

Universal Periodic Review Second Cycle - Maldives Stakeholders' Submission

Submission by:
Maldivian Democracy Network (MDN)*



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** The Maldivian Democracy Network (MDN), formed in 2006 is a local NGO that has been working towards achieving human rights and promoting democratic good governance in the country. MDN participated in the first cycle of the UPR process for the Maldives where a stakeholder report was submitted by a joint group of NGOs, and MDN welcomes the conclusions and recommendations made at the review.*

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1. This submission seeks to explore the measures that the State intends to take on matters that have not progressed since the last review, and highlight issues of concern in the Maldives.

FREEDOM OF EXPRESSION

International Obligations

2. Maldives ratified the ICCPR and the First Optional Protocol to the ICCPR on 19 September 2006.
3. Maldives accepted a recommendation (from France) at the first cycle of the UPR, to take all measures necessary to ensure full respect for freedom of expression and to guarantee that journalists can practice their profession freely.

Constitutional and Legislative framework

4. The Maldivian Constitution ensures most of the rights in the ICCPR in Chapter 2, the Chapter of Rights. The freedom of expression and freedom of journalism is expressly subscribed in Articles 27 and 28.
5. The regulation on media was enforced in 1978, which was long before the Constitution was passed. Several of the sections in the regulation contradicts with the Constitution. The Attorney General's Office was tasked with determining those legislation that did not comply with the new Constitution. The Attorney General informed the Parliament of those legislation that did not comply, however the Parliament has not (as per the Constitution) made redundant this regulation.
6. The government enforced a regulation on censorship on the 9th September 2014. The Regulation on Censorship mandates publication of all books and poems to obtain a permit from the National Bureau of Classification, a government authority.

Concerns

7. The freedom of expression is not protected in the Maldives. Organisations, political parties, individuals and journalists face threats in free expression.
8. The most serious concern in the Maldives at this time is the disappearance of local journalist, Ahmed Rilwan Abdulla of Minivan News. From his last sighting on 8 August 2014, it is 39 days since his disappearance to the date of submission of this report¹, and there has been no progress in the search for him or for those who are responsible for the act. Rilwan's whereabouts or his safety has not been guaranteed².

¹ 15 September 2014

² <http://minivannews.com/politics/missing-journalist%E2%80%99s-family-concerned-over-slow-progress-in-search-89978>

9. At least 15 journalists have received death threats via SMS during the year 2014. This is in addition to 3 MPs who raised their voices in the parliament and individuals who expressed democratic and human rights based views on social media³⁴⁵.
10. Local TV station Raajje TV was set ablaze amid the presidential elections of 2013, and the police oversight body, the Police Integrity Commission concluded their investigation stating police negligence in the case⁶⁷⁸.
11. Journalist and news anchor at Raajje TV station, (Asward) Ibrahim Waheed was attacked by a group of men and beaten unconscious on the road, barely surviving after intensive medical care. The incident took place days after he reported on judicial corruption⁹¹⁰.
12. Three senior lawyers were suspended from practicing, on charges of contempt of court by the Supreme Court for expressing criticism towards the judiciary on social media¹¹¹². A further lawyer and MP was suspended on contempt of court for criticising the judiciary on a TV program¹³.
13. According to the regulation on media, all media must be governed by the Ministry of Information. Any article or news that creates tension is an offense, and the writer is held responsible for such offenses. It does not clarify circumstances where it becomes an offense, or what the penalty of such an offense is.

Recommendations

- a) *That the government of Maldives disclose, in confidence if necessary, to the UNHRC the status of the search for the disappeared journalist Ahmed Rilwan Abdulla of Minivan News; and seek assistance where it is available in the search for him; and take appropriate action against any*

³ <http://minivannews.com/crime-2/15-journalists-receive-death-threats-over-gang-reporting-89404>

⁴ <http://minivannews.com/politics/governments-reaction-to-death-threats-is-a-test-of-democracy-ipu-89432>

⁵ <http://minivannews.com/politics/communications-authority-working-to-identify-senders-of-sms-threats-89813>

⁶ <http://minivannews.com/politics/police-officers-%E2%80%9Cnegligent%E2%80%9D-in-raajje-tv-arson-attack-pic-73240>

⁷ <http://en.rsf.org/maldives-masked-men-torch-opposition-tv-07-10-2013,45294.html>

⁸ <http://minivannews.com/politics/rsf-%E2%80%9Cdeplore-attitude-of-police%E2%80%9D-in-raajje-tv-attack-67975>

⁹ <http://commonwealthjournalists.org/cja-condemns-attack-on-maldives-journalist/>

¹⁰ <http://www.haveeru.com.mv/news/47931>

¹¹ <http://minivannews.com/politics/lawyer-suspended-from-court-by-judge-abdulla-mohamed-3741>

¹² <http://www.sun.mv/english/16210>

¹³ http://www.haveeru.com.mv/supreme_court/50915

state official or authority that has, by neglect or intent hindered the search for him; and take appropriate and speedy action against all perpetrators of this inhumane crime.

- b) That the government of Maldives shall immediately accede to and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.*
- c) That the government of Maldives does not further delay the ratification of the Optional Protocols to the ICCPR.*
- d) That the government of Maldives pass necessary legislation for the protection of journalists and promote freedom of expression; and ensure protection for free thinking in the Maldives.*
- e) That the government of Maldives amend the Regulation on Censorship of Dhivehi Literature so that they are in compliance with international human rights obligations of Maldives.*

FREEDOM OF ASSEMBLY

International Obligations

14. Maldives ratified the ICCPR on 19 September 2006.

Constitutional and Legislative framework

- 15.** The Article 32 of the Constitution assures that everyone shall have the freedom to assembly without prior notice or permit.
- 16.** The Freedom of Peaceful Assembly Act came into force in 2013 following continued protests which called for a presidential elections as a result of the controversial transfer of power in February 2012. The Act contradicts with the Constitution and international human rights obligations in several sections, for example where the Act mandates prior permit from the government and the police to hold assemblies.

Concerns

- 17.** The Freedom of Peaceful Assembly Act has has been scrutinised by local and regional NGOs and have called upon the state to amend the law into one that complies with human rights obligations. The Act contradicts with Maldives' international human rights obligations, and with the Constitution of Maldives. It curbs more rights than protects it. The law also gives wide

discretionary powers to the police in dispersing assemblies and protecting participants in assemblies¹⁴.

18. In addition to regulating the freedom of assembly through legislation, it must be allowed in the broadest terms possible in order to comply with human rights obligations.
19. Several individuals including parliamentarians, human rights activists, journalists and political activists have been arrested, detained and cases sent for prosecution for participating in protests over the past two years¹⁵.

Recommendations

- f) *That the government of Maldives shall, in public consultation and in collaboration with civil society make necessary amendments in the Freedom of Peaceful Assembly Act.*

FREEDOM OF ASSOCIATION

International Obligations

20. Maldives ratified the ICCPR on 19 September 2006.

Constitutional and Legislative framework

21. Article 30 of the Constitution assures the freedom to form political parties, organisations and unions in the Maldives.
22. Political Parties Act (law number 4/2013).
23. Supreme Court Ruling on reinstating political parties with smaller membership.
24. Associations Act (law number 1/2003).

Concerns

25. Some legislation in lieu of Article 30 of the Constitution has been under civil society review recently. The primary review is presently on the Associations Act. Local NGOs have highlighted issues in the law which disempower civil society rather than regulate it.

¹⁴ <http://www.forum-asia.org/?p=17587>

¹⁵ <http://minivannews.com/politics/police-arrest-12-during-large-mdp-protest-on-charges-of-police-assault-obstruction-67795>

26. Some of the primary issues with the Associations Act is that it provides for extraordinary discretionary powers to the Registrar of NGOs. The Registrar is also a political appointment, and has authority over registration and deregistration of NGOs. The second issue is that the Act criminalises non registered NGOs. Additional issues have been identified, and recommendations are presently being made to the State. It is of concern that the guardian of this law, the Ministry of Home Affairs, has not been forthcoming in accepting recommendations to draft a new and more enabling law.
27. Furthermore, the Ministry of Home Affairs announced in July 2014 that registration of NGOs that hold the name “*Maldives*” will be rejected.
28. The former Registrar of NGOs, Abdulla Mohamed threatened the Transparency Maldives, Tourism Employees Association of Maldives and the Maldives NGO Federation of deregistration for voicing concerns regarding the Supreme Court intervention into the Presidential Elections of 2013. The threats were made via official letters from the Ministry of Home Affairs¹⁶¹⁷.
29. The Supreme Court made a ruling to reinstate political parties with smaller memberships, and thus annulled the section in the Political Parties Act which prescribes a specific number of members in order to remain active as a political party in the Maldives¹⁸.
30. The Registrar of NGOs announced the dissolution of the Bar Association of Maldives (a private initiative by local lawyers due to the absence of a statutory lawyers’ regulatory body) following a ruling by the Supreme Court¹⁹²⁰.

Recommendations

- g) *That the government of Maldives shall, in public consultation and in collaboration with civil society make necessary amendments in the Associations Act or draft new legislation that creates a more enabling environment for civil society.*
- h) *That the Ministry of Home Affairs without delay retrieve its stance on rejecting organisations holding “Maldives” as part of their organisation’s names.*

¹⁶ <http://minivannews.com/politics/transparency-international-gravely-concerned-about-safety-of-maldives-staff-volunteers-67909>

¹⁷ <http://raajje.mv/5631>

¹⁸ <http://minivannews.com/politics/ec-reinstates-dissolved-political-parties-as-per-sc-order-87998>

¹⁹ <http://minivannews.com/politics/home-ministry-dissolves-bar-association-87608>

²⁰ http://www.haveeru.com.mv/maldives_bar_association/55484

RISING THREAT OF FUNDAMENTALISM

International Obligations

- 31.** Maldives undertook a voluntary pledge during the previous review to begin domestic awareness raising and open public debate on religious issues.

Constitutional and Legislative framework

- 32.** The Constitution of Maldives states that the Maldives is a 100% Muslim nation. It states that every Maldivian shall be a Sunni Muslim by faith, and that all Maldivians and matters of the state shall be carried out in such a way that it does not deviate from the tenets of Islam and is in accordance with Islamic Shari'ah.
- 33.** The Religious Unity Act of Maldives regulates Islamic preaching and practices in the country. It prescribes harsh penalties for those not abiding by the law, and is presently under the guardianship of the Islamic Ministry.
- 34.** Family Law (Law number 4/2000).
- 35.** The Constitution prescribes that there shall be no discrimination between men and women in the Maldives²¹. The law number 9/91 (Child Rights Protection Law) states the government must provide or facilitate immunisation and education to all children²², and also that the parents of a child must provide children with education and take necessary precautions to ensure the health and wellbeing of the child, and also that parents must protect the child from anyone who may misbehave with the child or cause harm or violate the child's dignity and report to relevant authorities of such an act immediately²³. Violating or failure to abide by instructions in a law is prosecutable under the section 88-a (disobedience to order) of the Penal Code. The law number 4/2000 (Family Law) prescribes that a marriage need to be permitted by the Registrar of Marriages²⁴, and that it must take place in front of a judge²⁵. It also states that the age permitted for marriage (if not otherwise permitted by the Registrar of Marriages) as eighteen years²⁶, that a marriage can only take place with the consent of both man and woman to be wedded in addition to the *walee/wali* (or male guardian)²⁷ and that without registration a

²¹ Article 17, Constitution of Maldives

²² Section 3, 5, Child Rights Protection Law

²³ Sections 15, 15, Child Rights Protection Law

²⁴ Section 14, Family Law

²⁵ Section 3, Family Law

²⁶ Section 4, Family Law

²⁷ Section 9, Family Law

marriage shall be unlawful²⁸. The Family Law further states as offenses actions of not registering marriages and violating any part of the law²⁹. Furthermore, the law number 6/94 (Religious Unity Act) states that it is an offense to spread religious views that create controversies³⁰, and prescribes harsh penalties for violating the law³¹.

Concerns

36. The fear of the rise in fundamentalism in the Maldives and its effects on women and girls was recognised globally³²³³³⁴. The Minister of Islamic Affairs also acknowledged extremism in the Maldives around mid-2012³⁵, although no action was taken on the issue. The previous Religious Unity Regulation which was later developed into the Religious Unity Act, which allows for specific Islamic scholars to hold public seminars and educate the public on Islam³⁶. Most of these scholars have been trained at the Islamic University of Madinah (in Saudi Arabia), which is known for its fundamentalist interpretations of Islam.

37. Dr. Afrasheem Ali, former MP and moderate Islamic scholar, was found brutally murdered³⁷. He was the only scholar who was vocal on the issue of fundamentalism³⁸. He was assaulted previously in 2008 in public soon after he concluded leading the Friday prayers³⁹. Dr. Afrasheem was murdered shortly after he entered the building in which he lived, after concluding a live TV program on which he apologised publicly for misinterpretations caused by his words⁴⁰. It is believed that he was responding to SMS threats he received after speaking on a TV program about Islam.

²⁸ Section 19, Family Law

²⁹ Sections 62, 70, Family Law

³⁰ Section 4, Religious Unity Act

³¹ Section 6, Religious Unity Act

³² <http://www.awid.org/Library/The-Perils-of-Rising-Religious-Fundamentalism-in-the-Maldives>

³³ <http://www.miadhu.com/2012/11/local-news/maldives-warns-on-rising-fundamentalism/>

³⁴ <http://minivannews.com/news-in-brief/fundamentalism-more-urgent-threat-to-maldives-than-climate-change-the-diplomat-30680>

³⁵ <http://minivannews.com/politics/nasheed-government-failed-to-combat-extremism-islamic-minister-sheikh-shaheem-39714>

³⁶ The Religious Unity Act stipulates criteria for those licensed as “Islamic Scholars”. The content of sermons and religious dialogue is controlled by this Act.

³⁷ <http://www.bbc.com/news/world-asia-19826539>

³⁸ <http://www.haveeru.com.mv/news/44892>

³⁹ <http://www.haveeru.com.mv/news/20777>

⁴⁰ <http://www.sun.mv/english/6214>

- 38.** It is noted that the disappearance of Minivan News journalist Ahmed Rilwan Abdulla has links to Islamist groups in the country⁴¹. Ahmed Rilwan was highly vocal and active on social media regarding rising fundamentalism in the country. [More information regarding the disappearance of Ahmed Rilwan Abdulla is included in the section Freedom of Expression in the submission by the Joint Coalition by MDN_VoW_DYM].
- 39.** Reports of increasing child marriages, refusal by parents to immunise children, female genital mutilation and circumcision of girls, and the growing number of girls being withdrawn from schools in the outer atolls of the Maldives are some key areas of concern.
- 40.** The Human Rights Commission of Maldives (HRCM) is aware of some of the issues highlighted in relation to the rise in fundamentalism in the country, and their monitoring visits have also discovered that some traditional leaders have issued *fatwas* saying that it is un-Islamic to register marriages at the courts⁴².
- 41.** It is of grave concern that Maldivian militants joined the *jihad* in Syria⁴³ and also threatened the Maldivian police over social media⁴⁴. It is concerning that the Islamic Ministry held a national conference, seeking the opinion of local religious scholars on the Maldives joining the Syrian civil war rather than condemning it⁴⁵. The neglect of the government in addressing the issues related to fundamentalism has been noted by diplomatic missions to the country⁴⁶.
- 42.** The presence, or representation of the ISIS in the Maldives has been growing steadily. The group has begun to hold regular weekly protests on the roads of Male' City, the capital, calling for the implementation of Islamic Shari'ah in the country^{47,48}. The government of Maldives has not taken visible steps to stop these marches or control it while the marches are also held outside the Freedom of Peaceful Assembly Act⁴⁹. While the Act specifies permitted venues for assembly, the marches are held in locations prohibited by the law.

⁴¹ <https://www.opendemocracy.net/5050/moh%C3%A1csi/is-islamic-state-cover-for-government-policy-in-maldives>

⁴² Information provided to MDN in the form of a questionnaire.

⁴³ <http://minivannews.com/politics/maldivian-militant-killed-in-syria-suicide-attack-claims-online-jihadist-group-85600>

⁴⁴ <http://www.haveeru.com.mv/news/55184>

⁴⁵ <http://minivannews.com/politics/islamic-ministry-to-seek-opinion-of-religious-scholars-on-maldivians-joining-syrian-civil-war-86932>

⁴⁶ <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

⁴⁷ <http://minivannews.com/politics/protesters-march-with-is-flag-calling-for-enforcement-of-islamic-shariah-89957>

⁴⁸ <http://www.washingtonpost.com/blogs/worldviews/wp/2014/09/10/the-islamic-state-has-supporters-in-paradise>

⁴⁹ The Freedom of Peaceful Assembly Act states specific locations where assemblies can be held. The marches by those carrying the ISIS flags move throughout the city and outside the boundaries prescribed by law.

CONCLUSION

43. It is evident by the actions and inactions of the State authorities of Maldives that it has moved further away from the international human rights obligations that they are bound with. Especially so are fundamental rights of the people of, and those living in the Maldives, primarily their civil and political rights. While the Maldivian Constitution of 2008 brought with it the light of democracy and human rights, outlining almost all of the rights prescribed in the International Covenant on Civil and Political Rights in its Chapter of Rights, it is imperative that the State make every effort to protect and promote those rights in the Maldives.

Recommendations

- i) That the government of Maldives take immediately the necessary steps required to eliminate the presence and representation of extremist groups such as the ISIS, in the Maldives.*
-