



**The Maldives' Compliance with the International Covenant on Civil and Political Rights:  
The Death Penalty**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

**The World Coalition Against the Death Penalty**

and

**The Maldivian Democracy Network**

**for the 141st Session of the Human Rights Committee**

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

**The World Coalition Against the Death Penalty**, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

**The Maldivian Democracy Network** (MDN) is a non-governmental, non-profit organisation advocating for human rights and democracy in the Maldives. MDN was formed in 2004, allowed to register in the Maldives in 2006, and arbitrarily shut down following blasphemy allegations by the Government of Maldives in 2019. MDN currently works in exile.

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## EXECUTIVE SUMMARY

1. This report addresses the Maldives' compliance with its international human rights obligations regarding the death penalty. The Maldives retains the death penalty and has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). The Maldives' continued use of the death penalty undermines government efforts and commitments to end gender-based discrimination. The death penalty invites discriminatory sentences against women for adultery and other crimes of sexual immorality, as well as for acting as accomplices to murder committed by male counterparts.

### **The Maldives fails to uphold its obligations under the International Covenant on Civil and Political Rights**

- I. The Maldives has not yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty and maintains the death penalty as a legal form of punishment (List of Issues Prior to Reporting paragraph 13).**
2. The Committee requested information from the Maldivian Government about the safeguards in place to ensure that the use of the death penalty complies with the requirements of the Covenant. The Committee also requested clarification regarding the crimes that are eligible for the death penalty, as well as information on the status of the moratorium on the death penalty. The Committee additionally requested a response to reports that authorities have constructed facilities at Maafushi prison for the purpose of carrying out hangings.<sup>1</sup>
3. The State Party in its reply outlines that Section 1205 of the Penal Code provides that if a hudood or qisas offense under Islamic Shariah has been proven beyond all doubt, the penalty afforded to such a crime under Islamic Shariah must be imposed. The State Party specifies that in the Maldives, however, courts impose the death penalty only for murder.<sup>2</sup>
4. The State Party states that the death penalty is subject to automatic appeal and must be confirmed by the Supreme Court, adding that the President has the discretion to pardon death sentences. Despite assertions that the death penalty is available only upon a conviction for murder, Section 5(a)(1) of the Clemency Act renders murder a non-pardonable offense.<sup>3</sup>
5. The State Party outlines a commitment to upholding the informal moratorium on the application of the death penalty.<sup>4</sup> In December 2023, however, less than one month into the new governmental administration, the Government of the Maldives announced plans to reinstate the death penalty, thus suggesting an imminent end to the country's longstanding de

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<sup>1</sup> Human Rights Committee, List of issues prior to the submission of the second periodic report of Maldives, (Feb. 2, 2021), U.N. Doc. CCPR/C/MDV/QPR/2, ¶ 13.

<sup>2</sup> Human Rights Committee, *Second periodic report submitted by Maldives under article 40 of the Convention pursuant to the optional reporting procedure, due in 2021*, (Dec. 7, 2022), U.N. Doc. CCPR/C/MDV/2, ¶ 117.

<sup>3</sup> Act No.: 2/2010 (Clemency Act). Accessible at:  
<https://www.drugcourt.gov.mv/DCOLDBACKUP/documents/laws/CB.pdf>

<sup>4</sup> Maldives Independent, *Maldives death penalty delays will be resolved by October 8*, Oct. 4, 2017,  
<https://maldivesindependent.com/politics/maldives-death-penalty-delays-will-be-resolved-by-october-8-132897>.

facto moratorium on the use of the death penalty.<sup>5</sup> Authorities have expressed intentions to carry out executions by lethal injection<sup>6</sup> or hanging.<sup>7</sup>

6. Amnesty International reports that courts finalized at least two death sentences in 2021 and 2022, and that as of the end of 2022, 20 individuals were known to be on death row.<sup>8</sup> Amnesty International reported one new death sentence in 2023, bringing the total number of people known to be under sentence of death at the end of 2023 to 21.<sup>9</sup>
7. Amnesty International also reported that as of the end of 2023, “[p]eople who were below 18 years of age at the time of the offence for which they had been convicted remained under sentence of death in Maldives.”<sup>10</sup> Amnesty also reported that in the Maldives “[p]eople with mental or intellectual disabilities were under sentence of death.”<sup>11</sup>

## **II. Women in conflict with the law face gender-based discrimination, particularly when charged with capital crimes (List of Issues Prior to Reporting paragraph 13).**

8. Women experience gender-based discrimination in the criminal legal system when they are sentenced to death for murder. On a global scale, women on death row for murder typically have not themselves committed an intentional killing, yet they are often sentenced as accomplices to their male intimate partners or other male figures.<sup>12</sup> This tendency to perceive women’s actions as extensions of their male partners’ wills reinforces gender roles and stereotypes. Sentencing women based on their association with male co-defendants jeopardizes women’s right to an individualized judicial process.
9. For example, in July 2015, a court sentenced Fathimath Hana to death for murder. Hana’s boyfriend killed a lawyer, claiming that the lawyer had threatened to assault Hana. At the time of the murder, Hana was asleep. Hana’s lawyer argued that a death sentence would be disproportionate to her involvement in the murder. The High Court in 2016 upheld the

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<sup>5</sup> Human Rights Watch, “Maldives: Reverse Plans to Reinstate Death Penalty”, accessed May 23, 2024, <https://www.hrw.org/news/2023/12/21/maldives-reverse-plans-reinstate-death-penalty>

<sup>6</sup> Muizzu Ibrahim, “Maldives to use lethal injection for execution,” Haveeru, Jan. 23, 2014, <http://www.haveeru.com.mv/news/53390>.

<sup>7</sup> Amnesty International, Maldives: Halt Plans to Carry Out First Execution in More than Six Decades, ASA 29/4364/2016, June 30, 2016.

<sup>8</sup> Amnesty International, *Death sentences and executions 2022*, ACT 50/6548/2023, 2023, also available online at: <https://www.amnesty.org/en/documents/act50/6548/2023/en/>

<sup>9</sup> Amnesty International, *Death sentences and executions 2023* (2024), at 21, <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.

<sup>10</sup> *Id.* at 25.

<sup>11</sup> *Id.* at 13.

<sup>12</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 8, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

sentence, asserting that while Hana may have been asleep at the time of murder, she planned the murder with her boyfriend, and thus, a death sentence was appropriate.<sup>13</sup>

10. Maldivian courts, when exercising their discretion to impose the death penalty, often make decisions influenced by gender stereotypes. The imposition of death penalty in the Maldives is not mandatory. Although Sharia law may require the death penalty for murder,<sup>14</sup> courts otherwise have discretion to impose a sentence other than death.<sup>15</sup> The court may ask the victim's surviving relatives whether they wish for a retributive death penalty or pardon, but the Supreme Court has the final authority on issuing (or affirming) the sentence.<sup>16</sup>
11. Gender stereotypes can play a significant role in sentencing for violent crimes. Courts generally impose lesser sentences upon women when the courts perceive them as conforming to their societal gender roles, such as being a caring mother or innocent victim. Courts tend to impose harsher sentences on women when courts view them as having deviated from these roles.<sup>17</sup> The fact that Hana and her boyfriend were unmarried and that she had consumed alcohol before falling asleep at the time of the murder may have influenced the court's decision to sentence her to death.
12. As mentioned above, the Committee requested information regarding which crimes are eligible for the death penalty.<sup>18</sup> The State Party Report asserts that courts impose the death penalty only for murder,<sup>19</sup> yet courts have sentenced some women to death for adultery under provisions criminalizing sexual relations outside of marriage.<sup>20</sup>

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<sup>13</sup> Maldives Independent. *Court Upholds Sentence for Murder Accomplice*. Maldives Independent. 10 May 2016, <https://maldivesindependent.com/crime-2/court-upholds-death-sentence-for-murder-accomplice-124155>.

<sup>14</sup> International Commission Against the Death Penalty, *The death penalty and the "most serious crimes"* (Jan. 2013) 7, [http://www.icomdp.org/cms/wp-content/uploads/2013/02/Most-serious-crimes\\_final\\_6Feb2013.pdf](http://www.icomdp.org/cms/wp-content/uploads/2013/02/Most-serious-crimes_final_6Feb2013.pdf).

<sup>15</sup> *When the State Kills*, email to DPW, DPW Maldives Doc. E-1, May 25, 2014. Maldives teenager could face death penalty, Aljazeera, May 23, 2014, <http://www.aljazeera.com/news/asia/2014/05/maldives-teenager-could-facedeath-penalty-201452345910586561.html>.

<sup>16</sup> Ahmed Rilwan, "Death penalty can be implemented starting today: Home Minister, Minivan News," Minivan News, Apr. 27, 2014, <http://minivannews.com/politics/death-penalty-can-be-implemented-starting-today-homeminister-83666>.

<sup>17</sup> *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, Sept. 2018, at 6, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>18</sup> Human Rights Committee, List of issues prior to the submission of the second periodic report of Maldives, (Feb. 2, 2021), U.N. Doc. CCPR/C/MDV/QPR/2, ¶ [13].

<sup>19</sup> Human Rights Committee, *Second periodic report submitted by Maldives under article 40 of the Convention pursuant to the optional reporting procedure, due in 2021*, (Dec. 7, 2022), U.N. Doc. CCPR/C/MDV/2, ¶ 117.

<sup>20</sup> *See, e.g., Maldives: Naifaru court sentences woman in absentia to death by stoning*. Hands Off Cain. 08 January 2019. <http://www.handsoffcain.info/notizia/maldives-naifaru-court-sentences-woman-in-absentia-to-death-by-stoning-40300121>. *See also* Convention on the Elimination of All Forms of Discrimination Against Women. *Sixth periodic report submitted by Maldives under article 18 of the Convention*, due in 2019, (28 Oct. 2019), U.N. Doc. CEDAW/C/MDV/6, ¶ 98 (conceding that the law prohibits sexual relations outside of marriage).

13. Article 17(a) of the 2008 Constitution of the Republic of Maldives prohibits gender-based discrimination.<sup>21</sup> The State Party claims that Law Number 18/2016 promotes the prevention of discrimination based on gender and the prevention of all ideas and practices which promote discrimination or prevent women from enjoying equal human and fundamental rights with men.<sup>22</sup>
14. By sentencing women to death for sexual offenses, the Maldives contravenes its own Constitution and Gender Equality Act. Since the Committee's first review of the Maldives in 2012, courts have sentenced women to death for adultery.<sup>23</sup> In 2014, a lower court sentenced a women convicted of adultery to death by stoning. She had admitted to the crime of adultery after giving birth on the equatorial islet of Gemanafushi. The Supreme Court later annulled the sentence.<sup>24</sup> In a 2019 case, the Naifaru magistrate court sentenced a woman to death for fornication outside of marriage.<sup>25</sup> Health workers had reported the case to the police after delivering the woman's child, believing the child was conceived as a result of an unlawful sexual relation. The sentence did not mention the male partner.
15. The Penal Code and related laws do not expressly authorize the death penalty for adultery or fornication, yet courts nonetheless sentence women to death for such offenses.
16. These cases demonstrate that women are more likely than men to face the death penalty for sexual conduct outside of marriage, even when a man was involved with the same unlawful act. Unequal sentencing for women and men in cases of adultery reflects a common pattern. The Cornell Center on the Death Penalty Worldwide reports that, "In some Shariah jurisdictions, offenses against sexual morality, or zina, appear gender-neutral on their face, but in practice are applied in a discriminatory manner against women."<sup>26</sup> Consistent with this pattern, courts in the Maldives sentence women to death for adultery at higher rates than men.<sup>27</sup>

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<sup>21</sup> Convention on the Elimination of All Forms of Discrimination Against Women. *Sixth periodic report submitted by Maldives under article 18 of the Convention*, due in 2019, (28 Oct. 2019), U.N. Doc. CEDAW/C/MDV/6, ¶ 19.

<sup>22</sup> Convention on the Elimination of All Forms of Discrimination Against Women. Replies of Maldives to the list of issues and questions in relation to its sixth periodic report, due in 2019, (20 Aug. 2020), CEDAW/C/MDV/RQ/6, ¶ 7.

<sup>23</sup> Uthema. NGO Shadow Report to the Convention on the Elimination of All Forms of Discrimination Against Women, Uthema-MV-Shadow-Report, 4 May 2020, ¶ 46.

<sup>24</sup> Hidden Author. *Maldives woman convicted for adultery wins reprieve from death by stoning*. First Post. 19 Oct. 2015. <https://www.firstpost.com/world/maldives-woman-convicted-for-adultery-wins-reprieve-from-death-by-stoning-2473822.html>

<sup>25</sup> *Maldives: Naifaru court sentences woman in absentia to death by stoning*. Hands Off Cain. 08 January 2019. <http://www.handsoffcain.info/notizia/maldives-naifaru-court-sentences-woman-in-absentia-to-death-by-stoning-40300121>.

<sup>26</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 13, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>27</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 11, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

17. Using the death penalty to punish women for perceived sexual immorality exemplifies and promotes harmful gender stereotypes. Women often receive harsher sentences when perceived as deviating from gender roles such as the peaceful caregiver or dutiful wife and embodying negative gender stereotypes such as the “femme fatale” who seduces men.<sup>28</sup> Disproportionate sentencing for women convicted of adultery reflects this pattern, in which courts invoke the death penalty to punish women for being perceived to reject gender roles.
18. Moreover, the possibility of facing a death sentence, or an otherwise harsh sentence, for adultery discourages women from reporting sexual assault.<sup>29</sup>

### **III. Detention conditions for people under sentence of death are inhumane (List of Issues Prior to Reporting paragraph 17).**

19. The Committee requested information regarding reports of overcrowding in Maldivian prisons and the measures taken to ensure that the provisions of the Covenant are upheld in all places of detention.<sup>30</sup> Specifically, the Committee requested information regarding the exploration of alternative sentences to detention.<sup>31</sup>
20. The State Party in its reply states that, under the Prisons and Parole Act, independent institutions, international organizations, and other relevant parliamentary committees are permitted to visit prisons and inspect the facilities and places of detention.<sup>32</sup>
21. The Maldivian Government prohibits local civil societies and the media from entering and inspecting prison facilities. This limitation prevents up-to-date monitoring of prisons and detention centers and publicity about the results of such monitoring. The only international organizations permitted to visit places of detention are the International Committee of the Red Cross, United Nations Development Programme, Office of the United Nations High Commissioner for Human Rights, and, once in 2004, Amnesty International.
22. The State Party acknowledges that the current detention system is overcrowded.<sup>33</sup> The State Party outlines that the government has allocated resources to establish a prison complex in Hulhumale’, which was to be completed by the end of 2023.<sup>34</sup>

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<sup>28</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 6, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>29</sup> Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), at 13, <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

<sup>30</sup> Human Rights Committee, List of issues prior to the submission of the second periodic report of Maldives, (Feb. 2, 2021), U.N. Doc. CCPR/C/MDV/QPR/2, ¶ 17.

<sup>31</sup> Human Rights Committee, List of issues prior to the submission of the second periodic report of Maldives, (Feb. 2, 2021), U.N. Doc. CCPR/C/MDV/QPR/2, ¶ 17.

<sup>32</sup> Human Rights Committee, *Second periodic report submitted by Maldives under article 40 of the Convention pursuant to the optional reporting procedure, due in 2021*, (Dec. 7, 2022), U.N. Doc. CCPR/C/MDV/2, ¶ 151.

<sup>33</sup> *Id.* ¶¶ 157-160.

<sup>34</sup> *Id.* ¶ 157.

23. Because prison authorities bar local civil society organizations and the media from accessing prison facilities, the authors of this report cannot comment on the conditions of the newly built Hulhumale' prison.<sup>35</sup>
24. As of 2022, conditions in most Maldivian prisons were harsh and life-threatening due to gross overcrowding, inadequate sanitary conditions, and inadequate medical care. In fact, the Human Rights Commission of the Maldives and defense lawyers have continued to report gross overcrowding, poor ventilation, and inadequate hygiene and sanitation standards in prisons and pretrial detention facilities.<sup>36</sup>
25. The State Party Report also states that to address prison overcrowding, the Maldivian Government intends to implement non-custodial measures as replacements for conventional custodial sentencing in some cases.<sup>37</sup> But the Government has not provided statistics confirming the use and effectiveness of non-custodial sentences, or statistics on prison populations across the various centers, to confirm whether any measures have alleviated the problem of prison overcrowding.

#### **IV. Civil society organizations and human rights defenders face governmental retaliation in response to their public criticism of the Maldives' use of the death penalty (List of Issues paragraph 23).**

26. The Committee requested information regarding the shutdown of the Maldivian Democracy Network (MDN) by the registrar for non-governmental organizations in November 2019. The Committee requested details of the legal basis for the closure of the MDN and whether such basis complies with the Covenant.<sup>38</sup>
27. The State Party urges the Committee to view the closure of the MDN as “an isolated incident.” The State Party justifies the closure of MDN based on “[a] thorough and a comprehensive investigation” concerning “the content of a report titled ‘Preliminary Assessment of Radicalization in Maldives,’” appearing on MDN’s website in 2015.<sup>39</sup> The State Party asserts

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<sup>35</sup> United States Department of State, 2022 Country Reports on Human Rights Practices: Maldives (2022), also available online at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/maldives/#:~:text=Observers%20reported%20that%20in%20some,prisons%20and%20pretrial%20detention%20facilities>.

<sup>36</sup> United States Department of State, 2022 Country Reports on Human Rights Practices: Maldives (2022), also available online at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/maldives/#:~:text=Observers%20reported%20that%20in%20some,prisons%20and%20pretrial%20detention%20facilities>.

<sup>37</sup> Human Rights Committee, *Second periodic report submitted by Maldives under article 40 of the Convention pursuant to the optional reporting procedure, due in 2021*, (Dec. 7, 2022), U.N. Doc. CCPR/C/MDV/2, ¶ 159; News Report: United Nations Office on Drugs and Crime, "Maldives: UNODC engages prison officials to strengthen non-custodial measures", August 18, 2022, [https://www.unodc.org/southasia/frontpage/2022/August/maldives\\_unodc-engages-prison-officials-to-strengthen-non-custodial-measures.html](https://www.unodc.org/southasia/frontpage/2022/August/maldives_unodc-engages-prison-officials-to-strengthen-non-custodial-measures.html).

<sup>38</sup> Human Rights Committee, *List of issues prior to the submission of the second periodic report of Maldives*, (Feb. 2, 2021), U.N. Doc. CCPR/C/MDV/QPR/2, ¶ 23.

<sup>39</sup> Human Rights Committee, *Second periodic report submitted by Maldives under article 40 of the Convention pursuant to the optional reporting procedure, due in 2021*, (Dec. 7, 2022), U.N. Doc. CCPR/C/MDV/2, ¶¶ 252-254.



that it provided a detailed account of the decision to dissolve the MDN on 15 January 2020, in response to a Joint Communication sent by five special rapporteurs.<sup>40</sup>

28. The State Party has not yet provided evidence of due process or any concrete justification for the deregistration of MDN. Even in court, relying on blasphemy allegations against the 2015 MDN report, the Attorney General's Office failed to provide evidence of due process. Further, authorities did not inform MDN of any charges or offenses and did not provide MDN with a right of reply. The State Party has repeatedly suggested that the police investigation into MDN was incomplete and is still ongoing.<sup>41</sup> The Government's response to the joint communication did not include information concerning the process carried out in the deregistration of the MDN, such as whether authorities informed MDN of the charges against it or even provided MDN with the right of reply.
29. During the course of a civil lawsuit filed on behalf of MDN in July 2020, MDN became aware of a report written by the Ministry of Islamic Affairs. It appears that the Maldives Police Service communicated the report to the Ministry of Youth, Sports and Community Engagement before the police service had completed its investigation. The report advised the (Youth) ministry that MDN should be deregistered. The Ministry of Islamic Affairs was a complainant against MDN. Involving a complainant in a police investigation creates a serious issue of conflict of interest. Further, the report compiled by the Ministry of Islamic Affairs contains false Dhivehi translations and personal interpretations of the MDN report that fabricate content of the MDN report and transform it into arguably blasphemous text.
30. A woman human rights defender associated with MDN decided not to return to the country, fearing political persecution as well as death threats by non-state actors. While she does not face any formal charges yet, the President and Commissioner of Police have announced in broadcasts that the police are pursuing people associated with MDN for anti-Islamic activity.<sup>42</sup>
31. There are also widespread reports of extremist groups harassing and attacking the media and civil society groups, especially organizations and individuals critical of the Government. Organized extremist groups have subjected individuals associated with MDN—including women human rights defenders speaking out against the death penalty and in defense of women on death row—to harassment, stalking, and death threats. Authorities have not held offenders accountable or protected these women human rights defenders.<sup>43</sup>

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<sup>40</sup> Human Rights Committee, *Second periodic report submitted by Maldives under article 40 of the Convention pursuant to the optional reporting procedure, due in 2021*, (Dec. 7, 2022), U.N. Doc. CCPR/C/MDV/2, ¶ 256.

<sup>41</sup> A recording of the press conference is available at the following link (in Dhivehi). The specific question and answer relating to the investigation against MDN begins from minute 28:50. <https://www.facebook.com/RaajjeTelevision/videos/1181937132165426/>; A recording of the press conference is available at the following link (in Dhivehi language). The specific question and answer relating to the investigation against MDN begins from minute 1:07:47. <https://www.youtube.com/watch?v=THZ5ZFCTWss>.

<sup>42</sup> Personal communication with NGO, 20 Sept. 2020.

<sup>43</sup> The Advocates for Human Rights, *The Maldives' Compliance with The International Covenant on Civil and Political Rights: Suggested List of Issues Prior to Reporting Relating to the Death Penalty*, by The Advocates for Human Rights, The World Coalition Against the Death Penalty, Capital Punishment Justice Project, Anti-Death Penalty Asia Network, Reprieve. (Minneapolis, Minnesota, USA), 17 Aug. 2020. ¶ 18.



## V. Suggested questions and recommendations for the Government of the Maldives

32. During the constructive dialogue, the Committee should pose the following questions to the Government of the Maldives:

- What measures has the State Party taken to retreat from recent assertions of intent to reinstate executions?
- What measures has the State Party taken to engage in wider public consultation on the issue of abolition of the death penalty?
- How many people are currently under sentence of death? What are the crimes for which they were convicted? How long have they been imprisoned on death row?
- Please provide disaggregated data broken down by age (including current age and age at the time of the offense), race and ethnicity, nationality, and sex relating to all persons sentenced to death during the reporting period, including: the crimes of conviction; relationship to any codefendants or victims; location and date of arrest; duration of pre-trial detention; date legal counsel was provided or obtained; location, date, and duration of trial; date of sentencing; status of any applications for clemency; and location of post-trial detention.
- What steps has the State Party taken to ensure that murder a pardonable offense?
- What procedures are in place to promote public transparency with respect to criminal proceedings in which a person may be sentenced to death and with respect to death sentences?
- Please provide information responding to allegations that during the reporting period people have been sentenced to death for crimes other than murder, such as adultery or fornication. What steps has the Maldivian Government taken to limit the availability of the death penalty to only the “most serious” crimes in accordance with Article 6 of the Covenant?
- How does the State Party ensure that the death penalty is available as a possible penalty only for people who themselves carried out an intentional killing and is not applied to codefendants who did not actually kill and intend to kill, such as accomplices who play a passive role in the murder?
- What measures has the Maldivian Government taken to protect human rights defenders and civil society organizations from threats and attacks? How does the State Party combat violence and discrimination targeting human rights defenders and civil society organizations focusing on human rights and hold perpetrators of such violence and discrimination accountable?

- Please provide detailed evidence of the due process steps implemented in the deregistration of MDN and confirm whether the government followed an administrative or criminal process for deregistering MDN.
- Please list all charges against MDN and offenses that MDN is alleged to have committed in relation to its forced deregistration and provide MDN with a right of reply.
- Please respond to concerns that involving the complainant in a police investigation complies with the Covenant, and please explain the rationale for taking administrative action over allegations of criminal offences before authorities complete their criminal investigation and a judge issues a verdict in the criminal proceedings.
- Please explain under which process the Maldives Police Service communicates advice to the Registrar of Associations to deregister an organization before authorities complete the criminal investigation and send it to the Prosecutor General.

33. The Committee should make the following recommendations to the Government of the Maldives:

- Abolish the death penalty and ratify the Second Optional Protocol.
- In the meantime ensure that no person is sentenced to death for engaging in sexual activity outside of marriage and issue a directive to judges to ensure compliance with this mandate.
- Commute the death sentence of any person not proven to have been at least 18 years of age at the time of the offense for which the person was sentenced to death.
- Commute the death sentence of any person sentenced to death for a crime other than an intentional killing committed by the person sentenced to death.
- In collaboration with civil society organizations, develop a campaign to engage in a nationwide public consultation about the abolition of the death penalty, human rights concerns surrounding the use of the death penalty, and alternatives to the death penalty.
- Amend Section 5(a)(1) of the Clemency Act to ensure that murder and all other capital crimes are pardonable offenses.
- Dismantle the execution facilities built at Maafushi Prison.
- On at least an annual basis, publish comprehensive data about people sentenced to death and people currently on death row, disaggregated by gender/sex, nationality, race/ethnicity, disability, age of any dependents, crimes of conviction, age on the date of the alleged offense, relationship to any victims or codefendants, status of any appellate proceedings or requests for pardon, current location.

- Take steps to provide fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation and safeguards prohibiting admissibility of evidence obtained through torture or other ill-treatment.
- Codify gender-specific defenses and mitigation in capital trials, encompassing trauma, gender-based violence, economic pressures, human trafficking, and family caretaking responsibilities.
- Require that court-appointed attorneys in capital cases against women defendants have prior experience in capital cases and have training regarding gender-based violence, gender-specific defenses, and gender-specific mitigation.
- Establish mandatory trainings for judges on gender-based discrimination, domestic violence, gender-based violence, and tactics of coercive control that can lead to women committing death-eligible offenses.
- Implement legislative reforms to prevent application of the death penalty when women who experience gender-based violence act against their abusers.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women's safety and security pre-trial, during admission to any detention facility, and while incarcerated.
- Ensure that sentencing judges accord mitigating weight to defendants' experiences of trauma, gender-based violence, economic pressures, duress, human trafficking, and family caretaking responsibilities.
- Ensure that local civil society organizations and journalists may conduct visits to places of detention and may publicize information gathered during such visits.
- Reinstate the registration of the Maldivian Democracy Network, restore MDN's access to all funds that were in its bank account as of the time of deregistration, and ensure that no civil society organization faces deregistration without transparent proceedings complying with due process requirements and ensuring that the organization has full notification of the alleged offenses or charges against it and has a timely right of reply.
- Step up efforts to protect human rights defenders from violence and discrimination and hold perpetrators of such violence and discrimination accountable.
- Ensure that no civil society organization or human rights defender faces any reprisals for engaging in advocacy with human rights mechanisms of the United Nations, including this Committee.