

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 38th Session
REPUBLIC OF SEYCHELLES

I. BACKGROUND INFORMATION

Seychelles acceded to the *1951 Convention Relating to the Status of Refugees* and *1967 Protocol Relating to the Status of Refugees* (hereinafter jointly referred to as the *1951 Convention*) on 23 April 1980, and registered no reservations or declarations regarding the *1951 Convention*. Seychelles acceded to the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* (hereinafter referred to as the *1969 OAU Convention*) on 24 September 1980. However, Seychelles has not ratified the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) nor the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). Consequently, persons at risk of statelessness do not enjoy full legal protection in Seychelles. There are no known refugees or asylum-seekers who have sought refuge in Seychelles at the moment. Seychelles has no known cases of stateless persons and has a strong record in birth registration as it has reached universal birth registration. Furthermore, there are no known cases of internally displaced persons in Seychelles.

His Excellency Danny Faure was sworn in as the President of Seychelles in October 2016 to serve a 5-year term¹. The next presidential elections are scheduled between September and November 2021 according to the *Elections Act*². Seychelles was declared a high income country by the World Bank in 2015³. Seychelles' economy depends heavily on the fishing industry and tourism⁴. COVID 19 will have severe effects on economic growth as the closure of borders and international travels impacts these sectors. On March 20 2020, President Faure announced steps to sustain the economy⁵. By April 8 2020, a revised national budget was adopted that addressed the government's priorities that is health care, food security, wage retention, job security and social protection⁶. The closure of borders during the COVID 19 pandemic limits asylum-seekers' right to access to the territory in order to seek asylum.

¹ BBC News, Seychelles country profile, 14 May 2018, Available at: <https://www.bbc.com/news/world-africa-14093816>

² Seychelles News Agency, Date for Seychelles' 2020 presidential election to be announced next August, official says, 28 August 2019, Available at: <http://www.seychellesnewsagency.com/articles/11549/Date+for+Seychelles%27++presidential+election+to+be+announced+next+August%2C+official+says>

³ The World Bank, WB Update Says 10 Countries Move Up in Income Bracket, 1 July 2015, Available at: <https://www.worldbank.org/en/news/press-release/2015/07/01/new-world-bank-update-shows-bangladesh-kenya-myanmar-and-tajikistan-as-middle-income-while-south-sudan-falls-back-to-low-income>

⁴ *Supra* note 1

⁵ State House: Office of the President of the Republic of Seychelles, Address by President Danny Faure on measures to address the COVID-19 situation, 20 March 2020, Available at: <http://www.statehouse.gov.sc/news/4777/address-by-president-danny-faure-on-measures-to-address-the-covid-19-situation>

⁶ Government of Seychelles, Budget (Amendment) 2020, Available at: <http://www.finance.gov.sc/speeches/36/Budget-Amendment-2020-Address-English>

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 120.28, “Pass the Domestic Violence Act and ensure adequate resources and training for officials dealing with gender-based violence (Australia)”.

UNHCR welcomes the approval of the *Domestic Violence Bill, 2019*, by the National Assembly on 26 May 2020 which is to replace the *Family Violence (Protection of Victims Act), 2000*⁷. UNHCR further welcomes His Excellency President Danny Faure’s action of assenting to the bill on 10 June 2020 which is now referred to as the *Domestic Violence Act 2020*⁸. This Act prohibits acts of violence in the domestic context, provides protection of aggrieved persons, stipulates penalties therefor and outlines services for aggrieved persons⁹. The Act will play a critical role in reducing the number of annual reported cases, which have tripled since the year 2000¹⁰.

Linked to 2nd cycle UPR recommendation no. 120.42, “Expressly prohibit the corporal punishment of children in all settings, including the home, penal institutions, schools and day-care centres and also take steps to explicitly repeal the right “to administer proper punishment” in the Children’s Act (Ghana)”.

UNHCR welcomes the adoption of the *Children (Amendment) Act 2020* on 12 May 2020 which achieved prohibition of all corporal punishment of children. The Act amends the *Children Act 1982* to insert a new section 70B which provides that no child shall be subjected to corporal punishment and also repeals section 70(7) of the same Act, which recognised a right to parents and others to administer ‘proper’ punishment. These amendments were assented by the President on 19 May 2020 and are now in force¹¹.

Linked to 2nd cycle UPR recommendations no 120.62, “Accelerate the ongoing exercise to strengthen the National Human Rights Commission and to make it fully compliant with the Paris Principles (Zimbabwe)”, and no. 120.70, “Proceed to the separation of the Ombudsman’s Office and the National Human Rights Commission (Democratic Republic of the Congo)”.

UNHCR welcomes the adoption of the *Human Rights Commission Act 2018* with the aim of strengthening the Seychelles National Human Rights Commission. The Act provides for the Commission to have greater powers, including making recommendations to government ministries, initiating educational programmes and investigating human rights abuses¹². The *Human Rights Commission Act 2018* further reforms the Human Rights Commission, allowing it to operate independently of the Ombudsman’s office, in order to allow for a greater focus on human rights issues. 5 members¹³ of the commission have been sworn in¹³.

⁷ Seychelles Nation, National Assembly in favour of Domestic Violence Bill, 2019, 27 May 2020, Available at: <http://www.nation.sc/articles/4785/national-assembly-in-favour-of-domestic-violence-bill-2019>

⁸ Seychelles Nation, President Faure assents to Domestic Violence Act 2020, 10 June 2020, Available at: <http://www.nation.sc/articles/4963/president-faure-assents-to-domestic-violence-act-2020>

⁹ Seylii, Domestic Violence Act, 2020, Available at: <https://seylii.org/sc/legislation/act/2020/21>

¹⁰ *Supra* note 8.

¹¹ Global Initiative to End all Corporal Punishment of Children, Seychelles prohibits all corporal punishment of children, 10 June 2020, Available at: <https://endcorporalpunishment.org/seychelles-prohibits-all-corporal-punishment/>

¹² Human Dignity Trust, Reform of discriminatory sexual offences laws in the commonwealth and other jurisdictions: Case Study of Seychelles, Available at: https://www.humandignitytrust.org/wp-content/uploads/2019/06/HDT-Seychelles-Report_web_FINAL.pdf

¹³ US Department of State, Country Reports on Human Rights Practices for 2019: Seychelles, Available at: <https://www.state.gov/wp-content/uploads/2020/02/SEYCHELLES-2019-HUMAN-RIGHTS-REPORT.pdf>

Linked to 2nd cycle UPR recommendation no 120.72, “Speed up the process to formulate a five-year National Action Plan on Human Rights and implement it at an earlier time (China)”

UNHCR welcomes the launch of the National Human Rights Action Plan 2015-2020. This plan has seven broad areas of focus: international and regional treaty obligations, human rights institutions, human rights awareness, education and training, vulnerable groups, civil and political rights, economic, social and cultural rights and environmental rights¹⁴. In November 2018, a shelter for women victims of gender-based violence in Seychelles was established. The shelter will provide women who have suffered gender based violence and women using drugs with a safe place and support them in their social integration. This project contributed to the implementation of the aforementioned action plan¹⁵.

Linked to 2nd cycle UPR recommendation no 120.78, “Finalize the National Gender Policy and its Plan of Action, so as to further promote women’s rights and create an enabling environment for women (Italy)”

UNHCR welcomes the action taken by the Gender Secretariat of the Ministry of Family Affairs to launch The National Gender Policy on 25 November 2016 and The National Gender Plan of Action in May 2019. These two documents are vital to the development of human-rights based approach programmatic actions for all in the field of sexual and reproductive health and rights (SRHR), through the provision of targeted goods, services and support for improved socioeconomic and health outcomes.¹⁶

Linked to 2nd cycle UPR recommendation no 120.93, “Hand in its initial report to the Committee against Torture as soon as possible (Denmark)”

UNHCR welcomes Seychelles’ submission of its initial report to the Committee against Torture on 24 July 2018¹⁷. To prevent delays in submission of the report, the Government established the Seychelles Human Rights Treaty Committee in 2012 to oversee and coordinate the reporting obligations and efforts of Seychelles¹⁸.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Protection of Stateless Persons

Linked to 2nd cycle UPR recommendation no. 120.24, “Ratify the Convention relating to the Status of Stateless Persons (Chile)”

UNHCR wishes to note that Seychelles has not acceded to the *1954 Convention* nor to the *1961 Convention* and has no stipulations pertaining to foundlings or children of unknown parents. According to the *Citizenship Act*¹⁹, one can only acquire Seychellois nationality if one

¹⁴ Report and Submission of the Seychelles National Human Rights Commission & Ombudsman to the Universal Periodic Review, August 2015, Available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=2442&file=EnglishTranslation>

¹⁵ European Union, Combating Gender Based Violence and drug abuse: Inauguration of the first ever shelter for women victims of gender-based violence in Seychelles, 9 November 2018, Available at: https://eeas.europa.eu/delegations/mexico/53598/combating-gender-based-violence-and-drug-abuse-inauguration-first-ever-shelter-women-victims_km

¹⁶ UN Women, Seychelles: National Comprehensive Review 2019, Available at: https://www.uneca.org/sites/default/files/uploaded-documents/Beijing25/seychelles_beijing_25_national_2019_30-05-2019.pdf

¹⁷ Initial report submitted by Seychelles under article 19 of the Convention, due in 1993*, Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/SYC/1&Lang=en

¹⁸ OHCHR, Committee against Torture considers the initial report of Seychelles, 31 July 2018, Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23422&LangID=E>

¹⁹ Republic of the Seychelles, *Citizenship Act 1994*, Act 18 of 1994, available at: Republic of Seychelles, *Citizenship Act 1994*, Act 18 of 1994, 12 December 1994, available at: <http://www.refworld.org/docid/4c59383c2.html>.

is born to a national. There is no provision for children born in Seychelles who would otherwise be stateless to acquire nationality. Instances when a child would be rendered stateless are if the child's parents are themselves stateless or the parents cannot transfer nationality.

In 1992 the Seychelles ratified the *African Charter on the Rights and Welfare of the Child*²⁰, which grants the rights therein to every child and bars various grounds for discriminating against children in its Article 3. Furthermore, Articles 1(1), 6(3) and 6(4) obligate state parties to undertake various constitutional and legislative processes to give effect to the stipulations of the Charter and ensure that children do not become stateless. To date Seychelles is yet to domesticate the Charter and its nationality law does not yet eschew discrimination or prevent statelessness for certain categories of children. On a positive note, the Seychellois birth registration system is universal in line with Article 24 (2) of the *ICCPR* and Article 6 (2) of the *African Charter on the Rights and Welfare of the Child* therefore curbing statelessness. Furthermore, the World Bank has not reported anyone without identity or nationality documentation in Seychelles.

In Seychelles, gender discrimination was removed from the *Citizenship Act* for those born in the country, but still applies for those born outside the country between the entry into force of the independence constitution of 1976 and the republican constitution of 1979. Thus a person born to a Seychellois mother outside Seychelles between 1976 and 1979 is not eligible to the nationality of Seychelles.

Recommendations:

UNHCR recommends that the Government of Seychelles:

- a) Accede to the *1954 Convention on the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*;
- b) Introduce legal safeguards for foundlings and children born in the country who would otherwise be stateless; and
- c) Remove the remaining discriminatory provisions on the basis of gender from the nationality law.

Issue 2: Protection of All Persons from Enforced Disappearance

Linked to 2nd cycle UPR recommendation no. 120.21, "Speed up the ratification procedure of the International Convention for the Protection of All Persons from Enforced Disappearance (Togo)".

UNHCR acknowledges former President James Michel's action of writing to the Speaker of the National Assembly on 3 November 2016 recommending that the National Assembly, in accordance with Article 64(4) of the Constitution, ratify the aforementioned Convention²¹. UNHCR further welcomes Seychelles' acceptance of inquiry procedures under this Convention on 18 February 2017²². The Working Group on Enforced or Involuntary Disappearances therefore referred three cases of enforced disappearances to the Seychellois Government for investigation which were still pending response by September 2019²³.

These measures taken towards ratification of the aforementioned convention are positive as it will ensure that asylum seekers, refugees, persons at risk of statelessness and internally displaced persons will be protected from enforced disappearances. However, it seems that

²⁰ Organization of African Unity (OAU), *African Charter on the Rights and Welfare of the Child*, 11 July 1990, CAB/LEG/24.9/49, available at: <http://www.refworld.org/docid/3ae6b38c18.html>.

²¹ State House: Office of the President of the Republic of Seychelles, 3 November 2016, Available at: <http://www.statehouse.gov.sc/news/3176/president-encourages-national-assembly-to-ratify-international-convention>

²² Office of the High Commissioner for Human Rights (OHCHR), Ratification Status for Seychelles, Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=155&Lang=EN

²³ Human Rights Council, Working Group on Enforced or Involuntary Disappearances, Forty-second session 9–27 September 2019, Available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/G1922925.pdf>

the momentum that the Government of Seychelles had built in 2016 and 2017 has waned which has resulted in the aforementioned convention not being ratified.

Recommendations:

UNHCR recommends that the Government of Seychelles:

- a) Renew and accelerate action to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and domestication of the provisions of the convention by passing relevant national legislation; and
- b) Carry out inquiries into the three cases of enforced disappearance that were referred to the Government by the Working Group on Enforced or Involuntary Disappearances.

Issue 3: Prevention and Response to Survivors of Trafficking

Linked to 2nd cycle UPR recommendation no 120.85, “Ensure the successful implementation of their National Action Plan and Strategic Framework on Trafficking in Persons (Nigeria)”.

UNHCR acknowledges that the Government has demonstrated increased efforts to investigate and prosecuting cases of trafficking in persons, including by: convicting its first trafficker under the Prohibition of Trafficking in Persons Act of 2014; investigating a senior government official; identifying and providing assistance to more victims; and allocating some funds to assist victims. The government awarded victims restitution from their traffickers, and it also established a special task force to inspect migrant worker labour conditions, including inspections in the Seychelles International Trade Zone (SITZ) during the reporting period. However, the Government did not meet the minimum standards in several key areas such as development of a national action plan to address trafficking.²⁴

Recommendations

UNHCR recommends that the Government of Seychelles:

- a) Adopt a National Action Plan (NAP) to address trafficking in persons, especially sex trafficking;
- b) Ensures that the anti-trafficking framework provides access to asylum procedures to individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, or individuals who fear being trafficked as they may be in need of international protection²⁵;
- c) Establish comprehensive shelters or care facilities available for trafficking victims;
- d) Implement its standard operating procedures for victim identification and referral or its victim assistance mechanism;
- e) Provide adequate anti-trafficking training for its personnel and utilize its national centralized anti-trafficking data collection and reporting tool; and
- f) Provide sufficient resources for victim assistance²⁶.

Additional protection challenges

Issue 4: Domestication of the 1951 Convention Relating to the Status of Refugees by passing national asylum legislation and establishing a state asylum system

UNHCR welcomes the Ministry of Immigration’s development of a policy paper on asylum and refugees. This policy paper will to be presented to the cabinet which will determine whether

²⁴ US Department of State, 2019 Trafficking in Persons Report: Seychelles, June 2019, Available at: <https://www.state.gov/reports/2019-trafficking-in-persons-report/seychelles/>

²⁵ UNHCR, The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, Available at: <https://www.unhcr.org/publications/legal/443b626b2/guidelines-international-protection-7-application-article-1a2-1951-convention.html>.

²⁶ *Supra* note 24.

Seychelles will proceed with domestication of the *1951 Convention*. UNHCR calls on the Ministry of Immigration and the Cabinet to endorse putting in place national asylum legislation and establishing a state asylum system. This national framework should match international standards, guaranteeing apt access to reception facilities, fair and efficient Refugee Status Determination (RSD) procedures with appropriate protection, including the right to written reasons for adverse RSD decisions and the right to appeal such decisions.

In this regard, Seychelles may wish to further consider submitting a Global Refugee Forum (GRF)²⁷ pledge along these lines, which could tap into expertise of the Asylum Support Capacity Group where States with established asylum systems could offer technical expertise to new or evolving asylum systems²⁸.

Recommendations:

UNHCR recommends that the Government of Seychelles:

- a) Accelerate efforts to domesticate the 1951 Convention relating to the Status of Refugees by adopting national asylum legislation and establishing a state asylum system.

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²⁷ The Global Compact on Refugees (GCR) is a manifestation of solidarity, the political will and ambition to operationalize the principle of burden and responsibility-sharing, to mobilize the international community and to galvanize action for an improved response to refugee situations. The Global Refugee Forum which took place in Geneva on 17-18 December 2019, came to an end with over 900 pledges for collective action for better protection, refugee inclusion, education and jobs

²⁸ UNHCR, Asylum Capacity Support Group: Note for Discussion, Available at: <https://www.unhcr.org/5cc1aba44.pdf>