

# Submission to the United Nations Universal Periodic Review

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Transparency Maldives was officially registered at the Maldives Ministry of Home Affairs in July 2007 and started its work in February 2008. TM is the local representative of Transparency International and is a non-partisan organization that promotes good governance and advocates to eliminate corruption from the daily lives of the Maldivian people. TM engages in a wide range of activities to incorporate and advocate for good governance, stop corruption and to promote democracy and civic participation at the local and national levels. TM does not have ECOSOC status.

## **I. INTRODUCTION**

1. The following submission by TM to the Universal Periodic Review focuses two key areas; namely human trafficking and the rights of migrant workers, and the increase of radical ideals and extremist ideology in Maldives.

2. In the course of the work of Transparency Maldives, the organization has had extensive experience in working on cases regarding the violation of the rights of migrant workers, conducted research on the situation of migrant workers in Maldives and implemented social media campaigns calling for fundamental human rights of migrant workers. In addition, the area of radicalization and extremism is a new area for the organization although the impact of radicalization is a key challenge to the organization. Two prominent human rights defenders were murdered by radical groups and human rights defenders and organizations continue to face threats and intimidation from such groups. Transparency Maldives feels that it is an important area that the State needs to be held accountable for since the lack of policies to address the issue during the most recent UPR cycle has only exacerbated the problem.

## **II. BACKGROUND AND FRAMEWORK**

3. Maldives is a State Party to eight of the nine core international human rights instruments.

4. The adoption of the 2008 Constitution forms the basis of the State with full separation of powers. The Constitution also catalogues fundamental human rights in Chapter Two and established independent institutions to monitor the three branches of State.

5. Following from the initial Review, some new enabling legislation, and reforms to existing legislations for the implementation of core rights instruments are pending in the Parliament, the Attorney-General's Office and other concerned State bodies. A range of domestic legislative reforms are promptly needed to bridge gaps in existing legislation to ensure the State remains in compliance with its obligations under core rights instruments.

6. The period from 2013 to 2018 saw a marked debilitation of democracy and human rights in the country with a disregard to international human rights obligations and a heightened call to repeal the moratorium on the death penalty and other corporal punishment into the penal code.

## **Human Trafficking**

7. Maldives is placed in the tier two watchlist of the US State Department's Trafficking in Persons Report for two consecutive years. The placing of Maldives on the watchlist highlights the failure of authorities to meaningfully address issues of redress and justice for victims of human trafficking. Survivors are continually revictimized through a lack of process in the criminal justice system and widespread xenophobia that intensifies the process of revictimization. Incidents of sex trafficking are particularly detrimental for survivors because the country, using its religious and cultural narratives, prosecutes survivors more than they do perpetrators. To date three migrant workers have been sentenced in November 2016 to ten years in jail for sex trafficking. However, no Maldivian has been convicted of human trafficking to date. Trials continue in four trafficking cases against five Maldivians and seven Bangladeshis. Just one Maldivian has been charged with sex trafficking<sup>i</sup>.

8. State has not adopted any Standard Operating Procedures (SOPs) for victim identification, protection, and referral, thereby inhibiting proactive identification of victims and at times resulting in the deportation and misclassification of victims.

9. Victim protection remained ad hoc and inconsistent, and the State have not adequately addressed withholding of passports of employees or inspect labour recruitment agencies.

10. The anti-trafficking National Steering Committee (NSC) formed under the Prevention of Human Trafficking Act has not met since 2017, and has not submitted annual reports as obligated under the law.

11. The definition of human trafficking in the State's trafficking law does not conform to the 2000 UN TIP Protocol, as it requires movement of the victim.

## **Treatment of Migrant Workers in Maldives**

12. Maldives benefits from an influx of migrant workers from Bangladesh, Nepal, Philippines, India, and Sri Lanka. However widespread xenophobia has led to inhumane treatment of migrant workers in the country. Out of the nine core international human rights covenants, Maldives has to date refused to be part of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). As a result, the State is able to restrict the fundamental rights and freedoms of migrant workers without significant pushback from either the public or the international community. The issues facing migrant workers are often reoriented as economic and social issues that the locals face as a result of the influx of migrant workers. Thus their living conditions, work without pay, and discrimination and violence against migrant workers are all justified as natural reaction by the public to an increasing social problem. Migrant workers are perceived as a problem which the State needs to find a solution to.

13. In 2015 the State banned a planned protest organized by Bangladeshi migrant workers against discrimination and violence. In addition to the threat of violence from the security forces, the organizers were informed that participation in the protest would result in deportation<sup>ii</sup>.

14. In June 2017, a man was found murdered in Ihavandhoo Island for which a migrant worker was arrested and to which he later confessed. As a result, the island council imposed a repressive set of restrictions on all migrant workers in the island. All migrant workers were asked to register within 10 days whilst imposing a curfew after 10:00 pm. Migrant workers were also prohibited from gathering in public spaces except on Friday afternoons. In addition they were also banned from collecting wood, fronds and coconut as well as participating in public events without invitation<sup>iii</sup>. When the Council was questioned by Transparency Maldives regarding their draconian policies they justified their actions as a means to ensure the safety of locals in the island. Although the policy was later quashed by the Local Government Authority (LGA), the policy and the inherent mindset has been a mainstay of the decisions around policies relating to migrant workers in Maldives.

15. Unsafe working conditions have led to the deaths of several migrant workers in Maldives. The construction industry has benefited from cheap migrant labour but has failed to ensure safety for them at their construction sites.

16. In 2018, the Maldivian Parliament rejected an Industrial Relations Bill that would have afforded migrant workers the right to form trade unions. The Counselor General of the Parliament cited the fact that Maldives was not party to ICRMW as a reason as to why the Bill cannot be accepted by the Parliament. Migrant workers, particularly those who work in the tourism sector currently avail the services of Tourism Employees Association of Maldives (TEAM) in seeking legal redress. The courts also are not equipped to provide the right to a free and fair judicial process for migrant workers. Most courts do not have translators and documents handed to migrant workers are often in Dhivehi language. In June 2015, amendments to the Employment Act excluded migrant workers from receiving the Ramadan Bonus which every Maldivian was entitled to on account of them fasting. The amendment left paying Ramadan Bonus to migrant workers at the discretion of employees.

## **Recommendations**

17. Ratify the International Convention on the Protection of Rights of Migrant Workers and their Families (ICRMW).

18. Improve the implementation of the Prevention of Human Trafficking Act (PHTA), expedite amendments to bring it in line with international standards, and strengthen mechanisms for handling labour related complaints to make it more accessible to migrant workers, in particular:

- Amend the Prevention of Human Trafficking Act to bring the definition of human trafficking in line with the 2000 UN TIP Protocol

- Respect all due process, increase investigations, prosecutions, and convictions of all forms of trafficking, including officials complicit in trafficking-related crimes
- Increase efforts to regularly monitor labour recruitment agencies and employers for labour violations, and punish those engaging in fraudulent practices.
- Enforce prohibitions against withholding of passports by employers, including State agencies.
- Convene regular meetings of the National Steering Committee on trafficking, and submit its annual report to the Parliament and publish it to the general public.

19. Ensure adequate protection for migrant workers, including but not limited to, means of redress for employment related issues.

20. Ensure a fair and judicious process for migrant workers in courts to ensure their constitutional right to a fair trial.

21. Conduct proactive advocacy programs to bring an end to the existing culture of xenophobia and hate speech against migrant workers both by the public and state officials.

22. Implement training for journalists to bring about an end to the discriminatory and xenophobic language used in the media against migrant workers.

### **Extremism**

23. The increasing extremism poses a significant security threat to the Maldives. The lack of adequate measures employed by the State to address extremism adds to social instability and insecurity.

24. Ahmed Rilwan, a journalist, was abducted on 8 August 2014. While Maldives Police Service started an investigation into the disappearance of Rilwan, suspects were arrested nearly two years into the abduction. However, in a remand hearing, the suspects were released in July 2016<sup>iv</sup>. It was alleged that the then Vice President of the Maldives, Ahmed Adeb influenced the judiciary facilitating the release of the suspects. The trail began three years after the abduction. By then one of the primary suspects who was arrested and later released, fled to Syria<sup>v</sup>.

25. Yameen Rasheed, a human rights defender, was murdered on 23 April 2017. The trials began in September 2017. However, most of the initial proceedings were closed hearings.

26. While both of these cases are still at the trial stage, strong links to extremism have been established. Furthermore, delays in investigation, alleged malpractices, and lack of transparency in the proceedings are linked to a nexus between politics, gangs, and extreme elements in the society. Political influence on the Maldives Police Services, and judiciary were revealed in an investigation conducted by Al-Jazeera in relation to a huge corruption case<sup>vi</sup>.

27. In addition to the specific cases highlighted above, there are two significant phenomena in relation to extremism, a) the increase in number of Maldivians joining as foreign fighters in countries such as Syria, and b) the constant increase in the use of extreme narratives in social media. In 2015, the Maldives was identified as one of the countries with the highest number of foreign fighters joining violent extremist organizations per capita<sup>vii</sup>. Threats on social media includes threats towards Civil Society Organizations, human rights defenders, and the creation of online target lists which mostly includes human rights defenders and activists who do not conform to extreme religious narratives.

28. State's inaction to address growing extremism have facilitated an environment of fear and intimidation for Civil Society Organizations and human rights defenders, while providing impunity to extreme elements in the society.

29. While there is no in-depth study conducted to understand the magnitude, drivers and factors of extremism, anecdotal evidence suggests societal issues such as the breakdown of family structures, widespread substance abuse coupled with a weak education system contributes to the rise of extremism. Additionally, while there is a lack of adequate structures to address the issue of extremism, the existing structures are allegedly avenues through which extremism permeate. For example, anecdotal evidence suggests that incarcerated youth are often indoctrinated with extreme views within the prison system. Youth incarcerated for minor offences become radicalized and/or hardened criminals by the time they are released into society.

## **Recommendations**

30. Adopt a State-wide framework to understand the underlying issues of and preventive measures to extremism.

31. Adopt systematic preventive measures which directly address the drivers of extremism.

32. The State should include young people and others disenfranchised constituencies, and empower them to make constructive contributions to the development of their societies.

33. Implement measures to prevent radicalization in prisons. Such measures must address prison conditions, overcrowding and the lack of rehabilitation services.

34. Develop and implement a release plan to facilitate the successful reintegration of prisoners back into society.

## Endnote

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<sup>i</sup> <https://maldivesindependent.com/crime-2/immigration-under-fire-for-deporting-suspects-without-investigation-147960>

<sup>ii</sup> <https://www.theguardian.com/world/2015/mar/26/maldives-migrant-workers-protest>

<sup>iii</sup> <https://maldivesindependent.com/society/ihavandhoo-councils-restrictions-spark-debate-about-treatment-of-migrant-workers-131268>

<sup>iv</sup> <https://mihaaru.com/news/3455>

<sup>v</sup> <https://maldivesindependent.com/crime-2/trial-begins-for-rilwan-abduction-suspects-132682>

<sup>vi</sup> <https://www.aljazeera.com/investigations/stealing-paradise/>

<sup>vii</sup> [http://soufangroup.com/wp-content/uploads/2015/12/TSG\\_ForeignFightersUpdate\\_FINAL3.pdf](http://soufangroup.com/wp-content/uploads/2015/12/TSG_ForeignFightersUpdate_FINAL3.pdf)