

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report -
Universal Periodic Review:**

GUYANA

I. BACKGROUND INFORMATION

Guyana is located on the north coast of South America, along the Caribbean Sea. Guyana is not a State Party to the *1951 Convention relating to the Status of Refugees* (hereafter the *1951 Convention*) nor its *1967 Protocol*. Furthermore, Guyana is not a State Party to the *1954 Convention relating to the Status of Stateless Persons* (hereafter the *1954 Convention*), nor to the *1961 Convention on the Reduction of Statelessness* (hereafter the *1961 Convention*).

Currently, all matters related to asylum-seekers and refugees in Guyana are covered by UNHCR's regional office in Washington. In the absence of national asylum and refugee legislation and procedures in Guyana, UNHCR must conduct registration and refugee status determination (RSD) in the country and undertake the search for durable solutions. Voluntary repatriation and resettlement in a third country are the only durable solutions presently for refugees in Guyana. There are currently eight asylum-seekers and refugees registered by UNHCR in the country.

II. ACHIEVEMENTS AND BEST PRACTICES

Since the last UPR session, Guyana has acceded to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and the first and second optional protocols to the *Convention on the Rights of the Child*. Guyana is also a State Party to the *United Nations Convention Against Transnational Organized Crime* and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

By acceding to these international instruments, Guyana is moving forward in providing protection for vulnerable populations within its borders. As a source and destination country for both sex and labor trafficking, these steps are significant. Guyana progressed in implementing the *Combating Trafficking of Persons Act of 2005*, created a Ministerial Inter-Agency National Task Force and developed a National Plan of Action to combat human trafficking and protect victims of trafficking. Victim identification has been improved and the Government provides assistance, including psycho-social support, medical care, social/case workers, and a government subsidized shelter in the capital. Furthermore, the Government's Counter Trafficking in Persons Unit conducts country-wide public awareness programs for both government and regional officials and the general public.

UNHCR welcomes the Government of Guyana's active participation in the May 2013 "Caribbean 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 (hereafter the "Bahamas Conference").

The Government of Guyana was represented by the Head of the Diaspora Unit in the Ministry of Foreign Affairs and the Research Officer in the Ministry of Home Affairs. The Director General of the Guyana Red Cross and the Regional Coordination Officer for the Caribbean and Chief of Mission for IOM in Guyana also attended. There were 98 representatives from throughout the Caribbean region present at the Bahamas Conference, which provided an opportunity for dialogue and partnership on a variety of issues related to the protection of vulnerable persons in mixed-migration flows. After three days of presentations and plenary discussions, 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 in the Caribbean.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection of Asylum-seekers and Refugees

Guyana is only one of five States in the Caribbean region (and the only country in South America) that has not acceded to the international refugee instruments. At the 15th UPR session in 2010 several recommendations were made for Guyana to accede to the 1951 Convention and its 1967 Protocol, and to initiate the drafting and adoption of national refugee legislation based on this.¹ Guyana responded that "with competing priorities for limited resources, Guyana does not consider the drafting and adoption of national refugee legislation a priority at this time."² Given the regional context and protection challenges, accession to the *1951 Convention* should be a first priority.

While Guyana 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. Creating a national plan to identify vulnerable persons will reduce Guyana's chances of inadvertently violating the *non-refoulement* principle. The UN Committee against Torture reminded the Government of Guyana "*of the absolute nature of the prohibition on expelling, returning (refouler) or extraditing a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, as established by article 3 of the Convention.*" UNHCR continues to encourage the Government of Guyana to develop formal procedures for determining refugee status.³

¹ UN Committee Against Torture (CAT), *UN Committee against Torture: Conclusions and Recommendations, Guyana*, 7 December 2006, CAT/C/GUY/CO/1, available at: <http://www.refworld.org/docid/45f6b9172.html>.

² 15th UPR session 2010, response by Guyana (A/HRC/15/14/Add.1) available at: <http://uhri.ohchr.org/en/search/results>.

³ The following recommendation were presented to Guyana during the 10th UPR session:

"70.8. Consider ratifying the *Inter-American Convention on Human Rights*, the *Second Optional Protocol to ICCPR*, the *Optional Protocol to CAT* and *the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (Brazil)*;

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 framework would provide a clearer basis for the Government of Guyana to provide refugees with international protection and a mechanism that enables the appropriate engagement of relevant international organizations like UNHCR.

As a non-State party, Guyana 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 Guyana. UNHCR is prepared to provide support to the Government of Guyana 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.

Recommendations:

UNHCR recommends that the Government of Guyana:

- Accede to the *1951 Convention*;
- Adopt national refugee legislation and develop policies and refugee status determination procedures to ensure full compliance with its obligations under the *1951 Convention*;
- Build the capacity of Government officials to successfully undertake refugee status determination, with UNHCR's technical support;
- 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.

Issue 2: Address challenges in the context of mixed migration

As other countries in the region, Guyana 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. When addressing all these aspects of migration

70.13. Ratify the remaining core human rights and other relevant international treaties, in particular **the 1951 Geneva Convention relating to the Status of Refugees and its Protocol** (Hungary);

70.14. Accede to the **1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol**, and initiate the drafting and adoption of **national refugee legislation** based on this (Germany);

70.54. Develop **domestic procedures and institutions for asylum** in order to grant proper services to persons of concern in need of international protection (Hungary);

70.55. Adopt **national legislation on refugees and asylum-seekers** (Argentina).”

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Guyana*, 21 June 2010, A/HRC/15/14, available at: <http://www.refworld.org/docid/4c591af92.html>.

movements, the Government of Guyana should take into consideration the specific situation of persons in need of international protection and persons belonging to vulnerable groups.

In this context, UNHCR welcomes the recommendation by the Committee on the Elimination of Discrimination Against Women to “*fully implement ... the Convention, including by: addressing the root causes of trafficking and prostitution...; providing training in how to identify and deal with victims of trafficking and in provisions of anti-trafficking legislation to the judiciary, law enforcement officials, border guards and social workers in all parts of the country, especially in rural and remote areas; [and] ensuring systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and exploitation of women in prostitution, and to include such data in its next periodic report; increasing cooperation at the international, regional and bilateral levels with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aimed at prosecution of traffickers; and taking the steps necessary to ensure that trafficked women and girls have access to high-quality medical care, counselling, financial support, adequate housing, training opportunities and free legal services.*”⁴

Recommendations:

UNHCR recommends that the Government of Guyana:

- Engage in an enhanced dialogue with UNHCR on the mixed migratory movements that are common in the Caribbean;
- Enhance dialogue and consultation with UNHCR regarding mixed migratory flows experienced by the country, including through consultations on individuals or groups of undocumented migrants detected in Guyana;
- Gather information on the numbers of undocumented persons known to have arrived to and/or transited the territory, the nationalities of these persons, and what steps were taken (if any) to determine whether any of these individuals had special protection needs or feared being returned to their country of origin due to violence, conflict or persecution. This information could ensure the Government of Guyana receives support from UNHCR to manage mixed migratory flows.

Issue 3: Prevention of Statelessness

Guyana is neither a State party to the *1954 Convention* nor to the *1961 Convention*. According to the current nationality law in Guyana, children born in Guyana are citizens by birth⁵, Children born outside of Guyana may be granted citizenship if either the mother or the father is a Guyanese citizen. Citizenship is not conferred automatically through marriage and requires

⁴ UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Guyana, 9-27 July 2012, CEDAW/C/GUY/CO/7-8, para. 25, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/455/60/PDF/N1245560.pdf?OpenElement>.

⁵ The Guyana Citizenship includes one exception to the *ius soli* principle “where his father or mother possess immunity from suit and legal process, as is accorded to an envoy of a foreign government, or his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.”

registration. Non-nationals who do not have a valid passport and who marry a Guyanese citizen may be deported from Guyana.⁶

Birth registration is fundamental to the protection of children of concern to UNHCR and to the prevention of 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. In 2013, the Human Rights Council adopted a resolution on birth registration and the right of everyone to recognition everywhere as a person before the law, calling upon "*States to ensure free birth registration, including free or low-fee late birth registration, by means of universal, accessible, simple, expeditious and effective registration procedures without discrimination of any kind.*"⁷ Because birth registration legally establishes the place of birth, proof of age, and parental affiliation, it serves as important documentary proof to acquire the parents' nationality or the nationality of the State in which the child is born. It also provides children with a degree of protection against child labour, illegal adoption, early marriage, sexual exploitation, and trafficking.

Recommendations:

UNHCR recommends that the Government of Guyana:

- Issue birth certificates to all children born on its territory;⁸ and
- Increase access to, and awareness of the importance of, birth registration and birth certificates, especially in rural and hinterland areas.⁹

Issue 4: Accession to the International Statelessness Conventions

Guyana is encouraged to accede to the international instruments dedicated to preventing and reducing statelessness and ensuring the protection of stateless populations. Accession to the *1954 and 1961 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

⁶ Canada: Immigration and Refugee Board of Canada, *Guyana: Citizenship laws, including methods by which a person may obtain citizenship; whether dual citizenship is recognized and if so, how it is acquired; process for renouncing citizenship and related documentation; grounds for revoking citizenship*, 25 August 2008, GUY102892.E, available at: <http://www.refworld.org/docid/492ac7c9c.html>.

⁷ Human Rights Council, *Birth registration and the right of everyone to recognition everywhere as a person before the law*, A/HRC/Res/22/7, 9 April 2013, available at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/128/19/PDF/G1312819.pdf?OpenElement>.

⁸ UN Convention on the Rights of the Child (CRC), Committee on the Rights of the Child at its 35th Session, Concluding Observations: Guyana, 26 February 2004, CRC/C/15/Add.224, para. 29-30 on Birth Registration:

29. *The Committee is concerned that, although parents are required by law to register the birth of their children, the number of children who are not registered at birth is significant, particularly in remote areas and among Amerindians.*

30. *In the light of article 7 of the Convention, the Committee urges the State party to increase its efforts, including awareness-raising campaigns, to ensure the registration of all children at birth.*

⁹ UN Convention on the Rights of the Child (CRC), Concluding Observations on the Combined Second to Fourth Period Reports of Guyana, Adopted by the Committee at its Sixty-second Session, 18 June 2013, CRC/C/GUY/CO/2-4, paras. 30-31, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GUY/CO/2-4&Lang=Sp

and the protection of stateless persons. The Office is willing to provide support to Guyana 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 aforementioned Statelessness Conventions is essential to strength international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

Recommendation:

UNHCR recommends that the Government of Guyana:

- Accede to the *1954* and *1961 Conventions*.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
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ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports - Universal Periodic Review:

GUYANA

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Guyana.

I. Treaty Bodies

Committee on the Rights of the Child

CRC/C/GUY/CO/2-4, 62nd Session

18 June 2013

Birth Registration

30. The Committee welcomes the State party's *Presidential Declaration on Universal Birth Registration* of October 2011 and the Rights of the Child Commission's recommendations, in its Assessment of Legislation, Policy and Practice report (2011), for achieving this goal with equity. However, the Committee is concerned that for children in the hinterland/remote areas, obtaining an official birth certificate after birth registration remains difficult.

The Committee recommends that the State party further raise awareness on the importance of birth registration and birth certificates. Furthermore, the Committee urges the State party to further improve measures for ensuring all children are able to have access to this, particularly in rural and hinterland areas.

Trafficking

63. While noting that the State party has measures to allow child victims to testify by video link, the Committee is concerned that there are no child witness support and protection programmes for guiding child victims and safeguarding and facilitating their situation in complaints, interrogation and testimony processes.

The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and/or witnesses of crimes, including child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, and witnesses of such crimes, are provided with the protection required by the Convention and that the State party take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20).

Committee on the Elimination of Discrimination Against Women

CEDAW, 52nd Session

9-27 July 2012

24. The Committee is concerned at the continuing prevalence of trafficking in women and girls in the country, including internal trafficking, and at the low reporting rate. The Committee is also concerned at the lack of shelters and counselling services in the State party for victims of trafficking and the exploitation of prostitution.

25. The Committee calls upon the State party to fully implement article 6 of the Convention, including by:

- a) **Addressing the root causes of trafficking and prostitution, including poverty, so as to eliminate the vulnerability of girls and women to sexual exploitation and trafficking, and to make efforts to ensure the recovery and social reintegration of victims;**
- b) **Providing training in how to identify and deal with victims of trafficking and in provisions of anti-trafficking legislation to the judiciary, law enforcement officials, border guards and social workers in all parts of the country, especially in rural and remote areas;**
- c) **Ensuring systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and exploitation of women in prostitution, and to include such data in its next periodic report;**
- d) **Increasing cooperation at the international, regional and bilateral levels with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aimed at prosecution of traffickers; and**
- e) **Taking the steps necessary to ensure that trafficked women and girls have access to high-quality medical care, counselling, financial support, adequate housing, training opportunities and free legal services.**

Convention Against Torture

CAT, 37th Session

6-24 November 2006

8. The Committee regrets the lack of information on the compliance by the State party with article 3 of the Convention.

The Committee would like to remind the State party of the absolute nature of the prohibition on expelling, returning (*refouler*) or extraditing a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, as established by article 3 of the Convention. The State party should submit in its next periodic report information regarding the implementation of article 3 of the Convention in cases of extradition, expulsion or return (*refoulement*) of foreigners.

II. Special Procedures

Report of the independent expert on minority issues

Addendum: Mission to Guyana
Human Rights Council, 10th Session
A/HRC/10/11/Add.2, 27 February 2009

Trafficking

38. The scarcity of employment opportunities for women, particularly from Afro-Guyanese and indigenous communities, is a major concern. Women, both young and older, are being forced by poverty into crime, drug use, trafficking, and prostitution. Afro-Guyanese women spoke of the failure of many men within their community to fulfil family responsibilities. High numbers of single mothers subsequently face an extremely heavy burden of care. Child neglect is a problem within Afro-Guyanese communities.

Violence against Women

3. The independent expert's evaluation of minority issues in Guyana is based on the *1992 Declaration on Minorities* and other relevant international standards, from which she has identified four broad areas of concern relating to minorities globally. These are: (a) the protection of a minority's survival, through combating violence against them and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups and the right of national, ethnic, religious or linguistic groups to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action when required; and (d) the guarantee of the right to effective participation of members of minorities in public life, especially with regard to decisions that affect them.

54. Women spoke of a disturbing culture of domestic violence, often fuelled by poverty and unemployment and exacerbated by alcohol. One woman stated that: "*It is simply true that as a society we believe in beating women and children.*" They called for greater attention to tackling root causes and to long-term initiatives rather than simply devoting funding to policing and a justice sector which they felt consistently fail women. Participants described the courtroom as "*a hostile environment for women*" in which domestic violence and abuse cases are not treated seriously if they come to court at all. Some women noted a lack of consistency and focus in policies to address access to justice for women generally, in spite of the *Domestic Violence Act*. The Government notes a number of initiatives taken to reduce violence against women and children. It consulted countrywide and passed the *Domestic Violence Act* in 1997. A new comprehensive policy document "Stamp it out" on violence against women and children has also been taken throughout the country for examination and improvement.