



2020/OHCHR/03

The Permanent Mission of the Republic of Maldives to the United Nations Office in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the joint communication AL MDV 1/2019 dated 7 November 2019 sent by Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the right to education; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to freedom of peaceful assembly and of association and the Special Rapporteur on freedom of religion or belief and the Missions NV 2020/OHCHR/01 dated 05 January 2020.

The Permanent Mission in this regard forwards the response from the Government of Maldives for the joint communication.

The Permanent Mission of the Republic of Maldives avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurance of its highest consideration.

15 January 2020



Office of the United Nations High Commissioner for Human Rights
GENEVA

**RESPONSE BY THE GOVERNMENT OF MALDIVES TO THE JOINT
COMMUNICATION FROM SPECIAL PROCEDURES**

A. Background

1. On 10th October 2019, Ministry of Youth, Sports and Community Empowerment imposed a temporary cessation of activities on Maldivian Democracy Network (hereinafter “MDN”).
2. The temporary measure was imposed on the non-governmental organization pursuant to an investigation conducted by the Maldives Police Service, concerning the content of a report titled “Preliminary Assessment of Radicalization in Maldives” (hereinafter “Report”) published by MDN on its website.
3. The Ministry of Islamic Affairs had also shared its findings on the issue with the Ministry of Youth, Sports and Community Empowerment on 6th October 2019
4. On 28th October 2019, Maldives Police Service upon conclusion of its investigation, confirmed that the Report, made public by MDN initially in 2016, had content that sought to intentionally mock the tenets of Islam and Prophet Muhammed.
5. As such, the investigation by the Maldives Police Service identified many instances where the information presented in the Report contradicted Islamic beliefs and Islamic Sharia, challenged established principles of Islam, sought to negatively impact the perception of Muslims towards their religion, and attempted to incite hatred within the community.

6. Based on the findings of the investigation, Ministry of Youth, Sports and Community Empowerment, by the powers vested to it, pursuant to Sections 19 (a), 19 (b) and 32¹ of Law Number 1/2003 (Associations Act) decided to revoke the registration of MDN, and allowed a period of forty-five days for the organization to wind up their activities.
7. On 19th December 2019, Ministry of Youth, Sports and Community Empowerment officially informed MDN of its dissolution.
8. The Government of Maldives notes that it is committed to upholding the democratic rights of its citizens, including the right to freedom of expression and freedom of association. The Government also believes, that these rights should be exercised, in a manner which does not infringe upon the rights of others.
9. Considering the investigation revealed that certain parts of the Report explicitly refuted established Islamic principles and norms, and made insulting remarks about the Prophet Muhammed, the Government is of the view that the Report compromised a fundamental tenet of the Maldivian State and threatened the communal peace of the Maldivian community.

¹ Section 19 (a) and (b) of the Association Act states that any incorporated association in conflict with the principles of Islam, disregarding Islamic religion, rebuking or undervaluing religious harmony of the country, expressing or propagating the thinking and beliefs of any another religion other than Islamic religion may be prohibited on grounds of maintaining harmony and sovereignty of the country. Section 32 covers cancellation of an association's Registry, whereby violation of Section 19 is included as a ground for cancellation.

B. Investigation of the Report issued by Maldivian Democracy Network

10. In 2016, Maldivian Democracy Network published a report titled “Preliminary Assessment of Radicalization in Maldives” on the organization’s website.
11. The Report focused on measuring the extent of religious radicalization in Maldives, through reviewing the textbooks utilized in Maldivian schools to teach Islam, magazines, leaflets and other printed material available to the public and prayer sermons.
12. The Report further analysed some identified local pages on Facebook and social media platforms of individuals/influencers singled out for their radicalised Islamic preaching.
13. The Report also covered specific public events conducted by Islamic groups, and presented information collected from surveys conducted amongst selected schools as well as individuals in an attempt to gauge the popularity of radicalized beliefs within the Maldivian community.
14. Concerning allegations that the Report presented information contradicting tenets of Islam, contained offensive remarks about Prophet Muhammed and Islam, and sought to threaten the religious peace of the community, Ministry of Islamic Affairs along with a number of other parties, requested the Maldives Police Service to conduct a thorough investigation into the matter.
15. As such, the Maldives Police Service convened a group of three Islamic scholars from Maldives National University and Islamic University of Maldives, to assess the Report and formulate a detailed analysis of the content presented in the Report.

16. In addition to the detailed analysis, Maldives Police Service summoned the authors of the report, Ms. Shahindha Ismail, [REDACTED] Mr. Mushfiq Mohamed and Mr. Leevaan Shareef Ahmed, to record their statements for the investigation.
17. However, all four authors of the Report declined the summons by the Maldives Police Service, noting that they live abroad and feared returning to Maldives due to the threats against them.
18. Therefore, contrary to the information submitted by the source, Government submits that the Maldives Police Service made an effort to reach out to the authors, which were hindered due to the fact that the authors of the Report were residing outside of the Maldives at the time.
19. As a result of the authors declining the summons, and failing to present themselves for the investigation, the Maldives Police Service was unable to record their statements during the investigation.
20. On 7th October 2019, President Ibrahim Mohamed Solih released a statement addressing the allegations surrounding the Report, calling for the public to observe compliance with the holy directives and principles of Islam, and urging the public to unify in peace and solidarity.
21. On 9th October 2019, MDN issued a Press Release noting that the organization does not accept or condone disrespect towards Islam, accepted the unfortunate language used in some sections of the Report and noted that MDN has offered an apology to that effect. The statement further states that the Report has been temporarily withdrawn and that MDN would work on amending the relevant controversial parts of the report in due course.

22. On 10th October 2019, Ministry of Youth, Sports and Community Empowerment imposed a temporary suspension on all activities of the organisation, pending investigation of the Report by Maldives Police Service.
23. Ministry of Youth, Sports and Community Empowerment in its Press Statement on the same day, noted that the decision to temporarily suspend MDN's activities flows from the recent investigation by the Maldives Police Service of the allegations against the Report issued by the organisation.
24. This decision was taken pursuant to the power vested in the Registrar of Associations by Section 39 of the Regulation Number 2015/R-180 (Regulation on Associations).²
25. This information was reiterated in the Press Statement released by Ministry of Foreign Affairs on 10th October 2019.
26. On 28th October 2019, Maldives Police Service completed their investigation on the Report and communicated the findings to Ministry of Youth, Sports and Community Empowerment.
27. Investigation of the Report identified several instances where the information presented in the Report contravened Islamic tenets. The identified instances are listed below.
 - i. In reviewing the Islamic Textbook for the fourth grade, the Report speculates that a portion of *Zakat* is allocated to new Muslims to enable people of other

² Section 39 of the Regulation of Association states that in the circumstances prescribed in subsections (a) – (f) of the Section, the Registrar of Associations may impose a temporary suspension of activities against an association in a manner that the suspension does not exceed a period of one year.

- faiths to convert to Islam and allocation of *Zakat* to *Jihad* instils violent extremism,
- ii. The Report speculates that relaying the stories of torture endured by the first Muslims in Mecca in the Islam Textbooks instils violent extremism, and states that these stories are used to glorify violent extremism,
 - iii. The Report portrays that relaying the stories of Companions of Prophet Muhammed who sacrificed for Islam is bad practice,
 - iv. The Report portrays *Hadd* punishments prescribed in Islamic Sharia as being torturous,
 - v. The Report questions the miraculous incidents surrounding Prophet Muhammed's migration to Medina, which is integral to Islamic history as well as Islamic beliefs,
 - vi. The Report portrays that mentioning *Hadd* punishments in Islamic Textbooks in itself constitutes an act of radicalization,
 - vii. The Report speculates that the practice of Muslims loving Prophet Muhammed over and above one's parents, spouses and children, elevates the Prophet to a God-like status and inhibits Muslims from respecting the rights of others,
 - viii. The Report speculates that merely saying Prophet Muhammed is the holiest of mankind is in itself an act of radicalization,
 - ix. The Report speculates that the manner in which Muslims express adoration to Prophet Muhammed leads to religious radicalization,

- x. The Report speculates that teaching school children to love Prophet Muhammed paves way for religious radicalization, and prevents any criticism of the Prophet, thereby inhibiting freedom of expression,
- xi. The Report portrays that Prophet Muhammed in stating that Muslims should work to succeed in both this world and the hereafter refers to moderation, but that the Prophetic saying which states people who do not act in this manner do not belong in his congregation, constitutes an act of *Takfir* and thereby supports radicalization,
- xii. The Report conjectures that portrayal of following the ways of Prophet Muhammed as an action prescribed by God equates to Salafism and Wahhabism,
- xiii. The Report portrays that the love and respect afforded to Prophet Muhammed in the Prayer Sermons often leads to failure in distinguishing between the Prophet and the God,
- xiv. The Report refutes the authenticity of the Holy Quran, and states that a Muslim's opinion on the Holy Quran being the true words of God does not necessarily prove its authenticity,
- xv. The Report portrays that Verse 34 of Surah Al-Nisa of the Holy Quran encourages domestic violence, and
- xvi. The Report states that the Holy Quran encourages domestic violence, promotes gender discrimination in distribution of wealth and in admitting witness testimonies.

28. In addition to the above, the investigation revealed that the Report also constantly questioned the authenticity of Islamic principles, considers Islamic faith and teaching Islamic principles as factors leading to radicalization.
29. The Investigation further revealed that the Report directly and indirectly insulted Islamic values, the Prophet Muhammed and his ways of life, all of which are fundamental to the Islamic faith.
30. In light of the aforementioned information, Ministry of Youth, Sports and Community Empowerment was able to confirm that the Report presented information contradictory to the tenets of Islam and thereby took the decision on 5th November 2019, to deregister MDN as per Sections 19 (a), 19 (b) and 32 of the Associations Act.
31. MDN was afforded a period of forty-five days to wind up its activities, settle any debts or claims over its assets and inform of the same to the Ministry.
32. MDN failed to inform the Ministry of settlement of its debts and other matters within the aforementioned period, and upon the expiry of the forty-five-day period, the Ministry of Youth, Sports and Community Empowerment dissolved the organisation on 19th December 2019.
33. Ministry of Youth, Sports and Community Empowerment informed MDN of this decision on the same day.

C. Infringement of national law

34. Article 10 of the Constitution of the Republic of Maldives states that the religion of the State of the Maldives shall be Islam and that Islam shall be the basis of all the laws of the Maldives.
35. Article 30 (b) of the Constitution affords the right to freedom of association by stating that everyone has the freedom to form associations and societies either for economic, social, educational and cultural purposes or, to form and participate in activities of a trade union.
36. Additionally, Article 27 of the Constitution enshrines the right to freedom of expression and states that, everyone has the right to freedom of thought and the freedom to communicate opinions and expression in a manner that is not contrary to any tenet of Islam.
37. The Associations Act lays down the legislative framework to establish, operate and monitor the activities of organisations set up in the Maldives. The law complimented by the Regulations on Associations which provides for the procedures to be followed when registering an association, governance of its activities and the grounds for its dissolution.
38. As such, Section 20 of the Associations Act clearly states that any association or organization once registered as per the Act, shall conduct its affairs in a manner that conforms to the laws and regulations of Maldives. This directive is reiterated in Section 9 of the Regulation on Associations as well.

39. Concerning the issue at hand, Government of Maldives notes that the decision to suspend MDN and the subsequent dissolution of the organization fully complies with the applicable laws and regulations.
40. In that regard, Section 32 of the Associations Act states that, where the organisation conducts and activity mentioned in Section 19 of the Act, the Registrar of Associations has the right to cancel the registry of the association after allowing sufficient notice to the organization to settle its debts and property claims.
41. Section 19 (a) of the Associations Act, in the interest of the harmony and sovereignty of the country, stipulates a clear prohibition to establish associations to, among other things, achieve objectives that are “conflicting with the principles of Islam, or disregard Islamic religion, rebuke or undervalue the religious harmony of the country, or expressing or propagating beliefs of religions other than Islam” and
42. Section 19 (b) further prohibits establishing associations to achieve objectives contrary to the Constitution of the Republic of Maldives and/or laws of the country.
43. Therefore, in essence, a combined reading of Section 32, Sections 19 (a) and (b) of the Act indicates that where an organization registered under the Associations Act falters in conducting its affairs in a manner that the activity or activities are considered to be in conflict with Islamic principles and rebukes or undervalue the religious harmony in the Maldivian community, and/or where the activity is in contravention of the Constitutional stipulations or laws of Maldives, that qualifies as grounds for the Registrar of Associations to dissolve the contravening organization.
44. As noted above, the investigation conducted by the Maldives Police Service with the assistance of three religious scholars, showed that the Report had information contradictory to the tenets of Islam, sought to directly and indirectly insult the

Prophet Muhammed, as well as beliefs that are extremely fundamental to the Islamic faith. Furthermore, Maldivian Democracy Network, in its Statement on 9th October 2019, accepted responsibility for the unfortunate use of language, offered an apology for public sensitivities and withdrew the report for further review.

45. The Government notes that such these findings pose reasonable grounds for the Government to believe that the Report threatened the religious peace and harmony of the State, contravenes an underlying basis of the Maldivian Constitution, and thereby warrants the measures that, as demonstrated above, were taken in accordance with the applicable laws and regulations.

D. Adherence to international obligations

46. Concerning this issue, the Joint Communication primarily addresses alleged infringement of Article 6: Right to life, Article 18: Right to freedom of thought, conscience and religion, Article 19: Right to freedom of expression, Article 20: prohibition on any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination and Article 22: Right to freedom of association of the International Covenant on Civil and Political Rights (hereinafter “ICCPR”).

47. As noted above, the decision to deregister MDN was taken pursuant to the power afforded to the Registrar of Associations in Section 32 of the Associations Act, to dissolve associations conducting activities contravening Islamic tenets, the Constitution and the laws of Maldives as per Sections 19 (a) and (b) of the Act.

48. In assessing whether the restrictions imposed by Sections 19 (a) and 19 (b) was applied in conformity with the international obligations of the Government, the Government

notes that paragraph 2 of Article 22 of the ICCPR allows for restrictions to be imposed on the right to freedom of association.

49. As such, Government acknowledges that any such restriction imposed on the right to freedom of association shall be prescribed by law, those limitations should be necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.³

50. The term 'prescribed by law' entails that the particular provision is provided for in the national law of general application, where the law is in force at the time of application, the law is clear and accessible to everyone and that the law shall provide adequate remedies against its arbitrary application.⁴

51. In that regard, Sections 19 (a) and 19 (b) of the Associations Act seeking to impose a restriction on the right to freedom of association are limitations that were created as a result of the enactment of the Associations Act in 2003 through the Parliament.

52. The second component of a legitimate limitation relates to its necessity in a democratic society, where the limitations do not impair the democratic functioning of the society⁵.

53. Since the adoption of the Constitution in 2008, Maldives have been practising a multiparty democracy where certain facets such as the homogeneity of faith is an intrinsic trait to the Maldivian identity.

³ A/HRC/RES/15/21; The rights to freedom of peaceful assembly and of association

⁴ Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1984/4 (1984)

⁵ *ibid*

54. While each democratic society is unique in its composition, Article 10 (b) of the Constitution stating that no law contrary to the tenets of Islam shall be enacted in the Maldives, further reiterates the significance of Islamic faith to the Maldives and its citizens.
55. Considering the integral nature of Islamic faith to the Maldivian democracy, Government submits that the restrictions stipulated in Section 19 (a) and (b) of the Associations Act pursue the legitimate aim of protecting the harmony and sovereignty of the country, and thereby do not undermine the democratic principles in the country.
56. As per the ICCPR, a limitation on Article 22 may be justified on the basis of it being imposed to maintain public order, defined as the set of rules that are fundamental to a given society⁶.
57. The aforementioned information proves that the Islamic tenets and principles are an inherent aspect of the Maldivian community that complements national law, prescribed rules and more importantly, the order of the community.
58. The Report issued by MDN presented information that contravened, insulted and sought to disprove such core elements to the Maldivian identity, that the Report threatened to harm the peace and order of the Maldivian community.
59. While the Report incited religious unrest and jeopardised the religious harmony that had existed within the Maldivian community for centuries, the resulting public uproar both online and amongst individuals, escalated to an alarming extent in an

⁶ *ibid*

incredibly short span of time, whereby urgent action was necessitated by the State to prevent an outcome that may have potentially endangered national security.

60. As briefly mentioned in the Communication as well, Maldivian citizens continued to express their dissent against the Report on various media platforms, through their elected representatives and to the relevant offices of the State, clearly describing the far-reaching impact the Report had on the Maldivian community.
61. Having noted the above, the Government submits that the restrictions mentioned in Sections 19 (a) and (b) of the Associations Act, conform to the test of limitations stipulated in the ICCPR.
62. Concerning the right to freedom of expression, the Government of Maldives would like to draw attention to the reservation recorded by the Maldives to Article 18 of the ICCPR on the basis that the Maldivian Constitution identifies Islam as the State's religion.
63. In that regard, the right to freedom of expression is also restricted to the extent that it does not contradict the tenets of Islam or undermines tenets fundamental to the Islamic faith.
64. While the Government of Maldives is firmly committed to upholding the civil liberties of Maldivian citizens as prescribed in the Constitution, the Government also believes that the freedoms afforded should be exercised with caution so as not to disrupt national harmony, as well as in a manner that does not advocate or incite any form of hatred.
65. As demonstrated above, some parts of the Report issued by MDN intentionally refuted fundamental principles of Islam, and Islam being a primary facet of the

Maldivian identity, a public undermining as such of the Islamic principles will become a highly emotional and sensitive issue for the Maldivians, threatening the religious peace and public order of the country.

66. Additionally, Government of Maldives notes that legal action as such is not unique to the Maldives and similar actions can be found in the jurisprudence of European Court of Human Rights (hereinafter "ECtHR").

67. On 15th February 2011, an Austrian citizen was convicted under the Austrian Criminal Code for 'disparaging religious doctrines'.⁷

68. This case where the Austrian citizen who conducted religious seminars called the Prophet Muhammed a paedophile based on the fact that he had married Aisha when she was six years old and consummated the marriage when she was nine years of age, was eventually brought forth the ECtHR where the court held that the conviction did not constitute a violation of the freedom of expression afforded under Article 10 of the European Convention on Human Rights.

69. The ECtHR in determining that the State's action corresponded to a pressing social need and was proportionate, noted that in these cases the domestic authorities are afforded a wider margin of appreciation, since the local authorities are in a better position to evaluate which statements were likely to disturb the religious peace in their country.

70. The Court in the case above, sought to endorse the statement made by the Austrian Regional Court that presenting objects of religious worship in a provocative way capable of hurting the feelings of followers of that religion could be conceived as a

⁷ E.S v. Austria [2018] ECHR 891

malicious violation of the spirit of tolerance, which was one of the basic foundations of a democratic society.

71. In another case heard at the ECtHR, the Court noted that the exercise of freedom of expression in the context of religious beliefs carries a duty that is to avoid as far as possible an expression that is in regards to objects of veneration, gratuitously offensive to others.⁸

72. The Court also stated that where the expressions are likely to incite religious intolerance, and where there is an abusive attack on an object of religious veneration, a State may legitimately consider them to be incompatible with respect for freedom of thought, conscience, and religion and may take proportionate restrictive measures.⁹

73. Similarly, Government submits that the Maldivian authorities may also utilise the stated margin of appreciation and should be afforded the discretion to weigh the consequences and impact of the Report in the context of the Maldivian community.

74. In this case where the Report sought to undermine beliefs integral to the faith of all Maldivians and compromised a fundamental tenet of the State, the Government submits that the decision taken to dissolve MDN was warranted in response to an action that violated the spirit of tolerance that must be observed in a democratic society, and to address an imminent need to preserve the religious harmony of the Maldivian society.

75. In light of the above, Government submits that Maldivian authorities having acted within the ambit of the national law and in compliance with the procedures set forth,

⁸ Sekmadienis Ltd v. Lithuania [2018] ECHR 112

⁹ Otto-Preminger-Institut v. Austria [1994] EHCR 26

demonstrates that decision to dissolve MDN is not in stark contravention of the international obligations of the country.

E. Investigation of threats and harassment against staff of Maldivian Democracy Network

76. Government of Maldives notes that security of Maldivian citizens both on the online platforms and in person, is an ultimate priority for Maldivian law enforcement authorities.

77. As such, separate investigations are being conducted against the threats and online harassment of Ms. Shahindha Ismail and Mr. Mushfiq Mohamed.

78. Two individuals who gave death threats against Ms. Shahindha Ismail have been arrested.

79. Investigation of one of these cases has been completed and forwarded to the Prosecutor General's Office for charges to be raised against the individual and other cases too will be forwarded for prosecution as investigations are completed.

80. The Government of Maldives assures the Special Rapporteurs, that the Maldivian law enforcement authorities are committed and will continue to take swift and appropriate measures to ensure the safety of each and every person within the Maldivian jurisdiction.

81. As such, to ensure a protective environment for Maldivian human rights defenders, Maldives Police Service have on numerous occasions, identified, arrested and

investigated individuals who have threatened to cause grievous bodily harm or who made death threats to human rights defenders.

82. Further, some of these harassers have been summoned for questioning, cautioned and have been warned of legal action against them where the behaviour persists.

83. Maldives Police Service continues to identify individuals operating pseudo accounts on social media to harass and threaten human rights defenders and summon individuals for questioning or take them into custody, where necessary.

84. Maldives Police Service also continues to take appropriate steps through their cybercrime department and in accordance with the applicable rules, to block certain social media accounts that pose grievous threats to other individuals within the online sphere.

F. Steps taken to review the Textbooks used in Maldivian schools

85. The Government of Maldives notes that, reviewing the current curriculum and resolving the issues within the national curriculum or syllabus constitutes a key priority for the Government.

86. In that regard, a national symposium was held in February 2019, where all the stakeholders were consulted on the challenges and the need for reviewing the current syllabus taught in Maldivian schools.

87. Through the symposium, the stakeholders highlighted several issues in the syllabus taught and the text books utilized in teaching.

88. The Government of Maldives is pleased to note that following the symposium, an effort to review the textbooks and syllabuses taught in Maldivian schools are currently underway.

G. Conclusion

89. In conclusion the Government of Maldives notes that the current administration was elected on a firm pledge to uphold democratic values and hence it is vital that the democratic reform initiatives of the Government remain unhindered.

90. Government of Maldives continuously strives to govern with democratic principles and would like to highlight its renewed efforts in combatting religious extremism in the country in its quest to maintain a moderate liberal society while balancing our religious values at the same time.

91. Therefore, it is important to mention that the decision to dissolve MDN was not reached arbitrarily, but after completing due process, which involved a thorough and a comprehensive investigation by the Maldives Police Service, following which measures were taken by the Ministry of Youth, Sports and Community Empowerment within its mandate and authority, on legitimate grounds and in conformity with the laws in place.

92. The Government of Maldives reiterates its commitment to respect and promote the activities of all civil society organizations and at the same time urges all the organizations to conduct themselves within the legal parameters.

93. The Government believes it is important to create a safe and vibrant environment for all organizations, with utmost respect to the rules and regulations that govern the society.

94. The Government therefore urges the Special Rapporteurs to view this as an isolated incident, and be assured that the Government would not arbitrarily limit the space for civil society organizations or human rights defenders.