

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report -

Universal Periodic Review:

2nd Cycle, 23rd Session

SAINT LUCIA

I. BACKGROUND INFORMATION

Saint Lucia is not a party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), nor has it acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

As a non-State party, Saint Lucia has not passed any implementing legislation and has not established a national asylum procedure. When asylum-seekers are identified, their claims are referred to UNHCR's Honorary Liaison in Saint Lucia and are then examined and decided by UNHCR's regional office in Washington under the agency's mandate. Historically, Saint Lucia has hosted a small numbers of refugees and asylum-seekers.¹ As of December 2014, the country hosted only three refugees, all of whom were adult males. Currently, there are no reports of stateless persons in the country.

Located along the chain of islands of the Lesser Antilles, Saint Lucia is among the many Caribbean countries affected by mixed migratory movements of undocumented persons. UNHCR has little information about the nature, size and scope of movements of undocumented persons arriving to or transiting through Saint Lucia, but has received information suggesting that Saint Lucia is at times a point of transit for mixed migratory movements of undocumented persons attempting to reach Canada.

In this context, it is important that all Caribbean countries - whether countries of destination or of transit - develop their capacities to appropriately manage these movements, including mechanisms to identify those persons within mixed flows who may be in need of refugee protection. At present, to UNHCR's knowledge, Saint Lucia has not taken the necessary steps to accede to the *1951 Convention*, to develop legislation on asylum matters, or to establish

¹ According to UNHCR's Annual Statistical Reports for Saint Lucia, between 2007 and 2012, the number of asylum applications lodged in Saint Lucia ranged from between 1 and 6 claims per year.

administrative mechanisms to identify and register asylum-seekers and to decide their asylum claims.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

According to information available to UNHCR, the Government of Saint Lucia has respected the principle of *non-refoulement* in line with customary international law. The Government has cooperated fully with UNHCR when asylum-seekers have come to UNHCR's attention. This cooperation has included providing access to detained asylum-seekers, release from detention of asylum-seekers with valid refugee claims, stays of deportation and other positive considerations for recognized refugees pending their resettlement to third countries through UNHCR's programme.

UNHCR welcomed the Government's steps to provide local integration to recognized refugees in Saint Lucia. In 2014, the Government naturalized two refugees.

Additionally, UNHCR welcomed the Government of Saint Lucia's active role in the commemoration process surrounding the 30th anniversary of the *1984 Cartagena Declaration on Refugees*, including its participation in the *Caribbean Sub-Regional Consultation on Mixed Migration, and the Protection of Refugees and Stateless Persons* on 10 and 11 September 2014 in the Cayman Islands and in the Ministerial Meeting in Brasilia on 2 and 3 December 2014,² at which the *Brazil Declaration and Plan of Action* was adopted.³ These documents provide a framework for cooperation and regional solidarity to strengthen the international protection of refugees, displaced and stateless persons in Latin America and the Caribbean and contains innovative proposals on how to address the main current humanitarian challenges affecting the region.

Saint Lucia also actively participated in the May 2013 *Regional Conference on the Protection of Vulnerable Persons in Mixed Migration Flows – Promoting Cooperation and Identification of Good Practices*, which was jointly organized by UNHCR and IOM in The Bahamas (hereinafter "Bahamas Conference").⁴

UNHCR commends the passage of Saint Lucia's *2010 Counter-Trafficking Act* and in particular the *Act's* strong victims' assistance and protection provisions. By establishing trafficking victims' legal rights (including the ability to seek legal immigration status and family reunification, as well as immunity from criminal liability for immigration-related offenses), the *Act* provides a sound model for other Caribbean States to follow as they develop counter-trafficking legislation.

² Saint Lucia was represented at the Brasilia Ministerial meeting by the Minister of External Affairs, Mr. Alva Baptiste and by the Minister of Legal Affairs, Home Affairs and National Security, Mr. Victor La Corbiniere.

³ *Brazil Declaration and Plan of Action*, 3 December 2014, available at: <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2014/9865>.

⁴ The Saint Lucia delegation at the Bahamas Conference consisted of Mr. Errol Alexander, Deputy Commissioner of Police of Saint Lucia's Ministry of Home Affairs, Ms. Zizi Pitcairn, Foreign Service Officer at the International Trade and Civil Aviation Division of the Ministry of External Affairs and Honorary Liaison Ms. Terencia Oriol from the Saint Lucia Red Cross.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection of asylum-seekers and refugees

Saint Lucia is one of only six States in the Caribbean region that has not acceded to the international refugee instruments. Given the regional context and protection challenges, accession to the *1951 Convention* should be a priority.

Accession greatly facilitates UNHCR's task of mobilizing international support to address refugee situations that may arise in any country. UNHCR believes that it is necessary to broaden the base of State support for these refugee instruments, ensuring that the protection provided to refugees is more universal in scope and the burdens and responsibilities of Governments are equitably distributed and consistently applied. Accession to the *1951 Convention* and establishment of a national legal and institutional framework would provide a clearer basis for the Government of Saint Lucia to provide refugees with international protection. In the context of mixed migration flows, UNHCR would like to note the importance of establishing a formal mechanism for identifying asylum-seekers and protecting persons who qualify for refugee status.

UNHCR is prepared to provide support to the Government of Saint Lucia to develop a national refugee policy, including the drafting of national refugee legislation. UNHCR remains ready to provide training and capacity-building services to Government staff, civil society members and academics, in order to strengthen its capacity to manage mixed migration flows and assist persons in need of international protection.

In response to the recommendation made during the first cycle of the UPR on Saint Lucia "to ratify (...) the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*" the Government stated that this recommendation would be considered.⁵

Recommendations:

UNHCR recommends that the Government of Saint Lucia:

- Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*;
- Adopt national refugee legislation and develop administrative regulations, policies and procedures to ensure full compliance with its obligations under the *1951 Convention*;
- Develop a national refugee status determination procedure and build the capacity of Government officials to successfully undertake refugee status determination, with UNHCR's technical support;⁶

⁵ Accession to the *1951 Convention* was recommended by Slovakia, UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Saint Lucia*, 1 June 2011, A/HRC/17/6 Add.1, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/LC/A_HRC_17_6_Add.1_Saint%20Lucia_E.pdf.

⁶ A recommendation was made to "[d]evelop a national asylum seeker plan and become a party to the *Convention Relating to the Status of Stateless Persons* along with the *Convention on the Reduction of Statelessness*" during the 1st cycle UPR examination of Saint Lucia, but it was not accepted due to resource constraints and national priorities. See: Report of the Working Group of the Universal Periodic Review: Saint Lucia, A/HRC/17/6, 11 March 2011, para. 89.109 (recommended by Hungary), available at: <http://daccess-dds-un.org/doc/UNDOC/GEN/G11/117/49/PDF/G1111749.pdf>.

- Facilitate full and open access to asylum procedures for persons who have expressed a fear of returning to their country of origin and ensure *non-refoulement* of all persons in need of international protection; and
- Pay due attention to the gender-related dimensions of refugee status, asylum, nationality and statelessness of women as set out in the CEDAW *General Recommendation No. 32*.⁷

Issue 2: Address challenges in the context of mixed migration

Like other countries in the region, Saint Lucia is facing a complex phenomenon of mixed migratory movements. It is crucial that all Caribbean countries – whether countries of destination or of transit – develop their capacity to appropriately manage these movements with a coordinated approach. There is a need for regional cooperation in data collection and analysis, protection-sensitive entry systems, reception arrangements, mechanisms for profiling and referral, differentiated processes and long-term solutions. This type of regional cooperation is outlined in the *Brazil Declaration and its Plan of Action* that Saint Lucia, along with 27 other States and territories from Latin America and the Caribbean, adopted on 2 and 3 December 2014 on the occasion of the 30th anniversary of the *1984 Cartagena Declaration on Refugees*.⁸

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 its extensive maritime borders and limited financial, technical, human and material resources. In response to these challenges, the “Regional Solidarity with the Caribbean Programme” was introduced. The main objective of this programme is to promote regional dialogue, which may lead to the establishment of a Regional Consultative Process (RCP) for the efficient management of mixed migration.⁹ UNHCR

⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women*, 5 November 2014, CEDAW/C/GC/32, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGC%2f32&Lang=en

⁸ The *Brazil Plan of Action* incorporates the Conclusions from the four regional Consultations, including the Caribbean Sub-Regional Consultation. The Government of Saint Lucia participated in the Caribbean Sub-Regional Consultation, which took place on 10 and 11 September 2014 in the Cayman Islands, as well as in the Brasilia Ministerial Meeting on 2-3 December 2014. See: <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2014/9865>.

⁹ Four main areas of action for a Regional Consultative Process are outlined in Chapter 5 of *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

encourages Saint Lucia to work with other States in the region to advance the objectives outlined in the *Brazil Plan of Action*.

Regional Cooperation on issues of mixed migration was also promoted during the May 2013 Regional Conference on the Protection of Vulnerable Persons in Mixed Migration Flows – Promoting Cooperation and Identification of Good Practices, which was jointly organized by UNHCR and IOM in The Bahamas.

A coordinated approach is also needed to prevent trafficking and protect trafficking victims in the region. Concerning Saint Lucia specifically, UNHCR commends the State’s passage of the *2010 Counter-Trafficking Act*. However, in order to further strengthen the *Act*, UNHCR encourages Saint Lucia to amend the *Act* to include the right of trafficking victims to seek asylum. While the *Act* acknowledges the importance of creating a “safety plan” to protect trafficking victims from threats, reprisals and intimidation by traffickers, it does not articulate the kinds of protection available to trafficking victims in Saint Lucia.

Recommendations:

UNHCR recommends that the Government of Saint Lucia:

- Continue to engage in dialogue and consultation with UNHCR in relation to mixed migratory flows, in particular in the implementation of the *Brazil Declaration and Plan of Action*;
- Consistent with Saint Lucia’s strong and comprehensive counter-trafficking legislation, maintain and strengthen efforts to ensure that victims of trafficking are provided with an opportunity to seek asylum and enjoy the corresponding rights and services;
- Develop standard operating procedures for identifying and appropriately channeling cases of victims of trafficking who express a fear of return to their home country and who therefore should be given access to an asylum procedure under UNHCR’s mandate; and
- Ratify the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* in an effort to strengthen cooperation with countries in the region to prevent and combat trafficking.¹⁰

Issue 3: Prevention of statelessness and protection of stateless persons

Saint Lucia is not a State Party to the *1954 Convention relating to the Status of Stateless Persons* or to the *1961 Convention on the Reduction of Statelessness*. At the 17th UPR session

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.

¹⁰ This recommendation was made during the 1st cycle UPR examination of Saint Lucia. See: Report of the Working Group of the Universal Periodic Review: Saint Lucia, A/HRC/17/6, 11 March 2011, para. 89.27 (recommended by Canada), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/117/49/PDF/G1111749.pdf>.

in 2011, Saint Lucia rejected a UPR recommendation to accede to the *Statelessness Conventions*, citing reasons of resource constraints and national priorities.¹¹

In October 2013, the UN High Commissioner for Refugees called for the “total commitment of the international community to end statelessness.”¹² 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 taken to end statelessness within 10 years. Action 9 of the *Global Action Plan* promotes accession to the *UN Statelessness Conventions*.¹³

Moreover, the *Brazil Plan of Action* includes a chapter related to the eradication of statelessness in the Americas that promotes accession to both *Statelessness Conventions*.¹⁴

There is a global and regional consensus on the importance of acceding to the *Statelessness Conventions*. The *1954 Convention* and the *1961 Convention* are key international treaties designed to ensure that every person has a nationality and that stateless people enjoy a basic set of human rights. The *Statelessness Conventions* do not stand alone, but complement a much broader range of international legal standards, in particular those contained in human rights treaties.

The *1954 Convention* establishes minimum standards of treatment for stateless persons in respect of a number of rights. These include, but are not limited to, the right to education, employment and housing. Importantly, the *1954 Convention* also guarantees stateless people a right to identity and travel documents and to administrative assistance. The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality. It requires that States establish safeguards in their nationality laws to prevent statelessness at birth and later in life.

Against the backdrop of the global and regional consensus reflected in UNHCR’s *Global Action Plan* and the *Brazil Plan of Action*, Saint Lucia may wish to review its previous position and consider accession to the *Statelessness Conventions* as an important action to end statelessness globally.

Recommendation:

UNHCR recommends that the Government of Saint Lucia:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

¹¹ Report of the Working Group on the Universal Periodic Review, Addendum, A/HRC/17/6/Add.1, 1 June 2011. Reply to recommendation 89.109, (recommended by Slovakia), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/117/49/PDF/G1111749.pdf?OpenElement>.

¹² High Commissioner’s Closing Remarks to the 64th Session of UNHCR’s Executive Committee, 4 October 2013: <http://unhcr.org/525539159.html>

¹³ UNHCR, *Global Action Plan to End Statelessness: 2014 – 2024*, November 2014, <http://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf>

¹⁴ *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>.

Human Rights Liaison Unit
Division of International Protection
UNHCR
March 2015

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies

Saint Lucia

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Saint Lucia.

Committee on the Rights of the Child

[Concluding observations \(2014\) CRC/C/LCA/CO/2-4](#)

Sexual exploitation and abuse

32. While noting that the State party has undertaken initiatives to address child sexual exploitation and abuse, including participation in Caribbean Community (CARICOM) regional meetings, training workshops on child sexual abuse, and widespread public sensitization campaigns, including the “Break the Silence” campaign, the Committee is concerned about the high level of incest and sexual abuse of boys and girls in the State party, and, in particular, the following:

- (a) Incidents of child sexual abuse appear to be on the increase, the practice of perpetrators paying parents to drop cases of child sexual abuse is continuing, and there is insufficient support for victims of sexual abuse;
- (b) While there is a stipulated age of consent for girls with regard to sexual relations, there is not one for boys, which puts them at increased risk of sexual exploitation and abuse;
- (c) The revised Criminal Code of 2004 limits the reporting of child sexual abuse to that committed against “young persons” and therefore does not protect children under 12 years of age from sexual abuse and other forms of child abuse and neglect;
- (d) Lack of information on laws, policies, measures, and resources for preventing and combating child sexual abuse, as well as ongoing training for all professionals on the subject.

33. The Committee recommends that the State party:

- (a) Ensure that acts of sexual abuse and exploitation are effectively investigated, that the perpetrators are brought to justice and that out-of-court settlements involving financial arrangements between perpetrators of child sexual abuse and parents of child victims are prohibited;**
- (b) Provide accessible, confidential, child-friendly and effective complaint procedures for sexual abuse and exploitation, continue the self-empowerment programmes for children; and conduct awareness-raising activities to combat the stigmatization of victims of sexual exploitation and abuse, including incest;**
- (c) Develop programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children held in Stockholm, Yokohama, Japan, and Rio de Janeiro, Brazil, respectively;**
- (d) Review all sexual offences legislation with a view to ensuring conformity with the Convention, including setting an age of consent for boys, to protect them from sexual exploitation and abuse;**

(e) Establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation, including by revising the Criminal Code to ensure that mandatory reports include all forms of abuse and neglect of all children, including those under 12 years of age;

(f) Ensure that all professionals and staff working with and for children are given the necessary training, supervision and background checks; and provide systematic training to law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child- and gender-sensitive manner that respects the privacy of the victim, and ensure that child protection agencies are adequately staffed and funded;

(g) Provide detailed information in the next periodic report on the legislative framework, policies, measures and resources for preventing and combating child sexual abuse.

Gang violence

34. Noting the efforts of the State party to address the problem of gang violence, including through providing life skills training to children, introducing community policing, and placing police in schools, the Committee is concerned that the climate of fear, insecurity, threat and violence linked to gangs in the State party impedes children from enjoying their childhood and adolescence. The Committee also notes with concern that insufficient attention is being paid by the State party to the root causes of this phenomenon.

35. The Committee recommends that the State party develop a comprehensive public policy to deal with this problem, addressing the social factors and root causes of juvenile violence and gangs, such as, inter alia, social exclusion, lack of opportunities, a culture of violence and migration flows. The Committee also recommends that the State party invest in prevention activities, with an emphasis on the school, the family and social inclusion measures.

Children in situations of migration

56. The Committee is concerned about the impact of migration on children, especially those left behind, as well as challenges in securing maintenance from parents who may have migrated abroad. The Committee is also concerned about children of foreign migrants in Saint Lucia, especially those who are undocumented, and the challenges and discrimination that they may face in accessing education, health services and other social services.

57. The Committee recommends that Saint Lucia undertake a comprehensive study on all aspects of migration's impact on children in the country and the role of child protection and social protection systems in providing services for children impacted by migration. It also recommends that the State party develop national policy and guidelines for all ministries, agencies and departments providing services to children of migrants, and all children impacted by migration, including measures to secure maintenance from parents working abroad. The Committee further recommends that the State party take all necessary measures to ensure the recovery of maintenance from abroad by entering into bilateral agreements with the major States of employment of Saint Lucian migrant workers and also ratify all the Hague Conventions and other conventions on the subject.

Sale, trafficking and abduction

60. The Committee notes that the State party is a destination country for persons subjected to forced prostitution and labour exploitation, and is concerned about indications that children

under 18 are coerced to engage in commercial sex in the State party. It is also concerned that national legislation does not appear to contain any provisions prohibiting the use of, or procuring of a child under 18 years of age for the production of pornography or for pornographic performances.

61. The Committee recommends that the State party step-up implementation of the Counter Trafficking Act of 2010 and step up its efforts to combat child trafficking for purposes of sexual exploitation and forced labour. The Committee also recommends that the State party establish a monitoring mechanism for the investigation and redress of such abuse, with a view to improving accountability, transparency and the prevention of violations to the Convention, as well as ensure the effective prosecution and punishment of those who exploit children for purposes of prostitution, forced labour or pornography.