

Submission by the United Nations High Commissioner for Refugees

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

Universal Periodic Review: *Fourth Cycle, 43rd Session*

BARBADOS

I. BACKGROUND INFORMATION

Barbados is not a State party to the *1951 Convention relating to the Status of Refugees* nor it is party to the *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) and has neither passed legislation or administrative regulations on asylum or refugee status, nor established a formal national asylum procedure.

UNHCR supports the Government to examine and decide on claims of asylum and refer recognized refugees for third country resettlement. There are currently eight asylum-seekers in Barbados: one (1) Cuban, three (3) from Guyana, one (1) from Cameroon and three (3) from Venezuela. The Government of Barbados co-operates with UNHCR and, to UNHCR's knowledge, has not violated the principle of *non-refoulement* since the last time Barbados was reviewed the reporting period. However, more efforts are needed to strengthen the proactive identification of persons in need of international protection, so the Government does not inadvertently violate the principle of *non-refoulement*.

Migration matters are regulated by the 1966 *Constitution of Barbados*, the *Barbados Citizenship Act*, and the 1976 *Immigration Act*. Barbados has ratified the *ILO Migration for Employment Convention* in 1967, the *UN Convention Against Transnational Organized Crime* in 2014, the *Protocol Against Smuggling of Migrants* in 2014, and the *Protocol to Prevent Suppress and Punish Trafficking in Persons, especially Women and Children* in 2014. Policies regarding visa issuance and entry requirements for foreign nationals vary but all CARICOM nationals are automatically granted a six-month-stay and have less stringent entry requirements.

The *Immigration Act* is currently under revision, but UNHCR has not had the opportunity to review and comment on it. The *Immigration Act* provides that "A person who is refused permission to enter Barbados may be detained in custody by an immigration officer or a member of the Police Force in such place as the Minister approves until he is removed from Barbados." There is little available information about how many people are detained for immigration or asylum-related reasons or the extent to which the country imposes immigration detention.

Barbados has become a major destination for migrants from Guyana, Trinidad and Tobago, and OECS Member States due to "a perceived robust economy, overall high standard of living and a well-developed social services system". Barbados Coast Guard is the entity responsible for the enforcement of provisions of every law relating to the regulation of any harbor or port of Barbados, quarantine, immigration, fisheries, territorial waters and economic zones, safety at sea, the detection and prevention of the contravention of laws relating to revenue and customs, the prevention or persons from boarding, holding or clinging on to any vessel without the permission of the master of the vessel, and, if necessary, the removal of any such person from the vessel.

There is an estimated population of 35,000 Venezuelan nationals in Barbados, but there are no data available on the number of Haitians/persons of Haitian descent. There is no readmission agreements with Venezuela or Haiti in the public domain and it is not known how many Venezuelans or Haitians have been deported or have regularized their status. In 2022, a group of 33 Haitians, suspected victims of trafficking en route to Guyana, received a

six-month permit to stay under the CARICOM freedom of movement scheme within the economic community.

Barbados succeeded to the *1954 Convention relating to the Status of Stateless Persons* on 6 March 1972 and retained a number of the reservations made by the United Kingdom on notification of the territorial application of the Convention. Barbados is not a State party to the *1961 Convention on the Reduction of Statelessness*. Nationality is governed by the 1966 *Constitution of Barbados* and the 1966 *Barbados Citizenship Act*. The nationality framework incorporates *ius soli* and *ius sanguinis* provision for the determination of Barbadian citizenship. It is UNHCR's understanding that the Government intends to adopt a new *Act on Citizenship* in 2022/23.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to the 3rd cycle UPR recommendation No. 96.29 “Ratify the Convention relating to the Status of Refugees of 1951 and its Protocol and also consider the possibility of withdrawing its reservation to the Convention relating to the Status of Stateless Persons of 1954 and ratify the Convention on the Reduction of Statelessness of 1961 (Honduras)”

Although Barbados has not yet ratified the *1951 Convention* nor *1967 Protocol*, a positive step was taken when Barbados signed the *Los Angeles Declaration on Migration and Protection*, which it is hoped will enhance the protection of refugees.

Additionally, in 2019, a Haitian national requested asylum in Barbados and the Court issued a precedent-setting decision that when an individual requests asylum deportation should be stayed pending a decision by the Minister of Home Affairs.¹ The Immigration Department is now officially responsible for considering refugee and asylum claims, but it does not make any provisions for the entry and regularization of the situation of persons who move in the context for international protection. People seeking asylum can request a work permit and thereafter temporary residency through the Immigration Department and, if they need international protection, an asylum application will have to be submitted to the Immigration Department though no specific requirements nor steps are established on how to submit an asylum application.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Adoption of national refugee legislation and the establishment of a designated unit for the receipt of asylum applications

Linked to the 3rd cycle UPR recommendation No. 96.29: “Ratify the Convention relating to the Status of Refugees of 1951 and its Protocol and also consider the possibility of withdrawing its reservation to the Convention relating to the Status of Stateless Persons of 1954 and ratify the Convention on the Reduction of Statelessness of 1961 (Honduras)”

The adoption of legislation on asylum is central to the development of a State asylum system. Establishing a national asylum system helps a State to manage the arrival of persons who claim to be in need of international protection and enables asylum-seekers and refugees to enjoy the rights to which they are entitled under international law. A national asylum system establishes mechanisms to allow access to the territory of the State without discrimination for persons seeking protection, and for the fair and efficient assessment of their asylum claims. It sets out what needs to be in place so that asylum-seekers and refugees can exercise their rights and receive appropriate treatment, including attention to individuals with specific needs.

Recommendations:

¹ <https://barbadostoday.bb/2019/04/16/asylum-quest/>

UNHCR recommends that the Government of Barbados:

- a) Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* and consider including provisions on the establishment of a designated authority for receiving asylum applications, the prohibition of *refoulement* and the non-penalization clause, preventing the penalization of refugees from unlawful entry, in the revised *Immigration Act*;
- b) Adopt national legislation defining the eligibility for refugee protection, the refugee definition, procedures for refugee status determination, identity, travel documents and permits, other rights and obligations of refugees, and the role of UNHCR; and,
- c) Consider UNHCR's technical support in drafting refugee legislation, providing capacity-building for Government officials, sharing good practices and quality assurance tools.

Issue 2: Preventing and reducing Statelessness

Linked to the 3rd cycle UPR recommendations No. 96.83-85²

Barbados has succeeded to the *1954 Convention relating to the Status of Stateless Persons*. The Convention defines a stateless person, but it does not elaborate a procedure for identifying who is stateless. It is therefore in the interests of Barbados, and of the individuals to whom the Convention might apply, that legislation is adopted that guides the manner in which a stateless person is identified. Such legislation should also designate a decision-maker and establish the consequences of identifying a person as stateless.

An individual can obtain citizenship by birth in the territory, by virtue of blood descent from a Barbados citizen, by registration and through naturalization. Barbados has not yet ratified the *1961 Convention on the Reduction of Statelessness*. The articles of the Convention aim to avoid statelessness at birth. It also provides for the creation of a body to which a person who may benefit from the provisions of the Convention may apply to have his/her claim examined and to seek assistance in presenting the claim to the appropriate authority. As stipulated by the *Convention on the Rights of the Child*, which Barbados has ratified, all children, regardless of where they were born, should be registered immediately at birth. All children have a right to acquire a nationality. The nationality of a child will be determined according to the laws of the States involved; and all States require clarification of where the child was born and to whom.

Gender equality remains a concern, as Barbadian law does not permit Barbadian women to confer nationality to their children born abroad. According to *Convention on the Elimination of All Forms of Discrimination against Women*, which has been ratified by Barbados, women should have equal rights with men concerning the nationality of their children. Applying these principles will avoid both discrimination against women and the possibility that a child will inherit the status of statelessness from his/her father if he is stateless.

Recommendations:

UNHCR recommends that the Government of Barbados:

- a) Accede to the *1961 Convention on the Reduction of Statelessness*;
- b) Withdraw its reservations to the *1954 Convention relating to the Status of Stateless Persons*;
- c) Amend nationality laws to ensure gender equality between Barbadian mothers and fathers with respect to their ability to confer nationality to their children in all

² 96.83 Amend national legislation to ensure equality in nationality law, facilitating the acquisition, changing and retention of nationality and allowing mothers to transfer their nationality to their offspring regardless of whether or not they are adopted (Sierra Leone); 96.84 Amend its laws to ensure gender equality between Barbadian mothers and fathers with respect to their ability to transfer their nationality to their children in all circumstances (Germany); 96.85 Amend national legislation to reflect the fact that any child born outside of Barbados to a Barbadian citizen is entitled to citizenship by descent (Iceland).



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- circumstances;
- d) Establish a procedure for the determination of statelessness to identify stateless persons within its territory; and,
 - e) Consider UNHCR's technical support in drafting nationality legislation, providing capacity-building for Government officials, and sharing good practices.

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October 2022