

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, 25th Session

SAINT VINCENT AND THE GRENADINES

I. BACKGROUND INFORMATION

Saint Vincent and the Grenadines is a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), with a reservation made to Article IV of the *1967 Protocol*.¹ Saint Vincent and the Grenadines succeeded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) in 1999, but is not yet a party to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

To the knowledge of UNHCR, as of September 2015, there were no asylum-seekers or refugees in Saint Vincent and the Grenadines. Since 2009, only three individuals have made asylum claims in the State.² Nevertheless, given its location along the chain of islands of the Lesser Antilles, Saint Vincent and the Grenadines is among the Caribbean countries affected by mixed migratory movements of undocumented persons. UNHCR has little information about the nature, size and scope of the population of undocumented persons arriving to or transiting through Saint Vincent and the Grenadines, but has received information suggesting that the State is at times a point of transit for mixed migratory movements of undocumented persons attempting to reach North America.

The Government established an *ad hoc* Eligibility Committee for refugee status determination (RSD) and adjudicated three asylum claims in 2004. However, in the absence of national asylum and refugee legislation and established procedures, UNHCR's Regional

¹ Article IV of the *1967 Protocol* concerns settlement of disputes and referral of disputes to the International Court of Justice. The text of Saint Vincent and the Grenadines' reservation reads: "In accordance with the provisions of Article VII paragraph 1 of the aforesaid Protocol, however, the Government of Saint Vincent and the Grenadines makes a reservation with respect to Articles IV of the Protocol that, for the submission of any dispute in terms of that article to the jurisdiction of the International Court of Justice, the express consent of all the parties to the dispute is required in each case." See: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-5&chapter=5&lang=en#EndDec.

² UNHCR, *2014 Global Trends Statistics*, available at <http://www.unhcr.org/globaltrends/2014-GlobalTrends-annex-tables.zip>.

Office in Washington DC, in collaboration with the National Red Cross Society based in Saint Vincent and the Grenadines, conducts registration and RSD in the country and undertakes the search for durable solutions for recognized refugees.

II. ACHIEVEMENTS AND BEST PRACTICES

UNHCR welcomes the Government of Saint Vincent and the Grenadines' continued recognition of the importance of the *1951 Convention* and the State's commitment to consider the ratification of the *1961 Convention*. Despite the lack of a legislative framework for asylum, Saint Vincent and the Grenadines provides asylum-seekers and refugees with needed protection, including the issuance of work permits and the possibility to obtain a migrant status in the country. Furthermore, asylum-seekers have access to emergency care, general medicine, vaccinations and medical treatment related to women's health. Asylum-seekers also have access to free pre-school and primary education and they can attend secondary school for US\$100 per year. Refugees can receive vocational training for US\$150 per year.

Saint Vincent and the Grenadines has demonstrated its willingness to engage with UNHCR on improving the State's refugee protection policies through trainings for police, immigration officers and coast guard officials. UNHCR welcomes the Government's cooperation on other related issues, which include providing access to detained asylum-seekers, releasing asylum-seekers with valid refugee claims from detention centres, and permitting recognized refugees to stay in Saint Vincent and the Grenadines pending resettlement facilitated by UNHCR.

UNHCR appreciates the Government of Saint Vincent and the Grenadines' active participation 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. Participants discussed a range of issues related to the protection of persons with specific needs in mixed migration flows, including victims of trafficking and women survivors of sexual and gender-based violence (SGBV), and victims of torture and trauma, who may require international protection. An official from Saint Vincent and the Grenadines' Ministry of National Security attended the Conference. Upon the conclusion of the Conference, participants agreed to recommend that States enhance regional cooperation and partnership in order to respect international and regional protection standards and improve the management of mixed migration flows throughout the Caribbean region. UNHCR encourages the Government of Saint Vincent and the Grenadines to continue to engage in a constructive dialogue on these issues.

Finally, UNHCR commends the passage of Saint Vincent and the Grenadines' *2011 Prevention of Trafficking in Persons Act*³ and the establishment of a National Task Force. The Government worked closely with an outside expert to draft, enact and implement this comprehensive anti-trafficking *Act*. The *Act* provides important legal rights for victims of trafficking, including immunity from criminal liability for immigration-related offenses (Article 11), protection from future harm (Article 20(1)(b)), and assistance with obtaining

³ *Act No. 27 of 2011, Prevention of Trafficking in Persons Act*, 8 November 2011, available at: <https://www.oas.org/dsp/documents/trata/Saint%20Vincent%20and%20the%20Grenadines/Public%20Policies%20and%20National%20Programs/National%20Program/Prevention%20of%20trafficking%20in%20Persons%20Act%202011.pdf>.

temporary and permanent residence permits and citizenship in Saint Vincent and the Grenadines (Articles 26 and 29(1)).⁴ Additionally, the Government showed a clear commitment to train officials, law enforcement agencies, social service providers and the public about the crime of human trafficking and ways with which to identify suspected cases of trafficking.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection of asylum-seekers and refugees

In the absence of national asylum and refugee legislation and procedures in Saint Vincent and the Grenadines, UNHCR, through its Red Cross partner, conducts registration of asylum-seekers and RSD in the country, and undertakes the search for durable solutions for recognized refugees. Furthermore, with no established registration process for asylum-seekers or a formal reception centre, asylum-seekers are routinely detained upon arrival in the country. While the Government of Saint Vincent and the Grenadines has not intentionally or knowingly violated the principle of *non-refoulement*, more efforts to identify persons in need of international protection are needed by the State. UNHCR encourages the Government of Saint Vincent and the Grenadines to develop formal procedures for determining refugee status.

UNHCR is prepared to provide support to the Government of Saint Vincent and the Grenadines to develop a national refugee policy, including the drafting of national refugee legislation. UNHCR remains ready to provide training and capacity-building to Government officials and civil society members, in order to strengthen the country's capacity to manage mixed migration flows and assist persons in need of international protection.

Recommendations:

UNHCR recommends that the Government of Saint Vincent and the Grenadines:

- a. Develop, enact and implement refugee legislation consistent with international standards, which would include fair and efficient procedures for conducting refugee status determination, including appeals, and guaranteeing the rights of all recognized refugees in Saint Vincent and the Grenadines;
- b. Take measures to ensure the early identification of persons in need of international protection and facilitate their access to asylum procedures, including persons in detention, through further training and sensitization of immigration officers;
- c. Seek alternatives to detention of asylum-seekers;
- d. Ensure the issuance for refugees of documents or other ID cards, since the lack of documentation creates obstacles in exercising a wide range of rights guaranteed to refugees;
- e. Facilitate 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
- f. Take the necessary steps to ensure full access to fundamental rights for asylum-seekers and refugees.

⁴ United States Department of State, *2014 Trafficking in Persons – Saint Vincent and the Grenadines*, available at: <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226822.htm>.

Issue 2: Challenges in the context of mixed migration

Saint Vincent and the Grenadines, like other countries in the region, faces a complex phenomenon of mixed migratory movements across the Caribbean. It is crucial that Saint Vincent and the Grenadines, as a country of transit, strengthen its capacity to appropriately manage these movements. There is a need for Saint Vincent and the Grenadines to cooperate with other countries in the region to collect and analyze data, and to establish protection-sensitive entry systems, reception arrangements, mechanisms for profiling and referral of vulnerable migrants, differentiated processes and long-term solutions. When addressing all these aspects of migration movements, the Government should take into consideration the individual situation of persons in need of international protection, including groups with specific needs.

In commemoration of the 30th anniversary of the *1984 Cartagena Declaration on Refugees*, UNHCR and IOM organized a Caribbean Sub-Regional Consultation on Mixed Migration and the Protection of Refugees and Stateless Persons in September 2014 in the Cayman Islands as a lead up to a Ministerial Meeting in Brasilia in December 2014. At these meetings, participants discussed, amongst other issues, opportunities for enhanced regional cooperation and partnership in order to respect international and regional protection standards and improve the management of mixed migration movements throughout the Caribbean region. The outcome of these consultations included the adoption of the *Brazil Declaration and Plan of Action*.

The *Brazil Declaration and Plan of Action* includes 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, which may lead to the establishment of a Regional Consultative Mechanism (RCM) for the efficient management of mixed migration.⁵ UNHCR encourages Saint Vincent and the Grenadines to work with other States in the region to advance on these objectives outlined in the *Brazil Plan of Action*.

⁵ Four main areas of action for a Regional Consultative Mechanism 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 unaccompanied 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.

Additionally, the trafficking of persons is of major concern for UNHCR since a coordinated approach to prevent and protect victims of trafficking has not been fully developed in the region. While the *2011 Trafficking in Persons Act* represents a significant step forward in preventing trafficking, UNHCR is concerned that the legislation does not specify the right of victims of trafficking to seek asylum. Opportunities for seeking legal immigration status in Saint Vincent and the Grenadines pursuant to Section 26(2) seem to be conditional upon the victim's cooperation in the criminal prosecution against the traffickers, rather than based on the victim's protection needs.

The Government of Saint Vincent and the Grenadines should further improve its efforts to address human trafficking by strengthening procedures for identifying victims of trafficking, as well as providing them with the opportunity to apply for asylum, and developing appropriate care arrangements and protective services.⁶

Recommendations:

UNHCR recommends that the Government of Saint Vincent and the Grenadines:

- a. Enhance dialogue and consultation with UNHCR regarding mixed migratory movements experienced by the country;
- b. Contribute to the implementation of the *Brazil Plan of Action* and work with other States in the region to advance the establishment of a Regional Consultative Mechanism for the efficient management of mixed migration;
- c. Take all necessary measures to ensure the early identification of persons in need of international protection and facilitate their access to asylum procedures; and
- d. Strengthen efforts to ensure that victims of trafficking are provided with an opportunity to seek asylum, and enjoy corresponding rights and services.

Issue 3: Prevention of statelessness

Linked to 1st cycle UPR recommendation no. 78.6. “Ratify the 1961 Convention on the Reduction of Statelessness (Slovakia).”⁷

Saint Vincent and the Grenadines succeeded to the *1954 Convention relating to the Status of Stateless Persons* in 1999. The country is not yet a State party to the *1961 Convention on the Reduction of Statelessness*, but the Government indicated that it is considering accession to this international statelessness instrument.⁸

There is a global and regional consensus on the importance of acceding to the *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*

⁶ United States Department of State, *2014 Trafficking in Persons – Saint Vincent and the Grenadines*, available at: <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226822.htm>.

⁷ See: “Report of the Working Group on the Universal Periodic Review: Saint Vincent and the Grenadines,” A/HRC/18/15, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/VCSession11.aspx>.

⁸ See para. 7 of the Addendum A/HRC/18/15/Add.1, 22 September 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/VCSession11.aspx>: “The Government of Saint Vincent and the Grenadines attaches great importance to the objectives underpinning this convention, being a party to the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons and will continue to give consideration to the ratification to the convention.”

Conventions do not stand alone, but complement a much broader range of international legal standards, in particular those contained in human rights treaties.

In October 2013, the UN High Commissioner for Refugees called for the “total commitment of the international community to end statelessness.”⁹ Additionally, in 2014 UNHCR launched the *Global Action Plan to End Statelessness: 2014 - 2024*¹⁰ (the *Global Action Plan*), which was developed in consultation with States, civil society and international organizations, and sets out a guiding framework comprised of 10 Actions that need to be undertaken to end statelessness within 10 years. Action 9 of the *Global Action Plan* promotes accession to the UN *Statelessness Conventions*.

Moreover, the recently adopted *Brazil Plan of Action* includes a chapter related to the eradication of statelessness in the Americas that promotes accession to both *Statelessness Conventions*.¹¹

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. It establishes binding legal obligations among State parties to assist in the prevention and reduction of statelessness, in particular that States shall grant their nationality to children who would otherwise be stateless and have ties with them through either birth on the territory or descent.

Recent events in the Caribbean have raised the possibility of statelessness issues significantly affecting other States in the region. This highlights the importance of States presenting unified support for a baseline of legal protection for reducing and preventing statelessness. Accession to the *1961 Convention* would help bolster regional responses to whatever situations might arise in the future.

Against the backdrop of the global and regional consensus reflected in the UNHCR *Global Action Plan* and the *Brazil Plan of Action*, the Government of Saint Vincent and the Grenadines should be encouraged to accede to the *1961 Convention* as an important action to end statelessness globally. Accession to the *1961 Convention* would place Saint Vincent and the Grenadines among the growing number of States that are supporting UNHCR’s campaign to eradicate statelessness within the next ten years. This would also allow Saint Vincent and the Grenadines to implement the 1st cycle UPR recommendation no. 78.6. The Government should also be encouraged to implement the recommendation made by the UN Committee on the Elimination of Discrimination against Women (CEDAW) “to amend its relevant legislation to grant women citizens equal rights with men regarding the transmission of their nationality to their foreign spouses.”¹²

⁹ High Commissioner’s Closing Remarks to the 64th Session of UNHCR’s Executive Committee, 4 October 2013, available at <http://unhcr.org/525539159.html>.

¹⁰ UNHCR, *Global Action Plan to End Statelessness: 2014 – 2024*, November 2014, available at: <http://www.unhcr.org/statelesscampaign2014/Global-Action-Plan-eng.pdf>.

¹¹ *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>.

¹² Committee on the Elimination of Discrimination against Women, Concluding Observations on Saint Vincent and the Grenadines, CEDAW/C/VCT/CO/4-8, 24 July 2015, para. 27, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fVCT%2fCO%2f4-8&Lang=en.

Recommendations:

UNHCR recommends that the Government of Saint Vincent and the Grenadines:

- a. Accede to the *1961 Convention on the Reduction of Statelessness*; and
- b. Amend its nationality legislation to grant women citizens equal rights with men regarding the transmission of their nationality to their foreign spouses.

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ANNEX

Excerpts of Recommendations from the 1st cycle Universal Periodic Review and Concluding Observations from UN Treaty Bodies

SAINT VINCENT AND THE GRENADINES

We would like to bring your attention to the following excerpts from the 1st cycle UPR recommendations and from UN Treaty Monitoring Bodies' Concluding Observations relating to issues of interest and persons of concern to UNHCR with regards to Saint Vincent and the Grenadines.

I. Universal Periodic Review

Recommendation ¹³	Recommending State	Position ¹⁴
Refugee and Statelessness Conventions/Regional Instruments/National Legislation		
78.6. Ratify the <i>1961 Convention on the Reduction of Statelessness</i> .	Slovakia	Noted ¹⁵
Sexual and Gender-Based Violence/Violence against women		
76.18. Take legal, educational and necessary measures in order to effectively combat violence against women and domestic violence.	Norway and France	Supported
76.19. Actively consider specific legislation in the area of gender discrimination, including violence against women and adopt more effective legal measures to combat domestic violence.	Maldives and Honduras	Supported
76.21. Take further measures to prevent and combat violence against children and women.	Brazil	Supported
76.23. Take all the necessary measures to combat violence and discrimination against children.	France	Supported
Discrimination		
78.15. Codify and harmonize the national legislation to expressly prohibit discrimination, and in accordance with the existing international human rights standards;	Mexico	Supported ¹⁶
78.18. Institute policies and initiatives to address discrimination based on sexual orientation or gender identity.	Canada	Noted ¹⁷

¹³ All recommendations made to Saint Vincent and the Grenadines during its 1st cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review: Saint Vincent and the Grenadines," A/HRC/18/15, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/VCSession11.aspx>.

¹⁴ Saint Vincent and the Grenadines' views and replies can be found in the Addendum, A/HRC/18/15/Add.1, 22 September 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/VCSession11.aspx>.

¹⁵ Addendum, para. 7: "The Government of Saint Vincent and the Grenadines attaches great importance to the objectives underpinning this convention, being a party to the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons and will continue to give consideration to the ratification to the convention."

¹⁶ Addendum, para. 13: "The Government of Saint Vincent and the Grenadines accepts this recommendation to codify and harmonize national legislation concerning discrimination in all forms."

¹⁷ Addendum, para. 18: "The Government of Saint Vincent and the Grenadines has considered this recommendation and is of the view that instituting policies and or initiatives relating to sexual orientation or gender identity requires extensive national consultation given the nature of the issues involved."

II. Treaty Bodies:

Committee on the Elimination of Discrimination against Women

Concluding Observations, 24 July 2015, [CEDAW/C/VCT/CO/4-8](#)

Nationality

26. The Committee notes with satisfaction that under the law of the State party, women have the same rights as men to acquire, change or retain nationality. It also acknowledges that legislative provisions extend the same rights to women and men to pass on their nationality to their children and provide for dual citizenship for both sexes equally. However, the Committee is concerned about information stating that a married woman's ability to pass her nationality to her husband is subject to the discretion of the responsible Minister of Government who can refuse such transmission of nationality 'on reasonable grounds'.

27. The Committee recommends that the State party amend its relevant legislation to grant women citizens equal rights with men regarding the transmission of their nationality to their foreign spouses.