



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the 1706th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 28 November 2018, at 3 p.m.

Chair: Mr. Modvig

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of Maldives (continued) (CAT/C/MDV/1)

1. *At the invitation of the Chair, the delegation of Maldives took places at the Committee table.*
2. **Mr. Naseem** (Maldives) said that, although the Government had only been in office for 11 days, his delegation would do its best to provide responses to the Committee's many questions.
3. Female genital mutilation was not practised in Maldives: there were no records of any cases having been reported to date. With respect to the flogging of children, article 35 of the Constitution, the Act on the Protection of the Rights of the Child, the Anti-Torture Act and the Child Sexual Abuse Act protected children from abuse. No children were placed with adults in prisons. Regarding the concerns raised in relation to the composition of the Human Rights Commission of the Maldives, which excluded non-Muslims, he wished to point out that article 10 of the Constitution clearly defined Islam as the religion of the State.
4. **Ms. Fayyaz** (Maldives) said that the new Government was committed to facilitating the timely submission of future reports to the treaty bodies. Earlier in 2018, the Human Rights Commission of the Maldives had sought the cooperation of the Attorney General's Office on the development of a website that would facilitate timely information collection and enable the State party to fulfil its international reporting obligations. The website, which was funded by the Danish Institute for Human Rights, would list all the recommendations made under the universal periodic review process and by treaty bodies, linking them to the State's international obligations and domestic legislation. The relevant institutions would automatically receive timely requests to explain any challenges faced in achieving full implementation of the recommendations.
5. **Ms. Ali Manik** (Maldives) said that she wished to repeat the standing invitation that had been extended to the United Nations High Commissioner for Human Rights and all special procedures and treaty bodies to conduct missions to Maldives and provide advice on issues that fell within their mandates. A decision on whether the Government intended to publish the report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its 2014 follow-up visit to Maldives would be communicated to the Committee at a later date. Insufficient evidence accounted for the small proportion of cases investigated under the Anti-Torture Act that had been sent for prosecution. Steps would be taken to remedy that problem. The Government would give due consideration to the Committee's recommendation that detainees should undergo a medical examination on arrival in prison to facilitate the identification of cases of torture. The Government needed more time to enquire about cases in which evidence had been excluded from trial because it had been obtained under torture.
6. **Ms. Fayyaz** (Maldives) said that the new President had established a Committee on the Released of Political Detainees, composed of the Minister of Home Affairs, the Commissioner of Police, the Legal Counsel to the President and the Attorney General. A Presidential Committee on Corruption and Asset Recovery had also been instituted and would shortly begin its work. The Commission on Murders and Disappearances was headed by the Attorney General, and had four other members — two former military and police investigators, a lawyer and a journalist. The President had assured the Commission that it would receive the administration's full support, including with respect to access to foreign expertise. The work of the Commission would be transparent and regularly shared with the public.
7. **Mr. Hameed** (Maldives) said that the Government was aware that the Human Rights Commission of the Maldives needed more funding to carry out its functions more effectively. The Government would be considering the establishment of an independent forensic medicine institution and engaging in discussions to that end with the relevant

institutions. More information on that subject would be provided in the Government's next periodic report to the Committee.

8. The national preventive mechanism conducted unannounced visits to places of deprivation of liberty, including detention facilities, police custody facilities, prisons, children's homes, mental health facilities and rehabilitation centres. It carried out monitoring visits, follow-up visits and thematic visits, according to the issues identified, by inspecting the facility, checking the documentation and procedures in place, and conducting individual and group interviews. The main findings were shared with the relevant institutions within a week, and a full report, including recommendations, was later submitted to parliament. The national preventive mechanism followed up on its recommendations on a biannual basis in order to determine the status of their implementation. Independent commissions, international organizations and parliamentary committees were permitted to visit prisons for the purpose of carrying out inspections. However, the Government had noted the Committee's concern regarding the difficulties faced by the national preventive mechanism in making unannounced visits to places of detention, and steps would be taken to address that concern.

9. Under national legislation, the Human Rights Commission of the Maldives had the authority to investigate complaints filed by individuals or organizations alleging infringements of human rights, including allegations of torture or ill-treatment. The Commission was responsible for ensuring that its investigations were transparent and unprejudiced. While most of the independent commissions established by the Constitution had, under previous administrations, largely been prevented from acting with complete independence, the new Government would be taking steps to eliminate the barriers to their independence and to improve the legal framework within which the Human Rights Commission of the Maldives operated.

10. In 2015, the National Integrity Commission had replaced the Police Integrity Commission as the body responsible for investigating complaints or suspected cases of misconduct by law enforcement agencies and their staff. Where allegations of torture or ill-treatment by police officers were reported to the Professional Standards Command of the Maldives Police Service, that body investigated the allegations before referring the case to the Disciplinary Board. The disciplinary measures imposed in such cases included special training, counselling, close supervision, change of workplace, demotion, suspension from service and termination of service. The Government had taken note of the need to further strengthen its disciplinary procedures to bring them into line with international best practice.

11. He wished to assure the Committee that there was no record of any State-sanctioned book on punishment techniques at the current time.

12. **Mr. Hassan** (Maldives) said that the Anti-Torture Act classified detention in isolation as torture. Having heard that the Act was not fully in line with the Convention with respect to the requirement that the punishment for torture should be based on the severity of the offence, the delegation sought the Committee's guidance on how best to strengthen its domestic legislation.

13. With respect to allegations of acts of torture in prisons during the 2018 state of emergency, the Government was of the view that the state of emergency had been arbitrarily declared as a pretext for mass detentions of political opponents. Reports of cases of torture or other cruel, inhuman or degrading treatment or punishment in that period that had never properly investigated or prosecuted would be examined closely.

14. **Ms. Fayyaz** (Maldives) said that many of the legislative reforms suggested by the Committee, such as removing the statute of limitations from the Penal Code for acts of torture and changing the complaint mechanisms in the Prison and Parole Act, would require further policy discussions. The Committee would be kept abreast of developments in that regard. The Government pledged to conduct an audit of all legislation in Maldives to check its compatibility with the State's international human rights obligations.

15. The constitutional provision that imposed on the State the obligation to provide a lawyer for an accused person who could not afford to engage one was applied without

distinction between nationals and foreigners. Although that provision currently only applied to cases of serious criminal offences, the Government intended to submit a legal aid bill to parliament which would establish a public defender's office in the country.

16. **Mr. Hassan** (Maldives) said that, according to Maldives Immigration, there had been 750 cases of "inadmissible passengers" in 2012; 608 in 2013; 971 in 2014; 1,225 in 2015; 769 in 2016; and 779 in 2017. Regarding deportations, 989 foreigners had been deported in 2013; 1,572 in 2014; 1,130 in 2015; 2,203 in 2016; and 1,805 in 2017.

17. Individuals were never expelled or returned if there were substantial grounds to believe that they would be in danger of being subjected to torture in the country of return. Removal and deportation orders were open to appeal. Enhancing the security and national sovereignty of Maldives through increased bilateral and multilateral engagement remained a foreign policy goal. Thus, the Government was working towards agreements on extradition and the transfer of prisoners with several States. Decisions to revoke residency permits were also open to appeal. The Government needed time to obtain accurate and up-to-date data on the number of permit revocations, appeals and cancellations of expulsion orders.

18. **Mr. Naveen** (Maldives) said that all police officers received mandatory training on human rights conventions, laws and regulations, and the Commonwealth Manual on Human Rights Training for Police had been translated and incorporated into basic police training. Police officers also received training on the Code of Criminal Procedure and on permissible stop-and-search practices. The six-month training for investigators included modules on interviewing techniques, and investigators working on sex crimes against children took a course specifically on how to interview suspects. Courses on child-centred investigation techniques were provided through the United Nations Children's Fund. First-aid courses were also available for police officers. Victim support officers were trained to provide psychosocial support and to use sign language.

19. The Minister of Home Affairs was committed to undertaking reforms of the corrections system as a priority. The Dhoonidhoo police custody facility had a capacity of 276 detainees, including 20 women and 15 juveniles, and currently held 60. Each detainee was provided with a pillow, a mat, a plate and a plastic cup and received a weekly haircut. Two doctors and four nurses were stationed at the facility's clinic, which could accommodate four women and eight men and could handle minor medical emergencies. Whenever a communicable disease was detected, sick detainees were placed in immediate isolation and all the others were screened. Detainees could not be interviewed or removed from their cells between 11 p.m. and 9 a.m., except in an emergency. All interviews conducted at the facility were recorded and stored with the bureau of criminal records of the Maldives Police Service; recordings could be accessed and copies provided. A desalination plant had been installed in 2016, which produced drinking water that met World Health Organization standards and was piped in unlimited supply to holding cells 24 hours a day. Although persons with mental disabilities should not be arrested, more needed to be done to ensure that police officers were trained to respond appropriately when dealing with them. A data management system had been set up in 2007 to handle the information on individuals held in custody; it included demographic data, admission and release dates, visits by lawyers and relatives, and detainees' medical histories. The system made police officers more accountable; nevertheless, the new administration intended to perform a thorough examination of all procedures and to address any gaps. As a rule, there were no problems obtaining prescription medication for prisoners at any time; however, there might be delays in the case of controlled drugs that needed to be imported. Prisoners could receive treatment abroad where necessary. The Government would provide information on solitary confinement, body searches and the high incarceration rate at a later date.

20. **Ms. Shahula** (Maldives) said that the Government's "First 100 Days" manifesto included the establishment of a mental health centre, whose mandate would include prevention and the expansion of community-based care. The guiding principles of the 2015–2025 National Mental Health Policy included intersectoral collaboration, the integration of mental health into general health-care services, the protection of vulnerable populations, accessibility and professionalism. The 2016–2025 National Health Master Plan focused on the provision of high quality services and was coupled with national

quality standards aimed at strengthening the health system. However, the effective delivery of health services remained hampered by the geographic dispersion of the islands. Nevertheless, Maldives was committed to respecting the rights of persons with mental illness, who were institutionalized only when there was no alternative form of care or when they posed a risk to themselves or others. The Government acknowledged, however, that many of the widely accepted safeguards for mental health patients were lacking, and it was working on the country's first-ever mental health bill. Figures on the number of persons in psychiatric institutions and information on the physical conditions in such places would be provided at a later date.

21. **Ms. Fayyaz** (Maldives) said that the new administration would be conducting a review of civil redress and rehabilitation procedures and would transmit its findings to the Committee. In the interim, she could say that, once a commission had been set up to look into cases of torture, including cases pending before the courts, any proven allegations would give rise to a right to seek civil redress under the mechanism provided for in the Anti-Torture Act. The right to compensation was also enshrined in article 65 of the Constitution. While the Act made redress contingent upon an allegation of torture being proved, the investigation might yield sufficient evidence for a prima facie case, giving the victim the right to take civil action, where the burden of proof was lower than in criminal suits, and thus improving the odds of being awarded compensation. Although the country's limited resources did not stretch to ensuring that every inhabited island had a police station and branch of the Human Rights Commission of the Maldives, the police did have a presence in every atoll where victims could file a complaint of torture. The Commission had set up a toll-free hotline to enable individuals to lodge complaints, which could also be submitted via email or fax.

22. Obligations flowing from articles 5 to 9 of the Convention were addressed in the Anti-Torture Act and the Extradition Act. The Anti-Torture Act provided for the jurisdiction of Maldivian courts in cases of torture committed abroad either by or against a Maldivian national. Under the Extradition Act, the ultimate decision to grant extradition rested with the Prosecutor General, who could deny requests if he or she believed that the person sought might be subjected to torture in the requesting State. Section 12 of the Act prohibited the extradition of Maldivian nationals suspected of committing torture in a foreign country. While there was room for improvement, the Government was committed to conducting an analysis of the effectiveness of the current framework and correcting any shortcomings. She would need time to ascertain whether universal jurisdiction had ever been applied by the courts and whether anyone had ever been extradited for the offence of torture.

23. Not having had the time to verify the information provided regarding the commutation of death sentences, the Government disassociated itself entirely from the part of the report dealing with that subject, but would conduct a review and include the findings in its next report. She could, nonetheless, say that, under the 2008 Constitution, the Head of State had the power to pardon or grant clemency and that the Government would make every effort to eliminate all forms of miscarriage of justice. The Government prioritized consultations with stakeholders, including the general public, and, as part of prison and justice reform, would certainly seek input from political leaders who had been the victims of a biased system. In addition, the Government planned to restructure the Judicial Service Commission with a view to creating a system the people could trust and which upheld the values of the Constitution. The Commissioner of Prisons had originally been part of the delegation, but the person occupying that post had been dismissed by President Solih.

24. The Code of Criminal Procedure laid down clear rules and guidelines to be followed by the police when carrying out an arrest. Specifically, police officers had to obtain clearance before arresting a person, state their name and rank, and inform the person of the reason for the arrest and of his or her rights. A complaints procedure under the Professional Standards Command was available in case of non-compliance with those rules, and the National Integrity Commission had the authority to investigate misconduct by law enforcement personnel.

25. Regarding the apparent focus on high-profile prisoners, all Maldivian nationals had the right to a fair trial, humane treatment and protection against unlawful detention.

However, in reality, many people could not afford legal representation. That issue would be tackled in the bill on legal aid and the legal professions. In recognition of civil society's invaluable role in championing the public interest, the Government would be further empowering it to continue its work. Concerning the case of Ahmed Rilwan Abdulla, two officials had been acquitted and the Prosecutor General's Office had yet to decide whether to appeal the verdict. In the meantime, the Government would continue to fully cooperate with the Working Group on Enforced or Involuntary Disappearances as the latter considered the case. Furthermore, it was committed to ensuring that every case brought to the attention of the Commission on Murders and Disappearances was investigated in a transparent, thorough and credible manner.

26. The Constitution conferred on the Supreme Court the authority to review the constitutionality of laws passed by the parliament but, under the previous administration, the powers of parliament had been encroached upon. The Government was committed to eliminating the possibility of such abuses.

27. **Ms. Gaer** (Country Rapporteur) said that she wished to know whether the Commission on Murders and Disappearances would be authorized to investigate allegations of torture that did not amount to disappearances and whether its investigations would result in the prosecution of perpetrators, the publication of a report or some other outcome. She asked whether the Commission on Murders and Disappearances, or the Transitional Justice Committee/Working Group, would be authorized to investigate allegations of torture, why those bodies were restricted to examining allegations relating to the period between 2012 and 2018, and whether mechanisms would be created to address past abuses, including those that had occurred prior to the State party's ratification of the Convention in 2004.

28. One of the reasons why the Human Rights Commission of the Maldives had not been granted A status by the Global Alliance of National Human Rights Institutions was that Islam was defined as the State religion under the Constitution. In view of that situation, the Committee wished to know what measures would be taken to bring the Commission into line with international standards. The Committee would welcome further information on the reasons why the police had failed to cooperate with investigations undertaken by the Human Rights Commission of the Maldives and the National Integrity Commission. Noting that the reports issued by the independent commission set up to investigate the torture, shooting and killing of prisoners in Maafushi prison on 20 September 2003 had been heavily censored, she asked whether any plans were in place to publish uncensored versions of those reports. It was still not clear on what basis the life sentences of 15 persons had been commuted by the President or whether criminal charges had been brought against the 10 individuals investigated for offences committed against children in State-run care centres. The Committee would like to know if the authorities had followed up on allegations of State negligence in the case of Mohamed Ibthihal, who had been murdered at the age of 10, and, if so, whether any State officials had been disciplined, sanctioned or prosecuted in connection with that negligence. The Committee would welcome assurances that persons accused of negligence in that case were no longer working for the Government and had not been granted immunity.

29. According to the report of the Human Rights Commission of the Maldives, the police had used excessive, unnecessary and disproportionate force to quell protests in 2012. She would like to know whether the Government associated itself with the findings set out in that report and whether steps had been taken to punish the police officers responsible and provide redress to victims. The Committee was still waiting to learn whether police officers and prosecutors had been trained to avoid using the techniques set out in the State-sanctioned book on punishment techniques.

30. Given that the report issued by the Human Rights Commission of the Maldives contradicted the delegation's claim that children were never placed in adult prisons, she asked if the Government planned to take any steps to ensure that the Commission's reports were disseminated to the appropriate bodies and authorities.

31. **Mr. Hani** (Country Rapporteur) said that, while he commended the State party on its pledge to ban the corporal punishment of children, it should amend its laws to ensure that corporal punishment sentences would no longer be handed down to offenders. Had the

judiciary or the Government issued a decision or statement on the imposition of a moratorium on judicial corporal punishment?

32. Noting the need for punishment to be commensurate with the severity of the act of torture, he asked what criteria were used to determine the sanctions applied to perpetrators of cruel, inhuman or degrading treatment or punishment. He wondered what steps would be taken to simplify the procedure by which victims of torture could obtain redress and to implement article 35 of the Anti-Torture Act, which provided for redress for victims of torture and the rehabilitation of perpetrators. Given that the death penalty had been handed down to a number of persons convicted of offences committed when they were under 18 years of age, the State party should take urgent steps to commute such sentences to terms of imprisonment. Steps should also be taken to review the cases of any persons sentenced to death whose trials were suspected to have been unfair or whose confessions had allegedly been extracted under torture. The Committee would welcome information on steps taken to amend any legislation, such as the Anti-Terrorism Act and the Anti-Defamation Act, that prevented the Government from fully implementing the Convention against Torture.

33. Given that the State party had published the report on the visit to Maldives by the Subcommittee on Prevention of Torture, it was not clear why the State party had so far failed to publish the Subcommittee's report on its follow-up visit. Noting that the Government was considering establishing a commission to review violations of human rights that had taken place between January 2012 and November 2018, and in view of the fact that many acts of torture had allegedly been committed before January 2012, he asked whether the Government would consider extending that time period. The Committee welcomed the fact that the Human Rights Commission of the Maldives was conducting investigations into allegations of human rights abuses but wished to know what measures would be taken to increase the number of investigations that resulted in a prosecution. The Committee would welcome further clarification of the distinction between the role of the Commission and the role of the Prosecutor General's Office. According to reports received by the Committee, detainees were sometimes placed in solitary confinement for longer than 15 days and subjected to other forms of privation when undergoing that punishment. He wished to know whether, as part of its reform efforts, the State party would be reviewing the regulations governing solitary confinement.

34. Commending the Government on its pledge to review the degree of compliance between domestic law and the international instruments ratified by the State party, he asked whether the Convention and the jurisprudence of the Committee would be considered in the review process.

35. The Committee would be interested to hear whether plans were in place to extend the provision of legal aid to all persons, including indigent persons, whether the right of appeal available to foreign nationals facing forced deportation had suspensive effect, and whether such persons benefited from legal safeguards.

36. It was still not clear whether a vetting system was in place to ensure that the best candidates were appointed to key law enforcement posts, whether manuals and instructions for law enforcement personnel contained explicit references to the prohibition of torture or whether training in non-coercive investigation techniques would be provided.

37. The Committee would be grateful for further information on reports that the two defendants in the case of the missing journalist Ahmed Rilwan Abdulla had been acquitted. Lastly, it would be interesting to know whether public figures charged with an offence received better treatment under the justice system, including better detention conditions, than ordinary citizens in a similar situation.

38. **Ms. Belmir** said that she wished to know to what extent the special protection provided for in article 35 of the Constitution covered minors in detention and prevented them from being subjected to ill-treatment. Recalling the inconsistencies in the implementation of sharia law that had been noted by the Special Rapporteur on the independence of judges and lawyers, she asked whether it was true that the introduction of a training programme by the Human Rights Commission of the Maldives to address that problem had been blocked by the Council of Justices of the Supreme Court. She wished to know whether non-Muslims were free to adopt and manifest a religion of their choosing,

and whether any steps had been taken to introduce a moratorium on the penalty of flogging, a practice which — especially when carried out against women — deprived persons of their dignity.

39. **Mr. Rodríguez-Pinzón** said that he welcomed the State party's intention to bring its Anti-Torture Act into line with the Convention, and especially with the provisions of article 14 on reparations. The State party should establish a register of judicial and administrative decisions handed down in the area of reparations, and the follow-up given to those decisions, which would provide information on compliance with not only article 14 of the Convention but also article 10, and hence on whether judicial officials were implementing the training they had received.

40. **The Chair** said that he was still waiting to hear the reasons for the high incarceration rate in Maldives, and how it could be reduced. He also wished to know whether the State party intended to strengthen the system for detecting and properly documenting disease or signs of torture and ill-treatment by means of a medical examination at the time of incarceration, in line with rule 30 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

41. **Mr. Hani** said that he would be grateful if the delegation could provide information on the prevalence of tuberculosis and other contagious diseases in prisons. In addition, he wished to know whether the State party planned to make a public declaration on the prohibition of torture. If so, when, and what form would the declaration take?

The meeting was suspended at 5 p.m. and resumed at 5.30 p.m.

42. **Ms. Fayyaz** (Maldives) said that the commission to review violations of human rights between January 2012 and November 2018 was not yet up and running; its mandate had not yet been finalized, but would include the investigation of allegations of torture. The Committee on the Release of Political Detainees and the Commission on Murders and Disappearances, however, would not investigate allegations of torture. Bills specifying the investigation procedures and powers of those mechanisms, as well as the expected deliverables, would be submitted shortly to parliament.

43. With regard to the question of coordination between the administration and the Human Rights Commission of the Maldives, she said that the Government had not yet had time to consult with the Commission and discuss ways to strengthen its functions and address its concerns. However, the Government was committed to working closely with the Commission and would shortly be examining the Commission's reports and the issues raised in them.

44. Before deciding whether to publish the report of the Subcommittee on Prevention of Torture on its follow-up visit to Maldives and the reports issued by the independent commission set up to investigate the torture, shooting and killing of prisoners in Maafushi prison, the Government would need to discuss the matter with the relevant stakeholders and authorities.

45. The mother of the murdered child Mohamed Ibthihal was currently on trial. Allegations of State negligence in connection with the child's death had been investigated and forwarded to the Prosecutor General's Office; as a result, four State employees had been charged. One case had been thrown out of court — although an appeal had been lodged against that decision — but the other three individuals were currently on trial.

46. A new bill on the rights of the child, which prohibited corporal punishment, had been submitted to parliament in June 2018. The Government intended to amend the bill to bring it into line with the Convention and to address the issue of children being sentenced to death in the absence of a lawyer. The anti-defamation and anti-defection laws had been repealed. While the proposed commission for reviewing cases of human rights abuses would cover only the period between 1 January 2012 and 17 November 2018, consideration would be given in due course to looking into allegations of such abuses prior to 2012.

47. The legal framework did not currently give suspensive effect to appeals by foreign nationals facing deportation. Information about the case relating to the missing journalist Ahmed Rilwan Abdulla would be provided in writing as soon as possible. Measures to

protect minors in detention would be included in the new bill on the rights of the child. The delegation was not aware of any training programme for judicial officers having been blocked by the Supreme Court, but would look into the matter.

48. The State party would endeavour to establish a register of judicial and administrative decisions handed down in the area of reparations, and the follow-up given to those decisions, and would welcome assistance from the Committee in that regard. The rate of incarceration in police custody facilities had fallen considerably since the Code of Criminal Procedure had come into force in 2016, owing to the introduction of more stringent time limits relating to persons being held without charge. She would report back to the Committee with further information regarding the incarceration rate in remand centres, and on the medical examinations carried out at the time of incarceration.

49. **The Chair** said he wished to thank the delegation for the constructive dialogue. The delegation could submit written replies to questions it had not had time to answer; if they were received within 48 hours they would be taken into account in the Committee's concluding observations.

The meeting rose at 5.50 p.m.