

24 March 2020



STATEMENT

UPR Info Pre-Session on the MALDIVES

Delivered by: Access Now (via online post)

Distinguished delegates, Your excellencies, and colleagues from civil society organisations,

Access Now is grateful to contribute to the UPR Info Pre-Session on the Maldives. The UPR is an important UN process aimed at addressing human rights issues worldwide. It is a rare mechanism through which citizens around the world get to work with governments to improve human rights and hold them accountable to international law.

Access Now is an international organization dedicated to defending and extending the digital rights of users at risk worldwide. We are an ECOSOC accredited organization. Access Now has participated in the UPR process since before it was granted ECOSOC status in 2016.

We would like to acknowledge that we are an international organization and have no personnel presence in the Maldives. We firmly believe that local civil society organizations are best positioned to engage in the UPR Info-Pre-Session panels. Nonetheless, our difficulty identifying local civil society partners on the topic of digital rights in the Maldives is, we view, reflective of the state of digital rights in the Maldives.

The Maldives has participated in two UPR review cycles: 3 November 2010 and 6 May 2015, respectively. This statement addresses the following issues with respect to the Maldives third UPR review cycle: (1) freedom of expression; (2) protection of journalists, and (3) the right to privacy.

i. Freedom of Expression

A. Follow-up from previous reviews

During the Maldives' first review cycle, the country received only 1 general [recommendation](#) regarding freedom of expression. Nonetheless, recommendations regarding freedom of expression greatly increased during the Maldives second review cycle. At that time, the Maldives received a total of 7 general recommendations, 5 of which the Maldives supported, and 2 specific recommendations, which the Maldives noted. Increasing protection of freedom of expression remains a priority issue in the Maldives.

B. New developments since previous review

The Maldives government has partially implemented its UPR recommendations since the first and second UPR review cycles. Yet, two alarmingly broad laws were enacted shortly after the Maldives' second UPR review.

First, in July 2015, the Maldives' Parliament implemented the Anti-Terrorism Act, which contains broad provisions to prosecute government critics and stifle dissent. Specifically, acts of terrorism include “disrupting public services” for the purpose of “exerting an undesirable influence on the government or the state.” As a result, many activists continue to be charged and detained through this broad provision under the Act.

Second, in August 2016, the Maldives' Parliament enacted the Anti-Defamation and Freedom of Expression Act, which alarmingly re-criminalised defamatory speech in the country. Specifically, the Act criminalised content or speech that “contradicts any tenant of Islam, threatens national security, contradicts social norms, or encroaches on another’s rights, reputation or good name.” International experts [warned](#) that the broad grounds for restrictions contained in the law contradict both international human rights standards and the Maldives Constitution.

The new government has made some positive developments to address restrictions on freedom of expression in the country. Shortly after taking office in November 2018, the Maldives' Parliament passed a bill to [repeal](#) the Anti-Defamation and Freedom of Expression Act. However, recent 2019 amendments to the Anti-Terrorism Act by the current government continue to raise [free speech and due process concerns](#).

The freedom and independence of the media remains inadequately protected. Many in the Maldives continue to face threats, intimidation and violence when exercising their opinions, therefore creating a chilling effect on free speech throughout the country. For instance, in November 2019, under the 2003 Associations Act, the government [shut down](#) the Maldivian Democracy Network, a leading human rights organization that provided invaluable research on a variety of human rights topics affecting the country, including freedom of expression. This attack on freedom of association directly infringes the rights of Maldivians to seek, receive, access, and impart information, which is a necessary precondition for the formation of opinions and the exercise of free expression.

C. Recommendations: Freedom of Expression

We urge that freedom of expression remains a prominent issue in the upcoming UPR review cycle, with an emphasis on curtailing the chilling effect on free speech in the country. We therefore recommend that the Maldives government:

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- 1. Repeal or amend the 2015 Anti-Terrorism Act and the 2003 Associations Act to ensure that the legislation fully complies with international standards on freedom of expression.**
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- 2. Create an enabling environment where individuals can freely exercise their right to freedom of expression and to associate without threats of violence, prosecution and repression. Specifically, reinstate the Maldivian Democracy Network.**
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ii. Protection of Journalists

A. Follow-up from previous reviews

The Maldives received only 1 recommendation regarding protection of journalists in its first review. Nonetheless, recommendations regarding protection of journalists greatly increased during the Maldives second review cycle. During its second review, the Maldives received approximately 8 recommendations regarding the protection of journalists. Interconnected with freedom of expression, protection of journalists remains a priority issue in the Maldives.

B. New developments since previous reviews

The Maldives government has partially implemented its UPR recommendations since the first and second UPR review cycles. Yet, attacks against journalists, bloggers, writers, activists, and civil society groups, online and offline, continue to threaten the safety and protection of journalists.

From 2012 to 2017 the Maldives saw a spate of religious-motivated attacks that targeted writers who were popular on social media.¹ In 2018, the Maldives established a presidential commission on enforced disappearances and murders. This commission has made progress in identifying individuals suspected of involvement in the 2014 abduction and [killing](#) of Ahmed Rilwan Abdulla, as well as government interference in the subsequent investigation. However, this progress must lead to timely prosecution of all those involved in the attack, no matter their position, including those who may still be working in government and law enforcement.

C. Recommendations: Protection of Journalists

We therefore urge that protection of journalists remain a prominent issue in the upcoming UPR review cycle, with an emphasis on investigating and resolving attacks on all journalists. We therefore recommend that the Maldives government:

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- 1. Robustly investigate attacks on all journalists, bloggers, writers, activists, civil society groups, human rights defenders and other media works, and their sources in civil society, and prosecute all those involved, including those who may still be working in government or law enforcement.**
 - 2. Invite relevant international experts, including UNESCO, to monitor and help improve the situation of journalists, bloggers, and other media workers, and implement the UN Plan of Action on the Safety of Journalists and the Issue of Impunity.**
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¹ These include, but are not limited to, blogger and former editor Haveeru, Ismail Khilath Rasheed (known as Hilath) who survived an attempt on his life in June 2012; Afrasheem Ali, a former member of Parliament, killed in October 2012; Ahmed Rilwan Abdulla, killed in 2014; and Yameen Rasheed, killed in April 2017.

iii. The Right to Privacy

A. Follow-up from previous reviews

The Maldives did not receive any recommendations regarding the right to privacy in its first and second reviews. Nonetheless, the right to privacy should be a priority for this UPR review.

B. New developments since previous reviews

In 2017, the Maldives released a [new digital identification card](#) for citizens. The digital identification card combines health, insurance, banking/payments and a passport in addition to a national identification. Only under strict technical and policy safeguards, and comprehensive legal regimes protecting individual rights, can digital identity programmes make the delivery of services, including welfare services, more efficient and accurate. Digital identity programmes may also reduce corruption by using technology to assist in clear identification and secure authentication. However, these programmes can themselves become [impediments to inclusive governance](#) and harm the provision of welfare services and while discriminating against marginalized citizens. Enrollment or participation in an identity programme should never be a prerequisite to receipt of essential goods and services.

Digital identity programmes are also data heavy, both during enrollment and when transactions are regularly authenticated. This raises significant concerns for privacy and data protection. In particular, we note grave concern over the use and collection of biometric data (10 fingerprints) in the new digital identification cards in the Maldives. The collection and use of highly sensitive biometric data poses significant risks for individuals. The aggregation and use of biometric data should be sharply limited.

C. Recommendations: The Right to Privacy

We therefore urge that the right to privacy become a prominent issue in the upcoming UPR review cycle, with an emphasis on adequate data protection legislation. We therefore recommend that the Maldives government:

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- 1. Enact a comprehensive data protection law to protect the right to privacy, and adequately fund and support its implementation.**
 - 2. Minimise the amount of and type of data the Maldives government and associated service providers collect through the digital identification system. Further, restrict lawful interception and monitoring of digital identity use and implement measures for accountability.**
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Thank you for your time and consideration,
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