

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review:

2nd Cycle, 24th Session

THE SOLOMON ISLANDS

I. BACKGROUND INFORMATION

The Solomon Islands acceded to the *1951 Convention relating to the Status of Refugees* on 28 February 1995 and to its *1967 Protocol* on 12 April 1995 (hereinafter jointly referred to as the *1951 Convention*). The Solomon Islands is not a State party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

The Government of the Solomon Islands has drafted legislation to implement its international refugee obligations domestically through the draft *Refugee Status Determinations Bill 2010* and supporting subsidiary legislation.

As of May 2015, UNHCR is aware of a small number of refugees (less than five) in the Solomon Islands. In view of the small number of individual cases and more pressing domestic issues, asylum-seekers, refugees, stateless persons and internally displaced persons are not prominent concerns in the Solomon Islands.

Climate change, however, poses a unique set of challenges for many Pacific Island Countries, including the Solomon Islands, due to rising sea levels, salination, the incidence of storms of increasing frequency and severity, and increasing climate variability.

While people displaced by climatic (natural) factors are not 'refugees' under the *1951 Convention*, there are nonetheless clear links between environmental degradation or climate change, and social tensions and conflict. Experiences in other Pacific Island Countries demonstrate that displacement can lead to competition with the host community and to conflict, often over land or the use of limited resources (e.g. potable water). The worst case scenario, involving complete submersion under rising sea levels, may cause widespread 'external

displacement' and a *de facto* or *de jure* loss of the sovereign State itself. UNHCR's mandate and experience in the field of statelessness, as well as displacement, may be relevant in that situation.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

The Solomon Islands regularly participates in the Pacific Immigration Directors' Conference (PIDC). UNHCR is of the view that the Solomon Islands' involvement at the regional and international levels contributes to the development of national and collective responses to regional issues, which may incorporate and harmonize efforts to ensure international standards of refugee protection.

In June 2013, the Solomon Islands Government engaged with UNHCR and the International Organization for Migration (IOM) in relation to forced displacement and refugee protection, which resulted in a professional development workshop for officials delivered by UNHCR and IOM in Honiara.

The Solomon Islands Government officials have also actively participated in a range of capacity-building activities, including UNHCR's 2012 Global Protection Cluster training for natural disasters held in Fiji, UNHCR's Pacific Protection Learning Programme delivered in late 2012 and early 2013, as well as the Pacific Regional Meeting on Protection in the Context of Mixed Migration, which again was co-hosted by IOM and UNHCR in May 2014.

Finally, UNHCR has engaged closely with the Government of the Solomon Islands National Disaster Management Office to establish a Protection Cluster, with support from the Pacific Humanitarian Protection Cluster, which UNHCR co-leads with OHCHR.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Fair and efficient asylum procedures

Although the Government of the Solomon Islands has drafted the *Refugee Status Determinations Bill 2010*, to UNHCR's knowledge this legislation has not been introduced before the National Parliament of Solomon Islands.

UNHCR stands ready to provide the Government of the Solomon Islands with relevant technical advice, practical guidance and operational support with regards to the treatment of persons in need of international protection and the processing of asylum claims.

Specifically, UNHCR can provide further advice on draft legislation and practical training to relevant officials to integrate 'good practices' and international standards of asylum/refugee protection into operational guidelines and procedures. UNHCR can also provide additional and more targeted induction training, mentoring and supervision to raise awareness on refugee protection for new immigration and border control officials on fundamental principles and good practices for refugee protection and protection-sensitive migration management.

Recommendation:

UNHCR recommends that the Government of the Solomon Islands:

- Adopt a national legal framework that will provide a clearer basis for the Government of the Solomon Islands to provide refugees with international protection in accordance with its *1951 Convention* obligations.

Issue 2: Accession to the *Statelessness Conventions*

Although in 2011 the Solomon Islands accepted recommendations from Ecuador and Slovakia¹ to accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*, to date the Government of the Solomon Islands has not done so.

UNHCR notes that stateless persons who satisfy the refugee definition contained in Article 1A(2) of the *1951 Convention* are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the entitlement to rights of non-refugee stateless persons in need of international protection.

The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of States parties to the two *Statelessness Conventions* is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

Furthermore, UNHCR notes the concern expressed by the Committee on the Elimination of Discrimination against Women during their review of the Solomon Islands in November 2014 in relation to numerous discriminatory provisions in the *1978 Citizenship Act*.² These

¹ See paras. 81.5 (recommendation by Ecuador) and 81.16 (recommendation by Slovakia) of the “Report of the Working Group on the Universal Periodic Review – the Solomon Islands,” 11 July 2011, UPR 18th session (A/HRC/18/8), available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/SBSession11.aspx>.

² See para. 30. “The Committee expresses its concern about the numerous discriminatory provisions in the Citizenship Act (1978) and notes that the State party is well aware of them, given that it has described them in detail in its report, in particular:

- (a) The acquisition and loss of nationality according to marital status only for women, and the risk of statelessness for women who opt for the nationality of their foreign husbands as well as for foreign women married to a State party’s national, who should renounce their nationality;
- (b) The fact that foreign women may only exercise their right to apply for nationality after two years of marriage with the consent of their husband;

discriminatory provisions may create a risk of statelessness for women who opt for the nationality of their foreign husband as well as for foreign women married to a State party's national.

Recommendations:

UNHCR recommends that the Government of the Solomon Islands:

- Take practical steps to accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*; and
- Amend the provisions of the *1978 Citizenship Act* concerning the acquisition, transmission, retention and loss of nationality and in particular ensure that both mothers and fathers are able to transmit their nationality to their children.

Issue 3: Rights-based response to disaster management

As noted above, UNHCR recognizes that climate change and natural disasters pose a unique set of challenges for the Solomon Islands, due to rising sea levels, salination, the incidence of storms of increasing frequency and severity, and increasing climate variability. During the 1st cycle UPR, the Solomon Islands accepted a recommendation from Ecuador to “Adopt measures to mitigate climate change risks.”³

Although UNHCR and OHCHR co-lead the Pacific Humanitarian Protection Cluster (PHPC) to support States and the UN Country Team in the Solomon Islands, as the Solomon Islands is categorized as a high-risk country for natural disasters and in order to further contribute to the implementation of the above recommendation, it would benefit from having a permanent national protection cluster in place.

Recommendations:

UNHCR recommends that the Government of the Solomon Islands:

- Develop and sustain a permanent national protection cluster with support from the regional and United Nations mechanisms, including the Pacific Humanitarian Cluster, to address displacement caused by climate change and/or natural disasters; and

(c) The fact that only male spouses may transmit their nationality to jointly adopted children;

(d) The fact that only male spouses may apply on behalf of their children for acquisition of nationality through naturalization.

31. The Committee urges the State party to repeal without delay all the discriminatory provisions of the Citizenship Act (1978) concerning the acquisition, transmission, retention and loss of nationality and in particular ensure that both mothers and fathers are able to transmit their nationality to their children, in compliance with article 9 of the Convention.” *Committee on the Elimination of Discrimination against Women*, Concluding Observations, Fifty-ninth Session (14 November 2014) CEDAW/C/SLB/CO/1-3, available at:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskcAJS%2fU4wb%2bdIVicvG05RzyLkrk1UWA5C%2fZ6R1DFbySrbWXXWzNGLLOiDLyMHPMEnbZTqeNwymkJNtXdNcuDVAjHbbtqn2Egdfyy5YzH9cu%2bXplqDeVTe1xtY93wQlwsQ%3d%3d>.

³ See para. 81.34 of the “Report of the Working Group on the Universal Periodic Review – the Solomon Islands,” 11 July 2011, UPR 18th session (A/HRC18/8), available at:

<http://www.ohchr.org/EN/HRBodies/UPR/PAGES/SBSession11.aspx>

- Mainstream protection through all disaster preparedness and response mechanisms, recalling that protection should be a focus of any humanitarian response.

Human Rights Liaison Unit
Division of International Protection
UNHCR
June 2015

Excerpts of Recommendations from the 1st cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure Mandate Holders

THE SOLOMON ISLANDS

We would like to bring your attention to the following excerpts from the 1st cycle Universal Periodic Review, UN Treaty Monitoring Bodies' Concluding Observations and Recommendations from UN Special Procedures Mandate Holders' Reports relating to issues of interest and persons of concern to UNHCR with regards to the Solomon Islands.

I. Universal Periodic Review

Below is a list of recommendations of relevance to UNHCR made to the Solomon Islands during the 1st cycle of the Universal Periodic Review. These are divided into three sections: recommendations accepted by the Solomon Islands; recommendations rejected by the Solomon Islands; and recommendations which were under the consideration of the Solomon Islands. The Solomon Island's views and responses to recommendations are elaborated upon (and sometimes amended) in the Addendum. Information contained in the Addendum, which is of relevance to UNHCR, can be found here in italics.

Report of the Working Group on the Universal Periodic Review, Eighteenth session (11 July 2011) [A/HRC/18/8](#)

80. The recommendations formulated during the interactive dialogue and listed below have been examined and enjoy the support of Solomon Islands, which considers that they are already implemented or in the process of implementation:

80.24. Develop explicit legislation implementing the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, and invite the Special Rapporteur on violence against women, its causes and consequences, to the country (Maldives);

80.25. Introduce measures to address the situation of gender discrimination and violence against women by modifying existing laws and regulations that discriminate against women (Hungary);

80.37. Adopt all necessary measures, in accordance with article 7, paragraph 1, of the Convention on the Rights of the Child, to guarantee the registration of all girls and boys at birth in Solomon Islands; as well as for those persons who have not been registered at birth (Mexico).

81. The recommendations formulated during the interactive dialogue and listed below will be examined by Solomon Islands, which will provide responses in due time, but no later than the eighteenth session of the Human Rights Council in September 2011. The response

of Solomon Islands to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighteenth session in September 2011:

81.5. Sign or ratify the following international human rights instruments: the Optional Protocols to the Convention on the Rights of the Child; the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness; the Optional Protocol to the Convention on the Rights of Persons with Disabilities; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Prevention and Punishment of the Crime of Genocide; the Rome Statute of the International Criminal Court; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Ecuador);

Accepted

81.16. Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia);

Accepted

81.19. Pass a law to criminalize all forms of human trafficking and ratify the Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (United States);

Accepted

81.45. Implement the recently adopted Human Rights Council resolution on children working and/or living on the street and give priority attention to the prevention of this phenomenon by addressing its diverse causes through economic, social, educational and empowerment strategies. These include proper birth registration, health care, education, awareness-raising and assistance to families (Hungary);

Accepted

81.48. Ensure that all children are registered at birth and make every effort to register all persons previously not registered (Slovakia).

Accepted

II. Treaty Bodies

Committee on the Elimination of Discrimination against Women

Concluding Observations, Fifty-ninth Session (14 November 2014) [CEDAW/C/SLB/CO/1-3](#)

Violence against women

24. The Committee notes that the State party has adopted a national policy to combat violence against women and that the Family Protection Act adopted in 2014 criminalizes

physical, sexual, psychological and economic abuse. It is nevertheless alarmed by the widespread and extended forms of violence against women (see [CEDAW/C/SLB/1-3](#), para. 74) and the high levels of social acceptance of such forms of violence. The Committee is also concerned about:

- (a) Women's reluctance to report cases of violence, including domestic and sexual violence, owing to fear of reprisals, stigmatization and inadequate response by the police, and the lack of prosecutions and convictions, which may result in impunity for perpetrators of such violence;
- (b) The use of community dispute settlement rather than criminal proceedings and of financial compensation made to the victim's family rather than to the victim herself;
- (c) The limited availability of services for women who are victims of violence, including medical treatment, psychological counselling and legal assistance, and of shelters outside the capital.

25. The Committee recommends that the State party:

- (a) Disseminate information that is clear and easy to understand, including for women with disabilities, on the criminalization of different forms of violence under the Family Protection Act;**
- (b) Take measures to ensure that the police respond to and investigate complaints regarding violence against women and that perpetrators are prosecuted and punished, and collect data on the number of prosecutions and convictions, including at the provincial level;**
- (c) Actively discourage the use of mediation in cases of domestic violence, monitor compensation and settlements under customary mechanisms and ensure that they do not violate the Convention;**
- (d) Strengthen the Safenet referral system for women who are victims of violence, establish shelters for women in all provinces and ensure that they are accessible to all women, including women with disabilities;**
- (e) Allocate financial resources and strengthen the technical capacity of civil society organizations, in particular women's organizations, to provide services and redress for women who are victims of violence.**

Trafficking and exploitation of prostitution

26. The Committee is concerned that, although the State party is a source and destination country for trafficking in human beings for purposes of sexual exploitation and forced labour, it is not a party to the international treaties addressing the phenomenon and its national legal framework has not been fully put in place. It is also concerned about the lack of data on trafficking and women in prostitution, the sexual exploitation of girls in logging areas and through pornography, the use of the bride-price system to allow temporary marriages of girls to foreign workers and the fact that sex tourism is not criminalized. The Committee is further concerned about the limited assistance available to women and girls

who are victims of trafficking, the criminalization of women in prostitution and the absence of reintegration programmes for women who wish to leave prostitution.

27. The Committee recommends that the State party:

- (a) Ratify the United Nations Convention against Transnational Organized Crime and the Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and seek the cooperation of States in the region and source countries to prevent and combat trafficking in women and girls and their exploitation in prostitution;**
- (b) Strengthen the mandate and work of the Trafficking in Persons Advisory Committee set up under the Ministry of Commerce, Industries, Labour and Immigration, by establishing a programme of action and a clear mandate in designing strategies and programmes to prevent and address the effects of trafficking in human beings;**
- (c) Ensure that the revision of the Penal Code includes amendments to criminalize sex tourism and other forms of sexual exploitation of women and girls, including the use of girls in pornography;**
- (d) Adopt measures to provide assistance to victims of trafficking and sexual exploitation, including by strengthening the capacity of referral centres to ensure that victims of trafficking are assisted in a gender-sensitive manner;**
- (e) Implement measures aimed at preventing the exploitation of prostitution of women and girls, giving particular attention to the exploitation of prostitution in logging areas and in areas where large-scale projects are being developed, and ensure the prosecution and punishment of perpetrators;**
- (f) Carry out programmes to promote the reintegration of women and girls currently engaged in prostitution, including by providing alternative income-generating opportunities.**

Nationality

30. The Committee expresses its concern about the numerous discriminatory provisions in the Citizenship Act (1978) and notes that the State party is well aware of them, given that it has described them in detail in its report, in particular:

- (a) The acquisition and loss of nationality according to marital status only for women, and the risk of statelessness for women who opt for the nationality of their foreign husbands as well as for foreign women married to a State party's national, who should renounce their nationality;
- (b) The fact that foreign women may only exercise their right to apply for nationality after two years of marriage with the consent of their husband;
- (c) The fact that only male spouses may transmit their nationality to jointly adopted children;

(d) The fact that only male spouses may apply on behalf of their children for acquisition of nationality through naturalization.

31. The Committee urges the State party to repeal without delay all the discriminatory provisions of the Citizenship Act (1978) concerning the acquisition, transmission, retention and loss of nationality and in particular ensure that both mothers and fathers are able to transmit their nationality to their children, in compliance with article 9 of the Convention.

III. Special Procedures

Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Twenty-third session (22 February 2013) [A/HRC/23/49/Add.1](#)

11. Between 1998 and 2003, Solomon Islands went through a period of internal unrest referred to as “the tensions”, which resulted in violent clashes, including killings, torture, internal displacement and other human rights violations.

12. “The tensions” had an impact on the lives of women in many ways. Women were victims of sexual abuse, increased domestic violence, killing and torture. Many of them also suffered displacement, loss of property and of access to such services as education and health. Women experienced the loss of loved ones and saw their capacity to fulfil their traditional roles limited by the fear and trauma they had experienced during the conflict.

26. Women in Solomon Islands carry the legacy of the crimes committed against them during what is known as “the tensions”. With regard to gender-based violence, rape was a common form of violence used by both militants and the police, particularly as a way to extract information from women and girls regarding the whereabouts of male family or community members. Sexual violence was also used as a means to humiliate the enemy, with men sometimes forced to watch as their wives were raped by militants. Some of these rapes resulted in pregnancies. In addition, women and girls experienced heightened levels of insecurity and were exposed to sexual harassment by armed men, whether from their own communities or from opposing factions.

27. The Special Rapporteur was also informed of the suffering endured during “the tensions” by women indirectly, as mothers or spouses of men who were killed, starved, tortured or ill-treated. Other challenges such as the lack of access to medical and educational services had particular effects on women, who were sometimes forced to give birth in the bush or were prevented from vaccinating their children, taking them to a doctor when ill or registering their births.

41. The Penal Code also includes other discriminatory provisions, such as the penalization of female sex workers, but not of their clients; and a maximum penalty for the trafficking of women and girls of two years in prison (sect. 153).

44. The Law Reform Commission has also received requests to review and amend the laws relating to marriage and divorce. The Islanders’ Marriages Act of 1945 prohibits the marriage of

children younger than 15 years of age, while children aged between 15 and 18 years require the written consent of their father to be married. Under customary law, however, girls may be married when they reach puberty (namely, sometimes as young as 12 or 13 years of age). Given that customary law has constitutional status, that many births are not officially registered and that the registration of a marriage is voluntary, enforcing the legal minimum age for marriage is currently very difficult.

58. With regard to the Ministry of Health, the main focus has been to improve the capacity of health service providers to identify and adequately address cases of violence against women and girls they attend to on a daily basis. With the support of the World Health Organization and the United Nations Population Fund, medical staff have received specific training, including on the identification, documentation and adequate care of sexual assault victims. Furthermore, clinical protocols for the treatment of survivors have been developed, as has a standard medical report form for cases of physical and sexual violence. Since November 2010, 323 cases of gender-based violence have been registered. At the time of the Special Rapporteur's visit, a "quiet room" had been set up in the Honiara Hospital to provide a safe and private space for victims to receive counselling and information on referrals services.

59. The Special Rapporteur was, however, informed that important challenges still remained in the need for forensic training, ensuring the use of the standardized medical forms and referring cases of gender-based violence to the authorities. Hospital staff explained how cases coming through emergency services were not always adequately registered or referred to appropriate services, particularly in provincial facilities. It is therefore not uncommon for women to be sent home by medical staff after treatment. Furthermore, medical staff members are not required to report acts of violence against women to the police, and are only reported in very severe cases.

60. The Special Rapporteur was informed of the "SafeNet" referral system for victims, which was launched together with the Social Welfare Division, the Police, the Public Solicitor's Office and two civil society organizations providing services to victims, the Christian Care Centre and the Family Support Centre. The objective of SafeNet is to better coordinate the work of stakeholders working on gender-based violence and to thereby facilitate referrals. It also aims to develop a national database on gender-based violence that will capture the information from all service providers in a coherent manner. A memorandum of understanding between the participating institutions is to be signed to formalize the initiative and to recruit a SafeNet coordinator.