

Religious Freedom in the Republic of Maldives

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in the Republic of Maldives (the Maldives) for the 2020 Universal Periodic Review (UPR). These violations primarily stem from Constitutional provisions and a legal framework that explicitly prohibit all religions other than Sunni Islam.

Background

2. In its 2019 World Watch List Report on religious freedom issues around the world, Open Doors ranked the Maldives as the 14th worst place to live for Christians¹. This is because of Constitutional and legal provisions that serve to create a homogenous society where non-Muslims are prevented from even becoming citizens. Accordingly, these provisions have resulted in extreme prejudice against Christians and other minority religions and clearly prohibit the free exercise of religion for all but practitioners of Sunni Islam.

3. During the previous UPR cycle, numerous countries recommended changes to allow for greater religious freedom. Ethiopia recommended that the Maldives “[f]urther facilitate favourable grounds for minority religious groups to choose, change, and follow their own religion or belief without any form of restriction”². Peru noted that the Maldives should “[c]onsider eliminating from the national legislation all provisions restricting freedom of thought, conscience and religion”³. Italy also recommended that the Maldives remove the religious requirement for obtaining citizenship; “Remove legal provisions that restrict the right to freedom of religion of belief, including article 9 (d) of the Constitution, which bars non-Muslims from being Maldivian citizens”⁴. Despite these recommendations, the Maldives have taken no tangible measures to provide for greater religious freedom. To the contrary, in fact, as in 2016 the Maldives passed a law that would further restrict religious freedom.

4. As indicated above, in 2016, the Maldives passed the Defamation and Freedom of Speech Act. This bill sought to criminalise any speech, remarks, writings, or actions that targeted “any tenet of Islam”⁵, and drew widespread international criticism as a result. Under this new law, violators could face fines or three to six months in prison. However, due to the widespread criticism

¹ *World Watch List: Maldives*, OPEN DOORS, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/maldives/>.

² UPR of the Maldives – Second Cycle Thematic List of Recommendations, A/HRC/30/8 – para 144.

³ *Id.*

⁴ *Id.*

⁵ *Severe Restrictions on Religious Freedom in the Maldives as Defamation Law Passed*, CHRISTIANITY TODAY(10 Aug. 2016), <https://www.christiantoday.com/article/severe-restrictions-on-religious-freedom-in-the-maldives-as-defamation-law-passed/92829.htm>.

from the international community, as well as journalists within the Maldives, this law was later repealed⁶.

5. Even though this particular act was repealed, speaking out against and criticising Islam remains a punishable offense as codified within the Maldives Penal Code. Section 617 of the Penal Code makes it an offense to “engage in any action whether it be: religious oration or distribution of materials that causes disregard for Islam”⁷. Additionally, it is also considered an offense to produce, possess, distribute, and import any idol of worship⁸. This vague and broad law led to the President’s Office ordering the Ministry of Tourism to remove sculptures at an underwater art gallery at a resort⁹. The sculptures were not religious in nature and were sculpted based on casts of real people¹⁰. Clearly this law is problematic and it is likely that religious symbols of any kind, including crosses, can be considered an idol of worship.

Constitutional and Legal Framework

6. The Maldives view Islam as an essential part of its national identity, and all freedoms and protections laid out in its Constitution come with a caveat that they exist only in so far as they do not violate or run contrary to “any tenet of Islam”¹¹. As stated in the Constitution, “[t]he Maldives is a sovereign, independent, democratic republic based on the principles of Islam . . .”¹². Moreover, the Constitution the Maldives establishes Islam as “[t]he religion of the State of the Maldives”. Furthermore, it states that “Islam shall be the basis of all the laws of the Maldives. No law contrary to any tenet of Islam shall be enacted in the Maldives”¹³. Additionally, Article 9 (d) of the Constitution states that “a non-Muslim may not become a citizen of the Maldives”¹⁴. As a result, members of minority religions are prohibited from publically practicing their faith out of fear that it may be viewed as “harming” the identity of the State. In addition, they are not afforded even citizenship in their own country.

7. Article 26 of the Constitution establishes that only citizens are permitted to vote in elections, run for public office, and “take part in the conduct of public affairs, directly or through freely chosen representatives”¹⁵. By providing that only Muslims are permitted to be citizens, all members of other religious faiths are denied a voice in the government, even those who were born in the Maldives. This provision that denies citizenship based only on religion, results in people being denied constitutional protections and guarantees to human rights.

⁶ *Anti-defamation Law Repealed*, MALDIVES INDEPENDENT, (24 Nov. 2018), <https://maldivesindependent.com/politics/anti-defamation-law-repealed-142649>.

⁷ MALDIVES PENAL CODE, sec. 617.

⁸ *Id.*

⁹ *Maldives Resort Ordered to Remove “Idols”*, MALDIVES INDEPENDENT (28 July 2018) <https://maldivesindependent.com/business/maldives-resort-ordered-to-remove-idols-139554>.

¹⁰ *Id.*

¹¹ CONSTITUTION OF THE REPUBLIC OF MALDIVES 2008, art. 16

¹² *Id.*, at art. 2.

¹³ *Id.*, at art. 10.

¹⁴ *Id.*, at art. 9 (d).

¹⁵ *Id.*, at art. 26.

8. In the Maldives, the Ministry of Islam Affairs (MIA) is responsible for controlling and regulating virtually all aspects of religious life within the country, violators who are caught face time in prison and fines¹⁶. All other religions are prohibited from operating places of worship, distributing religious material, proselytising, or generally promoting a religion other than Sunni Islam. Propagation of any religion other than that of Islam is a criminal offense punishable by house arrest or 2-5 years in prison¹⁷.

9. The Maldives are a party to the International Covenant on Civil and Political Rights (ICCPR) with a reservation on Article 18, which establishes freedom of religion and thought¹⁸, stating that “[t]he application of the principles set out in Article 18 of the Covenant shall be without prejudice to the Constitution of the Republic of Maldives”¹⁹. Given that the Constitution only recognizes Islam, this effectively nullifies any responsibility the Maldives has to provide for freedom of religion.

Conclusion

10. In order for the Maldives to allow for people of all faiths to worship as they see fit, many steps need to be taken. One important step, which was proposed by Greece, is for the Maldives to remove its objection to Article 18 of the ICCPR²⁰. The Maldives have noted this recommendation and have rejected it.

11. People who are born in the Maldives are effectively without citizenship in any country. In order to receive citizenship they would be forced to move to another country and apply for citizenship or renounce their deeply held religious beliefs and become Muslim. The Maldives must revise its Constitution to ensure that people of all faiths are permitted to become lawful and legal citizens. Excluding people from citizenship simply because of their religious affiliations subjects them to societal discrimination, and most importantly removes all rights and protections that should be guaranteed.

12. Finally, we ask that the Maldives amend their penal code to allow people of all faiths to operate houses of worship, conduct religious activities, and possess and distribute religious material and otherwise exercise and live out their religious beliefs without fear of punishment.

¹⁶ BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP’T OF STATE, MALDIVES 2018 INTERNATIONAL RELIGIOUS FREEDOM REPORT (2018) [hereinafter MALDIVES REPORT].

¹⁷ *Id.*

¹⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 18.

¹⁹ Reservation to International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 18.

²⁰ Report of the Working Group on the Universal Periodic Review Maldives A/HRC/30/8/ADD.1