

UNIVERSAL PERIODIC REVIEW

Statement of St Kitts and Nevis

Wednesday, 10th November 2014

Palais des Nations, Room XX

9:00-12:30 Noon

Thank you, Mr. President

Chairman of the Working Group of the Universal Periodic
Review

Members of the Human Rights Council

Members of the Troika

Delegations

Observers

Good Morning.

1. From the outset, the Delegation of St Kitts and Nevis reiterates its Government's commitment to the Universal Periodic Review (UPR) process and deems it a privilege to participate in this international initiative which highlights some of the fundamental tenets of our nation's Constitution: respect for, protection of, and the promotion of human rights.

2. It is imperative to emphasize, that although St Kitts and Nevis made deliberate attempts to implement the recommendations shared by Working Group of the Council and accepted during our first review, it is necessary to take this opportunity to heighten awareness of the challenges with which we were confronted. These challenges were largely attributable to our inability to give wholesale effect to the recommendations which were accepted, despite our acknowledgement of the value of same.

3. Even after the presentation of the first national report on its human rights record, St Kitts and Nevis' small and highly open, middle-income economy continued to face significant vulnerabilities to the world financial crisis and recession that led to reduction in income from remittances to the Federation, and contributed to the lacklustre conditions for foreign direct investment (FDI). Moreover, the economy was experiencing an additional challenge: an exceptionally high public sector debt-to-GDP ratio of almost 200% to GDP by 2013.

4. It was imperative for the Government to explore alternative fiscal policies, which, after considerable diligene and introduction of national constraints on public expenditure, it was able to accomplish. With external assistance, the Government designed a credible macroeconomic framework, and implemented stringent fiscal measures aimed at reducing the debt, creating conditions for sustained economic growth, higher

standards of living and poverty alleviation. Maintaining an environment that is conducive to growth and development has long been a strategic priority for the Government of St Kitts and Nevis and is intricately linked with a longstanding tradition of taking care of the poor and vulnerable.

5. Efforts to revive the economy to a level of long-term sustainable growth that would improve the quality of life of citizens over time provided much impetus for the Government to exercise prudence in the management of public expenditure. Ensuring that the fiscal challenges evolved into opportunities for the greatest advantages presents a clear indication of the Government's commitment to safeguarding the social, cultural, political and economic rights of its people.

6. It is most important to mention that although the Government implemented stringent fiscal measures under the IMF programme in most aspects of the budget, the allocations for social protection were never reduced.

7. Indeed, the fiscal measures were intended to generate more resources for the social safety net initiatives and for pursuing projects and programmes of critical importance to the long-term development of the Federation. Further, the fundamental aim was to lift more people above the poverty threshold and give them the opportunity to make a greater contribution to the national development effort, create wealth for themselves and their families, and assist them in meaningfully pursuing their

various goals and aspirations. These basic rights are ones which the Government of St Kitts and Nevis is consistently working to afford to its growing citizenry.

8. It is hoped that the delay in implementation of recommendations be not construed as either a lack of interest or volition, but rather as a severe paucity of essential resources.

9. Equally, since the last review, domestic developments aimed at enhancing the standard of living of citizens have been incremental and the delegation of St Kitts and Nevis at this the Twenty-third Session of the UPR and its second review shall be pleased to elaborate on several of such programmes.

10. Throughout our delegation's presentation, we shall outline some achievements which would have indirectly resulted in the fulfillment of some recommendations proffered during our first review.

11. It is important that we should mention that since the last review, General Elections were held in St Kitts and Nevis on February 16, 2015, which ushered in a new Administration.

12. During the Throne Speech of the new Governor General, Sir Tapley Seaton outlined the focus of the newly installed Government.

13. To reiterate the continuing commitment of the Federation to human rights, in spite of the transmission of leadership, I quote an excerpt from said Speech to reinforce that the governance is rooted mainly in the protection and promotion of basic human rights. The Governor General stated that the new Government was “concerned about the social, economic, political and cultural challenges that we face as a country, and the threats to the well-being and advancement of our people and, therefore determined to resolve these permanently”. He continued that the new coalition Government had listened to the people. The laws, policies, and initiatives the Government of National Unity promotes during the new legislative year and beyond will put the people of St. Kitts and Nevis first. Our Government Ministers, Permanent Secretaries, Heads of Departments, Boards have been directed that in all their decision-making, and whatever they do, to remember that we are working for the People.

14. This being established, allow me Mr President to transition into the multiple initiatives, projects and programmes which the Government of St Kitts and Nevis has successfully implemented and which cater to some fundamental human rights of the Kittitian and Nevisian populace.

National Social Protection Strategy

15. Only a few months after St Kitts and Nevis' first review, the Ministry of Community Development, Culture and Gender Affairs partnered with the World Bank, UNICEF and UN Women to launch national consultations on the National Social Protection Strategy, Plan of Action and Monitoring and Evaluation Framework.
16. In addition to international entities, the general public was also given the opportunity to submit feedback on the documents.
17. The document enables the formulation and reform of policies over a five year span (2013-2017); and guidance on the establishment of a sustainable, comprehensive and integrated Social Protection system for the Government of St. Kitts and Nevis. This encompasses the strengthening and integration of a wide range of policies and programmes across the social sector including social safety nets, social welfare services, social insurance and labour market policies.
18. In the long term, it is envisaged that the Strategy would, inter alia create a sustainable system for universal Social Protection coverage for the population, develop citizens, who would become more self-sufficient over time and prevent chronic poverty.

19. This Strategy, having been approved by the Cabinet in March 2012, is now being implemented.

Children

20. In full support for children's rights, the Government of St Kitts and Nevis is committed to the Convention and its two Protocols and is pleased to report that with the assistance of UNICEF, a consultant was contracted by the Ministry of Social and Community Development and Gender Affairs to review said Protocols and to make recommendations with respect to accession to same.
21. The delegation of St Kitts and Nevis posits that the delay in the country's accession to both Protocols was largely owing to the findings of the consultant, who, upon her initial examination of the first, discovered that some existing domestic legislation were conflicting with the Protocol.
22. It was determined that until some articles of the Defence Force Act in particular were amended or some sections repealed, the Government could not proceed with acceding to the Protocol.
23. The Consultant's report will be presented to the Federal Cabinet of Ministers for review and approval to support accession to the Optional Protocols.

24. It is proposed that the process be completed within the first quarter of 2016.

National Child Protection Protocol and Action Plan

25. Further, the same Ministry spearheaded and completed the formulation of the National Child Protection Protocol and Action Plan.

26. This Protocol serves as a practical instrument to assist in the prevention, reporting and management of child abuse, whilst the Action Plan would aid the development of a training and stakeholder outreach programme for the Protocol's implementation. This document offers guidance to child protection service providers in identifying child abuse, recognizing their responsibilities and ensuring the protection of children.

Adoption of new Child Protection legislation through public consultation:

27. With the assistance of the OECS Secretariat, the Federation of St. Kitts and Nevis has adopted a suite of model legislation that addressed different issues in Child Protection. These included:

- **Guardianship, Custody and Access to Children Act of 2012** - An Act to define and regulate the authority of parents as guardians of their children, their power to

appoint guardians and the powers of the Court in relation to the guardianship, custody and access to children and related matters. [*Published 29th November 2012, Official Gazette*]

- **Maintenance of Children Act of 2012:** An Act to provide for maintenance of children and related matters.
 - **Child Justice Act of 2013:** An Act to establish a judicial process for children accused of committing offences that aims at protecting the rights of children and other related matters.
 - **Status of Children Amendment, 2013**
28. Additionally, the OECS Secretariat is in the process of verifying through island consultations the OECS Child Protection Strategy with a component on Communication on Child Protection in Sports.

Child Friendly Schools (CFS)

29. As you may be aware, Mr President from our Report, The Ministry of Education had embarked upon “The Child Friendly Schools concept, which was a programme intended to and anticipated to yield four major outcomes:
- i) strengthen the policy and regulatory framework in the Ministry of Education to include policies on positive behaviour management in schools.
 - ii) Strengthen the policy and regulatory framework as it pertains to inclusive education

- iii) improve mechanisms for providing learning and behaviour support to students, and finally
- iv) help all stakeholders to understand the Ministry of Education's new framework for managing student behaviour.

30. In an effort to guide schools with the implementation of CFS, the Ministry of Education drafted a Positive Behaviour Management Policy.

31. One of the goals of school-wide positive behaviour management is to foster acceptable and appropriate behaviour in children and to raise emotionally mature adults.

32. The policy on school wide positive behaviour management promotes the utilization of a Behaviour Consequence Matrix which helps to guide schools in the use of alternatives to corporal punishment in the disciplining of children. The rationale driving the development of the Behaviour Remediation Matrix was borne out of a need to encourage consistency of response to both positive and negative behaviour and to define acceptable standards of behaviour.

33. Inconsistency in applying discipline will not help a child respect his or her caregivers. Harsh discipline such as humiliation (verbal abuse, shouting, and name-calling) will also make it hard for the child to respect and trust the caregiver. Thus, effective discipline means discipline applied with mutual respect in a firm, fair, reasonable and consistent way.
34. It is hoped that by making the process transparent, students would become accountable for their actions. Thus, school environments could help foster in students self-discipline, self-esteem and further the development of positive relationships between children and authority figures.
35. It is important to note at this juncture that at the New Horizons Centre, the co-ed facility established to assist in the rehabilitation of juveniles, corporal punishment is not administered as a means of discipline.

National Adolescent Policy and Plan

36. Only last week, Mr President, the Ministry of Health organized and chaired a stakeholder meeting to discuss and review a National Adolescent Policy and Plan to advance efforts towards its finalization and implementation.

Domestic Violence and Violence Against Women

The Domestic Violence Act of 2014

37. The Domestic Violence Act of 2014 classifies sexual violence, rape and incest as serious offences, provides greater protection for victims of domestic violence and establishes appropriate penalties for the perpetrators, including relatives of the victim.
38. The Domestic Violence Act 2014 further enables the Government to adopt policies and legislation to combat discrimination and violence against women and children, particularly domestic and sexual violence.

Domestic Violence Protocol

39. With technical assistance from PAHO, the Department of Gender Affairs has been able to draft a Domestic Violence Protocol which seeks to outline the roles, responsibilities and functions of each state and nongovernmental partner in the identification, reporting and treatment of domestic violence situations. Nongovernmental organizations were involved in the consultations towards the drafting of the document and its validation exercise.
40. The next phase would be training of the stakeholders for the operationalization of the Protocol.

Discrimination based on sexual orientation and gender identity

41. Although not listed in the Constitution as a ground prohibited for discrimination and although there are no domestic law yet drafted regarding same, there is no formal or positive legal discrimination against persons in St Kitts and Nevis based on sexual orientation or gender identity.

42. No laws exist which prohibit discrimination against a person on the basis of sexual orientation or gender identity.

43. The government asserts it received no reports of violence or discrimination based on sexual orientation.

Country Gender Assessment

44. Highlighted women in construction Trades Programme and focused on equipping women for more lucrative occupations and combating gender stereotypes.

45. Gender Issues Work Place Programme (NEVIS), which is designed to create gender equality in the workplace and to educate both women and men about their rights in the workplace.

Death Penalty

46. According to section 4 (1) of the St. Kitts and Nevis Constitution, "A person shall not be deprived of his life

intentionally save in execution of the sentence of a court in respect of a criminal offence of treason or murder under any law of which he has been convicted. In that connection, there is no relevant law in relation to giving effect to the death penalty in the case of treason.

47. The relevant law in relation to murder cases is the Offences Against the Person Act. That Act, however was reviewed in the case of Fox and R and the provision that would give effect to the death sentence was found to be unconstitutional. The provision states that, "Whosoever is convicted of murder shall suffer death as a felon." The mandatory nature of the death sentence was challenged and found to be inconsistent with the provisions of section 7 of the Constitution. Section 7 of the Constitution provides that, "A person shall not be subject to torture or to inhumane or degrading punishment or like treatment.

48. Since 1993, with the seminal decision of the Privy Council in the case of **Pratt & Morgan and The Attorney General of Jamaica (1993) 43 WIR 340: (1994) A.C. 1**, which definitively established that the delay in the execution of a convicted prisoner under sentence of death could well offend the constitutional provision prohibiting degrading and inhumane treatment, the death penalty has not been implemented after a period of 5 years after sentencing..

49. It is noteworthy that St Kitts and Nevis has not imposed the death penalty for several years and that it is in fact very rare with only 3 persons having been executed within the last 30 years; none in almost 7 years.

50. Since its first review, St Kitts and Nevis has not imposed the death penalty in the last 4 years, reserving such sentences for only the “worst of the worst” cases.

51. Four individuals have in fact through the appeal process, had their sentences commuted to life imprisonment or vacated.

52. Recent statistics prove crime in the Federation is on a decline, and it is clear that although heinous crime in St Kitts and Nevis continues to be a concern, the number of persons in recent years sentenced to death has also been on a downward trend and to date, only one person remains on death row.

53. The delegation of St Kitts and Nevis avails itself of this opportunity to once again request through this medium technical and other resources to amend any prison policies and to maintain consistent and regular capacity building programmes for prison officers.

The Police Complaints Act, 2014

54. Subsequent to the first UPR, and in an effort to maintain its commitment to the integrity and accountability of law enforcement personnel, the Parliament passed the Police

Complaints Act in 2014. This Act provides for the receipt, investigation and determination of complaints by the public against the police and for related matters.

55. Part II of said Act authorizes the establishment of a body known as the Police Complaints Commission and a Complaints Unit within the Police Force.

56. The Commission, whose members are civilians, performs the following functions:

- a) Receive complaints on the conduct of any police officer
- b) Monitor the investigation by the Complaints Unit to ensure impartiality
- c) Supervise the investigation of complaints
- d) Undertake the direct investigation as necessary
- e) Receive and investigate complaints on the exercise of the powers of arrest or the exercise of other powers of a police officer
- f) Report to the responsible Minister on a monthly basis

57. It is worthy of note that the Commission is an independent body, not subject to the directions or control of any other person in the exercise of its functions under the Act.

Criminal Justice Strategic Board

58. As we speak, Mr President a first meeting of the **Criminal Justice Strategic Board** which attracts representation from Police Prison, the Court, Probation, Youth Justice, Defence

Force, Customs, Education, Financial Intelligence Unit, and the Fire and Rescue Services is taking place. The objectives of this Board are multifold and include:

- i) commitment to keeping people safe;
- ii) reduction and prevention of crime,
- iii) bringing offenders to justice,
- iv) reintegration of offenders into society and
- v) utilizing shared resources efficiently and in the Federation's best interest.

Law and Order/Crime

The Police Six Point Plan

59. In July 2015¹ the Police unveiled its Crime Action Plan to enhance public safety. The multipronged approach stresses i) Crime Prevention ii) Intelligence-led Policing iii) Targeted Operations iv) Collaboration with other Agencies v) Engagement of Stakeholders and vi) Improvement in Administration.

From all accounts, the Plan seems to be working and

- The police are crediting the Six-Point Action Plan for the recent success in removing illegal firearms from the streets of Basseterre and Charlestown.
- The police have seized 15 illegal firearms in the Federation so far this year, with eight coming after the implementation of the plan.
- They have already surpassed the entire total for 2014.

- reaching out to members within the community and
- the community is also supporting the efforts of the police in providing the necessary information.
- Overall last year, we removed 12 firearms. So far for the year, we have removed 15
- The police force is also reporting that firearms have been seized every month since June, with one being confiscated that month.
- Two each were removed in July, August and September and one firearm has so far been seized this month.

60. We shall now respond specifically to some recommendations which may not have been addressed previously in our Statement thus far.

Improve on reporting to UN Treaty Bodies

61. St Kitts and Nevis is pleased to report that it submitted its 2012 CRC Report to the respective UN Treaty Body about three months ago.

Review criminal justice procedures to reduce length of detention without trial and replace preliminary inquiry with sufficient hearings in high court

62.. The Government of St Kitts and Nevis strongly desires to reduce the backlog of criminal cases in the jurisdiction and has therefore undertaken various activities to that effect. A policy to switch from a process involving preliminary inquiries to a paper

committal system is one of many initiatives under review and consideration to be given effect to, in the near future.

63. Additionally, the criminal justice system as a whole is under review and a number of proposals to reduce the backlog has already been approved. It is the Government's intention to establish an additional criminal court in the short term and to provide judges with better legal support staff.

64. Pursue consolidation of an educational system that is increasingly in line with the needs of the population

With technical assistance from UNESCO, the Ministry of Education has been engaged in consultations to create an Education Sector Strategy document. To accomplish this, an Education Sector Diagnosis and UNESCO Policy Review have been undertaken.

65. Continue to adopt measures to put an end to corporal punishment

The Ministry of Education has adopted the UNICEF Effective Child Friendly Schools framework and is incorporating this framework in its Sector Strategy document. Additionally, a Behavioral Policy has been drafted and will be forwarded to Cabinet for adoption. This policy does not allow for corporal punishment to be a tool used to discipline children enrolled in public institutions of learning.

66. It must also be noted that during the most recent parenting session organized by the Mothers' Union in collaboration with the Department of Probation and Child Protection Services alternative methods of disciplining their children were shared

67. Ensure that separation of juveniles from adult offenders (establish juvenile rehabilitation facilities)

The New Horizon Rehabilitation Centre was officially opened in 2012 and began accepting residents. It is the principal remand and rehabilitation facility for juvenile offenders.

68. At its inception, juveniles from H.M. Prison were admitted, thus separating juveniles from adult offenders.

Consult with civil society

69 The new political Administration has made a pledge to institutionalise a process of consultation between Government and all citizens including civil society on matters of national importance. Only last month, representatives of civil society were invited and participated in the annual National Consultation on the economy.

Noted Recommendations:

70. Replace the Basseterre Facility with a new prison that meets international standards and explore options for public/private partnerships

71. The Government is very concerned about appropriate housing for incarcerated inmates and has embarked on several

initiatives to make this a reality. Funding has been the greatest challenge in this ambitious undertaking and unwavering efforts continue with an aim to identifying and sourcing adequate financing to construct a new prison facility.

Ratification of Convention on the Rights of Persons with Disabilities:

72. With the assistance of UNESCO, a situational analysis was undertaken to determine the readiness of the state for the adoption of the Convention on the Rights of Persons with Disabilities. This situational analysis will be used to chart a plan of action to accompany the recommendation for the Federal to ratify the convention. The National Association for Persons with Disabilities was intimately involved in the consultations to create the situational analysis.

Conclusion and Commitments

Commitment to constitutional reform

73. One of the commitments made by the new political leadership in the Federation is to address areas requiring constitutional reform. Although the political will exists, however, it must be stated that, entrenched in the Constitution of St Kitts and Nevis are multiple provisions, including those related to fundamental right and freedoms. These would require special procedures, parliamentary majorities and referenda for alterations and amendments to be made.

74. St Kitts and Nevis remains steadfast in its commitment immediately after its second cycle review, to request technical assistance from the OHCHR to ascertain which national mechanism is best suited to our peculiar and unique circumstances in order to more effectively and efficiently address human rights concerns, follow-up and implementation of the recommendations as well as reporting.

Reporting to Treaty Bodies

75. St Kitts and Nevis acknowledges its delinquency in reporting to Treaty Bodies over the years. This is due in large measure to the existence of technical and legal challenges in obtaining timely and accurate data from national entities and lack of capacity in producing such reports.

Establishment of National Human Rights Institutions

76. We deem it vital to emphasize that the recommendations for the creation of national human rights institutions have not gone unheeded. In fact, St Kitts and Nevis has considered the importance of establishing such a national mechanism that will involve stakeholder groups including civil society.

77. At a regional capacity-building exercise organized by the OHCHR, the representatives of St Kitts and Nevis extended an invitation to the regional UN Office for an in-country engagement and consultation with all necessary parties,

immediately after our second cycle review to consider the available options for the establishment of such an institution, best suited to our unique domestic circumstances.

Health and Family Life Education Curriculum

78. The Ministry of Education of St Kitts and Nevis has adopted the HFLE Core Curriculum in schools. This project was supported by UNICEF, which provided funds for curriculum development, training and evaluation of the HFLE Common Curriculum. Additional support was provided by the Ministries of Education of participating countries, including Antigua, Barbados, Grenada and St. Lucia.

79. A theme Unit of this document addresses Sexuality and Sexual Health. Students learn about sexuality refers to the total expression of who they are as human beings that their sexuality is an interplay among body image, gender, identity, gender roles, sexual orientation, relationships, etc.

80. Students should be able to demonstrate an understanding that the concept of human exuality as expressed throughout the life cycle.

79. It is envisaged that gaining an understanding about this critically important topic will prevent any discrimination against persons based on their sexual orientation and sexual identity.

Thanks

80. St Kitts and Nevis takes the opportunity to thank the Working Group for their recommendations and will report in two days on our decisions regarding same.