



International Convention on the Elimination of All Forms of Racial Discrimination

Committee on the Elimination of Racial Discrimination

Sixty-fourth session

Summary record of the first part (public)* of the 1621st meeting

Held at the Palais Wilson, Geneva, on Friday, 27 February 2004, at 10 a.m.

Chairperson : Mr. Yutzi

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The meeting was called to order at 10.10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 6) (continued)

Fifth to fourteenth periodic reports of the Bahamas (CERD/C/428/Add.1) (continued)

1. At the invitation of the Chairperson, the members of the delegation of the Bahamas took their places at the Committee table.

2. Ms. Bethel (Bahamas) explained that her country did not collect data on the ethnic distribution of the population since its demographic composition had remained virtually unchanged since the country's accession to independence. She was therefore unable to provide the Committee with figures on the number of Bahamian citizens of Haitian origin or give a precise estimate of the number of illegal immigrants, except to say that it probably lay between 25,000 and 30,000. A study by the International Organization for Migration (IOM) was due to be completed shortly, which would make it possible to assess the number of migrants to the Bahamas and their living conditions.

3. With regard to the Convention's status in domestic law, she said that its provisions were currently applicable only indirectly. Her delegation had taken note of the Committee's wish to see the Bahamas adopt legislation incorporating the Convention's provisions in domestic law.

4. Concerning the application of article 1, the representative of the Bahamas said that the principle of non-discrimination, set forth in the Constitution of the Bahamas, provided for exceptions to that principle, in particular for not taking it into account when drawing up laws governing questions of adoption, marriage, burial, inheritance and other matters concerning personal status. While it was true that some provisions derogating from that principle were occasionally applied, they did not constitute racial discrimination but reflected the need to safeguard the interests of certain persons, for example the best interests of the child in the case of adoption. They were not based on rules governing personal status, which differed according to the various communities.

5. The Constitution of the Bahamas did not expressly establish economic, social and cultural rights. However, respect for the principle of non-discrimination in the enjoyment of those rights was upheld under article 26 (3) of the Constitution. Respect for those rights was also guaranteed under the relevant legislation, in particular the Employment Act. As a member of the Caribbean Community (CARICOM), the State party was also bound by the provisions of the Charter setting out the relevant rights and obligations of the Member States of CARICOM.

6. With regard to the application of article 3 of the Convention, Ms. Bethel said that issues relating to the congregation of certain migrant groups in specific areas of the islands, in particular the identity and size of the communities in question, the reasons for such congregations and the living conditions in those areas, should soon be clarified through the IOM study referred to previously. The phenomenon in question was not the result of government policy but of the free choice of the individuals concerned. The majority of them, who were legally resident in the country, tended to concentrate in areas close to the United States, which was usually their country of final destination. Living conditions in those areas were precarious, but the Government was doing everything possible to improve essential services for them.

7. With regard to article 4 of the Convention, the representative of the Bahamas explained that current legislation had never been used

to punish acts of racial discrimination or incitement to racial hatred since no complaint had been lodged with the courts on those grounds and various options were being studied regarding the framing of legislation to meet the requirements of article 4 (a) and (b) of the Convention. However, the Bahamian delegation would pass on to the relevant authorities the concerns and observations of the Committee regarding the reservations of the Bahamas with respect to article 4 of the Convention.

8. Ms. Bethel said that her country was not aware of reports of speeches and press articles inciting to racial discrimination against Haitians. No measure had therefore been taken in that regard.

9. With regard to the practical enjoyment, without discrimination, of the rights set forth in article 5 of the Convention, Ms. Bethel emphasized that no one in the Bahamas experienced any difficulty in enjoying their rights as a result of belonging to an ethnic group. Her country was not aware of acts of racial discrimination against migrants, in particular Haitians, in areas such as education and employment. It was forbidden to pay a disabled person a lower wage than to an able-bodied person for the same job on account of his or her disability. As to the right of workers to form trade unions, it was recognized implicitly in the Constitution and guaranteed in the law on industrial relations.

10. Concerning the reasons for discrimination against women with regard to the right to transmit their nationality to their children and spouses, Ms. Bethel pointed out that the Constitution of the Bahamas dated from 1973 and accordingly reflected the attitudes of the time. However, it was recognized that the text needed to be revised to take account of changes in society. A Constitutional Review Commission had been set up in 2002 and its first report was due to be published towards the end of 2004. It would examine a revised preliminary draft of the text, which would be submitted to the Government in 2006. Once examined, the final text would be put to the people.

11. The State party was making every effort to ensure the protection and integration of migrants legally resident in the country. The question of the effect of the policy of "national preference" in access to employment on the economic and social situation of migrants did not arise since the principle applied essentially to services for which advanced qualifications were required. The housing policy of the Bahamas was aimed at enshrining in law the right of all citizens to adequate housing, but the rights of non-citizens were also recognized in that regard.

12. Illegal immigrants came under the responsibility of the Department of Social Services and the Ministry of Health. Irregular migrants were not held in detention centres for very long and the issue of children's schooling did not therefore arise. The sick received medical care. The procedure for determining the status of immigrants was also being speeded up. NGOs and other interested bodies were given access on request to the individuals concerned. There were plans to establish a new detention centre.

13. Concerning the number of illegal immigrants and asylum seekers currently being held at the Carmichael Road Detention Centre, Ms. Bethel said that 104 persons were detained as of 24 February 2004, none of whom had been judged entitled to claim refugee status. Persons without proper documents were automatically detained and there was no legal appeal against a detention order.

14. With regard to the protection of asylum seekers against being returned to a country where their lives or health might be at risk, the safeguards were those laid down in the United Nations Convention relating to the Status of Refugees and its Protocol, to which the Bahamas was party. In addition, the Bahamas collaborated with the Office of the High Commissioner for Refugees (HCR) on the question. The rights of asylum seekers, with particular regard to information, the right to an interpreter, legal assistance and judicial remedies, were also guaranteed by the United Nations Convention relating to the Status of Refugees and its Protocol.

15. Since 1995, the Bahamas had granted asylum to 101 individuals. In 2001, they had received 1 asylum request; in 2002, 3; and in 2003, 13 — of which 6 had been recommended for the granting of refugee status. All immigration officials and staff at the Carmichael Road Detention Centre received HCR training on non-discrimination and the treatment of asylum seekers.

16. The "cost-sharing" arrangement between the Ministry of Health and the Ministry of Social Services to finance the essential needs of illegal immigrants detained at the Carmichael Road Centre had resulted in practice in a collaborative effort geared to providing a wide range of services to illegal immigrant detainees. Four ministries shared the costs: the Ministry of Labour and Immigration, the Ministry of Social Services and Community Development, the Ministry of Health and the Royal Bahamas Police Force. In the financial year 2003-2004, the Government had allocated the sum of \$186,230 to the Royal Bahamas Police Force for constructing the new detention centre; however, additional financing was necessary. The financial situation was made worse by the constant — seemingly endless — influx of illegal immigrants.

17. Article 26 of the Constitution could not be invoked directly before the ordinary courts, the Supreme Court having exclusive competence in matters relating to the Constitution, and had never been invoked before the courts. While no case of racial discrimination had yet been brought before the courts, it was certainly not because the supposed victims were ignorant of their rights or lacked confidence in the police or the judicial authorities, nor because the latter were insensitive to questions of racial discrimination. The judicial and police institutions, which reflected the demographic composition of the country, were representative of the population and such as to inspire the confidence of individuals. Finally, the special unit within the Royal Bahamas Police Force responsible for assembling and examining complaints against members of the police had never received any complaint of racial discrimination.

18. In the Bahamas, there were no training courses for judicial officers in the avoidance of racial discrimination since such training would be pointless. On the other hand, members of the forces of law and order received training in combating discrimination. Finally, no measure had so far been taken by the authorities to make the population aware of the content of the Convention since discrimination was unknown in the Bahamas.

19. The State party intended to ratify a number of key international instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment and the two Optional Protocols relating to the rights of children. Ms. Bethel would convey to her country's authorities the recommendations of the members of the Committee that the Bahamas should make the

declaration provided for in article 14 of the Convention and withdraw their reservations to the Convention on the Elimination of All Forms of Discrimination against Women. To do so, the State party would first have to amend its Constitution. The recommendation to establish a post of Ombudsman seemed very interesting.

20. The representative recognized that her country did not have detailed statistics on health but assured members of the Committee that the right to health was legally guaranteed to all citizens, irrespective of their ethnic or social origin.

21. Ms. Bethel categorically rejected the allegations of Amnesty International that some prisoners were treated in a degrading manner and stressed that the conditions of detention were subject to careful scrutiny in the Bahamas, in close collaboration with the Office of the High Commissioner for Human Rights and the High Commissioner for Refugees. She pointed out that Amnesty International had had free access to all detention centres and she invited the organization to carry out new prison inspections in order to review its judgement.

22. **Mr. Boyd** was impressed by the racial discrimination awareness programme that the State party had established for police officers, which even included training in the Creole language. While he was aware that the Bahamian population was relatively homogenous and lived in harmony, he was surprised that no case of racial discrimination had been brought before the courts and wished to have the delegation's view as to the reasons for that situation.

23. **Mr. de Gouttes** asked whether the State party planned to make new arrangements to deal with the influx of refugee, which could provoke a crisis in Haiti, and wished to know how the authorities were preparing for such an event.

24. **Ms. Bethel** (Bahamas) could not offer any explanation for the absence of complaints of racial discrimination. She stressed that all Bahamian citizens were perfectly informed about their right to complain in cases of racial discrimination, that members of the forces of law and order came from a wide variety of backgrounds and that they all followed awareness programmes concerned with those issues. It was possible that illegal immigrants were victims of racial discrimination in some circumstances but did not dare to lodge complaints because of their illegal status.

25. The Bahamian authorities were monitoring developments in Haiti very closely and were collaborating actively with other member countries of the Caribbean community (CARICOM) to prepare for the influx of refugees from Haiti.

26. **Mr. Amir** (Rapporteur for the Bahamas) thanked the Bahamian delegation for its detailed and frank replies to the questions posed by members of the Committee. He stressed the quality of the dialogue between the Committee and the State party.

27. **Ms. Bethel** (Bahamas) said that the observations by members of the Committee would be duly considered by the authorities of her country and would help them to comply even more fully with their obligations under the Convention.

28. *The Bahamian delegation withdrew.*

The first part (public) of the meeting rose at 11.35 a.m.