

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 29th Session

BARBADOS

I. BACKGROUND INFORMATION

Barbados is not a State party to the *1951 Convention on the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) and has neither passed legislation or administrative regulations on asylum or refugee status nor established a formal national asylum procedure. When asylum-seekers are identified, UNHCR examines and decides their claims. At this time, UNHCR is aware of four asylum-seekers in Barbados.

Barbados succeeded to the *1954 Convention relating to the Status of Stateless Persons* on 6 March 1972; however, it has retained a number of reservations to provisions of the Convention.¹ Furthermore, it is not a State party to the *1961 Convention on the Reduction of Statelessness*. Nationality is governed by the *Constitution of Barbados* of 30 November 1966 (last amended in 2003) and the *Barbados Citizenship Act* of 1966 (last amended in 1982). The nationality framework of Barbados incorporates *jus soli* and *jus sanguinis* provisions for determination of Barbadian citizenship.

The Government of Barbados cooperates with UNHCR and, to UNHCR's knowledge of practices in recent years, has not violated the principle of *non-refoulement*. However, more efforts are needed to strengthen the proactive identification of persons in need of international protection so the Government does not inadvertently violate the *non-refoulement* principle, simply because of gaps in its legislative and policy framework.

UNHCR notes with appreciation the Government of Barbados' participation in the Ministerial Meeting in Brasilia, Brazil in December 2014, at which the *Brazil Declaration and Plan of Action* was adopted.² These documents include a *Framework and a Roadmap for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean* and contain innovative proposals on how to address the main humanitarian challenges affecting the region.

Chapter 5 of the *Brazil Plan of Action*, "*Regional Solidarity with the Caribbean for a Comprehensive Response on International Protection and Durable Solutions*," highlights the "special challenges" the Caribbean region faces in the management of mixed migration movements, especially in light of the extensive maritime borders and limited financial, technical, human and material resources. The main objective of the *Regional Solidarity with the Caribbean* programme is to promote a regional dialogue for the efficient management of

¹ See Declarations and Reservations to the 1954 Convention relating to the Status of Stateless Persons, last updated 20 Sept. 2006, available at: <http://www.unhcr.org/416114164.pdf> (reflecting that "[t]he Government of Barbados (...) declares with regard to the reservations made by the United Kingdom on notification of the territorial application of the Convention to the West Indies (including Barbados) on 19 March 1962 that it can only undertake that the provisions of Articles 23, 24, 25 and 31 will be applied in Barbados so far as the law allows," and that "[t]he application of the Convention to Barbados was also made subject to reservations to Articles 8, 9 and 26 which are hereby withdrawn").

² Regional Refugee Instruments & Related, *Brazil Declaration and Plan of Action*, 03 December 2014, available at: <http://www.refworld.org/docid/5487065b4.html>.

mixed migration in an age, gender and diversity-sensitive manner.³ In 2016, to promote such dialogue, a regional forum was created in the form of the Caribbean Migration Consultations (CMC). UNHCR welcomes the Government of Barbados' participation in the 2016 CMC technical meeting hosted by Trinidad and Tobago⁴ and encourages Barbados to continue its engagement in this important regional dialogue on refugee protection and mixed migration, also in coordination with CARICOM, to further advance the objectives outlined in the *Brazil Plan of Action*.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 102.50: "Reform national legislation to enable mothers with Barbadian nationality to confer their nationality to their children born abroad (Ecuador)".⁵

UNHCR commends Barbados' commitment to amend national legislation to reflect that any child born outside of Barbados to a Barbadian citizen is entitled to citizenship by descent, as the Government expressed in response to the recommendations of the 2013 UPR Working Group, and at the Beijing +20 Commission on the Status of Women High-Level Side Event on Equal Nationality Rights in March 2015.⁶

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Accession to the 1951 Convention

Like neighbouring States and territories in the Caribbean, Barbados is located in a very complex migratory environment, and thus undocumented persons may arrive by both air and sea. In general, various Caribbean governments have limited resources to cope with the arrival of undocumented non-nationals.

³ Four main areas of action for a Regional Consultative Process are outlined in Chapter 5 of the *Brazil Plan of Action*, specifically: (1) Strengthen cooperation between countries of origin, transit and destination of asylum-seekers and refugees, in order to increase national and regional capabilities to optimize the management of mixed movements and implement comprehensive responses under a framework of rights, with a focus on maritime protection of persons; (2) Progressively establish asylum systems through the formulation of public policies and internal regulations and implement procedures for the identification and differentiated assistance of groups in situation of vulnerability, guaranteeing access to refugee status determination procedures and alternatives to detention for asylum-seekers, refugees and accompanied and non-accompanied children; (3) Formulate programmes that promote durable solutions, including measures that promote integration in local communities and the inclusion of refugees in national plans and policies, as well as the promotion of international cooperation and regional solidarity to facilitate resettlement of refugees, including South American countries, and voluntary return of migrants, and thus relieve the disproportionate burden in some island countries; and (4) Implement measures to favour coordination in the Caribbean to promote the adequate implementation of procedures of refugee status determination.

⁴ "Caribbean Migration Consultations (CMC)", International Labour Organization, available at: <https://www.iom.int/caribbean-migration-consultations-cmc>.

⁵All recommendations made to Barbados during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Barbados" (12 March 2013), A/HRC/23/11, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BBSession15.aspx>.

⁶ See *Report of the Working Group on the Universal Periodic Review - Barbados Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, Human Rights Council, Twenty-third session, Universal Periodic Review, A/HRC/23/11/Add.1, para. 16 (5 June 2013), available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BBSession15.aspx>; "The Bahamas Commits to Achieving Full Equality for Women & Men in Constitution", Global Campaign for Equal Nationality Rights (16 March 2015), available at: <http://equalnationalityrights.org/news/29-bahamas-equality-referendum-un?highlight=WyJiYXJiYWRvcylslmJhcmJhZG9zJyJd> (stating that Barbados reaffirmed its commitment to gender equal nationality laws at the Beijing +20 Commission on the Status of Women High-Level Side Event on Equal Nationality Rights).

Accession to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* greatly facilitates UNHCR's task of mobilizing international support to address refugee situations that may arise in any country. Accession broadens the base of State support for these refugee instruments, ensuring that the protection provided to refugees is universal in scope and the burdens and responsibilities of governments are equitably distributed and consistently applied.

The *1951 Convention* establishes the refugee definition and provides an international framework for ensuring the protection of persons fleeing persecution in a territory outside their home country. In the context of mixed migration flows, UNHCR underscores the importance of establishing a formal mechanism for identifying asylum-seekers and protecting persons who qualify for refugee status.

While UNHCR believes formal accession to the *1951 Convention* provides States with the best framework within which national laws and regulations can be developed, it also recognizes that this is not necessarily the first step that Barbados needs to take to develop effective, balanced and credible national systems for refugee protection. UNHCR stands ready to provide training and capacity-building services in international refugee law, statelessness, and international protection principles. UNHCR is also prepared to deliver technical support and advisory services in the drafting of national refugee legislation to strengthen the Government's capacity to protect refugees in the context of mixed migratory flows.

Furthermore, Barbados' commitments under the *Brazil Declaration and Plan of Action* would be significantly strengthened by acceding to the *1951 Convention*, adopting implementing legislation and advancing related policies and procedures.

Recommendations:

UNHCR recommends that the Government of Barbados:

- a) Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*, and consider the passage of domestic refugee legislation and/or administrative policies, which will ensure that the country is in full compliance with international standards of treatment related to refugees, including the right to work;
- b) Accept UNHCR's technical support in drafting national refugee legislation, capacity building for Government officials and assistance in the development of a national refugee status determination procedure; and
- c) Accept UNHCR's capacity building initiatives to relevant officials to integrate 'good practices' and international standards of asylum/refugee protection into operational guidelines and procedures.

Issue 2: Preventing and Reducing Statelessness

Linked to 2nd cycle UPR recommendation no. 102.50: Reform national legislation to enable mothers with Barbadian nationality to confer their nationality to their children born abroad (Ecuador).

Barbados is encouraged to accede to the *Statelessness Conventions* and to reform its laws relating to conferring nationality to ensure gender equality. The Committee on the Rights of the Child also recommended that Barbados consider amending national legislation to ensure gender equality.⁷

⁷ Committee on the Rights of the Child, Concluding Observations (2017) CRC/C/BRB/CO/2, 74th session, 3 February 2017, paragraphs 29-30, available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/BRB/CRC_C_BRB_CO_2_26590_E.pdf (“[T]he Committee is concerned that the Constitution and Citizenship Act contain provisions that discriminate on the basis of the parents' gender and marital status...[and] recommends that the State party amend its Citizenship Act and establish safeguards to prevent children from being stateless”).

An individual can obtain citizenship by birth in the territory, by virtue of blood descent from a Barbados citizen, by registration, or by naturalization. However, gender equality remains a concern, as Barbadian law does not permit Barbadian women to confer their nationality to their children born abroad. Such discrimination against women in nationality-related legislation may lead to statelessness of children if the father is stateless or cannot confer his foreign nationality under the laws of his State. The resulting statelessness may persist across generations, with mothers passing on their stateless status to their children.

In October 2013, the UN High Commissioner for Refugees called for the “total commitment of the international community to end statelessness.”⁸ Additionally, in 2014, UNHCR launched the “*Global Action Plan to End Statelessness: 2014 - 2024*” (the *Global Action Plan*), which was developed in consultation with States, civil society and international organizations, and set out a guiding framework comprised of 10 Actions that need to be undertaken to end statelessness within a decade. Action 9 of the *Global Action Plan* promotes accession to the *1954 and 1961 Conventions*.⁹ Moreover, the *Brazil Declaration and Plan of Action* identify statelessness as a regional concern and call on States to accede to the *Statelessness Conventions*.¹⁰

There is a global and regional consensus on the importance of acceding to the *1954 and 1961 Statelessness Conventions*. They are key international treaties designed to ensure that every person has a nationality and that stateless persons enjoy a basic set of human rights. The *Statelessness Conventions* do not stand alone, but complement a much broader range of international legal standards, particularly those contained in human rights treaties. The *1961 Convention* complements the *1954 Convention*, to which Barbados is already a State party. It establishes an international framework to ensure the right of every person to a nationality, and requires that States establish safeguards in their nationality laws to prevent statelessness at birth and later in life.

In recent years, a growing number of persons in the Caribbean have been affected by statelessness, as a result of policy changes in the region. These persons may be in need of international protection. This highlights the importance of States presenting unified support for a baseline of legal protection for stateless persons and working to reduce and prevent statelessness. Accession to the *1961 Convention* would place Barbados among the growing number of States that are supporting UNHCR’s campaign to eradicate statelessness within the next eight years,¹¹ which aims to empower stateless persons, promote the establishment of statelessness determination procedures, and to develop research programmes on the impact of statelessness on individuals, taking into account age, gender and diversity.

The *1954 Convention* is an important instrument to ensure non-discrimination in the enjoyment of human rights by stateless persons. Withdrawal of Barbados’ reservations to the *1954 Convention* would establish a framework to ensure enjoyment of human rights by stateless persons. The Convention establishes an internationally recognized status for stateless persons. It also recognizes a number of key rights such as freedom of religion; freedom of

⁸ UNHCR, *High Commissioner’s Closing Remarks to the 64th Session of UNHCR’s Executive Committee*, 4 October 2013, available at: <http://unhcr.org/525539159.html>.

⁹ UNHCR, *Global Action Plan to End Statelessness: 2014 – 2024*, November 2014, available at: <http://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf>.

¹⁰ *Brazil Plan of Action*: “A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity,” 3 December 2014, available at: <http://www.refworld.org/docid/5487065b4.html>.

¹¹ The year 2014 marked the 60th anniversary of the *1954 Convention*. In commemoration, UNHCR launched its *Global Campaign to eradicate statelessness by 2024*. UNHCR, *A Campaign to End Stateless Launched on the 60th Anniversary of the 1954 Convention relating to the Status of Stateless Persons*, February 2014, available at: <http://www.unhcr.org/53174df39.html>.

association; access to courts; freedom of movement; identity documentation and; internationally recognized travel documents.

Against the backdrop of the global and regional consensus reflected in the UNHCR *Global Action Plan* and the *Brazil Plan of Action*, UNHCR encourages Barbados to accede to the *1961 Convention*, remove its reservations to the *1954 Convention* and amend national legislation regarding the conferring of nationality as important actions to end statelessness globally. This would also allow Barbados to implement the 2nd cycle UPR recommendation no. 102.50 and the concluding observations by the Committee on the Rights of the Child issued in 2017.¹²

Recommendations:

UNHCR recommends that the Government of Barbados:

- a) Accede to the *1961 Convention on the Reduction of Statelessness*;
- b) Withdraw reservations made to the *1954 Convention relating to the Status on Stateless Persons*;
- c) Amend its laws to ensure gender equality between Barbadian mothers and fathers with respect to their ability to confer their nationality to their children in all circumstances; and
- d) Implement a statelessness determination procedure to identify stateless persons within its territory.

Issue 3: Trafficking in Persons

Linked to 2nd cycle UPR recommendation no. 102.88: “Continue to strengthen its efforts to fight against trafficking in persons and to ensure protection of its victims (Singapore)”.

UNHCR acknowledges the action that Barbados has taken thus far to combat trafficking in persons, in particular its establishment of formal, victim-centred guidelines for officials on the identification and protection of trafficking victims and the prosecution of trafficking offenders. Trafficking in persons is of great concern to UNHCR, since a coordinated approach to prevent trafficking and protect victims of trafficking has not been fully developed in the Caribbean region, and because victims of trafficking may also be refugees or stateless persons.

UNHCR is aware that Barbados is a source and destination country for women and girls subjected to sex trafficking and forced labour. In 2016, an anti-trafficking law was approved by Parliament but is awaiting proclamation and is not yet in force.¹³ While the new law would prohibit all forms of trafficking, it lacks stringent enough penalties to deter crime and does not specifically provide that victims have access to screenings that would enable their identification as potential persons of concern.¹⁴ To ensure full respect of the international principle of *non-refoulement*, UNHCR encourages Barbados to adopt specific screening procedures for asylum-seekers and refugees who may be trafficking victims and prevent the deportation of any victims of trafficking who may be in need of international protection.

¹² “The Committee recommends that the State party amend its Citizenship Act and establish safeguards to prevent children from being stateless. It also recommends that the State party consider withdrawing its reservation to the 1954 Convention relating to the Status of Stateless Persons and consider ratifying the 1961 Convention on the Reduction of Statelessness”, Committee on the Rights of the Child, Concluding Observations (2017) CRC/C/BRB/CO/2, 74th session, 3 February 2017, paragraphs 29 and 30, available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/BRB/CRC_C_BRB_CO_2_26590_E.pdf.

¹³ “Elimination of Forced Labour,” International Labour Organization (last accessed 10 March 2017), available at: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=102713&p_classification=03.

¹⁴ See generally Barbados Parliament, Trafficking in Persons Prevention Act, 2016, 13 January 2016, available at: http://www.babadosparliament.com/uploads/bill_resolution/f3cd17747b82425885f98b005cad804b.pdf.

Recommendations:

UNHCR recommends that the Government of Barbados:

- a) Establish referral mechanisms to ensure the proper identification and protection of victims of trafficking who may be in need of international protection;
- b) Provide enhanced training to law enforcement, immigration, and judicial officials to better identify and protect trafficking victims and prevent persons to fall victims of trafficking;
- c) Provide victims of trafficking with legal alternatives to deportation; and
- d) Implement and enforce the 2016 anti-trafficking law and ensure full compliance with the principle of *non-refoulement*, by providing victims of trafficking who may be in need of international protection, the opportunity to seek asylum.

UNHCR
June 2017

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

BARBADOS

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regard to Barbados.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ¹⁵	Recommending State(s)	Position ¹⁶
Right to a nationality		
102.50. Reform national legislation to enable mothers with Barbadian nationality to confer their nationality to their children born abroad	Ecuador	Supported
102.51. Resolve gender inequality with regards to conferring Barbadian nationality from parents to their children	Slovakia	Supported
Trafficking in persons		
102.2. Consider ratifying CAT and OP-CAT; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Families (ICRMW); and the Protocol to Prevent Suppress and Punish their Trafficking in Persons, Especially Women and Children (Palermo Protocol)	Peru	Noted
102.87. Step up their efforts in combating trafficking in persons	Indonesia	Supported
102.88. Continue to strengthen its efforts to fight against trafficking in persons and to ensure protection of its victims	Singapore	Supported
102.89. Amend the 2011 Transnational Crime Bill to prohibit all forms of human trafficking by removing migration as a necessary element of human trafficking, prescribe penalties that are commensurate with those prescribed for other serious crimes, and publicly report any investigations, prosecutions, convictions, or sentences of trafficking offenders under this law, or other statute	United States of America	Supported

¹⁵ All recommendations made to Barbados during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Barbados" (12 March 2013), A/HRC/23/11, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BBSession15.aspx>.

¹⁶ Barbados's views and replies can be found in: *Addendum* (5 June 2013), A/HRC/23/11/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BBSession15.aspx>.

Sexual and gender-based violence		
102.46. Consider formulating and implementing national policies on gender to help define and coordinate efforts to tackle discrimination, marginalization and violence against women	Australia	Supported
102.72. Continue to enhance its domestic framework to eliminate violence against women and to promote gender equality	Singapore	Supported
102.75. Implement the recommendations of the reform committee established by the Bureau of Gender Affairs, including the inclusion of a gender sensitive and victim-centered approach in the legislation	Indonesia	Supported
102.78. Devote more resources to the protection of women and children from domestic violence and any other kind of abuses	Italy	Supported
102.79. Consider establishing a national plan of action to prevent sexual violence against children and women	Mexico	Supported
Discrimination and related intolerance		
102.45. Continue efforts relating to the fight against discrimination, analyzing the possibility that the national legal framework includes all forms of discrimination	Paraguay	Supported
102.52. Consolidate positive results in combating racial discrimination, trafficking in persons as well as promoting gender equality	Viet Nam	Supported
102.53. Continue efforts made aimed at combating discrimination and religious intolerance, especially against the rastafari; and to strengthen measures to eliminate any discriminatory treatment based on sexual orientation	Argentina	Supported ¹⁷
SOGI		
102.54. Introduce measures to promote tolerance and non-discrimination of the LGBT persons	Slovenia	Noted
102.55. Establish policies and initiatives to address discrimination based on sexual orientation and gender identity	Brazil	Noted
102.56. Implement measures to protect the LGBT population from harassment, discrimination and violence	Uruguay	Supported
102.94. Provide human rights education, including related to sexual orientation and gender identity, to all law enforcement officials	Estonia	Supported

¹⁷ **Addendum:** “The following recommendation enjoy the support of Barbados in part.”

Migrant workers		
102.103. Consider instituting more programs to further facilitate access by domestic workers and migrants to basic social services and just conditions of work	Philippines	Supported in part ¹⁸

¹⁸ **Addendum:** “The following recommendation enjoy the support of Barbados in part.”