

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

BARBADOS

I. BACKGROUND INFORMATION

Barbados is not a State party to the *1951 Convention on the Status of Refugees* and its *1967 Protocol*. As a non-signatory state, Barbados has neither passed legislation or administrative regulations on asylum or refugee status, nor established a formal national asylum procedure. When asylum seekers are identified, UNHCR examines and decides their claims. At this time, UNHCR is not aware of any asylum seekers or refugees in Barbados.

Barbados succeeded to the *1954 Convention relating to the Status on Statelessness Persons* on 6 March 1972; however it has retained a number of reservations to provisions of the Convention.¹ Barbados is however not a State party to the *1961 Convention on the Reduction of Statelessness*. Nationality is governed by the Constitution of Barbados of 30 November 1966 (last amended in 1995) and the Barbados Citizenship Act of 1966 (last amended in 1982). The nationality framework of Barbados incorporates *jus soli* and *jus sanguinis* provisions for determination of Barbados citizenship.

Barbados, located along the chain of islands of the Lesser Antilles, is among the Caribbean countries affected by mixed migratory movements of undocumented people. However, UNHCR has little information about the nature, size, and scope of undocumented migrants arriving, going to, or transiting through Barbados. It is important that all Caribbean countries, whether countries of destination or of transit, develop their capacity to manage these movements. Such development should include mechanisms to identify undocumented migrants who may be in need of international protection.

¹ The Government of Barbados . . . declares with regard to the reservations made by the United Kingdom on notification of the territorial application of the Convention to the West Indies (including Barbados) on 19 March 1962 that it can only undertake that the provisions of Articles 23, 24, 25 and 31 will be applied in Barbados so far as the law allows. "The application of the Convention to Barbados was also made subject to reservations to Articles 8, 9 and 26 which are hereby withdrawn."

II. ACHIEVEMENTS AND BEST PRACTICES

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

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Accession to the 1951 Convention

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

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. Notwithstanding the relatively small number of cases, and the competing domestic priorities, accession to the 1951 Convention, and establishment of a national legal framework would provide a clearer basis for the Government of Barbados to provide refugees with international protection, and a mechanism that enables the appropriate engagements of relevant international organizations like UNHCR.

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

Recommendations:

UNHCR recommends that the Government of Barbados:

- Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*, and consider the passage of domestic refugee legislation and/or administrative policies, which will ensure that the country is in full compliance with international standards of treatment related to refugees, including the right to work.

- Accept UNHCR's technical support in drafting national refugee legislation, capacity building for Government officials and assistance in the development of a national refugee status determination procedure.
- Accept UNHCR's training to relevant officials to integrate 'good practices' and international standards of asylum/refugee protection into operational guidelines and procedures.

Issue 2: Preventing and Reducing Statelessness

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

The *1961 Convention on the Reduction of Statelessness* 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. An increase in the number of State parties is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

Recommendations:

UNHCR recommends that the Government of Barbados:

- Accedes to the *1961 Convention on the Reduction of Statelessness*;
- Implements a statelessness determination procedure to identify stateless persons within its territory; and
- Amends its laws to ensure equality between Barbadian mothers and fathers with respect to their ability to confer their nationality to their children in all circumstances.

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July 2012**