

Mandates of the 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 rights to freedom of peaceful assembly and of association and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL MDV 1/2019

7 November 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 34/5, 26/17, 34/18, 41/12 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the decision to dissolve the human rights organisation **Maldivian Democracy Network**, as well as the intensified online harassment, intimidation and threats against its staff members, including Ms. **Shahindha Ismail** and Mr. **Mushfiq Mohamed**.

The Maldivian Democracy Network (MDN) is an NGO in the Maldives that focuses on human rights and democracy issues. Ms. Shahindha Ismail is the founder and director of MDN. Mr. Mushfiq Mohamed is the Senior Legal Officer at MDN. Ms. Ismail, Mr. Mohamed and other MDN staff members have advocated for religious tolerance in the country and spoken in favor of deradicalization.

Concerns about threats, intimidations and investigations against Ms. Ismail were raised in two previous communications by Special Procedures mandate holders sent on 29 January 2018 (MDV 1/2018) and 20 April 2018 (MDV 3/2018). While we would like to thank your Excellency's Government for the response dated 23 July 2018 and welcome the opening of an investigation into the past death threats against Ms. Ismail, we remain concerned given the new allegations below.

According to the new information received:

In 2016, the MDN published a report titled "Preliminary Assessment of Radicalisation in the Maldives". The four co-authors of the report were Ms. Ismail, Mr. Mohamed as well as two external consultants, Ms. Azra Naseem and Mr. Leevan Shareef. The report included an analysis of various textbooks approved by the Ministry of Islamic Affairs, used in primary and secondary schools in the Maldives, and highlighted examples of alleged radical narratives encouraging extremism.

Since November 2018, at least 15 human rights defenders, journalists and lawyers have suffered from repeated acts of harassment and intimidation online, including hate speech and death threats. Those advocating for gender equality, religious tolerance and accountability for violations have been especially targeted. Online news outlet Vaguthu Online, Facebook page Siru Arts, and the now defunct Telegram channel Murtad Watch (“Apostate Watch”) MV have been commonly used to intimidate human rights defenders and label them as “un-Islamic”, “anti-religious” or “apostates”. Direct threats of violence against human rights defenders have been posted on anonymous Twitter and Facebook accounts.

In the second half of September 2019, an online hate campaign against MDN and its staff intensified on social media, especially on Twitter. MDN and its staff members were accused of being “enemies of Islam”, “trying to eradicate Islam” and “working to normalize mocking and ridiculing Islam”. Many posts shared by anonymous social media accounts referred to the aforementioned report published by the MDN. The organisation was labelled as a “dangerous anti-Islamic group”. Ms. Ismail and Mr. Mohamed were particularly targeted with hate speech and calls for their arrest for “inciting hatred against the faith of Maldivians”. On 30 September 2019, an online Twitter campaign was launched to ban MDN, gaining thousands of shares. On 1 October, a message containing a death threat against MDN staff was shared on Twitter.

On 3 October 2019, the Ministry of Islamic Affairs requested a police investigation into the report published by MDN in 2016 for alleged blasphemy and anti-Islamic narratives, under the Religious Unity Law.

On the same day, the Minister of Youth, Sports and Community Empowerment, stated on Twitter, referring to the MDN, that neither him, nor the Maldivians, could accept defaming Islam or Prophet Mohammed.

On the same day, MDN decided to temporarily remove the report from its website for further review.

On 4 October 2019, a petition was launched online urging the Maldivian President to de-register MDN. The petition collected over 11,000 signatures in one day.

On the next day, Adhaalath Party, one of the four parties in the ruling coalition, issued a statement calling for an investigation and charging of the MDN staff members involved in the preparation of the 2016 report, which according to members of the party, encouraged hatred and was compiled without conducting enough research.

On 7 October 2019, an emergency motion to carry out a debate on MDN’s report was submitted to the Parliament and accepted unanimously by all the members of Parliament. Calls for the organisation to be banned were made by members of the opposition and the ruling coalition.

On the same day, President Solih issued a public statement calling the language used in the aforementioned report “contrary to Islamic principles” and affirming that a thorough investigation into the matter would be carried out.

On 10 October 2019, the Registrar of Associations, under the Ministry of Youth, Sports and Community Empowerment, issued a press release ordering MDN to immediately suspend its activities due to a police investigation into the aforementioned report. In the press release, the Registrar referred to allegations that “the report contains anti-Islamic narratives and mocks the Prophet Mohamed”. The decision was posted on social media only and MDN was not contacted by the office of the Registrar.

According to the Registrar, the order to suspend MDN’s activities was made in accordance with Section 39 of the Regulation number 2015/R-180 (Regulation on Associations), which stipulates that the Registrar of Associations can order an association to suspend all of its activities for a maximum period of one year under specific circumstances, including if the association is engaging in any activity that under the laws and regulations of the Maldives is specified as an act that undermines national security or societal harmony.

Later on the same day, the Ministry of Foreign Affairs issued a statement announcing a “temporary cessation” of MDN. The decision was justified as a response to “widespread public condemnation” of the aforementioned report. The Ministry stated that MDN would be suspended pending investigation.

Following the decision to temporarily suspend the MDN, online calls for the arrest of the four co-authors of the 2016 report have reportedly intensified.

The police have publicly stated that an investigation has been opened into the online attacks and hate messages addressed to MDN.

On 12 October 2019, an individual who had posted death threats against Ms. Ismail online was arrested. On the next day, the police informed the media about the arrest which reportedly caused the online threats and defamatory statements against Ms. Ismail to intensify further.

On 20 October 2019, Ms. Ismail and Ms. Naseem were summoned by the police to present themselves for questioning within 14 days. They were both abroad and did not return to the country due to security concerns.

On 24 October 2019, a private citizen filed a case to dissolve the MDN at the Civil Court. It remains unclear whether the Court registered the case.

The police have also made a press statement asserting that the allegations against MDN were being investigated “as a serious and urgent matter.”

On 30 October 2019, over 100 local islands and atoll Councils released a joint statement calling for the MDN to be banned. Rallies supporting the call to ban the organisation were held on that day.

On the same day, Mr. Shareef was summoned by the police for questioning. He was abroad and did not present himself for questioning due to security concerns.

On 31 October 2019, the Maldives Police Service made a press statement affirming that their investigations found the MDN to have “intentionally mocked and insulted Islamic tenets and the Prophet”. The police consulted the Ministry of Islamic Affairs, which had filed the complaint against the MDN, to assess whether the content of the report was blasphemous. The police did not collect statements from the authors of the report during the investigation. The findings of the police investigation were transmitted to the Registrar of Associations.

On 5 November 2019, the Ministry of Youth, Sports and Community Empowerment decided to cancel the registration of the MDN, citing article 19 (a) and (b), and article 32 of the 2003 Association Act, which allow for the dissolution of associations that violate the Constitution and domestic laws, and/or engage in activities “[c]onflicting with the principles of Islam, or disregarding Islamic religion, or rebuking or undervaluing religious harmony of the country, or expressing or propagating the thinking and beliefs of any another religion other than Islamic religion.”

The organisation was informed about this decision on the same day and was given 45 days to settle any debts and properties before the formal dissolution.

MDN staff continues to be targeted with online defamation and threats, including death threats. Due to the ongoing threats, the four co-authors of the report have been forced to remain outside of the country.

Without prejudging the accuracy of these allegations, we express concern at the launching of investigations against the Maldivian Democracy Network, the recent decision to dissolve the organisation, as well as the intensified online harassment, intimidation and threats, including a death threat, against Ms. Ismail, Mr. Mohamed and other MDN staff. These acts appear to be directly linked to their exercise of the rights to freedom of thought, conscience, and expression in advocating for deradicalization and religious tolerance in the Maldives. We raise specific concerns that the investigations launched against the MDN in relation to the aforementioned report and the decision to dissolve the organisation are based on repressive legislation which is incompatible with Maldives’ obligations under international human rights law.

We reiterate our concerns at statements made by 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”. Furthermore, we are concerned that the criminalization of “blasphemy” may be used, for religious or political

reasons, to encourage negative social mobilization leading to expression of intolerance and incitement to hatred or violence. We further express concern of the use of “blasphemy” and defamation provisions to limit freedom of thought and expression.

We also reiterate our concerns about increased religious intolerance in the country and increased online and offline attacks against individuals who express liberal or independent views. Our concerns are strengthened by the chilling effect these acts have 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.

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 on the status of investigations into the online threats and intimidations against Ms. Ismail, Mr. Mohamed and other MDN staff members.
3. Please provide detailed information on the legal and factual basis of the decision to dissolve the MDN, as well as on the measures adopted by your Excellency’s Government to ensure that any legal procedure on the matter is conducted in compliance of all the relevant due-process guarantees and of articles 19 and 22 of the ICCPR.
4. Please provide detailed information about the measures taken by the Maldivian authorities to effectively guarantee in law and practice, the peaceful exercise of the rights of individuals to freedom of thought, conscience and expression. In particular, please detail specific measures that are taken to ensure the protection of Ms. Ismail, Mr. Mohamed and other MDN staff members, as well as other human rights defenders, who engage in public debate over religious and political matters and may be accused of blasphemous or dissenting activities.
5. Please indicate and provide information of any review conducted by the Ministry of Education of the various textbooks used in primary and secondary schools in the Maldives that allegedly contain radical narratives that may be promoting “extremist” ideas.

6. Please provide information on the measures taken to prevent incitement to violence and/or religious intolerance; and to foster an environment where all religious beliefs can be peacefully expressed and practiced, without fear of persecution of any sort.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Koumbou Boly Barry
Special Rapporteur on the right to education

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

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, 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.

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.

The right to freedom of expression includes not only the exchange of information that is favorable, but also that which may shock or offend. Any limitation on freedom of expression must comply with the strict requirements of the Covenant’s article 19 (3), which sets out the requirement that any restrictions to the right to freedom of expression must be necessary, proportionate and prescribed by law. The use of religion as a ground for limitation does not meet these criteria, the protection of religion itself therefore cannot be used to limit the right to freedom of expression (CCPR/C/GC/34).

We would like to emphasize that any restriction to the right to freedom of association must be compatible with paragraph 2 of Article 22 of the ICCPR, which establishes that restrictions are only acceptable if they are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the ICCPR.

We further wish to underscore that the suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient (A/HRC/20/27, para. 75).

Furthermore, we would like to remind your Excellency’s Government that States are required “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 also wish to draw the attention of your Excellency’s Government to Article 4 (2) of the 1981 UN Declaration on the Elimination of all forms of Intolerance and of

Discrimination Based on Religion which calls upon States to take all appropriate measures to combat intolerance on the grounds of religion or belief.

We would also like to refer to the conclusions and recommendations in the 2006 mission report of the former Special Rapporteur on freedom of religion or belief, indicating that she was “disturbed by provisions of the Law on Religious Unity, which criminalize any action or form of expression intended to disrupt, jeopardize or disunite social and religious order and harmony, and considers that the law has the potential to limit the manner in which people choose to manifest their religion or belief. She considers that the law may fail to satisfy the requirement that any limitations on the right to manifest one’s religion or belief must be prescribed by law and must be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others” (A/HRC/4/21/Add.3, para. 63). 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).

We would further like to refer to Human Rights Committee General Comment no. 35 which states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

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.

We would like to recall that one of the recommendations put forward in the report on the situation of women human rights defenders presented by the Special Rapporteur on the situation of human rights defenders to the fortieth session of the Human Rights Council (A/HRC/40/60) is to prioritise the protection of women defenders in online spaces and adopt laws, policies and practices that protect their right to privacy and protect them from libel and hate speech.

Finally, 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 (b) and c) which provide that everyone has the right, individually and in association with others to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters.

-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.

We would also like to draw the attention of your Excellency's Government to Articles 13 of the International Covenant on Economic, Social and Cultural Rights, and 29 of the Convention on the Rights of the Child, acceded to by the Maldives on 19 September 2006 and 11 February 1991 respectively, which request that education, in particular, prepare children for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin. The Special Rapporteur on the right to education has also recommended that effective mechanisms be established or enhanced to address complaints of discriminatory, including gender-based, content, intolerance or hate speech found in textbooks (A/74/243, para. 75).