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## UNIVERSAL PERIODIC REVIEW

### Report of the Working Group on the Universal Periodic Review \*

#### Barbados

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## **Introduction**

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its third session from 1 to 15 December 2008. The review of Barbados was held at the fifth meeting, on 3 December 2008. The delegation of Barbados was headed by H. E. Christopher Sinckler, MP, Minister for Social Care, Constituency Empowerment, Urban and Rural Development. At its meeting, held on 5 December 2008, the Working Group adopted the present report on Barbados.

2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Barbados: South Africa, Japan and the United Kingdom of Great Britain and Northern Ireland.

3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Barbados:

(a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/3/BRB/1);

(b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/3/BRB/2);

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

4. A list of questions prepared in advance by the Czech Republic, Denmark, Germany, Latvia, the Netherlands, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to Barbados through the troika. These questions are available on the extranet of the universal periodic review.

### **I. Summary of the proceedings of the review process**

#### **A. Presentation by the State under review**

5. At the 5th meeting, on 3 December, the Head of Delegation of Barbados, H. E. Christopher Sinckler, MP, Minister for Social Care, Constituency Empowerment, Urban and Rural Development expressed his thanks on behalf of the Government and people of Barbados.

6. The Minister noted that Barbados is a small island developing State with an international human rights record and a level of good governance, which has served the country well since its independence in 1966. Despite its limited financial and human resources, Barbados has been an active participant and fervent supporter of international human rights and the international system of protection for the most vulnerable. It is with this central thesis that his Government approached the deliberations under the universal periodic review. He also stated that the preparation of the report was an exercise that allowed Barbados to become reacquainted with its national structure of human rights protection and to determine its best practices and areas where the Government knows it must improve. He believes the national report accurately reflects the current status of human rights in the country but also presents a picture of where Barbados anticipates being in the near future.

7. The report benefited from a substantial degree of participation from civil society, which was actively consulted at every step in the preparation of the report. The Barbados association of non-governmental organizations and the National Organization for Women were members of the national committee established to prepare the report. Civil society provided oral and written submissions to the report; after the completion of the first draft, there were further consultations with civil society to ensure that its views were taken into account.

8. Following the submission of the report to OHCHR, civil society was again consulted to determine whether there were any additional contributions that they wished to see reflected in the report. It was also consulted during the preparation of responses to advance questions. Hence, the national report is an honest and accurate reflection of the views and concerns of a wide cross section of Barbadian society.

9. The Minister stated that one of the major conclusions arising from the preparatory process of the report was the need for assistance from the international community to support the State's domestic institutional architecture for human rights. He further stressed the great burden on small countries of the number of reporting obligations. He recalled that, in the past, Barbados expressed a need for assistance in the area of legal drafting, human rights reporting and human rights education and it also indicated the need for OHCHR to enhance its presence in the Caribbean subregion. The Minister expressed the hope that one of the positive outcomes from this engagement in the review would be the recognition that there is a need to channel greater resources to the region for human rights activities.

10. The Minister stated that Barbados has signed and ratified all the major human rights treaties and is party to a number of the major human rights instruments in the inter-American system as well as other important instruments and conventions through the International Labour Organization (ILO). Its commitment to the obligations and spirit of these instruments is absolute. He stated that Barbados acknowledged the periodicity of the treaty-based reporting requirement and took note of the OHCHR compilation, which presented a number of instances where Barbados has overdue reports. He also stressed that it was crucial that the international community recognize that this tardiness in reporting is due to the State's lack of human and financial resources to do so and not out of disrespect for its obligations.

11. Despite the challenges, Barbados was pleased to announce that some of its overdue reports are in various stages of completion.

12. With regard to international instruments, and in particular the Convention against Torture, Barbados has not signed it, primarily

because of capacity constraints which will become due on acceding to a new treaty and the reporting obligations. However, it should be noted that torture is outlawed in section 15 of the Constitution, which states that “no person shall be subjected to torture or inhuman or degrading punishment or other treatment”.

13. With regard to capital punishment, the Head of Delegation wished to report that the Government of Barbados currently has no plans and had received no mandate from the people of Barbados to abolish the death penalty. Indeed, while Barbados has not executed any prisoners since 1984, there is no moratorium on execution. With regard to removing the prescription of mandatory death sentences for murder and treason, the Government is currently considering this matter and has been having consultations within the system, and will also consult outside it. The Head of Delegation reported that Barbados will update at a later stage.

14. Although there is no separate legislation protecting the rights of persons with disabilities and those of persons based on sexual orientation from discrimination, the Minister drew attention to section 11 of the Constitution relating to the protection of fundamental rights and freedoms of the individual, which generally reflects the principle that all men and women shall enjoy equal civil and political rights. It should also be noted that Barbados is a signatory to the Convention on the Rights of Persons with Disabilities and has recently established a national disabilities unit, whose mandate is to promote equal opportunities in all areas for people with disabilities. Barbados also has a number of programmes regarding the fuller integration and participation of persons with disabilities into the community. The Minister stated that, following the general election in January 2008, the Prime Minister invited a visually-impaired person to serve as a senator in the Upper House in Barbados.

15. It was noted that there had been advance questions relating to the physical and psychological abuse of children, but he stressed that it was not the view of the Government that its legislation on corporal punishment provides for a high degree of punishment of children at home and at school. National laws criminalize the abuse of children; in the event that corporal punishment is administered, it is done so in compliance with the Code of Discipline promulgated under the Education Act. The Code of Discipline, produced by the Ministry of Education in 2004, identifies the due process to be followed in the event that disciplinary action is to be considered, the types and levels of violations and the disciplinary options that might apply. There are a number of ongoing activities and initiatives that the Government has developed to address the needs of children, such as the counselling efforts of the Child Care Board, the programmes under PAREDOS (Parent Education for Development in Barbados) and the placement of guidance counsellors in all schools.

16. With regard to the rights of the child, and in particular on what policies and practices the Government has in place to ensure that abused children are not placed in harmful circumstances, the Minister stressed that the Government regards all kinds of abuse against children as an extremely serious matter. Certain State agencies are charged with the responsibility of providing any abused child, and, in some cases other members of the family, with an alternative home setting. Counselling is also provided to the child, the perpetrator and other family members at appropriate intervention points. Such matters are also referred to the police for investigation and necessary action. Some Government agencies also engage in public education campaigns to raise social awareness of the problem by recognizing the signs of abuse. It was noted that Barbados has been working extensively with UNICEF in this area.

17. With regard to issuing a standing invitation to special procedures, although Barbados recognizes the important role they play in ensuring that human rights obligations under the human rights architecture are respected, and although Barbados is not averse to receiving special procedures, the Government was not in a position to extend a standing invitation at this time owing to capacity constraints that may be involved in this process.

18. With regard to gender and women's rights, although no specific national plan has been finalized on women's rights, the Bureau of Gender Affairs is currently working on a national gender policy that is expected to encompass all matters related to discrimination against women. Work is continuing on the gender mainstreaming process and efforts to enhance the capacity of the Bureau of Gender Affairs are ongoing. A “stigma and discrimination committee” has been established in the Ministry of Labour and the Domestic Violence Data Protocol financed by the United Nations Fund for Women has been implemented by the Bureau of Gender Affairs on a pilot basis to look at cases of violence in society. Agencies involved are the Police, Polyclinics and the Welfare Department. This allows data to be disaggregated by sex in Government departments so that they can be easily analysed by the Bureau of Gender Affairs and acted upon.

19. On the matter of the recommendation of the Committee on the Elimination of Discrimination against Women concerning the definition of marital rape, although Barbados has not yet adopted those recommendations, the Government, through the Family Law Council established by the Attorney General, continues to review legislation, advise and make recommendations on aspects of the Family Law Act and other legislation relating to family law deemed to be in need of amendment.

20. Regarding the question of specific measures to protect the rights of children of detainees/prisoners, the Head of Delegation recalled that, in line with article 9.3 of the Convention on the Rights of the Child, the Government respects the right of children to maintain personal relationships and direct contact with parents while in detention on a regular basis, except if this is contrary to the best interests of the child. Children are allowed to visit parents in prison, and prisoners are encouraged to make contributions to the welfare of their children while in prison if so desire. This is done through their attorneys, probation officers and other support systems.

21. The Minister noted there has been some interest shown in the recently established Police Complaints Authority. Since its inception in 2004, it has received 178 complaints, including 82 requests for investigations, and concluded 25 investigations. Since the submission of the universal periodic review report, 17 additional complaints have been filed; the total investigations currently pending now amount to 108. However, owing to certain administrative and employment changes, the body had not been operating to full capacity, hence the number of investigations currently pending. It is expected that the body will again be fully functional on January 1 2009.

22. Responding to the question on what Barbados is doing to improve the image of the Royal Barbados Police Force, the Minister stressed that the Government does not accept the characterization that there is a negative image of the police in Barbados. Any complaints received can be channelled through the independent Police Complaints Authority and the Office of Professional

Responsibility within the Police Force. The Police Force is accredited to the Commission on Accreditation for Law Enforcement Agencies.

23. Barbados enumerated a number of best practices in its report, including on the facilities at the newly constructed prison and the national plan on HIV/AIDS. The Minister stated that one of the most important best practices is the country's social partnership and commendable record on labour rights. Barbados is currently a member of the Governing Body of ILO and is also party to 36 ILO Conventions concerning the rights and privileges of workers.

24. With regard to national institutional arrangements for the protection of human rights, the Head of Delegation indicated that there are plans to appoint an ombudsman to the Office of the Ombudsman and to work towards its full compliance with the Paris Principles, which would require support from the international community. The Government also recently announced plans to establish a human rights unit within the Ministry of Foreign Affairs and Foreign Trade, which will work closely with the Attorney General's Office, and have the responsibility of preparing reports for the various treaty bodies, consult with civil society and generally provide policy advice on human rights matters. The Head of Delegation called on States members of the United Nations and OHCHR to assist Barbados with the technical and financial assistance which will be required to make this a sustainable organ of the Government. The Government noted in the OHCHR compilation report the reference to the recommendation of the Committee on the Elimination of Racial Discrimination in 2005 and of the Human Rights Committee that an independent human rights institution be established. Barbados equally recognizes that civil society in Barbados needs to be further involved in human rights activism and that the establishment of a human rights unit is a first step in this direction.

25. Barbados is well seized of its obligations to provide an optimal social and economic environment for its citizens, taking into account their economic and social rights. In January 2008, the newly elected Government created a ministry which has the family as one of its major responsibilities. The Government is convinced that there will be a consolidation of policies aimed at strengthening the family unit and promoting the rights of the child.

26. Among the social services offered to the people of Barbados, education has always been paramount and serves as a vehicle for social mobility. This has been a major area of emphasis for successive Governments in Barbados. They have all subscribed to the policy that education is a primary catalyst for social change. Barbados is Millennium Development Goal Plus with respect to education, as there is universal primary education, equal access to secondary education, which is compulsory up to age 16, and free tertiary education. The Government has also instituted the Community Technology Programme to introduce people to computer applications.

27. The Minister stated that, as in all societies, there are certain issues and challenges which are present and Barbados identified some of these in the report. He stated that Barbados intends to confront these issues and have them resolved to the best of its abilities. These include the drafting of legislation on sexual harassment in the workplace and an intensification of the work of the National Task Force on Crime Prevention to prevent violence against women, gender-based violence and violence in schools. This will be achieved through the planning and execution of crime-prevention programmes in schools and communities.

28. As a small island developing State, Barbados continues to experience challenges as a result of its inherent economic and environmental vulnerabilities. In the current climate of international financial uncertainty, its vulnerability increases. Barbados can nevertheless be proud of its achievements and can boast best practices, despite the challenges and constraints. The Minister stated that Barbados is proud to have free access to education up to the tertiary level for all citizens and free access to primary and secondary health care, as these are all crucial elements in fostering a culture and environment of knowledge and social rights; they are the most important investments in its people and society. Barbados has been constantly ranked high on the United Nations development index thanks to the visionary and competent leadership of its political directorates and the pride and passion of its people, and hopes that it will continue to maintain this high level of social and human development for generations to come.

29. The Head of Delegation indicated that the Government intends to introduce integrity legislation, a freedom of information act and reform of the defamation laws soon. Barbados will also be introducing constituency empowerment councils, which will decentralize decision-making authority and promote the monitoring of public resource expenditure with the aim of encouraging greater participatory democracy.

30. In conclusion, the Minister stated that Barbados has the third oldest Parliament in the western hemisphere and enjoys free and fair elections, freedom of the press and independence of the judiciary. He stressed that it is all of these elements that have allowed Barbados to provide a culture and practice of human rights protection for its populace.

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

31. During the ensuing interactive dialogue, a number of delegations welcomed the achievements of Barbados, in particular regarding social rights and education. Barbados was also praised for the high quality of its presentation and its national report, as well as for the participatory and open approach adopted in its preparation. The recognition of its remaining challenges and issues was also commended. During the interactive dialogue, 30 delegations made statements.

32. Germany noted both the call for assistance made by Barbados and its reluctance to invite special procedures. It advised, if assistance is available, to extend the invitation to special procedures. With regard to corporal punishment, Germany pointed out the difficult line between disciplinary action and abuse, especially when the impact on children can be disastrous. Germany recommended abolishing corporal punishment for children.

33. The Netherlands pointed out the generally good record of human rights in Barbados. However, it stated that violence against children remains a serious problem that deserves full attention. It further noted that, despite the legislative and institutional framework to address the allegations of police misconduct, the image of the police still seems negative. The Netherlands recommended that the Government of Barbados further improve professionalism of the police force. The judicial framework in Barbados does not deal with

sexual harassment, which is a problem, for example, in the workplace. It recommended that the Government consider legislative measures in this respect.

34. The United Kingdom stated that civil and political rights are guaranteed by the Constitution, that national legislation provides for the protection of human rights and that there has been good progress in the implementation of most United Nations human rights treaties. It also welcomed the commitment to make the necessary reforms in the shortest time possible. It recommended that the Government continue to seek technical assistance where capacity issues may impede progress. In this regard, it also recommended that the Government incorporate a legal definition of racial discrimination into domestic legislation, revise domestic legislation so as to provide for the granting of refugee status and incorporate the principle of non-refoulement. The United Kingdom would also welcome continued, constructive dialogue on the issue of the death penalty and recommended the close involvement of civil society in the follow-up to this review.

35. Turkey appreciated the Government's efforts to eradicate violence against women, especially awareness-raising activities organized by the Bureau of Gender Affairs. It requested more information about the project on domestic violence data, which was launched in August 2008. Turkey also requested further information on the content of the proposal for a comprehensive "special needs policy" for children with disabilities. It called on the State to address concerns raised regarding the issue of corporal punishment by the Committee on the Rights of the Child. It encouraged Barbados to consider the possibility of abolition of capital punishment.

36. France congratulated the Government on the general satisfactory human rights situation conveyed by indicators such as the independence of the judiciary, freedom of media and the smooth holding of elections. Based on a recommendation of the Committee on the Elimination of Discrimination against Women, France asked if the Government adopted necessary steps to ensure non-discrimination based on gender in its Constitution and legislation. The Committee was also concerned by the inferior status of women in society and the stereotypes that victimize them. France thanked the Minister for the information on the activities of the Bureau of Gender Affairs and recommended providing this institution with sufficient human and financial resources to enable it to contribute efficiently to the promotion and protection of women's rights. On the trafficking of human beings as a relatively new phenomenon in Barbados, France asked if the Bureau has sufficient means to effectively combat this. It stated that Barbadian legislation criminalizes consenting relations between adults of the same sex and provides for the offences of indecent assault and serious indecency, defining these offences vaguely. France recommended that the Government bring these criminal laws into line with international norms with respect to privacy and non-discrimination. France further noted that detention conditions are bad, notably because of overcrowded prisons and reported cases of ill treatment in the past, and asked if the Government has taken steps to ensure that prisoners and prison staff have a safer environment. France recommended that Barbados sign and ratify the Convention against Torture and the additional protocol thereto, and the Convention for the Protection of all Persons against Enforced Disappearance.

37. China noted the positive progress made in improving human rights institutions, legislation and encouraging civil society participation and the priorities set for the prevention of AIDS and crime, combating domestic violence, the protection of multiculturalism and the protection of labour and migrant rights as well as good governance. China inquired about the new challenges the Government faces in promoting the protection of social rights and whether it has conducted technical cooperation with ILO and other international organizations. China also noted the Government's plan to establish councils in constituencies to increase political participation.

38. Brazil noted with concern the allegations in relation to the psychological and physical effects of domestic violence on children. It also noted the reported lack of support systems at the administrative level for women and the issue of collection of child maintenance. It recommended that the Government work towards taking the necessary possible measures. Brazil positively acknowledged actions taken by the Government in relation to prison facilities, the well-being of children and community technology programme. Brazil requested more information on the functioning of the Policy Complaints Authority. It suggested the creation of an independent national human rights institution in accordance with the Paris Principles and the establishment of a moratorium on death penalty. Brazil asked what practical measures are being taken to guarantee the submission of reports and responses to letters of allegations in the context of cooperation with human rights mechanisms.

39. Algeria congratulated the Government on achieving Millennium Development Goal Plus in the area of economic, cultural and social rights as it has introduced compulsory education for all children up to the age of 16. Algeria supported the recommendation made by the Committee on the Elimination of Racial Discrimination in 2005 and recommended that Barbados take appropriate measures to develop its internal domestic legislation so as to guarantee the exercise of economic, social and cultural rights for all. Algeria noted that Barbados is a party to the majority of international human rights conventions, except for the Convention against Torture and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Algeria recommended that the Government consider the possibility of acceding to these two conventions. Paragraph 36 of the national report and paragraph 3 of the OHCHR compilation suggested that the international human rights instruments to which Barbados is party are not always transposed into domestic law, which affects the recognition of human rights set out in these instruments. Therefore, Algeria recommended that the Government take and strengthen the necessary legislative measures required to incorporate in its domestic law the provisions contained in international human rights instruments to which Barbados is a party. Algeria recommended that OHCHR, in consultation with the Government, provide technical assistance in this area.

40. Pakistan noted the commitment of Barbados to the cause of promotion and protection of human rights as well as the right to seek redress through judicial recourse, which is ingrained in its Constitution and also extended to the Inter-American Court on Human Rights, the Human Rights Committee and the Caribbean Court of Justice. Pakistan also welcomed the establishment and functioning of an independent civilian police complaint authority. Pakistan noted the frank acknowledgement by the Government of the need to further update several pieces of legislation to reflect current international human rights norms and the issues mentioned under the key national priorities, which cover most of the recommendations of the treaty bodies. Pakistan recommended that Barbados work for the establishment of an independent human rights commission and submit its pending reports to the relevant treaty bodies.

41. India commended Barbados for viewing health care as a fundamental right and for providing a range of family health services. It further complimented Barbados for having achieved a high female literacy rate and its commitment to provide free education. India further noted the establishment of the Governance Advisory Unit and the adoption of the Community Empowerment Programme.

42. Cuba noted the problems Barbados faces as a developing country regarding financial and material difficulties, which are exacerbated by the existing difficult international environment and the challenges faced by the authorities in this context. It noted the broad institutional legal framework developed for the promotion and protection of human rights and the arsenal of national plans and policies adopted for the full exercise of this right, such as new medical, dental, psychiatric and psychological facilities provided in the penitentiary system and academic development and employment programmes for prisoners. Cuba also recognized its efforts to promote and protect economic and social rights, particularly its attempt to guarantee universal access to education. Cuba encouraged the Government to continue its efforts to combat impunity and to eliminate discrimination against women. It recommended that Barbados continue updating its national legislation in accordance with international commitments and promote economical social and cultural rights with the objective of capitalizing on the progress already made.

43. Australia, while welcoming the fact that Barbados has not imposed the death penalty in 24 years, noted that the laws make it mandatory in certain circumstances and enquired about the State's intention to abolish the death penalty altogether. Australia also welcomed the actions taken by the Bureau of Gender Affairs to combat violence against women and requested information on the Government's progress on this issue. It noted that consensual sex acts between adults of the same sex are prohibited and enquired about actions the Government plans to take to ensure the human rights of gay and lesbian citizens.

44. Sweden acknowledged that the state of human rights in Barbados is satisfactory. Concerning capital punishment, Sweden recommended that the Government maintain the de facto moratorium, continue consultations on changing the mandatory death sentence for murder and treason, and also take appropriate steps to reach the permanent abolition of the death penalty. Concerning the discrimination of lesbians, gays, bisexuals and transsexuals, Sweden welcomed the clarification provided by the Minister on section 11 on the protection of fundamental rights and freedoms. Sweden recommended that the Government consider introducing specific legislation and additional policy measures in order to promote tolerance and non-discrimination of lesbians, gays, bisexuals and transsexuals.

45. Jamaica noted the State's commitment to promote and protect human rights, being a party to most international human rights instruments. It noted its efforts made regarding the rights of vulnerable groups such as women, children, the elderly and persons with disabilities, and congratulated Barbados on having attained the second Millennium Development Goal of ensuring universal primary education and for granting equal access to secondary education and tuition-free tertiary education. It urged the international community to support the State's request for technical assistance with a view to building capacity, particularly for the preparation of human rights reports and the development of programmes for human rights education.

46. After thanking the distinguished participants for their insightful comments, the representative from Barbados answered some of the issues raised in the discussion.

47. The Minister referred to his previous statements, noting the constraints the country faces in fulfilling its reporting requirements in view of its limited resources. He noted that the establishment of a human rights unit in the Ministry of Foreign Affairs and Foreign Trade might allow more timely submissions of reports. The Minister also stressed that greater OHCHR support and presence in the Caribbean region is absolutely critical to building civil society support for the institutionalization of human rights protections and in recognizing the link between human rights and development.

48. With regard to the death penalty, the Head of Delegation indicated that the Government had no specific mandate from the people of Barbados to abolish the death penalty; in fact, all opinion polls and surveys taken in the country show that the public sentiment has been strongly in favour of keeping it. Therefore the Government has to engage in a full national dialogue before arriving at a consensus on this issue. Submissions have been made regarding the mandatory application of the death penalty in cases of murder or treason. The new Government has taken these into consideration and, through the Office of the Attorney General, will be working internally and will soon go to the public and civil society to gauge their responses to this issue.

49. The issue of corporal punishment has triggered a national debate. The Minister for Education publicly advocated for the abolition of corporal punishment in schools. This is not the official position of the Government, but it may move in that direction in future.

50. The Government has invested tremendous amounts of resources in the treatment of abused children and has requested social agencies to intervene not only at the point of abuse but as a preventative measure. The Child Care Board has been given the power to remove children from psychologically, sexually or physically abusive environments and to provide counselling for parents. The Government believes that violence against children is not only a criminal issue but a cultural one, requiring investigation into the economic and social pressures faced by parents.

51. The Constitution of Barbados provides protection against discrimination for gays and lesbians. Pending a full report, the Government is considering a set of laws pertaining to discrimination. Given that the Office of the Attorney General faces enormous pressure owing to constraints on resources and a backlog of pending legislation, the Government would require technical assistance in drafting legislation.

52. Free access to education at the university level has led to a doubling of the number of women university students (the current ratio is two to one, women to men). Today there are female permanent secretaries across the Government system, including the Head of Public Services, the Head of the Central Bank and the Accountant General, and the Government remains committed to increasing female political participation and representation.

53. When the interactive dialogue resumed, the Czech Republic recommended the adoption of further measures to ensure the incorporation of the State's international human rights obligations into national legislation, accession to the Convention against Torture

and the Optional Protocol thereto and the establishment of an effective national preventive mechanism, in compliance with the Optional Protocol. It further recommended the decriminalization of consensual same-sex activity between adults and the adoption of measures to promote tolerance in this regard, which would encourage more effective educational programmes for the prevention of HIV/AIDS.

54. Argentina noted that the prevention and control of HIV/AIDS was identified as a national priority and the trafficking of persons as one of the challenges. It noted that, while the Constitution prohibits torture, in the domestic legislation there is no definition of torture in line with article 7 of the International Covenant on Civil and Political Rights and it suggested that measures be adopted and that Barbados consider ratifying the Convention against Torture. Argentina also noted that the death penalty has not been applied for 24 years but that it still exists, and therefore suggested that Barbados consider the possibility of acceding to Second Optional Protocol to the International Covenant with a view to abolishing the death penalty.

55. Japan noted the Government's commitment to improving the human rights situation and urged it to expeditiously ratify the Convention against Torture and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. With regard to racial discrimination, Japan requested further explanation of what is being done on a legal as well as societal level to eliminate it, including how the High Court can serve each individual to seek redress in respect of such violation of human rights. Japan noted the large proportion of children who are victims of physical, psychological and emotional abuse and of corporal punishment. It noted that laws do not provide for granting refugee status and do not codify the principle of non-refoulement. Japan also noted the absence of an integrated national plan to address discrimination against women and on the grounds of sex, enquiring about the measures taken to improve the human rights situation. Regarding the issue of human trafficking, it noted the efforts to address the issue and requested information on additional measures that will be taken in future to improve the situation.

56. Italy acknowledged with satisfaction a long de facto moratorium on executions and recommended that the establishment of a de jure moratorium on the use of death penalty be considered, with a view to abolishing capital punishment in national legislation. It also recommended that discrimination against women be properly addressed, also by sensitizing civil society. Italy recommended taking appropriate legislative and administrative measures to fight domestic violence and physical abuse of children and to engage in an exchange of information with those countries that are developing best practices in these fields.

57. Chile expressed its appreciation on the active democracy of Barbados, its sustained economic growth, its model of social consultation and its achievements in education. It also noted the information provided concerning the campaign to end violence against women and encouraged the Government to continue working in this field with a national plan and the necessary legislative reforms. Chile recommended the promotion of the abolition of the death penalty and the accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, modifying in the meantime its legislation with regard to the death penalty, eliminating mandatory application and ensuring that the legislation is compatible with article 6 of the International Covenant. Chile also recommended that all forms of corporal punishment be eliminated in its legislation and that sexual acts between consenting adults of the same sex be decriminalized.

58. Canada noted the State's commitments to the human rights and fundamental freedoms of its citizens and the important pieces of legislation passed in recent years with regard to the rights of women, including the Domicile Reform Act, the Domestic Violence Act and the Change of Name Act and its granting women inheritance rights within common-law unions. It recommended that Barbados take steps to enact legislation to enshrine a specific right of non-discrimination on the basis of gender in accordance with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. It also recommended that the Government focus more efforts on combating violence against women and provide authorities with more training in this regard. Canada also recommended that Barbados decriminalize consensual sexual acts between adults of the same sex. It noted that the death penalty has not been applied in more than two decades, but remains mandatory for certain types of crimes, and recommended that Barbados amend its laws to remove mandatory sentences relating to the death penalty and recognize an official moratorium on its use. Canada expressed concern about the spread of HIV/AIDS, particularly within its prison system, and recommended that Barbados allow for the distribution of condoms in its prisons in order to stem the prevalence of HIV/AIDS in these institutions. Canada also noted the Government's role in steadily increasing the standard of living of its people, free elections, universal education and the diversification of the economy.

59. Mexico welcomed the governance advisory board, which facilitates the Government's commitment to eliminate corruption in both private and public sectors. It asked whether in the process of reviewing the Constitution it was determined that gender is a ground for discrimination and if there is a definition of racial discrimination. Mexico recommended that consideration be given to all international obligations in the field of human rights provisions in the revision process of the Constitution. It welcomed efforts to achieve a practical moratorium on the death penalty and recommended de jure abolition of the death penalty, and that Barbados consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights. Mexico also recommended that the State ratify the Convention against Torture and the Optional Protocol thereto, and extend an open and permanent invitation to international human rights mechanisms.

60. The Republic of Korea noted with delight that Barbados had adopted the Penal System Reform Act, which puts greater emphasis on rehabilitation, and the Evidence Act with its provisions for audio- and video-taping police interviews. It welcomed the implementation of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials by the police. It attached great importance to the efforts of Barbados to adopt a policy of free education for all children and to ensure equal access to secondary education up to the age of 16 years. It recommended that the Government strengthen its cooperation with human rights mechanisms in order to overcome challenges that are frankly presented in the national report.

61. Slovenia noted the State's solid human rights record, established rule of law, independence of judiciary and transparent functioning of society. It recommended the decriminalization of consensual sexual acts between adults of the same sex and that it take all necessary actions to protect homosexuals from harassment, discrimination and violence and recommended that measures be taken

to eliminate corporal punishment as a legitimate sanction in the Barbados law and that it be discouraged in schools with a view to its eventual and total abolition. It also recommended conducting public-awareness efforts to change the attitudes of people to corporal punishment.

62. Malaysia commended the Government for the efforts made in the field of education and encouraged it to ensure quality education for all students. It recommended that Barbados continue with these positive efforts and share its experience in this area with other countries. Malaysia noted measures taken by the Government to keep the issue of domestic violence in the public domain. To complement the measures, it recommended further intensifying efforts to harmonize the method of data collection by relevant agencies involved in the fight against domestic violence. Malaysia noted the establishment of a wide range of services and programmes designed to eliminate discrimination against women in all aspects. It recommended that Barbados consider formulating an integrated national plan of action, as recommended by the Committee on the Elimination of Discrimination against Women. Malaysia called for the international community to respond favourably to the Government's request for capacity-building and technical assistance.

63. Latvia noted with appreciation the State's generally good record of human rights and considerable achievements in the fields of education and media freedom. Latvia appreciated the overall positive response provided by the delegation of Barbados in its introductory statement regarding the issue of standing invitations to special procedures. Latvia believed that accommodation of special procedures mandate-holders does not place a significant burden on a country, even a small one, as shown by a number of small States that have issued standing invitations, and believes that special procedures mandate-holders are sensitive to the resource constraints of smaller States in the preparation of their visits. Therefore, Latvia recommended that Barbados consider extending a standing invitation to all special procedures of the Council.

64. Mauritius noted the State's reputation as a successful small island developing State, its profound respect for democratic values, the fact that it is party to major international and regional human rights instruments and that it has been at the forefront in mobilizing attention to the vulnerability of small islands to climate change and natural disasters. It also pointed out the maturity of its democracy and its commitment to ensure universal access to education and adequate standards of living, mentioning the Government's achievement in these areas. Mauritius enquired about the way Barbados intends to implement the comprehensive special needs policy. It also requested additional information on the project using the domestic violence data system form. Mauritius called on development partners to explore ways and means to enhance the capacity of Barbados in the implementation of its human obligations and to promote human rights at the grass-roots level through, inter alia, the elaboration of programmes for human rights education.

65. Trinidad and Tobago acknowledged the constructive approach adopted by Barbados in the area of human rights. This bodes well for the continued progress of human rights in Barbados, as such a formula will engender a sense of community ownership and empowerment in framing national policy in this area. Trinidad and Tobago congratulated Barbados for its strong democratic traditions.

66. Botswana commended Barbados for its record of ratification of major international human rights treaties and ILO Conventions. It noted that Barbados has made numerous national and legislative reforms that have enhanced the promotion and protection of fundamental human rights and freedoms of its peoples, particularly the establishment of the Fair Trading Commission in 2001, the Police Complaints Authority in 2004 and other national programmes in the areas of education and HIV/AIDS prevention and control. Botswana further noted the challenges outlined in the national report and recommended that the international community, particularly through OHCHR, provide the Government with technical assistance for capacity-building in human rights training and other areas to augment the country's efforts in meeting its domestic and international human rights obligations.

67. The Syrian Arab Republic noted that Barbados faces multifaceted challenges, including a large number of HIV/AIDS patients and natural disasters. It noted the progressive achievements in many development fields, such as poverty reduction, provision of basic education and empowerment of women. It asked the State to share and elaborate on its experience in the fields of female literacy and maternal mortality achievements. It also asked for clarification regarding how the community empowerment initiative would address the lack of local government system. It strongly recommended that Barbados continue to exercise its full sovereign right concerning sexual orientation on the basis of its cultural fabric and legal system requirements.

68. Bahamas noted the State's record and that it has taken several steps to ensure the effective exercise of individual rights and their protection. It also noted the establishment of a police complaints authority and an independent agency, which is an important mechanism in ensuring the integrity and accountability of law enforcement personnel. It also noted with satisfaction the achievements of the Government in the fields of education, community technology, training and health. It noted the challenges and the key national priorities identified by the Government.

69. In concluding, the representative of Barbados reiterated his country's commitment to a strong human rights platform and a rights-based approach to development.

70. The Minister disagreed with the suggestion that there was a widespread negative view of the Royal Barbados Police Force. The majority of Barbadians have a high regard for the security forces, particularly the Police Force. The Government will continue to ensure that the police maintain the highest possible standards nationally and globally. The fact that a former justice of the Supreme Court was invited to sit as a chair of the Police Complaints Authority attests to the Government's level of seriousness.

71. The Minister noted that the domestic violence data protocol is a pilot project of Barbados. The Government has tried to ensure that all social agencies that deal with the issue report cases from the police, social services, hospitals and law offices. The Government has tried to ensure that all agencies that encounter domestic violence maintain standards of accuracy in recording the cases so that they can be fully investigated.

72. He also referred to problems linked to migration and trafficking, which are relatively new in Barbados. The Bureau of Gender Affairs and the Social Policy Bureau have been given the authority to monitor human trafficking and to report any rise in frequency to the authorities, particularly in the area of prostitution. The new Government has established a cabinet subcommittee on immigration



and hopes to have, in the first quarter of 2009, a fully revised and comprehensive migration policy.

73. The Head of Delegation indicated that, while there is no specific legislation on racial discrimination in Barbados, the Constitution guarantees against it. It would be incorrect to state that there is a lack of recognition or knowledge of the existence of such rights or a lack of confidence in the Courts. It should be noted that, although there have been one or two cases that have come before the courts in relation to these matters, the relative absence of such cases would suggest that this is not an issue that has risen to a level that would require handling in the courts of law.

74. The issue of consensual sex between adults of the same sex is a contentious one and it would be disingenuous of the Government to treat it flippantly. It is an issue that engages not only legal considerations but also sociocultural and historical considerations. Barbados is a heavily religious society and has a tremendous lobby in terms of the church, including activist evangelists, who have their own views on this issue. The Government has to therefore consider all the elements involved and all suggestions and submissions, but at this stage is not in a position to make an intervention to abolish those laws, just as it is not yet in a position to allow the use of condoms in prison. These two issues are interlinked and have to be addressed together in their totality. It would be necessary to decriminalize consensual sex between persons of the same sex before any decision can be taken on the issue of allowing condoms in prison. The Government has received a report from the HIV/AIDS Commission which considers all of these issues and a national HIV/AIDS policy has been laid in Parliament. The Government hopes to address all of these issues in the fullness of time to the satisfaction of all interested parties.

75. With regard to the standing invitation for special procedures, it should be recognized that they impose burdens on small countries. It has in fact had, on an ad hoc basis, requests to examine the human rights situation, such as the issue of the condition of prisons. Recommendations have been made and have been taken into consideration; indeed, during the construction of new prison facilities, Barbados has sought to implement those recommendations. It will continue to avail itself of this particular instrument on an ad hoc basis but reserves the right at this stage not to issue a standing invitation.

76. Finally, the representative of Barbados mentioned the constituency councils as a flagship programme of the new Government based on participatory democracy. The Government intends to establish 30 constituency councils to provide a new system of governance at the community level, encouraging participation from civil society and expanding resources, with less centralized delivery of goods. The representative wished to thank, in particular, the Government of China for help in that process.

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

77. In the course of the discussion, it was recommended that Barbados:

1. Sign and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, as well as the Convention for the Protection of all Persons against Enforced Disappearance (France); accede to the Convention against Torture and the Optional Protocol thereto, together with the establishment of an effective national preventive mechanisms, according to the Protocol (Czech Republic); consider ratification of the Convention against Torture and the Optional Protocol thereto (Mexico); consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights (Mexico); accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights (Chile); consider the possibility of accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights with a view to abolishing the death penalty (Argentina); consider the possibility of acceding to the Convention against Torture and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Algeria); consider the possibility of ratifying the Convention against Torture, since that international instrument is a fundamental tool in working to promote and protect human rights, particularly with regard to people deprived of freedom (Argentina);
2. Give consideration to all international obligations in the field of human rights provisions in revision of the Constitution (Mexico); take and strengthen necessary legislative measures required to incorporate in its domestic law the provisions contained in international human rights instruments to which it is a party (Algeria); adopt further measures to ensure the incorporation of its international human rights obligations into national legislation (Czech Republic); consolidate the process of updating its national legislation in accordance with its international commitments (Cuba);
3. Closely involve civil society in the follow-up to the present review (United Kingdom);
4. Strengthen cooperation with human rights mechanisms to overcome challenges presented frankly in the national report (Republic of Korea, Brazil); extend an open, permanent invitation to international human rights mechanisms (Mexico); consider extending a standing invitation to all special procedures of the Council (Latvia); submit its pending reports to the relevant treaty bodies (Pakistan);
5. Work for the establishment of an independent human rights commission (Pakistan); establish an independent national human rights institution, in accordance with the Paris Principles (Brazil); provide the Bureau of Gender Affairs with sufficient human and financial resources to enable it to contribute efficiently to the promotion and protection of the rights of women (France);
6. Properly address discrimination against women, also by means of sensitizing civil society (Italy); take steps to enact legislation to enshrine a specific right of non-discrimination on the basis of gender, in accordance with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (Canada); consider formulating an integrated national plan of action, as recommended by the Committee on the Elimination of Discrimination against Women to fully address the issue of discrimination against women in all its aspects (Malaysia);
7. Incorporate a legal definition of racial discrimination into domestic legislation (United Kingdom);
8. Consider the possibility of abolition of capital punishment (Turkey); promote the abolition of the death penalty (Chile); abolish de jure the death penalty (Mexico); amend its laws to remove mandatory sentences relating to the death penalty and recognize an official

moratorium on its use (Canada); establish a moratorium on the death penalty, in accordance with General Assembly resolution 62/149 (Brazil); consider the establishment of a de jure moratorium on the use of the death penalty with a view to abolishing capital punishment in national legislation (Italy); maintain the de facto moratorium, to continue consultations on changing the mandatory death sentence for murder and treason, and also take appropriate steps to reach a permanent abolition of the death penalty (Sweden); modify legislation with respect to the death penalty, eliminating its mandatory application, ensuring that legislation is compatible with article 6 of the International Covenant on Civil and Political Rights (Chile);

9. Take measures to include a definition of torture in line with article 7 of the International Covenant on Civil and Political Rights in domestic legislation (Argentina);

10. Further improve the professionalism of the police force (Netherlands);

11. Further intensify efforts to harmonize the method of data collection by relevant agencies involved in the fight against domestic violence (Malaysia);

12. Focus more efforts on combating violence against women and provide authorities with more training in this regard (Canada); continue its efforts to put an end to violence against women with a national plan and necessary legislative reforms (Chile);

13. Take appropriate legislative and administrative measures to fight against domestic violence and physical abuse of children, and engage in an exchange of information with those countries that are developing best practices in these fields (Italy); work towards taking measures in relation to the psychological and physical impact of domestic violence on children (Brazil);

14. Eliminate all forms of corporal punishment from its legislation (Chile); abolish corporal punishment for children (Germany); address the concerns raised by the Human Rights Committee and the Committee on the Rights of the Child on corporal punishment (Turkey); take measures to eliminate corporal punishment as a legitimate sanction in the law and to discourage its use in schools with a view to its eventual and total abolition; conduct public awareness initiatives to change peoples' attitudes to corporal punishment (Slovenia);

15. Consider legislative measures to deal with sexual harassment (Netherlands);

16. Take appropriate measures to develop its internal domestic legislation so as to guarantee economic, social and cultural rights for all (Algeria); promote and foster economic, social and cultural rights for its people, with the objective of capitalizing on the progress that has already been made in this respect (Cuba);

17. Bring its criminal laws on criminalization of consenting relations between adults of the same sex, and on offences of indecent assault and serious indecency that are defined vaguely, into line with international norms with respect to privacy and non-discrimination (France); decriminalize consensual sexual acts between adults of the same sex (Canada, Slovenia, Czech Republic, Chile); take measures to promote tolerance in this regard, which would encourage more effective educational programmes for the prevention of HIV/AIDS (Czech Republic); take all necessary actions to protect homosexuals from harassment, discrimination and violence (Slovenia); consider introducing specific legislation and additional policy measures to promote tolerance and non-discrimination of lesbians, gays, bisexuals and transsexuals (Sweden);

18. Allow for the distribution of condoms within its prisons in order to stem the prevalence of HIV/AIDS in these institutions (Canada);

19. Revise domestic legislation to provide for the granting of refugee status and incorporate the principle of non-refoulement (United Kingdom);

20. Continue with the positive efforts made in the field of education and share its experience in this area with other countries (Malaysia);

21. Continue to seek technical assistance where capacity issues may impede progress (United Kingdom); continue seeking technical assistance from the international community, particularly through OHCHR, towards capacity-building in human rights training and other areas, to augment the country's efforts in meeting its human rights obligations, both domestically and internationally (Botswana); call on OHCHR, in consultation with the Government, to provide technical assistance regarding the incorporation of international human rights instruments into domestic law (Algeria); seek the support of the international community and relevant organizations, including OHCHR, in keeping with the State's request for technical assistance for capacity-building, particularly for the preparation of human rights reports and the development of programmes for human rights education (Jamaica); call on development partners to explore ways and means to enhance its capacity in the implementation of its human rights obligations, as well as to promote human rights at the grass-roots level through, inter alia, the elaboration of programmes for human rights education (Mauritius).

78. The response of Barbados to the above recommendations will be included in the outcome report adopted by the Council at its tenth session.

79. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

#### **Annex**

#### **COMPOSITION OF THE DELEGATION**

The delegation of Barbados was headed by H. E. Christopher Sinckler, M.P., Minister of Social Care, Constituency Empowerment, Urban and Rural Development, comprised 11 members:

H.E. Ambassador C. Trevor Clarke, Permanent Representative to the United Nations and other International Organizations at Geneva;

Ms. Roslind Jordan- Callender, Principal Crown Counsel, Solicitor General Chambers, Office of the Attorney General;

Mr. Euclid Goodman, Head of the Multilateral Section, Ministry of Foreign Affairs and Foreign Trade;

Mr. Joseph Hunte, Human Rights Desk Officer, Ministry of Foreign Affairs and Foreign Trade;

Mrs. Heather Morris, Senior Administrative Officer, Office of the Attorney General;

Dr. David Berry, Consultant on International Law;

Mrs. Emalene Marcus- Burnett, Counselor, Permanent Mission of Barbados, Geneva;

Dr. Corlita Babb-Schafer, Counselor, Permanent Mission of Barbados, Geneva;

Mr. Matthew Wilson, First Secretary, Permanent Mission of Barbados, Geneva;

Ms. Natalie Burke, First Secretary, Permanent Mission of Barbados, Geneva.

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