



# International Covenant on Civil and Political Rights

Distr.: General  
2 February 2021

Original: English  
English, French and Spanish only

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## Human Rights Committee

### List of issues prior to submission of the second periodic report of Maldives\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations (CCPR/C/MDV/CO/1).

#### B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations. Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party.

3. Please provide further information about the constitutional and legal framework within which the Covenant is implemented. In this regard, please: (a) provide examples of any cases in which the courts have invoked or directly applied the provisions of the Covenant; (b) clarify the status of the Covenant within the national legal order, particularly in cases of incompatibility between sharia law and the provisions of the Covenant; and (c) indicate whether the State party intends to review its position regarding its reservations to article 18, bearing in mind the previous recommendation of the Committee in this regard (para. 6).<sup>1</sup>

4. Please describe the measures adopted to ensure the independence and effectiveness of the Human Rights Commission. Bearing in mind the Committee's previous recommendation (para. 7), please provide information on: (a) reports of political interference with the independence of the Commission and a lack of adequate funding for it to effectively fulfil its mandate; (b) any plans to allow non-Muslims to be appointed as members of the Commission; and (c) the legal framework governing the Commission, including details of the provisions and the current status of a bill proposing amendments to the Human Rights Commission Act (No. 6/2006) and how the Supreme Court judgment of 16 June 2015 (case No. 2014/SC-

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\* Adopted by the Committee at its 130th session (12 October–6 November 2020).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to CCPR/C/MDV/CO/1.



SM/42), which imposes restrictions on the activities of the Commission, is currently impacting its work.

**Anti-corruption measures (arts. 2 and 25)**

5. Please describe the measures taken to combat corruption in the State party. Please provide information on the legal framework in place to address corruption in the different State entities, including the judiciary, and respond to reports that the legal definition of corruption is vague and too narrow to effectively facilitate prosecution. Please specify the total number of investigations, prosecutions and convictions relating to corruption conducted within the reporting period and provide an update on the status of all those relating to the Maldives Marketing and Public Relations Corporation. Please provide information on the work and outcomes of the Maldives Anti-Corruption Commission and the Presidential Commission on Corruption and State Asset Recovery.

**Derogations, counter-terrorism measures and surveillance (arts. 2, 4, 6–7, 9, 14 and 17)**

6. Please provide information on the measures taken by the State party to address the coronavirus disease (COVID-19) pandemic. In particular, please specify whether any such measures derogate from the State party's obligations under the Covenant, including with respect to the rights of peaceful assembly and freedom of movement. If so, please specify whether the measures were strictly required by and proportional to the exigencies of the situation and limited in duration, geographical coverage and material scope, as outlined by the Committee in its statement on derogations from the Covenant in connection with the COVID-19 pandemic (CCPR/C/128/2), and whether other States parties were notified of the measures through the Secretary-General of the United Nations.

7. Please provide detailed information on the provisions of the 2015 Anti-Terrorism Act and their compatibility with the provisions of the Covenant. Please respond to reports that the provisions of the Act are overly broad and ambiguous and that it has been used within the reporting period to repress the activities of human rights defenders and political opponents.

**Non-discrimination (arts. 2–3, 14, 20, 23 and 26–27)**

8. Please indicate the legislative and other measures taken within the reporting period to address laws and social practices that discriminate on the basis of sex, sexual orientation, religion, disability, migration status and nationality. Please include information on whether comprehensive anti-discrimination legislation is in place, including provisions that prohibit discrimination on all the grounds listed above.

9. Please provide information on progress towards the implementation of the Committee's previous recommendation (para. 8) on the decriminalization of sexual relations between consenting adults of the same sex, and measures taken to combat the stigmatization and marginalization of lesbian, gay, bisexual, transgender and intersex persons. Please respond to reports of harassment of and attacks against organizations and individuals who promote the rights of lesbian, gay, bisexual, transgender and intersex persons, including information about the results of any investigations into the murder in April 2017 of Yameen Rasheed, a human rights defender and blogger who had written in support of those rights.

**Equality between men and women (arts. 2–3 and 26)**

10. Bearing in mind the Committee's previous recommendation (para. 10), please elaborate on the State party's progress towards the achievement of full gender equality. Please provide information on the measures in place to increase the proportion of women in the parliament and in other decision-making roles within the private and public sectors, including the adoption of any temporary special measures to address the currently low level of female representation. Please also provide information on women's representation within the judiciary, including on the current legal status of the directive issued in August 2019 that states that sharia law does not allow women to be higher level judges. Please respond to reports that women are threatened, harassed and stigmatized for not wearing headscarves in public.

**Violence against women, including domestic violence (arts. 2–3, 6–7, 24 and 26)**

11. Please provide an update on measures taken to address gender-based violence against women and girls, including the high prevalence of domestic violence in the State party. Recalling the Committee's previous recommendation (para. 11), please provide information on the implementation of the 2012 Domestic Violence Act, namely measures taken to facilitate complaints from victims and make available data on the number of investigations, prosecutions and convictions of perpetrators and the penalties imposed. Please provide data on the remedies and psychosocial support provided to victims.

**Termination of pregnancy, maternal mortality and reproductive rights (arts. 2–3, 6–7 and 24)**

12. Please explain the circumstances under which voluntary termination of pregnancy is legal in the State party under section 416 of the Penal Code and the fatwa (IFA/2013/03) issued by the Fiqh Academy of Maldives, including confirmation of whether it is available when a woman's life is at risk and when women are victims of rape or incest. Please indicate the measures taken to remove barriers to effective access for women and girls to legal abortion, and to ensure that they are not forced to undergo unsafe abortion procedures, which can put their lives in danger. Please indicate whether there are plans to broaden legal access to safe abortion within the State party.

**Right to life (arts. 6–7)**

13. Bearing in mind the Committee's previous recommendation (para. 13), please provide additional information about the safeguards in place to ensure that the use of the death penalty in the State party complies with the requirements of the Covenant, as outlined in section IV of the Committee's general comment No. 36 (2018) on the right to life. Please clarify for which crimes the death penalty may be applied under the law, and indicate how such provisions are compatible with the Covenant. Please provide information on the current status of the moratorium on the death penalty. Please respond to reports that facilities have recently been built at Maafushi prison for the purpose of carrying out hangings and indicate whether there are plans to remove or repurpose those facilities. Please clarify whether the State party is considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

14. Taking into account the Committee's general comment No. 36 (2018) (para. 62) and the specific geographical characteristics and location of the State party, please provide information on measures aimed at: (a) preventing and addressing, including through regulation of the public and private sectors, the current and foreseeable future effects of climate change and environmental degradation, which represent existential threats within the State party; (b) protecting persons in the State party, including the most vulnerable persons, communities and groups, from the negative impact of climate change and natural disasters on the enjoyment of their rights; and (c) developing inclusive processes for public and civil society participation when creating legislation and policy on climate change, including in relation to plans to develop the Maldives climate change act.

**Forced labour and trafficking in persons (arts. 6–8 and 24)**

15. Recalling the Committee's previous recommendation (para. 17), please provide an up-to-date response to reports of human trafficking and exploitative labour practices with regard to migrant workers. In this regard, please provide information on the implementation of the 2013 Anti-Human Trafficking Act, including the outcomes of the 2015–2019 Anti-Human Trafficking National Action Plan. Please include the number of complaints, investigations, prosecutions and convictions secured under the 2013 Act and other relevant legislation, and details of the reparations and psychosocial assistance provided to victims of trafficking and forced labour.

**Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and the treatment of persons deprived of their liberty (arts. 7 and 9–11)**

16. Please provide further information on the legal framework prohibiting torture. Please indicate whether the statute of limitations within the Criminal Procedure Code of 2017 applies to cases of torture and other ill-treatment, the minimum penalties for such crimes and the way in which the absolute and non-derogable nature of the right to freedom from torture and other cruel, inhuman and degrading treatment is enshrined in national law. Please respond to reports that the 2015 amendments to the Prisons and Parole Act removed provisions that protected detainees' fundamental rights to freedom from torture and other ill-treatment. Please provide disaggregated data on the number of complaints, investigations, prosecutions and convictions for torture and ill-treatment that have been secured within the reporting period, including the penalties imposed and the compensation and psychosocial support provided to victims. Please provide information about the authority granted to the Human Rights Commission in its role as national preventive mechanism, established in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to regularly visit prisons and other places of detention.

17. Bearing in mind the Committee's previous recommendation (para. 18), please respond to reports of prison overcrowding and provide information about measures taken to ensure that the provisions of the Covenant are upheld in all places of detention. In particular, please provide information on the exploration of alternatives to detention, such as the rehabilitation of drug offenders, the use of bond and bail provisions, and the early or conditional release of prisoners, particularly those convicted of non-violent offences. Please respond to reports that pretrial and remand detainees are not always held separately, despite the legal requirements to this effect contained in the Prisons and Parole Act. Please indicate whether measures to address the current level of prison overcrowding and protect particularly vulnerable detainees have been taken as part of the State party's response to the COVID-19 pandemic.

**Rights of refugees and asylum seekers (art. 13)**

18. Recalling the Committee's previous recommendation (para. 21), please respond to reports that, despite being enshrined in national law, the principle of non-refoulement continues not to be respected in practice within the State party.

**Right to a fair trial and the independence of the judiciary (arts. 2, 7, 9–10 and 14)**

19. Recalling the Committee's previous recommendation (para. 18), please provide information about the provisions that are in place to ensure fundamental legal safeguards for persons detained by the Maldives Police Force and the Maldives National Defence Force. Please respond to reports that arrested individuals have been unable to access legal counsel following arrest due to their inability to afford a lawyer. Please provide information on the legal aid system within the State party.

20. Please describe the steps taken to ensure judicial impartiality and independence, and the autonomy of prosecutors. Please include information on: (a) the selection process for the appointment of judges and prosecutors, including the criteria used to select candidates, the independence of the process and how judicial candidates are vetted; (b) efforts made within the reporting period to reform the Judicial Service Commission, following the Committee's previous recommendation in this regard (para. 20); (c) how the performance of members of the judiciary is evaluated and what processes and oversight mechanisms are in place in cases where appointments are terminated; (d) any measures taken to train judges and prosecutors, including in gender considerations, in order to address reports of skills gaps in common law interpretation due to exclusive Islamic training, as well as high levels of unconscious bias in relation to gender; and (e) the progress and outcomes of the newly established independent Bar Council, particularly with respect to ensuring a rigorous admission process for lawyers, a uniform code of conduct with regard to ethics, and the enforcement of disciplinary measures, including disbarment.

**Freedom of conscience and religious belief (arts. 2, 18 and 26)**

21. Please report on the measures taken to ensure that the right to freedom of conscience and religious belief is fully respected, in law and in practice, on a non-discriminatory basis. Bearing in mind the Committee's previous recommendation in this regard (para. 24), please provide information on: (a) steps taken to allow the public exercise of religious freedoms, including access to places of worship and religious ceremonies; (b) any measures taken to repeal provisions preventing non-Muslims from becoming citizens of the Maldives; and (c) any measures taken to repeal provisions criminalizing *hudud* offences, including apostasy.

**Freedom of expression, right of peaceful assembly and freedom of association (arts. 2, 19 and 21–22)**

22. Please provide information about measures taken to uphold the right to freedom of expression. Bearing in mind the Committee's previous recommendation (para. 22), please: (a) explain how the provision in article 27 of the Constitution that limits the right to freedom of expression to situations in which opinions and expressions do not contradict the tenets of Islam is compatible with the Covenant; (b) provide up-to-date information on the exact legal status of the Defamation and Freedom of Expression Act of 2016; and (c) respond to reports of religiously motivated attacks against journalists and human rights defenders, including Ismail Khilath Rashee, Ahmed Rilwan Abdulla and Yameen Rasheed, for expressing their views on social media. Please provide information on the results of any investigations into these crimes, including by the Presidential Commission on Investigation of Murders and Enforced Disappearances.

23. Recalling the Committee's previous recommendation (para. 23), please provide information on respect for the right of peaceful assembly and freedom of association within the State party. In particular, please provide information on: (a) reports of threats, intimidation and reprisals against civil society organizations, including the shutdown of the Maldivian Democracy Network by the registrar for non-governmental organizations in November 2019. Please include details of the legal basis for the closure of this organization, indicate whether it complies with the Covenant and if it will be reversed; (b) the provisions of the Freedom of Peaceful Assembly Act (No. 1/2013) and the status of efforts to revise this law; and (c) reports that the right of association in the context of labour disputes is not fully respected, including reports that the Government has detained and deported migrant workers for taking part in protests regarding their labour conditions and that trade unions are not recognized within the national legal framework.

**Juvenile justice (arts. 23–24 and 26)**

24. Please describe the provisions in place to protect the rights of juveniles in the justice system. In this regard, and recalling the Committee's previous recommendation (para. 16), please: (a) indicate whether flogging remains a permissible punishment for juveniles under criminal law following the enactment of the Child Rights Protection Act; (b) confirm that the Child Rights Protection Act and other legislation, such as the Juvenile Justice Bill, now prohibit the use of the death penalty for minors; and (c) provide information on the efforts being made to effectively implement these legal provisions. Please indicate the number of individuals on death row who were sentenced as minors and whether there are plans to commute their sentences. Please provide information on other protection measures that are in place, including the provision of juvenile courts, training for officials involved in the juvenile justice system, the availability of specialist legal counsel throughout judicial proceedings involving those under the age of 18, and rehabilitation and reintegration services available to children in contact with the law, including for crimes relating to the use of drugs.

25. Other than with regard to flogging as a form of criminal punishment, please indicate the current legal status of corporal punishment in all settings within the State party, including information about whether it is prohibited in the home, in schools, in alternative care settings and in day care.