



**COMMEMORATIVE PROCESS OF THE 30th ANNIVERSARY
OF THE CARTAGENA DECLARATION ON REFUGEES
"CARTAGENA+30"**

Caribbean Regional Consultation
Grand Cayman, Cayman Islands, 10-11 September 2014

REPORT AND SUMMARY RECOMMENDATIONS

I. Introduction

The fourth consultative meeting of the commemorative process of the 30th Anniversary of the Cartagena Declaration on Refugees ("Cartagena Declaration") took place in Grand Cayman, hosted by the Cayman Islands, on 10 and 11 September 2014.

The Participating States to the regional consultation were: The Bahamas, Belize, the Cayman Islands, Cuba, Curaçao, Haiti, Jamaica, Saint Lucia, Suriname, Trinidad and Tobago, as well as the Turks and Caicos Islands.

Brazil, the European Union, Mexico, the United Kingdom and the United States of America also attended the meeting as observers, as well as representatives from the International Maritime Organization (IMO), the International Organization for Migration (IOM), the Norwegian Refugee Council, regional civil society organizations and the academia.

The regional meeting was inaugurated by His Excellency, Mr. Franz Manderson, Acting Governor and Deputy Governor of the Cayman Islands, who recalled how helpful was the assistance and technical support received from UNHCR in 1994. He encouraged participants to propose ground-breaking recommendations. The Honourable Mr. Alden McLaughlin, Premier of the Cayman Islands, reminded participants about the importance of striking a balance between migration issues, national concerns and the protection of asylum-seekers, refugees and stateless persons. His Excellency the Acting Governor and the Honourable Premier concurred on the dangers of maritime movements and called upon participating States to join efforts to promote and protect human rights, including international refugee law.

In her welcome remarks, the UNHCR's Director for the Americas, Mrs. Marta Juarez, briefed participants on the forward-looking vision of the commemorative process of the 30th anniversary of the Cartagena Declaration on Refugees. She informed the meeting on the main outcomes of the three previous sub-regional consultations: Buenos Aires (18-19 March, 2014), Quito (10-11 June, 2014) and Managua (10-11 July, 2014) as well as of the final Ministerial Meeting to be held in Brasilia, on 2 and 3 December 2014. She underlined the importance of Cartagena as an international brand for refugee protection. She also pointed out that the *Cartagena+30* process promotes the identification of regional

contemporary protection challenges and responses and that the Caribbean should be an important part of it.

Mr. Shelly Pitterman, UNHCR Regional Representative for the USA and the Caribbean, explained that the agenda of this regional consultation builds on the main conclusions of The Bahamas Regional Conference on the Protection of Vulnerable Persons in Mixed Flows (May 2013), namely: 1) considering the establishment of a regional consultative migration process; 2) enhancing national and regional capacities to handle mixed migration flows; and, 3) more effectively identifying solutions for refugees and migrants in mixed migration flows. A fourth agenda item was introduced to reflect latest developments related to the protection of stateless persons and the prevention and reduction of statelessness.

A set of recommendations, to be discussed during the two-day meeting, was shared by civil society organisations on issues relating to mixed migration movements, refugee status determination, durable solutions and statelessness, highlighting the specificities of the Caribbean region and the need for enhanced regional cooperation and solidarity.

During the discussions, participating States presented the following issues as inputs for the new Declaration and Plan of Action:

II. Mixed migration

The panellists highlighted the challenges Caribbean countries and territories face in dealing with increasing mixed migration movements, given extensive, porous maritime borders, with limited financial, human and material resources. The main issue is how to secure border integrity while respecting the rights of migrants and other individuals, providing international protection to those in need, and encouraging countries of origin to address root causes that lead people to move. Given the tragic loss of life at sea, the importance of undertaking awareness campaigns on the risks involved in irregular migration was also underscored. In light of this, it was recommended that a Caribbean approach to mixed migration should be incorporated into the forthcoming Brazil Declaration and Plan of Action to reflect the specificities of the region.

Delegates underlined the need for an effective regional responsibility mechanism, expressing concern about the disproportionate impact of irregular migration on a few island states in the Caribbean and acknowledging the resulting problems of unequal burden-sharing.

Delegates reaffirmed the need to identify refugees and other persons with specific needs among the wider flows of irregular migration. In order to do so, they stressed the importance of protection-sensitive entry mechanisms and differentiated procedures. On the issue of multi-stakeholder cooperation and emergency preparedness, the contingency plan for irregular migration in the Turk and Caicos Islands, which includes a chapter on humanitarian responses, was mentioned as a good practice.

Delegates also highlighted the need to enhance regional cooperation and partnerships throughout the Americas (and beyond) in order to improve the management of mixed migration movements in the Caribbean with due respect to international and regional protection standards. In this vein, the importance of UNHCR's 10 Point Plan of Action for dealing with mixed migration movements was also mentioned.

Closer cooperation among countries in the sub-region was considered crucial to effectively manage mixed migratory movements. As part of a regional responsibility-sharing mechanism, delegates recommended the development of a regional consultative process on migration issues among Caribbean countries that might be developed within existing

regional platforms, such as CARICOM and the Organisation of Eastern Caribbean States (OECS), with the technical support of UNHCR and IOM.

Delegates pointed out that such a regional consultative process would be an appropriate mechanism to harmonise data collection and analysis systems, exchange information and good practices, build bilateral and regional capacities, provide practical and effective responses to challenges in the protection of refugees, stateless persons and migrants and foster cooperation among States.

Delegates highlighted and commended the existence of bilateral and multilateral agreements as important tools to address irregular migration in the region and they considered that in these agreements appropriate protection safeguards should be incorporated, in particular, the right to seek asylum and the respect of the principles of *non-refoulement* and confidentiality.

In the context of maritime movements, protection at sea is a prominent feature of the Caribbean region, particularly during interception, disembarkation and return procedures. For this purpose, the applicability of the International Convention on Maritime Search and Rescue and the UN Convention on the Law of the Sea were recalled as providing the international framework for the protection of those in distress. The representative of the IMO pointed out the importance of the international guidelines for shipmasters on how to rescue and protect people in distress at sea. It was also mentioned that this year's UNHCR High Commissioner Dialogue will provide an opportunity to further discuss and exchange experiences with other regions of the world on the challenges posed by protection at sea, where the Caribbean should be duly represented.

Given the concerns related to migrant smuggling and trafficking in persons, delegates recommended to further enhance the identification and protection of those in need and their referral to the corresponding national protection mechanisms, including asylum procedures when pertinent. They also underlined the need to strengthen international cooperation among countries of origin, transit and destination.

Civil society organizations called upon States to exchange good practices when dealing with mixed migration movements, particularly as regards alternatives to detention, and proper screening of persons in need of international protection. They further recommended avoiding detention of asylum-seekers and refugees.

Finally, it was underscored that regional responses require financial support also from the international community, as part of a responsibility-sharing approach.

III. Refugee status determination

Taking into account that most States and territories in the Caribbean have acceded and/or ratified the international instruments on refugees, the current agenda is chiefly related to the establishment of refugee status determination procedures. In a context of increased numbers of asylum-seekers and refugees coming to the region, efforts are underway to establish and/or strengthen asylum mechanisms in several Caribbean countries. Refugee legislation has been enacted in Belize, the Cayman Islands and the Dominican Republic. In the Turks and Caicos Islands an Immigration Ordinance is being developed that will contain a specific chapter on asylum. Asylum policies have been adopted in Jamaica, and Trinidad and Tobago. The Bahamas has set up a Refugee Unit and conducts refugee status determination.

The panel introduced the experience related to refugee status determination procedures in both the Cayman Islands and Trinidad and Tobago. In the case of the Cayman Islands, the national legal framework foresees a differentiated procedure for asylum-seekers and economic migrants. Trinidad and Tobago presented its recently adopted refugee policy which includes a time-bound phased approach towards assuming full responsibility for refugee status determination, with the technical cooperation of UNHCR, including the development and adoption of national legislation on refugees.

Roadmaps, such as the phased approach adopted in Trinidad and Tobago, were found to be valuable as a regional practice to help developing asylum systems in other countries and territories. Such a State practice should take into account the characteristic and realities of other Caribbean States.

During the plenary session, delegates welcomed new capacity-building initiatives and opportunities for cross-fertilization in the Americas. In this connection, the development of a regional capacity-building strategy and other areas for collaboration, including the use of a regional pool for "asylum services", were also considered. Other suggestions that were presented for further deliberation were the establishment of a regional forum to exchange good practices on refugee status determination procedures and the implementation of programmes, such as the Quality Assurance Initiative (QAI), put into practice by Mexico.

IV. Durable Solutions

The panellists presented experiences of durable solutions for refugees in the Caribbean and in the Americas, highlighting the need to move forward the achievement of durable solutions in the region in a spirit of innovation and enhanced solidarity. The discussion evolved around the importance of having a comprehensive strategy to consider all possible solutions tailored to regional possibilities, including the facilitation of local integration. For this purpose, a rights-based approach should be contemplated and regularization programmes and migration schemes could come into play. The issue of durable solutions for refugees could be further discussed in other regional fora, such as the Community of Latin American and Caribbean States (CELAC) and CARICOM.

As concrete regional examples, Belize described the Amnesty Programme conducted in 1999-2000 to regularise 3,608 Central American refugees. Jamaica shared information on the naturalization process that allows refugees to acquire Jamaican nationality. Curaçao commented on schemes based on which the status of select groups of migrants was regularised in its territory.

Some of the participants shared experiences on the advantages of integrating refugees within local communities, promoting a non-discriminatory environment and self-sufficiency. Good practices on local integration were also exchanged among participants that acknowledge that local integration can be fostered through a legal framework that allows for the regularisation of status, access to employment, education and health facilities and refugee inclusion into national programs. In addition, it was mentioned that regularisation plans and migration policies might be effective complementary tools to promote the integration of refugees. The importance of adopting national policies on refugees was mentioned as a good practice by Brazil, which is in the process of elaborating a National Plan for the Integration of Migrants and Refugees, through a participatory process involving migrants and refugees.

Upon UNHCR's suggestion, the Caribbean countries and territories, as well as destination countries, discussed the benefit of establishing a central transfer mechanism where refugees in need of resettlement could be interviewed and processed. This mechanism would overcome practical obstacles related to the dispersion of refugees throughout the region, accelerate access to resettlement as a durable solution and contribute to the diversification of resettlement countries. The participants coincided in the opinion that more consideration should be given as regards to the scope and practical aspects of this proposal, including financial implications, how travel between countries would take place, the agreement of a host country, the use of existing accommodation arrangements, freedom of movement, and potential pull factors, among others.

The civil society recommended that States in the Caribbean shall develop and implement public policies to facilitate the full local integration of refugees by providing proper personal documentation, including work permits for asylum-seekers and refugees, access to basic services and enjoyment of available economic opportunities, and facilitate naturalisation.

V. Statelessness

In introducing the issue of statelessness, both delegates from Jamaica and Suriname referred to national and regional situations that might lead to statelessness. UNHCR briefed participants on the efforts to eradicate statelessness in the Americas in the coming 10 years, as a regional goal within UNHCR's global campaign.

As part of the presentations, it was recalled that the OAS's General Assembly invited Member States to use the commemorations of the 30th anniversary of the 1984 Cartagena Declaration and the 60th anniversary of the 1954 Convention relating to the Status of Stateless Persons to identify the challenges and the actions necessary to eradicate statelessness in the Americas and to include a chapter on the subject in the future Plan of Action of Brazil.

In this regard, the participants in the meeting highlighted the need of enhancing regional cooperation and developing a framework to prevent statelessness and address the specific protection needs of stateless persons. The relevance of the guidelines provided by the 2010 Declaration of Brasilia on the Protection of Refugees and Stateless Persons in the Americas and the OAS's resolution on statelessness was also mentioned by delegates.

The meeting reviewed the main recommendations on statelessness of the previous sub-regional consultations, held in Buenos Aires and Managua, namely the proposal to: 1) promote the accession and/or ratification to the 1954 and 1961 Conventions; 2) address possible gaps in nationality laws; 3) reinforce civil registration systems, in line with UNHCR's Executive Committee Conclusion N° 111 (2013); 4) enact national frameworks to ensure the rights of stateless persons; 5) establish administrative procedures to determine stateless status; 6) facilitate the naturalization of stateless persons; 7) promote confirmation of nationality; and, 8) restore nationality, when appropriate.

Moreover, among the issues to be considered as proposals that might contribute to the efforts to eradicate statelessness participants in the meeting mentioned the need to further encourage States to access and/or ratify both 1954 and 1961 Statelessness Conventions and to incorporate international standards into domestic law; it was also stressed the need to build national capacity to address statelessness, including through training activities; and conduct awareness and sensitisation campaigns addressed to border control and law enforcement officers. Where applicable, it was suggested for States to build on existing

structures for refugee protection to conduct statelessness status determination and issuance of documentation to facilitate proof of citizenship.

Civil society organizations additionally recommended States to refrain from producing discriminatory nationality regulation, protect against the arbitrary deprivation of nationality, eliminate gender discrimination in nationality law, and ensure that every child is immediately registered at birth.

Finally, participants thanked the contribution and effective moderation of Ambassador Emeritus, Rosario Green and Judge Antonio Cançado Trindade, two of the principal experts of the *Cartagena+30* process. Participants also thanked the Government and the people of the Cayman Islands for the warm welcome and hospitality they extended to this regional consultation.

Grand Cayman, 11 September 2014