



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances

### List of issues in the absence of the report of Seychelles due under article 29 (1) of the Convention\*

#### I. General information

1. Please provide information on the status of the Seychelles Human Rights Treaty Committee, established in 2012 to coordinate the State party's reporting obligations under international human rights treaties,<sup>1</sup> and the role of the Citizens Engagement Platform Seychelles in relation to procedures for reporting to the treaty bodies.
2. The Committee notes that article 48 of the Constitution (chap. 3, part V) should be read together with the Seychellois Charter of Fundamental Human Rights and Freedoms, also contained in the Constitution (chap. 3, part I). In this regard, please specify the status of the Convention in the hierarchy of norms within the State party. Please also indicate the measures taken to ensure that the provisions of the Convention are incorporated into domestic law and may be invoked before and applied by the national courts. If available, please provide examples of case law of such application, and describe the action taken to raise awareness of the Convention among judges, prosecutors, lawyers and the general public.
3. Please provide the following information with regard to the Seychelles Human Rights Commission, established in 2018:
  - (a) The Commission's competence with respect to cases of disappearance, including the prevention and eradication of enforced disappearance, and activities carried out in relation to the Convention;
  - (b) Whether the Commission has received any complaints relating to enforced disappearance since the entry into force of the Convention for the State party and, if so, the action taken and the results thereof;
  - (c) The measures taken to ensure that the Commission functions in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and to guarantee its independence and impartiality;<sup>2</sup>
  - (d) The provision of the financial, technical and human resources necessary for the Commission's effective functioning;
  - (e) Any action taken to achieve accreditation by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions.

\* Adopted by the Committee at its twenty-seventh session (23 September–4 October 2024).

<sup>1</sup> CCPR/C/SYC/QPR/1, para. 3.

<sup>2</sup> Ibid., para. 5.



4. Please indicate whether the State party intends to make the declarations provided for in articles 31 and 32 of the Convention related to the Committee's competence to receive and consider individual and inter-State communications.

## **II. Definition and criminalization of enforced disappearance (arts. 1–7)**

5. Please indicate whether there exists a register of disappeared persons and, if so, indicate the type of information that it contains and how such information enables differentiation between cases of enforced disappearance, as defined under article 2 of the Convention, and other cases of disappearance that do not fall under this category. Please specify whether the information is crossed-checked with other databases, such as registers of persons deprived of liberty, whether these databases are accessible to all interested persons and the methodology used to keep databases updated (arts. 1–3, 12 and 24).

6. Please provide up-to-date statistical data, disaggregated by the sex, gender identity, sexual orientation, age, nationality, ethnic origin, religious affiliation and occupation of the victim, on: (a) the number of disappeared persons in or from the State party, specifying the date and place of disappearance, and the number of those persons who have been located; (b) the number of those persons who may have been subjected to enforced disappearance within the meaning of article 2 of the Convention; and (c) the number of persons who may have been subjected to the acts described in article 3 of the Convention, including disappearance committed for the purpose of trafficking in persons, illegal intercountry adoption and disappearance in the context of migration (arts. 1–3, 12 and 24).

7. Please indicate whether the State party plans to include in the Constitution a specific legal provision on protection from enforced disappearance. Please describe the legal or administrative measures that have been taken to ensure that no exceptional circumstances may be invoked to justify enforced disappearance, including a state of emergency declared under article 41 of the Constitution. Please provide information on the rights and freedoms from which it is not possible to derogate in a period of public emergency declared under article 43 of the Constitution (arts. 1, 12 and 24).

8. In the absence of an autonomous crime of enforced disappearance, please report on:

(a) The measures taken to incorporate enforced disappearance as an autonomous offence in national criminal legislation in accordance with the definition contained in article 2 of the Convention;

(b) How the Convention is implemented at present;

(c) The specific provisions invoked in national legislation to deal with facts amounting to enforced disappearance in compliance with article 2 of the Convention;

(d) The measures taken to define enforced disappearance as a crime against humanity in accordance with article 5 of the Convention, and to implement the Rome Statute of the International Criminal Court, ratified by Seychelles in 2010 (arts. 2, 4, 5 and 7).

9. Please describe:

(a) The applicable legislation governing the conduct enumerated in article 6 (1) (a) and (b) of the Convention and how this legislation ensures that any person engaging in such conduct is held criminally responsible;

(b) The legislation that addresses the prohibition to invoke an order or instruction from any public authority to justify an offence of enforced disappearance and indicate whether the notion of "due obedience" as a criminal law defence has any impact on the implementation of this prohibition. Please explain how the State party ensures that any persons contemplated in article 6 (1) (a) of the Convention are held criminally responsible when they invoke a superior order to justify enforced disappearance. Please also explain how national legislation guarantees that a person who refuses to obey orders or instructions that prescribe, authorize or encourage enforced disappearance will not be punished and provide

information on remedies available to subordinates against potential disciplinary measures resulting from their refusal to carry out such orders (art. 6).

10. Please describe the maximum and minimum penalties provided for in the Penal Code for crimes that could be invoked to deal with cases of enforced disappearance, indicating whether any of them carry the death penalty. Please also provide information on possible mitigating or aggravating circumstances, indicating the maximum and minimum penalties that would apply in such cases (art. 7).

11. In view of the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration, and the report of the Special Rapporteur on trafficking in persons, especially women and children, on her visit to Seychelles in 2014,<sup>3</sup> please indicate the number of complaints that have been lodged concerning cases of disappearance that occurred in the context of migration (including refugees and asylum-seekers) or trafficking in persons. Please specify the measures that have been taken in these cases to search for the disappeared persons, investigate their disappearance, bring perpetrators to justice and provide the victims with appropriate protection and reparation. Please also indicate the measures taken by the State party to prevent such disappearance (arts. 1–3, 12 and 24).

### **III. Judicial procedure and cooperation in relation to enforced disappearance (arts. 8–15)**

12. Please indicate whether the State party applies a statute of limitations in respect of cases of enforced disappearance and, if so, please provide information on: (a) the term of limitations for starting criminal proceedings; (b) the moment when that term of limitations commences; and (c) the measures taken to guarantee the rights of victims of enforced disappearance to an effective remedy (art. 8).

13. Please explain how the State party establishes its competence to exercise jurisdiction over enforced disappearance in the cases contemplated in article 9 (1) and (2) of the Convention (art. 9).

14. Please describe the procedures in place to ensure the presence of alleged offenders before the competent authorities, and the legal, administrative or judicial measures in place to carry out a preliminary inquiry or investigation to establish the facts should the State party take the measures referred to in article 10 (1) of the Convention (art. 10).

15. Please indicate:

(a) The legal framework enabling the domestic courts to exercise universal jurisdiction over the offence of enforced disappearance;

(b) How the jurisdictions of the domestic courts and the International Criminal Court are linked with a view to the effective repression of cases of enforced disappearance;

(c) Whether cooperation with the International Criminal Court is envisaged as a means of combating impunity for perpetrators of enforced disappearance;

(d) Whether the military authorities are competent under domestic law to investigate or prosecute alleged cases of enforced disappearance and, if so, in which circumstances and under which legal provisions (art. 11).

16. Please explain the action taken to guarantee that any person tried for enforced disappearance benefits from a fair trial, and to ensure the independence and impartiality of courts. In that regard, please describe the measures taken to prevent and combat corruption, specifically among police officers, government officials and the judiciary, including the procedures and criteria for the selection, appointment, suspension and removal of judges. Please also report on the mandates of the State party's anti-corruption bodies, including the Anti-Corruption Commission, and their outcomes (arts. 11 and 12).<sup>4</sup>

<sup>3</sup> A/HRC/26/37/Add.7.

<sup>4</sup> CCPR/C/SYC/QPR/1, para. 6.

17. Please specify:

(a) The authorities responsible for receiving complaints and investigating cases of alleged enforced disappearance, who can report such cases to those authorities and the requirements for doing so;

(b) The measures taken to ensure a prompt, thorough and impartial investigation, including in the absence of an official complaint, and a determination to be reached as to the fate of the disappeared persons;

(c) The steps taken to ensure that the competent authorities have the necessary powers and resources to effectively conduct investigations into allegations of enforced disappearance, including access to documentation and other relevant information, and access to all places of deprivation of liberty and any other place in which there are reasonable grounds to believe that a disappeared person may be held;

(d) Whether any complaints have been lodged for acts corresponding to those described in articles 2 and 3 of the Convention; if so, please provide disaggregated data on the search and investigations carried out and their results, the profile of the perpetrators, the proportion of proceedings launched that resulted in convictions, and the sanctions imposed on the perpetrators (arts. 2, 3 and 12).

18. Please provide:

(a) Information on the measures taken to amend the Prohibition of Trafficking in Persons Act (2014) to strengthen protection measures for victims and the action taken to ensure that the applicable legislation considers the possibility that such victims may have been victims of disappearance, including enforced disappearance;

(b) In relation to those cases, disaggregated data on the perpetrators and the victims, including data disaggregated by sex, age and nationality, and on the investigations carried out and the results thereof, including the proportion of proceedings launched that resulted in convictions, and the sanctions imposed on the perpetrators;

(c) Information on the steps taken to prevent and combat trafficking in persons, addressing the possible link with enforced disappearance, and labour exploitation, including forced labour, of migrant workers, especially in the Seychelles International Trade Zone and in the fishing, agriculture and construction sectors; on reports claiming that the seizure of migrant workers' passports by employers is not illegal in Seychelles;<sup>5</sup> and, in that context, on the measures taken to adopt a national action plan to combat all forms of trafficking (arts. 2, 3, 12 and 24).

19. Please describe how the State party ensures that persons suspected of having committed enforced disappearance are not in a position to influence the progress of an investigation. In particular, indicate whether domestic law provides for suspension from duties, from the outset and for the duration of an investigation, when the alleged offender is a State official. Please also provide information on the mechanisms in place to ensure that law enforcement officials, security forces personnel or any other public officials who are suspected of involvement in the commission of alleged enforced disappearance do not participate in the investigation (art. 12).

20. In view of the Committee's Guiding Principles for the Search for Disappeared Persons,<sup>6</sup> please indicate:

(a) The action taken to guarantee that the search for an alleged victim of enforced disappearance is initiated ex officio and as soon as the competent authorities are notified of the disappearance, even if no formal complaint has been made;

(b) The measures taken to ensure that the search continues until the fate of the disappeared person has been clarified, and the protocols and procedures for searching for, locating and releasing disappeared persons and the applicable time frames;

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<sup>5</sup> Ibid., para. 15.

<sup>6</sup> CED/C/7.

(c) The steps taken to ensure the systematic collection of ante-mortem information related to disappeared persons and their relatives and to set up a national DNA database to identify victims of enforced disappearance (arts. 12 and 24).

21. Please describe the remedies available to complainants where the competent authorities fail to search for a disappeared person and to investigate the alleged disappearance, and the mechanisms available for the protection of all persons referred to in article 12 (1) of the Convention against all ill-treatment or intimidation as a consequence of the complaint or any evidence given (arts. 12 and 24).

22. In the absence of an autonomous crime of enforced disappearance, please indicate:

(a) Whether, under the provisions of the Penal Code and the Extradition Act that may be invoked for the purposes of extradition in cases of enforced disappearance, enforced disappearance is considered to be a political offence, an offence connected with a political offence or an offence inspired by political motives;

(b) Any extradition agreements with other States parties that may have been concluded since the entry into force of the Convention, including whether enforced disappearance has been included in such agreements and the applicable time frames and protocols;

(c) Whether any restrictions or conditions apply to requests for mutual legal assistance or cooperation, in the light of articles 14, 15 and 25 (3) of the Convention;

(d) Whether the State party has made or received any requests for international cooperation in respect of cases of enforced disappearance since the entry into force of the Convention and, if so, the measures taken (arts. 13–15 and 25).

#### **IV. Measures to prevent enforced disappearance (arts. 16–23)**

23. With reference to the Immigration Decree (1981), please indicate:

(a) Whether the State party envisages adopting an explicit legal provision to prohibit the expulsion, return, surrender or extradition of any persons where there are substantial grounds to believe that they would be in danger of being subjected to enforced disappearance;

(b) The legal framework and procedures applicable to expulsion, return, surrender and extradition, and the mechanisms and criteria applied in such contexts to evaluate and verify the risk that the persons concerned may be subjected to enforced disappearance;

(c) Whether it is possible to appeal a decision authorizing expulsion, return, surrender or extradition and, if so, before which authority, under which procedure and whether the appeal has suspensive effect;

(d) Information on immigration detention centres, including the centre at Seychelles International Airport in Victoria, the conditions of detention and statistical data concerning those held in such settings (art. 16).<sup>7</sup>

24. Please describe:

(a) The legal provisions that expressly prohibit secret or unlawful detention;

(b) The measures taken to guarantee that persons deprived of liberty, regardless of the offence of which they are accused, are afforded, from the outset of the deprivation of liberty, all the fundamental legal safeguards provided for under article 17 of the Convention, in particular the rights to have prompt access to a lawyer, to communicate with and be visited by family members, counsel or any other person of their choice and, in the case of foreign nationals, to communicate with their consular authorities;

<sup>7</sup> CMW/C/SYC/QPR/2, para. 19.

(c) Whether any restrictions may be applied to the above rights, whether there have been complaints regarding failure to observe these safeguards and, if so, the proceedings carried out and the outcomes thereof;

(d) Which authorities, institutions and non-governmental organizations are authorized to visit places of deprivation of liberty, such as Montagne Posée Prison, including unannounced visits, and how effect is given to such authorization (art. 17).

25. With respect to reports alleging that the rule on bringing detained persons before a court within 24 hours is not always respected and that not all stages of detention are necessarily recorded in registers,<sup>8</sup> please provide information on:

(a) The measures taken to ensure that all official registers and records of persons deprived of liberty, regardless of the nature of the place of deprivation of liberty, include all the elements listed in article 17 (3) of the Convention and are duly completed in a timely manner, kept up to date and monitored;

(b) Whether any complaints have been lodged concerning failure to record or delays in recording a deprivation of liberty or the recording of inaccurate information in registers concerning persons deprived of liberty and, if so, the measures taken to ensure that such omissions and errors are not repeated, including any disciplinary proceedings, sanctions and training involving the personnel concerned;

(c) The action taken to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released and to assure their physical integrity and their ability to exercise fully their rights at the time of release (arts. 17, 21 and 22).

26. Please report on measures taken to guarantee that any person deprived of liberty, and in the case of a suspected enforced disappearance, that any person with a legitimate interest can take proceedings before a court to challenge the lawfulness of the deprivation of liberty. Please also indicate the measures in place to prevent delaying and obstruction of the provision of this remedy and to impose sanctions for delays or obstructions (arts. 17 and 22).

27. Please describe the measures taken to guarantee access for any person with a legitimate interest to at least the information listed in article 18 (1) of the Convention and explain the procedures to be followed to gain access to such information. Please indicate the restrictions and conditions that may be imposed on such access, the means available for appealing against the refusal to disclose such information, and the measures in place to prevent delaying and obstruction of such appeals and to impose sanctions for delays or obstructions (arts. 18, 20 and 22).

28. Please report on any human rights training on enforced disappearance and the Convention provided to law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of persons deprived of liberty, including judges, prosecutors and other officials responsible for the administration of justice. Please indicate the content and frequency of such training (art. 23).

## **V. Measures to protect and ensure the rights of victims of enforced disappearance (art. 24)**

29. Please provide information on:

(a) The definition of victim in national legislation and whether it encompasses all the persons enumerated in article 24 (1) of the Convention;

(b) The forms of reparation and compensation provided for in national legislation for victims of acts that amount to enforced disappearance within the meaning of article 2 of the Convention and whether they include all the forms of reparation listed in article 24 (5) of the Convention;

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<sup>8</sup> [CAT/C/SYC/CO/1](#) and [CAT/C/SYC/CO/1/Corr.1](#), para. 16.

(c) The procedures available to victims of acts that amount to enforced disappearance within the meaning of article 2 of the Convention to obtain compensation and reparation, including the applicable time limits;

(d) The authority responsible for granting compensation or reparation and whether access to compensation or reparation is conditional on a criminal conviction;

(e) The measures taken to guarantee the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigations and the fate of the disappeared person;

(f) The implementation of the recommendations contained in the final report of the Truth, Reconciliation and National Unity Commission,<sup>9</sup> established in 2018, as relates to disappearance, including enforced disappearance, such as the investigation and prosecution of alleged perpetrators, including high-ranking members of the Government and the former Seychelles People's Defence Forces, and the reparations provided to victims (art. 24).

30. In view of the information available concerning search and rescue missions for migrants missing at sea,<sup>10</sup> and allegations regarding the immediate deportation of individuals seeking asylum, please report on:

(a) The number of search and rescue missions conducted and the outcomes thereof;

(b) The legislation and procedures applicable to migrants and asylum-seekers arriving at the international borders of the State party;

(c) How the State party ensure that its actions are in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsion;

(d) The investigations carried out and the results thereof, including whether those responsible were identified, prosecuted and punished, and how relatives were informed of the progress and results of the investigation and the fate of the disappeared persons (arts. 16 and 24).

31. Please provide information on the legal situation under national legislation of disappeared persons whose fate has not been clarified, and that of their relatives, in matters such as social welfare, financial matters, family law and property rights, and the measures taken to ensure the application of a gender perspective in such contexts. Please also describe the procedures in place to issue a declaration of absence or of death of the disappeared person and the impact of such a declaration on the State party's obligation to continue the search and investigation into enforced disappearance until the fate of the disappeared person has been clarified (art. 24).

32. Please report on the measures taken to guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearance and the fate of disappeared persons, and to assist victims of enforced disappearance (art. 24).

## VI. Measures to protect children against enforced disappearance (art. 25)

33. Please provide information on:

(a) How the national legislation criminalizes the conduct described in article 25 (1) (a) of the Convention and, if it does not, whether the State party envisages adopting such legislation;

(b) How many complaints concerning the wrongful removal of children have been lodged since the entry into force of the Convention, and the measures taken to locate the

<sup>9</sup> Available at <https://www.nationalassembly.sc/sites/default/files/2023-05/Recommendations.pdf>.

<sup>10</sup> CMW/C/SYC/QPR/2, para. 18.

children concerned, the results of those measures and the procedures for returning them to their families of origin;

(c) The steps taken to prosecute and punish the perpetrators of such acts;

(d) The measures taken to improve birth registration in order to prevent any risk of wrongful removal of children and the results of those measures (art. 25).

34. In view of the Committee's joint statement on illegal intercountry adoption,<sup>11</sup> please describe the system of adoption or other form of placement of children in the State party. In that connection, please indicate the legal procedures in place to review and, where appropriate, annul any adoption, placement or guardianship that originated in enforced disappearance. If no such procedures are yet in place, indicate the steps taken in this regard (art. 25).

35. Please indicate the measures that the State party has taken to protect children, especially unaccompanied minors, from enforced disappearance, particularly in the context of migration and trafficking. Please describe the measures taken to ensure that information on unaccompanied minors is adequately recorded, including in genetic and forensic databases, to facilitate the identification of disappeared children (art. 25).

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<sup>11</sup> CED/C/9.