



OPENING STATEMENT BY

SENATOR RASHID ORLANDO MARVILLE, CBE

ON THE OCCASION OF THE

UNIVERSAL PERIODIC REVIEW OF BARBADOS

JANUARY 25-29, 2013

President

Distinguished Members of the Council

Ladies and Gentlemen

On behalf of the Barbados delegation, I wish to thank the United Nations Office of the High Commissioner for Human Rights for the work that it has done in preparing the Compilation and Stakeholder Reports as well as for the work that it has undertaken to prepare for this Session of the Universal Periodic Review.

Barbados is a small island developing state with a good record of observing human rights with a level of good governance, which has served us well since our independence in 1966. I would wish to present a demographic statistic from three cities in the countries which are responsible for assessing our performance over the last four and a half years. Misrata has a population of between 280 and 300,000 persons, Sevilla 700,000 and Belo Horizonte has 2.37million persons. I cite these figures for three cities which are not national capitals to emphasise the point that the population of Barbados, all of Barbados, has a population of 270,000 persons. Our scant human resources, while significant, have not prevented us from seeking

the public good, even it has in some ways predetermined the pace at which we get things done.

Madame President,

It has not escaped notice however, that the last four and a half years since our last review has coincided with one of the longest and most intractable economic recessionary and financial crises of all time. Apart from this, we have had to deal with the challenges that confront small states like our own. We have a small legislative drafting department of eight (8) persons, which is responsible for drafting all of the country's legislation. This means that the pace of legislation is constrained by these limitations. It is with some pleasure that we obtained just recently, an article written by a group called Ethical Traveller - an all volunteer, not-for-profit organisation. They base their categorisation of countries as best ethical destinations, on their assessment of a country's performance in Environmental Protection, Social Welfare and Human Rights. Their data base is culled from Freedom House, the Millenium Challenge Corporation and the World Bank, *inter alia*. They rate Barbados as one of the ten best countries.

For a small island developing State like Barbados with a population of just over 270,000, we recognise that the effort to meet all our reporting obligations to the various treaty bodies is substantial. Indeed, we place great value on meeting our reporting obligations, but most importantly, we would wish to be judged by how we actually conduct ourselves - the respect we show for the rights of others in day to day lives and the commitment we show to respecting the rights of the poor, the disabled, the needy and those who are less able to represent themselves. We find it more important to do the right thing, even though we are not always able to put it in legislation.

Indeed, Barbados has a long tradition of democracy and respect for the rule of law and has been a pioneer in the development of human rights. A love of free institutions, has always strongly characterised the inhabitants of Barbados.

“As early as 1651, the inhabitants of Barbados sought to determine and safeguard the freedom, safety and well-being of the Island. These rights and privileges were formed by the Charter of Barbados in January 1652, a document which forms the basis of the US Declaration of Rights. As a country we have consistently sought to

broaden and increase those rights and freedoms and diminish any attempt to impugn those rights.

At independence we sought to enshrine the importance of human rights and fundamental freedoms in Chapter III of the new Constitution of Barbados. In so doing, we were guided by the Universal Declaration of Human Rights and other international and regional human rights conventions.

Barbados remains committed to the promotion and protection of human rights and fundamental freedoms as well as respect for the human dignity of all persons. These priorities are reflected in the outlay which our country makes on education, social services and on social security, which consume approximately two-thirds of the national budget. Because of the importance we place on these services, government's outlay on services aimed at improving the quality of life of our citizens is amongst the most important.

We are seeking to strengthen our governance structures and our human rights frameworks. To this end, the Cabinet of Barbados established the Governance

Advisory Board, in 2008. I have had the honour to chair this committee, which consisted of outstanding Barbadian citizens like the Vice-Principal of the University, the Dean of the Anglican Church, a former Central Bank Governor, a seasoned attorney and the head of one of our most prominent NGOs. Half of the group was women. The Advisory Board has been working assiduously on several pieces of legislation, including amendments to the Ombudsman Act as well as the drafting of Integrity, Defamation and Freedom of Information legislation.

Madame President,

Barbados is committed to the advancement of women within our society. This has always been the case and is clearly evidenced in our policy and practice. For example, the Governance Advisory Board, of which I spoke of earlier, is comprised of 6 persons, 3 of whom are women.

Contrary to the information provided by Amnesty International, Barbados does not have three out of thirty members of Parliament who are women. The fact is that Barbados has a bicameral Parliament and there are 4 out of 30 members in the

lower House and 7 out of the 21 members of the Senate who are female. The House is elected by popular vote, while the members of the Senate are selected, I repeat selected. Apart from this, 7 of our 12 judges (58.3%) are female and 13 of the 30 (43.3%) Permanent Secretaries are female. Within the office of the Attorney General, the Solicitor General and Chief Parliamentary Counsel are both female. All 7 of the other legislative draftsmen are women. Additionally, female enrollment at the tertiary level continues to be high, with women outnumbering men by nearly two to one.

Women in Barbados are not restricted in the number or type of occupations/posts that they can occupy and are free to seek election to the house of assembly and therefore to be elected by the people. Moreover, increasing numbers of women have been selected to hold senior positions within the judiciary and the Public service.

Persons with Disabilities

In 2012, Barbados appointed its first female President of the Senate Madame Kerry-Ann Ifill who is visually impaired. Senator Ifill's academic achievements and appointment to this high office are a testament to the commitment of the

government to provide opportunities for all of its citizens regardless of gender or disability. The Government of Barbados believes that persons with disabilities should achieve maximum independence, including equal access to education and employment.

Barbados continues to implement the Convention on the Rights of Persons with Disabilities and the Cabinet has agreed to its ratification once all the legal requirements for doing so are in place.

The National Disabilities Unit continues to implement extensive programmes that seek to promote the rights and enhance the lives of disabled persons. A white paper has been prepared to further enhance the work of the Unit and the Government's policies in this area. Government has also taken proactive steps to retrofit public buildings in order to accommodate persons with disabilities. Indeed, the Barbados Government has for many years worked with NGOs and voluntary organisations to enhance the facilities available to persons with disabilities. Our schools and universities facilitate them, our work places are increasingly making a special effort to better accommodate them and indeed the best example of the achievement of the disabled in Barbados is the appointment of the President of our Senate who

is visually impaired. Her education was, as in the case of all other disabled persons funded by Government from Primary through Tertiary levels. However, there is still room for improvement and we are committed to ensuring that this occurs.

Barbados has established thirty (30) constituency councils across the island to provide information to Government in order to ensure that Government can better assess real needs in the constituencies. Members of the Councils are better able to assess those needs and help those whose needs are modest and to approach Government on major issues. The process is meant to enhance democratic practice in Barbados.

Madame President, I will now touch on recent efforts to strengthen and enhance human rights in Barbados.

Legislation

We have undertaken a review of several pieces of pre-independence legislation to determine the extent to which this legislation may be in conflict with or not in full conformity with our treaty obligations. In this regard, we have passed and or amended several pieces of legislation namely the *Transnational Organised Crime (Prevention and Control) Act*, the *Employment Rights Act*, *Community Legal Services Act*, *Prevention of Corruption Act* and the *Holidays with Pay Act*. Further,

we are in the process of preparing or finalising legislation pertaining to mental health, sexual harassment, discrimination, domestic violence, child protection and the mandatory death penalty. We will continue to introduce or amend legislation that will progressively incorporate international human rights obligations into domestic legislation.

HIV and Human Rights

The Government continues to develop and execute programmes that are aimed at eliminating the stigmatisation of persons living with HIV/AIDS and spends large sums on public service advertisements on HIV/AIDS and other hot button issues. The Government remains cognisant that stigma and discrimination hinder access to HIV preventative and care services. As part of this process, the Government has decided to decentralise and integrate HIV prevention and care services into the Primary Health Care system. The Government has also developed a number of activities to inform and effect attitudinal and behaviour change within the society such as orientation workshops to encourage and support the development of work place policies on HIV, the introduction of the Policy and Code of Practice on HIV and AIDS and other life threatening illness for the public sector as well as an Anti-

Stigma and Discrimination campaign under the theme “Ultimate Love” that speaks to empowerment, human rights, gender and ethical issues relevant to HIV.

Trafficking in Persons

Barbados has legislation that criminalises the Trafficking in Persons including children. A number of steps have been taken to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children (Palermo Protocol). In February 2011, Barbados passed the Transnational Organized Crime Prevention and Control Act and in February 2012, the Cabinet of Barbados agreed to establish a National Task Force for the Prevention of Trafficking in Persons. Over the last year, a number of public education programmes were launched to raise public awareness about the global problem of human trafficking. In addition law enforcement officers drawn from Immigration, Police, Coast Guard and the Task Force have been trained in the identification and provision of assistance to victims of trafficking.

On the issue of trafficking in children, it should be noted that Barbados does have legislation that criminalise the trafficking of children. In this regard, Section 10 (2) of the Transnational Organised Crime (Prevention and Control) Act provides that the recruitment, transportation, transfer, harbouring or receipt of a child for the

purpose of exploitation shall be regarded as trafficking in persons. Where the victim is a child, the person is liable on conviction to life imprisonment. It should also be noted that under the Act, a child is a person under the age of 18 years.

National Human Rights Institution

With regard to the establishment of a National Human Rights Institution, Barbados has taken steps in transforming the scope of the Office of the Ombudsman to include responsibility for the promotion and protection of human rights. Legislation is to be brought to Parliament that would provide for the Ombudsman to be appointed by the Governor General acting on the recommendations of both Houses of Parliament. This legislation is with the Chief Parliamentary Council. Internal discussions will also be held during the course of the year to examine the structure, responsibility as well as financial and human resources that will be required.

Human Rights Education

There are several television promotions that are aired daily on the Government operated television station on what human rights are; the rights of children, sexual abuse; and the Unite against Violence campaign. We have started discussions with the Commonwealth Secretariat with regard to developing a human rights public

education programme for Barbados. Barbados believes that the initiation of this programme will complement and strengthen existing programmes to raise awareness within the general public about human rights, fundamental freedoms and respect for rights and the dignity of the individual.

Domestic Violence

The Government is firmly committed to pursuing a policy of zero tolerance of all forms of violence against women. To this end, a number of legislative, programmatic and educational initiatives have been instituted. A committee has been established by the Bureau of Gender Affairs to review the existing Domestic Violence Protection Orders Act. The Bureau has continued with its public education to reduce domestic violence and other forms of gender based violence through public forums aimed at women, work with community and faith based groups and in the annual hosting of Sixteen Days of Activism Against Gender Based Violence. The policy of the Police Force is to investigate all reports of domestic violence through the enforcement of the provisions of the Domestic Violence Protection Orders Act and all applicable legislation. Police officers continue to receive training on intervention and investigation of domestic violence related reports. In addition, the Police Force is working with the Bureau of Gender

Affairs and other stakeholders in the design and use of a pilot data collection instrument that is intended to improve on the collection and use of data pertinent to the incidences of domestic violence. The Police Force has also been involved in the review of the Domestic Violence Protection Orders Act.

Death Penalty

The Government notes that there does not appear to be national consensus or bipartisan support for the abolition of capital punishment at this time. However, there have been no executions in Barbados since 1984.

On the issue of the mandatory death penalty, legislation has been drafted to provide for the abolition of the mandatory death penalty and preparations are being finalized for its submission to Cabinet prior to introduction to Parliament.

Rights of Gay, Lesbian and Transgender Persons

Similarly, there is no national consensus on the issue of repealing the country's laws on buggery. Although buggery is criminalized by Section 9 of the Sexual Offences Act, persons who engage in same sex relationships in Barbados are not prosecuted since the persons engaged in such relationships are unlikely to

complain to the police. Without a complainant there can be no successful prosecution. However if a man has anal sex with a minor child or non-consenting adult, he will be prosecuted once a complaint is made to the police. Hence, although the law is on the statute books, gay persons are not prosecuted in Barbados for their sexual preferences.

We note the position of some members of the international community that there is an onus on the government to show firm leadership on some of these issues. The Government wishes to remind that Barbados is a democracy. As such, the Government is unable and hesitant to go against the wishes of the people. The Government commits however, to ensuring that the rights of all persons are protected from harm and will not hesitate to prosecute those who harm others.

Protection of Children

Barbados continues to strengthen efforts to protect the rights of children and in this regard, the Government has enlisted the services of a consultant to examine the Family Law Act and all legislation that relate to children with a view to ensuring that these pieces of legislation are in line with internationally accepted protocols and standards. The Government has also taken steps to institute a mandatory reporting requirement for all cases of child abuse.

Corporal Punishment

With regard to the issue of corporal punishment, Barbados also takes note of the position of the international community on this issue. With the kind assistance of UNICEF, the Government has implemented the Schools Positive Behavior Management Programme (SPBMP), which aims to facilitate the development and use of positive behavior management strategies, thereby eliminating the need to resort to corporal punishment. This programme is well entrenched in all primary and secondary schools.

The Police Complaints Authority

The Police Complaints Authority meets every four to six weeks and interviews complainants. The first Chairman was appointed for the period 1 May 2004 to 30, April 2007 on his appointment to the Bench of the Court of Appeal, the present Chairman of the Police Complaints Authority was appointed for the period 15 February 2007 to 30 April, 2007 and received his instrument of appointment. He was reappointed for a further 3 year period from September 2010 to September 2013.

Generalised Statements

At this juncture, we wish to comment on some of the generalised comments made in the Reports on Barbados.

These negative generalised statements seem to suggest that the Barbados Police habitually violate the rights of citizens and residents of Barbados. We are concerned that these statements may unfairly impugn the integrity of the Police Force. The Police command remains committed to the principles of integrity and accountability of law enforcement personnel. The behavior of officers is governed by the Instructional Manual, especially as it relates to the use of force. The Regional Police Training Centre in collaboration with the Barbados Community College provides a minimum of forty-five (45) contact hours for police officers in training on human rights and related matters as part of the accreditation process for police officers.

The Police Force is not in support of bias- based policing. We recognise that from time to time individual officers may not show the level of sensitivity that they need to. The Barbados Police Force is not unique in this regard as police forces across the world have had to deal with this problem on occasion. To this end, every effort is being made to provide officers with the requisite training to lend support for the rights of people to enjoy the constitutional guarantee of freedom of movement in

public spaces. Furthermore, the Police are committed to respecting the constitutional guarantees of all people in Barbados and it is not the policy of the Police to interfere with the rights of citizens and residents to freely engage in the practice of their religion and other freedoms. This commitment extends to Rastafarians and persons of various races, ethnic and cultural backgrounds.

It should also be noted that while the Police continues the international legal practice of being part of the process of investigating the circumstances related to the deaths of persons while in police custody, it is not a matter that resides exclusively under the purview of the Commissioner of Police, as findings from such investigations are forwarded to the Office of the Director of Public Prosecutions for a determination to be made concerning whether there is criminal wrong-doing. In other instances, the findings of such investigations are submitted to the Coroner for the appropriate determination to be made. In all instances of death of unnatural or suspicious circumstances, an autopsy is conducted by a pathologist who is independent of the Office of the Commissioner of Police. In sum, current policy, practice and legislation precludes the police from being the sole adjudicator of the outcome of any investigation pertaining to the death of any person while in police custody.

The relationship between the police and the public is systematically examined by the Government with a view to improving mutual understanding and enhancing dialogue between the police and the general public. Community Policing is one such programme which provides easy access to the police and helps them build and strengthen relationships within the community. Furthermore, in instances where there is evidence of police misconduct or where officers are found to have broken the law, charges are laid and they are subject to prosecution like any other citizen.

We are also extremely concerned about statements that purport that rape is commonplace in Barbados. We do not believe that this statement is borne out by the facts. When compared with data produced by the UNODC on this issue, the statistics belie the point that rape is wide spread in Barbados contrary to the statement contained in the OHCHR's report. Between 2008 and 2012 Government records reflect that the number of reported cases of rape in Barbados decreased. In 2008 there were 22.9 cases per 100,000 persons and in 2012, 19.6 cases per 100,000 were recorded. Indeed, the number of reported cases of rape in Barbados per 100,000 is lower than the comparable average rates per 100,000 persons witnessed in Western Europe. The Government of Barbados considers each case of rape a serious issue and takes every necessary step to prosecute these cases.

Barbados is concerned about negative generalisations which emanate from UN reports. We find the use of anecdotal material to come to negative

unfounded/unsubstantiated conclusions extremely disconcerting especially as such reports are viewed by other international bodies and the general public as authoritative statements.

With regard to the claim that the laws of Barbados do not permit Barbadian women to confer nationality to their children, this is not the case as the Constitution was amended in 2000 to allow for both women and men to confer Barbadian nationality to their children. The practice and policy of the Government is for such persons to successfully apply for and receive Barbadian passports and national identification cards.

With regard to the issue of statelessness, Barbados has sought the intervention of the UNHCR in the only case in which a claim of statelessness has been made to the Barbados authorities. The case is on-going and the UNHCR is assisting the country in the determination.

While Barbados is not a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, Barbados as a matter of policy and administrative practice recognise its obligations with respect to refugee protection and its international responsibility to carefully consider each refugee asylum claim to determine whether the claimant is “outside of the country of his nationality and

unable or unwilling to avail himself of the protection of the country and has a well-founded fear of persecution for reasons of race, religion, membership of a particular social group or political opinion". As such, Barbados is committed to the principle of non-refoulement. In the few instances where a claim has been made, the matter was referred to the Office of the High Commissioner for Refugees and it was the UNHCR which made the determination with respect to the claims and whether the persons could be returned to their homeland.

Conclusion

As a small island developing state Barbados continues to experience challenges as a result of its inherent economic and environmental vulnerabilities. We continue to face a number of challenges which make it difficult to ratify new treaties at this time. As a matter of policy, Barbados will not ratify treaties unless it is in a position to meet all of the obligations that attend thereto. In this regard, we are cognisant that several of our human rights reports remain outstanding. Despite ongoing efforts to remedy this problem, we continue to encounter capacity constraints in fulfilling and keeping current with our reporting obligations. Part of the problem relates to the collation of data and disaggregation of statistics in some areas. We have begun work in addressing weaknesses in this area, through the

development of the Multi-Indicator Cluster Survey and the Country Assessment of Living Conditions. In addition, we would wish to develop a racial surveillance system, which will systematically evaluate, monitor and report on racial discrimination and race relations in the country.

Despite these challenges, we are pleased to report that a substantial amount of work has been done with regard to our Convention on the Rights of the Child and CEDAW reports and we are hopeful that those reports can be completed during the course of this year. Work is near completion with regard to 11 of the 22 outstanding ILO Conventions. Barbados therefore welcomes any assistance that the Office of the High Commissioner can render to assist the Government in streamlining the treaty reporting process.

The Government of Barbados looks forward to working with the international community to build capacity and expand the level and scope of rights that its people enjoy. We welcome the appointment of a Human Rights Advisor in Barbados as we believe that this appointment will assist the Government in raising public awareness of human rights issues and in strengthening the legislative, administrative and institutional frameworks for the promotion and protection of human rights in Barbados.