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Draft report of the Working Group on the Universal Periodic Review*

Bahamas

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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 fifteenth session from 21 January to 1 February 2013. The review of Bahamas was held at the 6th meeting on 23 January 2013. The delegation of Bahamas was headed by H.E Mrs. Z.C. Allyson Maynard-Gibson, Attorney General & Minister of Legal Affairs, Office of the Attorney General and Ministry of Legal Affairs. At its 10th meeting held on 25 January 2013, the Working Group adopted the report on Bahamas.
2. On 14 January 2013, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Bahamas: Pakistan, Costa Rica and Gabon.
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 Bahamas:
 - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/15/BHS/1);
 - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/15/BHS/2);
 - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/15/BHS/3).
4. A list of questions prepared in advance by Mexico, Netherlands, Norway, Slovenia, Spain and United Kingdom of Great Britain & Northern Ireland were transmitted to Bahamas 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 Delegation congratulated the President of the Human Rights Council and thanked the Troika members for the assistance rendered to her delegation in this process.
6. The Head of Delegation pointed out that their participation in this process is indicative of the significance which The Bahamas attributes to the promotion and protection of fundamental freedoms and human rights.
7. The Head of Delegation explained that the modern history of The Bahamas that began with a quest for religious freedoms as throughout the centuries, the people who settled these islands have inculcated a respect for human rights and the rule of law, which continues to thrive today. Today, The Bahamas has been a place of refuge to tens of thousands of immigrants from Haiti, who have found access to employment, free education, health and social services, and full affirmation of their rights and dignity as people. Added to this matrix is a long and proud history of democracy and the rule of law, with a system of parliamentary democracy which can be traced back unbroken to 1729—making it the third oldest parliamentary system in the Western Hemisphere. It currently operates a vibrant participatory democracy based on the principle of separation of powers, with a Constitution providing for entrenched fundamental rights, an independent judiciary to enforce those rights, and strong institutions of civil society, which include an independent press, organized trade unions and the Church.

8. The Head of Delegation outlined a few general considerations which have important socio-cultural, legal and institutional implications for the implementation of human rights on the domestic level. There are also two jurisprudential issues, which form an important part of the legal and institutional framework of the human rights environment. Firstly The Bahamas has an enacted Constitution which entrenches many fundamental provisions, especially those related to fundamental rights and freedoms. To amend them require special procedures, parliamentary majorities and referenda. This truly reposes the final say in the hands of the People.
9. The Head of Delegation indicated that the Government has re-launched a Constitutional Reform Commission to conduct a comprehensive review, and to recommend changes to the Constitution by the end of March 2013, in advance of the 40th Anniversary of Independence in July. The issues include: discrimination and gender equality; citizenship and nationality; distribution of state power vis-à-vis individual rights; capital punishment; and conferral of full equal rights on women. This last will be put to referendum by June 2013.
10. The Commission's Report will be accompanied by public consultation and education.
11. The Head of Delegation described the second jurisprudential issue to be the dualist nature of the legal system that requires the incorporation of international conventions into domestic law. Nevertheless, the Government is committed to this process and is determined to improve the domestication of such instruments.
12. On thematic considerations, the Head of Delegation reported that civil society had been involved more deeply in the preparation for the Review. Consultations were held with key national stake-holders, namely representatives of all the major religious groups and representatives of civil society (including the Official Opposition).
13. On reporting obligations to the various Treaty Bodies and increasing dialogue with such Bodies the Head of Delegation acknowledged that there are still outstanding Reports to several human rights instruments, due to technical and legal challenges. The Head of Delegation reported that a project management team is being established to conduct an audit of all international treaties to which they are party to, with a view to identifying reporting obligations while welcoming offers of technical assistance.
14. On the creation of national human rights institutions (NHRIs), such as an Ombudsman or Human Rights Commission, the Head of Delegation clarified that The Bahamas, has a Westminster style Constitution where the Court constitutes the primary human rights institution. The High Courts have almost unlimited powers to enforce fundamental rights. Nevertheless, The Bahamas is generally supportive of the concept of NHRIs, and their potential additional value. Thus, best practices are thereon are being researched.
15. The Head of Delegation informed that a division was formed to harmonize national legislation and international Agreements. An inter-Agency Committee was also established to oversee the implementation of Convention mandates and recommendations.
16. The Head of Delegation acknowledged that there has been a delay in the implementation of both Covenants, the ICCPR and the ICESCR because they require amendments to the Constitution, and will therefore have to be subjected to the referendum process, which will require time and public education. Therefore, it is not in a position to ratify either the first Optional Protocols to the ICCPR and OP-ICESR. With respect to the accession to the optional protocol of CEDAW, this cannot be accomplished before the removal of the reservations to Article 29.

17. Concerning the OP-CRC-AC and OP-CRC-SC the Head of Delegation pointed out that concerning the OP-CRC-SC domestic law prohibits the sale of children, child prostitution and child pornography. The Bahamas is not involved in any armed conflict the issue of ratification of OP-CRC-AC will be dealt with at a later stage.

18. On administration of justice, the Head of Delegation informed that the AG's Office is implementing a number of initiatives to deal with the backlog of cases (particularly criminal). The most significant of these is the 'Swift Justice' system, and its corollary integrated justice system. Aligned with this is the use of the integrated justice system, which provides an information system to manage serious cases (especially murder) from the investigative stage, and automation and connectivity of all the stakeholders in the Criminal Justice System (police, prosecutors, prison officials, courts, etc.). There are plans to create a Family Court to provide a suite of alternative dispute resolution support services, such as mediation and counseling and to harmonize more than 20 pieces of legislation. And, on Treaty Reporting, she stated national efforts and requested technical assistance could be maximised for timeliness and effective, synergistic implementation by UN clustering of relevant Instruments.

19. The Head of Delegation referred to a Programme called "Urban Renewal", which was introduced to bring a social dimension to the administration of justice, and to address root causes. The main thrust of the Programme is, therefore, to strengthen communities with social interventionist Programmes administered by a cross-section of Agencies, including the police, social service and health workers.

20. The Head of Delegation informed of their current position on the death penalty. She emphasized that death penalty has been on The Bahamas' Statute Books since the inception of the English Common Law in 1799. It was mandatory for murder and treason until a seminal case in 2006, when the Privy Council (PC) ruled that the relevant provisions of Bahamian law were to be construed as prescribing a discretionary and not mandatory death sentence. In 2012, further judicial restrictions were imposed by the Privy Council ruling that the death penalty should only be imposed where the offence was deemed to be the 'worst of the worst' or the 'rarest of the rare'. The majority of the population, guided by strong Judaeo-Christian principles, supports capital punishment. She noted that the international community is still very much divided on this issue. This issue will be before the Constitutional Reform Commission. Moreover, the last mandated execution took place twelve years ago, even in the absence of a formal moratorium.

21. On the issue of the legality of corporal punishment in specified circumstances the Head of Delegation informed that it remains a practice under Bahamian law in two broad categories. The first is in respect of the legal right of parents or guardians, and the second, as punishment for criminal or prison disciplinary offences.

22. Notwithstanding the legal ability to employ corporal punishment in respect of minors, The Bahamas recognizes the merit of behavioural modification mechanisms, and encourages such disciplinary measures in lieu of physical discipline. The Head of Delegation informed of the desire to undertake a study on the effects of corporal punishment in The Bahamas.

23. The Head of Delegation explained that physical abuse of a child is punishable under the law of The Bahamas. The Government remained dedicated to granting full measure to protecting the rights of the child and addressing the issue of child abuse in the Country. This is explicitly demonstrated in the integration (with a minor reservation) of the Convention on the Rights of the Child into domestic legislation, via the Child Protection Act 2009.

24. The Head of Delegation informed of the measures taken, where technical experts are presently designing a system whereby the birth of all infants born in The Bahamas,

including in the far-flung Islands of the Archipelago, will be registered in a national database, which will also assist Officials in processing claims for nationality. The Department of Social Services has also spearheaded the National Child Abuse Prevention Inter-Agency Protocol, which attempts to document current practices of abuse, and set out policies and procedures in respect of child protection issues. It is envisaged to be operational early in 2013.

25. The Head of Delegation addressed the allegations of sex tourism involving children in The Bahamas. After comprehensive investigation, they found no support for such claims. She informed that the Government had just granted permission for the Special Rapporteur on Trafficking in Persons, especially women and children, to visit during this year, upon her request. She reaffirmed to the international community that any credible reports of such activities will be vigorously investigated, pursued and prosecuted.

26. With respect to the rights of children born out of wedlock, and in answer to a question which has been asked, since the enactment of the Status of Children Act in 2002, the Head of Delegation informed that those children have equal status as those born to married persons in their legal relations to their parents, including inheritance rights. The notable exception has to do with the right to nationality, which could not be changed by the Act, and will have to await constitutional amendment.

27. The Head of Delegation assured that The Bahamas enjoys a free and very tolerant racial climate. The Government of The Bahamas is aware of recommendations to criminalize racial discrimination. However, after conducting extensive investigations in conjunction with several Government Agencies, no cases of discrimination on the basis of race have been identified to date. The Constitution of The Bahamas provides protection from racial discrimination, and effective redress for violations of that right.

28. The Head of Delegation informed that the Government is acutely aware of the need to protect the rights of persons with physical or mental disabilities. In collaboration with the private sector, the Government has been active in efforts to provide support and promote a high quality of life for persons with disabilities and their participation in national development. Consultations to enact domestic legislation on disability are ongoing and it is anticipated during this year, both to accede to the United Nations Convention on the Rights of Persons with Disabilities, and to enact legislation to give effect to the Convention.

29. On sexual orientation or gender identity, the Head of Delegation informed that The Bahamas' Constitution in its Preamble refers to its respect for Christian values. They believe that "family" is the foundation of a strong Nation. Marriage in The Bahamas is the union of a man and a woman. There is no formal or positive legal discrimination against persons in The Bahamas based on sexual orientation or gender identity, although it is not included as a prohibited ground of discrimination in the Constitution, or legislation which prohibits discrimination in specific areas (such as employment). Neither have there been any reported cases where anyone has alleged discrimination on the basis of sexual orientation. There have been, within the past few years, a few instances of violence which involved persons alleged to be "gay". However, these incidents were domestic in nature, characterized by a dispute between the parties themselves, and not provoked by any form of discrimination.

30. The Bahamas was the first country in the Commonwealth Caribbean (in 1991) to decriminalize consensual sex between persons of the same gender. Also, in 2010, and again during the current 67th session of the General Assembly, The Bahamas voted in support of the retention of language in a resolution condemning killings for any discriminatory reason to specifically include "sexual orientation" as a discriminatory ground for such killings. The Bahamas' will remain engaged in the international discussions on the matter.

31. The Head of Delegation informed that in 2009, a bill was tabled to amend the Sexual Offences and Domestic Violence Act to criminalize marital rape where the couple is living together. Consultation with civil society indicated that public opinion was strongly against the Bill, which was subsequently withdrawn. At the same time spouses who may be subject to sexual abuse by their partners are not without legal protection under Bahamian laws such as the Domestic Violence (Protection Orders) Act. In addition, the Government has embarked, in schools, through its social agencies and in conjunction with civil society, on a variety of programmes to sensitize persons to this issue, which it is hoped will contribute to a decrease in domestic violence generally, including all forms of spousal violence.

32. The Head of Delegation noted that they are aware of the concerns with respect to the high incidents of reported rape. She informed of steps taken to reduce such incidents such as taking action to effectively investigate and prosecute rape cases and respond sensitively to the victims, when they do occur. On the Strategic Plan for the Management, Prevention and Elimination of Family Violence she informed that a multi-disciplinary team was established in March of 2012 to review the plan and make recommendations on the way forward. The team expects to have the report completed by March of this year.

33. The Head of Delegation reiterated that The Bahamas has for many years attracted a steady flow of immigrants, mainly from its sister CARICOM country of Haiti, although in recent times this has included vulnerable migrants from other third countries. Such persons are housed in a Detention Centre until they can be repatriated to their countries, unless they qualify for refugee status after appropriate screening. Where children are involved, every effort is made to repatriate, determine refugee status, or resettle them as quickly as possible. In this regard, the Department of Immigration adheres to guidelines based on the United Nations High Commissioner for Refugees mandates to screen immigrants to determine whether they are at risk of persecution in their country. The Government and UNHCR enjoy a regular dialogue, whereby national asylum assessments are shared with the UNHCR and, when necessary, Advisory Opinions are requested. In addition, the Government is reviewing existing policies in respect of both the Carmichael Detention Centre and asylum seekers. The Government had also begun a process of renovating the physical infrastructure at the Detention Centre, beginning with the refurbishment of plumbing facilities.

34. The Bahamas continues to engage in very close cooperation with the United States in addressing this issue, and members of the TIP Committee have received American-sponsored training to identify and respond to victims and perpetrators of trafficking.

35. The Government has undertaken several cross-cutting, bilateral and multilateral initiatives to deal with the scourge of trafficking in persons. In addition to putting in place the Trafficking in Persons (Prevention and Suppression) Act, 2008, it has established a National Inter-Agency Committee and Task Force, drafted national protocols for the Security Forces and Health and Social Services, conducted awareness programmes, in conjunction with civil society, and has undertaken close cooperation and training with the United States of America. The Government remains committed to doing all it can to prevent and protect against trafficking in persons.

36. The Head of Delegation highlighted the reports of excessive use of force by the security forces, in particular the police, which continue to be of concern to the Government. Firstly, she pointed out that members of the security forces are subject to the jurisdiction of the civil courts, and over the past years several have been prosecuted for acts of violence in excess of their legal authority. There is also a complaints procedure which provides for complaints in respect of police officers to be investigated by the Complaints and Corruption Branch of the Police Force. She informed that, in accordance with the 2009 Police Act, a civilian Police Complaints Inspectorate was established to have oversight of complaints made against the police.

37. The Head of Delegation informed that the Government is fully committed to educating its populace on human rights issues, including introducing such training in the primary and secondary school curriculum. Although The Bahamas has not fully adopted the World Programme for Human Rights Education as laid out in 2005, there are numerous subjects taught in both primary and secondary schools that incorporate themes of human rights education.

38. The Head of Delegation noted that The Bahamas' Constitution guarantees freedom of expression and opinions, and human rights defenders in The Bahamas are accorded full respect and allowed to actively defend such rights without any restrictions or hindrance by Government.

B. Interactive dialogue and responses by the State under review

39. During the interactive dialogue, 45 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

40. New Zealand recognized the capacity and resource challenges Bahamas faced as a small island developing State. It noted that The Bahamas had accepted a recommendation to consider acceding to the CRPD and welcomed its accession to the ICCPR and ICESCR. It also welcomed the country's acceptance of a recommendation to consider measures to promote tolerance and non-discrimination on the grounds of sexual orientation and thanked the Government for information provided on steps taken in that regard. It made recommendations.

41. Norway was concerned about reported high incidences of domestic violence and acknowledged efforts to combat the problem. It observed the country's efforts to improve children's rights but expressed concern that corporal punishment of children still occurred and was lawful. It noted that The Bahamas had accepted recommendations to consider measures to promote non-discrimination regarding sexual orientation. It noted also that The Bahamas retained the death penalty. It made recommendations.

42. Paraguay congratulated The Bahamas on its efforts to address the needs of persons with disabilities, especially through various forms of financial assistance. It highlighted the legislative efforts made to combat and prevent trafficking in persons. It noted the new Act on the protection of children which increased the age of criminal responsibility and encouraged the adoption of measures regarding violence against women. It made recommendations.

43. Peru acknowledged the Bahamian Government's commitment to social development and to respect of the human rights of the country's population. It highlighted the implementation of the programme Swift Justice, aimed at facilitating cooperation between institutions and judicial bodies, and national discussion encouraging meetings and public consultation on various issues affecting society. It made recommendations.

44. The Philippines noted that the withdrawal of the reservation to Article 16 8i) (h) of CEDAW was a giant step forward towards the eventual elimination of discrimination against women. It hoped that The Bahamas would further strengthen the normative framework for migrants' rights in society. It welcomed intensified efforts to combat human trafficking and the establishment of the inter-ministerial committee on trafficking in persons. The Philippines made a recommendation.

45. Portugal welcomed the Bahamas's ratification of the ICCPR and ICECSR, and the withdrawal of its reservation to article 16 (1) of the CEDAW. It noted that The Bahamas rejected the recommendation to abolish the death penalty in the first UPR cycle. It Portugal reminded that The Bahamas stated during the first cycle its intention to repeal laws

authorising judicial corporal punishment and requested information on steps taken to ensure children's right to legal protection from all corporal punishment. It made recommendations.

46. Singapore recognized the challenges faced by the country as a small island developing State and the progress made towards the MDGs despite that. It noted the Government's provision of free education from kindergarten to grade 12. It noted also the efforts to combat trafficking in persons, including the establishment of the Trafficking in Persons Task Force. It made recommendations.

47. Slovakia commended The Bahamas for withdrawing its reservation to article 16 (1) of CEDAW, for its accession to the ICESCR and ICCPR and for launching initiatives to combat violence against women, such as the campaign: Domestic Violence is Everyone's Business. It noted also the reported increase in the rate of primary education enrolment. It made recommendations.

48. Slovenia noted that The Bahamas was combatting discrimination through the training of educators. It welcomed the fact that guidance counsellors provided education programmes to raise awareness among students of human rights, particularly regarding gender-based and racial discrimination. It welcomed the country's ratification of the ICCPR and the ICESCR. It made recommendations.

49. South Africa commended the Bahamas's withdrawal of its reservation to article 16 (1) (h) of the CEDAW. It was encouraged by progress made in preparation for accession to the CRPD and, in that regard, would appreciate further information on the review of the draft legislation on disability. It noted the Bahamas's commitment to combat discrimination through education. It made recommendations.

50. Spain welcomed the delegation of The Bahamas and appreciated the participation of the country in the current process. It acknowledged efforts made in the field of human rights and commended particularly the ratification of the ICCPR and the ICESCR. It made recommendations.

51. Sri Lanka welcomed the enactment of the Child Protection Act, guided by the CRC. It noted that progress had been made in the advancement of women and that women served in high-level positions in the Bahamas. It welcomed the measures taken regarding trafficking in persons, including the establishment of the Trafficking in Persons Task Force in 2012. It made recommendations.

52. Thailand welcomed the Bahamas's withdrawal of its reservation to article 16 (1) (h) of the CEDAW, thereby ensuring equal property rights for both spouses in a marriage. It noted the progress made in preparation for accession to the CRPD. It applauded efforts to overcome the challenges of trafficking in persons. Thailand expressed concern at particular legislation relating to women and children's rights and referred to the treatment of female prisoners. It invited all countries to respond positively to requests for sharing good practices, assistance and technical cooperation to support enhancing human rights. It made recommendations.

53. Trinidad and Tobago noted the Bahamas' constraints in relation to promoting and protecting human rights, but recognised its efforts therein, as evidenced by its ratification of the ICCPR and the ICESCR. It acknowledged the Government's commitment and the services it provided to enhance the quality of life of its differently abled citizens. It made recommendations.

54. Turkey appreciated that The Bahamas considers human rights as an integral part of social development and commended Bahaman's education system and high Human Development and Gender Equality Index. Turkey also commended the Bahamas' legislative work towards harmonising key areas of education, judiciary and criminal

execution with international standards and withdrawal of its reservation to CEDAW Article 16(1). Turkey made recommendations.

55. United Kingdom of Great Britain and Northern Ireland noted Bahamas's efforts to ensure that law enforcement forces observe, respect and protect human rights, to protect women's rights and to combat violence against them. It urged Bahamas to raise awareness of, and to criminalise, marital rape. It asked whether the Government has considered establishing a moratorium on executions as a first step towards abolition of the death penalty. It made recommendations.

56. United States of America applauded The Bahamas for responding to concerns raised by several Special Rapporteurs and civil society representatives of poor conditions at the Carmichael Road Detention Center; however, there are still reports that access to basic necessities and medical care is restricted and that physical abuse by officers is common. It appreciated efforts to combat discrimination, nevertheless harassment and violence against members of marginalised populations continue to surface. It commended The Bahamas for holding a human trafficking event, setting up a task force to handle specific allegations thereof and establishing official guidance protocols. It made recommendations.

57. Uruguay highlighted the fact that despite the abrogation of the crime of homosexuality, certain legal loopholes generated discrimination against LGBT persons. It noted that, while the courts recognized property rights in de facto unions, there was no legal mechanism regulating such unions. It invited The Bahamas to prohibit all forms of violence against children in accordance with the Convention, including corporal punishment. It made recommendations.

58. Venezuela (Bolivarian Republic of) highlighted the Government's progress concerning gender-based violence and gender equality, which was currently driving consultations in that area. It commended training sessions for the police on sexual crime and domestic violence with a view to effectively applying protection orders. It noted that women held high-level positions throughout society. It made a recommendation.

59. Viet Nam was pleased to note the Bahamas' concrete initiatives and achievements in protecting and promoting human rights reflected, inter alia, by its High Development Index, ratification of many international instruments, including the ICCPR and the ICESCR, and establishment of the inter-ministerial committee on human trafficking. It made recommendations.

60. Algeria encouraged the Bahamian Government to continue its efforts to harmonise national legislation with international obligations. It noted progress in promoting women's rights and participation in public life, but was concerned by the high rate of rape and violence against women. It asked whether the Government intended to revise its position on transmission of nationality by Bahamian women to their children. It made recommendations.

61. Argentina welcomed the delegation and thanked it for the presentation of its report. It commended The Bahamas for the creation of the National Committee for Families and Children. It also congratulated The Bahamas for the establishment of the inter-ministerial committee on trafficking in persons. It made recommendations.

62. Australia acknowledged the Bahamas' developments towards greater equality and protection for women and asked for further details on the implementation of the National Gender policy. It commended The Bahamas on its recommitment to CEDAW but was deeply concerned by reports of increased violence against women. It remained concerned that the death penalty continues to be imposed, though there have been no executions since 2000. Australia also noted the continued influx of migrants. It made recommendations.

63. Bangladesh was pleased to note that The Bahamas has systematically addressed concerns relating to long-term social and economic development goals. It welcomed the legal provisions against trafficking and for protecting victims and commended the Bahamas' high primary education enrolment. Bangladesh noted that The Bahamas was vulnerable to national disaster and climate change and faced capacity challenges in reporting under human rights treaties and hoped that these would be overcome with the international community's help. It was concerned at deep-rooted stereotypes regarding men and women's roles, responsibilities and identities. It made recommendations.

64. Barbados commended Bahamas ratification of ICCPR and ICESCR and recognized on-going challenges in harmonizing and integrating international obligations with national legislation and called for OHCHR to assist in addressing this issue. Barbados looked forward to the findings of the Constitution Reform commission and the referendum to be conducted in 2013. It noted recent legislation on children, women and the disabled as well as policies seeking to promote gender equality and a more accountable judicial system. It viewed positively the Bahamas' efforts to integrate a human rights awareness programme into the general school curriculum.

65. Brazil appreciated Bahamas ratification of the two Covenants and noted with interest the enactment of a more comprehensive Child Protection Act, guided by the CRC. It referred to migrants and asylum seekers. Brazil welcomed Bahamas' commitment to equality and non-discrimination and asked for information about measures to promote tolerance and non-discrimination on grounds of sexual orientation. It made recommendations.

66. Canada asked The Bahamas to provide information on progress made in the comprehensive study on child abuse, to which it agreed in 2009. It welcomed the Bahamas' efforts to counter all forms of discrimination against persons with disabilities and commended Bahamas on not criminalizing homosexuality. It made recommendations.

67. Chile highlighted the Bahamas' ratification of the ICCPR and ICESCR and the withdrawal of its reservation to article 16 (1) (h) of the CEDAW. Chile valued the recognition of the authorities regarding the difficulties they faced in complying with the different human rights conventions The Bahamas was a party, including the presentation of reports. It also appreciated the country's recognition of the need to raise awareness concerning the respect and protection of human rights. It made recommendations.

68. China commended The Bahamas for its efforts to implement UPR first cycle recommendations. It congratulated it for its success in promoting and protecting human rights including legislative and institutional measures in favour of gender equality, women and children's rights, and fighting domestic violence. China welcomed Bahamas' commitment to helping persons with disabilities, its forthcoming accession to the CRPD and its new measures to counter human trafficking. It made a recommendation.

69. Costa Rica expressed concern about discrimination and violence against women in public and family life as well as the use of corporal punishment. It asked whether the legislative reform of the Penal Code regarding the death penalty and life imprisonment was still envisaged, had been enacted or had been withdrawn from legislative initiatives. It made recommendations.

70. Cuba acknowledged the specific measures taken in respect of child protection, including the creation of a National Committee for Families and Children. It noted also the initiatives introduced by the Bureau of Women's Affairs. It highlighted the unanimous approval of a resolution for a constitutional reform to eliminate all forms of gender discrimination from the Magna Carta. It made a recommendation.

71. Ecuador acknowledged the establishment of the Family Court System Committee which was empowered to provide immediate practical solutions to family problems currently dealt with by the judicial system, and the progress achieved regarding racial harmony. It recognized also the adoption of the new Child Protection Act, based on the CRC and significant initiatives led by the Bureau of Women's Affairs. It made recommendations.

72. Estonia congratulated The Bahamas for its Constitution and commended its ratification of the ICCPR and the ICESCR, while highlighting that their implementation remained key. Estonia was pleased that the Government has removed reservations on the CEDAW and that women have held high-level posts and invited The Bahamas to continue making efforts to reduce discrimination and protect the rights of women. It commended The Bahamas for its active engagement in regional cooperation mechanisms. It made recommendations.

73. France commended the efforts of The Bahamas including ratification of the ICCPR, the ICESCR and signing of the CAT. It made recommendations.

74. Germany commended The Bahamas for its commitment to improving the human rights situation in the country. It acknowledged the Bahamas' explanations on the issue of marital rape, but remained concerned over the high number of marital rape cases. It encouraged The Bahamas to consider strongly the explicit criminalisation of marital rape by amending the Sexual Offences and Domestic Violence Act. It made recommendations.

75. Guatemala welcomed various measures to combat gender violence. It highlighted the concern expressed by OHCHR and CEDAW that The Bahamas did not consider it necessary to comply with the provisions of article 9 of the CEDAW, which required States parties to grant women equal rights with men to acquire, change or retain their nationality and the nationality of their children. It made recommendations.

76. Hungary commended The Bahamas for withdrawing its reservation to the CEDAW but indicated that violence against women is reportedly still rising and goes unpunished. It asked for more information on how the planned "Swift Justice" initiative will help and whether The Bahamas would support the UNGA resolution on a moratorium of the death penalty, after the planned review of its penal system. Hungary, while appreciating efforts taken for child protection, regretted that corporal punishment is still lawful. It made recommendations.

77. Indonesia welcomed and further encouraged the Bahamas' efforts in completing the 2012-2017 Strategic Plan for the Management, Prevention and Elimination of Family Violence. It noted the Bahamas' continued efforts in managing migration and understood its concern as a transit country and proposed that the "Bali Process" may provide lessons-learnt in dealing with the issue. It made recommendations.

78. Ireland commended the ratification of the two Covenants. Ireland urged The Bahamas to introduce a moratorium on the death penalty as a first step to ultimate abolition. Ireland was concerned that The Bahamas has no regulatory framework for asylum seekers and refugees or a system to protect the rights of stateless people. It noted the continued prevalence of violence against women and that marital rape has not been criminalised. It made recommendations.

79. Italy was pleased to note that education receives a large percentage of the Bahamian budget. It asked for further details on current policy regarding asylum seekers and the principle of confidentiality and what measures The Bahamas intended to take to prevent abuses of illegal immigrants in detention. Italy also requested information on what subsequent steps are planned to improve conditions at Fox Hill Prison. It made recommendations.

80. Latvia thanked the delegation of The Bahamas for its comprehensive national report and raised the issue of standing invitations to the special procedures of the Human Rights Council. It made recommendations.

81. Malaysia commended The Bahamas for its commitment to further strengthening its legal and institutional framework covering human rights standards and practices since its last review. It commended in particular the enactment of the more comprehensive Child Protection Act in 2009, while also noting that The Bahamas continued to face human and technical capacity challenges. It made recommendations.

82. The Maldives congratulated The Bahamas for achievements in consolidating human rights since its last review, welcoming its ratification of the ICCPR and the ICESCR and steps taken in the areas of gender empowerment and human trafficking. It called upon the international community to extend technical assistance to the Bahamas, a Small Island Developing State (SIDS) to conduct training, awareness programmes and consolidating its national human rights framework. It made recommendations.

83. Mexico noted the Bahamas's ratification of the ICCPR and the ICESCR. It commended the legislative amendments made by The Bahamas to extend the protection framework for victims of trafficking in persons as well as the measures taken to combat violence against women. It hoped that those actions would be strengthened in order to overcome limitations in those areas. It made recommendations.

84. The Netherlands noted the Bahamas' consultation of civil society in implementing recommendations through "town hall" meetings to promote development and dialogue. It commended The Bahamas on its Domestic Violence Act 2007, which defines comprehensively violence in the home and criminalises stalking and harassment. However, it was concerned that the term "partner" only refers to a relationship between a man and a woman and is hence discriminatory. It made a recommendation.

85. In response to questions, comments and observations made during the interactive dialogue, the Head of Delegation responded by clarifying again some issues, such as on citizenship and reminded that they there have two jurisprudential issues as the Constitution require special procedures, parliamentary majorities and referenda for their change or amendment. On death penalty The Bahamas has consistently maintained this view and has been an active participant in the retentions group of countries ("Like-minded Group") at the United Nations, which has maintained the position that the issue of the death penalty is a criminal one within the domestic jurisdiction of the state. This group has repeatedly reaffirmed that there is no international consensus on the issue of the death penalty and that every State has an inalienable right to choose its political, economic, social and cultural systems without interference in any form from another State.

86. On disabilities, the Head of Delegation reiterated consultations continue to enact domestic legislation on disability as well as to accede to the United Nations Convention on the Rights of Persons with Disabilities.

87. On the Detention Centre the Government is aggressively reviewing existing policies, with a view to identifying weaknesses and taking corrective action and The Bahamas and the UNHCR enjoy a regular dialogue and cooperation. Children are also placed in homes and no children are presently in the Detention Center. On asylum issues, the Department of Immigration adheres to guidelines based on the United Nations High Commissioner for Refugees mandates to screen immigrants to determine whether they are at risk of persecution in their Country.

88. On trafficking, the Head of Delegation reiterated that after comprehensive investigation, the Government has found no support for claims of sex tourism. In fact, it emerged in consultation with civil society, that a local human rights group, funded by

international aid agencies, had also conducted a survey, independent from the Government, and came to a similar conclusion.

89. On marital rape the head delegation noted that they are aware of the concerns of the Council and human rights Treaty Bodies with respect to this particular issue. In 2009, a bill was tabled to amend the Sexual Offences and Domestic Violence Act to criminalize marital rape where the couple is living together. Consultation with civil society indicated that public opinion was strongly against the Bill, which was subsequently withdrawn.

90. The Head of Delegation also highlighted the progress made with 'Swift Justice' system, in order not to repeat mistakes.

91. In closing, the Head of Delegation quoted the Preamble to the Constitution of The Bahamas as the ethos and guideline for the protection of human rights, namely: Whereas Four hundred and eighty one years ago the rediscovery of this Family of Islands, Rocks and Cays heralded the rebirth of the New World;

“And WHEREAS the People of this Family of Islands recognise that the preservation of their Freedom will guaranteed by national commitment to Self-discipline, Industry, Loyalty, Unity and abiding respect for Christian and the Rule of Law.

NOW KNOW YE THEREFORE:

We the inheritors of and Successors to this Family of Islands, recognising the Supremacy of God and believing in the Fundamental Rights and Freedoms of the Individual, DO HEREBY PROCLAIM IN SOLEMN PRAISE the Establishment of Free and Democratic Sovereign Nation founded on Christian Values and in which no Man, Woman, child shall ever be slave or Bondsman to anyone or their Labour exploited or their Lives frustrated by deprivation, AND DO HEREBY PROVIDE by these Articles for the indivisible Unity and Creation under God of the Commonwealth of The Bahamas.”

II. Conclusions and/or recommendations

92. **The following recommendations will be examined by The Bahamas which will provide responses in due time, but no later than the 23rd session of the Human Rights Council in June 2013:**

92.1. **Consider ratifying the outstanding international human rights instruments to which it is not yet a party to (South Africa);**

92.2. **Continue with the ratification of the main international instruments relating to human rights, primarily, the Rome Statute on the International Criminal Court (France);**

92.3. **Continue the very positive track with the progress in the promotion and protection of human rights and ratify CAT as well as the CRPD (Portugal);**

92.4. **Consider acceding to CAT (Slovenia) / Consider ratifying CAT and OP-CAT, which are already signed (Turkey);**

92.5. **Consider acceding to other relevant human rights instruments (Slovenia)**

92.6. **Ratify CAT and its Optional Protocol (Brazil) / Become a party to CAT as well as OP-CAT (Estonia) / Ratify the CAT and its Optional Protocol (Germany) / Ratify CAT and its Optional Protocol (Maldives);**

- 92.7. Accede to the OP-CEDAW, to further strengthen its commitment to the equality and protection of women (Australia);
- 92.8. Consider ratifying the ICRMW (Indonesia) / Consider ratifying the ICRMW as well as ratifying the ILO Convention No. 189 (Philippines);
- 92.9. Continue with the efforts to ratify the International Convention for the Protection of All Persons from Enforced Disappearances (Argentina);
- 92.10. Sign and ratify CRPD (Maldives) / Ratify the Convention on the Rights of Persons with Disabilities (CRPD) (New Zealand);
- 92.11. Hold regular consultations with organizations representing persons with disabilities, in particular to review whether current legislation adequately addresses all the rights in the CRPD (New Zealand);
- 92.12. Consider ratification of the third OP to the CRC on a communications procedure (Slovakia);
- 92.13. Consider ratification of the Rome Statute of the International Criminal Court and its Agreement on Privileges and Immunities (Slovakia);
- 92.14. Ratify the Rome Statute of the International Criminal Court (Slovenia) / Ratify the Rome Statute of the International Criminal Court (Spain);
- 92.15. Ratify the Rome Statute of the International Criminal Court (ICC) and to accede to the Agreement on the Privileges and Immunities of the ICC (Estonia);
- 92.16. Ratify the Rome Statute of the International Criminal Court and fully align its legislation with all the obligations under the Rome Statute, including incorporating the Rome Statute definition of crimes and general principles, as well as adopting provisions enabling cooperation with the Court (Latvia);
- 92.17. Ratify the Rome Statute on the International Criminal Court and bring into line its legislation with the obligations under the Statute (Costa Rica);
- 92.18. Continue its efforts to further build its capacity and increase awareness on human rights (Malaysia 1);
- 92.19. Establish a national human rights institution in accordance with the Paris Principles (Germany) / Establish a national human rights institution in conformity with the Paris Principles (Malaysia) / Establish a national human rights institution (Maldives) / Establish a national institution for the promotion and protection of human rights consistent with the Paris Principles (France);
- 92.20. Consider establishing an independent National Human Rights Institution, in full compliance with the Paris Principles (Indonesia) / Consider establishing a National Human Rights Institution in compliance with the Paris Principles as a step to strengthen the promotion and protection of human right for all its citizens (South Africa);
- 92.21. Seek technical assistance of the OHCHR, according to its national priority, in order to address the issue of delay in reporting on the Conventions to which it is party (Algeria);
- 92.22. Extend a standing invitation to all special procedures of the Council to further advance the respect of human rights (Spain);

- 92.23. Extend a standing invitation to the Special Procedures of the United Nations and strengthen cooperation with the treaty bodies (France);
- 92.24. Consider extending a standing invitation to all the special procedures mandate holders of the Human Rights Council (Latvia);
- 92.25. Continue its cooperation with the Human Rights Council and its mechanisms and extend an open invitation to the Special Procedures (Guatemala);
- 92.26. Consolidate the positive results in the fields of human development, the ratification of international instruments, trafficking in persons and combatting violence against women (Viet Nam);
- 92.27. Move towards harmonization between national laws and the Convention on the Rights of the Child (Paraguay);
- 92.28. Enhance efforts to ensure the safety and the rights of children (Bangladesh);
- 92.29. Strengthen the rule of law and the current legal reform process for better ensuring equality, freedom and enjoyment of all human rights for her people, especially vulnerable groups like women and children (Viet Nam);
- 92.30. Continue in its dialogue within the Constitutional Reform process with a view to adequately defining “discrimination” and guaranteeing the equal rights of all women within the Bahamian society (Trinidad and Tobago);
- 92.31. Strengthen efforts to eliminate discrimination against women (Bangladesh);
- 92.32. Continue with its active efforts to improve its legislation to further promote gender equality and the rights of women (China);
- 92.33. Put in place a comprehensive strategy with a result-oriented approach to eliminate stereotypes that discriminate against women in the family, the workplace, in politics and in collaboration with civil society (Norway)
- 92.34. Adopt further measures aiming at addressing the situation of discrimination between men and women and to eradicate negative stereotypes (Italy);
- 92.35. Amend the Sexual Offences and Domestic Violence Act to criminalize marital rape (Norway);
- 92.36. Strengthen its legislative and policy framework to ensure women’s rights are promoted and protected as a national priority, and in particular urgently consider criminalizing marital rape (Ireland);
- 92.37. Adopt measures to address the commission of any criminal acts or violence directed towards people based on their actual or perceived race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor (Canada);
- 92.38. Request cooperation and technical assistance for the development and implementation of the Convention on the Elimination of all Forms of Discrimination against Women (Chile);
- 92.39. Strengthen the resources given to the Office of Women's Affairs and consider the possibility of complying with the recommendations of UNHCR and

CEDAW, concerning the abolition of the legal provisions that prevent the transmission of nationality to Bahamian women (Paraguay);

92.40. Consider amending the legislation regarding the transmission of nationality to children of Bahamian mothers born abroad and foreign spouses in order to ensure full and effective equality of rights between men and women in this area (Peru);

92.41. Ensure that Bahamian women are able to pass their nationality to their children on equal footing with men, including by withdrawing the reservation to Article 9 (2) of CEDAW (Slovakia);

92.42. Consider revising relevant legislation on the matter of transfer of nationality from parents to children to ensure equal rights between men and women (Thailand);

92.43. Raise public awareness about the equality of rights of women with regard to nationality, consider amending the national legal system to ensure the equal rights for women and men in this area, and continue working and promoting national initiatives aimed at gender equality in the country (Guatemala);

92.44. Take the necessary measures to ensure universal birth registration, regardless of the immigration status of the parents (Mexico);

92.45. Promote the reform of its legislation on death penalty in order to restrict its scope with a view to abolishing this cruel punishment (Italy);

92.46. Take steps towards the abolition of the death penalty (Norway);

92.47. Take steps towards a full abolition of the death penalty and to commute existing death sentences to life imprisonment terms (Slovakia);

92.48. Translate the de facto moratorium on the death penalty into a formal moratorium on executions with a view to abolishing the death penalty, sign and ratify ICCPR's second protocol, and commute without delay all death sentences to terms of imprisonment (Portugal);

92.49. Fully abolish the death penalty (Estonia);

92.50. Abolish the death penalty and ratify the Second Optional Protocol to ICCPR (Spain);

92.51. Establish a moratorium on executions, with a view to abolishing the death penalty, as established by the relevant resolutions of the UN General Assembly (Uruguay) / Establish a moratorium on the death penalty, in accordance with the resolutions of the General Assembly (Chile) / Establish a moratorium on the death penalty as a first step in acceding to the Second Optional Protocol to ICCPR (Australia) / Establish a moratorium on the use of the death penalty with a view to its permanent abolition (France);

92.52. Consider, as a priority, the implementation of an effective moratorium on the imposition and execution of the death penalty, and consider the abolition of the death penalty in its domestic legislation (Ecuador);

92.53. Ratify the Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty and to consider the repeal of provisions allowing for the death penalty (United Kingdom of Great Britain and Northern Ireland) / Accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights (Uruguay);

- 92.54. Consider incorporating the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the “Bangkok Rules”, as part of its programme to enhance the conditions of detainees in Her Majesty’s Prison (Thailand);
- 92.55. Review existing conditions of the Carmichael Road Detention Center with input from independent observers to bring conditions up to international standards and investigate allegations of physical abuse by detention officers (United States of America);
- 92.56. Continue with the policies to tackle gender based violence and the programme of “swift justice” (Turkey);
- 92.57. Adopt a strategic plan which includes elements of prevention, investigation and punishment of acts of violence as well as redress for victims, awareness raising and training for law enforcement staff (Hungary);
- 92.58. Deploy further efforts in order to prevent and punish violence against women and abuses, in particular those related to domestic violence (Italy);
- 92.59. Ensure that a comprehensive consultation process with all stakeholders, including civil society, is carried out during the design of the Strategic Plan for the Management, Prevention and Elimination of Domestic Violence (Chile);
- 92.60. Strengthen its efforts and measures aiming at combating violence against women and girls (Algeria);
- 92.61. Fully implement and strengthen the legislative framework to fight against domestic violence, sexual aggressions and rape, including marital rape (France);
- 92.62. Adopt a law on violence against women and girls in all settings as well as a strategy for its implementation (Mexico);
- 92.63. Take legal and educative measures in order to change the population’s attitude to corporal punishment of children (Norway);
- 92.64. Enact legislation to prohibit corporal punishment of children in all settings (Portugal);
- 92.65. Prohibit corporal punishment of children (Slovenia);
- 92.66. Delete all references to corporal punishment from its legislation and prohibit corporal punishment of children in all settings before the next UPR cycle (Hungary);
- 92.67. Amend its legislation to prohibit and punish corporal punishment inflicted on children in the home and school, and increase the efforts to raise awareness of the negative effects of this practice (Mexico);
- 92.68. Repeal all legislation providing for corporal punishment as a method of education in schools and sign the Optional Protocols to the Convention on the Rights of the Child (Spain 2);
- 92.69. Raise the age for criminal responsibility of boys and girls and eliminate corporal punishment against minors from the domestic legislation of the Bahamas (Ecuador);
- 92.70. Coordinate with NGOs to ensure effective implementation of formal procedures to guide police and relevant government officials on how to identify

victims of forced labour and forced prostitution among vulnerable groups, refer them to available services, and actively pursue traffickers (United States of America);

92.71. Continue to strengthen its domestic framework and institutions to combat human trafficking (Singapore);

92.72. Ensure effective enforcement of the Trafficking in Persons Act and continue to combat trafficking in persons as well as arms smuggling and drug trafficking (Sri Lanka);

92.73. Intensify human rights mainstreaming in policy and action in combating illegal migration and human rights trafficking (Viet Nam);

92.74. Take the necessary measures to establish a unified system of family courts to ensure full compliance with the State's obligation to protect, respect and enforce the right of access to justice for women, in family matters (Uruguay);

92.75. Establish a fully independent oversight body to receive and investigate complaints of police misconduct and reports of human rights violations. Such a body would ensure that all complaints of excessive use of force by the security forces are subject to immediate, thorough and independent investigation and, if state agents are charged with misconduct, that their cases are brought to trial in an expeditious manner and in line with international standards (Canada);

92.76. Include sexual orientation as a prohibited ground of discrimination in its Constitution Reform process (New Zealand);

92.77. Modify its legal framework in order to protect sexual minorities against discrimination (Norway);

92.78. Repeal all provisions that discriminate against persons on the grounds of their sexual orientation, including in the Domestic Violence Act (Protection Orders) and the Sexual Offences and Domestic Violence Act (United Kingdom of Great Britain and Northern Ireland);

92.79. Adopt legislation that prohibits discrimination on the basis of sexual orientation and gender identity, and reinforce existing constitutional provisions that prohibit discrimination based on race and national origin (United States of America);

92.80. Establish and implement policies and initiatives to address discrimination on the grounds of sexual orientation or gender identity (Uruguay);

92.81. Promote the necessary measures to repeal provisions discriminating people on the grounds of sexual orientation, including those contained in the Sexual Offences and Domestic Violence Act, and the Penal Code (Uruguay);

92.82. Consider the possibility of furthering the measures to eliminate all discriminatory treatment on the grounds of sexual orientation (Argentina);

92.83. Include same-sex couples in the Domestic Violence Act and make sure everyone is protected against domestic violence (Netherlands);

92.84. Repeal all provisions giving rise to discrimination on the grounds of sexual orientation or gender identity and ensure the respect of the fundamental freedoms of all citizens (France);

- 92.85. Continue with its efforts in the field of economic, social and cultural rights, in order to increase the quality of life of its people, particularly the most excluded sectors of the population, for which it is particularly necessary to receive the support and technical assistance from the international community required by the country (Venezuela);
- 92.86. Implement policies to guarantee that girls and women with disabilities have equal access to education, employment and work (Costa Rica);
- 92.87. Continue to implement the socio-economic development strategies and plans, in particular those aimed at fostering women's empowerment (Cuba);
- 92.88. Continue to implement its efforts to promote universal education and develop a knowledge-based society for long-term sustainable development (Singapore);
- 92.89. Strengthen efforts in the sphere of education with a view to increasing school enrolment rates at primary and secondary level and achieving the target of Education for All by 2015 (Sri Lanka);
- 92.90. Continue devoting significant resources in education, with particular consideration to human rights (Italy);
- 92.91. Continue its endeavours in addressing the needs of the differently-abled with the aim of acceding to the UN CRPD in the near future (Trinidad and Tobago);
- 92.92. Take further legal measures to increase the visibility and transparency of asylum applications, ensuring an open process for claimants and consistency with human rights principles (Australia);
- 92.93. Use detention as a last resort and treat asylum seekers in accordance with international human rights standards and in compliance with the principle of *non-refoulement* (Brazil);
- 92.94. Devise and implement an appropriate determination procedure to identify stateless persons within the Bahamas and afford them adequate protection (Ireland);
- 92.95. Consider alternative non-custodial measures for migrants in an irregular situation, with particular attention to the specific needs of women, children -including unaccompanied children- and vulnerable categories of migrants (Peru);
- 92.96. Adopt immigration policies that protect the human rights of immigrants and refugees and promote the integration of racial minorities among the population of Bahamas (Spain);
- 92.97. Consider the possibility of mainstreaming a human rights approach into the immigration policies (Argentina);
- 92.98. Consider the effective implementation of the provisions of the United Nations Convention Relating to the Status of Refugees of 1951, in particular the principle of *non-refoulement*, the access to a procedure and confidentiality for asylum seekers (Ecuador);
93. 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 The Bahamas was headed by Senator the Honourable Z.C. Allyson Maynard-Gibson, Attorney General & Minister of Legal Affairs, Office of the Attorney General and Ministry of Legal Affairs and composed of the following members:

- Ms. Cleola Hamilton, M.P., Parliamentary Secretary, Ministry of Foreign Affairs and Immigration;
 - Ms. Mellany Zonicle, Director, Department of Social Services, Ministry of Social Services and Community Development;
 - Ms. Marilyn T. Zonicle, Under-Secretary, Ministry of Foreign Affairs and Immigration;
 - Ms. Jewel Major, Chief Counsel, Office of the Attorney General and Ministry of Legal Affairs;
 - Mr. Charles Major, Education Planning Officer, Ministry of Education, Science and Technology;
 - Ms. Angelika Hillebrandt, Administrative Cadet, Ministry of Foreign Affairs and Immigration.
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