

REPORT ON THE CARIBBEAN MIGRATION CONSULTATIONS – REFUGEE PROTECTION HOSTED BY THE GOVERNMENT OF THE BAHAMAS

FROM 4-6 December 2017

The Second Meeting of the Caribbean Migration Consultations (CMC) - Refugee Protection was hosted by the Government of the Commonwealth of The Bahamas from 4-6 December 2017, with the logistical and technical support of the UN High Commissioner for Refugees (UNHCR). Representatives of the governments of Anguilla, Antigua and Barbuda, Aruba, The Bahamas, Belize, the Cayman Islands, Cuba, Grenada, Guyana, Haiti, Montserrat, Saint Kitts and Nevis, Saint Lucia, Sint Maarten, Suriname, Trinidad and Tobago, Turks and Caicos, the United States of America participated, as well as representatives of the International Organization for Migration (IOM), CARICOM and the CARICOM Implementing Agency for Crime and Security (IMPACS). The agenda for the meeting was based on the conclusions and recommendations of States who participated in the First Meeting of the Caribbean Migration Consultations (CMC) in December 2016 hosted by the Government of Trinidad and Tobago. The meeting also allowed participants to discuss developments in the region related to refugee protection, statelessness and large scale forced displacement and contribute to the tri-annual evaluation of the “Solidarity with the Caribbean” Chapter of the Brazil Plan of Action.

I. Opening of the CMC

The Minister of State and Legal Affairs gave welcoming remarks to the delegation present for the conference, in which he noted that The Bahamas was responsible for coining the term “Caribbean Migration Consultations” to refer to the new regional forum to address mixed migration issues, including within the framework established and agreed to by States in the Brazil Plan of Action in 2014.

The Bahamas Assistant Director of Immigration delivered opening remarks, welcoming participants and highlighting that The Bahamas was promoting a “rights-based” approach to mixed migration. Outlining the objectives of the Brazil Plan of Action, he spoke about the “growing challenges” of xenophobia and climate change also affecting displacement. He noted the growing number of refugees in the region, which he said was likely to further increase, given global dynamics. He concluded that the CMC discussions are therefore timely and relevant.

The Chief Immigration Officer of Trinidad and Tobago gave opening remarks in her capacity as Chair of the 2016 CMC meeting in Port of Spain. She noted that forced displacement can affect anyone, and referred to the recent hurricanes and the situation in Venezuela, which has had an impact on the Southern Caribbean in particular. She encouraged States to treat those arriving on their shores in the same manner they wished to be treated if the same were to happen to them. Speaking of the situation of Trinidad and Tobago, she noted the arrival of growing numbers of Venezuelans, with already more than 1600 asylum-seekers registered in the country. She urged States to recognize that the situation was likely to deteriorate further, with more countries throughout the Caribbean being affected.

UNHCR’s Regional Representative also gave welcoming remarks and thanked The Bahamas for hosting the CMC meeting. Referring to the increasingly complex phenomenon of mixed migration and the largest refugee crisis globally since World War II, he highlighted UNHCR’s efforts to realize the objectives set out in the New York Declaration adopted by the UN General Assembly in September 2016, by contributing to the development of the Global Compact on Refugees. The

CMC presented an excellent opportunity to give more visibility to efforts in the Caribbean and facilitate much-needed support from the international community for the implementation of its recommendations.

Finally, the IOM Regional Coordination Officer for the Caribbean, *in his opening remarks, thanked and congratulated the government of the Bahamas and UNHCR for organizing this thematic meeting on refugee protection organized in the framework of the CMC.* He noted that this meeting came at a critical moment in time, as States have come together to develop the Global Compacts on the Rights of Migrants and Refugees. He highlighted this as a moment of opportunity for international cooperation, and to foster dialogue between countries for safe and orderly migration in the Caribbean.

II. Expectations and Context for the Meeting

Following the opening session, the Chief Immigration Officer of Trinidad and Tobago gave an overview of the genesis of the CMC process, including the outcomes of the 2016 meeting hosted in Port of Spain. Next, participants presented themselves and shared their main expectations for the CMC meeting. Several countries were eager to participate in an exchange of best practices, and stressed the need for increased information-sharing, practical forms of collaboration and networking at the regional level to address challenges related to refugee protection and migration in the Caribbean. Registration, regional cooperation, security/border management and capacity-building were all raised as areas of particular interest. CARICOM suggested to include migration issues in its 2018 agenda. More information and sensitization was needed to develop coordinated policies and effectively address new challenges, such as forced displacement as a result of natural disasters. The Bahamas summarized the various expectations for the meeting, and noted that several countries hoped to learn more about refugee status determination, alternatives to detention, issues related to protection-at-sea, while others underscored that refugee protection was a new issue for them, but one that was becoming increasingly relevant in the region, and that there was a growing need for capacity-building. Finally, to put this current CMC session into context, UNHCR and IOM respectively presented on the Global Compact on Refugees and the Global Compact on safe, orderly and regular migration.

III. Thematic sessions

a. Practical Tools for Refugee Protection

In follow-up to the request made by participants at the 2016 CMC meeting, UNHCR presented a draft Checklist for a Comprehensive Asylum System. This was followed by an overview of UNHCR's identity management and registration mechanisms to address mixed migration flows in a protection-sensitive manner. In the discussions that followed, numerous States raised issues related to verification of the identity of persons with missing or false documents. UNHCR shared various methods through which to use interviewing and other means of information-gathering to verify nationality and the facts needed to make determinations on refugee status. CARICOM raised the lack of capacity of Caribbean States to effectively address these issues, given their small size, limited resources and the disproportionate impact of large-scale influxes and natural disasters. UNHCR noted that more effective responsibility-sharing arrangements were in fact the objective of the Global Compact on Refugees and that resources would be made available to those States who pull their weight, and that such support may come in different forms of assistance and development.

b. Triennial Evaluation of the Implementation of the Brazil Plan of Action

The Government of The Bahamas opened the session with a reminder of the commitments made with the adoption of the Brazil Declaration and Plan of Action in 2014. In order to prepare for the tri-annual evaluation of the implementation of the Brazil Plan of Action, Caribbean countries had been asked to complete a questionnaire focusing on the “Solidarity with the Caribbean” Chapter of the Brazil Plan of Action, with a view to a) assessing progress and achievements; b) identifying and exchanging good practices and lessons learned and c) identifying persistent challenges and areas that required further efforts and international cooperation.

All States agreed that the creation of the Caribbean Migration Consultations in 2016 and States’ active engagement in this new regional forum presented an important achievement. Caribbean countries all considered regional cooperation essential to address their challenges in the field of refugee protection and mixed migrations. The CMC included refugee protection among its key priorities. Countries noted that they were establishing procedures, adopting policies and SOPs/internal regulations on refugee protection. There was a high level of commitment to adopt protection-sensitive entry mechanisms and progressively develop asylum systems throughout the region. Countries agreed on the importance of harmonized SOPs for the identification of vulnerabilities and protection needs.

c. Statelessness in the Caribbean

The Government of Haiti presented on the risks of statelessness for its citizens, arising from challenges of ensuring effective birth registration. Noting that 300,000 children are born every year in Haiti, it was highlighted 1 in every 5 children have no birth certificate, rendering Haiti a “high risk country” for statelessness. Haiti recently acceded to the 1954 and the 1961 Statelessness Conventions in March 2017, and underscored that future prospects to address and resolve statelessness in Haiti will depend on collective efforts and solidarity with UNHCR.

The Bahamas presented on its efforts to reform the national Constitution since 2002. Noting that the 2002 Referendum was badly timed and lacked the necessary information campaign, another Constitutional Commission was formed in 2012 with a view to focus citizenship provisions. Notwithstanding the execution of an extensive public information campaign in 2016, a combination of factors led to another rejection of proposed changes by the electorate. Noting that both administrations have demonstrated the political will to address the inconsistent treatment of men and women in the Bahamian Constitution, and the current Prime Minister announced in November 2017, his Government’s intention to make changes to legislative changes to existing statutory provisions to effectively ensure that the children of all “natural born” Bahamian men and women have the same ability to confer citizenship irrespective place of birth or marital status.

States such as Trinidad and Tobago, Saint Lucia and Grenada explained that prior to independence, citizenship was acquired similarly to The Bahamas – including through registration for children born on the territory to non-citizen parents. Upon attaining independence however, they modified how citizenship was acquired, and now apply the principle of *jus sanguinis* and *jus soli*. Trinidad and Tobago further noted that changes to their Constitution were made retroactive. UNHCR contributed that in reality statelessness is a ‘man-made’ problem with solutions, and given the good legal framework in the Americas, the former HC proclaimed that Americans could be the first region in the world to eradicate statelessness. UNHCR further noted that since 2014, the BPA has triggered action in many countries, throughout the Americas, including the Caribbean. Jamaica acceded to the 1961 Convention in 2014, Belize in 2015 and the Parliament of Haiti approved the accession to both international statelessness conventions in March 2017.

Suriname eliminated gender discrimination from its nationality laws in 2014, and The Bahamas demonstrated a clear intent to do so.

Guyana indicated that Guyanese citizenship is acquired by descent, therefore as long as at least one parent was Guyanese, the child acquires Guyanese citizenship. However, their issue, similar to Haiti, is related to the risk of statelessness due to lack of documentation, particularly for the rural Amerindian communities that live on the border with Brazil. Guyana is attempting to address this issue by instituting a system whereby witnesses can attest to births. Suriname noted similar difficulties in registering populations on the interior of the country, clarifying that while there are no estimates of the number of children affected, there are nevertheless concerns, especially since if a child's parents does not have legal status the child must wait until 18 to apply for citizenship. If a child is born in Suriname to immigrants, the child will have the nationality of its parent. Haiti raised the impracticalities of its birth registration process, which must be completed within one month, but there also was noted a procedure for late registration.

In response to an intervention from Belize on late registration and fraud, UNHCR indicated both Brazil and Costa Rica have a special procedure for late registration; and Haiti offered that since 2014, its Government had undertaken to renew passports every five years to those without a birth certificate, in order to avoid fraud. The problem it faced however was the issuance of birth certificates in particular in light of lack of capacity, equipment and natural disasters.

CARICOM used the example of the advocacy surrounding the 2013 Constitutional Court decision in the Dominican Republic to encourage States galvanize around key issues. Pointing to the political 'firestorm' that ensued following the actions of the DR, the strong advocacy from Caribbean Governments helped to influence the DR to address concerns raised for the persons of Haitian descent affected by the Court ruling. As a result, Law 169 was passed in 2014, validating the birth certificates and re-acquisition of nationality for persons born in the DR between 1929-2010.

d. Progress Made Since the First CMC

Three states – Trinidad and Tobago, The Bahamas, and Belize – presented on significant developments since the last CMC in 2016. Trinidad and Tobago discussed the Quality Asylum Initiative (QAI), which it embarked upon to implement its 2014 Refugee Policy and with a goal to build a solid national asylum system based on transparency, efficiency and due process principles. Key points included the phased transfer of responsibility for refugee status determination (RSD) from UNHCR to the Government; looking at what steps could be taken even in the absence of refugee legislation, including establishing and training members of a Refugee Unit; ongoing training of immigration officers and the development of an action plan including tools and procedures (applications forms, information kit for applicants) to ensure access to asylum. The Chief Immigration Officer also informed about plans to participate in regional capacity-building initiatives, such as with Canada and with the US. The Bahamas then presented on the development of its Migration Working Group, chaired by the Attorney General's Office, which had been set up in follow-up to the 2014 Regional Conference held in the Cayman Islands in the context of the commemorations of the 30th Anniversary of the Cartagena Declaration (leading up to the Brazil Declaration and Plan of Action). The Migration Working Group brought together diverse stakeholders and focused on the effective implementation of The Bahamas' obligations as a party to various UN human rights treaties. In the absence of any specific refugee legislation, one of the main tasks of the Migration Working Group was the development of detailed Standard Operating Procedures (SOPs) for the asylum process. The Bahamas also announced that, as the very first country within the Caribbean region, it had just developed ICAO machine-readable 1951 Convention Travel Document for refugees. Finally, Belize presented on the Comprehensive

Refugee Response Framework (CRRF) and the Comprehensive Regional Protection and Solutions Framework (CRPSF). Central America was selected as one of two pilot regions globally to participate in this new initiative developed as a result of the New York Declaration on Refugees and Migrants adopted in September 2016 by the UNGA. Belize noted that the migration movements (including refugees) from northern Central America are mainly the result of gang violence in El Salvador, Honduras and Guatemala, but also socio-economic factors. Following national consultations held with a large variety of stakeholders Belize participated in the San Pedro Sula Conference held on 26 October 2017, to address mass displacement with the overarching goal of strengthening regional solutions. Belize referred to its positive legal framework, but expressed interest in participating in the Quality Assurance Initiative to strengthen the process, through engagement with regional as well as international partners. Given the important challenges related to refugee protection, the Ministry of Immigration had been renamed as “Ministry of Immigration and Refugees”. The Belizean representative encouraged other Caribbean Governments to visit its Refugee Department, refugee communities throughout the country and learn from its experience.

The discussion that followed focused largely on the use of 1951 Refugee Convention Travel Documents (CTDs) in the Caribbean region. There were questions raised by CARICOM member states regarding the use of the CTDs and its implications for the free movement of persons within the CARICOM area. Other countries (such as Belize and The Bahamas) noted the rights of refugees to have freedom of movement, and the reality that such documents are currently issued by the United States, Canada and several European countries. The Bahamas discussed its experience with allowing persons to enter on those travel documents and clarified that the travel document does not assign citizenship or nationality, but rather, facilitates travel and allows them to return to the country which assigned them the travel document, and that visas can be issued into those travel documents. UNHCR noted convention travel documents as a refugee right under Article 28 of the 1951 Convention and commended The Bahamas for being the first state in the Caribbean to develop them under the new machine-readable standards of the ICAO. Meanwhile, in terms of lessons learned from the countries with legislation, policy and SOPs on refugees in the Caribbean, The Bahamas noted delays in the process of having cabinet approve all asylum applications, and Belize noted its Refugee Eligibility Committee structure under the legislation.

e. Protection in situations of large-scale forced displacement

CARICOM IMPACS presented on the CARICOM Crime and Security Strategy (CCSS), which includes a focus on strengthening mechanisms against human trafficking, and improving resilience to disasters among other critical security issues. In 2012, CARICOM IMPACS classified migratory pressure in the region as a future risk (Tier 4), but said that now, if re-classified, it would likely put migratory pressure as a substantial threat (Tier 2); and noted that the risks in the region are now currently under review in relation to the CCSS. The Caribbean region is vulnerable to mass migration as result of issues such as climate change and natural disasters. Additionally, issues such as civil unrest in neighbouring countries for example, the current situation in Venezuela could result in large-scale forced displacement. Regional collaboration is now essential to address the risks and challenges related to mass migration or forced displacement. Major challenges included the limited resources (human, financial and technical), lack of policies and procedures. Addressing these through a Regional Migrant Response Plan was critical to keeping the citizens of the Caribbean region safe and secure while providing a safe and secure environment for those persons entering through forced displacement. Next, Antigua and Barbuda presented on its recent experience evacuating and accommodating 1,500 people internally displaced by Hurricane Irma from Barbuda to Antigua, including the logistical challenges involved. They worked across multiple actors to ensure safe reception arrangements, a database for registering, profiling and processing all evacuees, and a way to analyze and allocate

resources, personnel and volunteers, and assign options of accommodation, food, shelter, and meet any special needs, including psychosocial support for people who were traumatized. Antigua also welcomed Dominicans who were displaced after Hurricane Maria. Lessons learned included the need to see things from the perspective of affected persons, and the need to have a plan, and not assume “this will not happen to us.” She noted that no country can do it on their own, and the importance of collaboration, including the CMC platform, to address these challenges. In the discussion that followed, CARICOM noted the important role of CDEMA in responding to disasters in the region, including when this results in mass migration, whether internal displacement or from one country to another, and Guyana and St. Kitts also shared their recent experiences with accommodating persons displaced by disasters.

f. Alternatives to Detention (ATDs) and local integration: Good Practices

Suriname discussed its recent steps taken to issue stay permits to asylum-seekers, which allow them to work legally. The Immigration Act of 1991 (SB 1992 no. 3) of Suriname includes refugee protection norms, with Articles 8 and 26 on non-refoulement, and Articles 10, 16 and 17 on legal stay for asylum-seekers and refugees. The presenter explained the Government planned to adopt a general ministerial declaration, which would provide a stay permit to refugees for 2 years; exempt them from work permit requirements; and ensure non-refoulement. There was also an innovative effort to have an online application process for asylum-seekers to obtain these permits. *Next, the Cayman Islands presented on its policies and procedures relating to persons arriving irregularly in the Territory. It was emphasized that these procedures needed to be understood in the context that the Cayman Islands is not the destination of first choice for the majority of persons interdicted traveling irregularly. Whether a person is detained is based on an assessment of risk and identification of special needs during reception screening, e.g. minors, females, persons with health issues, persons posing a danger. Some categories of person will never be held in the Immigration Detention Centre: unaccompanied minors, persons who are pregnant or accompanying a related minor, or where detention may put a person’s safety at risk. As an alternative to detention, migrants may be formally landed with permission to remain or placed in the care of a community member, church group or NGO aid agency. Migrants are also sometimes accommodated at hotels/guest houses, community civic centres and private homes. Persons who apply for asylum while residing in the Islands will also not be detained unless a particular risk is identified. A number of risks related to the use of alternatives to detention were also identified. The Cayman Islands is also currently preparing amendments to immigration legislation to establish an independent appeals tribunal whose sole function will be to deal with asylum-related appeals.*

IV. Identification of Priorities and Next Steps

Participants broke into three discussion groups, led by the three countries that had led CMC meetings to-date, namely, The Bahamas, Trinidad and Tobago, and Belize. The groups discussed the following topics:

Priority issues for 2018

How the CMC can serve as a platform for addressing these priority issues

What support is needed from UNHCR, IOM and CARICOM to accomplish this?

Groups then reported back on their discussions in plenary.

The group chaired by Trinidad and Tobago identified that there is a clear need to formalize and document the CMC, its history, what it is, and what it is intended to do, so that when new players come on the scene, they will be aware and will be able to carry on what those countries involved

previously have intended to do with this platform. There is a need to formalize and come up with a structure for the CMC and elect a chair. It was suggested that the host country would be the chair, supported by the previous country, and whoever elects to host the next CMC. It was noted that IOM could help to formalize the structure of the CMC to have something solid going forward. Through the CMC platform, SOPs could be developed for a wide range of things, not just for the CMC, but also SOPs for border management, asylum, refugee status determination, etc. There is a need for training, including interviewing techniques. The CMC could also help to develop a glossary of relevant terms and acronyms. It would be helpful for the CARICOM Secretariat to make a presentation at the next meeting, regarding its structure, what it is (and it is important to note not all countries are members of CARICOM).

From the group chaired by Belize, there was the recommendation that all member countries pass legislation on refugee protection, and the suggestion that they use the UNHCR model law as a resource. Ideas were presented for study visits, from one country to another, to see how other jurisdictions address the same issues. There was also an identified need for assistance with organization and information-sharing. Regarding the support that participants requested be provided by UNHCR, IOM and CARICOM, it was noted that funding, human and technical support were needed. It was also noted that the specialized agencies could help with comparative analysis, to look at the various countries' laws and policies and see how they compare to one another. There was also the idea for a website to share information, and use the IOM system to do so.

From the group chaired by The Bahamas, priorities included the need for local training and sensitization support across governments to process and treat refugees in a humane manner, and for capacity-building of officials. There was discussion of the need for training at the PS and Minister level. Contingency planning for natural disasters was also discussed. Individual countries identified either developing legislation or acceding to relevant conventions as priorities, including the conventions on statelessness, and looking more closely at potential statelessness within their borders. Other countries are prioritizing training. Still other countries with asylum systems already in place were prioritizing strengthening particular aspects, like the refugee appeal procedure. Regarding how the CMC can serve as the platform to address priority issues, the idea was to have an MOU among nations, to identify a clear mandate, and activities the CMC will engage in, with agreements on data management, and more. There was an idea for there to be a timeline for adopting SOPs or developing other steps in the asylum procedures, and have a categorization of the different current status of various countries, and then what would indicate steps towards development, including getting SOPs, legislation, etc. and then to set goals to move steps forward gradually, in a common timeframe (for example, the next 5 years, or next 10 years). The CMC could sponsor UNHCR to conduct training sessions, with a training-of-trainers model, in a regional setting, but then go back to their countries to do more training locally. There could also be regional workshops, in a setting like this, to reinforce these topics. Beyond that, the CMC could tie in these efforts to other platforms, like those that address human trafficking. CARICOM could help to integrate this with other regional forums, like the Ministers meetings, and the regular CIOs meetings. Regarding support from UNHCR, IOM and CARICOM, there was the discussion of providing financial and human resources. There was also discussion of UNHCR providing standardized legislation and SOPs to serve as a template.

Two countries – Aruba and Guyana have already indicated an interest in possibly hosting the Third Caribbean Migration Consultations in 2018.