

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

SINGAPORE

I. BACKGROUND INFORMATION

Singapore is not party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*), or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

In the absence of national asylum and refugee legislation and procedures in Singapore, UNHCR may conduct registration and refugee status determination remotely for asylum-seekers in Singapore and undertake the search for durable solutions. However, refugees and asylum-seekers registered with UNHCR do not benefit from legal status in Singapore. Refugees and asylum-seekers who enter and/or remain in Singapore irregularly may be prosecuted and held in detention prior to deportation unless UNHCR is provided with access and a third country solution is identified for them.

UNHCR is not aware of the precise number of asylum-seekers in Singapore or whether they have been deported or travelled onwards to other countries, as there is no established regular information sharing between UNHCR and the Government of Singapore. As of 30 July 2020, there was one refugee and one asylum-seeker whose cases remained active with UNHCR.

As at end of 2018, 1,303 stateless persons were officially reported in Singapore. This number included persons who had come from other countries to live and work in Singapore and lost their foreign nationality over time, as well as children who were born in Singapore, not eligible for Singaporean citizenship by birth and whose parents could not confer any other nationality to them.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendations no. 166.6: "Consider ratifying the International Convention on the Elimination of All Forms of Racial Discrimination (Ghana)."; and no. 166.7: "Ratify the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia) (Kenya) (Morocco) (Russian Federation)".

Singapore signed the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) on 19 October 2015. The Government of Singapore showed its commitment to preserving a harmonious multi-racial society by ratifying the ICERD on 27 November 2017. The Inter-Ministry Committee on the ICERD (IMC-ICERD) established in

2015 and chaired by the Ministry of Culture, Community and Youth (MCCY) will monitor Singapore's implementation of the ICERD and progress towards fulfilling its commitments in combatting racial discrimination.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Creation of a refugee protection framework

Linked to 2nd cycle UPR recommendations no. 166.55: "Ratify the 1951 Convention relating to the Status of Refugees and the Protocol to it, as well as the Convention against Torture (Ukraine)"; no. 166.93: "Enact a law that protects migrants, refugees and asylum seekers (Congo)"; and no. 166.233: "Continue to adopt measures to provide for adequate treatment to refugees, in particular through the adoption of procedures or protection mechanisms to refugee claimants, especially non-accompanied boys, girls and adolescents (Colombia)".

Singapore is not a State party to the *1951 Convention*, and there is no domestic legal framework for the protection of refugees and asylum-seekers, including in respect of the principle of *non-refoulement*. UNHCR emphasizes that the principle of *non-refoulement*, as articulated in Article 33 of the *1951 Convention* and complemented by *non-refoulement* obligations under international human rights law, constitutes a rule of customary international law. As such, it is binding on all States, including those which have not yet acceded to the *1951 Convention*.

The Government of Singapore may, on a case-by-case basis, cooperate with UNHCR for refugees to be resettled to a third country. However, unless and until the *1951 Convention* is acceded to and there is a sound legal framework for granting international protection, there are currently insufficient safeguards against refoulement. In the absence of any national asylum systems or corresponding adjudication structures in Singapore, it is likely that some asylum-seekers may have been deported or refouled upon arrival in Singapore. During 2019-2020, UNHCR has recorded three incidents where individuals were denied entry and deported without being afforded the opportunity to have their international protection needs assessed.

Singapore, as an advanced economy and leader in the region, is encouraged to develop a national framework on asylum. A national asylum procedure should ensure that claims of asylum-seekers, particularly those with specific needs such as women and children are properly considered. Pending the establishment of national asylum procedures, the Government of Singapore is encouraged to consider implementing other temporary alternative measures to grant temporary refuge to asylum-seekers and refugees, including providing them with the right to stay and work on a temporary basis until return to their country of origin in safety and dignity becomes possible or a third country solution is found for them.

The Government of Singapore is also encouraged to routinely provide UNHCR with access to those individuals who may be in need of international protection so that UNHCR may assess their international protection needs.

Recommendations:

UNHCR recommends that the Government of Singapore:

- a) Accede to the *1951 Convention relating to the Status of Refugees*;
- b) Formulate and enact national asylum legislation in cooperation with UNHCR to protect asylum-seekers and refugees on the territory of Singapore;

- c) Ensure respect for the right to seek asylum by enabling effective and unhindered access to the territory of Singapore, including the opportunity to apply for refugee status with UNHCR, and full compliance with the principle of non-refoulement;
- d) Refrain from penalizing persons who seek international protection, including by way of a corporal punishment; and
- e) Facilitate safe disembarkation of individuals arriving irregularly by sea to Singapore (including stowaways) who wish to seek international protection.

Issue 2: Prevention of statelessness and protection of stateless persons

Linked to 2nd cycle UPR recommendations no. 166.96: “Review the nationality law to provide persons born to Singaporean mothers before 15 May 2004 an opportunity to acquire Singaporean nationality (Kenya)”; and **no. 166.234:** “Enact laws covering the right of children to acquire nationality, in particular those born in Singapore who cannot obtain another nationality (Panama)”.

While UNHCR welcomes the provision of statistics on the number of stateless persons residing in Singapore, their disaggregation by age, gender, ethnic origin and other relevant characteristics might be helpful to better understand specific statelessness risks and thus to enhance the prevention of statelessness.

UNHCR notes that Singapore’s currently applicable legal provisions on citizenship in Part X of the Constitution of the Republic of Singapore do not contain a legal safeguard to the effect that any child born in the country, who would otherwise be stateless, acquires citizenship by operation of the law. Moreover, a child born outside Singapore to a citizen by descent may become stateless, if the parent has not met the residency requirements stipulated in Section 122 (3) of Part X of the Constitution of the Republic of Singapore. In addition, the legal protection against statelessness concomitant with the acquisition of citizenship by registration, which is open to children born to Singaporean mothers before 15 May 2004, falls short of the acquisition of citizenship by descent by operation of the law. Lastly, children and youths (up to the age of 21 years) may be at risk of statelessness through no fault of their own where the government orders the child’s deprivation of citizenship due to the parent’s renunciation or deprivation of citizenship.

In light of Article 15 UDHR and in the spirit of reducing and preventing statelessness, the four aforementioned issues should be addressed.

Recommendations:

UNHCR recommends that the Government of Singapore:

- a) Provide public statistics on the number and profile of stateless persons residing in Singapore and statistics on the number of stateless persons who are able to acquire nationality, disaggregated by age, gender, ethnic origin and other relevant characteristics;
- b) Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*; and
- c) Revise its legal provisions on citizenship to facilitate the realization of every child’s right to a nationality;
- d) Introduce a legal safeguard to ensure that any child born in the country who would otherwise be stateless acquires Singaporean citizenship;
- e) Modify the residency requirements for parents who are citizens by descent, so that they can always pass on their own citizenship to their child if the child would otherwise be stateless;

- f) Clarify that the Government may not withdraw the citizenship of a child on account of the parent's renunciation or deprivation of citizenship, if the child would thereby become stateless; and,
- g) Extend the acquisition of citizenship by descent by operation of the law to children born to Singaporean mothers before 15 May 2004.

Issue 3: Prevention of trafficking in persons

Linked to 2nd cycle UPR recommendations no. 166.178: "Continue to exert efforts to combat trafficking in persons through the implementation of the Prevention of Human Trafficking Act in accordance with its obligations under the Palermo Protocol (Qatar)"; no. 166.181: "Continue efforts to combat human trafficking and to protect victims of such crimes, especially women and children (Sri Lanka)"; no. 166.182: "Ensure proper investigation, prosecution and adequate sanctions in all cases of human trafficking, including through the training of relevant personnel (Turkey)"; and no. 166.188: "Take measures in the legislative sphere and policy measure to strengthen mechanisms for combating trafficking (Honduras)".

During its 2nd cycle UPR, Singapore received recognition for its efforts in combatting human trafficking, which included accession the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol) on 28 September 2015 and to the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) on 25 January 2016. However, the need to further train authorities to effectively implement the Prevention of Human Trafficking Act, as well as to guarantee the prosecution and punishment of perpetrators and the protection and rehabilitation of victims, was noted. Furthermore, the Committee on the Elimination of Discrimination against Women has recommended that Singapore strengthen its laws against human trafficking and set up shelters for victims of violence against women and victims of trafficking in persons in collaboration with non-governmental organization specialized in those issues.¹ In addition, The Committee on the Rights of the Child noted that Singapore was not a signatory to The Hague Adoption Convention, which was a concern since international adoption could be used for trafficking in children. The Committee made recommendations on safeguarding the rights of children in international adoptions to prevent child trafficking, which were welcomed by the delegation from Singapore.²

In addition, according to the United States Department of State *2020 Trafficking in Persons Report* ("US TIP Report")³, one-quarter of Singapore's total labour force are foreign work permit holders, some of whom are at risk of trafficking. Most victims migrate to Singapore willingly for work in construction, domestic service, performing arts, manufacturing, the service industry, or commercial sex, but may then be compelled into sex trafficking or forced labour through threats of forced repatriation without pay, restrictions on movement, physical and sexual abuse, and withholding wages and travel documents, such as passports. Furthermore, in order to migrate, many workers assume large debts to recruitment agents in their home countries and sometimes in Singapore, placing them at risk for debt bondage.

The US TIP Report upgraded Singapore from Tier 2 to Tier 1 status as "it fully meets the minimum standards for the elimination of trafficking" and made "key achievements" during the reporting period, including convicting its first labour trafficking case, increasing overall convictions and identifying more trafficking victims. However, the Report noted that although

¹ Committee on the Elimination of Discrimination against Women reviews the report of Singapore, OHCHR, 25 October 2017, available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22299&LangID=E>

² Committee on the Rights of the Child reviews the report of Singapore, OHCHR, 17 May 2019, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24627&LangID=E>

³ United States Department of State, *2020 Trafficking in Persons Report - Singapore*, June 2020, available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

the Government meets the minimum standards, it did not take steps to eliminate recruitment fees charged to workers by Singaporean labour recruiters, which sometimes placed individuals at risk of debt bondage. In addition, NGOs continued to express concern that authorities did not consistently screen for trafficking indicators during raids on unlicensed brothels or arrests in relation to labour violations, which could mean that potential unidentified victims were subject to punishment or deportation.

Refugees and asylum-seekers, especially those in protracted situations of displacement, are particularly vulnerable to being trafficked. Victims or potential victims of trafficking who are at risk of persecution, if returned to their countries of origin, may qualify as refugees within the meaning of the *1951 Convention*.⁴ However, Singapore does not have a refugee status determination system or any referral mechanisms for victims of trafficking with possible international protection needs to access it. Therefore, trafficking victims with international protection needs who do not have proper documentation to remain in a country may be reluctant to seek assistance from State authorities to escape their situation, as they fear being detained and/or deported to a country where they would face persecution.

Recommendations:

UNHCR recommends that the Government of Singapore:

- a) Continue and improve efforts to ensure proper investigation, prosecution and adequate sanctions in all cases of human trafficking, including through training of Government officials, such as law enforcement and the judiciary;
- b) Allocate resources to provide for adequate protection and other forms of assistance to victims and witnesses, including through the establishment and running of safe shelters; and
- c) Establish within domestic legislation a referral mechanism for victims of trafficking who may be in need of international protection to access a refugee status determination procedure.

Additional protection challenges

Issue 4: Detention of asylum-seekers and refugees

UNHCR lacks information on the number of persons deprived of liberty among asylum-seekers in Singapore. There is currently no established system between Singapore and UNHCR to regularly share information on persons, including those in immigration detention, who seek international protection as they might be at risk of persecution if returned or deported. The absence of such system hinders the possibility to ensure an effective response to the protection challenges posed by the detention of these categories of persons.

Moreover, there are serious challenges with regards to access to the territory and non-penalization of asylum-seekers and refugees for irregular entry in Singapore. The *1959 Immigration Act*⁵ provides that entry into Singapore shall be only through approved routes and with valid travel documents including a Singapore visa if required.⁶ Unlawful entry or presence in Singapore are termed offences with penalties, including fines, imprisonment, and mandatory caning.⁷ Additionally, the *1959 Immigration Act* specifies that “prohibited immigrants” include persons who entered Singapore unlawfully or persons who are not in possession of valid travel documents or are in possession of forged or altered travel

⁴ See, in particular, UNHCR, *Guidelines on International Protection No. 7: 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*, 7 April 2006, HCR/GIP/06/07, available at: <http://www.refworld.org/docid/443679fa4.html>.

⁵ Available at: <https://sso.agc.gov.sg/Act/IA1959>

⁶ Sections 5 and 5A of the *1959 Immigration Act*.

⁷ Sections 6(3) and 11A(6) of the *1959 Immigration Act*.

documents.⁸ Asylum-seekers are often subject to detention and corporal punishment as they are considered to have violated the provisions of the *1959 Immigration Act*.

During its 2nd cycle of the UPR, Singapore received multiple recommendations to take concrete steps towards the abolition of the corporal punishment as a legal penalty, particularly caning. UNHCR would like to emphasize that entry in search of refuge should not be considered an unlawful act and asylum-seekers and refugees ought not to be penalized solely due to illegal entry or stay related to a need for international protection. Where possible, alternatives to detention should be sought and given preference, in particular for certain categories of persons with specific needs such as women and children.⁹

Recommendations:

UNHCR recommends that the Government of Singapore:

- a) Ensure that detention of persons in need of international protection is only used as a measure of last resort and, where necessary and justified by law, and for as short a period as possible;
- b) Ensure that detention does not constitute an obstacle to pursuing an asylum application, and that alternatives to detention should be sought and given preference particularly while an asylum application is pending adjudication;
- c) Establish a regular information sharing and referral platform with UNHCR to enable early identification of asylum-seekers prior to and while in detention and establishment of appropriate response mechanisms; and
- d) Guarantee minimum procedural safeguards to detained asylum-seekers and refugees, including the possibility to contact and be contacted by UNHCR, as well as access to legal counsel and prompt judicial review of the appropriateness and legality of their confinement.

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⁸ Section 8 of the *1959 Immigration Act*.

⁹ See *UNHCR, Detention Guidelines*, 2012, Guideline 4.3: Alternatives to detention need to be considered, paras. 35-42, available at <https://www.unhcr.org/publications/legal/505b10ee9/unhcr-detention-guidelines.html>.