

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, 35th Session

GRENADA

I. BACKGROUND INFORMATION

Grenada, which consists of eight smaller islands on the southern edge of the Grenadines, is not party to the *1951 Convention relating to the Status of Refugees*, or its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), the *1954 Convention relating to the Status of Stateless Persons* (*1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (*1961 Convention*). Currently, the country lacks a national refugee law, and the Government has not established formal channels to provide protection for refugees or asylum-seekers. The country's lack of a national refugee law is concerning, as Grenada's geographical location in the densely populated chain of islands in the Lesser Antilles inevitably makes the State a popular transit and destination point for regional cross-border movement and trafficking in persons. UNHCR has noted growing numbers of Venezuelans arriving or transiting through the Caribbean region, and consequently, Grenada is likely to see an increase in the number of asylum-seekers.¹

Currently, all matters related to asylum-seekers and refugees in Grenada are covered by UNHCR's regional office in Washington. There are currently four mandate refugees and one asylum-seeker in Grenada. In the absence of national asylum and refugee legislation and procedures in Grenada, UNHCR conducts registration and refugee status determination (RSD) in the country and undertakes the search for durable solutions. Voluntary repatriation and resettlement in a third country are the only durable solutions available presently for refugees in Grenada.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR welcomes the Government of Grenada's engagement in the Caribbean Migration Consultations (CMC), including its participation in regional meetings and workshops held in the framework of the CMC on matters of refugee protection, human trafficking, data collection and management, and human mobility in the context of disasters and climate change. The CMC was launched by Caribbean countries and territories in 2016 with the support of UNHCR and the

¹ UNHCR, *Guidance Note on the Outflow of Venezuelans*, March 2018, available at: <https://www.refworld.org/docid/5a9ff3cc4.html>. Although UNHCR is not aware of the presence of Venezuelans in Grenada, in March 2018 the situation in Venezuela prompted UNHCR to issue its *Guidance Note on the Outflow of Venezuelans* and call on countries hosting Venezuelans to allow them access to their territories, in light of the fact that international protection needs have become apparent for a very significant proportion of Venezuelans. The movements of Venezuelans in the Caribbean region, including Grenada, therefore implicate UNHCR's protection mandate.

International Organization for Migration (IOM) and serves as an ongoing regional forum for facilitating refugee protection and migration policy discussions and promoting coordinated, rights-based and effective management of issues related to migration and forced displacement in the Caribbean.² UNHCR commends the Government's participation in thematic workshops in 2019 such as the workshop on the Consultation Towards a Framework for Regional Cooperation on Human Mobility in the Context of Disasters and the Adverse Effects of Climate Change in the Caribbean (Port of Spain, June 2019) and First and Second Meetings of the CMC Counter-trafficking Network (Port of Spain in April 2018, and Georgetown in March 2019).

Linked to 2nd cycle UPR recommendation no. 72.102: "Consider enacting laws to criminalize trafficking in persons, and to provide remedy to trafficking victims" (The Philippines)

In the State's replies to the 2nd UPR cycle recommendations, Grenada accepted the above recommendation.³ UNHCR commends Grenada for passing *The Prevention of Trafficking in Persons Act 34 of 2014* in its parliament and its enactment on the 11 June 2014.⁴ This is an act to give effect to the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, supplementing the *UN Convention against Transnational Organized Crime*. The protections outlined in the Act include combating the trafficking of persons within and across the borders of Grenada, providing for the offence of trafficking in persons, and providing measures to protect and support trafficked persons and for incidental and connected purposes.⁵ UNHCR encourages Grenada to extend these protections to all persons who are vulnerable to human trafficking and to recognize that there is frequently overlap with persons whose situations give rise to a need for international refugee protection. UNHCR recommends that victims of trafficking who express a fear of return to their home countries have access to asylum procedures to determine if they are in need of international protection.

Linked to 2nd cycle UPR recommendation no. 72.97: "Adopt administrative measures to ensure birth registration for all children irrespective of whether they have a christening certificate" (Mexico)

UNHCR commends the positive steps taken by the Government to comply with Article 7 of the Convention on the Rights of the Child (CRC), which calls for registration of a child immediately after birth⁶ through introduction of "a bedside registration procedure with a view to ensure birth registration is completed in a timely and efficient manner and that the right for every child to be registered at birth is respected."⁷ Birth registration is fundamental to the prevention of

² The CMC follows the principles and commitments made by States in the Brazil Declaration and Plan of Action, with a framework for regional solidarity on issues related to refugees, displaced persons, and stateless persons in Latin America and the Caribbean. Regional Refugee Instruments & Related, *Brazil Declaration and Plan of Action*, 3 December 2014, available at: <http://www.refworld.org/docid/5487065b4.html>.

³ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Grenada, Addendum*, 5 June 2015, A/HRC/29/14/Add.1, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/115/01/PDF/G1511501.pdf?OpenElement>.

⁴ U.S. Department of Labor, *Grenada: Minimal Advancement*, 2016, available at: <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Grenada.pdf>.

⁵ Government of Grenada, *Prevention of Trafficking in Persons Act*, enacted 11 June 2014, available at: https://caribbeanmigration.org/sites/default/files/repository/act_no._34_of_2014_prevention_of_trafficking_in_persons_act_-_grenada.pdf.

⁶ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.htm>.

⁷ UNICEF, *Situation Analysis of Children in Grenada*, September 2017, available at: https://www.unicef.org/easterncaribbean/ECA_GRENADA_SitAn_Web.pdf at 63: *In 2011, the Government estimated that approximately 14,000 Grenadians were without registered names and that 9,063 of these were children under the age of 18.109 In response, that same year the Ministry of Health and Social Security launched a Mobile Complete*

statelessness. Failure to document a person's legal existence can prevent the effective enjoyment of a range of human rights, including access to education and health care.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection of Asylum Seekers and Refugees

In response to the recommendation made during the first cycle of the UPR on Grenada "to accede to the Conventions on refugees and stateless persons" the Government stated that "*The State will continue reviewing the possibility of ratifying the Refugee and Stateless Conventions.*"⁸ Nonetheless, Grenada remains the only one of the five 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. While Grenada has not intentionally or knowingly violated the principle of *non-refoulement*, greater efforts to identify persons in need of international protection are necessitated given the prevalence of mixed movements in the Caribbean. Creating a national plan to identify vulnerable persons will reduce Grenada's chances of inadvertently violating the *non-refoulement* principle. UNHCR continues to encourage the Government of Grenada to accede to the international instruments and develop formal national procedures for refugee status determination.

As a non-State party to the *1951 Convention*, Grenada has not adopted any domestic procedures for conducting refugee status determination (RSD). UNHCR has therefore taken responsibility for determining the refugee status of asylum-seekers in Grenada. Accession to the *1951 Convention* and establishment of a national legal framework would provide a clearer basis for the Government to provide refugees with international protection. UNHCR is prepared to provide support to the Government of Grenada 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 movement flows and assist persons in need of international protection.

Recommendations:

UNHCR recommends that the Government of Grenada:

- (a) Accede to the *1951 Convention* and its *1967 Protocol*;
- (b) Adopt national refugee legislation and develop administrative regulations, policies and procedures;
- (c) 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; and
- (d) Facilitate full and open access to asylum procedures for persons who have expressed a fear of returning to their country of origin and to ensure *non-refoulement* of all persons in need of international protection.

Issue 2: Prevention of Statelessness

Birth Registration project referred to as the 'Catch Up Campaign'. By 2012, a total of 7,339 names had been reconciled and registered, an 81 per cent success rate for the project. A second phase, implemented in 2013, was also successful and resulted in the reconciliation and registration of an additional 1,744 names. As of June 2013, 887 names remain to be reconciled and registered.

⁸ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Grenada*, 16 June 2010, A/HRC/15/12.

Grenada is not a State party to the *1954 Convention*, or to the *1961 Convention*. The Constitution and the Citizenship Act regulate issues regarding nationality. The Constitution incorporates *jus soli* and *jus sanguinis* provisions in the determination of who is a Grenadian citizen. Citizenship can be obtained by birth in the territory and/or by virtue of descent from a Grenadian mother or father citizen. However, some provisions of the *Citizenship Act*⁹ may not be in line with the international standards to prevent statelessness. For example, the provisions contained in Article 9 of the *Citizenship Act*, which refer to situations in which persons may be rendered stateless as a result of a deprivation decision,¹⁰ go beyond the exceptions allowed for under Article 8 of the *1961 Convention*.¹¹ Renunciation of Grenadian citizenship may pose an additional problem in a case where the person affirms, to the best of his/her knowledge, that he/she will acquire the nationality of another country but fails to acquire such nationality, which would render the person at risk of statelessness.¹² Finally, although Article 20 of the *Registration of Births and Deaths Act*¹³ regulates the information to be provided to the authorities respecting the finding of a newborn child, there is no specific provision dealing with the issue of the nationality of foundlings.¹⁴

Recommendations:

UNHCR recommends that the Government of Grenada:

- (a) Review the *Citizenship Act* and the *Registration of Births and Deaths Act* and amend them in order to fully comply with the international standards on prevention of statelessness, as stipulated in the *1961 Convention*.

Issue 3: Accession to the Statelessness Conventions

At the 15th UPR session in 2010, Grenada was encouraged to accede to the international instruments dedicated to preventing and reducing statelessness and ensuring the protection of stateless populations.¹⁵ Grenada stated that “*The State will continue reviewing the possibility of*

⁹ Act No. 12 of 1976, as amended by Act No. 11 of 1977, Act No. 44 of 1980, Act No. 17 of 1984, Act No. 39 of 1991, Act No. 31 of 1996, Act No. 19 of 1997, Act No. 36 of 1998, Act No. 26 of 1999, Act No. 40 of 2000, and Act No. 31 of 2002, available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104871/128076/F721570060/GRD104871.pdf>.

¹⁰ Article 9(3)(c): This provision authorizes the Minister to deprive a citizen of Grenada by naturalization of his or her citizenship if he or she is satisfied that that citizen has, within five years after becoming naturalized, been sentenced in any country to a term of imprisonment of twelve months or more.

¹¹ Article 8(2) of the Convention provides that a person may be deprived of the nationality of the Contracting State when such “nationality has been obtained by misrepresentation of fraud” or when “it is permissible that a person should lose his nationality” in accordance with Article 7 of the Convention “on account of residence abroad for a period, not less than seven consecutive years, specified by the law of the Contracting State concerned if he fails to declare to the appropriate authority his intention to retain his nationality” or in the case of “a national of a Contracting State, born outside its territory, the law of that State may make the retention of its nationality after the expiry of one year from his attaining his majority conditional upon residence at that time in the territory of the State or registration with the appropriate authority.” See UN General Assembly Convention on the Reduction of Statelessness, 30 August 1961, United Nations, Treaty Series, vol. 989, p.175 available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/Statelessness.aspx>.

¹² Article 10 (Renunciation of citizenship) of the Citizenship Act allows renunciation when the citizen of full age and capacity is, or is about to become, a citizen of another country. The “Declaration of Renunciation of Citizenship”, approved by the regulation, does not include any reassurance that the applicant indeed acquires the nationality of another country.

¹³ Chapter 280, Registration of Births and Deaths Act, as amended by Act No. 10 of 1967 and Act No. 45 of 1991, available at: <http://laws.gov.gd/>.

¹⁴ Article 2 of the 1961 Convention sets out that a foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.

¹⁵ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Grenada*, 16 June 2010, A/HRC/15/12.

*ratifying the (...) Stateless Conventions.*¹⁶ Accession to the Statelessness Conventions would establish a stronger framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons. UNHCR has mandate responsibilities to address statelessness with regard to the identification, prevention and reduction of statelessness and the protection of stateless persons. UNHCR is willing to provide support to the Government in the field of statelessness.

The *1954 Convention* safeguards minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the *1954 Convention* also guarantees stateless persons 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 by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights. UNHCR encourages Grenada to pledge the ratification of both statelessness instruments at the High Level Event on Ending Statelessness convened in Geneva in October 2019.

Recommendation:

UNHCR recommends that the Government of Grenada:

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

**UNHCR,
July 2019**

¹⁶ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Grenada*, 16 June 2010, A/HRC/15/12.

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

GRENADA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, relating to issues of interest and persons of concern to UNHCR with regards to GRENADA.

I. Universal Periodic Review (Second Cycle – 2015)

Recommendation ¹⁷	Recommending State/s	Position ¹⁸
Trafficking in Persons¹⁹		
72.101. Amend the law to expressly prohibit hazardous work for children as well as all forms of trafficking of children;	USA	Supported
72.102. Consider enacting laws to criminalize trafficking in persons, and to provide remedy to trafficking victims;	The Philippines	Supported
72.103. Introduce comprehensive legislation prohibiting human trafficking, in particular trafficking of children for labour and sexual exploitation;	Italy	Supported
72.104. Adopt legislation in the area of trafficking of persons and sexual exploitation and increase financial and human resources to strengthen existing preventive mechanisms and support services for victims;	Mexico	Supported
Children`s Rights		
72.96. Continue to improve its legislation in order to provide equal protection for boys and girls against sexual abuse and exploitation;	Portugal	Supported ²⁰
Birth registration		
72.97. Draw up a national policy on children and a national plan of action to guide its implementation, monitoring and	Mexico	Supported ²¹

¹⁷All recommendations made to Grenada during its 2nd cycle UPR can be found in: UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Grenada*, 9 April 2015, A/HRC/29/14, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/074/28/PDF/G1507428.pdf?OpenElement>.

¹⁸ Grenada's views and replies, in English, can be found in: UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Grenada, Addendum*, 5 June 2015, A/HRC/29/14/Add.1, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/115/01/PDF/G1511501.pdf?OpenElement>.

¹⁹ **Addendum:** "Grenada accepts this recommendation and Grenada has since passed in Parliament, The Prevention of Trafficking in Person Act 34 of 2014."

²⁰ **Addendum:** "Government accepts this recommendation to further take appropriate measures to protect children under its law."

²¹ **Addendum:** "Government accepts this recommendation to further take appropriate measures to protect children under its law."

assessment; adopt administrative measures to ensure birth registration for all children irrespective of whether they have a christening certificate;		
Discrimination based on sexual orientation and gender identity²²		
72.61. Adopt legislation and public policies which effectively prevent discrimination based on sexual orientation and gender identity;	Chile	Noted
72.64. Take all necessary measures to guarantee that LGBT individuals do not face persecution based on sexual orientation or gender identity, including by decriminalizing same-sex practices in the country;	Brazil	Noted
72.70. Include sexual orientation and gender identity as one of the forbidden grounds for discrimination as well as amending the norms relating to the criminalization of homosexual conduct between consenting persons;	Uruguay	Noted

II. Treaty Bodies

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 Grenada.

Committee on the Elimination of Discrimination against Women

CEDAW/C/GRD/CO/1-5, 51st Session

23 March 2012

Refugee Women

37. While the State party currently hosts a very small number of refugees, the Committee notes that due to escalating extra regional migratory movements and migrant trafficking in the Caribbean there is a high probability of an increase in the number of asylum-seekers. In this respect, the **Committee is concerned that the State party has not acceded to the international conventions on refugees and statelessness, and that it has no national refugee legislation or national asylum procedure.**

38. The Committee recommends that the State party consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and develop national refugee legislation and a national asylum procedure.

²² **Addendum:** "Grenada cannot accept these recommendations as this is an offence under domestic legislation. Government would however continue to raise awareness on the issue and encourage tolerance."

Committee on the Rights of the Child

CRC/C/GRD/CO/2/CORR.1, 54th Session

12 August 2010

Birth Registration

30. The Committee reiterates its previous concern (CRC/C/15/Add.121, para. 16) that some children are still not being registered at birth and are not given a name until their baptism, which could be three or four months after their birth and regrets that no initiatives have been put in place to address this. Furthermore, the Committee is concerned at reports of the widespread practice whereby a baptism certificate must be presented before a child can be given a birth certificate. The Committee also notes with concern that the father's name is not put on the birth certificate unless he is present for the registration of the birth.

31. The Committee recommends that the State party take the necessary measures to ensure that all children are registered at birth. The Committee also urges the State party to ensure that a baptism certificate is not a prerequisite for a birth certificate and that the name of the father is included on the child's birth certificate.

Human Rights Council

Universal Periodic Review, 29th Session A/HRC/29/14

April 2015

30. Sierra Leone stated that the review would have been better facilitated had Grenada submitted a national report. The commitment of Grenada to human rights was demonstrated by its ratification of core instruments. **Grenada should review its laws and regulations in order to amend gender-based discriminatory provisions, and adopt asylum and refugee legislation and procedures.**