

BAHAMAS

CERD A/32/18 (1977)

309. The initial report of the Commonwealth of the Bahamas was brief and furnished no information on any measures adopted by the Government of the reporting State to give effect to the provisions of the Convention.

310. While it was cognizant of the scope of the reservation expressed by the Government of the Bahamas when it acceded to the Convention, the Committee was of the view that the reporting State was nevertheless duty-bound, under article 9, paragraph 1, of the Convention to furnish information on the relevant provisions of its Constitution, on the relevant legislative provisions in force, on its judicial processes in so far as they related to the Convention, and on other measures taken in compliance, for example, with article 7 of the Convention.

311. The representative of the Bahamas said that his Government would endeavour to ensure that its next report contained all the information necessary to make it acceptable to the Committee, bearing in mind the reservation expressed by the Bahamas on its accession to the Convention. He assured the Committee that he would convey the comments made by its members to his Government.

CERD A/34/18 (1979)

318. The second periodic report of the Bahamas (CERD/C/16/Add.3) was considered together with the introductory statement made by the representative of the reporting State.

319. It was noted that the report was somewhat unbalanced in the sense that it dealt mostly with the application of article 5 of the Convention and that not all the information supplied in the report was directly relevant to the question of racial discrimination. The Bahamian Constitution apparently prohibited racial discrimination, and the next report of the Government of the Bahamas should indicate what guarantees existed for the implementation of the statements of principle contained in the second report.

320. Some members of the Committee pointed out that the problems which had arisen in the implementation of the Convention in the Bahamas were attributable to the reservations the Bahamian Government had made when acceding to the Convention. It was suggested that, as a young, independent State desirous of fulfilling its international obligations, the Bahamas might consider withdrawing its reservations and accepting fully the obligations of the Convention.

321. In connection with the implementation of article 2 of the Convention, the report stated that “there would appear” to be no specific legislative and judicial measures. The Committee hoped that the next report would be more informative and contain a precise analysis of the existing legislative or administrative provisions so that the Government would be able to make a categorical statement, rather than one which indicated some doubt.

322. In connection with article 3 of the Convention, some members expressed satisfaction with the attitude of the Government of the Bahamas towards the racist regimes of southern Africa.

323. With reference to article 26 (1) of the Constitution, which provided that “no law shall make any provision which is discriminatory”, it was noted that that rule was made subject to the provisions of paragraphs (4), (5) and (9) of that article, and that paragraph (4) in particular represented a far-reaching reservation. It was suggested that the Government may wish to review that paragraph and to consider whether its provisions were in fact compatible with the Government’s obligations under the Convention. It was also suggested that the Bahamian Government should consider the possibility of bringing the definition of the expression “discriminatory” into line with that of the Convention.

324. Members of the Committee observed that, as appeared from the report, no existing penal laws implemented the obligations set out in article 4 of the Convention. The legislation of the Bahamas had, therefore, not been brought into line with the Convention and much remained to be done for the fulfilment of that obligation.

325. As regards article 5 of the Convention, it was noted that the report contained more complete information on the implementation of its provisions. The question was raised to what extent exceptions and restrictions of article 26, paragraphs 5 to 10, were based on concepts of ethnic origin and what effect they had on the exercise of fundamental human rights. It was observed that no specific legislation existed to implement the rights listed in article 5 (e), (i) to (vi), of the Convention

and the hope was expressed that the Bahamian Government would seek in future to bring its legislation into line with its international obligations. One member inquired as to the nature of the lists of countries, contained in the First and Second Schedules to the Bahamian Nationality Act, and asked what criteria had been employed in the preparation of those lists and whether they had been related to racial origin. Another member expressed concern regarding the competence of the Parliamentary Registrar to remove the names of persons subject to a legal incapacity from the electoral register.

326. With regard to the application of article 6 of the Convention, it appeared from the report that the legislation in force in the Bahamas partly satisfied the obligations deriving from the article. The hope was expressed that the Government would examine the need to establish the right of victims of racial discrimination to reparation or satisfaction for any damage suffered.

327. It was observed that while the report contained some information on the implementation of article 7 of the Convention, it seemed to date back to the colonial era. Up-to-date information was sought on the school curriculum, with particular reference to activities being undertaken to educate young Bahamians in the spirit of the Convention.

328. Replying to some of the questions raised, the representative of the Bahamas said that the Bahamas could not be considered a multiracial society in the fullest sense of that term, since approximately 80 to 85 per cent of its population were black. No importance was attached to national or ethnic origin of Bahamian citizens and no distinction was made between those who had come from Africa and those from the United States, for instance.

329. Touching upon the educational system, he assured the Committee that there was no discrimination in either State or private education. In its concern to see an end to the policy of apartheid in South Africa, the Government had recently become involved in educating Bahamians about the crime of apartheid. He said that he would refer the questions of a specific legal character to his Government with a view to providing more information in the next periodic report.

CERD A/38/18 (1983)

217. The third and fourth periodic reports of the Bahamas submitted in one document (CERD/C/88/Add.2) were considered by the Committee together with the introductory statement made by the representative of the reporting State, who pointed out that the basic reference for the relevant constitutional and legislative provisions had been given in his country's second periodic report, which guaranteed the fundamental rights and freedoms of all citizens irrespective of race, ethnic origin, political opinion, colour, creed or sex and also established procedures for redress. He also pointed out that in so far as the Convention predated the Constitution of the Bahamas, it had influenced the drafting of the Constitution.

218. Members of the Committee observed that the report of the Bahamas added nothing new to the information provided in the second periodic report on legislative measures implementing articles 2 to 7 of the Convention. In answer to the Committee's earlier request for information on constitutional guarantees against racial discrimination, the Government stated categorically in the report that the Constitution in actual fact forbade racial discrimination and provided information on the relevant provisions of articles 15 to 27 of the Constitution governing the exercise of the various rights described in article 5 of the Convention. However, it was acknowledged in the report that the definition of racial discrimination in the Convention was broader than the definition of the term "discriminatory" in article 26, paragraph 3, of the Constitution of the Bahamas, since the Convention referred also to fundamental freedoms in economic, social, cultural and other spheres. It was suggested that the Bahamas should study the advisability of bringing its definition into line with the Convention. In this connection, some members pointed out that the appropriate information should be supplemented by an indication of secondary laws that implemented the Constitution and the Convention.

219. With reference to the information provided on the demographic composition of the population of the country, members of the Committee asked why there had been a gradual increase in the foreign-born population - whether it was because such immigration was being officially encouraged, because of natural causes or because of the presence of expatriate contract workers; what were the reasons for the large percentage since 1963 of the Haitian-born population and for the recent influx of Africans; what were the nationality laws and how many persons actually qualified for citizenship?

220. With regard to article 3 of the Convention, satisfaction was expressed at the information provided in the report on the Government's anti-apartheid policy. However, it was pointed out that the report made no mention of the participation of the Bahamas in the sanctions against South Africa. Additional information was also requested on what contribution, financial or moral, the Bahamas had made to the struggle of national liberation movements in South Africa and whether a programme for complying with United Nations resolutions dealing with human rights and the struggle against apartheid and discrimination had been mapped by the government.

221. With reference to article 4 of the Convention, members of the Committee noted that the Bahamas had made a declaration or statement of interpretation which, according to the opinion given by the Legal Counsel at a previous session, did not have the same effect as a reservation. The hope was expressed that positive information concerning the adoption of legislation to implement article 4 of the Convention would be provided in the next report. Bearing in mind the fact that the

reservation referred to judicial process only, members agreed with the opinion expressed by the Government that its reservation was not an impediment to its obligation to fulfil its obligations pursuant to the Convention. Such provisions condemning all practices which might seek to revive discrimination were necessary, bearing in mind the fact that discrimination sometimes manifested itself indirectly, and the fact that under the common law system all that was not expressly prohibited by law was deemed permissible made that all the more necessary. Moreover, circumstances might change in the future in a society as mixed as that of the Bahamas and it was always more prudent to be prepared with adequate legislation for any eventuality. The Committee also requested to receive information in the next report of the Bahamas regarding the expected adoption of legislative measures pursuant to the International Convention on the Suppression and Punishment of the Crime of Apartheid, which would also be relevant to article 4 of the Convention on the Elimination of All Forms of Racial Discrimination.

222. Turning to article 5 of the Convention, the members pointed out that the information provided in the report was most satisfactory. The Committee was pleased to learn that the exceptions and restrictions to the guarantees of human rights were in no way based on concepts of ethnic origin. However, some members wished to have more details about the types of education in the country and the content and quality of the education, especially with regard to racial questions as well as to policies in favour of the disadvantaged. With respect to the right to work, it was asked whether the Bahamas was a party to the series of conventions of the International Labour Organization under which States parties were required to have a labour code and whether there were any plans of the Government to adopt a labour code.

223. Referring to the implementation of article 7 of the Convention, the Committee remarked that it would be useful to see in the next report information regarding developments in all the fields enumerated in that article - teaching, education, culture and information with a view to combating prejudices which lead to racial discrimination. It was also asked whether any cultural associations had been formed, any new campaigns organized, any human rights committees or UNESCO clubs established.

224. In reply to a number of questions raised by members, the representative of the Bahamas stated that the Constitution of the Bahamas guaranteed to every person in the Commonwealth the fundamental rights and freedoms of the individual, irrespective of his race or place of origin, and prescribed judicial process to be observed in the event of the violation of any of those rights, whether by the State or by a private individual. Acceptance of the Convention by the Bahamas did not imply the acceptance of obligations going beyond the constitutional limits nor the acceptance of any obligation to introduce judicial process beyond those prescribed under the Constitution. He had noted the continuing concern of members regarding the possibility of conflict between the term "discriminatory" used in the Constitution and the term "racial discrimination" used in the Convention. The representative stated that the Government had considered the point carefully when preparing the report and it was contemplating any amendment to the Constitution. In any event, any difference between the two definitions was very slight.

225. In reply to the reason for the increase in the foreign-born population, he drew attention to the Nationality Act, under which individuals could apply for citizenship. Chapter 2 of the Constitution also contained provisions relating to persons born outside the Bahamas. It was clear therefore that

the law did provide for the possibility of foreign-born persons applying for Bahamian nationality.

226. With regard to the contribution made by the Bahamas to the national liberation movements, the representative said that the Government had contributed financially and morally to the struggle against apartheid and racism in South Africa. It usually allocated a very considerable proportion of funds annually to the trust funds devoted to Namibia and to apartheid in general.

227. Turning to questions raised in connection with article 5 of the Convention, he pointed out that although the right to work was guaranteed under the Constitution, he did not know of any labour code or of any plans for such a code. There was, however, an extensive administrative structure organized by the Ministry of Labour to ensure that workers could form trade unions, that their rights were respected, that grievances could be brought before administrative boards and that great attention had been paid to the field of employment and the exercise of the right to work.

228. Concerning the question relating to information and cultural associations, with respect to article 7 of the Convention, he said that there was very active interest in the Bahamas in matters relating to racial discrimination. The Committee on South Africa was actively concerned with the South African issue and a number of other associations were concerned with human rights at the international level. That had contributed to raising public awareness of the subject, quite apart from the Government's own efforts.

CERD A/46/18 (1991)

344. At its 926th meeting, on 13 August 1991 (see CERD/C/SR.926), the Committee reviewed the implementation of the Convention by the Bahamas based on its previous reports (CERD/C/88/Add.2) and their consideration by the Committee (see CERD/C/SR.610). The Committee noted that no information had been received from the State party since 1983.

345. The Committee recalled that the previous reports had not conformed to the reporting guidelines and were somewhat unbalanced in that they were largely devoted to a discussion of the application of article 5 of the Convention. The Committee also noted that no specific legislation had been enacted to make the provisions of the Convention directly enforceable before the courts, on the grounds that the measures set out in the Constitution were adequate; that the definition of the expression “discriminatory” in article 26 of the Constitution should be brought into line with that contained in article 1 of the Convention; and that no information had been provided on measures for securing the adequate advancement of certain backward racial or ethnic groups.

Concluding observations

346. In concluding the review, the Committee regretted that the Bahamas had not responded to its invitation to participate in its meeting and to furnish relevant information. It decided to request the State party to submit the reports due and wished to draw the attention of the State party to the availability of technical assistance from the United Nations Centre for Human Rights in the preparation of reports to treaty monitoring bodies.

CERD A/52/18 (1997)

57. At its 1189th meeting, held on 5 March 1997 (see CERD/C/SR.1189), the Committee reviewed the implementation of the Convention by the Bahamas based upon its previous report (CERD/C/88/Add.2) and its consideration by the Committee (see CERD/C/SR.610 and 926). The Committee noted with regret that no report had been submitted to the Committee since 1982, and that the report of the Bahamas was not completely satisfactory to the Committee at that time.

58. The Committee regretted that the Bahamas had not responded in a timely fashion to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of the Bahamas setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

59. The Committee suggested that the Government of the Bahamas avail itself of the technical assistance offered under the advisory services and technical assistance programme of the United Nations High Commissioner for Human Rights/Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.