



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

Distr.: General
8 November 2013
English
Original: French

Committee on the Elimination of Racial Discrimination
Eighty-third session

Summary record of the 2249th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 21 August 2013, at 3 p.m.

Chairperson: Mr. Avtonomov

Contents

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

Sixteenth to twentieth periodic reports of Jamaica

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

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

Sixteenth to twentieth periodic reports of Jamaica (CERD/C/JAM/16-20; CERD/C/JAM/Q/16-20; HRI/CORE/1/Add.82)

1. *At the invitation of the Chairperson, the delegation of Jamaica took places at the Committee table.*

2. **Mr. McCook** (Jamaica) said that Jamaican society was multiracial but that more than 90 per cent of the population was of African descent. Racism did not exist in Jamaica, although the country had had to overcome the negative effects of slavery on society, as skin colour still sometimes played a decisive role in social mobility. Nevertheless, all racial groups enjoyed equal status before the law, and each individual enjoyed all rights enshrined in the Constitution. Several mechanisms had been established to protect the fundamental rights of the financially disadvantaged and the most vulnerable, such as the Office of the Public Defender, the Independent Commission of Investigations, the Child Development Agency and the Office of the Children's Advocate, whose mandates he described in detail. The Independent Commission had not received any complaints involving discrimination on grounds of racial or ethnic origin. That absence of complaints was not due to a lack of awareness about the human rights protection mechanisms or lack of access to them or the courts, as several public awareness campaigns had been carried out. Civil society organizations were also very effective at awareness-raising and advocacy. The Ministry of Justice had decided to establish a human rights unit so as to strengthen its capacities in the protection and promotion of human rights. The Caribbean Community (CARICOM) Act facilitated the free movement of nationals, and under the CARICOM (Freedom of Movement of Skilled Persons) Act, CARICOM nationals enjoyed complete freedom of movement. Other non-nationals, including migrant workers and victims of human trafficking, enjoyed the rights established by the Charter of Fundamental Rights and Freedoms and had access to social services on the same footing as nationals. They also had the right to redress in the courts if they believed that their rights had been breached.

3. **Mr. Amir** (Country Rapporteur) said that mass emigration had led to a decrease in the State party's population, which had negatively affected its socioeconomic development. Nevertheless, the country had made significant progress with regard to the rights of refugees, access to health care, birth registration and combating trafficking in persons. The Charter of Fundamental Rights and Freedoms, adopted in 2010, included a specific provision against racial discrimination, but in his view it was not fully in line with article 4 of the Convention, given that the dissemination of ideas based on racial hatred was not classified as an offence and organizations that incited racial discrimination were not prohibited. The State party should therefore amend the Charter to bring it in line with the Convention.

4. He requested information on the situation of minorities in Jamaica, including the Irish, the Indians, the Chinese, the Syrians and the Lebanese. He also wished to know whether the approximately 20,000 Latin Americans residing in Jamaica were treated as non-nationals and what rights they held with regard to access to justice and non-discrimination. He was concerned by a reported increase in the number of offences against women and children – a concern which had also been earnestly expressed by the Committee on the Elimination of Discrimination against Women and the Human Rights Committee. He asked what measures Jamaica was taking to remedy the situation. He wished to know more about the Community Renewal Programme referred to in paragraph 17 of the State party's report, and in particular about the actions carried out under the Programme to combat violence in communities. What other initiatives had the Government

taken to reduce violence against women in communities and to bring the perpetrators to justice?

5. **Mr. Murillo Martínez** requested more detailed information on the State party's cultural policy, particularly on measures to promote cultural diversity. He asked whether skin colour, and in particular lightness of skin, affected social mobility and participation in national political and legislative forums in Jamaica. He wished to know more about the Jamaica National Heritage Trust, and in particular about its achievements and operation.

6. **Mr. Vázquez** wished to know which specific parts of article 4 of the Convention the State party's reservation referred to, and what measures the State party intended to take to criminalize all acts covered by that article. He asked the delegation to indicate which articles of the Constitution might be incompatible with the Convention and to provide examples of court judgements invoking the Constitution.

7. **Mr. Diaconu**, noting that paragraph 4 of the report did not contain any statistics on Maroons or Rastafarians, asked whether those groups were considered to be part of the population of African descent. He asked the delegation to provide detailed information on those two groups, indicating in particular their size and whether they lived in separate areas. While it was true that the Charter of Fundamental Rights and Freedoms prohibited racial discrimination, it did not mention all of the grounds set out in the definition contained in article 1 of the Convention, and there was still no law on the elimination of racial discrimination that contained that definition. Moreover, no Act of incorporation had been adopted to give effect to article 4 of the Convention, even though, since Jamaica was a dualist State, such a law must be adopted in order for the article to be implemented. He asked the delegation to indicate whether the State party intended to take legislative measures to address those gaps.

8. Noting that 91.6 per cent of the population was of African descent and that 6.2 per cent was of mixed race, it was not clear to him how skin colour was a determining factor in opportunities for social mobility, as indicated in paragraph 5 of the State party's report. He would welcome clarification on that point. He noted that the Charter of Fundamental Rights and Freedoms prohibited violations by private individuals of the right not to be subjected to racial discrimination "in certain limited circumstances" (para. 10), and he asked the delegation to explain the meaning of that phrase. He asked if the decision to allow Rastafarian children to wear locks in primary and secondary schools might not expose them to bullying by their peers. Noting that patois was not used as a language of instruction except during cultural activities, he wondered if it might not be in danger of extinction. Referring to paragraph 116 of the report, he asked whether the Broadcasting Commission could prohibit the airing of songs with racist content. He wished to know whether the Government planned to take steps to compensate for the lack of a mechanism to issue identity documents to refugees and asylum seekers, a situation that hindered them from exercising their economic and social rights. With regard to Maroons, he noted that the Committee on Economic, Social and Cultural Rights, in its concluding observations of June 2013 (E/C.12/JAM/CO/3-4, para. 31), had expressed concern that the infrastructural needs of Maroons had been neglected by the State party, that formal education was not available in their community beyond basic education and that unemployment rates were high. He asked the delegation to clarify that situation.

9. **Mr. Kemal** asked whether persons of Indian, Chinese, European or Middle Eastern descent were leaving the State party, because if so that would indicate that they did not feel accepted. The Committee had been made aware of allegations of extrajudicial executions and he wished to know whether those acts were racially motivated and whether they targeted particular racial or ethnic groups.

10. **Ms. Dah** asked what the term “mixed” meant in the State party and whether Rastafarians were regarded as a religious group or as an ethnic minority. She wished to know if there were any provisions other than those cited in paragraph 13 of the report that might justify the State party’s decision to maintain its reservation to article 4 of the Convention. With regard to refugees and asylum seekers, she asked how many refugees were known to be in the country and whether the repatriation of Haitian refugees, which had been suspended because of the earthquake, had resumed. She asked the delegation to indicate when the State party might adopt a law on asylum. Given that the geographical and economic context of Jamaica encouraged the free movement of persons, it would be interesting to hear about the Government’s work in CARICOM to curb trafficking and find a lasting solution to the problem.

11. Information on the role played by women in public life would be welcome. She asked the delegation to indicate whether the 30 per cent quota set for the representation of women in the Senate had been reached, and whether awareness-raising campaigns had been conducted to explain why women’s involvement in public affairs was needed and to prepare women to take on those responsibilities. While she welcomed the Government’s worthy initiatives in the field of health (report, paras. 48–52), she wished to know how those measures were implemented in remote parts of the country and how many people had benefited from them. Did the State party intend to establish universal health coverage? Lastly, she asked the delegation to describe how Jamaican history was taught in schools, particularly with regard to slavery.

12. **Mr. Ewomsan** asked whether any stereotypes persisted in the State party, given its history, and whether that could be interpreted as a form of structural discrimination. He asked if the fact that skin colour impeded social mobility might not serve to spread racial discrimination.

13. **Mr. de Gouttes** asked whether the report of the 2011 census had been issued. If so, he would like the delegation to provide updated information on the country’s demographic make-up and to indicate whether the Independent Commission responsible for receiving complaints against members of the State security services and for investigating those cases had received any complaints since its establishment in 2010.

14. **Mr. Lindgren Alves** asked the delegation to cite examples of how the State party fought organized crime and to indicate whether, as a member of the Latin American and Caribbean Group (GRULAC), Jamaica had signed any cultural cooperation agreements with Latin American countries.

15. **Ms. January-Bardill** asked how the State party maintained social harmony and prevented manifestations of racism in the absence of any law or institutional policy to protect certain racial groups. She asked the delegation to explain how the State party ensured that disadvantaged population groups had access to resources and wealth — particularly bank loans — and to explain who directed the country’s economy. She also wished to know whether there was an independent election monitoring commission to ensure that free and fair elections were held.

16. **Mr. Thornberry** asked whether there was still a need for the State party’s reservation to the Convention, which stated, *inter alia*: “Ratification of the Convention by Jamaica does not imply the acceptance of obligations going beyond the constitutional limits”. He wished to know whether the Convention took precedence in the event of a conflict between national legislation and international law. It would be useful to hear the delegation’s views about the current relevance of the prohibited grounds for discrimination listed in the Charter of Fundamental Rights and Freedoms, particularly the references to Maroons and to discrimination based on one’s place of origin. He requested further information about the measures the State party had taken to prevent segregation in

employment and housing. Lastly, he wished to know whether the State party believed it had learned any positive lessons from its particular experience of inter-community relations.

17. **Mr. Saidou**, noting that under article 19 of the Charter of Fundamental Rights and Freedoms anyone who believed they had suffered discrimination could petition the Supreme Court directly, asked whether that had ever happened. He also wished to know whether police officers and law enforcement officials received human rights training. Lastly, he wished to know more about the origins of Jamaican patois and about the number of people who spoke it.

18. **Mr. Cali Tzay**, pointing out that until the early 1980s most of the country's wealth had been held by about 20 families, asked whether that was still the case. He also requested further information about the 0.1 per cent of the population referred to as "not represented" in paragraph 4 of the report. He asked whether any complaints of acts of racism had been lodged against police officers, and whether the State party was working to combat crime, especially sexual violence, which affected women and children in particular. Lastly, the delegation should clarify whether schooling was free of charge for foreigners and clandestine immigrants and not just for Jamaican nationals.

19. **The Chairperson**, speaking as a member of the Committee, asked the delegation to state its views on ratifying the amendment to article 8 of the Convention, which helped ensure more predictable and continuous funding for the Committee's activities.

20. **Mr. McCook** (Jamaica) said that his country had been deeply affected by the traumas of the past and that the Convention was one of the first international instruments it had ratified following decolonization in the 1960s. Jamaica remained determined to combat all forms of discrimination and not to exclude any population group from the democratic process or from access to wealth. It would achieve that objective by creating conditions conducive to participation by all on equal terms, and by providing opportunities for everyone regardless of their social situation. The Government was aware that it needed to improve the mechanisms and methods used to collect statistics, so as to have more precise tools with which to develop more targeted policies. The issue of identifying and counting members of various ethnic groups was quite a delicate one, given that the country's ethnic composition was the result of a mixing of peoples, mainly of African origin, and that it was often difficult for the individuals themselves to describe their ethnic origins. Jamaica had put its troubled and painful past behind it but had not forgotten its roots, so its history, and particularly the history of the transatlantic slave trade, was taught from primary school onwards. Mechanisms had been established to ensure that elections were held regularly. Jamaica firmly believed that respect for and the dignity of all persons was essential to creating social harmony, and it had made the fight against exclusion a priority.

21. **Ms. Dah** noted with interest that the country had managed to retain its African roots and that Jamaica, which was known throughout the world for the quality of its music, showed surprising similarities with the culture of oral transmission characteristic of West Africa, where the griots acted as custodians of history and tradition, as conveyed through songs and music. She looked forward to learning more about the country at the next meeting.

The meeting rose at 6 p.m.