

**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, 33rd Session**

DOMINICA

I. BACKGROUND INFORMATION

Dominica acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the *1951 Convention*) in 1994; however, the country has neither passed implementing legislation nor adopted administrative regulations on asylum or refugee status. Dominica is a State party neither to the *1954 Convention relating to the Status of Stateless Persons (1954 Convention)* nor to the *1961 Convention on the Reduction of Statelessness (1961 Convention)*.

Dominica does not have a protection screening process for undocumented persons arriving to, or transiting through, the territory in mixed flows who may be in need of international protection. Since Dominica does not have a formal national refugee status determination (RSD) procedure, UNHCR assesses asylum claims under its mandate. Nonetheless, UNHCR has received no asylum claims in several years. As a result, UNHCR is not aware that Dominica hosts any asylum-seekers or refugees recognized as such. Furthermore, the country has no provisions within its national constitutional and legislative framework that specifically relate to the prevention and reduction of statelessness.

Dominica is among the numerous small-island states of the Caribbean which are affected by mixed movements of undocumented persons traveling by sea and by air along the chain of islands of the Lesser Antilles. UNHCR has access to very little information about undocumented migrants arriving to or transiting through Dominica, but has previously received information suggesting that Dominica may sometimes be a point of transit for significant numbers of Haitian nationals *en route* to the French territories of Guadeloupe and/or Martinique. Dominica may also be a point of destination for some Haitian migrant workers, but UNHCR does not have information on the size or characteristics of the population of Haitian descent in the country. It is important to note that the movements of Haitians in the Caribbean region are by nature mixed movements, since Haitian asylum-seekers and refugees often travel the same routes as migrants.

Dominica and other Caribbean countries face complex mixed movement challenges related to climate change and natural disasters. In September 2017, Dominica was hard-hit by Hurricane Maria, which claimed the lives of 30 people, destroyed or damaged most homes in the country, and caused damages and losses exceeding USD 1.3 billion.¹ In addition to residents who were internally displaced in collective centres, residents of Dominica sought refuge in neighbouring countries, including in Trinidad and Tobago on a temporary basis on humanitarian grounds.

¹ World Bank. "Dominica's path to resilient recovery after Hurricane Maria." 2 July 2018. <https://reliefweb.int/report/dominica/dominica-s-path-resilient-recovery-after-hurricane-maria>

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

The Government of Dominica has remained open to cooperating with UNHCR in the provision of services to asylum-seekers, refugees and stateless persons. In the first cycle of the Universal Periodic Review (UPR), the Government accepted the recommendations to “cooperate with [UNHCR] in drafting national refugee legislation; making every effort to comply with the recommendations of UNHCR and the ILO committee of Experts on migration, refugees and asylum, especially to prevent the criminalization of those who enter or leave the country without authorization and consider the possibility of adopting domestic legislation to implement its international commitments and establish procedures for [refugee protection]”.² National authorities have also expressed interest in participating in the Caribbean Migration Consultations (CMC), a regional process which was established by Caribbean countries in 2016, with the support of UNHCR and IOM, to strengthen cooperation for the protection of refugees and stateless persons. The CMC serves as a State-led platform to discuss common challenges and good practices to ensure coordinated, rights-based and effective management of issues related to migration and forced displacement in the region. While the Government of Dominica was unfortunately unable to participate in the 2017 Meeting of the CMC as envisaged, the Government expressed interest in engagement, and it is anticipated that Dominica will be represented in future meetings and initiatives in the framework of the CMC.

Nonetheless, as UNHCR is unaware of any specific policies or practices used by the Government of Dominica to identify asylum-seekers or refugees within mixed movements (including lack of information about state policies on detention of undocumented persons) and has not received any referrals of, or inquiries about specific cases of asylum-seekers, refugees or stateless persons, it is difficult for UNHCR to comment on achievements and best practices.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Protection of asylum-seekers and refugees

Similar to neighbouring Caribbean States, Dominica is located in a complex mixed flows environment and susceptible to the arrival of irregular migrants. Limited resources are available to Caribbean governments in general to cope with the undocumented arrival of non-nationals, and the international donor community pays insufficient attention to mixed movement challenges in the Caribbean region. Furthermore, other national priorities often take priority over the issue of undocumented migration. These are challenges which are faced throughout the region and constrain more pro-active engagement on the issues.

According to the information available to UNHCR, the Government of Dominica has not knowingly violated the principle of *non-refoulement*. However, more efforts are required to strengthen the identification of persons in need of international protection, so that the Government does not inadvertently breach the *non-refoulement* principle.

UNHCR is prepared to provide technical support to the Dominican Government 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 the national capacity to manage mixed flows. UNHCR is

² Report of the Working Group on the Universal Periodic Review, Dominica, A/HRC/13/12, 4 January 2010, at par. 70 (point 51).

also prepared to provide technical assistance for a Caribbean cooperation plan to address protection-at-sea situations or other challenges that are of a regional nature.

Recommendations:

UNHCR recommends that the Government of Dominica:

- (a) Adopt national refugee legislation and/or develop administrative regulations, policies and procedures to ensure full compliance with its obligations under the *1951 Refugee Convention* and to provide a clearer basis for the international protection of refugees;
- (b) Develop a national refugee status determination procedure and building the capacity of Government officials to undertake refugee status determination, with UNHCR's technical support;
- (c) Enhance dialogue and consultation with UNHCR in relation to the mixed flows experienced by the country, including through consultations on individuals or groups of undocumented migrants detected in Dominica's territory;
- (d) Engage in the Caribbean Migration Consultations (CMC) to promote regional cooperation and the exchange of best practices for strengthening the protection of refugees, asylum-seekers and other vulnerable migrants;
- (e) Facilitate full and open access to asylum procedures for persons who have expressed a fear of return to their country of origin and ensure *non-refoulement* of all persons in need of international protection; and
- (f) Gather disaggregated data regarding undocumented persons known to have arrived to and/or transited in the territory, and the steps taken (if any) to determine whether any of these individuals had special protection needs.

Issue 2: Prevention of statelessness and protection of stateless persons

Dominica is a State party neither to the *1954 Convention* nor to the *1961 Convention*. 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.

The *1954 Convention* ensures 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.

The Government of Dominica has remained open to cooperating with UNHCR, although, to UNHCR's knowledge, it has not expressed a specific commitment towards statelessness issues. The country lacks specific provisions in its national legislation to either avoid situations of statelessness or to extend protection to stateless individuals who are lawfully present.

UNHCR has mandate responsibilities to address statelessness with regard to the identification, prevention and reduction of statelessness and the protection of stateless persons.³ In view of this, and given the current domestic protection framework and the lack of legal mechanism to prevent statelessness, the Office is willing to provide support to the country in the field of statelessness.

Recommendations:

UNHCR recommends that the Government of Dominica:

- (a) Accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness;
- (b) Request UNHCR's advice and technical assistance to accede to the statelessness conventions and develop a domestic protection framework on statelessness; and
- (c) Engage in the Caribbean Migration Consultations (CMC), which provides a regional platform for Caribbean countries to discuss common challenges and promote consistent approaches toward migration, including the situation of stateless persons.

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³ The Office's responsibilities were initially limited to stateless persons who were refugees. However, in order to undertake the functions foreseen by Articles 11 and 20 of the 1961 Convention, UNHCR's mandate was expanded to cover persons falling under the terms of that Convention by General Assembly Resolutions 3274 (XXIX) of 1974 and 31/36 of 1976. The Office was entrusted with responsibilities for stateless persons generally under UNHCR Executive Committee Conclusion 78, which was endorsed by the General Assembly in Resolution 50/152 of 1995. Subsequently, in Resolution 61/137 of 2006, the General Assembly endorsed Executive Committee Conclusion 106 which sets out the above mentioned four broad areas of responsibility for UNHCR.

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

DOMINICA

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 DOMINICA.

I. Universal Periodic Review (Second Cycle – 2018)

| Recommendation ⁴ | Recommending State/s | Position |
|--|----------------------|-----------|
| Ratification of international instruments | | |
| 93.2 Ratify the International Convention on the Elimination of All Forms of Racial Discrimination; | France | Supported |
| 93.10 Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as previously accepted; | Denmark | Supported |
| 93.20 Step up its efforts and strengthen its measures to ensure gender equality by ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; | Netherlands | Supported |
| 93.22 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance; | France | Supported |
| 93.24 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; | Sierra Leone | Supported |
| 93.27 Prioritize the need to become party to the Convention on the Prevention and Punishment of the Crime of Genocide, taking into account the fact that the Commonwealth of Dominica is party to the Rome Statute of the International Criminal Court; | Ghana | Supported |
| 93.28 Ratify International Labour Organization (ILO) Convention No. 189 concerning decent work for domestic workers; | Uruguay | Supported |
| 94.5 Ratify the Optional Protocols to the International Covenant on Civil and Political Rights; | Portugal | |
| Sexual and gender-based violence | | |
| 93.54 Undertake an assessment of active policies for the protection of the rights of women and strengthen mechanisms for tackling gender-based violence, with particular emphasis on employment, education and awareness-raising, as well as the system for compiling data on gender-based violence; | Spain | Supported |
| 93.55 Ensure compliance with its international obligations through the implementation of effective legislative and other measures to protect women and girls from domestic and sexual violence, including sexual harassment, by prohibiting sexual harassment, and establishing the administrative procedures by which sexual harassment complaints can be investigated and perpetrators held accountable; | Canada | Supported |

⁴ All recommendations made to Dominica during its 2nd cycle UPR as well as its replies and views can be found in: "Report of the Working Group on the Universal Periodic Review of Dominica" (26 June 2014), A/HRC/27/9, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/067/16/PDF/G1406716.pdf?OpenElement>

| LGBTI | | |
|--|--------------|-------|
| 94.15 Intensify its efforts to reduce discrimination based on gender and sexual orientation; | Portugal | Noted |
| 94.16 Make every effort to reduce discrimination based on sexual orientation and consider abolishing all legislation which entails constraints to the realization of the rights of the lesbian, gay, bisexual and transgender population, including laws which criminalize sexual relations between consenting adults of the same sex; | Brazil | Noted |
| 94.17 Decriminalize homosexuality and combat discrimination based on sexual orientation or gender identity; | France | Noted |
| Death penalty | | |
| 94.25 Maintain the de facto moratorium on the death penalty and consider abolishing the death penalty all together; | Slovenia | Noted |
| 94.26 Establish a moratorium on executions with a view to abolishing the death penalty; | Sierra Leone | Noted |
| 94.27 Take all necessary measures to establish a formal moratorium on executions, with a view to abolishing the death penalty; | Brazil | Noted |
| 94.28 Consider adopting a de jure moratorium on the death penalty soon, with a view to abolishing the death penalty; | Italy | Noted |
| 94.33 Align the definition of children in all juridical instances and ensure that no life sentence is applied to any child under the age of 18 years; | Mexico | Noted |