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Current state of social protection legislation in Barbados and the Organization of Eastern Caribbean States from a human rights perspective



RIGHT TO FOOD STUDY

Current state of social protection legislation in Barbados and the Organization of Eastern Caribbean States from a human rights perspective

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Contents

List of Tables	v
Acknowledgements	vi
List of Abbreviations and Acronyms	vii
1. Introduction	1
2. Methodology and structure of the paper	4
3. The OECS and Barbados political and legal system	6
3.1 Revised Treaty of Basseterre	7
3.2 Monism or dualism? A dilemma affecting the enforcement of international human rights treaties –and social rights– in the OECS and Barbados	8
4. Ratification of international human rights instruments by Barbados and the OECS	10
4.1 Universal human rights treaties	10
4.2 Inter-American human rights system	11
5. The OECS and Barbados social protection programmes and legislation	13
5.1 Antigua and Barbuda	13
5.2 Barbados	17
5.3 Dominica	20
5.4 Grenada	24
5.5 Saint Kitts and Nevis	28
5.6 Saint Lucia	32
5.7 Saint Vincent and the Grenadines	35
6. A human rights-based approach to social protection	39
7. Linkage between the right to social protection and the right to food	42

8. Analysis of the need for social protection legislation in OECS and Barbados	44
8.1 Social protection programmes and legislation	44
8.2 Ensuring an adequate legal framework for social protection programmes	47
9. Recommendations and minimum standards for a social protection model legislation in OECS and Barbados	49
10. Conclusions	53
References	55
Bibliography by country	58
List of legislation and regulations	61
Annex 1. Questionnaire	63
Annex 2. List of contact persons in Barbados and OECS	64
Annex 3. Declaration emanating from the sub-regional workshop on strengthening legal frameworks for social protection in OECS and Barbados in the context of improved governance for food and nutrition security and economic development	65



List of Tables

TABLE 1: Ratification of international human rights treaties including social rights	11
TABLE 2: Antigua and Barbuda social protection programmes	15
TABLE 3: Barbados social protection programmes	18
TABLE 4: Dominica social protection programmes	22
TABLE 5: Grenada social protection programmes	25
TABLE 6: Saint Kitts and Nevis social protection programmes	30
TABLE 7: Saint Lucia social protection programmes	34
TABLE 8: Saint Vincent and the Grenadines social protection programmes	37
TABLE 9: Elements of a social protection model legislation	50



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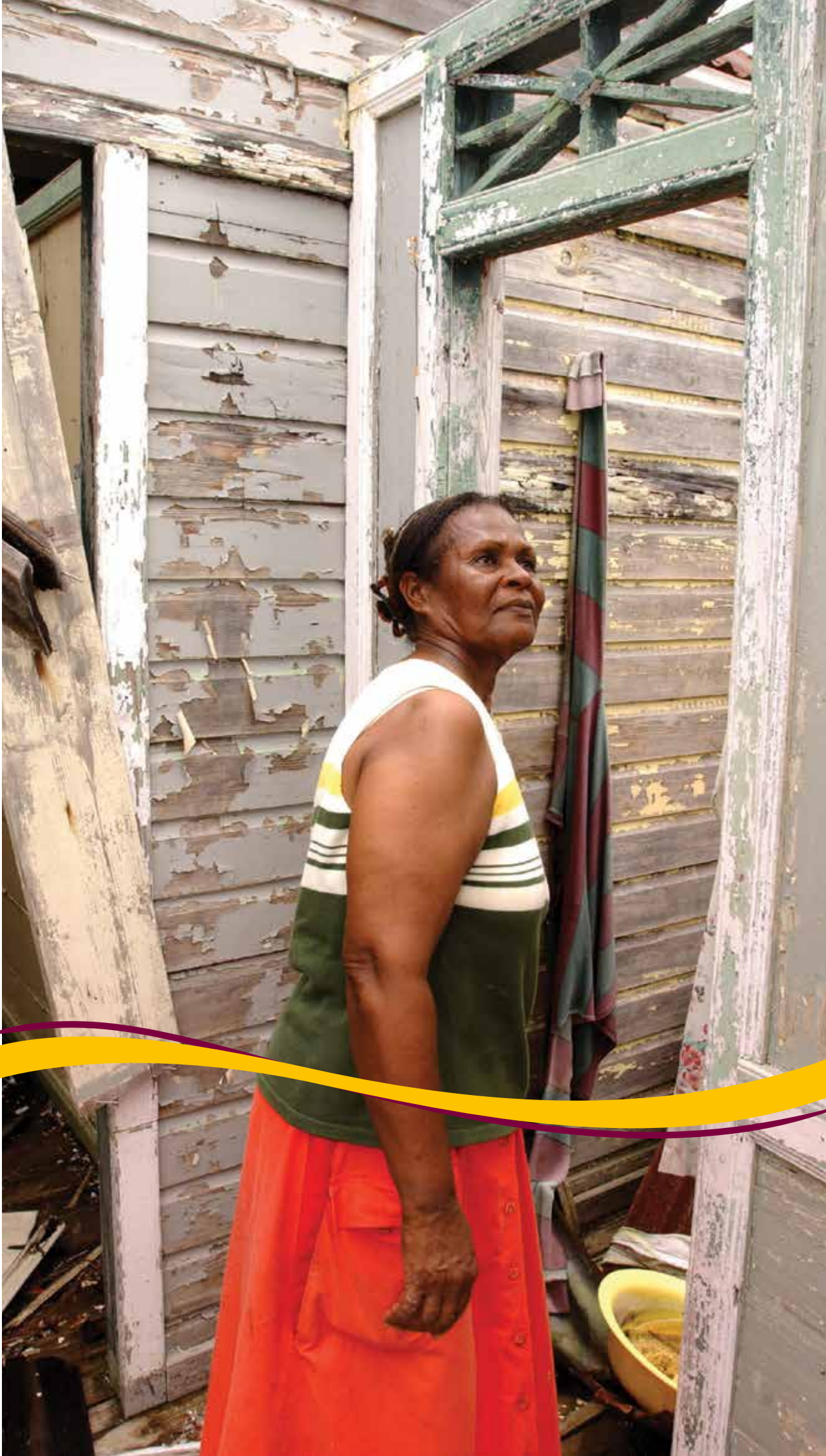
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See FAO. 2015. *Report of the sub-regional workshop on strengthening the legal frameworks for social protection in the Organization of Eastern Caribbean States and Barbados*. Co-hosted by OECS Commission and FAO, 4th-5th June, 2014, Bay Gardens Hotel, Saint Lucia.



List of Abbreviations and Acronyms

APUA	Antigua Public Utilities Authority
CARICOM	Caribbean Community
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
FAO	Food and Agricultural Organization of the United Nations
ICESCR	International Covenant on Economic, Social and Cultural Rights
MEND	Mold, Empower, Nurture and Direct – Families Programme in Saint Kitts and Nevis
OAS	Organization of American States
OECS	Organisation of Eastern Caribbean States
Right to Food Guidelines	Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security
SEED	Support for education, Empowerment and Development (Grenada)
RFNSP	Regional Food and Nutrition Security Policy (October 2010)
RFNSAP	Regional Food and Nutrition Security Action Plan
UNICEF	United Nations Children’s Fund
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review





1. Introduction

This document was produced as FAO's contribution to the UN Joint Programme *Enhancing Equity: Ensuring a Social Protection Floor for Poor and Disadvantaged Women, Men, Girls and Boys in Barbados and the OECS, 2013–2015* (UNDAF, 2013), outcome 2, *National child and gender responsive social protection legal and policy framework for Barbados and the OECS improved*, item D.3.4 *Develop sub-regional model social protection law*.

The primary goal of this document is to perform a comparative analysis, from a human rights perspective, of the current state of legislation and programs related to social protection in Barbados and the Member States of the Organization of Eastern Caribbean States (OECS).¹ Consideration must be given to the need for revision and updating of legislation and the future preparation of a social protection model law for this sub-region.

The scope of the study is non-contributory social protection and income transfers in cash or in kind, that provide a minimum income and livelihood security for poor and vulnerable populations. This includes children, older persons, people with disabilities, and people of active age with insufficient income.

Social protection seeks to integrate a variety of measures for building fairer and more inclusive societies, and guaranteeing a minimum standard of living for all. In particular, social protection is seen as a fundamental mechanism for contributing to the full realisation of the economic and social rights of the population, which are laid out in a number of series international human rights instruments, such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). These international human rights instruments recognize the rights to social security, labour, the protection of adequate standards of living for individuals and families, as well as the enjoyment of greater physical and mental health and education (Robles and Vargas, 2012).

¹ The OECS includes: Antigua and Barbuda, the Commonwealth of Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines.

As the human rights framework governing these international conventions recognizes human beings as rights holders and States as duty bearers, State accountability for the provision of social protection is pivotal. Legislation should therefore serve to support State policy and practice pertaining to the provision of social protection.

According to ILO Recommendation No. 202,² a group of principles should guide the design of a social protection floor, which includes: non-discrimination, gender equality and responsiveness to special needs, entitlements to benefits prescribed by national law, and efficient and accessible complaint and appeal procedures.

National social protection floors should comprise at least the following four social security guarantees, as defined at the national level:

- a. access to essential health care, including maternity care;
- b. basic income security for children, providing access to nutrition, education, care and any other necessary goods and services;
- c. basic income security for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and
- d. basic income security for older persons.

Such guarantees should be provided to all residents and all children and subject to existing international obligations. National laws and regulations should specify the range, qualifying conditions and levels of the benefits giving effect to these guarantees (ILO, 2012).

In its General Comment No. 19 (2008) on social security, the Committee on Economic, Social and Cultural Rights (CESCR) noted that all persons should be covered by the social security system, especially individuals belonging to the most disadvantaged and marginalised groups. This should be without discrimination. In order to ensure universal coverage, non-contributory schemes will be necessary (CESCR, 2008, para. 23).

Moreover, the Committee has established that States' parties to the ICESCR have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of the right to social security as follows:

- a. Ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will, as a minimum, give access to essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.
- b. Ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged and marginalised individuals and groups.
- c. Take targeted steps to implement social security schemes, particularly those that protect disadvantaged and marginalised individuals and groups.
- d. Monitor the extent of the realisation of the right to social security.
- e. Adopt all appropriate measures such as legislation, strategies, policies and programmes to ensure that the specific obligations with regard to the right to social security will be implemented (CESCR, 2008, para. 59).

² Recommendation concerning national floors of social protection (Social Protection Floors Recommendation), 2012 (No. 202).

As all human rights are indivisible, interdependent and interrelated, social protection programmes must be designed and implemented with due regard to other human rights, in particular other economic and social rights. It is clear that the right to food and the right to social protection are complementary human rights and that the creation of appropriate safety nets is one way of fulfilling the obligation to provide food and achieve food security.

The CARICOM (Caribbean Community) Regional Food and Nutrition Security Policy and Action Plan³ has emphasized that food and nutrition security is a multi-dimensional and multi-sector issue; its achievement requires holistic and concerted action on a wide front, encompassing, *inter alia*, health, nutrition, social welfare, education and information. The attainment of food and nutrition security requires appropriate social welfare support and productive safety nets for vulnerable populations. Moreover, according to the Regional Food and Nutrition Security Action Plan, guaranteeing access to food it is necessary to diminish inequality in income distribution by the implementation of social safety net programmes and the strengthening of legal entitlements of vulnerable households and individuals to social assistance and security through legislative reform and improved recourse mechanisms.

Here, the need arises to review the existing laws in Barbados and the OECS to identify legislation relevant to the right to social protection and social protection programmes and to identify and assess, *inter alia*, the following:

- the legal basis of the programmes and whether beneficiaries have legally enforceable rights;
- coverage and transparency of eligibility criteria (universal or targeted; ceiling on numbers of beneficiaries; non-discrimination (gender, migrants, etc.));
- special measures to ensure inclusion of disadvantaged groups;
- institutional accountability;
- appeal mechanisms;
- participation of civil society.

Through this comparative assessment, this paper aims to stimulate debate on whether current social protection programmes are statutorily founded and human rights, and determine the need for adoption of a social protection model legislation that may serve to encourage the process of legislative reforms in Barbados and OECS.

3 The CARICOM Secretariat led a highly consultative process, with support from FAO, which culminated in the formulation and approval of the Regional Food and Nutrition Security Policy (RFNSP) in October 2010 and the Regional Food and Nutrition Security Action Plan (RFNSAP) in October 2011.



2. Methodology and structure of the paper

This study first summarises the special situation involving the legal and institutional traditions of Barbados and OECS Member States, in particular the degree to which signatory states to international human rights treaties related to economic and social rights, have integrated the relevant provisions into domestic legislation. This section is followed by a profile of each of the countries that are part of this study, including the identification and analysis of their legislative frameworks, social protection programmes and their correspondence to universally accepted international human rights standards.

The paper then examines the main characteristics that human rights based social protection systems should contain. The paper concludes with recommendations for a social protection model law for the region.

The research methodology consisted of extensive desk reviews of existing legislation and programmes in Antigua and Barbuda, Barbados, Grenada, Dominica, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines. Additionally, this paper draws on a wide body of research, including review of country specific social safety net assessments and secondary sources, including global and regional reports on social protection and the situation of vulnerable population in the OECS and Barbados.

To assist in the preparation of this report, questionnaires were sent to participating Governments, requesting detailed information about their various social protection programmes. The questionnaire addressed: (i) the legal and institutional framework; (ii) implementation procedures; (iii) monitoring mechanisms and complaints procedures. Questionnaire responses were received from Grenada, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines (see questionnaire in Annex 1 and a list of persons who provided information in Annex 2).

The paper also includes information garnered from the Third Caribbean Workshop on Social Protection and International Cooperation organized by the Organization of American States and the Inter-American Social Protection Network in Barbados on 26–27 September 2013. Participants from governments, United Nations agencies, World Bank, the Caribbean Development Bank and the European Union attended the meeting and contributed to the discussion about social protection programmes in OECS and Barbados.

It should be noted that given the difficulties of acceding country level data, this document is not intended to be exhaustive and cover all social protection programmes in place or to assess the actual level of implementation and efficiency of national legislation in each country. It only seeks to serve as a conceptual framework and mapping of existing legislation and programmes, and highlight the gaps in order to provide information that may inform a series of recommendations for improving legal frameworks regarding social protection in OECS and Barbados.

Finally, the initial findings and recommendations of this study were validated at a sub-regional workshop on strengthening the legal frameworks for social protection in the OECS and Barbados co-hosted by the OECS Commission and FAO in June 2014 in Saint Lucia (FAO, 2015). The workshop was attended by government representatives and key international agencies and their comments and suggestions received have been duly incorporated in the final version of this study.

A Declaration (reproduced in Annex 3) adopted at the workshop validates the findings and main conclusions of this study and recommends its publication.



3. The OECS and Barbados political and legal system

The Caribbean region is one of great political, historical, legal and linguistic diversity. It is composed of thirteen independent island states including nine English-speaking former British colonies. It also includes three independent countries located in the Caribbean basin, i.e., Belize, Guyana and Suriname, which have close cultural and historical ties with these island states. A number of British, Dutch, French and United States of America's territories and protectorates are also part of this region. A few countries in the region are still dependent territories of the United Kingdom, among them Anguilla, the British Virgin Islands, the Cayman Islands and Montserrat (Morlachetti, 2013).⁴

In 1981, seven Eastern Caribbean countries signed the Treaty of Basseterre, creating the Organisation of Eastern Caribbean States (OECS). The OECS include the following full members: Antigua and Barbuda, Commonwealth of Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines. Anguilla and the British Virgin Islands are associate members of the OECS.

The OECS is administered by a Secretariat located in Saint Lucia. It is headed by the Director General who is responsible to the Authority (Heads of Government). It also has the Assembly, which is comprised of Members who are representatives of the members of the Parliament and of the members of the Legislatures of the Member States. Among the OECS' objectives are promoting cooperation among Member States; assisting Member States in the realisation of their obligations and responsibilities to the international community with due regard to the role of international law as a standard of conduct in their relationships; seeking to achieve the harmonisation of legislation among the Member States and seeking to adopt, as far as possible, common positions on international issues.

The nine countries also share a common Supreme Court: The Eastern Caribbean Supreme Court, with its two divisions, the High Court and the Court of Appeal. High Court judges are based in each Member State, but the judges of the Court of Appeal are residents of Saint Lucia and travel to each territory to hear appeals from the High Court. Final appeals go to the Privy Council in the United Kingdom.

⁴ Although geographically located in the Caribbean, Cuba and Dominican Republic are usually considered part of Latin America, according to political, linguistic and historical criteria.

Barbados, though not a member of the OECS, works in conjunction with OECS Member States and Barbados and the OECS are members of the Caribbean Community (CARICOM).⁵

Barbados and all of the current full and associate members of OECS are past or present British dependencies (Anguilla, the British Virgin Islands and Montserrat remain overseas territories of the United Kingdom). As former colonies of the United Kingdom and present members of the British Commonwealth upon achieving independence beginning in the early 1960s, these countries retained key features of British law and politics, including Westminster-style parliaments and common law legal systems. Caribbean nations deviated from the British model, however, by adopting written constitutions that endorsed judicial review and a rule of constitutional supremacy over legislative and executive action (Antoine, 2005). In the case of Saint Lucia, the country changed hands between the English and French fourteen times, resulting in a hybrid legal tradition. This may be described as a unique mixture of the English common law, French civil law, and indigenous law (Antoine, 2005).

The analysis of the constitutions, which are the primary legal, institutional and political foundation of a country, already shows a significant difference between the Caribbean and Latin America. Almost all Latin American constitutions recognize the protection and promotion of economic, social and cultural rights, including the right to the highest attainable standard of health, education and social security.

By contrast, most constitutions of Caribbean countries belonging to the Commonwealth (e.g. Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Vincent and the Grenadines) only establish the structure and form of government and recognize civil and political rights, but grant limited or no recognition to social rights (Morlachetti, 2010). Only civil and political rights constitute accepted categories of human rights, as they are enshrined in a number of global and regional agreements, as well as protected in the Bill of Rights provisions in Caribbean constitutions, which concerns basic civil and political entitlements, such as the right to life, the right to due process and protection of law, the protection of private property, the right to privacy and family life, and freedom of association.

3.1 Revised Treaty of Basseterre

A revised Treaty of Basseterre, written to establish the OECS Economic Union, was ratified on 18th June 2010 and entered into force in January 2011. The Revised Treaty and the Protocol of Eastern Caribbean Economic Union commits OECS Member States to undertake joint actions and pursue joint policies on matters such as social protection, social policies, statistics, education and free movement of persons. Most significantly, the Revised Treaty establishes subsidiarity and makes a provision for the enactment of community law and policy.

Specifically, the Protocol of Eastern Caribbean Economic Union commits Member States to:

- Set developmental objectives, including employment, poverty reduction, and attainment of the appropriate levels measured by Human Development Indices as set by the United Nations (Art. 13.1,2).

5 The Caribbean Community and Common Market (CARICOM) was established by the Treaty of Chaguaramas, which was signed by Barbados, Jamaica, Guyana and Trinidad & Tobago and came into effect on August 1, 1973. The revised Treaty of Chaguaramas (2001) changed the name to Caribbean Community. Subsequently the other Caribbean territories joined CARICOM. Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. Anguilla, Bermuda, British Virgin Islands, Cayman Islands and Turks and Caicos Islands are CARICOM Associate Members (see www.caricom.org).

- Harmonise social policy programme areas (Art. 13.3).
- Create fair and equitable access to inclusive education and training opportunities for all citizens (Art. 22).
- Create an environment conducive to learning by developing and implementing education policies, standards and programmes based on human rights values such as universality, participation, non-discrimination, protection and equality (Art. 22.2).
- Adopt policies and programmes supportive of gender equity (Art. 22.4).
- Promote sustainable social and cultural development that ensure societies that are stable, safe and just and that are based on the promotion and protection of human rights, non-discrimination, respect for diversity, equality of opportunity, solidarity, security, and participation of all people (Art. 23).
- Work towards the development and adoption of a harmonised, common policy framework for human and social development which addresses poverty reduction, gender equality, social protection, equal access to quality social services, human resource and capacity development, livelihood security and empowerment across the life cycle (Art. 23.1.a).
- Achieve the international goals of eradicating extreme hunger and poverty, universal primary education, promoting gender equality, reducing child mortality, improving maternal health, combating diseases, ensuring environmental sustainability, and developing a global partnership for development (Art. 23.1.b).
- Facilitate the effective participation of all sectors of the society in the decision-making processes at community and national levels (Art. 23.1.c).
- Strengthen the capacity of Protocol Member States to monitor and assess social development policies and programmes to ensure efficiencies, effectiveness and impact of social development programmes (Art. 23.1.d).
- Provide the enabling legislative, policy and administrative environment needed to support social relations and cohesion for children, youth, men and women in the Economic Union Area (Art. 23.1.f).
- Ensure equality of access to opportunities available within the Economic Union to persons with disabilities and other vulnerable and socially excluded groups (Art. 23.1.i).

3.2 Monism or dualism? A dilemma affecting the enforcement of international human rights treaties –and social rights– in the OECS and Barbados

The relationship between international and domestic law has been conceptualised under two principal schools of thought: monism, whereby international law is per se part of domestic law without need to legislate it into law, and dualism, a contrasting system in which treaties and other documents lack legal effect unless they have been incorporated into domestic law.

In the British Commonwealth, the ratification of most treaties was the sole prerogative of the executive. By giving treaties non-self-executing status, common law dualism ensured that the parliament retained primary authority over the domestic implementation of a ratified treaty, thus providing an important check on the executive's treaty power. For at least the last two centuries, courts throughout the British Commonwealth have followed a fairly strict dualist approach to treaties, generally refusing to grant legal effect to treaties that have not been legislatively incorporated into domestic law (Waters, 2007).

The majority of Caribbean countries follow the common law system observed in most British Commonwealth States. In those countries, the domestic effect of treaties is dependent upon “legislative incorporation”, meaning that the provisions and rights recognized in human rights treaties do not become national law unless they have been enacted as legislation. Therefore, the incorporation of international human rights rules into domestic legal systems implies a process of “internalisation”. This incorporation occurs when national judiciaries give a treaty direct effect or when national legislatures transpose a treaty into a constitution or statute.

The Caribbean Court of Justice,⁶ in the case *Attorney General v. Joseph*, affirmed that Barbados and the other Commonwealth Caribbean Member States of CARICOM are dualistic states following the British tradition (Anderson, 2012).

In summary, human rights treaties, in order to be domestically enforceable, must be converted into domestic law by the Parliament or through administrative provisions by administrative bodies. Unless it is incorporated into national regulatory procedures, an international standard in itself is not part of domestic law, and this is the case for most of these countries (O’Donnell, 2004 and Morlachetti, 2010).

The national reports submitted by Antigua, Grenada and Saint Lucia in the context of the Universal Periodic Review,⁷ explicitly stated that in countries with a dualist legal system, the international human rights instruments to which they are a party cannot form the basis for legal proceedings in the nation’s domestic courts. In order for persons to secure the rights formulated in these international instruments, which can be adjudicated upon in the courts, Parliament must first enact legislation for the purpose of giving effect to the international instruments to which the country is a party (Antigua and Barbuda, 2011, para. 10; Grenada, 2010, para. 28; Saint Lucia, 2011, para. 26).

6 The Caribbean Court of Justice (CCJ) is the regional judicial tribunal and was inaugurated on April 16, 2005. The Caribbean Court of Justice has been designed to be more than a court of last resort for Member States of the Caribbean Community. For, in addition to replacing the Judicial Committee of the Privy Council, the CCJ will be vested with an original jurisdiction in respect of the interpretation and application of the Treaty Establishing the Caribbean Community. In effect, the CCJ would exercise both an appellate and an original jurisdiction.

7 The Universal Periodic Review (UPR) was created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council itself. The UPR involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations.



4. Ratification of international human rights instruments by Barbados and the OECS

4.1 Universal human rights treaties

Several countries in the Caribbean have not ratified key treaties for the recognition of human rights and, in particular those that relate to social rights. Therefore, they are not directly obliged by human rights standards established by these treaties. They are also not subject to the monitoring mechanisms for these treaties, which monitor the progress and regression of the situation of human rights in a given country.

Antigua and Barbuda, Saint Kitts and Nevis and Saint Lucia have not ratified the ICESCR. Antigua and Barbuda, Grenada, Saint Kitts and Saint Lucia have not ratified the CRPD and only Saint Vincent and the Grenadines has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (see table 1 below).⁸

With regards to the ICESCR, Barbados' second report to the Committee on Economic, Social and Cultural Rights has been overdue since 1991. Dominica, Grenada and Saint Vincent and Grenadines have never reported to the Committee.

CRC: Convention on the Rights of the Child

ICESCR: International Covenant on Economic, Social and Cultural Rights

CRPD: Convention on the Rights of Persons with Disabilities

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

ICRMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

⁸ United Nations Treaty Collection (available at <http://treaties.un.org>). Updated as of February 2015.

TABLE 1: **Ratification of international human rights treaties including social rights**

Countries/Treaties	CRC	ICESCR	CRPD	CEDAW	ICERD	ICRMW
Antigua and Barbuda	5 Oct 1993	–	–	1 Aug 1989	25 Oct 1988	–
Barbados	9 Oct 1990	5 Jan 1973	27 Feb 2013	16 Oct 1980	8 Nov 1972	–
Dominica	13 Mar 1991	17 Jun 1993	1 Oct 2012	15 Sep 1980	–	–
Grenada	5 Nov 1990	6 Sep 1991	27 Aug 2014	30 Aug 1990	10 May 2013	–
Saint Kitts and Nevis	24 Jul 1990	–	–	25 Apr 1985	13 Oct 2006	–
Saint Lucia	16 Jun 1993	–	–	8 Oct 1982	14 Feb 1990	–
Saint Vincent and the Grenadines	26 Oct 1993	9 Nov 1981	29 Oct 2010	4 Aug 1981	9 Nov 1981	29 Oct 2010

Barbados and OECS Member States have received recommendations by the Working Group on the Universal Periodic Review to consider the ratification of those treaties to which they are not parties, submit overdue reports to the corresponding treaty bodies⁹ and additionally, in view of the existence of the dualist system for the implementation of international conventions, enact domestic laws to make sure that there is real enforcement of the international instruments to which they are parties.

Barbados and OECS Member States have ratified the Convention on the Rights of the Child (CRC), but they have slowly and scarcely adapted their legislation to the Convention. The Committee on the Rights of the Child has repeatedly expressed concern that the legislation in the region does not adequately incorporate the general principles recognized in the Convention. In this regard, the Committee on the Rights of the Child, in its concluding observations, has asked Antigua and Barbuda (2004), Grenada (2010), Dominica (2004), and Saint Lucia (2014) to take all necessary measures to ensure that their legislation and/or implementation conforms fully to the principles and provisions of the Convention and ensure their effective implementation.

4.2 Inter-American human rights system

At the Inter-American level, Barbados and OECS are members of the Organization of American States (OAS) and therefore adherents to the OAS Charter.¹⁰ By virtue of their membership in the OAS, Member States have agreed to accept the jurisdiction of the Inter-American Commission on Human Rights, which is competent to make recommendations and issue reports regarding alleged violations of human rights occurring in the territories of Member States.

⁹ Most countries in the region are behind in their obligations to submit reports to the UN Committees (e.g. Countries most behind in undertaking and submitting progress reports to the CRC Committee include: Saint Kitts and Nevis (1999) and Saint Vincent and the Grenadines (2002)).

¹⁰ All 35 countries of the Americas have ratified the Charter of the OAS and belong to the organisation. The 21 original Member States, who signed the OAS Charter on April 30, 1948, were: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the United States of America, Uruguay and Venezuela. The following states have joined the OAS since then: Barbados (1967); Trinidad and Tobago (1967); Jamaica (1969); Grenada (1975); Suriname (1977); Dominica (1979); Saint Lucia (1979); Antigua and Barbuda (1981); Saint Vincent and the Grenadines (1981); The Bahamas (1982); Saint Kitts and Nevis (1984); Canada (1990); Belize (1991); and Guyana (1991).

Only Barbados, Dominica and Grenada, have ratified the American Convention on Human Rights, and Barbados has also opted to go further and accept the binding jurisdiction of the Inter-American Court on Human Rights.¹¹

As for the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, none of the OECS have ratified it. This Additional Protocol was adopted in 1988 and entered into force on November 16, 1999. It focuses on the state's obligation to promote social, economic, and cultural human rights, such as those related to health, education, food and adequate nutrition and the right to social security protecting persons from the consequences of old age and of disability which prevents them, physically or mentally, from securing the means for a dignified and decent existence. It also provides for the special protection of children, older people and people with disabilities.

11 The Inter-American Court of Human Rights was established in 1978 with the entry into force of the American Convention. It hosts seven judges who are each nominated and elected for six year-long terms by the parties to the American Convention; a justice may be re-elected only once. The Court has its permanent seat in San José (Costa Rica). The Court's jurisdiction is limited. It may only hear cases where the state involved has a) ratified the American Convention on Human Rights, or b) has accepted the Court's optional jurisdiction.



5. The OECS and Barbados social protection programmes and legislation

5.1 Antigua and Barbuda

Antigua and Barbuda is a constitutional monarchy with a British-style parliamentary system of government. Antigua gained independence in 1981. As head of state, the Queen of the United Kingdom is represented by a governor general who acts on the advice of the Prime Minister and the Cabinet.

The government has three branches: legislative, executive, and judicial. Antigua and Barbuda has a bicameral legislature: A Senate appointed by the governor general and a popularly elected House of Representatives. The Prime Minister is the leader of the majority party in the House of Representatives and conducts affairs of state with the Cabinet. The Prime Minister and the Cabinet are answerable to the Parliament.

The Constitution of Antigua and Barbuda (1981) is the supreme law and any law that is inconsistent with the Constitution is null and void to the extent of its inconsistency. Among the fundamental freedoms of the individual protected by the Constitution are freedom of movement, conscience, expression, assembly and association. It secures protection from slavery and forced labour, inhuman treatment and deprivation of property. It also protects from discrimination on the grounds of race, place of origin, political opinions or affiliations, colour, creed, or sex.

According to the Government, the Judiciary is the guardian of human rights and any person who perceives a violation of the civil rights and liberties granted by the Constitution has the right to invoke the jurisdiction of the Court. It should be noted that social and economic rights are neither included in the Constitution nor included in the judiciary protection.¹²

12 Antigua and Barbuda National Report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1. A/HRC/WG.6/12/ATG/1. Human Rights Council. Working Group on the Universal Periodic Review. Twelfth session. Geneva, 3–14 October 2011

5.1.1 Legislation

While there are no general laws governing social rights in general in Antigua and Barbuda, there is some concrete legislation related to the protection of children, the right to education, social security and assistance to the poor.

In 2003, Antigua and Barbuda passed the Childcare and Protection Act, which established the Childcare Protection Agency. This Agency bears the responsibility to promote the rights of the child and enforce prescribed standards for care of children. The Act mainly focuses on monitoring private childcare facilities in order to promote care and protection of children; providing counselling and similar therapeutic services for children in need of care and protection; investigating allegations, reports or complaints of abuse or neglect of children; and to promoting the rights of the child and public awareness of those rights.

The Education Act of 2008 governs education matters in Antigua and Barbuda. It establishes that, subject to available resources, children and adolescents are entitled to receive an educational programme appropriate to their needs. It also establishes that, from the age of five until the age of sixteen, attendance to school is compulsory and enforceable by the State. The Act also establishes that no tuition fees shall be charged to the student, or parents of the student, for an attending an educational programme at a public school.

According to the Education Act, the Minister of Education shall be responsible for the overall administration of this Act and for rendering, to students, such forms of assistance as may be necessary for enabling them to take full advantage of the educational facilities.

The Act prescribes that no person who is eligible for admission to a public educational institution or an assisted private school shall be refused admission on any discriminatory grounds including race, place or origin, political opinions, colour, creed, sex, or people with disabilities. It does, however, establish that tuition fees may be payable by persons who are not citizens of any Member State or Associated Member State of the Organization of the Eastern Caribbean States.

The Social Security Act of 1972 regulates the social security system and benefits for those persons who are between the ages of sixteen years and sixty years who are gainfully occupied in insurable employment. The Act establishes a contributory, defined benefit scheme, for age benefit, sickness benefit, invalidity benefit, maternity benefit, funeral grant, and survivors' benefit, amongst others. The Social Security Act has been amended to expand financial assistance coverage to non-pensionable, destitute and elderly persons.¹³

According to the amendments of 1993 and 2005, to be eligible for this last benefit, the person must be a citizen of Antigua and Barbuda who has ordinarily resided in Antigua and Barbuda for at least fifteen years; or be a person who has ordinarily resided in Antigua and Barbuda for at least twenty years preceding the date of application for assistance.

With regards to assistance to people living in poverty, the most relevant legislation is the Poor Relief Act of 1961. It established a Board of Guardians of the Poor. According to the Act, any person who,

13 The Social Security (Amendment) Act, 1993. 54. (1) Subject to the provisions of this Part any person who, on the coming into force of this age assistance. Act, has attained the age of sixty five years or more and his total annual income from all sources is less than five thousand dollars, shall be eligible to be paid old age assistance at a rate equivalent to the minimum rate paid as age benefit under the Act. (2) Notwithstanding subsection (1), those who have attained the age of sixty years and are blind or so disabled that they are unable to earn their livelihood, and their total income is less than five thousand dollars per annum, shall be eligible to be paid old age assistance at a rate equivalent to the minimum rate paid as age benefit under the Act.

in the opinion of the Board, is a poor and destitute person, will be entitled to relief under this Act. In the case of exceptional circumstances of destitution arising from drought, epidemic disease, or such like causes, the Board, with the approval of the Cabinet, may afford temporary relief to persons who are not poor and destitute persons.

5.1.2 Social protection programmes

Social Programmes implemented by the Government include the School Uniform Grant programme, the School Meals Programme, the Home Improvement Grant, the Poverty Alleviation Grant, the GRACE Programme; Job Training initiatives, the Senior Citizens Utility Subsidy Programme and the People's Benefit Programme.

Under the Ministry of Social Transformation fall the following offices, which are all directly or indirectly related to providing services and assistance related to most of the programmes: Social Policy Unit, Board of Guardians, Community Development Division and the Citizens Welfare Division.

A summary of the main programmes and their main objectives and beneficiaries is as follows:

TABLE 2: **Antigua and Barbuda social protection programmes**

Programmes	Particulars / Purpose
People's Benefit Programme	Food Subsidy for households in economic hardship and people with disability.
The Senior Citizens Utility Subsidy Programme	Subsidy to pay utilities.
School Meals Programme	Food Subsidy related to attendance to schools.
School Uniform Grant Programme	Subsidy to lower cost of attendance to schools.
Over 80 Utility Programme	Exemption from paying utilities for people older than 80 years who cannot afford their bills.
National Student Loan Fund	Finance students who would otherwise find it difficult to access the resources needed to pursue their higher education goals (Tertiary education).
Government Residential Assistance and Care of the Elderly and Eligible (GRACE)	Provides care for housebound and older people with disabilities.
Old Age Assistance Pension	Provides a non-contributory pension of EC\$ 255 per month to seniors aged 60 years and older. To qualify for the programme, seniors need to earn less than EC\$ 5 000 per annum.

The People's Benefit Programme is a Project that started in 2009 and it is funded through the Government of Antigua and Barbuda's participation in the PetroCaribe Initiative.¹⁴ The Programme provides a food subsidy to the economically disadvantaged and persons with disabilities. Beneficiaries receive a sum each month, which is used to purchase food and selected personal items from the

14 PDV Caribe Antigua and Barbuda Ltd. (PDV CAB) is a wholly owned government company incorporated in 2005 with the principal objective of conducting activities directly related or incidental to the operation of the PetroCaribe Initiative. Since its incorporation in 2005, PDV CAB has launched a number of social programmes. The two flagship projects with which persons may be more familiar are The Senior Citizens Utility Subsidy Programme and People's Benefit Programme.

Central Marketing Corporation and other designated supermarkets. According to information provided by the Government on its webpage, to be eligible for this programme, persons should have a proof of Citizenship, proof of Disability (letter from medical doctor or clinic), proof of Income (check stub or payroll slip, rent receipt, child support payments) and a letter of recommendation (from Pastor or other well-known citizen).¹⁵

Currently there are just over 1 660 beneficiaries of the People's Benefit Programme and, since its inception, over 2 000 Antiguan and Barbudans have benefitted.¹⁶

The Senior Citizens Utility Subsidy Programme was started in 2008 and is open to all pensioners with the Antigua and Barbuda Social Security Scheme. It consists of a monthly payment to subsidize their utility bills. This programme is funded through the PetroCaribe Initiative and implemented by PDV Caribe Antigua and Barbuda Ltd (PDV CAB). Registration for this programme is open twice per year. There are currently over 4 600 beneficiaries on this programme.¹⁷

The Government Residential Assistance and Care of the Elderly and Eligible (GRACE) Programme provides care to the housebound and older persons with disabilities in the form of domestic services, meals, general hygiene services, assistance with cooking, cleaning, washing and social activities.

The School Uniform Grant and the School Meals Programme are designed to assist parents by subsidising the cost of educating their children (12 137 children were registered for the school year 2011–12). The State provides school uniforms and access to text books at no cost to the students. School lunches are provided to pupils of 19 primary schools located in the lower socio-economic areas of the country and between September 2010 and June 2011, the School Meals Programme served 312 918 meals (Ministry of Education, Sports, Youth and Gender Affairs, 2012).

The Board of Guardians, established in 1961 by the Poor Relief Act, has the mandate of helping the poor and destitute and is housed under the Ministry of Social Transformation. It provides money, advice and counselling to the needy. Among its programmes are the Grant to Individuals, Funeral Grants and Home Improvements Grants.

5.1.3 Remarks

As highlighted above, there is some legislation that recognizes, to some degree, children's rights, the right to education, social security and some level of a non-contributory social assistance. Social protection and assistance programmes in place may find some legal basis in the amended Social Security Act of 1973 (amendments of 1993 and 2005) and in the Poor Relief Act of 1961.

Nevertheless, the legislation is old and most programmes are not directly linked to legislation. Rules and regulations are not written down and may not be known by potential beneficiaries. Those trying to access transfer programmes and other subsidies face their own constraints, including knowledge about the programme rules and application requirements (World Bank, 2011, p. 65–66).

15 For more and update information see the official website for the Government of Antigua and Barbuda (available at www.ab.gov.ag).

16 *Ibid.*

17 *Ibid.* This programme gives pensioners in Antigua and Barbuda \$100.00 monthly towards the payment of their utility bills with the Antigua Public Utilities Authority (APUA). Qualified pensioners (Survivors', Age, Old Age, Invalidity and One-time grant) with the Antigua and Barbuda Social Security Scheme are asked to present the following documents to the PDV CAB office on Long St. to be registered: Social Security Pensioners' Card (Survivor's, Age, Old Age, Invalidity), Valid Government-issued Photo ID (Voter's Card, Passport or Driver's License) and APUA Utility bills (Electricity, Water and Telephone).

According to the World Bank's social protection assessment, there are not many social assistance programmes in Antigua and the existing ones are dispersed among agencies. With a few exceptions, there is no coordination in terms of registration of applicants, crosschecking of programme beneficiaries to avoid duplication, or updating of beneficiaries registries. Moreover, there is a need to establish a unified targeting system for all assistance programmes, in order to bring transparency to the social safety net, reduce the number of claimants, eliminate duplication of programmes, and improve resource allocation (World Bank, 2011, p. 80).

With regards to vulnerable groups, there are not specific laws and regulations protecting them and, in particular, those with special needs, such as, older persons and people with disabilities. In addition, Antigua should also ratify the CRPD.

Poor immigrant families might face additional challenges regarding access to social and assistance programmes. Some of the legislation requires citizenship or a long period of residency (e.g. Social Security Act; Education Act). In practice, priority in public schools is given to nationals. Therefore, immigrant families may have no space in public schools, particularly those living in urban areas where public schools are reportedly already crowded. According to the Citizens' Welfare Division, some immigrant families are left with the only option of enrolling their children in private schools and many cannot afford them. (World Bank, 2011, p. 64). The People's Benefit Programme, which is one of the main cash transfer programmes, requires proof of citizenship to be eligible.

It should be noted that according to General Comment No. 19 on the right to social security non-nationals should be able to access non-contributory schemes for income support, affordable access to health care and family support. Any restrictions, including a qualification period, must be proportionate and reasonable (CESCR, 2008, para. 37).

5.2 Barbados

Barbados is a parliamentary democracy, independent since 1966, and is a member of the Commonwealth. The British monarch is represented by the Governor-General. The executive power is exercised by the Prime Minister and his Cabinet.

The country has a bicameral legislature. The Senate has 21 members, all appointed by the Governor-General. The House of Assembly has 30 members, all elected. Both Houses debate all legislation. However, the House of Assembly may ultimately override the Senate's rejection of money Bills and other Bills, except Bills amending the Constitution.

The judiciary is independent and consists of Magistrate Courts and a Supreme Court, which has a mandate under the Constitution. In 2005, Barbados replaced the British Privy Council, which had previously served as the final Court of Appeal, with the Caribbean Court of Justice as its highest judicial body.

The Constitution of Barbados is based on a model under which fundamental rights and freedoms contained within only reflect clauses related to citizenship, the functions of the governor general, executive authority, composition of parliament and its sessions, elections and judicature. The chapter about fundamental rights and freedoms of the individual includes the protection of political and civil rights (protection of life and personal liberty; protection from slavery and forced labour, inhuman treatment, deprivation of property and against arbitrary search or entry; and protection of freedom of expression, assembly and association and movement). There are no provisions regarding the protection of social, economic and cultural rights.

It should be highlighted that Barbados is the only country in this region that has ratified almost all of the nine fundamental United Nations human rights treaties. In February 2013, it ratified the Convention on the Rights of Persons with Disabilities. However, it still has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Their Families.

5.2.1 Legislation

The National Assistance Act Cap 48 (with the National Assistance Regulations of 1969 and amendments) is the most relevant legal framework regulating non-contributory social security. This Act provides for the establishment of a National Assistance Board and covers the provision of such assistance as may be necessary for persons in need, either by the grant of money or by non-medical assistance in kind, including the administration of old age pensions and the burial of poor persons.

The National Insurance and Social Security Act of 1966 (and amendments) establishes a system of national insurance and social security for Barbados, providing payments by way of sickness benefit, maternity benefit, invalidity benefit, funeral grant, old age contributory grant or pension, survivors' benefit and a consolidated fund for non-contributory old age pension.

Education is free in public educational institutions and compulsory from 5 years of age to 16 years of age) according to the Education Act of 1981. It is the duty of parents to ensure that their child receives full-time education suitable to their age. If a child fails to regularly attend school, or is not registered at a school, the parent of the child may be found guilty of an offence and liable, on summary conviction, to a fine. The Act provides that assistance is available to children who need it in order to take full advantage of educational facilities. This includes the adoption of regulations of the ministry, including but not limited to those relating to the provision of milk and meals to pupils of public educational institutions.

5.2.2 Social protection programmes

Under the Ministry of Social Care, Constituency Empowerment and Community Development fall the offices that are all directly or indirectly related to providing services and assistance related to most of the programmes: Bureau of Social Policy, Research and Planning, National Disability Unit, National Assistance Board and the Welfare Department.

A summary of the main programmes and their main objectives and beneficiaries is as follows:

TABLE 3: **Barbados social protection programmes**

Programmes	Particulars / Purpose
National assistance programme	Assistance in cash or in kind provided as a matter of necessity.
Non-contributory old age pension	Non-contributory old age pension for persons of 65 years of age or in the case of a blind person or a deaf mute.
School Meals programme and free transport service for children in school uniform on public transport (Ministry of Education)	Improve standards of nutrition and promote regular attendance at school.
(I.S.E.E) Bridge Project	Pilot project with thirty families in extreme poverty (Identification – Stabilisation – Enabled – Empowerment).

TABLE 3: Barbados social protection programmes

Programmes	Particulars / Purpose
Student Revolving Loan Fund	Provide loans for tertiary education at preferred rates.
Home Care Programme	Social support services to improve the quality of life of elderly persons.

The National Assistance Programme is administered under the National Assistance Act Cap 48 and consists of assistance in cash or in kind, provided as a matter of necessity, to children, unemployed adults, persons with disabilities and older persons. The Assistance in-kind may include food vouchers, basic household furnishings to fire victims, education assistance (e.g. uniforms), medical bills, burials for indigent persons and payment of utility bills.

The Identification and Assessment, Stabilisation, Enablement and Empowerment Bridge Project (ISEE) is a pilot programme that started with 30 households living in extreme poverty. This Project is an adaptation of the Chilean Puente (Bridge) Social Protection programme, which was instituted by the Chilean Government in 2002 to empower families in extreme poverty. It includes four areas of critical intervention: Identification/Assessment – the vulnerable persons are identified and their needs assessed; Stabilisation – the households' immediate and urgent needs are met; Enablement – the necessary skills to survive are imparted; and Empowerment – participants would have acquired the capacity to succeed and excel in society. The pilot was started in August 2012 and is expected to run for at least two years. The Ministry of Social Care is, therefore, working in tandem with a cross-section of government agencies (Human Rights Council, 2013).

Barbados has unemployment insurance. Among the countries that are part of this study, only Barbados provides unemployment benefits through its Social Insurance scheme (World Bank, 2013). This benefit is intended to assist contributors at times when they are temporarily out of work, for up to a maximum of 26 weeks. To qualify for unemployment benefit from the Barbados National Insurance Scheme, an individual is required to be actively insured for at least thirty-two weeks, as well as to have at least twenty contributions paid or credited in three consecutive quarters, ending with the quarter, or one before that, in which the individual became unemployed. One is not allowed to reclaim until a period of fifty-two weeks has passed from the date of the claim.¹⁸

As part of the National Insurance Scheme, there is the possibility of qualifying for non-contributory old age pension for person of 65 years of age or in the case of person with disabilities (blind or deaf mute) older than 18 years. To be eligible, the person should be a citizen of Barbados, or a permanent resident of Barbados within the meaning of the Immigration Act, with residence in Barbados for a period of 15 years, since turning 40, or an aggregate of 20 years, since turning 18.

The Government has also established a Child Maintenance Fund to provide assistance and relief to single mothers, who have not been able to collect court-ordered maintenance payments because of the inability or refusal of the other parent to make the required payment to the Court. The Fund, which can be accessed three months after the order to pay has not been met, provides a weekly stipend to each child, for up to four months, after which the circumstances of the child and parent will be reviewed. If required, the applicant can have access to the Fund for a further four months. It is intended

18 Barbados National Insurance Scheme (available at www.nis.gov.bb).

that the Fund will be “revolving”, as the defaulting parent is required to reimburse the fund for any payments made.

5.2.3 Remarks

Most legislation in Barbados is old and has not been amended according to the standards imposed by the international human rights treaties, to which Barbados is a party. Even when some social rights are implemented in practice, like access to education, social and economic rights are not adequately protected in domestic law (Committee on the Elimination of Racial Discrimination, 2007).

There is not legislation in place that establishes the rights of older persons and people with disabilities. With regards to children rights, the existing legislation – e.g. Minors Act (1958 and amendments) Child Care Board Act (1983) and the Family Law (1981 and amendments) – needs to be brought up to date with universal children rights standards (Human Rights Council, 2013).

It should be noted that, although the Constitution of Barbados contains anti-discrimination provisions, there are no laws in Barbados that specifically prohibit discrimination against persons with disabilities, older persons, and migrants, among others.

For example, the Education Act also calls for the provision of bursaries, grants and scholarships, in order to encourage the development of education among the people of Barbados. It should be noted that to be a beneficiary of these scholarships and grants, the Act requires the person in question to be a citizen of Barbados, a child of a citizen of Barbados, or a child of a person who is ordinarily resident in Barbados, and has been a resident for a period of at least 7 years.

These requirements may be contradictory to human rights standards. The UN Special Rapporteur on the human rights of migrants recommended that “*States should protect and respect the human rights of migrant children, irrespective of their migration status, including the rights to basic social services for all children, in particular the rights to food, health and education*”. Moreover, the Special Rapporteur recommends the “*development of strategies to pay special attention to migrant children in order to guarantee their access, on an equal basis and regardless of legal status, to the same rights as those of children nationals of the country concerned*” (Special Rapporteur Human Rights of Migrants, 2009).

Finally, even though the National Assistance Act serves as a statutory basis for the national assistance programme and other social protection actions, there is not specific legislation in place that determines the specific criteria to be followed by the authorities in charge of implementing each of the social programmes when selecting the beneficiaries, the duration of the benefits, the transparency of procedures for selection and admittance of applications, the recourses in case of denial, etc.

5.3 Dominica

The Commonwealth Dominica is a parliamentary democracy based on the Westminster political model, with three branches of Government: the executive, the legislature and the judiciary.

The President is the Head of State established by Section 18 of the Dominica Constitution Order 1978. The President is elected by the House of Assembly and holds office for a term of five years. The executive structure of the Government is headed by the Cabinet, which is presided over by the Prime Minister and is comprised of the appointed Cabinet ministers. The Cabinet formulates policy and is vested with general control of the Government.

Dominica has a House of Assembly consisting of 21 elected representatives. In addition, nine senators may be elected or appointed. The President, on the advice of the Prime Minister, appoints five senators, with the remaining four appointed by the President on the advice of the Leader of the Opposition.

The Constitution of the Commonwealth of Dominica is the Supreme Law of the land. Chapter 1 of the Constitution guarantees the protection of fundamental rights and freedoms to which every person in Dominica is entitled regardless of their race, place of origin, political opinions, colour, creed or sex. This is, however, subject to the respect for the rights and freedoms of others and for the public interest, to each and all the following, namely: Life, liberty, security of the persons and the protection of the law; freedom of conscience, of expression, of assembly and association; and protection for the privacy of home and other property and from deprivation of property without compensation. The Constitution further provides, in Chapter I, Section 16, that any person alleging violation of any fundamental rights may apply to the High Court for redress. Appeal of decision of the High Court may also be sought from the Eastern Caribbean Court of Appeal and the Judicial Committee of the Privy Council of the United Kingdom. Social and economic rights are absent from the Constitution of the Commonwealth of Dominica and therefore do not enjoy judicial protection.

With regards to the protection from discrimination, the Constitution in Section 13 establishes *that no law shall make any provisions that is discriminatory itself or in its effect*, but the same Constitution explicitly establishes that this clause shall not apply with respect to persons who are not citizens of Dominica.

5.3.1 Legislation

The Education Act No.11 of 1997 and the Education Regulations adopted in March 2011 make it mandatory for children to attend school (section 27) from 5 years up to the age of 16. According to section 16 of the Act, there are no tuition fees for attendance at public schools. But the Act opens the possibility that charges may be imposed at a public school or assisted private school with the written approval of the Minister for Education.

Section 36 of the Act also creates a legal obligation to parents to ensure that every child receives an education by regular attendance at school and those parents who fail to enrol a child eligible in school, are in breach of this regulation, committing an offence and liable to a fine of one thousand dollars.

To supplement its traditional sources of funding, the Dominica Parliament enacted an Education Trust Fund Act (Act No. 17 of 1981). This Act established an Education Trust Fund to “raise money by means of contributions or donations by persons or groups of persons, clubs, local, regional or international associations or by fund raising activities.” There is a Board of Trustees empowered to grant financial assistance to any student, if in the opinion of the Board the student would be unable to complete his or her education in the absence of such financial assistance.

The Social Security Act No. 29 of 1986 (and subsequent amendments) regulates the contributory scheme for employees, self-employed persons and voluntary contributors. It provides for the usual benefits to insured persons: Sickness Benefit, Maternity Benefit, Maternity Grant, Employment Injury Disablement Benefit, Death Benefit, Medical Expenses Benefit, Old-Age Benefit, Invalidity Benefit and Survivors Benefit. With effect from 2012, the Pensionable Age will increase incrementally by six (6) months every year – until the year 2021, when the Pensionable Age will be set at Age 65.¹⁹

19 Dominican Social Security (available at www.dss.dm). Dominica Social Security Board Report for year 2011.

5.3.2 Social protection programmes

The Ministry of Community Development, Information, Gender Affairs and Culture is the most active in social protection and assistance programmes, however, many other ministries have portfolios that impact on the enjoyment of those fundamental rights and freedoms, including ministries with responsibilities for education, health, housing, urban development, youth, sports, economic development, labour and national security (Ministry of Finance, 2012). Social assistance programs include: a means-tested income transfer program; education-based programs (a School Feeding Program and the Education Trust Fund for needy students); skills training and adult education programmes; donor funded labour intensive community-based infrastructure development activities (Basic Needs Trust Fund); among others.

The table below lists the social protection programmes in place with the corresponding main goals:

Programmes	Particulars / Purpose
Public Assistance (Welfare)	Relief to Indigent persons.
Child Welfare	Children in need of care and protection.
School Feeding Programme (Ministry of Education)	Food Subsidy related to attendance to schools.
School Text Book Scheme	Subsidises the cost of textbooks for primary and secondary school students.
Education Trust Funds (Ministry of Education)	Needy secondary and tertiary students.
Basic Needs Trust Fund	Poor and vulnerable communities.
CHANCES	Shelter for children and young people in need of care and protection.
Yes We Cared Programme	Assisted living, adult day care for senior citizens.
Care for the Aged	Fulfilment of the special needs of senior citizens.

The public assistance programme is a cash transfer programme designed to provide relief to indigent persons who are unable to maintain themselves. It also includes casual relief in the context of emergency situations. The Ministry of Community Development and Gender Affairs administers Public Assistance through its Welfare Division. Welfare Division social workers are responsible for means testing. Local Government, Health and other personnel could also apply on someone's behalf. After the application, officers from the Ministry will visit applicants at home.²⁰

The Welfare Division has also been providing assistance in numerous areas to persons who are in need.²¹

1. *Educational assistance* is given to persons or families who are unable to provide educational needs such as uniforms, textbooks, etc. to their children.

20 Government of the Commonwealth of Dominica. Ministry of Social Services, Community Development & Gender Affairs (available at <http://socialservices.gov.dm>).

21 *Ibid.*

2. *Housing assistance or Assistance to fire victims* is given to persons who are not financially able to repair/build their homes on their own.
3. *Burial assistance* is given to persons who are not financially able to bury their family on their own.

The “Yes We Care Programme”, launched in 2009, is a system of home and community-based care. The programme provides personal homecare to selected housebound people, the elderly and people with disabilities, who have no one to care for them. The caregivers assist with personal care, cleaning, cooking, and clinical care, including the dressing of wounds, the administering of medication, recreational group activities and also house construction and repairs.

The Basic Needs Trust Fund provides resources to poor communities to improve access to basic public services, enhance employability and reduce social vulnerability. This Fund is jointly funded by the Caribbean Development Bank (CDB) and the Government of Canada, through the Canadian International Development Agency (CIDA), and provides the means for direct delivery of basic public services to people living in poor communities. Its method of implementation allows for a more socially inclusive development process. Using participatory methods, community members from targeted communities are involved in the assessment and prioritisation of community development needs.

Access to primary healthcare is free for children of 16 and under, as well as older persons of 65 and over.

Despite the fact that Dominica has ratified the Convention on the Rights of the Child, the Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities, national legislation for implementing the substantive rights set out in international human rights law has not yet been passed. This leaves the country’s international obligations to adopt legislation regarding social rights, people with disabilities’ rights and children’s rights, to date, mostly unfulfilled.

The Children and Young Persons Act and the Infants Protection Act mainly govern child protection in Dominica. The Committee on the Rights of the Child (CRC Committee) noted the efforts undertaken by Dominica to harmonise its legislation with regard to children. Nevertheless, it was concerned that the existing legislation does not fully reflect the principles and provisions of the Convention. It recommended that Dominica takes all necessary measures to ensure that its legislation conforms fully with the principles and provisions of the Convention and to guarantee its effective implementation (CRC, 2004, para. 5–6).

With regards to older persons, no legislation has been adopted for the promotion and protection of their welfare and rights.

In the process of the Universal Periodic Review (UPR), among the recommendations that Dominica accepted as a result of the interactive dialogue with other States, was the need to ratify pending UN treaties and take further steps to bring legislation into line with international human rights norms and standards and seek technical assistance from United Nations agencies and organizations to do so (UPR, 2014). Dominica also accepted to continue strengthening social plans and programmes under implementation to combat poverty, exclusion and social inequality, with an emphasis on employment, food and health for the benefit of the population, with particular attention to those most vulnerable sectors (UPR, 2014).

In general, social protection and assistance programmes operate without a regulatory/legal framework. There are no documented criteria for eligibility. There are no minimum legal/regulatory standards to guide admission, recourse in case of denial, participation of beneficiaries and non-governmental organizations, exit from the programmes and criteria for monitoring and evaluation purposes.

In the case of the public assistance programme, the only available documentation states what Public Assistance is not; i.e., it is not an old age pension, it is not unemployment insurance, it is not a sickness benefit and it is not disability insurance (World Bank, 2003).

The Government of Dominica recognizes the need to shift to make significant changes to the existing programmes, in particular, to move from uncoordinated sectorial programmes, towards integrated human development programmes and to improve the coordination and targeting of interventions in order to make interventions more effective. Finally, it highlights the need to establish transparent and effective mechanisms for monitoring and evaluation and involving the participation of civil society organizations (Ministry of Finance, 2012).

5.4 Grenada

The State of Grenada consists of three islands: Grenada, Carriacou and Petite Martinique. Grenada gained independence from Britain in 1974 and is an independent nation within the British Commonwealth. Queen Elizabeth II is the Head of State and is represented locally by the Governor General, who is appointed on the advice of the Prime Minister. The Executive power is led by the Prime Minister, and steered by the Cabinet, appointed by the Governor General on the advice of the Prime Minister. The Cabinet is the principal executive instrument of policy, with general direction and control of the government.

The Parliament consists of the House of Representatives and the Senate. The judiciary system in Grenada is part of the Eastern Caribbean Legal System, with final appeal lying with the Privy Council in United Kingdom.

The Grenada Constitution, which came into force in 1974, is the supreme law of Grenada and recognizes fundamental rights and freedoms, namely, the protection of right to life, protection of right to personal liberty, protection from slavery and forced labour, protection from inhumane treatment, protection from deprivation of property, protection from arbitrary search or entry, protection of freedom of conscience, protection of freedom of expression, protection of freedom of assembly and association, protection of freedom of movement, protection from discrimination on the grounds of race, place of origin, political opinions, colour, creed or sex, etc., right to fair hearing and presumption of innocence.

The Constitution provides that any person alleging breach of a Constitutional provision may apply to High Court for the enforcement of their right.

Although the Preamble of the Constitution recognizes that the *ideal of free men (sic) enjoying freedom from fear and want can be best achieved if conditions are created whereby everyone may enjoy his economic, social and political, civil and cultural rights*, the Constitution only provides protection for civil and political rights.

The provision of the Constitution which establishes that no law can be discriminatory of either itself or its effect is not applicable to non-citizens of Grenada.

5.4.1 Legislation

The National Insurance Act No. 14 of 1983 (and amendments) regulates social security, the National Insurance Fund, the National Insurance Board and entitlements for insured persons. The Act prescribes the following benefits: sickness benefit; invalidity benefit, maternity benefit; survivors' benefit, death benefits, injury benefits and age benefits.

In 2010, the Child (Protection and Adoption) Act was adopted, which has a primary purpose of providing care for children and granting them protection from abuse and neglect, in a manner that ensures that the best interests of the child are given paramount consideration. It also establishes the Child Protection Authority.

The Education Act No. 21 of 2002, amended by Act No. 11 of 2003, recognizes that all persons in Grenada are entitled to receive an education appropriate to their needs. It also makes education compulsory for children aged 5 to 16 years inclusive.

The Act provides that neither a student nor their parents may be charged tuition fees or other costs for attendance at a public school.

The Education Act clarifies that admission to educational institutions cannot be refused on the grounds of race, place of origin, political opinion, colour, creed, physical handicap and, in the case of mixed gender schools, sex, of the student or their parents. However, the same Act prescribes that tuition fees can be charged to students who are not citizens of a Member State or Associated Member State of the Organisation of Eastern Caribbean States or of a Commonwealth country.

5.4.2 Social protection programmes

The Ministry of Social Development and Housing has been responsible for the administration of most social safety network programmes in Grenada. There are also three individual programmes administered by the Ministry of Health: Fee Waivers for Medical Care; Off-island Medical Care and Pharmaceutical Programme for Needy Persons.

Below is a summary of the main programmes, including details on primary programme objectives:

TABLE 5: Grenada social protection programmes

Programmes	Particulars / Purpose
SEED (Public Assistance, Necessitous Fund for Students, Transportation Assistance for Students)	To reduce poverty and increase investment in human capital among the poor and vulnerable.
CPM Public Assistance (Department of Social Services, Ministry of Carriacou and Petite Martinique Affairs)	Poverty alleviation for the elderly, disabled poor, indigent poor.
CPM Necessitous Fund and Children's Allowance (Department of Social Services, Ministry of Carriacou and Petite Martinique Affairs)	Promote school enrolment and attendance.
Burial Assistance	Assist poor households with burial of family members.
Emergency Assistance programme & Disaster Fund programme	Assist poor households in case of shocks.
National House Repairs Programme	Grants and soft loans; no interest refundable building material assistance for home repairs for indigent households.
School Feeding Programme (Ministry of Education)	Improve standards of nutrition and promote regularity of attendance at school.

TABLE 5: Grenada social protection programmes

Programmes	Particulars / Purpose
Scholarship Programme (Ministry of Education)	Promote university enrolment.
Textbook Programme (Ministry of Education)	Support with the textbooks for primary and secondary school.
Fee Waivers for medical Care; Pharmaceutical Programme and Off-island Medical Care (Ministry of Health)	Access to health care and medicines.
Food Security Programme (Department of Agriculture)	To support poor farmers affected by food price increases.
Programme for Adolescent Mothers (Ministry of Social Development in partnership with Ministry of Education)	Give teenage mothers an opportunity to complete their education and provide an integrated programme for Life Skills Training, Family Life, Health and Family Planning.
Roving Caregivers	Low income families; provide assistance to parents in providing early childhood stimulation.

Public Assistance in Carriacou & Petite Martinique is the largest programme making direct cash payments to vulnerable families who fall below the poverty line, targeting specifically older people, people with disabilities and the indigent poor. The Necessitous programme for Carriacou & Petite Martinique also provides financial support to children to ensure that they remain in school by means of cash transfer made to the school or to the family.

Burial Assistance is granted to families who need assistance to ensure a proper burial of their loved ones. Application is made to the Ministry and when approved payment not exceeding two thousand dollars is forwarded to the funeral homes. In 2012, 56 persons received burial assistance.

The Disaster Fund is provided to families that have suffered a personal disaster. Most of the assistance, in the past, has been granted to families that have experienced a fire involving uninsured buildings. In other cases, victims of floods or heavy rains have been assisted. One thousand five hundred dollars is awarded to each affected family.²²

The Support for Education, Empowerment and Development (SEED) programme, is an income support programme that targets the poorest and most vulnerable citizens in Grenada and provides them with Conditional Cash Transfers to facilitate improved development outcomes among households. The programme is being implemented as the first and primary step to Social Safety Net reform in Grenada, under which three of the country's principal cash transfers have been unified to one broad programme (the School Transportation Allowance, the Necessitous Fund and the Public Assistance programme).

SEED aims to provide transfers to the country's most vulnerable, but only on the basis that the recipients meet certain conditions, including adherence to health protocols and school attendance.

22 Government of the Commonwealth of Dominica. Ministry of Social Services, Community Development & Gender Affairs (available at <http://socialservices.gov.dm>).

The Programme is intended to provide a transparent, equitable system of beneficiary selection and an efficient mechanism for delivery of benefits.²³

The specific objectives of SEED are as follows:²⁴

- a. Improve the educational and health situation of the poor, through co-responsibilities that link positive behaviour changes to cash transfers.
- b. Improve coverage of Social Safety Net programmes.
- c. Strengthen the implementation capacity, efficiency and effectiveness of Grenada's Social Safety Net programmes.
- d. Serve as a safety net by preventing families from falling further into poverty in the event of adverse shock.

5.4.3 Remarks

Concerning legislation, with the exception of the National Insurance Scheme guided by the National Insurance Act and Regulations of 1983, there is no legislation for the regulation of social protection programmes in Grenada.

The Child (Protection and Adoption) Act recognized social rights within the context of children under foster care. The right to education is recognized in the Education Act, which grants free attendance at public school. Nevertheless, the Act allows schools to charge tuition fees to children born outside Member States or Associated Member States of the Organization of Eastern Caribbean States or of a Commonwealth country. This contradicts the non-discrimination clause of the same Act and widely accepted human rights standards regarding granting full access to education to migrant children on an equal basis with national children, regardless of their country of origin, nationality or that of their parents (Article 2 Convention on the Rights of the Child and CRC, 2005, para. 41–42).

The Committee on the Elimination of Discrimination against Women (2012) and the Committee on the Rights of the Child (2010) have reminded Grenada, in their concluding observations, about the government's primary responsibility to fully implement the obligations of a State party under these Conventions, and that the Conventions are binding on all branches of the State, thereby inviting the Parliament to take the necessary steps with regard to their implementation.

A similar recommendation, to harmonise national legislation with international conventions so as to ensure that its citizens enjoy the human rights set out in such conventions, arises from other States within the framework of the UPR (Human Rights Council, 2010c).

Clearly, legislation needs to be developed and enacted in order to protect the rights of people with disabilities, children and older persons (Grenada National Report, 2012). Grenada, in its National report to the Working Group on the Universal Periodic Review, has stated its commitment to continue legislative reform to ensure that legislation will adequately protect the rights of its citizens.

In the Grenada Social Safety Net Assessment, the government noted that international commitments mandate the provision of social safety nets (including the United Nations Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women,

23 Information provided by the Ministry of Social Development and Housing at the Third Caribbean Workshop on Social Protection and International Cooperation. Barbados.

24 *Ibid.*

the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights) and see the establishment of this policy framework as an important step in strengthening its policy and legislative environment, in order to progressively meet these commitments (Ministry of Social Development, 2012, p. 7).

One of the recommendations of the assessment is the development of a social protection policy. The Government has since completed the Social Safety Net Policy Framework 2013–2017, which includes an Action Plan and a Monitoring and Evaluation Framework already approved by Cabinet. The Ministry of Social Development led the process with technical support from UNICEF and UN Women. The Framework includes five long-term objectives that will drive social safety net spending, policy-making and programming in the future. These objectives are geared towards: 1) Strengthening the systematic production and use of evidence (Research, M&E); 2) Increasing the poverty reduction focus with a stronger gender and child sensitive approach; 3) Undertaking social and legal reforms; 4) Helping families achieve economic independence; and 5) Modernizing Systems and Building Capacity).

5.5 Saint Kitts and Nevis

Saint Kitts and Nevis, a twin island federation, achieved its independence from the United Kingdom on 19th September 1983. As a member of the Commonwealth, Britain's Westminster political model forms the basis of the system of government, with the Queen of the United Kingdom as the Head of State and a Governor General serving as her representative in Saint Kitts. There are three branches of government: the executive, the legislature²⁵ and the judiciary.

The judicial system of Saint Kitts and Nevis is rooted in English common law. The Court of the Federation is The Eastern Caribbean Supreme Court. Within its jurisdiction, both English common law and statutory acts of the House of Assembly, the Federation's Parliament, are applied. Appeals go to both the High Court and, from the Magistrate's Court, to the Organisation of Eastern Caribbean States Court of Appeal. Final appeals for most matters are made to the Judicial Committee of the Privy Council in the United Kingdom.

The Constitution of Saint Kitts and Nevis (1983) is the supreme law of the land and asserts the entitlement of the citizens to the protection of fundamental rights and freedoms, whatever their race, place of origin, birth, political opinions, colour, creed or sex. These rights are as follows: right to life, liberty, security of person, equality before the law and protection of the law; freedom of conscience, expression and of assembly and association and protection from slavery of forced labour and inhuman treatment. Any person who alleges a contravention of these provisions, may apply to the High Court for redress.

It should be noted that social and economic rights are not included in the Constitution and, concerning the protection from discrimination, even though the Constitution in Section 15 establishes *that no law shall make any provisions that is discriminatory itself or in its effect*, the same Constitution explicitly establishes that this clause is not applicable to persons who are not citizens of Saint Kitts and Nevis.

25 The island of Nevis has its own legislature – the Nevis Island Legislature may make laws, called Ordinances, for the peace, order and good government of the island of Nevis. Art. 100 of the Constitution.

5.5.1 Legislation

The Social Security Act of 1977 (and amendments) regulates the contributory scheme and provides for the usual benefits to insured persons: Sickness Benefit, Maternity Benefit, Employment Injury invalidity Benefit, Funeral grant, Old Age Benefit and Survivor's Benefit.

The Social Development Assistance Act of 1988 provides financial assistance for indigent persons, establishes a Social Development Assistance Board to administer social assistance programmes and makes it possible for indigent older persons to receive assistance for medical care, eye care and housing repair.

There are two types of non-contributory pensions paid by the Social Security Fund. They are Assistance Pension and Invalidity Assistance. The former is a monthly pension paid to persons who are over 62 years of age, in need and who have not qualified for the regular Age Pension from Social Security. The latter is a monthly pension paid to persons who are between the ages of 16 and 62 years of age and who are unable to work, but who have not qualified for the regular Invalidity Benefit from Social Security.²⁶

There is legislation relevant to children's rights, including the Status of Children Act 1983 (amended in 2008) and the Probation and Child Welfare Board Act 1994, to provide and maintain child care centres and foster care centres for children in need of care and protection and to care for victims of child abuse.

The Education Act No. 18 of 1975 guarantees universal access to education for persons aged between five and sixteen years. The Act also makes parents responsible for the school attendance of their children. As such, if a child of school age does not attend school, the parent is held legally responsible for the non-attendance (and can be charged fines). The revised Education Act of 2005 explicitly establishes a mandate to the provision of education to children across the Federation and delineates the rights and responsibilities of students, parents, teachers and students who require special education.

5.5.2 Social protection programmes

The ministries with primary responsibility for the provision of social assistance on Saint Kitts are the Ministry of Health, Social and Community Development and Gender Affairs and the Ministry of Education and Information.

According to the information provided by the government, there are several social assistance programmes in Saint Kitts, with a parallel and very similar set of programmes implemented in Nevis, though implemented through separate administrative systems. The Government also provides a non-contributory pension to the elderly and people with disabilities in poverty on both islands. This is through the Social Security Board – a statutory body under the general supervision of the Minister with responsibility for social security, as set out in the Social Security Act of 1977 (Government of Saint Kitts and Nevis, 2012b, p. 44).

In Nevis, programmes include cash transfer programmes, multiple in-kind benefits, community based programmes and social care services. On this island, the ministries with primary responsibility for the provision of social assistance are the Ministry of Social Development, Community and Gender Affairs and the Ministry of Education.

26 Social Security Board (available at www.socialsecurity.kn).

The table below lists some of the main social assistance and non-contributory programmes currently operating in Saint Kitts and Nevis:

Programmes	Particulars / Purpose
Assistance Pensions (Social Security Board)	Elderly and people with disabilities in poverty.
Poor relief	Poverty alleviation for poor households.
Compassionate grants, disability grants and public assistance	Cash support for poverty alleviation and assistance for households facing un-anticipated shock.
School Text Book Scheme	Subsidises the cost of textbooks for primary and secondary school students.
Burial assistance, Home Repairs and Medical expenses	Improve housing for the poor. Increase access to medical care. Assist with burial of family members.
Food Vouchers	Food vouchers for a specified basket of goods.
The Student Education and Learning Fund in Saint Kitts (SELF – Ministry of Education)	Provides free textbooks to all primary students and operates a revolving book loan scheme at the secondary level.
Uniform Programme (Ministry of Education)	Provides uniforms to children from low income families.
School Feeding Programme in Saint Kitts (Ministry of Education)	Provides a free school lunch to all students in primary schools/improve attendance.
Teen mothers Programme	Provides social and financial support to teen mothers in the school system.
Programmes in NEVIS (Public assistance, assistance pensions, poor relief, compassionate grants, food vouchers, uniforms, textbooks, school feedings, medical and burial assistance, home repairs, and several fee waivers for medical Care)	Similar programmes and goals to those in place in Saint Kitts.

The Social Development Assistance Act provides the framework for provision of social assistance for poor and indigent persons on both Saint Kitts and Nevis, including: (i) cash and near cash transfers (Food Vouchers Compassionate Grants, Poor Relief, Disability Benefits, Foster Grants); (ii) in-kind transfers (school uniforms, housing assistance, funeral grants, and grants for off-island medical care, spectacles, hearing aids, and prescriptions); and (iii) social care services (community care for the elderly).

Education is provided free of charge in the public education system. There are supportive measures in place to ensure that children with disadvantaged backgrounds are able to benefit from the education system, such as student support schemes (school uniforms, school feeding, and textbook loans) in Saint Kitts and a similar set of programmes in Nevis.

Both islands provide Home Care Officers; personnel who work with seniors who need added assistance in their homes. These officers assist with personal hygiene, light housework, visitations and the preparation of meals, as well as monitoring the emotional and physical health of those in their care (Government of Saint Kitts and Nevis, 2012a).

Finally, starting in September 2013, the MEND (Mold, Empower, Nurture and Direct) Families Programme in Saint Kitts and Nevis is the local adaptation of the Chilean Puente Program. MEND is a social cash transfer programme that aims to protect and promote the wellbeing of the poorest and most vulnerable households in Saint Kitts and Nevis and also to impart knowledge and skills to the most vulnerable households. It will consolidate four existing social safety net programs, presently administered by the Department of Social Services and Community Development. The National Implementation Team for the MEND Families Programme is charged with management, monitoring and evaluation of the Programme for the period 2013–2016.²⁷ The Inter-Ministerial Committee for Social Protection is a body established by the Federal Cabinet, and is made up of key stakeholder Departments and Ministries. These are critical to the full implementation of the National Social Protection Strategy. They are tasked with monitoring and evaluating the implementation of the programme (FAO, 2015).

The goal of the MEND Families Programme is to eradicate indigence in the Federation of Saint Kitts and Nevis. There are two fundamental objectives of the Programme: to build and strengthen the resilience of the indigent population, thereby enabling them to benefit from investments in human capital development, and to provide streamlined, effective and efficient wrap services to the indigent population. The Programme intends to provide comprehensive support to the poorest and most vulnerable households, aiming to strengthen and empower them, thereby eliminating indigence and reducing poverty. Financial support is provided directly from the Federal budget, with some support from regional and international entities.²⁸

5.5.3 Remarks

The Constitution of 1983 does not speak of education, health and social security and assistance as a right. It establishes, more broadly, individual rights and freedoms for citizens.

The legislative framework is insufficient for realisation of international commitments regarding the rights of children and women and it is unable to protect the rights of people with disabilities and older persons. It should be noted that Saint Kitts and Nevis is not yet party to the UN Convention on the Rights of Persons with Disabilities.

The Social Development Assistance Act, together with the Social Security Acts, seem to provide some level of legal support for the provision of social assistance and non-contributory programmes in Saint Kitts and Nevis.

The Education Act (2005) includes rights based language, recognising and specifying rights and responsibilities in the education sector. Furthermore, it specifies that, subject to available resources, all persons are entitled to receive an educational programme appropriate to their needs.

In the process of the UPR, other States have signalled to Saint Kitts and Nevis the need to review its current legislation in order to bring it fully in line with the principles and provisions of the international conventions. They also recommended to Saint Kitts and Nevis to consider signing and ratifying the ICESCR and the CRPD (Human Rights Council, 2011b).

27 The programme is in the Implementation stage of a pilot project, targeting twenty-one (21) households, according to the information provided in the presentation made by the Federal Government of Saint Kitts and Nevis at the Third Caribbean Workshop on Social Protection and International Cooperation – Inter-American Social Protection Network celebrated in Barbados. 26–27 September 2013.

28 *Ibid.*

In March of 2012, the Federal Government approved the National Social Protection Strategy where it is stated that the national legislative framework is not sufficient to meet these international commitments. Non-contributory pensions and social assistance are governed by legislation; however, the presence of a legislative framework for key programs has not been sufficient to ensure the realisation of international commitments. There is also some question as to whether the Social Development Assistance and Social Security Acts are broad enough to encompass needed reforms without being amended. The strategy is intended to help realise these commitments, as *a review of the national legislative environment for Social Protection Reform is part of Strategy Plan of Action* (Government of Saint Kitts and Nevis, 2012b).

Moreover, the social protection strategy employed by Saint Kitts and Nevis states that policy and procedures are not fully documented. Programmes do not have operation manuals, and in their absence, implementation arrangements are open to the discretion of Ministry, health and school officials. Criteria for eligibility are stated in terms of unverifiable income and/or are subjective. The absence of fully documented policies and procedures creates opportunities for political interference in the selection of beneficiaries. Finally, programmes lack formal appeal mechanisms. The Social Development Assistance Act calls for the establishment of an Appeals Committee, but this does not appear to function (Government of Saint Kitts and Nevis, 2012b, p. 54).

It is worth noting that in exchange for European Union support to the social protection sector, the government has committed to reform The Social Development Assistance Act and provide appropriate legislative framework for improving implementation of social protection programmes in 2014 (see also FAO, 2015).

5.6 Saint Lucia

Saint Lucia obtained independence from Britain in February 1979. Saint Lucia is a parliamentary democracy, modelled on Britain's Westminster system. As a Commonwealth country, it recognizes Queen Elizabeth as the Head of State, represented on the island by a Governor General. Government consists of the executive, the legislature and the judiciary, based on the principles of separation of powers and independence of the judiciary.

The Prime Minister is the Head of Government while the Governor General is the Head of State. The House of Assembly consists of the number of members that correspond to the number of constituencies at the time being established. The Parliament of Saint Lucia is bicameral, having two chambers. The Senate has 11 members; six are nominated by the government, three by the opposition and two by the Governor General. The House of Assembly has 17 directly elected Members and one Speaker. Saint Lucia's legal system is mostly based on the English Common Law but also influenced by French civil law, with most of its statute law originating from the United Kingdom.

The court system consists of the Magistrate's Court, the High Court and the Eastern Caribbean Court of Appeal. The Magistrate's Court adjudicates on the less severe criminal and civil law matters. Within the Magistrate's Court, there is also the special Division of Family Court to deal with family matters. The High Court handles major civil and criminal cases. Appeals from both Courts go to the Eastern Caribbean Court of Appeal, which is based in Saint Lucia. Appeals from the Appellate Court are referred to the Court of Final Jurisdiction, which is the Judicial Committee of the Privy Council of the House of Lords in London.

The Constitution is the Supreme law of Saint Lucia and any law seen to be inconsistent with it is void. Chapter 1 of the Constitution guarantees the protection of fundamental rights and freedoms: the right to life; the right to liberty; the right to protection of the law; security of the person; equality before the law; freedom of conscience; freedom of expression and of assembly and association; protection of his family; protection of his personal privacy; protection for the privacy of his home and other property; protection from deprivation of property without compensation; protection from slavery and forced labour; protection from inhumane treatment; protection from discrimination on the grounds of race, place of origin, political opinions, colour, creed or sex.

The Constitution guarantees that any person, in a case of violation of his or her fundamental human rights provisions, may apply to the High Court for redress. However, social and economic rights are not included in the Constitution and therefore not protected by the Judiciary.

This constitutional protection from discrimination is not applicable to persons who are not citizens of Saint Lucia.

5.6.1 Legislation

There is some legislation in place that can be considered as supporting social protection programmes, in particular the Public Assistance Act of 1967 and The National Insurance Act No. 10 of 1978.

The Education Act No. 41 of 1999 is also of particular importance, as it establishes that all persons are entitled to receive an educational programme appropriate to their needs and no tuition fees can be charged to a student enrolled in an educational programme at a public school. However, the same Act prescribes that tuition fees can be charged to students who are not citizens of a Member State or Associated Member State of the Organisation of Eastern Caribbean States or of a Commonwealth country.

The Act mandates the compulsory attendance of children from the age of 5 years until the end of the school year in which that child attains the age of 15 years. Parents are responsible for enforcing their children's school attendance, and can be liable on summary conviction to a fine not exceeding one thousand dollars for failing to do so.

The right to education is further supplemented by the Education (Amendment) Act No. 13 of 2007 which, by virtue of this amendment, a private educational institution may provide an Early Childhood Services Programme suitable to the needs of children less than 5 years of age, if the parent of the child agrees.

The Children and Young Persons Act No.11 of 1972, and amendments, provides for the establishment of juvenile courts and juveniles in conflict with the law. Additionally, there is some legislation related to family matters, such as, the Separation and Maintenance Act and the Family Court Act.

The National Insurance Corporation Act governs and regulates contributory national insurance provision in Saint Lucia and provides for payment of short and long-term benefits. The benefits (both long and short term) currently offered include: maternity allowance or grants; sickness benefits; invalidity pension or grant; age pension or grant; employment injury; survivors' pension or grant; funeral grant; and hospitalisation benefits.

5.6.2 Social protection programmes

The Ministry of Social Transformation, Youth and Sports and the Ministry of Education and Culture are the major governmental bodies involved in the provision of social protection.

The existing social protection system includes cash transfer programmes (Public Assistance programme), the School Feeding and transportation programme and Educational Assistance programme; Low-Income Seniors' Benefit, fee waivers for specific social services and programmes targeted towards infants and young children (Community Day Care), amongst others.

TABLE 7: Saint Lucia social protection programmes

Programmes	Particulars / Purpose
Public Assistance	Poverty alleviation.
Koudemain St Lucie	Poverty alleviation to indigent households.
Medical Assistance (Ministry of Health)	Increase access to medical care.
Housing assistance	Improve household for extremely poor.
Disaster Assistance	Assist in unanticipated shocks related to natural disasters.
Burial assistance	Assist with burial of family members.
Roving Caregivers	Enhance cognitive development for poor children.
Student welfare assistance (Ministry of Education)	Promote school enrolment and attendance.
Education assistance	Assist with the cost of books and uniforms.
School Feeding Programme (Ministry of Education)	Increase enrolment, attendance and performance.
School Transportation Programme (Ministry of Education)	Promote attendance to school.

The National Community Foundation, which has been created by the National Community Foundation Act of 2002 (revised in 2005) has also the responsibility for medical assistance, disaster assistance and education assistance programmes.

5.6.3 Remarks

The legislation which is in place, in particular the Public Assistance Act of 1967, is old and insufficient to support social protection programmes and social assistance.

There is not enough adequate legislation in accordance with international human rights standards and commitments, especially regarding children, women, older persons and people with disabilities.

The Constitution and the Education Act establish different treatments to migrants restricting their rights, in a way that can be deemed to be discriminatory, under current human rights standards protecting the rights of migrants, in particular where children are concerned.

The Committee on the Elimination of Discrimination against Women, in its concluding observations, expressed its concern about the position of the Convention in the national legal system, as it appears that the Convention has not been incorporated into domestic legislation, rendering its provisions non-enforceable and non-justiciable in the courts. The Committee called on the State party to

incorporate fully, in its constitution or other appropriate legislation, the definition of discrimination against women (CEDAW, 2006).

Likewise, in the UPR, Saint Lucia received recommendation from various States to sign and ratify the ICESCR and the CRPD and to incorporate treaties that have already been ratified into its national legal framework (Human Rights Council, 2011c).

In 2009, a Social Safety Net Assessment was undertaken reviewing the accessibility to social safety net programs and analysing implementation arrangements and constraints (Blank, 2009). Based on that assessment, the government adopted a National Social Protection Policy that, amongst other functions, prioritises the revision and further development of the institutional, legal and financial frameworks, which will in turn facilitate the provision of more coordinated, egalitarian and transformative social protection services.

The Committee on the Rights of the Child has recommended that Saint Lucia implement social protection reform initiatives of the Ministry of Social Transformation, Local Government and Community Empowerment with a view to establishing a coherent framework identifying priority action against the exclusion of children, with specific and measurable objectives, clear indicators, deadlines and sufficient economic and financial support (Committee on the Rights of the Child, 2014).

The National Social Protection Policy identifies the revision and developing of the institutional, financial and legal frameworks as a priority in order to create more coordinated and transformative social protection services. This policy particularly calls for the government to begin *reviewing and developing the Legal Framework and Regulations for Social Protection for 2015* (Priority 4 – Objective 4.2).

According to the Government, a new Social Protection Act of Saint Lucia will replace the existing social protection legislation with a legal framework that will facilitate higher levels of interdepartmental coordination, with the aim of reducing poverty and combining the various, current legal instruments into a single comprehensive framework. It will include the provisions necessary for superseding the Public Assistance Act. The new legal framework will reinforce various stakeholders and Government agencies' assigned roles and responsibilities. In addition to the specific Social Protection Act for Saint Lucia, other pieces of legislation may need to be developed, in particular those related to Persons with Disabilities, older persons and the revision of the existing Child Maintenance Legislation, amongst others. The revised Social Protection legal framework and its regulations should ensure longer-term equity in accessing services and reduce the legal barriers that exclude the marginalised population from higher levels of wellbeing (Government of Saint Lucia, 2013, p. 26).

5.7 Saint Vincent and the Grenadines

Saint Vincent and the Grenadines gained independence from Britain in 1979 and adopted a Parliamentary Democracy, based on Britain's Westminster model. The country has remained part of the Commonwealth. The Saint Vincent and the Grenadines Constitution Order of 1979 provides for the Office of a Governor-General, appointed by the Queen of the United Kingdom. The functions of the Office of The Governor-General are statutory, ceremonial and social. Control of the government rests with the Prime Minister and the Cabinet.

The parliament is a unicameral body, consisting of 15 elected members and six appointed senators. The governor general appoints senators; four on the advice of the prime minister and two on the advice of the leader of the opposition. The parliamentary term of office is 5 years, although the prime minister may call elections at any time.

As in other English-speaking Caribbean countries, the judiciary in Saint Vincent is rooted in British common law. There are 11 courts in three magisterial districts. The Eastern Caribbean Supreme Court, comprising of a High Court and a Court of Appeals, is known in Saint Vincent as the Saint Vincent and the Grenadines Supreme Court. The court of highest appeal is the judicial committee of the Privy Council in London.

The Constitution of Saint Vincent and the Grenadines, which came into force in 1979, is the supreme law of the country. If any other law is found to be inconsistent with the Constitution, the provision of the Constitution prevails and that law is void, to the extent of the inconsistency. Chapter 1 of the 1979 Constitution deals with the fundamental rights and freedoms of individuals. It guarantees the protection of right to life, personal liberty, freedom of conscience, freedom of expression, freedom of assembly and association and freedom of movement. The Constitution provides protection from slavery, inhuman treatment, deprivation of property, arbitrary search or entry and secures protection of the law, including the right to a fair hearing and presumption of innocence.

The Constitution also provides for the enforcement of human rights provisions. Under section 16 of the Constitution, any individual alleging that his/her rights, as enshrined in the Constitution, have been violated can apply to the High Court for redress, but the Constitution does not contain reference to economic, social and cultural rights.

Whilst the Constitution prohibits discrimination on the ground of sex, discrimination on the grounds of sex, race, place of origin, political opinions, colour or creed measures, the clause guaranteeing this is not applicable to persons who are not citizens.

5.7.1 Legislation

The National Insurance Service is a statutory corporation established by Act No. 33 of 1986. The aim of the National Insurance Service is to provide social security protection and it is financed by contributions paid by insured persons.²⁹ Benefits include old age, sickness, maternity, invalidity, employment injury, funeral and survivors'.

The Public Assistance Act 1957, revised in 1990, establishes a public Assistance Board and provides, in general terms, the statutory basis of the work of the Ministry of National Mobilisation, Social Development, Family, Gender Affairs, Persons with Disabilities and Youth.

The formal system of education in Saint Vincent and the Grenadines is stipulated under the Education Act. This Act is the main instrument that governs, organises, administers and regulates education in the State. Under this Act, the right to education is an entitlement.

5.7.2 Social protection programmes

The Ministry of National Mobilisation, Social Development, Family, Gender Affairs, Persons with Disabilities and Youth and the Ministry of Education run the main social assistance programmes.

29 National Insurance Service (available at www.nissvg.org).

TABLE 8: **Saint Vincent and the Grenadines social protection programmes**

Programmes	Particulars / Purpose
Public Assistance (& Relief)	Relief to indigent persons.
School Feeding Programme (Ministry of Education)	To provide a nutritional supplement to children attending primary and pre-schools.
Medical Administration and Prescription Subsidy	Support access to medical assistance and medication.
Elderly Assistance Benefit (National Insurance Services - NIS)	Financial support to older persons affected by economic crisis.
The Non-Contributory Assistance Age Pension (NIS)	Cash to indigent older persons.
Home Help for the Elderly	Provide in-house care and assistance to the indigent elderly.

The largest programme is Public Assistance Relief, a means-tested cash grant, targeted towards the poor and indigent. There is also “Public Assistance” that targets poor and vulnerable households, providing them with a range of cash and in-kind benefits.

There are also student support schemes covering uniforms, supplies and examination fees, which are implemented through the Ministry of National Mobilisation, whilst the Ministry of Education covers scholarships and book loans.

There are other programmes and interventions to provide social assistance in particular to older persons, people with disabilities and households with children: a) Transport Subsidy – For Students and the Elderly, b) Funeral Grants for the poor, c) Immediate/Emergency Assistance, d) Food Assistance and e) Housing Assistance for the poor.

The Home Help for the Elderly is designed not only to help the destitute elderly and reduce the effects of poverty on this segment of the population, but also as a means of employment creation for person providing home assistance. Assistance ranges from cleaning and making meals, to bathing and other tasks (Government of Saint Vincent and the Grenadines, 2012).

The Family Services Division of the Ministry of National Mobilisation, Social Development, Family, Gender Affairs, Persons with Disabilities and Youth provides assistance to older persons in the form of transportation allowance and rebates for water and electricity.³⁰

In 2012, the Government, through the Nutrition Support Program, supplied 22 188 basic food packages to pregnant women who were underweight or were suffering from anaemia. Through the School Feeding Program, it provided meals to 12 923 schoolchildren, including 9 613 at primary level and 3 310 at pre-school level (PAHO, 2012). The School Feeding Programme provides a nutritional supplement to children attending primary and pre-schools and its main goal is to prevent malnutrition in children of disadvantaged, indigent and poor parents, enrolled in a primary school or pre-school.

The National Insurance Service provides not only social security protection to all contributing nationals of Saint Vincent and the Grenadines, but also runs a Non-Contributory Assistance Age Pension.

This provides income to those elderly persons most in need and cash benefits to individuals who meet specific eligibility criteria, associated with predefined categories of need. Means-testing is applied to the income and assets of individuals as a major condition of eligibility.

In 2009, the National Insurance Service introduced the Elderly Assistance Benefit, to help cushion the effects of the global financial crisis on elderly citizens. To qualify for this benefit, the applicant cannot be receiving a pension or an income equivalent to the elderly assistance pension, or a regular income from any other source, or engaged in remunerative work.³¹

5.7.3 Remarks

Saint Vincent and the Grenadines is the only country of the OECS that has ratified all main universal conventions, namely, the Convention on the Rights of the Child, the Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. However, the majority of the principles and provisions of these human rights treaties are not expressly enshrined in domestic legislation.

Although there is some legislation that recognizes, to some degree, children's rights, the right to education, social security and some level of a non-contributory social assistance, Saint Vincent and the Grenadines needs to adopt a harmonising process of its legislation that is directly relevant to children, women, older persons and people with disabilities and migrant persons.

In general, social assistance programmes operate based on an old legal framework (Public Assistance Act). This Act does not recognize social protection as an entitlement and does not provide eligibility criteria to select beneficiaries. It does not grant recourses in case of denial, nor for the participation of beneficiaries and non-governmental organizations and the criteria for the monitoring and evaluation purposes of the programmes.

31 National Insurance Service (available at www.nissvg.org).



6. A human rights-based approach to social protection

Ensuring access to social protection can be understood as a State obligation under international human rights law. The right to social security and the right to an adequate standard of living are engrained in the Universal Declaration of Human Rights, as well as several international and regional human rights treaties and conventions of the International Labour Organization.³²

It is true that most international human rights instruments do not use the term social protection. Rather, they set out the right of everyone to social security, including social insurance. This non-exhaustive definition of social security led the CESCR (2008) to define the right to social security in a broad manner, as encompassing not only contributory or insurance-based schemes but also non-contributory schemes, such as universal schemes or targeted social assistance schemes, where benefits are received by those in a situation of need.

Social protection systems should protect individual men, women and children against the risks of impoverishment in situations of sickness, disability, maternity, unemployment, old age, death of a family member, high health care or child care costs and general poverty and social exclusion. Social protection measures can include cash transfer schemes, public work programmes, school stipends and lunches, social care services, unemployment or disability benefits, social pensions, food vouchers and food transfers, user fee exemptions for health care or education and subsidised services.

The analysis in this paper is framed by the recognition that the right to social protection is a human right under international law, and therefore social protection should be considered as an entitlement rather than merely a relief provided by governments (Blank *et al.*, 2011 and Roelen and Sabates-Wheeler, 2012).

One of the fundamental added values of the human rights approach is that the focus on rights and obligations assists in improving accountability, as responsibilities are defined in terms of the

³² The right to social security is recognized in arts 22 and 25 of the UDHR and Art. 9 of the ICESCR. It is also enshrined in the Convention on the Elimination of All Forms of Racial Discrimination, Art. 11; CRC, Art. 26; and the Convention for the Protection of Migrant Workers and their Families, Art. 27. It also appears in regional human rights instruments (for example, Art. 9, Protocol of San Salvador and Art. 12, European Social Charter), and in several Conventions of the International Labour Organization (ILO), in particular Convention No. 102 concerning Minimum Standards of Social Security (1952). The CPRD explicitly refers to the right to social protection (Art. 28).

specific legal obligations of “duty-bearers” and those who are entitled to make claims are identified as “rights holders”. This fundamentally means a shift from a charity or needs-based approach, towards a concentration on rights and entitlements, which in turn give rise to obligations on the part of the State. Therefore, a focus on rights and obligations helps by ensuring that people at the centre of social protection policies and programmes are not passive beneficiaries, but rights holders who can exercise their entitlements by holding responsible those behind such policies.

Human rights obligations relate not only to the final outcome of social protection programmes, but also to the process through which such programmes are implemented. Therefore, Governments should not only adopt social protection programmes, but design, implement, monitor and evaluate such programmes in accordance with human rights standards. This includes mainstreaming principles of equality and non-discrimination, human dignity, participation, transparency and accountability into social protection systems.

Non-discrimination and equality are core components of the international human rights normative framework. When applied to social protection programmes, these principles require social protection systems to incorporate mainstreaming in their design, implementation and evaluation, ensuring that they are accessible by all those who suffered from discrimination (e.g. women, children, older persons, persons with disabilities, etc.). Therefore, targeting methods must be reasonable, objective, transparent and gender and child sensitive.

States must guarantee transparency and access to information regarding social protection programmes. States should ensure that programmes have the mechanisms in place to provide transparency and access to information, with respect to all core components of the programmes, including targeting mechanisms, eligibility criteria, benefit levels, complaints and redress mechanisms. Individuals should be able to easily recognize and understand eligibility criteria, the specific benefits that they will receive and the redress mechanisms provided. Without these mechanisms in place, there is a higher risk that social protection schemes will reinforce and perpetuate unequal power relations, excluding those most in need of assistance (Sepúlveda and Nyst, 2012, p. 52).

For instance, since many social protection programmes are explicitly targeted towards women, it is often assumed that gender issues are already addressed. Such targeting, however, does not mean that gender dynamics have been adequately taken into account in the design, implementation and evaluation of such programmes. States must acknowledge that the impacts of social protection programmes are not gender neutral, and accordingly, should design and implement social protection strategies, which recognize the multiple forms of discrimination that women experience, as well as ensuring that programmes address women’s specific needs throughout the different phases of their life cycle (childhood, adolescence, adulthood and old age) (Sepúlveda and Nyst, 2012, p. 36 and Sepúlveda, 2010).

Participation is also a key element of the human rights approach. Beneficiaries of social protection programmes must have the right and ability to participate in the design, implementation and evaluation of the programmes themselves. Effective participatory channels allow policy-makers and programme administrators to seek and receive feedback from beneficiaries and, in turn, to improve the effectiveness of social protection programmes.

The design of participatory channels must take into account the existing asymmetries of power within the community, or risk perpetuating, rather than eliminating, abuses of power by local elites, whilst continuing the exclusion of marginalised groups in the participation process, especially women. For this reason, particular attention must be paid to mitigating gendered power relations.

Specific measures must also be taken to actively encourage and enable the participation of groups who suffer from structural discrimination, such as persons with disabilities, indigenous peoples, ethnic minorities and older persons (Sepúlveda and Nyst, 2012, p. 58, 59 and Sepúlveda, 2013).

The right to participation is strongly linked with empowerment, which is a key human rights goal and principle. Effective participation can build capacity and rights awareness. It allows those living in poverty to see themselves as full members of society and autonomous agents, rather than subjects of decisions taken by others who see them as objects of assistance or mere statistics (Sepúlveda, 2013, p. 6).

A human rights framework also demands accountability and redress mechanisms. This is in line with human rights standards that state that everyone has the right to an effective remedy when his or her rights have been violated or neglected. States must ensure that persons living in poverty are able to exercise their right to an effective remedy through judicial, quasi-judicial, administrative and political mechanisms, in the event that actions and omissions undermine or jeopardize their human rights, including in public service delivery, poverty reduction programmes and resource allocation. Persons living in poverty should be fully informed about the remedies available to them, and mechanisms should be physically and financially accessible to all.

When social protection systems are not accompanied by accountability and redress mechanisms, they are less likely to be understood in terms of entitlements and rights. Rather, social protection may be viewed as an instrument of clientelism, which can be manipulated by political actors or local elites (Sepúlveda and Nyst, 2012, p. 60).

To have in place built-in mechanisms to collect and process complaints are also essential to prevent the abuse of authority. Such mechanisms are crucial, in particular, for the review of eligibility for the programme and the maintenance of the programme. Complaints procedures should include an appeal process that is independent, accessible, simple, fair and effective. Appeal mechanisms are especially crucial when targeting methods are used, as it is likely that many eligible poor households have been excluded from the programme. The complaints and appeal processes must be an integral part of the social protection programme (Sepúlveda and Nyst, 2012, p. 61).



7. Linkage between the right to social protection and the right to food

The right to social protection and the right to food are complementary human rights. In keeping with the holistic character of the rights-based approach, it is important to give legal protection to other human rights whose realization is interdependent with that of the right to social protection, such as the right to food, education and health. Social protection programs have a crucial impact in ensuring access to food, decent health care and education – all basic human rights that lead to an adequate standard of living.

From the standpoint of social protection, improving access to food is not just a matter of increasing income or providing food. This is the case with school feeding programmes which have several objectives: reducing hunger and improving food security, particularly for children; and increasing human capital accumulation by providing incentives for children, particularly girls, to attend school and by providing food which helps children to concentrate and improve learner performance (HLPE, 2012, p. 13).

There are powerful synergies between social protection and food security. Effective social assistance programmes can alleviate chronic food insecurity or hunger, while demand-driven or scalable social insurance and safety net programmes can address transitory food insecurity caused by seasonality or vulnerability to livelihood shocks. Social protection programmes with food security objectives relates to different aspects of the right to food (e.g. food subsidies, school feeding, supplementary feeding, cash transfers).

The linkages between food security and social protection are recognized by the UN Committee on Economic, Social and Cultural Rights which provided a detailed interpretation and elaboration of content of the right to food and the corresponding state obligations in its General Comment No. 12 stated that that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights. It is inseparable from social justice, requiring the adoption of appropriate economic and social policies oriented to the eradication of poverty. Moreover, the Committee clearly requires that each State party to Covenant on Economic, Social and Cultural Rights take whatever steps are necessary to ensure that everyone is free from hunger, and as soon as possible can enjoy the right to adequate food. This will require the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that

define the objectives, and the formulation of policies and corresponding benchmarks. The strategy should address critical issues and measures in regard to all aspects of the food system, as well as parallel measures in the fields of health, education, and social security.

The *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (Right to Food Guidelines) also address social protection in relation to food security calling States to accompany food assistance in safety nets schemes with complementary activities including access to health care and education (FAO, 2005).³³

According to a report by the High Level Panel of Experts on Food Security each country should develop a comprehensive social protection portfolio and action plan that seeks to address structural poverty and food insecurity. One possible model for the social protection portfolio is the “Food Security Floor”, which would identify a minimum set of appropriate social protection and other interventions that would realise the right to food in each country. The design should start with a national food security assessment and should include: a mix of appropriate tools, goals and intended beneficiaries, targeting and registration methodologies, institutional arrangements, delivery mechanisms, accountability systems, sound monitoring and evaluation that includes impact indicators for nutrition, funding requirements and funding sources. Ensuring inter-ministerial and cross-sectoral coordination is crucial, to ensure that social protection is integrated with broader food security programming (HLPE, 2012, p. 13).

33 In 2003, an Intergovernmental Working Group was established under the auspices of the Food and Agriculture Organization of the United Nations for (FAO) in order to prepare a set of guidelines on the implementation of the right to food. The Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security were adopted unanimously by the 127th Session of the FAO Council in November 2004 after previous endorsement of the Committee on World Food Security and the Intergovernmental Working Group. They provide practical guidance to States in their implementation of the progressive realization of the right to adequate food.



8. Analysis of the need for social protection legislation in OECS and Barbados

This section analyses the situation in the seven countries assessed in this study. It begins with an overview of the social protection programs and legislation and ends with an analysis of the need for further legislation to increase the protection and public awareness surrounding human rights and the sustainability of the social safety nets in this region.

8.1 Social protection programmes and legislation

8.1.1 Social insurance and social protection

Social assistance typically includes some combination of cash and in-kind transfers, subsidies, active labour market programmes, social care services and community based interventions. This section focuses mainly on cash and in-kind transfer programmes, including those non-contributory pensions in social insurance schemes.

→ Social insurance

Social insurance programmes (contributory schemes) are in place in all the countries that form part of this study. Statutory social insurance schemes usually cover employees and, in some cases, also the registered self-employed.

Most social insurance schemes generally include a similar range of benefits, principally old age pensions, through both contributory and, in some cases, non-contributory schemes. Other benefits provided by most schemes include sickness, maternity, employment injury, survivors', disablement and funeral benefits, among others.

Social insurance schemes have also been utilised for income redistribution, by ensuring a minimum benefit through a non-contributory pension or social pension. Benefits are at times provided via the country's National Insurance Scheme, as in the case of Barbados, Saint Kitts and Nevis and Saint Vincent and the Grenadines, all of which provide non-contributory old age pension programmes (World Bank, 2013, p. 29).

→ Cash transfers

All countries analysed in this study provide unconditional cash transfer programmes for the poor, the indigent and/or the disabled and/ or the elderly: a) National Assistance programme in Barbados; b) Assistance pensions in Saint Kitts and Public assistance in Nevis; c) Public Assistance programme in Saint Lucia; d) Public Assistance Relief and Public Assistance Immediate Assistance in Saint Vincent and the Grenadines; and e) Public Assistance (Welfare) in Dominica.

Grenada is undergoing a reform process, through which three of the country's principal cash transfers have been unified to one broad Conditional Cash Transfers programme: The Support for Education, Empowerment and Development (SEED) programme, which provides transfers to the country's most vulnerable, with the amounts transferred being tied to co-responsibilities that promote human capital development, such as adherence to health protocols and school attendance.³⁴

In addition to cash transfer programs, some countries provide monetary support in particular circumstances or to particular groups (World Bank, 2013, p. 43):

- Antigua and Barbuda provides for burial assistance and cash to assist families and students with transport costs to and from school.
- Grenada provides burial assistance to assist poor households, emergency assistance and disaster fund and national house repair programmes to assist families facing unanticipated shocks and even a food security programme to support farmers affected by food price increases.
- Saint Kitts provides disability grants, compassionate grants and food vouchers. Nevis provides compassionate grants and poor relief to families suffering from shocks.
- Saint Lucia provides burial assistance, disaster assistance and housing assistance to families suffering from natural disasters and fire.
- Saint Vincent and the Grenadines supports families with burial assistance, disaster relief and assistance and housing assistance.

→ In-kind transfers

All countries have in place in-kind programmes, most of them to improve families and students' accessibility to education, which are administered by the Ministry of Education. School feeding programmes are present in both Barbados and OECS to improve child nutrition and school attendance.

In Dominica, Grenada, Saint Kitts and Saint Vincent and the Grenadines, there are school textbook schemes that subsidise the costs of textbooks for primary and secondary school students. School uniform programmes and education assistance programmes are present in Antigua and Barbuda, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines. School transportation subsidies and allowances are also in place in most countries.

There are several other in-kind transfer programmes to support vulnerable people, such as the following:

- Utility Subsidies and assistance: Antigua and Barbuda and Saint Vincent and the Grenadines.
- Fee waivers and support with medical expenses: Antigua and Barbuda, Grenada (including medication), Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines.

34 Information provided by the Ministry of Social Development and Housing at the Third Caribbean Workshop on Social Protection and International Cooperation – Inter-American Social Protection Network celebrated in Barbados. 26–27 September 2013.

- Housing assistance and repair: Antigua and Barbuda, Grenada, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines.
- Water connection: Saint Vincent and the Grenadines.

8.1.2 Legislation in Barbados and OECS

Social insurance schemes are all based and regulated by social insurance legislation: a) the Social Security Act in Antigua and Barbuda; b) the National Insurance and Social Security Act in Barbados; c) the Social Security Act No. 29 in Dominica; d) the National Insurance Act 14 in Grenada; e) the Social Security Act in Saint Kitts and Nevis; f) the National Insurance Corporation Act in Saint Lucia; and g) the National Insurance Scheme Act in Saint Vincent and the Grenadines.

The legislative framework in which the social protection sector operates consists mainly of antiquated and broad laws, which date back to the 1960s. In Antigua and Barbuda, the most relevant legislation is the Poor Relief Act of 1961, in Barbados, the National Assistance Act (cap. 48) from 1969, in Saint Lucia, the Public Assistance Act of 1967 and in Saint Vincent and the Grenadines, the Public Assistance Act of 1957.

These Acts neither name nor create any specific programmes; however their greatest flaw is that they fail to grant rights. Instead, they establish Boards to which applications should be referred, e.g. Board of Guardians of the Poor in Antigua and Barbuda, National Assistance Board in Barbados and a Public Assistance Board in Saint Vincent and the Grenadines. These Boards have discretionary power to decide and determine who is eligible to receive “relief”. The language used in these Acts does not mention benefits and entitlements, but relief to poor and destitute persons and families.

Current legislation also fails to incorporate basic principles, including *inter alia* transparency in eligibility criteria, rules of operation, recourses for denial and reasons for termination. In most cases, clear procedures are not established and overall implementation is subject to discretion, as well as possible political interference. These issues were particularly noted in the Social Safety Net Assessments for Saint Lucia and Saint Vincent and the Grenadines (Blank, 2009c, p. 35).

There is, however, legislation to protect children, though no country in this region has adopted comprehensive child legislation that fully incorporates the Convention of the Rights of the Child. Most of the countries have enacted laws covering a range of issues (e.g. Maintenance Acts in Antigua and Barbuda, Grenada and Saint Lucia, Child Protection Acts in Antigua, Grenada and Saint Vincent and the Grenadines, the Children and Young Persons Act in Saint Lucia and the Probation and Child Welfare Board Act of 1994 in Saint Kitts).

With regards to the protection of rights of women and female children, Antigua and Barbuda, Barbados, Dominica, Saint Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines have all adopted legislation related to domestic violence and sexual abuse.

It should be highlighted that most of the countries assessed in this study have adopted Education Acts that explicitly establish a rights-based mandate to the provision of education to children. These Acts clearly outline the rights and responsibilities of students, parents and teachers and guarantee universal access to education for all persons aged between five (5) and sixteen (16) years. Education is provided free of charge, in the public education system, and, as explained in the previous section, there are several supportive measures and programmes in place to ensure that children with disadvantaged backgrounds are able to attend and benefit from the education system.

With regards to other vulnerable groups, there are no specific laws or regulations protecting them, particularly those with special needs, such as the elderly and people with disabilities. In addition, most of the countries are yet to ratify the Convention on the Rights of Persons with Disabilities (i.e. Antigua and Barbuda, Grenada, Saint Kitts and Nevis and Saint Lucia).

Furthermore, migrant children and families might face additional challenges regarding access to education and social and assistance programmes. Some of the legislation requires citizenship or a long period of residency (e.g. Social Security Act, Education Act). Therefore, even though education acts in most states of the OECS include a non-discrimination clause, they allow schools to charge tuition fees to migrant children and families. This contradicts the human rights standard regarding the treatment of migrant children in the education system, compared with national children, regardless of their country of origin and nationality or that of their parents.

8.2 Ensuring an adequate legal framework for social protection programmes

As analysed above, most social protection programmes are implemented in the absence of an appropriate legal framework. In some cases they are based only on old legislation, policy statements or simply operational manuals and guidelines. Predominantly, social protection is viewed as neither an entitlement nor a right of the beneficiaries.

A key aspect of the human rights approach is that social protection programmes must be enshrined and defined in national legal frameworks and supported by a national strategy and plan of action (CESCR, 2008, para. 67–72).

All countries that responded to the questionnaire recognized the need to adopt appropriate social protection legislation. In the case of Saint Kitts and Nevis, the government has identified this as an urgent priority and a revision of the 1988 Social Development Assistance Act is already under way. Saint Vincent and the Grenadines has identified that there is definitely need for to develop a comprehensive social protection strategy for the reduction of poverty and vulnerability which is legally binding.

The lack of a strong legal and institutional framework can seriously threaten the enjoyment of human rights by the programme's beneficiaries. In the absence of a well-established legal framework, programmes are more vulnerable to political manipulation, and in the long-term, the involvement of State authorities in all stages of the programme cannot be guaranteed (Sepúlveda and Nyst 2012, p. 27).

Adequate legal frameworks clarify the responsibilities of duty bearers, which is an essential requirement for accountability. In order to ensure a strong, effective, transparent and accountable social protection system, beneficiaries must be able to identify those actors who bear responsibilities in allocating the entitlement that they receive. A legal framework may also reduce the risk of political changes jeopardising existing social protection programmes, which in turn protects beneficiaries from potential violations of their right to social security.

Roles and responsibilities clearly established in all levels of government and involved institutions are critical for making accountability relationships work. Clear, simple, transparent, and consistent rules increase the predictability of benefits, by reducing room for bias, arbitrariness, error, fraud and corruption. Accountability mechanisms support the enforcement of rules, and thus contribute to programme equity by ensuring that all the eligibility criteria are applied fairly.

Efforts related to the social protection floor are predicated on the normative belief that social protection should reflect a social contract between governments as duty-bearers and citizens or residents as rights-holders. This is in contrast to “instrumentalist” views that see social protection primarily as a sets of tools for achieving poverty reduction and economic growth (ILO and WHO, 2009).

There is a risk that where social protection programmes are implemented without clear institutional and legal frameworks, the necessary protection of human rights standards may be lacking. This risk increases in the case of small-scale initiatives and pilot projects, because, on their culmination, beneficiaries may be left in a more difficult situation than before the establishment of the programme, or suffer from an abrupt loss of income. Without a strong legal and institutional framework and a long-term strategy, beneficiaries are not in a position to defend their rights to benefits (Sepúlveda, 2009, p. 11).

At a minimum, a legal framework for social protection should provide clear rules which at the very least, include:

1. non-discriminatory eligibility requirements for social protection programmes;
2. the benefits provided;
3. mechanisms to ensure transparency and access to information about available programmes;
4. definition of the various roles and responsibilities of all those involved in implementing the programmes (e.g. governments at national and local levels);
5. duration and recertification of eligibility;
6. causes for termination of the programme;
7. accessible complaints and appeal mechanisms;
8. participation channels for beneficiaries and civil society (in the design and monitoring of programmes).



9. Recommendations and minimum standards for a social protection model legislation in OECS and Barbados

Through the realization of a comparative assessment, this paper demonstrates that social protection should be underpinned by the human right to social protection at every level, from governments signing up to international conventions, to national legislation and programme implementation. The right to social protection, as recognized in international human rights law, should be incorporated into national legislation, so that governments recognize their duty to implement and deliver these basic human rights and residents have a legal basis for making claims on the state. This could take the form of a framework law, which spells out the targets or goals to be achieved, the timeframe for achievement of those targets, institutional responsibility for the process, national mechanisms for its monitoring, as well as possible recourse procedures. Social protection programmes should include accountability mechanisms such as grievance procedures, which effectively upgrade social protection from charity or welfare to an enforceable entitlement, leading to improved service delivery and greater effectiveness, while building a rights based approach into social protection programming.

This paper also aims to stimulate debate and advance a legislative agenda and work towards the reform and harmonization of legislation on social protection in the region that is consistent with modern international human rights legislation. Hopefully, this study will encourage and make some contribution towards the adoption of a harmonized model for social protection legislation in the OECS region.³⁵

Below are some recommendations to be considered as minimum standards in the adoption of legislation on social protection. It should be noted that these recommendations are by no means conclusive or extensive as to the best legislative strategies to ensure the right of social protection.

³⁵ The OECS Commission has undertaken several efforts to harmonize legislation and policies for the region. The OECS Family Law and Domestic Violence Project, with the support of UNICEF and UNIFEM, produced model legislation to be implemented by the Member States. Also with the support of UNICEF, the OECS Juvenile Justice Reform Project is a 5-year undertaking (October 2010-September 2015), targeted at the six (6) independent Member States and intended to address problems associated with the laws, policies, and practices of the juvenile justice system.

TABLE 9: Elements of a social protection model legislation

<p>Scope - purpose and objectives</p>	<ul style="list-style-type: none"> • Define the scope of the law. • Define the purpose and objectives of the law. • Define those who are governed by the law (Duty bearers and right holders). • Recognize social protection as a human right as further reflected in substantive provisions of the law. • Preferably specify the various dimensions of the right to social protection in order to facilitate the role of the authorities in charge of applying the law and would also allow individuals to better understand their entitlements under this right and claim them in case of denial.
<p>Definitions</p>	<ul style="list-style-type: none"> • The definition section explicates those terms that appear in the law and ensures an agreed, specific meaning of certain terms throughout the text. • For those definitions related to rights and human rights principles it is advisable to use accepted international human rights standards and definitions as provided by treaties and treaty monitoring bodies.
<p>Responsible institutions (duty bearers)</p>	<ul style="list-style-type: none"> • Define obligations of public authorities (duty bearers) in charge of the implementation of social protection system and programmes. • Identify the roles and responsibilities of all governmental institutions (at both the national and local level). • Establish which public (and private) institutions are responsible for fulfilling the rights included in the legislation. • Define clearly which obligations (functions and mandates) are within the competence of each institutions. • Designate the competent public authority/authorities regulating in detail the implementation of the law that could elaborate rules and criteria applicable to the functioning of the social protection system. • Establish or identify a coordinating ministry/institution for the implementation of the provision of the law at the national and local level. • Preferably provide for some level of decentralization as local authorities are closer and may be more accessible to individuals and thus better able to assess their needs and preferences (e.g. local authorities can make assessments about eligibility and managing the registries or handle the actual delivery of benefits). • Provides for convergence of delivery at the local level, to simplify access for rights holders and also for efficiency; local officials can thus be responsible for smaller geographical areas.
<p>Beneficiaries (rights holders)</p>	<ul style="list-style-type: none"> • Define criteria for the scope and application of the law regarding right holders. • Define the level of discretion in decision-making, with respect to the eligibility of intended beneficiaries and provide for the need of additional regulations and implementation decrees to determine additional eligibility criteria. • Establish targeting mechanisms which are open to scrutiny and assessed on a regular basis. • State application procedures that should be fair, simple and accessible and accompanied by proper safeguards, access to independent review and adjudication of complaints.

TABLE 9: **Elements of a social protection model legislation**

Beneficiaries (rights holders)	<ul style="list-style-type: none"> • Establish a transparent, fair and non-discriminatory eligibility or certification criteria. • Regulate for the loss of benefits accompanied by proper safeguards, access to independent review and adjudication of complaints. • Provides for safeguards to ensure that receiving social protection is done in full respect for the human dignity of the rights holders and is not stigmatizing in any way.
Non-discrimination clause and special measures	<ul style="list-style-type: none"> • Explicitly include the right of persons not to be discriminated against. • Enumerate prohibited grounds of discrimination as a minimum selecting those listed in international human rights instruments. • Leave the list of discriminatory grounds open by adding the phrase “based on any other status”. • Mandate the obligation to take positive actions/special measures to achieve formal and substantive equality and to enable access to social protection by those who suffer from structural discrimination such as women, persons with disabilities, indigenous peoples, minorities and older persons. From a human rights perspective such special measures are not considered discriminatory with regard to individuals or groups that face additional difficulties in fully exercising their right when they have been taken to undo existing discrimination and to establish equitable opportunities. • Acknowledge multiple forms of discrimination that women experience, and their specific needs throughout their life cycle (childhood, adolescence, adulthood and old age). • Acknowledge children’s rights and best interest of the child principle in adopting any decision that may affect children. • Acknowledge the special situation of asylum seekers, refugees, migrant workers and their families persons who may find themselves in the territory or subject to the jurisdiction of the State.
Transparency and the right to be informed	<ul style="list-style-type: none"> • Recognize the right to individuals and organizations to seek, receive and impart information about social protection programmes, application procedures and eligibility criteria. • Recognize that right holders must be provided with essential information about the decision-making process and who is accountable and responsible for the implementation of the law and available administrative, quasi-judicial and judicial remedies in case of its violation. • Provides for outreach and communication activities to increase awareness of rights holders about entitlements through media and other means.
Right to privacy and the confidentiality of information	<ul style="list-style-type: none"> • Ensure privacy and confidentiality of all information belonging to beneficiaries that is collected and processed by the authorities for social protection purposes. • Mandate that information must not be disseminated to other authorities or private institutions and use it for other purposes without the consent of the beneficiaries. • Contains provisions about how this should be assured in the context of unified registries.

TABLE 9: Elements of a social protection model legislation

<p>Administrative and judicial reviews</p>	<ul style="list-style-type: none"> • Establish substantive provisions on remedies in case of violation of the provisions of the law. • Establish or designate administrative, quasi-judicial and judicial mechanisms. • Include in the mandate of National Human Rights Institutions where they exist the monitoring of the provisions of the law and the right to social protection. • Recognize the right to a remedy in case of violation of the provisions of the law and preferably enumerate the types of possible remedies available. • Identify with which authority administrative complaints can be lodged. • Mandate that administrative decisions regarding entitlements should be subject to judicial review before the competent courts. • Grant access to justice for anyone whose rights are violated as well as the guarantee of due process in all legal proceedings.
<p>Participation</p>	<ul style="list-style-type: none"> • Establish mechanisms that allow for the participation of communities in the design, implementation and monitoring of programmes. • Provide for participation of civil society organizations, and in particular those representing rights holders, in oversight mechanisms.
<p>Budget provisions</p>	<ul style="list-style-type: none"> • Establish specific provisions on financing arrangements for the implementation of the law. • Preferably mandate for progressively greater resource allocation. • Preferably mandate for a special fund to make social protection programmes sustainable.
<p>Progressivity and non-retrogressive principle</p>	<ul style="list-style-type: none"> • Preferably establish the progressive realization of the right to social protection. This also means that states cannot adopt retrogressive measures that would reduce social protection. Any deliberately retrogressive measures with regard to a right would require the most careful consideration and would need to be fully justified by reference to the totality of the rights and in the context of the full use of the maximum available resources according to the CESCR General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, para. 1 of the Covenant).
<p>Monitoring systems</p>	<ul style="list-style-type: none"> • Provide for an appropriate monitoring and evaluation mechanism and for the duty of the designated competent authority to report to other national authorities (e.g. parliaments). • Provide for a participatory system of monitoring that may include civil society representation and consultations with beneficiaries.



10. Conclusions

A country's constitution plays a fundamental role in the realization of rights because it is the supreme law and its provisions are binding for the legislative, judicial and executive power. All authorities are equally limited by its stipulations. The constitutions of the countries assessed here just grant civil and political rights but do not recognize social rights, including the right to social security and social protection.

International human rights enshrined the right to social security and social protection, in but three out of the seven countries included in this study have not ratified relevant human rights treaties related to social rights. Those that have ratified the relevant treaties view international and national law as distinct legal orders adopting a dualist approach to the relationship between international and national law. Therefore, for international law to be applicable in the national legal order, it must be received through domestic legislative measures, the effect of which is to transform the international rule into a national one. The direct applicability of a treaty provision depends primarily on the national legal system and individuals are not able to invoke the international human rights provisions on the right to social protection before a national court in the absence of explicit ratification.

Legislation is thus, a fundamental instrument in implementing national strategies related to the right to social protection. Yet, there is not adequate legal protection of the right to social protection and most programmes operates without any statutory basis.

Social protection programmes must have a legal framework whereby legal entitlements are recognized as enforceable rights. A framework law can provide a high level of protection for the human right to social protection and facilitate its effective implementation and sustainability. Anchoring social protection programmes in legislation reinforces the roles of legislative, executive and judicial powers in decision-making and clarifies their mandates, facilitates the development of instruments for channelling the necessary resources, remedies and may guarantee the political and financial sustainability of institutional arrangements.

When designed according to a human rights-based approach, the content of the right to social protection as well as the obligations of state authorities can be spelled out in some detail; institutional arrangements can be made on a stable basis for a better distribution of responsibilities and establish necessary institutional mechanisms. By clarifying the normative content of the right to social protection,

a framework law would also provide individuals with a legal entitlement that they can enforce before the competent administrative and judicial authorities. In this way, it can also be the basis for strengthening the role of the judiciary in implementing the right to social protection

Finally, it should be noted that while legislative action is thus essential to implement the right to social protection at national level, legal solutions alone are not sufficient to achieving its full realization. Effective enjoyment of this right is not possible without effective policy and programme follow-up and political and financial commitment.



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Antigua and Barbuda

- Childcare and Protection Act
- Education Act
- Social Security Act
- Poor Relief Act

Barbados

- National Assistance Act Cap 48 (with the National Assistance Regulations of 1969 and amendments)
- National Insurance and Social Security Act of 1966 (and amendments)
- Education Act
- Minors Act
- Child Care Board Act (1983)
- Family Law (1981 and amendments)

Dominica

- Education Act No.11 of 1997
- Education Trust Fund Act
- Social Security Act No. 29
- Children and Young Persons Act
- Infants Protection Act

Grenada

- National Insurance Act No. 14 (and amendments)
- Child (Protection and Adoption) Act

- Education Act No. 21 (and amendments)

Saint Kitts and Nevis

- Social Security Act
- Social Development Assistance Act
- The Education Act No. 18
- The Status of Children Act

Saint Lucia

- Public Assistance Act
- National Insurance Act No. 10
- Education Act No. 41 (and amendments)
- The Children and Young Persons Act
- The National Insurance Corporation Act

Saint Vincent and the Grenadines

- Public Assistance Act
- Education Act

Annex 1. Questionnaire

The scope of the study is non-contributory social protection and income transfers in cash or in kind (i.e. excluding social insurance such as unemployment insurance and pensions), that provide a minimum income and livelihood security for poor and vulnerable populations, such as for children, older persons, chronically ill or people with disabilities, and people of active age with insufficient income.

1. Could you please identify any legislation that recognises social rights?
2. Could you identify any legislation that recognize / create social protection (non-contributory) entitlements?
3. Could you identify social protection programmes in place in your country? Please, enumerate and specify under which Ministry/Department is the programme
4. Does any of these programmes have been created by a law?
5. Does any of these programmes have legislation to support them?
6. Does any of there programmes have an specific allocation in the national budget by law or the funds come from the General Budget?
7. Do you have operational/guidance manuals for the implementation of any of these programmes?
8. Do you think there is need for a social protection law?
 - a. In your view, which characteristics should have a model law on social protection? (e.g. (i) Clarity of institutional responsibilities? (ii) recognized as a entitlement / right? Coverage (universal or targeted) (iii) Eligibility criteria – non-discrimination and transparency of eligibility criteria? (iv) Budget? (v) Recourse mechanisms in case of denial? (vi) Accountability measures?; (vii) Participation of civil society?

We would very much appreciate if you can send via email copies of the programmes and/or legislation or links where we can access to them.

Annex 2. List of contact persons in Barbados and OECS

Country	Names	Position	Ministry
OECS Secretariat	Beverly Best	Head, Functional Cooperation & Programme Management Unit at OECS Secretariat	OECS Secretariat
Antigua and Barbuda	Almira Henry	Director - Social Policy	Ministry of Health, Social Transformation & Consumer Affairs
Antigua and Barbuda	Sharon Herbert	Social Sector Planner	Ministry of Health, Social Transformation & Consumer Affairs
Barbados	Lee Rose	Deputy Director, Bureau of Social Policy,	Ministry of Social Care, Constituency Empowerment and Community Development
	Kirk Humphrey	Director, Department of Constituency Empowerment	
Dominica	Esther Thomas	Permanent Secretary	Ministry of Social Services, Community Development and Gender Affairs
	Oliver Wallace	Assistant Chief Welfare Officer	
Grenada	Veronica Charles	Director of Social Development	Ministry of Social Development
	Yvonne Dabreo	Chief Social Development Officer	
Saint Kitts and Nevis	Azilla Clarke	Director, Social Services and Community Development	Ministry of Community Development, Culture and Gender Affairs
Saint Lucia	Tanzia Toussant	Assistant Director, Social Research Unit	Ministry of Social Transformation, Local Government And Community Empowerment
Saint Vincent and the Grenadines	Ro-ann Quashie Harry	Director for Social Development	Ministry of National Mobilisation, Social Development, the Family, Persons with Disabilities and Youth

Annex 3.

DECLARATION EMANATING FROM THE SUB-REGIONAL WORKSHOP ON STRENGTHENING LEGAL FRAMEWORKS FOR SOCIAL PROTECTION IN OECS AND BARBADOS IN THE CONTEXT OF IMPROVED GOVERNANCE FOR FOOD AND NUTRITION SECURITY AND ECONOMIC DEVELOPMENT

Co-hosted by OECS Commission and FAO

CASTRIES

SAINT LUCIA

June 4th and 5th 2014

Historical background

According to the Caribbean Regional Food and Nutrition Security (FNS) Policy, high levels of poverty and inequality of income and access to resources occur together with an increasing prevalence of chronic nutrition related diseases, jeopardizing the challenge of improving human development, and finally to achieve lasting social prosperity and the fulfilment of human rights of the Caribbean population.

Furthermore the political commitment expressed in 2009, the Caribbean Heads of state at the Liliendal Declaration recognized the need to enhance integration and a multi-sectoral approach for the achievement of a shared vision, goals and actions, working in strategic partnership with others for improving the quality of lives of Caribbean's.

The Regional Food and Nutrition Security (FNS) Policy adopted in 2010 by the CARICOM Council on Trade and Economic Development (COTED), and which states that benefits that could be better accessed at national level through a regional approach to food and nutrition security include:

- a)** the assurance to access to food by all sections of the population in all areas of the CARICOM Member States (i.e. incomes, general development and social welfare and rural development policy targeting the poor, marginalized and vulnerable children, the disabled and the elderly);
- b)** the ability to mobilize appropriate social welfare support and productive safety nets for vulnerable populations with national funding, based on constantly updated information; and

- c) the reduction of health expenditure at household level as a result of improved nutrition due to the implementation of food safety, health and nutrition standards.

Mindful of the Revised Treaty of Basseterre establishing the OECS Economic Union and Article 23 of the protocol which promotes sustainable social and cultural development that would ensure societies that are stable and just and that are based on the promotion and protection of human rights, non-discrimination, respect for diversity, equality of opportunity, solidarity, security and participation of all people. Recalling the endorsement of the draft OECS Social Protection Framework by the Council of Ministers for Human and Social Development.

Considerations

Plan of Action for the policy endorsed by COTED in 2011 that lists strengthening legal frameworks for social protection amongst activities to be undertaken.

In giving effect of Article 20 of the Protocol of the Revised Treaty of Basseterre the Organisation of Eastern Caribbean States (OECS) has agreed on a Plan of Action for Agricultural Development (APOA). This Plan highlights alleviation of poverty as one of the key issues for addressing regional prosperity, including it as the priority n° 2, whose objective is: “to alleviate poverty and reduce food insecurity through policy and incentives regimes that encourage transition of rural populations out of poverty and vulnerability to poverty”.

That a strong integration between social protection and other public policies would allow the achievement of poverty alleviation, FNS, preventing future crisis and ensuring balanced national development among the OECS Member States and Barbados, contributing towards food and nutrition security. In that context, strengthening the governance of social protection programmes in the region through improved legal underpinnings contributes to the Zero Hunger Challenge and the achievement of the Millennium Development Goals and World Food Summit undertakings on hunger and food insecurity.

1. We, participants at the “Sub-regional workshop on strengthening legal frameworks for social protection in OECS and Barbados in the context of improved governance for food and nutrition security and economic development”, welcome the draft study by FAO entitled “Current state of social protection legislation in Barbados and the OECS from a human rights perspective” and request FAO to finalize it on the basis of comments received by participants and make it publicly available.
2. We affirm our commitment to promote the development of a social protection legal framework as a critical part of the integration process at the CARICOM and OECS levels which includes, at the national level, a multi-sectorial approach where social protections underpins all policies:
 - a) As an essential legal basis to ensure the right to a minimum income and livelihood security, promoting better governance and more effective and sustainable implementation and institutional coordination of programs related to social protection.
 - b) Governed by human rights principles such as participation, transparency, accountability and non-discrimination in the design, implementation and evaluation of social protection programmes.
 - c) Entitling human beings as rights holders of social protection, fundamental for the full realization of human rights of the population, engrained in a number of international and regional human rights instruments.

- d) Defining social protection in a broader manner, in particular the right to an adequate standard of living, including the right to adequate food, housing and clothing, and also the right to education and the highest attainable standard of health, within a national strategy and legal framework, considering social protection as an entitlement for the beneficiaries under the legislation, rather than charity, with a human rights approach, with due regard of other human rights.
 - e) Ensuring a twin track approach to face social protection and development with a holistic perspective, under international human rights approach.
 - f) For enhancing harmonization on social protection in the region that is consistent with international human rights legislation.
3. We commence to start work on a model law on social protection for OECS Member States and Barbados, with a view to harmonizing national legislation in this area, ensure that human rights are properly taken into account and guide Member States when they embark on their own legislative processes.
 4. We request the OECS Commission to take all the measures under its competence to address this challenge.
 5. We invite the UN system in the sub-region to support the drafting of this model law as foreseen in the UN Joint Programme.



Food and Agriculture
Organization of the
United Nations

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or visit our website www.fao.org/righttofood

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