Convention Against Discrimination in Education

Country Report on Implementation:

Republic of Nauru

11 January 2013

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Introduction

This report is submitted for the fulfilment of the reporting obligations of Nauru, as a member State of UNESCO, in relation to the Convention against Discrimination in Education (the "Convention").

I. Legislative, judicial, administrative and other measures taken by Nauru

1. Nauru's status in relation to the Convention, Protocol and other human rights instruments

Nauru regards itself as a state party to the Convention, by virtue of the fact that Australia became a party to the Convention in 1966 when Nauru was still a UN Trust Territory administered by Australia, and Australia expressly declared that its acceptance of the Convention extended to all of its external territories including Nauru. When Nauru became independent in 1968, it submitted a letter to the UN Secretary General stating that it would review its treaty obligations over the following 2 years, and that: 'In respect of multilateral treaties, the Government of Nauru intends to review each of them individually and to indicate to the depositary in each case what steps it wishes to take, whether by way of confirmation of succession, confirmation of termination or accession, in relation to each such instrument. During such period of review, any party to a multilateral treaty which was, prior to independence, validly applied or extended to Nauru may, on a basis of reciprocity, rely as against Nauru on the terms of the treaty.' In subsequent letters to the UN Secretary General, Nauru has extended this period of review indefinitely.

Nauru is not yet a state party to the Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention Against Discrimination in Education (Australia ratified in 1974, after Nauru became independent). Nauru intends to refer the Protocol to its Working Group on Treaties during 2013, so that the Working Group can make a recommendation to the Cabinet as to whether Nauru should accede to the Protocol.

Nauru is a party to other human rights instruments including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of Persons with Disabilities, and the Convention Against Corruption. Nauru completed its Universal Periodic Review in 2010, and has since been working towards implementing the recommendations made during that process.

2. Implementation of the Convention in the national legal system

Nauru has a dualistic system whereby international instruments to which Nauru is party do not automatically have the force of law in the domestic sphere, but rather, must be implemented in domestic law. While there is no law in Nauru that makes express reference to the Convention, there are laws that give effect to the aims of and obligations under the Convention.

The Constitution of Nauru 1968 protects fundamental rights and freedoms (based on the European Human Rights Convention), including life, liberty, security of the person, the enjoyment of property and the protection of the law, and freedom of conscience, freedom of expression and freedom of assembly and association.

The *Education Act 2011*, described in greater detail in subsequent sections of this report, affirms that every child has the right to education (see section 7(a)). Nauru is proposing in early 2013 to introduce to Parliament an Equal Opportunity Bill which will, among other things, prohibit discrimination on the grounds of sex, race, disability, age, sexuality, marital status or pregnancy (with some limited exceptions). It is expected that this Bill will be enacted and enter into force during the course of 2013.

The anticipated Equal Opportunity Act will provide remedies for those who experience discrimination. In addition to those remedies, a person whose right to education is infringed potentially also has a remedy in an action for breach of statutory duty under the *Education Act 2011*. The Supreme Court of Nauru has original and exclusive jurisdiction to enforce the protection of the fundamental rights and freedoms guaranteed in Part II of the Constitution (see Article 14 of the Constitution).

II. Further information on the implementation of the Convention, with reference to its provisions

1. Non-discrimination in education

Under Article 1 of the Convention, the term discrimination includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education.

Before the enactment of the *Education Act 2011*, the law in Nauru provided for compulsory education, however there were different laws for children who were attending a European school, such as compulsory education to the age of 15 years compared to that of 16 years for other children. Those laws were contained in the *Compulsory Education Ordinance 1921-1967*. Although the practice of maintaining different schools for 'Europeans' and 'Natives' was discontinued decades ago, and the discriminatory provisions relating to the ages for compulsory schooling had not been administered or applied for several decades, this anachronistic law nevertheless remained on the Nauru statute book until it was repealed by the *Education Act 2011*. The repeal of the Compulsory Education Ordinance and the discontinuance of discriminatory administrative practices indicates Nauru's compliance with its obligations under Article 3(a) of the Convention.

The *Education Act 2011* (the "***Education Act***") came into operation on 14 July 2011 and provides the mechanism by which many of Nauru's obligations under the Convention may be achieved. The *Education Act* demonstrates a significant step towards ensuring that there is no discrimination in the admission of pupils to, and in the operation of, educational institutions in Nauru. In summary the objects of the *Education Act*, contained in Part 3, are to:

a) make available to each school-age child in Nauru a high quality education that will maximise the child's educational potential and enable the child to become an effective and informed member of the community; and

b) promote compulsory education.

Section 6(2) of the *Education Act* outlines specific ways in which the objects of the Act are to be achieved, which include:

a) by placing responsibilities on parents and the Government in relation to the education of school-age children, which are defined as children between the ages of 4 and 17;

b) providing for the education of school–age children with disabilities; and

c) facilitating the operation of all schools as safe, supportive and inclusive learning environments.

The general principles intended to guide the achievement of the objects include:

a) that every child has the right to education;

b) that parents have the responsibility of choosing a suitable education environment for their children;

c) that education should be provided to a child in a way that provides positive learning experiences that promotes a safe, supportive and inclusive learning environment and recognises a child's specific educational needs.

It is against the backdrop of these objects, general principles and implementation strategies that the specific provisions of the *Education Act* are to be implemented in practice. Nauru reports that this legislative backdrop demonstrates significant achievement in implementing the principles of the Convention in Nauru.

2. Equal opportunities in education to attain education for all

The Nauru Sustainable Development Strategy (2009), Education Footpath Strategic Frameworks (2008-2015) and the *Education Act 2011* all commit to the achievement of equality and EFA.

In compliance with Article 3(e) of the Convention, every child in Nauru has the same access to free public education in Nauru, regardless of whether the child is a Nauruan citizen or a foreign national. The *Education Act 2011* makes no distinction in relation to citizens or non-citizens, but provides for compulsory education for all school-age children in Nauru and imposes responsibilities on all parents of school-age children in Nauru, regardless of nationality. Section 73(2) of the Act provides that 'Education for school-age children in government schools is free and no fees may be charged for it.'

However, Nauru is not yet in compliance with its obligation under Article 3(c) of the Convention. Nauru currently provides government-funded scholarships for a limited number of students who are Nauruan citizens to travel abroad to study in Fiji from year 9 (middle secondary school) onwards. These scholarships are not available to non-citizens.

The attainment of education for all is being pursued in Nauru through free compulsory education, including the improvement of educational opportunities and educational standards for children with disabilities.

There is no affirmative action in relation to gender, as there is no recognisable distinction in Nauru between boys and girls in terms of educational access and attendance. The proposed Equal Opportunity Act will protect female students from discrimination on the grounds of pregnancy or breast feeding.

As Nauru is a small island developing state, there is no discernible group of children or students that is particularly economically marginalised relative to the rest of the population, however where individual students face financial hardship, the Education Department

endeavours to assist in the provision of uniforms and books. Government also subsidises food for primary schools.

3. Progress made with respect to implementing the right to Education

(i) Universal primary education

Under section 8 of the Act the parents of a school-age child must ensure the child is enrolled at a school until the child completes the school year during which the child attains the age of 18 years. Additionally, each parent of a school-age child must ensure, subject to some exceptions such as sickness, that the child attends the school at which he or she is enrolled on each school day. These provisions, in addition to the prohibition on the charging of fees for government schools, implement the requirements of Article 4(a) of the Convention to make primary education free and compulsory, and go beyond the requirements of the Convention by also making *secondary* education free and compulsory.

(ii) Secondary education

As mentioned in the preceding paragraph, secondary education in Nauru is compulsory to the age of 18 (with limited exceptions) and is free in government schools. Technical and vocational education ('TVET') is also accessible in Nauru. It is provided free of charge to school-age children (up to 18) and modest fees are charged for adult evening classes. TVET was reintroduced in Nauru in 2008 after a hiatus of a few years. Some of the TVET courses delivered in Nauru are accredited by the Australian Technical Training College. Students are able obtain Certificates I and II in certain trades, which enables them to access scholarships to further their studies abroad, as well as providing them access to job opportunities in their chosen industries locally and internationally.

Significant progress has been made in secondary education in Nauru in the last few years. Through development assistance from Australia, a new secondary school has been constructed which boasts excellent facilities for students, including a library, gymnasium/hall and fully equipped science classrooms. The Education Act has imposed qualification requirements on teachers and government has funded teacher training

(elaborated on below). The rates of school attendance and retention of students in the later years of secondary school have improved dramatically. A re-entry program for early school-leavers is being implemented at the secondary level for students 16 years old and above. The resources devoted to education have increased substantially in recent years, through the prioritising by government of education and through generous assistance from development partners, particularly Australia and New Zealand. Education receives a greater portion of the annual government budget than any other sector except health.

The difficulties encountered in relation to secondary education are outlined in Part III of this Report, below.

(iii) Higher education

Higher education in Nauru is limited, The island has a centre of the University of the South Pacific – a regional University with its main campus in Suva, Fiji. The Nauru Centre of USP provides some courses locally and also facilitates distance learning. Higher education is also being provided to teachers through Divine Word University (Papua New Guinea) which offers courses that can be done partly by distance learning and partly through face-to-face teaching done during visits to Nauru by academics from the University. Nauruans are also able to access a range of scholarships to pursue higher education abroad. These scholarships are generally funded by development assistance partners and are accessible only to Nauruan citizens, with applicants being selected based on merit. Some teachers are being funded by the government of Nauru to pursue teaching qualifications at Goroka University in Papua New Guinea.

(iv) Adult education and lifelong learning

The Government of Nauru, which is Nauru's largest employer, facilitates scholarships, fellowships and capacity building for staff through the Human Resource Unit in the Department of the Chief Secretary (the Chief Secretary is the Head of the Public Service and runs the government administration).

Measures of ensuring equitable access to basic and continuing education can be seen in community-based programs on the environment and climate change, which involve collaboration between government and community-based organisations.

The Youth Affairs Division within the Department of Education offers programs that address (il)literacy for early school leavers. These programs also include life skills and entrepreneurial skills. A concreting project involving functional literacy and numeracy plus concreting skills has also been implemented also in the local communities.

In the secondary school system, the re-entry programs endeavour to provide basic education to people aged 16 years to 18 years.

(v) Quality education

All students have access to free compulsory primary and secondary education that is of good quality. The Department of Education has recently completed a review of the curriculum at all levels, with the objective of raising the standard of education and ensuring that is regionally competitive. Nauru's academic program for secondary school is accredited by the Queensland Department of Education (Australia), giving students who complete secondary school in Nauru access to greater tertiary educational opportunities.

The *Education Act 2011* provides for the development and application of quality education that is appropriately developed with input from a range of stakeholders. Part 5 of the *Education Act 2011* provides for the Minister for Education to approve a curriculum for each school year level which is made on the recommendation of the Teacher Registration and Curriculum Board (the "***Board***") which in turn receives submissions from the Secretary for the Department and any other external experts as necessary. Responsibility for adherence to the approved curricula is primarily with the principal of a school,[1] however

[1] *Education Act 2011* s23.

the Act also provides for the Secretary of the Department for Education and the Board to monitor a school's adherence to approved curricula.[2]

The Board is comprised of members with skills and experience relevant to undertaking its functions: 3 members are required to be qualified at a tertiary level (holding a Bachelors degree), at least one must be the parent of a school age child and one only may be a registered teacher.[3] Additionally the members of the Board must, to the satisfaction of Cabinet, be of good character and strong integrity and capable of performing the functions of a member of the Board in a competent and objective manner. This assists Nauru in developing high quality curriculum for schools.

All schools, including registered non-Government schools, must adhere to the approved curricula. These provisions implement the obligations under the Convention and the Recommendation to ensure that standards are equivalent in all educational institutions and that the quality of education is the same for all students.

For the purposes of ensuring high standards of education, attendance and facilities at schools, the *Education Act 2011* provides for the appointment of school inspectors who have the power to enter a school at any time to inspect the school or anything in it, including the school's records of enrolment and attendance.[4]

(vi) Teaching profession

There is currently no teacher training institution in Nauru, but the government has made provision for external providers (Divine Word University PNG, UNESCO/SPBEA, the University of the South Pacific) so that training packages can be delivered to teachers in Nauru. There is no gender discrimination in the provision of teacher training in Nauru,

[2] *Education Act 2011* s

[3] *Education Act 2011* s40.

[4] *Education Act 2011* ss34 & 35.

however very few men have opted to join the teaching profession, and it is therefore dominated by women.

One of the roles of the Teacher Registration and Curriculum Board mentioned in paragraph (v) above is to maintain the teachers register. Part 7 of the Education Act provides for teacher registration, and requires all teachers to be registered in order to teach at a school. The requirements for full registration are that a person has a recognised teaching qualification and has successfully completed at least one year of full-time teaching (or equivalent part-time) to the satisfaction of the Board, and that the person is of good character.

There are additional provisions permitting people to teach if they have provisional registration (for a person who has a recognised teaching qualification but does not yet have 12 months' teaching experience) or a limited authority (for people who may be authorised to teach a particular trade skill for example).

It is an offence to teach without being registered or authorised, and it is an offence to employ a person to teach if that person is not registered or authorised to teach.

Salaries of teaching staff at all levels in Nauru are low compared to other regions. Teacher salaries are comparable to other public servants with equivalent qualifications. However, the salaries do not have much distinction from others with different or no qualifications. Another difference in salaries is in relation to the local/regional teacher with equivalent qualifications. A more attractive package is in place for expatriate teachers. Because of a lack of qualified local teachers, Nauru continues to employ many expatriate teachers, most of whom come from Fiji, Papua New Guinea and other Pacific island nations.

(vii) Respect for human rights and fundamental freedoms

Nauru's education system is directed towards the full development of the human personality. This is reflected in object (a) of the Education Act: 'to make available to each school-age child in Nauru a high quality education that will maximise the child's

educational potential and enable the child to become an effective and informed member of the community.' It is also demonstrated in the breadth of the school curriculum and extra-curricular activities, which include arts and culture, sport and social events. Respect for human rights and fundamental freedoms is strengthened through the observance by schools of world literacy day, participation by pupils in campaigns to end violence against women, the observance of international women's day, and similar events.As mentioned above, Nauru is a party to several international human rights instruments, including CEDAW and the Convention on the Rights of persons with Disabilities. The rights of persons with disabilities are protected in the Education Act. Part 11 of the Act makes provision for students with special educational needs, at the heart of which is section 95(1) which provides that:

A school-age child with a disability must not be excluded from access to free primary and secondary education on the basis of the disability.

The *Education Act* achieves this requirement in 2 express ways. Firstly through the principle of inclusive education under which school-age children who have a disability must, where practicable, be enrolled in and attend a school. Their attendance at a school is to include the opportunity to participate together with the other students at the school in the education and extra-curricular activities offered by the school. The Government is required under the *Education Act* to implement the principle of inclusive education, for example, by requiring schools to accommodate and support school-age children who have a disability and by ensuring that teachers are trained with additional modes of communication and educational techniques as may be required. These matters are specifically required by the *Education Act* to be considered in detail by a principal of a school in relation to the enrolment of a school-age child with a disability at the school.

Secondly, the *Education Act* requires the Minister for Education to establish a centre for special education of school-age children with disabilities who cannot attend school. The Able-Disable Centre currently has 37 students enrolled and 5 staff, including an expatriate special education adviser.

(viii) Private education

Parents are free to make a choice between government and non-government providers. The *Education Act 2011* provides, as required under Articles 3 and 4, for non-discrimination in the admission of pupils to educational institutions, and non-differential treatment, as there is no restriction on the school that a parent may enrol a child, as long as the school is either a Government school or a registered non-government school Similarly, these provisions set in place the mechanism to ensure compliance by all with the obligation to attend school as required under Article 4.

In line with Article 5(1) of the Convention, Nauru respects the liberty of parents to choose an educational institution for a child. The Education Act provides for the registration of schools other than Government schools which, as part of registration, are required to conform to the standards and criteria set out in the Act. Conditions of registration of non-Government schools include the provision of a safe, clean and secure environment with adequate facilities, the provision of high quality education to all students enrolled, submission to inspections and assessments and compliance with any other conditions imposed on the registration. As mentioned in paragraph (v) above, the requirement for all schools including non-government schools to adhere to approved curricula and to employ only registered (qualified) teachers serves to ensure that there is consistency in the quality of education in all institutions.

(ix) Religious and moral education

Consistent with the protection of freedom of conscience, thought and religion in Article 11 of the Nauru Constitution and with the separation of church and state, section 76 of the Education Act provides that education in government schools must be non-sectarian and secular. It also provides that secular education in government schools may include the study of different religions as distinct from education in a particular religion. Religious education may be provided in government schools for no more than 1 hour each week, by authorised representatives of different religious denominations, but a student is not required to attend a religious education class, and the principal of a government school is required to ensure

that the educational program at the school continues for students not attending religious education (section 77).

Registered non-government schools are not constrained by the 1 hour per week limit on religious education or the requirement that education be secular. However, in order to ensure that religious education in non-government schools does not interfere with regular academic learning, the Education Act requires non-government schools to adhere to the approved curriculum, and makes it a condition of registration of a non-government school that the principal of the school must not allow extra-curricular teaching or activities to interfere with the teaching of the full approved curricula. There are two registered non-government schools in Nauru: one is run by the Catholic Church and the other by the Assembly of God church.

(x) National minorities

It is difficult to identify any group that might be regarded as a 'national minority' in Nauru. Indigenous Nauruans form the vast majority of the population and are racially and linguistically homogenous. The population living on the island also includes small numbers of people from Kiribati, Fiji, Tuvalu, Philippines, Australia, New Zealand and other countries.

In support of the Convention, and the obligation to provide choices, for example, to national minorities to carry out their own educational activities, home education is also provided for under Part 12 of the *Education Act* , which provides that a parent of a school-age child may apply to the Secretary for registration of the child for home education. Conditions are stipulated so that the home schooling environment is conducive for learning and that the child will be provided with high quality education as must be shown by the parent before registration will be granted. Since the Act came into force in July 2011, no parent has yet applied for registration of a child for home education. There are no schools run by national minorities in Nauru.

III. Awareness raising and removing obstacles to implementation

While the *Education Act 2011* constitutes a significant step towards the realisation of the goal of education for all and non-discrimination in Education, there remains a lot more work to be done in terms of raising public awareness of the requirements of the Act, and ensuring compliance with the Act through more active and effective administration and enforcement. The Department of Education in its implementation of the right to education through the *Education Act 2011* still needs to make the general public and other stakeholders more aware of this legislation and their responsibilities and obligations. Lack of community engagement in the realisation of the right to education, and a generally weak educational culture on the island, are among the greatest obstacles to improving the quality of and participation in education in Nauru.

Nauru also faces obstacles in ensuring that the quality of education provided in schools is sufficiently high due to a lack of qualified teachers. This problem is being addressed through the new legislative requirements (being implemented over a transitional phase) for teachers to be qualified and registered, and through the provision by government of access to teacher training for all Nauruan teachers.

It is practically and politically difficult for Nauru to fulfil its obligations under Article 3(c) to avoid discrimination in the provision of scholarships and other forms of assistance. Government scholarships for secondary students to study in Fiji are limited to citizens, and most tertiary scholarships offered by development assistance partners are available only to Nauruan citizens rather than to any person living in Nauru. This form of discrimination occurs due to Nauru's limited financial resources and the fact that Nauruans are perceived to have greater financial hardship than people of other nationalities living in Nauru, as well as because the provision of a scholarship is seen to be a way to build Nauru's human capital for the future, and Nauruans are perceived to be more likely than non-Nauruans to apply the fruits of their education in Nauru. Aside from this difficulty, equality of educational opportunities in Nauru exists at the primary and secondary levels.

The National Commission for UNESCO is involved in supporting and promoting the rights of all persons in its involvement in the construction and monitoring of allied conventions such as CEDAW/CRPD issues and debates.

TABLE 1 – School Population 2012 (Primary)

School Population for Year 2012

School	INFANT						PRIMARY												
	PC		PRE		PREP		YR 1		YR 2		YR 3		YR 4		YR 5		YR 6		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	TL
Able Disable Centre	5	5	7	2	7	11													37
Anetan Infant School	22	22	24	18	27	18													131
Boe Infant School	32	38	57	46	60	37													270
Meneng Infant School	34	31	35	24	23	28													175
Nibok Infant School	30	28	22	30	17	21													148
Yaren Primary School							103	97	98	106	73	91							568
Aiwo Primary School													97	87	89	88	78	80	519
Kayser College	25	26	19	17	15	21	26	22	22	29	15	29	28	31	21	23	22	21	412
	148	150	164	137	149	136	129	119	120	135	88	120	125	118	110	111	100	101	**2260**
	298		301		285		248		255		208		243		221		201		
	461		423				672						704						
	884						1376												

Source: Statistics Office, Dept. of Education

Infant schools cover play centre, pre-school and prep.

TABLE 2 - School Population 2012 (Secondary)

	SECONDARY														
School	YR 7		YR 8		YR 9		YR 10		YR 11		YR 12		TVET		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	TL
Kayser College	18	8	15	2											43
Nauru College	90	92	85	74	89	92									522
Nauru Secondary School							86	62	39	37	24	20	74	56	398
	108	100	100	76	89	92	86	62	39	37	24	20	74	56	963
	208		176		181		148		76		44		130		
	520						443								
	963														

Source: Statistics Office, Dept. of Education

TABLE 3 – Teacher population 2010-2012

Staff/Teacher Population	2010		2011		2012	
	M	**F**	**M**	**F**	**M**	**F**
Infant	1	50	1	50	1	50
Primary	5	48	5	52	8	53
Secondary	23	46	15	34	15	36
TVET			2	5	4	3
TOTAL	**173**		**164**		**170**	

Source: Statistics Office, Dept. of Education

Table above shows the total number of teaching staff for Infant, Primary, Secondary and TVET instructors.
The highest number of teaching staff employed in the Ministry of Education is 173 in 2010 and
then decreased in 2011 at 164 but increased again in 2012 at a total of 170 teaching staff.
Since 2010 there are more female teaching staff across all sectors.