



**International Convention
On the Elimination
Of all Forms of
Racial Discrimination**

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**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventieth session
19 February - 9 March 2007**

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

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

ANTIGUA AND BARBUDA

1. The Committee considered the initial to 9th periodic reports of Antigua and Barbuda – due in 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003 and 2005, respectively, and submitted in a single document (CERD/C/ATG/9) – at its 1802nd and 1803rd meetings (CERD/C/SR. 1802 and 1803), held on 28 February and 1 March 2007. At its 1813th meeting (CERD/C/SR.1813), held on 8 March 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the initial to 9th periodic reports of Antigua and Barbuda and the opportunity thus offered to begin an open and constructive dialogue with the State party. The Committee expresses appreciation for the supplementary information provided by the delegation in writing, as well as the comprehensive and thorough answers to the wide range of questions raised by members of the Committee.

3. The Committee notes that the report was the first report to be submitted to the Committee since the State party ratified the Convention in 1988. It invites the State party to make every effort to respect the deadlines suggested by the Committee for the submission of its future reports.

4. 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 relevant State institutions. It does, however, regret that it does not contain sufficient information on the practical application of the Convention.

B. Positive aspects

5. The Committee notes with satisfaction that the State party, in addition to the Convention on the Elimination of All Forms of Racial Discrimination, has ratified three of the core United Nations human rights treaties, namely the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography. The Committee is confident that the State party will take the necessary measures to ratify the other human rights treaties.
6. The Committee wishes to commend the State party for the establishment of the Office of the Ombudsman. It also notes with satisfaction the creation of a Legal Aid Clinic to assist the poor and underprivileged in gaining access to courts in the State party.
7. The Committee notes with satisfaction the State party's commitment to make every effort to guarantee that non-citizens, including economic migrants, can exercise their human rights without discrimination. It wishes to commend the State party for the various measures in place to offer a route to citizenship for all non-citizens who make a positive contribution to Antigua and Barbuda.

C. Concerns and recommendations

8. The Committee notes with concern the declaration entered by the State party at the time of ratification of the Convention, in particular its wording that acceptance of the Convention does not imply the acceptance of obligations going beyond the constitutional limits, nor the acceptance of any obligations to introduce judicial processes beyond those provided in the Constitution.

The Committee encourages the State party to consider withdrawing the declaration entered upon acceding to the Convention.

9. The Committee regrets the lack of information provided regarding the application of article 16 of the Constitution, which allows for derogations from provisions of the Constitution, including the prohibition of non discrimination, during states of emergency.

The Committee invites the State party to provide such information, with any concrete derogations made, if any, and constitutional safeguards in place in its next periodic report.

10. The Committee regrets the absence of a national human rights institution set up in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).

The Committee recommends that the State party consider the establishment of a national human rights institution, in accordance with General Assembly resolution 48/134, annex.

11. The Committee expresses its concern about the definition of racial discrimination given in article 14 of the Constitution, which is not completely consistent with article 1 of the Convention as it does not include “national or ethnic origin” among the prohibited grounds of discrimination. (article 1)

The Committee invites the State party to bring its internal law in line with the Convention by including “national or ethnic origin” among the prohibited grounds of discrimination in article 14 of the Constitution.

12. The Committee is concerned that in accordance with article 14 of the Constitution, the prohibition of non discrimination “shall not apply to any law so far as the law makes provision [...] with respect to persons who are not citizens”. It also notes that pursuant to article 8 of the Constitution, a law shall not be regarded as unconstitutional merely because it restricts the freedom of movement of non citizens. (articles 1 and 5)

The Committee draws the attention of the State party to its general recommendation No. 30 (2004) on discrimination against non-citizens, and recommends that the State party review its Constitution and legislation in order to guarantee equality between citizens and non-citizens in the enjoyment of the rights set forth in the Convention to the extent recognized under international law.

13. The Committee notes the State party’s assertion that although article 14, paragraph 4, of the Constitution allows for special measures to be taken, as envisaged in articles 1, paragraph 4 and 2, paragraph 2, of the Convention, no such measures have been adopted because no racial or ethnic groups in Antigua and Barbuda presently require such special protection. (article 1(4) and article 2(2))

The Committee encourages the State party to engage in a data-gathering exercise to ensure that its perceptions concerning the lack of need of special measures does not arise from a lack of information on such racial or ethnic groups.

14. While noting the relative homogeneity of the population to date, the Committee is concerned about the lack of disaggregated statistical data on the number and economic situation of persons from all ethnic and national origins in Antigua and Barbuda. In the absence of such statistical information, the Committee finds it difficult to assess the extent of racial and ethnic discrimination within the territory of the State party, and how the Convention is being applied in practice. (article 2)

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 and national origin composition of the population, and in this regard draws the State party’s attention to paragraph 8 of its general guidelines on the form and contents of reports

(CERD/C/70/Rev.5). It recommends that a question on ethnic and national origin be included in all data gathering, following the example of the current Poverty Assessment Initiative.

15. The Committee notes the State party's assertion that alleged 'segregation' of immigrant groups in distinct communities in Antigua and Barbuda refers to "the voluntary actions of such immigrants rather than to any State imposed segregation". The Committee is nonetheless concerned that such de facto segregation may result from private practices and certain social and economic conditions, which the State party does not address. (article 3)

The Committee requests that the State party proceed with an analysis of the reasons behind the concentration of certain immigrant groups in distinct areas of Antigua and Barbuda, and address any actions of private parties which may result in de facto segregation, bearing in mind its general recommendation No. 19 (1995) on Racial segregation and apartheid (art. 3).

16. The Committee regrets that Antigua and Barbuda considers that no additional efforts are required at this time to harmonize domestic law with the provisions of the Convention, and that it does not consider it necessary to adopt legislation meeting the requirements of article 4 of the Convention, beyond those offences provided for in the Labour Code. (article 4)

The Committee encourages the State party to comply with the requirements of article 4 of the Convention, in particular by declaring an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts; and declaring illegal and prohibiting organizations which promote and incite racial discrimination.

17. The Committee regrets that the State party report did not provide any information to enable the Committee to assess the equal enjoyment of all human rights by the members of the various groups constituting the population, including migrant workers. (article 5)

The Committee recommends that the State party provide information about the non-discriminatory implementation of the rights and freedoms referred to in article 5 of the Convention, as specified in general recommendation No. 20 (1996) on non-discriminatory implementation of rights and freedoms (art. 5), in particular on education, health and housing, and especially as they relate to migrants.

18. While the Committee welcomes the abolition of the practice of excluding children of non-citizens from State schools for the first two years of their stay in Antigua and Barbuda, it notes that children continue to be excluded due to lack of resources of certain schools, that

there are no mechanisms in place to check the reasons for these exclusions, and to ensure that no child is denied access to education. (article 5 (e) (v))

The Committee recommends that the State party engage in a systematic review of any exclusions of children from schools to monitor the reasons for such exclusion, and that an independent mechanism be set up to administer the review and ensure that all children, whatever their social or national origins, enjoy the right to education.

19. The Committee, while noting the information provided regarding the participation of women in public offices and government positions, remains concerned about the absence of statistical data on the representation of ethnic minorities in public offices and government positions. (article 5 (c) and (e) (i))

The Committee recommends that the State party ensure that all ethnic minorities have adequate opportunities to participate in the conduct of public affairs at all levels. It particularly requests the State party to provide in its next periodic report updated statistical information on the percentage and functions of minority representatives holding public offices and government positions.

20. The Committee reminds the State party that it has difficulties in accepting the mere assertion made by States parties as to the absence of racial discrimination in their territory. It regrets the lack of information on the effective protection and remedies available through the competent national tribunals against any acts of racial discrimination, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. (article 6)

The Committee requests that the State party include in its next periodic report statistical information on measures taken in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied. The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, of insufficient will on the part of the authorities to prosecute, or of the authorities' lack of attention, sensitivity or training (including for judges and lawyers) to cases of racial discrimination. The Committee requests the State party to ensure that appropriate provisions are available in national legislation, and to inform the public about all legal remedies in the field of racial discrimination.

21. The Committee regrets the lack of information on the types of cases which the Ombudsman is called upon to address, and in particular whether complaints of racial

discrimination have been brought to her attention. It also notes that the Ombudsman has few powers to ensure compliance with her findings. (article 6)

The Committee invites the State party to provide information on any complaints of racial discrimination which the Ombudsman has addressed, and to consider strengthening the implementation of her recommendations and findings.

22. The Committee is concerned that the substance of the Convention has not been brought to the attention of the public, although it notes with appreciation the holding of a Diversity Day in May 2007 to raise the awareness of the public to the benefits of a fully integrated and ethnically diverse society. (article 7)

The Committee recommends that the State party disseminate broadly 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.

23. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to resolution 59/176 of 20 December 2004, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment, and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

24. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and urges the State party to consider doing so.

25. The Committee recommends that the State party accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

26. 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 specific information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

27. The Committee recommends that the State party present a core document in accordance with the requirements of the Common Core Document in the Harmonised Guidelines on Reporting, recently approved by the international human rights treaty-bodies (HRI/MC/2006/3 and Corr.1).

28. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicised.

29. The Committee recommends that the State party consult widely with organizations of civil society working in the area of combating racial discrimination, in connection with the preparation of the next periodic report.

30. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 10, 14, and 16, pursuant to paragraph 1 of rule 65 of the rules of procedure.

31. The Committee recommends that the State party submit its tenth and eleventh periodic reports in a single report, due on 24 November 2009, and that the report be comprehensive and address all points raised in the present concluding observations.
