

Human Rights Council 30th session

ADOPTION OF THE UNIVERSAL PERIODIC REVIEW (UPR) OF THE MALDIVES

24 September 2015

Speaker: Tess McEvoy

Mr President,

Among the recommendations accepted today is one to ensure that all civil society actors, as well as the Human Rights Commission, can carry out their activities, including participating in international mechanisms, without being subjected to reprisal;¹ another [made / accepted] is to guarantee the conformity of the national Human Rights Commission with the Paris Principles, strengthen its independence and protect its members against reprisals and intimidation;² and yet another [made / accepted] is to develop and implement laws, policies and mechanisms that ensure full protection of all journalists and human rights defenders against attacks and reprisals³ (Latvia);

However, in the months since the recommendations were made, the Maldivian Supreme Court has severely undermined the ability of the Maldivian Human Rights Commission to engage with the UN human rights system.

Following the Commission's contribution to the second UPR, which touched on the politicisation and lack of independence of the judiciary, in June 2015 the Supreme Court handed down a verdict in a case it initiated against the Commission declaring the Commission's submission unlawful and that it must abide by a set of 11 very broad and ill-defined guidelines in carrying out its activities. These include that any communication with international bodies must take place through relevant Government institutions. The guidelines also require the Commission to work in a manner that "does not create divisions in society" and "will not affect the discipline, culture and traditions of the Maldivian people and will not affect peace and harmony". They also warn against causing damage to the reputation of the Maldives.

As the High Commissioner has stated "National human rights institutions play a pivotal role in independently monitoring and protecting human rights and should be empowered to report on rights issues without fear."

The decision of the Court is a clear breach of international law and flagrantly incompatible with the Maldives' membership of the Council.

The UPR is a critical mechanism of the Council and the participation of NHRIs is essential to ensure the process is based on 'objective and reliable information' as required by the GA, and is explicitly called for by the GA and the Council.

Preventing relevant stakeholders from participating undermines the UPR process as a whole and constitutes an act of reprisal. In this regard we recall Human Rights Council Resolution 24/24 which urges States to 'prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them.'

We also recall Council Resolution 27/18 which explicitly 'welcomes the important role played by national human rights institutions in the Human Rights Council' and 'commends in particular the

¹ [in paragraph 141.20] by Switzerland.

² [in paragraph 143.28] by Tunisia.

³ [in paragraph 143.60] by Latvia.

increasing engagement of NHRIs at all stages of the UPR'. The resolution further specifies that 'NHRIs and their members and staff should not face any form of reprisal or intimidation' and that such acts must be promptly and thoroughly investigated, with the perpetrators brought to justice'.

For a member State of the UN Human Rights Council to retaliate against a NHRI members for providing a report to the Council is tantamount to contempt of the UN, and plainly incompatible with membership of that body.