

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report -
Universal Periodic Review:
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 does not have a protection screening process for undocumented persons in need of international protection arriving to, or transiting, the territory in mixed migratory flows.

Since Dominica does not have a formal national refugee status determination (RSD) procedure, asylum claims would be assessed by UNHCR through its mandate refugee status determination (RSD) procedure; however, no asylum claims have been received by UNHCR for a number of years. As a result, UNHCR is not aware that Dominica hosts any asylum-seekers or refugees recognized as such.

Dominica is among the numerous small-island states of the Caribbean, which are affected by mixed migratory movements of undocumented persons moving by sea and by air along the chain of islands of the Lesser Antilles. UNHCR has access to very little information about the nature, size and scope of undocumented migrants arriving to or transiting through Dominica, but has 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, although UNHCR has no 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 economic migrants.

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)*. Furthermore, the country has no provisions within its national constitutional and legislative framework which specifically relate to the prevention and reduction of statelessness.

II. ACHIEVEMENTS AND BEST PRACTICES

The Government of Dominica has remained open to cooperating with UNHCR in the provision of services to asylum-seekers, refugees and stateless persons. In fact, in the last 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]”.¹

Nonetheless, as UNHCR is unaware of any specific policies or practices used by Dominica to identify asylum-seekers or refugees within mixed migratory 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 migratory 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 the migratory challenges in the Caribbean region. Furthermore, other national priorities normally 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 violate the *non-refoulement* principle, due to gaps in the legislative and policy framework and/or gaps in the knowledge of immigration, customs or police personnel who come into contact with undocumented persons on Dominica’s territory.

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 its capacity to manage mixed migration flows. UNHCR is also more than willing to provide technical assistance for a Caribbean cooperation plan to address problems like rescue-at-sea situations that are of a regional nature.

¹ Report of the Working Group on the Universal Periodic Review, Dominica, A/HRC/13/12, 4 January 2010, at par. 70 (point 51).

Recommendations:

UNHCR recommends that the Government of Dominica:

- 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;
- Develop a national refugee status determination procedure and building the capacity of Government officials to undertake refugee status determination, with UNHCR's technical support;
- Enhance dialogue and consultation with UNHCR in relation to the mixed migratory flows experienced by the country, including through consultations on individuals or groups of undocumented migrants detected in Dominica's territory;
- Facilitate full and open access to asylum procedures for persons who have expressed a fear of returning to their country of origin and to ensure *non-refoulement* of all persons in need of international protection;
- 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, if shared with UNHCR, could be a valuable tool for enhancing engagement and ensuring that the Government of Dominica receives support from UNHCR to manage mixed migratory flows.

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. In spite of its openness regarding refugee issues, Dominica has not, to UNHCR's knowledge, expressed a similar commitment towards statelessness issues and, in fact, 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.² 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:

- Accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness;
- Introduce a statelessness determination procedure to identify stateless persons within Dominica and to afford them protection;
- Request UNHCR's advice and technical assistance to accede to the statelessness conventions and develop a domestic protection framework on statelessness.

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September 2013**

² 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.