

Government of Nauru National Statement

Universal Periodic Review

Opening Statement by Minister of Justice and Finance David Adeang

3 November 2015

**Mr. President,**

From the outset let me express my delegation’s appreciation to you, Mr. President, and your office for the cooperation extended to my delegation in our engagement in the UPR process. Special thanks also goes to the Secretariat who closely worked hard with my delegation in the UPR endeavour.

2. I am pleased to introduce the delegation for our country’s second Universal Periodic Review.  I present a delegation that includes colleagues Minister, senior officials from different government department.  This strong delegation illustrates the importance we place on the UPR process.

3. We believe 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 us the vital opportunity to self-assess, to listen to others, and to more effectively address the concerns of individuals in our country.

4. The Government of Nauru places 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, we view the UPR as an opportunity to engage in an open and frank dialogue with the international community about the state of human rights in Nauru. In this regard the Government of Nauru hopes that our responses to your questions today and our ongoing action in follow-up will prove that we take our human rights obligations very seriously.

5. 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 government. Additionally, the content of Nauru’s Universal Periodic Review is a direct response to how we have implemented our accepted recommendations from the first round 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 governments commitment to its human rights obligations.

**Mr President,**

6. The Government of Nauru has had to grapple with its own set of challenges relating to the promotion, protection and enjoyment of human rights. Please allow me to highlight some of these challenges that were not part of the recommendations provided by the Council in the first round of reporting but is worth sharing with this august body.

***a. Refugees and Asylum Seekers***

7. The Government of Nauru can confirm 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 have been in plan for a while after already implementing a daytime open centre program, and have 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.

8. 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 signify 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.

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

***b. Social Media***

10. As you are aware 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 Government in its efforts to protect its citizens and people from the abuse of the internet which has seen vulnerable individuals’ especially young Nauruan girls, being **maliciously targeted, harassed and even bullied**.

11. 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 over night 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 our women and children.

12. 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 inline 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](http://www.abc.net.au/news/2015-05-05/refugee-advocates-claim-nauru-facebook-ban-requested-australia/6444506) as has been reported widely.

13. 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.

***c. Passport revocation***

14. Recently, the Government of Nauru have come under a lot of criticism regarding the revocation of passports of a member of parliament. 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 take its course until such a time the court rules that passport can be returned and that justice is met. Additionally, the issue concerning the revocation of the passport of a certain MP is to allow the due process of individual charged with a crime, is facilitated and are in line with the laws of Nauru.

***d. UN Reports***

15. The Government of Nauru is pleased to announce that we have now officially completed our: *a) CRC Report; b) CEDAW Report, c) Common Core Document*. The Government of Nauru looks forward to receiving recommendations from the various treaty committee bodies with regards our national reports and looks 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 in Nauru, 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 Nov 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 (CEDAW), Division of Child Protection Services (CRC)

***e. Criminal Code***

16. The new Criminal Code endeavours to provide more clarity in the offences with its elements and offers a more modernized view of addressing the varying 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 domestic violence offence, which currently is non-existent. Domestic violence provisions would form part of the Criminal Code dealing with offences against the person. Further, the new Criminal Code endeavours to provide more clarity in the offences with its elements and offers a more modernized view of addressing the varying 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 domestic violence offence, which currently is non-existent. Additionally, work on a stand-alone domestic violence legislation is underway with relevant partners and agencies. SPC RRRT has been approached to provide guidance and support on the development of a stand-alone legislation for this purpose.

***f. Office of the Director of Public Prosecutions and the Public Defender’s Office***

17. The Government of Nauru is also pleased to state that there has been an increase in the number of Nauruans seeking the assistance of both the ODPP and the Public Defender’s Office. 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

***(i) Public Defender’s Office***

18. 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.

19. 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.

**(ii) Office of the Director of Public Prosecutions**

20. Access to Justice has greatly improved with the setting up of working group with the Domestic Violence Unit of the Nauru Police Force, the women and family department counsellors to assist with women and child victims in terms of access to justice and knowing how crucial their evidence are as victims of crime. Access to justice has greatly improved with setting up a number of working groups to ensure that the cases that are brought to court are ready to go to trial and the likelihood of conviction is high.

21. The rule of law has been strengthened again with the clear demarcation of arms and their respective powers. 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.

22. The ODPP has strengthened its relationship with the police and this has been a big success for the office and one which we hope to continuously foster.

**(iii) Judiciary**

23. Currently, the Nauru Supreme Court has three judges, rather than just one, removing the limitation of only one justice making all decisions. There exists for Nauru a Chief Justice two other justices . The judiciary also holds office for one Judge of the Supreme Court and Resident Magistrate are the first women to be appointed to the judiciary in Nauru. Additionally, members of the Nauru bench have tended to cases and are also currently dealing with cases that are constitutional and political in nature. Decisions made by the judiciary are done without interference from outside influence.

**h. Leadership Code**

24. 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.

**Mr President,**

25. The Government of Nauru calls 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.

**Mr President,**

26. Before we embark on the Council’s consideration today of the report of the Universal Periodic Review of Nauru, let me assure you that my government very much sees the UPR as part of our national endeavours to ensure systematic human rights work. The recommendations we have received will be an important reference point in our continued work.

My delegation and I look forward to the Council’s consideration.

Thank you, Mr President.