

BARBADOS

CERD 29th No. 18 (A/9618) (1974)

194. The initial report of Barbados was welcomed by the Committee for the detailed information it supplied in relation to some articles of the Convention and also because the information it contained was organized in accordance with the guidelines laid down by the Committee and was accompanied by the texts of the relevant legal provisions. On the other hand, it was regretted that the information furnished in the report was confined to the legislative measures adopted by the reporting State; that information on measures under article 7 of the Convention was totally lacking; and that no information was supplied regarding the relations, if any, between the reporting State and the racist régimes of southern Africa or regarding the ethnic composition of the population, as was envisaged in the Committee's general recommendations III and IV respectively.

195. The Committee welcomed the speed with which the Government of Barbados acceded to the Convention after independence. It appeared from the report that the obligations of the reporting State under article 5 of the Convention were adequately discharged and that some legislative action satisfying the requirements of article 4, paragraph (a), of the Convention had been taken, but there was no indication that the provisions of paragraph (b) of that article had been implemented - an omission which might have been connected with the second part of the "interpretative statement" made in the instrument of accession deposited by the reporting State, which interpreted article 4 as requiring a State Party to enact measures in the fields covered by that article only where it was considered that the need had arisen to enact legislation. The Committee noted that that interpretation differed from its own understanding of the obligations of States Parties under article 4 of the Convention, as expressed in general recommendation I and reaffirmed in decision 3 (VII). The "interpretative statement" made by the Government of Barbados affected also the implementation of the provisions of article 6 of the Convention. It stated: "Accession to the Convention does not imply acceptance of obligations going beyond the constitutional limits nor the acceptance of any obligations to introduce judicial processes beyond those provided in the Constitution." While the Committee was aware of the provisions of section 24 of the Constitution, which appear to have a direct bearing on the implementation of article 6 of the Convention, it had received no information to indicate whether the Parliament of Barbados had in fact used the powers it has under subsection 6 of that section of the Constitution.

CERD A/31/18 + Corr. 1 (1976)

47. The Committee noted with appreciation that the second periodic report of Barbados - which was considered without the participation of a representative of the reporting State - contained relevant information which had been lacking in the initial report, and in particular information regarding the measures giving effect to the provisions of articles 5 and 6 of the Convention and the information envisaged in general recommendations III and IV. However, it was observed that some of the information contained in the report had not been placed under the appropriate headings.

48. Some members of the Committee, commenting on the tables of population statistics appearing in annex I to the report, expressed surprise at finding that the term "white" was used for a population group distinct from certain other groups described as "Portuguese" and "Syrian/Lebanese", and asked what was meant by the term "white". One member of the Committee, taking note of the statement contained in the first paragraph of the report that "it is considered that the judicial processes cannot go beyond those provided in the Constitution", expressed the view that there was a contradiction between that statement and the provisions of article 24, paragraph 6, of the Constitution of Barbados, which enabled Parliament to make provision with respect to the practice of any procedure of the High Court, the Court of Appeals and the subordinate courts. Several members of the Committee observed that no information had been supplied, in either the initial report or the second periodic report, regarding the implementation of the provisions of article 7 of the Convention, and expressed the hope that the next report of Barbados would contain such information. Many members also expressed the hope that the full text of the Constitution of Barbados would be made available to the Committee.

49. There was extensive discussion of the meaning and scope of the reservation made by the Government of Barbados at the time of its accession to the Convention. The opinion was expressed that that reservation, judging by its language, applied only to article 6 of the Convention; on the other hand, it was maintained that, in the absence of any explicit reference to that article, it must be presumed that the reservation applied to the Convention as a whole. This question had direct bearing on the statement, contained in the penultimate paragraph of the report, that "no legislative measures have been taken with regard to article 4 (b) of the Convention". One member viewed this statement as an admission of non-compliance with a mandatory provision of the Convention and proposed that the Committee should make an appropriate suggestion, in accordance with article 9, paragraph 2, of the Convention, calling for compliance; but some members of the Committee considered the position of the Government of Barbados to be within the purview of its reservation and also in conformity with its statement of interpretation relating to article 4 of the Convention. The Committee decided to request the Government of Barbados to include in its third periodic report a clarification of its views on the scope of its reservation and an explanation of its statement of interpretation relating to article 4, and to defer further discussion of this matter until it had received and considered the response of the Government of Barbados to this request.

CERD A/37/18 (1982)

142. The third, fourth and fifth periodic reports of Barbados submitted in one document (CERD/C/75/Add.7) were considered by the Committee without the participation of a representative of the reporting State.

143. Members of the Committee pointed out that the report of Barbados was basically sound, but it had not taken into account the observations and comments made by the Committee during the consideration of its second report in 1976, in particular with regard to the scope of the reservation formulated by the Government at the time of its accession to the Convention. They also expressed disappointment that the Government had not observed the time-limits laid down in article 9 of the Convention for the submission of its periodic reports and that no representative of Barbados was present at the meeting.

144. The Committee took note of the fact, reflected in the report, that the provisions of the Convention could not be applied directly in the courts of Barbados, but that the main provisions of the Constitution, in particular articles 11 to 23, constituted sufficiently effective measures to combat any form of racial discrimination. It was observed, however, that the Convention required the States parties, even if they claimed that they had no racial problem, to enact secondary legislation in order to apply the Convention as well as those constitutional provisions.

145. The Committee requested information on the demographic composition of the population and asked whether Barbados had received any requests for asylum, whether it had a refugee population and, if so, what the Government's policy was towards its refugees and those seeking asylum. Referring to the statement in the report that "Barbados was a multiracial society and that the differentiation had always been on the basis of class based on wealth", the question was asked whether any particular race or ethnic group fell into the economically weaker class, whether social differences were based on land ownership or business, and if it was the Government's policy to narrow the economic disparity, since the presence of certain racial groups in the disadvantaged classes could lead to complaints of racial discrimination.

146. Several members of the Committee noted that the report attempted to demonstrate that there was no need to enact any legislation in implementation of article 4 (a), (b) and (c) of the Convention. It was pointed out, however, that sections 31 and 33 of the Public Order Act did not meet the requirements of article 4 (a), because the prohibition of the dissemination of ideas based on racial superiority or hatred contained therein was based on prohibition of the use of threatening, abusive or insulting words or behavior. Similarly, providing assistance to racist activities was punishable only if it infringed any of the laws in force. Article 4 (a), however, made such a dissemination and assistance punishable per se. It was also noted that there was no provision to meet the requirement concerning incitement to racial discrimination and acts of violence, and the absence of a law prohibiting organizations which promote racial discrimination indicated that the existing legislation was inadequate to meet the requirement of article 4 (b) of the Convention.

147. In connection with article 5 of the Convention, attention was drawn to the danger of possible discrimination in the hotel industry. Although the legislation which had been enacted was

considered sufficient to deal with that danger, it was suggested that the Government of Barbados should supervise its application and study the desirability of extending it to transport services, theaters and parks.

148. Concerning the implementation of article 6 of the Convention, further information was requested on the legal case of Vernon Smith and Jane Elizabeth Smith vs. Barbados Hilton Limited and Dalrymple Gill, referred to in the report.

149. As regards article 7 of the Convention, it was pointed out that that article was applicable to all States parties irrespective of the existence or otherwise of racial discrimination. Additional information was asked for on the type of education practised in Barbados to combat racist ideas and to encourage tolerance of other cultures and races, thus promoting better international understanding; whether Barbados encouraged human rights programmes sponsored by the United Nations associations and non-governmental organizations; and whether the radio and television played a role in the struggle against racial discrimination.

150. The Committee expressed the hope that the Government would take the observations of its members into consideration and that it would send a representative when the next report of Barbados was considered.

CERD A/42/18 (1987)

95. The sixth periodic report of Barbados (CERD/C/106/Add.13) was considered by the Committee at its 753rd and 754th meetings on 5 March 1986 (CERD/C/SR.753 and SR.754).

96. In introducing the report, the representative of Barbados pointed out that his Government took its reporting obligations very seriously, but had difficulty submitting periodic reports to the Committee because of its reporting obligations under other conventions. A number of States parties, particularly developing countries with a limited administrative and technical capacity that were experiencing severe economic hardship, shared his Government's concern in that regard. He also reaffirmed his country's total opposition to the practice of apartheid.

97. Members of the Committee congratulated the representative of Barbados on the report which was in accordance with the Committee's guidelines (CERD/C/70/Rev.1). They took note of the difficulties mentioned by the representative in his introductory statement regarding the fulfilment of reporting obligations and pointed out that the record of Barbados was all the more commendable in view of such difficulties.

98. Members sought clarification regarding the system of racial differentiation used in Barbadian censuses. They would appreciate further information on the different ethnic groups mentioned in annex I of the report, in particular a classification of the various ethnic groups by socio-economic categories.

99. With regard to article 2 of the Convention, it was noted that according to the report, since the Constitution guaranteed equal opportunities to all, no special measures had become necessary to ensure adequate protection and development of any racial group. Economic disadvantage, however, could lead to allegations of discrimination. In that connection, members asked whether any ethnic groups had been marginalized, whether the Government had established any poverty-alleviation programmes or whether it pursued a laissez-faire policy in that regard, how the various different languages were used in Barbadian schools and courts, whether the various ethnic groups participated equally in the labor unions, and whether the rights of immigrants and expatriates were guaranteed.

100. In relation to the implementation of article 3, members commended the Government of Barbados for its stand on apartheid.

101. As to the implementation of article 4, the Committee noted that, in the absence of any organization that promoted or incited racial discrimination, the Government did not see the need for a law to declare such activities an offence. Members pointed out, however, that the provisions of article 4 were preventive in nature and clearly provided that such offences should be declared punishable by law. In that regard, paragraphs 22 to 25 of the report were incompatible with the State party's obligations under article 4. They added that the possibility that organizations might promote or incite racial discrimination could not be ruled out, particularly in a multiracial society such as that of Barbados. They hoped that the Government would take into consideration the mandatory character of that article and reconsider its position.

102. In relation to article 5 of the Convention, information was requested on any programmes aimed at improving access to education, health care and employment. It was also asked whether the right to work was assured, whether there were trade unions, how civil rights were guaranteed, and whether any groups had sought asylum in Barbados or entered the country as a result of persecution in other countries. Clarification was sought as to whether private associations pursued any discriminatory policies.

103. With regard to article 6, further information was requested about the writs of certiorari and mandamus referred to in the report.

104. Additional information was requested in relation to the implementation of article 7; in particular, it was asked whether human rights questions were included in social studies programmes in schools and whether teachers were given any special training on the cultures of the various ethnic groups living in Barbados.

105. Members noted the good race relations situation prevailing in Barbados. Within that context it was asked whether the Government had considered making the declaration provided for under article 14 of the Convention.

106. Replying to questions raised by members of the Committee, the representative of Barbados explained the distinction among the various ethnic groups in his country. He said that their classification was linked with the history of Barbados and that the groups had been identified more with the type of work that they did than with the concept of "race". However, in view of the comments of the Committee members on those classifications, there was probably a need to review them. The gap between the rich and the poor was being narrowed through a system of progressive taxation and through education, which made it possible for Barbadians of African descent to achieve greater social and economic mobility. The Asian groups, which had immigrated fairly recently, tended to settle in the same areas voluntarily because of their common cultural and religious background. Many of them held posts in the hospitals as doctors. There was no prejudice against those groups.

107. The University of the West Indies, which had campuses in Barbados, Trinidad and Tobago and Jamaica recognized the existence of dialect and tried to preserve the cultural identity of the islands by offering courses in dialect. There were now plays and poetry recitals in dialect. Teachers, particularly at the elementary level, were native Barbadians, who therefore recognized the problems and special circumstances of pupils.

108. With regard to the implementation of article 4 of the Convention, he said that the comments made by the members of the Committee deserved careful consideration by his Government.

109. Turning to questions raised by the Committee concerning article 5 of the Convention, he stated that the civil rights referred to therein were all protected by the Constitution of Barbados. The payment of estate duty had been abolished eight years previously, although a death tax was still in effect.

110. While the rights referred to in article 5 (e) (i) existed in Barbados, the Government did not

control the availability of work. The right to form and join trade unions existed, and both major political parties recognized the need to make adequate housing available. Education was free from the elementary to the university level. Discrimination had gradually been eliminated from the education system. The Government granted no subsidies to racially-segregated schools, and legislation compelled schools to employ nationals as teachers before hiring non-nationals. The Government of Barbados was in the process of establishing a free medical scheme. A national insurance and social security scheme had been in existence for some 20 years.

111. With regard to the provisions contained in article 5 (f), he said that sports and sports associations had played an important role in creating the satisfactory racial climate and Barbados. Although in earlier times each ethnic group and/or class had had its own club, the barriers had broken down and had by now been almost completely removed.

112. The legal system of Barbados, which was based on English common law, supported by statute, provided equal treatment for all ethnic groups. The courts exercised extensive powers of judicial review, such as those invoked by the writs of certiorari, mandamus and habeas corpus. Under a writ of habeas corpus, a magistrate was required to review a case within 24 hours, provided that a prima facie case existed and the applicable legal procedures had been observed. Writs of certiorari and mandamus were returnable in the High Court, where each Tuesday two judges reviewed such cases in chambers. His Government would provide more detailed information on the statutes governing judicial review.

113. With regard to the possibility of his Government making the declaration provided for under article 14, the representative of Barbados said that he would refer to his Government the arguments put forward by members of the Committee.

CERD A/46/18 (1991)

40. The Committee considered the seventh periodic report of Barbados (CERD/C/131/Add.13) at its 890th meeting, held on 5 March 1991 (see CERD/C/SR.890).

41. The Committee, while commending the regularity with which Barbados submitted its periodic reports, regretted the absence of a Government representative to present the report during its consideration by the Committee. It was hoped that the Committee's comments and questions would be taken into account in the next report.

42. Referring to the population breakdown contained in the annex to the report, members of the Committee wished to know whether the "mixed" population category had declined or increased since the presentation of the last periodic report and asked for clarification of the statement that the terms used in the classification of census data did not necessarily provide evidence of racial discrimination when examined in a Caribbean context. Information was also requested as to the steps being taken to preserve the culture and way of life of Amerindians and concerning the employment status, educational level, housing situation and access to public health services of the population group classified as "mixed". In addition, it was asked what was the status within the society of Barbadians of African descent; in which industries they were mostly employed; and what percentage of white-collar workers they represented. Noting that the Barbadian economy was vulnerable to unfavorable external economic developments, members also wished to know whether any special measures had been taken to protect small minority groups and blue-collar workers and whether there were any poverty alleviation programmes.

43. With regard to article 2, further substantive information was sought on how statements of principle set forth in the Constitution were being translated into practical legislative measures. Was there any provision enabling small minority groups to use their own language in court, for example?

44. With regard to article 4, it was noted that the mandatory requirements set out in that article were not met either by Constitutional provisions or the Public Order Act. Members of the Committee also wished to know whether any cases of violations of fundamental rights and freedoms had been brought before the High Court since the submission of the sixth report and what type of High Court decisions were appealable to the Privy Council.

45. In connection with article 6, members of the Committee wished to know what measures had been taken to enable needy and less educated citizens to seek redress in the courts and whether such groups were sufficiently aware of their rights; whether consideration was being given to the establishment of a race relations committee or commission; and whether the Government had considered making the declaration provided for in article 14 of the Convention.

46. With reference to article 7 of the Convention, members expressed the hope that the revised guidelines relating to that article, as contained in document CERD/C/70/Rev.1, would be followed in the future so that the Committee could obtain a more comprehensive picture of the article's implementation.

Concluding observations

47. Members of the Committee noted that dialogue and mutual understanding would have been enhanced had a representative of the Government been present on the occasion of the report's consideration. The Committee agreed that a letter should be sent to the Government of Barbados pointing out that its report had been considered in the absence of a representative and expressing the Committee's hope that a representative would be present on the next occasion.

CERD A/49/18 (1994)

284. At its 1028th meeting, on 10 March 1994 (see CERD/C/SR.1028), the Committee reviewed the implementation of the Convention by Barbados based on its previous report (CERD/C/131/Add.13) and the consideration thereof by the Committee (see CERD/C/SR.890). The Committee noted that no new report had been received since 1985.

285. Members of the Committee noted that a reservation made by Barbados at the time of accession implied that the provisions of the Convention could not be invoked in the courts, which affected the implementation of articles 2, 4, 5 and 6 of the Convention. In view of that situation, the Government of Barbados should be requested to consider the possibility of withdrawing that reservation. Members also referred to the lack of legislative measures to improve the socio-economic mobility of Barbadians of African origin and the absence of legislation clearly prohibiting racist acts, as required under article 4 of the Convention. Members of the Committee wished to know what action had been taken to ensure equality in access to education; whether human rights issues had been integrated into school curricula; and what kind of appeals could be filed with the Privy Council as a result of a decision of the High Court.

Concluding observations

286. At its 1037th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

287. It is regretted that Barbados has not submitted a report on the measures taken to give effect to the provisions of the Convention since 1988 and has not responded to the Committee's invitations to participate in a dialogue with it since 1986. The State party, therefore, is requested to comply fully with its reporting obligations under article 9 of the Convention and to submit its periodic reports without further delay. The wish is expressed that these reports be presented by representatives of the State party.

288. The wish is expressed that the next report of the State party should contain further information on the implementation of articles 2 and 4 of the Convention as regards the adoption of legislative and other measures to prevent racial discrimination and racially motivated acts.

289. The State party is requested to respond to the various comments made by members of the Committee during the examination of the seventh periodic report of the State party as regards the implementation of articles 5, 6 and 7 of the Convention. In this regard, information is sought on the measures taken to improve the economic and social position of different ethnic groups within the country, including those of African origin; the availability of remedies to victims of discrimination; and measures to strengthen human rights education and training.

290. It would be appreciated if the State party's next periodic report contained information as to whether it is considering withdrawing its reservation to the Convention.

291. The Committee draws the attention of the State party to the amendment to article 8, paragraph

6, of the Convention, which was approved by the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.