

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief**

REFERENCE:  
AL MDV 3/2018

20 April 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 34/18, 32/19, 34/5 and 31/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the launching of investigations against Ms. **Shahindha Ismail**, human rights defender in the Maldives, for the legitimate exercise of freedom of expression on Twitter. She participated in a side event at the 35<sup>th</sup> session of the Human Rights Council.

Ms. Ismail founded and runs the Maldivian Democracy Network (MDN), an NGO in the Maldives that focuses on human rights and democracy issues. Her NGO has been collecting information relating to the arrest of a number of peaceful protestors over the last two months. Ms. Ismail also advocates for religious tolerance in the country and speaks in favor of deradicalization. Concerns about threats and intimidations against Ms. Ismail were raised in a communication by Special Procedures mandate holders sent on 29 January 2018 (MDV 1/2018). We regret that we have not received any response from your Excellency's Government to this communication, and further that the police have now proceeded to investigate Ms. Ismail rather than hold to account those who had threatened her following her legitimate exercise of her right to freedom of expression.

According to the new information received:

On 2 April 2018, the police summoned Ms. Ismail questioning her for allegedly criticising Islam "with the intention to cause disregard for Islam" under Section 617 (a) 1 and 2 of the Penal Code, which prescribes up to four months and 24 days of imprisonment for first time offenders. She has furthermore been accused by the police of attempting to "disrupt the religious unity and create religious discord in the Maldives" through Twitter. Ms. Ismail has categorically denied the accusation.

Ms. Ismail has been, and continues to be, subject to online threats and online gender-based violence, including rape threats. A Twitter account has repeatedly

tweeted to Ms. Ismail saying that they would rape her and violently harm her if they saw her on the road.

In April 2017, Mr. Yameen Rasheed, a human rights defender and blogger, was killed after the police and other authorities failed to respond to reports of threats against him. Mr. Yameen Rasheed was the subject of a communication sent by Special Procedures mandate holders on 4 May 2017 (MDV 1/2017). We regret that no response has been received to this communication from your Excellency's Government.

Similarly, Mr. Ahmed Rilwan Abdulla, a human rights defender and a journalist, was abducted and remains missing since August 2014 after a number of reports of threats against him had been ignored. Mr. Rilwan Abdulla was subject of a communication sent by Special Procedures mandate holders on 7 October 2014 (MDV 1/2014). We regret that no response has been received from your Excellency's Government to this communication either.

We express serious concern at the accusations made against Ms. Ismail by the police on the basis of repressive legislation which is incompatible with Maldives' obligations under international human rights law. We express concern that these accusations appear to be directly related to the exercise of her right to freedom of expression online. We express concern that this form of intimidation takes place in a context of increased religious intolerance in the country and increased attacks against individuals who express liberal or independent views. We express concern at the broader chilling effect this has on the exercise of the right to freedom of expression in the Maldives, in particular when exercised by the media, civil society organizations, human rights defenders and in general those voicing dissent. We are concerned that the absence of thorough investigations and accountability for any alleged perpetrators as well as the atmosphere of impunity associated with such killings contribute to the recurrence of these horrendous crimes. We are further concerned by some statements of the authorities undermining freedom of expression by condemning what is deemed to be "anti-Islamic" speech, and overstressing the need to "protect" religion from blasphemy. We are also concerned that advocacy of violence against those who speak freely on matters of conscience are not investigated by the authorities as per its international obligations. Our repeated requests in previous communications for information on steps taken by the authorities to respond to such incitement remain unanswered. Considering Ms. Ismail's participation at a side event at the 35<sup>th</sup> session of the Human Rights Council, we express concern that the investigations launched against her may constitute acts of reprisals for her cooperation with the United Nations, and its human rights work through the exercise of her right to freedom of expression. In his 2017 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/36/31), the Secretary-General reiterated his firm position that all such acts, no matter how seemingly subtle or explicit, are without exception unacceptable and must be halted immediately and unconditionally, effective remedies provided and preventive measures adopted and implemented to prevent reoccurrence. (para.2).

We reiterate our concerns raised in a previous communication sent to your Excellency's Government on 26 May 2016 (MDV 1/2016) concerning the implications of the legislative limitations to the right to freedom of expression, such as Section 617 (a) applied in the present case, in ways that put the right itself in definite jeopardy, in particular through the use of religion, social norms and defamation as grounds for limitation.

While we do not wish to prejudge the information made available to us, the acts described above appear to contravene articles 6, 18, 19, 20 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Maldives on 19 September 2006, which establish the right to life, as well as the rights to freedom of thought, conscience and religion or belief, and freedom of opinion and expression, as well as the right to freedom of association and impose an obligation on the state to prohibit the advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. Any limitation on freedom of expression must comply with the strict requirements of the Covenant's article 19 (3), as well as articles 2, 5, 17, 18 and 26. It would not be permissible for such limitations to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.

In connection with the above alleged facts and concerns, please refer to **the Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about whether investigations have been launched into the threats and intimidations against Ms. Shahindha Ismail. If no such investigations have taken place, please explain why.
3. Please also provide information on the status of investigations into above-mentioned previous killings and abductions in the Maldives of human rights defenders, journalists and bloggers, including information on the entities or persons responsible for conducting the investigations, whether anyone has been arrested or prosecuted, and the outcome of any trial.
4. Please provide information on the steps taken to investigate the instigators of the vigilante violence, including religious or political leaders who are seemingly able to call for violence and use their moral leadership to heighten a climate of intolerance and hatred with impunity.

5. Please provide detailed information about the measures taken to effectively protect, and ensure the safety of human rights defenders and individuals who engage in public debate over religious and political matters, as well as minority groups that may be targeted due to allegations of blasphemous or dissenting activities.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

In light of the allegations of reprisals for cooperation with the UN on human rights in relation to Ms. Ismael, we reserve the right to share this communication with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Dubravka Šimonović  
Special Rapporteur on violence against women, its causes and consequences

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed  
Special Rapporteur on freedom of religion or belief

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to ensure the right to freedom of thought, conscience, religion or belief in accordance with article 18 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Maldives on 19 September 2006. In this context, we would also like to refer to Human Rights Council resolution 6/37, in which the Council urges States "to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence [...]".

We would also like to refer to pertinent observations made by previous Special Procedures mandate holders who reiterated that criminalizing so-called defamation of religions as such can be counterproductive and may have adverse consequences for members of religious minorities, dissenting believers, atheists, artists, and academics (see A/62/280, paras. 70-71 and 76-77).

The repeal of blasphemy laws has been called for by the Special Rapporteurs on freedom of religion or belief and freedom of opinion and expression, and is a recommendation of the Rabat Plan of Action and Human Rights Committee General Comment No. 34.

We furthermore refer your Excellency's Government to article 19 of the ICCPR, which provides that "everyone shall have the right to hold opinions without interference" as well as that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." This right includes not only the exchange of information that is favorable, but also that which may shock or offend.

Furthermore, this obligation also requires the State "to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities" (see Human Rights Committee General Comment No. 34, para. 7).

We further refer to Article 20 of the ICCPR, which states that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. While Article 2 (2) of the said Covenant obligates states parties to take necessary steps to give effect to the rights recognized in the Covenant, Article 4 (2) of the 1981 UN Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion calls upon states to take all appropriate measures to combat intolerance on the grounds of religion or belief.

We also refer to article 22 of the ICCPR, which guarantees that everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

We also recall the provisions of the Declaration on the Elimination of Violence against Women which defines "violence against women" as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Article 7 (c) of the Convention on the Elimination of All forms of Discrimination against Women further requires that States Parties "take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, [...] ensure to women, on equal terms with men, the right [...] to participate in non-Governmental organizations and associations concerned with the public and political life of the country".

We further refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

The Human Rights Committee in its General Comment No. 28 explained that States "should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of equal enjoyment" of all rights outlined in the ICCPR.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;

- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.