



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/64/CO/1
28 April 2004

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION
Sixty-fourth session
23 February-12 March 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

BAHAMAS

1. The Committee considered the fifth to fourteenth periodic reports of the Bahamas, due from 1984 to 2002 and submitted as a single document (CERD/C/428/Add.1), at its 1620th and 1621st meetings (CERD/C/SR.1620 and 1621) on 26 and 27 February 2004. At its 1637th meeting, held on 11 March 2004, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the periodic report of the State party and the fact that the State party was represented by a high-ranking delegation. It is pleased at the quality of the dialogue it has thus re-established with the Bahamas, and pays tribute to the delegation for having given detailed answers to the many questions put to it.

3. The Committee appreciates the fact that the report, the general form and contents of which are consistent with the Committee's guidelines, is the result of cooperation between ministries. It does, however, regret that it does not contain sufficient information on the practical application of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

4. The Committee takes note of the difficulties confronting the State party as a result of the large influx of migrants and refugees from neighbouring countries, in particular Haiti and Cuba.

C. Positive aspects

5. The Committee welcomes the adoption in 2001 of the Employment Act containing a clause prohibiting racial discrimination.

6. The Committee notes with satisfaction the State party's commitment to make every effort to guarantee that migrants can exercise their human rights without discrimination.

7. The Committee notes with interest the information that a survey of migrants in the Bahamas and their living conditions is shortly to be launched by the International Organization for Migration.

8. The Committee notes with satisfaction that the Office of the United Nations High Commissioner for Refugees and non-governmental organizations have access to the Carmichael Road Detention Centre where undocumented migrants and asylum-seekers are held.

9. The Committee welcomes the State party's ratification in 1994 of the amendment to article 8, paragraph 6, of the Convention.

D. Matters of concern and recommendations

10. The Committee notes with concern the reservations to the Convention entered by the State party, in particular the vague and general statement that the State party will not accept obligations going beyond constitutional limits or the obligation to introduce a judicial process beyond those prescribed under the Constitution.

The Committee encourages the State party to consider withdrawing all the reservations it entered upon acceding to the Convention.

11. The Committee notes that the State party has no precise figures on the ethnic composition of the population, and points out that such information is necessary to assess how the Convention is being applied in practice.

The Committee invites the State party to include more detailed questions in the population census so as to get a better idea of the ethnic composition of the country, and draws the State party's attention to paragraph 8 of its general guidelines on the form and contents of reports.

12. The Committee reiterates its concerns about the definition of racial discrimination given in article 26 of the Constitution, which is not completely consistent with article 1 of the Convention.

The Committee invites the State party to bring its internal law into line with the Convention.

13. The Committee regrets that the Bahamas has still not passed a law meeting the requirements of article 4 of the Convention, while noting that the State party does intend to modify its legislation to that effect.

The Committee encourages the State party to comply with the requirements of article 4 of the Convention. It also suggests including racial motivation as an aggravating factor in criminal law.

14. The Committee is concerned at reports of statements and press articles inciting racial discrimination against migrants, Haitians in particular, and actual discrimination against migrants in fields such as education and employment. It is disturbed to hear that the State party says it has not been told of such allegations.

The Committee recommends the State party to conduct an inquiry into these allegations and notify the Committee of the outcome. Where appropriate, the State party should take all necessary punitive, educational and other measures to put an end to such conduct.

15. Noting the policy of Bahamianization applied in certain job sectors and in housing, the Committee regrets that the periodic report does not contain sufficient information on the practical application of article 5 of the Convention.

The Committee invites the State party to provide it with such information, especially as it relates to migrants, in its next periodic report. It would welcome information on the effects of applying the clause in the 2001 Employment Act prohibiting racial discrimination, and more detailed information on the Bahamianization policy in jobs and housing and its effects on migrants' living conditions.

16. The Committee takes note of the constitutional reform process now in progress but is concerned at the fact that the Constitution contains discriminatory provisions on the subject of women's rights to transmit their nationality to their children and foreign spouses.

It invites the State party to continue its efforts to remedy such discrimination, and draws its attention to the Committee's general recommendation XXV (2000) on gender-related dimensions of racial discrimination.

17. The Committee notes with concern that people entering the country without proper papers are automatically detained without such detention being subjected to judicial review. It takes note of the delegation's statement that such detention does not generally last longer than a few days but is disturbed at reports emphasizing that such detention sometimes extends to a year and more, depending on migrants' nationalities.

The Committee emphasizes that detention should be a last resort and invites the State party to adopt alternatives to detention for undocumented migrants and asylum-seekers. It recommends the institution of a right of appeal against orders to detain people entering the country without proper papers; such individuals should be duly informed of their rights and maximum duration of detention should be strictly defined.

18. The Committee notes that it has not received sufficient information on the rights of asylum-seekers and is disturbed by reports that the current system is incapable of guaranteeing that no one will be sent back to a country where his life or liberty might be in danger.

The Committee advises the State party to guarantee the rights of asylum-seekers to information, the services of an interpreter, legal assistance and judicial remedies. It would like more detailed information, in particular on the procedure for granting refugee status and the average length of time that asylum-seekers spend in detention.

19. The Committee is disturbed that the State party has not yet adopted measures to implement into domestic law the 1951 Convention relating to the Status of Refugees and the related Protocol of 1967, which the Bahamas ratified in 1993.

The Committee takes note of the information that a bill on the matter is currently being drafted and encourages the State party to adopt the necessary measures to implement the Convention and Protocol into domestic law, in particular as regards the non-refoulement clause provided in article 33 of the 1951 Convention.

20. Taking note of the substantial efforts already made to manage the Carmichael Road Detention Centre effectively, the Committee is very concerned at reports that conditions in detention there are unsatisfactory, especially as regards access to food and drinking water, hygiene and access to medical care.

The Committee recommends the State party to step up immediately its efforts in this connection and provide the Committee with detailed information on conditions in detention at the Carmichael Road Centre.

21. The Committee notes the existence of information suggesting that a policy of racial reconciliation between the black and white communities might still be necessary.

It advises the State party to step up its efforts in this connection and supply in its next report detailed information on the state of relations between the black and white communities in the Bahamas.

22. The Committee notes the State party's assertion that there have been neither complaints nor court decisions on the subject of racial discrimination, and which is put forward as evidence of the absence of racial discrimination in the Bahamas.

The Committee urges the State party to investigate why there are no complaints of racial discrimination and whether, in particular, it may be because the country does not have a sufficient span of legislation to combat discrimination. The State party should also verify that the lack of such complaints is not the result of victims' lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

23. The Committee is concerned at the absence of training of judges and judicial officers in combating racial discrimination, and the fact that the State party considers it enough to have non-Bahamian judges sitting on the country's highest courts.

The Committee advises the State party to provide training in combating racial discrimination, and in particular in the substance of the Convention, for judges and judicial officers.

24. The Committee is concerned that the substance of the Convention has not been brought to the attention of the public, on the grounds that the population is relatively homogeneous.

It recommends the State party to give the general public regular information on the substance of the Convention and step up its efforts to make people aware of the opportunities they have to appeal against instances of racial discrimination.

25. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at national level.

26. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention, and recommends that it consider the possibility of doing so.

27. The Committee advises the State party to publish its periodic reports as soon as they are submitted, and to distribute the Committee's concluding observations the same way.

28. The Committee notes that the periodic report was submitted 19 years after its due date, and invites the State party to take account of the reporting intervals specified in the Convention when submitting future reports. It recommends that the State party submit its fifteenth and sixteenth periodic reports in a single document by 4 September 2006, and respond to all the points raised in these concluding observations.
