 85.14. **Sign and ratify the International Convention on the Protection of All Persons Against Enforced Disappearances and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications on the subject (France);**
- 85.15. **Ratify the Convention on the Prevention and Punishment of the Crime of Genocide (Armenia);**
- 85.16. **Ratify the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol (France);**
- 85.17. **Ratify the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, sale of children, child prostitution and child pornography (France);**
- 85.18. **Ratify the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination; sign and ratify the International Covenant on Economic, Social and Cultural Rights (Georgia);**
- 85.19. **Ratify the ICERD, the Optional Protocol to CEDAW and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (New Zealand);**
- 85.20. **Comply with the provisions of the international conventions it has freely ratified, in particular those relating to women, children and the prohibition of torture (France);**
- 85.21. **Continue to seek capacity-building assistance, guidance, and technical support from the UN and regional partners to fulfil its human rights obligations (Philippines);**
- 85.22. **Meet obligatory reporting requirements for Conventions to which Nauru is a party and extend invitations to relevant working groups and special rapporteurs to visit Nauru (New Zealand);**
- 85.23. **Further progress in the incorporation of the Convention on the Rights of the Child to legislation and national policies (Chile);**
- 85.24. **Develop specific legislation on the elimination of discrimination against women (Cuba);**
- 85.25. **Carry out all necessary efforts to continue to align national law with provisions of CEDAW and of the Convention on the Rights of the Child (Uruguay);**
- 85.26. **Develop disability legislation (Maldives); Develop specific legislation on disability matters (Cuba);**
- 85.27. **Provide adequate financial and human resources to support the Treaty Working Group (Timor Leste);**
- 85.28. **Establish as soon as possible a national human rights institution (France);**

- 85.29. Establish a NHRI in accordance with the Paris Principles (Portugal);
- 85.30. Continue efforts with a hope of establishing a national human rights institution in line with the Paris Principles (Indonesia);
- 85.31. Establish an effective protection system for children (France);
- 85.32. Implement all the necessary measures to set up a National Mechanism of Prevention in line with the provisions of the OP-CAT (Panama); Establish as soon as possible a National Prevention Mechanism, in accordance with OP- CAT (Switzerland); Establish a national prevention mechanism in line with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Ghana);
- 85.33. Expedite the submission of national reports to the human rights treaty bodies including to the CRC, CEDAW, CAT and CRPD (Kenya);
- 85.34. Reschedule the postponed visit of the Working Group on Arbitrary Detention and set the date for the visit of the Special Rapporteur on Migrants (Portugal);
- 85.35. Reschedule the postponed visit of the UN Working Group on Arbitrary Detention to Nauru (Canada);
- 85.36. Seek to increase women's political participation and representation in decision making and women's economic empowerment (Maldives);
- 85.37. Continue taking active measures to eliminate all forms of discrimination against women (Namibia);
- 85.38. Include in the Criminal Code provisions that refer to the express protection against sexual and gender violence (Uruguay);
- 85.39. Amend the Criminal Code to include provisions to protect women against sexual and gender based violence and to train and sensitise security and police officers as well as the population in general (Belgium);
- 85.40. Enact domestic violence legislation to ensure that women survivors of violence have legal protection from domestic violence (Ireland);
- 85.41. Adopt a comprehensive legislation on equality and gender violence (Spain);
- 85.42. Strengthen domestic legislation to include provisions that provide explicit protection from sexual and gender violence (Chile);
- 85.43. Expand education and awareness programs to eradicate sexual and gender violence (Chile);
- 85.44. Take the necessary measures, including the reinforcement of the legal framework, to combat violence against women and early marriages (Algeria);
- 85.45. Implement effective measures against domestic violence, including spousal rape, bring perpetrators to justice, and develop public education campaigns in this area (Canada);
- 85.46. Expand the Public Defender program to ensure that all those who do not have sufficient means to pay for legal services –citizens and non-citizens alike – can receive them (United States of America);
- 85.47. Introduce measures to ensure judicial independence, including through the establishment of an independent regulatory commission or body to

- oversee the appointment and removal of members of judiciary (United Kingdom of Great Britain and Northern Ireland);
- 85.48. Take measures to ensure the dignity of detainees and their rights to life, liberty and physical and mental integrity (Slovenia);
- 85.49. Pass legislation increasing the legal age of marriage to 18 (Sierra Leone);
- 85.50. Incorporate the provisions of the Convention on the Rights of Persons with Disabilities in its domestic law, and eliminate the remaining provisions that consent discrimination against persons with disabilities (Mexico);
- 85.51. Continue to strengthen the rights of persons with disabilities particularly by facilitating their access to public buildings and facilities (Djibouti);
- 85.52. Further strengthen its programs and social policies, paying particular attention to the fields of education, health and nutrition, giving priority to the neediest sectors of the population. (Venezuela (Bolivarian Republic of));
- 85.53. Continue to protect the population against climate change by pursuing the efforts undertaken under the framework of the United Nations Framework Convention on Climate Change (Djibouti);
- 85.54. Continue its efforts to implement the Framework for Climate Change and Disaster Risk Reduction, including through appropriate international cooperation that enhance the resilience and adaptability of Nauru (Indonesia);
- 85.55. Consider with high priority strengthening and broadening the human capacity of the National Disaster Risk Management Office and of the Climate Change Unit before its next UPR review (Solomon Islands);
- 85.56. Continue with its efforts to address climate change and its adverse effects on people's livelihood and health, while ensuring that all climate action is guided by its human rights obligations (Philippines);
- 85.57. Incorporate in its Framework a plan to undertake vulnerability assessments and to institute a plan for relocation of Nauruans living in vulnerable or high risk zone to safer and habitable locations (Fiji);
- 85.58. Actively seek funding to mitigate the harms from environmental degradation and adapt to the effects of climate change (Sierra Leone);
- 85.59. Seek for technical capacity development assistance from the United Nations as well as its international development partners (Timor Leste).
86. The following recommendations enjoy the support of Nauru which considers that they are already implemented or in the process of implementation:
- 86.1. Continue its cooperation with Treaty Bodies by submitting all its overdue reports, namely the initial reports on CRC and CEDAW (Portugal);
- 86.2. Introduce and implement a national child protection framework (Georgia);
- 86.3. Continue efforts to strengthen the role of the National Plan of Action for Women (Morocco);
- 86.4. Develop a national strategy to implement obligations under CEDAW (Australia);



- 86.5. Promote gender equality in law and in practice, particularly through education and public awareness (Mexico);
- 86.6. Consider adopting measures to enhance the fight against domestic violence (Brazil);
- 86.7. Combat domestic violence particularly by raising public awareness on the problem of violence (Djibouti);
- 86.8. Ensure specific training to police concerning certain types of crimes, in particular rape with regard to the offences reported in the Centre for asylum seekers (France);
- 86.9. Strengthen the independence of the judiciary, notably by ensuring that magistrates are not dismissed arbitrarily from their functions (Belgium);
- 86.10. Commit to upholding the rule of law and independence of the judiciary (Netherlands);
- 86.11. Steps be taken to enhance and strengthen the independence of the judiciary (Trinidad and Tobago);
- 86.12. Allow the opening of independent investigations on allegations of crimes committed in the Centre for asylum seekers (France);
- 86.13. Adopt adequate safeguards in the Constitution and in relevant legislation to ensure the independence of judges and magistrates as well as the independent practice of the law profession. Consider extending an invitation to the Special Rapporteur to strengthen such efforts (Mexico);
- 86.14. Allow the courts or another politically independent body to hear final appeals against the cancellation or denial of passports, visas or other Nauruan travel documents (New Zealand);
- 86.15. Release the parliamentarians from the opposition who have been imprisoned and take the necessary legal measures to ensure freedom of expression, in the media and on the internet (France);
- 86.16. Amend the Criminal Code to lift restrictions on the freedom of movement, freedom of assembly and freedom of expression (Germany);
- 86.17. Actively address issues of freedom of expression and association in Nauru, and support political representation for all Nauruan (Australia);
- 86.18. Guarantee the right to social security of the population, especially of groups in vulnerable situations such as children and people with disabilities (Mexico);
- 86.19. Establish a comprehensive regulatory framework to reduce the physical and environmental health care risks associated with phosphate mining (Trinidad and Tobago).
87. The following recommendations will be examined by Nauru which will provide responses in due time, but no later than the 31<sup>st</sup> session of the Human Rights Council in March 2016:
- 87.1. Abide by its international human rights obligations and to uphold freedom of the press, freedom of information and freedom of speech (Netherlands);
- 87.2. Make public the whole report of the Subcommittee on the Prevention of Torture, following its visit to Nauru in May 2015 (Switzerland);

- 87.3. Seize the opportunity of the Criminal Code of Nauru to decriminalize homosexual relations between consenting adults (Spain);
- 87.4. Take swift action to decriminalize same – sex sexual conduct between consenting adults (United States of America);
- 87.5. Swiftly decriminalise sexual behaviour between consenting adults of the same sex (Australia);
- 87.6. Advance towards the derogation of the provisions that criminalise consenting same-sex relations between adults (Chile);
- 87.7. Reform the Penal Code to abolish the ban imposed on sexual relations between same sex adults, in order to comply with the commitments made in 2011 (France);
- 87.8. Modify national legislation to decriminalize consensual sexual relations between persons of the same sex, as recommended and accepted during the first UPR (Argentina);
- 87.9. Take the necessary measures for the abolition of death penalty (Costa Rica);
- 87.10. Amend the Constitution in order to abolish the death penalty (Portugal); Amend its Constitution with a view to abolishing the death penalty (Sierra Leone);
- 87.11. Amend article 4 of the Constitution to abolish the death penalty (Slovenia);
- 87.12. Consider improving the conditions of detention centers in the country, particularly the Regional Processing Centre, in line with the UN Minimum Standards Rules for the Treatment of Prisoners (Ghana);
- 87.13. Ensure that all criminal law provisions, including Section 244A of the Criminal Code, which imposes harsh penalties for a wide range of legitimate expression, are fully consistent with the enjoyment of the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association (Canada);
- 87.14. Lift restrictions on access to the Internet within Nauru and facilitate access of journalists to the country, (Germany);
- 87.15. Allow international media organisations increased access, including through a reduction of prohibitively expensive visa fees (New Zealand);
- 87.16. Reduce entry visa fees for foreign journalists (Timor Leste);
- 87.17. Adopt a legislative framework that protects effectively activists in the civil society against all types of reprisals, in particular journalists and human rights defenders ( Belgium);
- 87.18. Take legal and institutional measures to strengthen the independence of the judges, ensure freedom of expression and lift the restrictions on access to internet and social media (Costa Rica);
- 87.19. Ensure that asylum seekers, refugees and migrants, particularly unaccompanied minors and children are given all necessary protection and social support (New Zealand);
- 87.20. Grant access of independent observers to detention centres for migrants and clarify their status (Spain);

- 87.21. Authorize independent entities, such as journalists and local, national and international organizations, to travel freely in all areas of the detention centre for migrants with the aim to monitor the conditions of detention (France);
- 87.22. Take immediate measures to improve the physical conditions and security situation in detention and processing centers for asylum seekers, especially for women and children. Invest in finding timely, adequate and durable solutions for refugees (Germany);
- 87.23. Avoid mandatory deprivation of liberty for asylum and refugee applicants while their petitions are processed (Uruguay);
- 87.24. Address the question of the conditions offered to asylum and refugee seekers during the processing of their applications and once the procedure is completed, ensure that these people enjoy the human rights which they are entitled to under the Convention relating to the Status Refugees of 1951 and other applicable international norms (Uruguay);
- 87.25. Consider reviewing the policy regarding asylum-seekers and take appropriate measures to guarantee they are treated in accordance with applicable international human rights standards (Brazil);
- 87.26. Take measures to implement and guarantee international human rights for asylum seekers, and in particular the right of women and girls who are seeking asylum to be protected from gender based violence (Fiji);
- 87.27. Review the regional resettlement arrangement with a view to ending or reforming the offshore processing and offshore detention of asylum seekers; and to release asylum seekers from detention while their claims are being processed, priority being given to releasing children and families as soon as possible; and, in the interim, to provide adequate safeguards for the detainees in detention, including providing reasonable standards of security and hygiene (Kenya);
- 87.28. Establish concrete measures to guarantee that the rights of asylum seekers and refugees are upheld, particularly women and children in immigration detention or processing centres (Philippines);
- 87.29. Release all children from immigration detention as a matter of priority (Slovenia);
- 87.30. Ensure that minors have access to education in a safe environment in line with its obligations under the Convention on the Rights of the Child and other international human rights instruments (Ireland).
88. All 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 H.E. Mr. David Adeang, Minister of Justice and composed of the following members:

1. H.E. Ms. Charmaine Scotty, Minister for Home Affairs;
  2. Mr. Lionel Aingimea, Secretary for Justice and Border Control;
  3. Ms. Mary Tebouwa, Secretary for Home Affairs;
  4. Ms. Joy Heine, Director for Women's Affairs;
  5. Mr. Filipo Masaurua, Senior Government Lawyer Human Rights/Gender.
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