

**Mandates of the Special Rapporteur on freedom of religion or belief; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on minority issues**

Ref.: AL MDV 1/2022  
(Please use this reference in your reply)

14 September 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 49/5, 42/22, 44/5 and 43/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the prosecution brought against Mr. **Mohamed Rusthum Mujuthaba**, allegedly related to the legitimate exercise of his rights to freedom of thought, conscience and religion, including his right not to profess any religion and to practise his beliefs as an atheist and a member of a belief minority; his right to freedom of opinion and expression; as well as threats received by Mr. Mujuthaba through social media by individuals reportedly holding radical religious views.

According to the information received:

Mr. Mujuthaba is a publicly known atheist, who has been actively promoting freedom of religion or belief in the Republic of Maldives through social media.

In 2019, Mr. Mujuthaba received several death threats through social media from individuals who felt offended by tweets where he expressed his opinions as an atheist and conveyed his views about some aspects of the Islamic religion.

On 9 September 2019, Mr. Mujuthaba filed a complaint before the police of Thinadoo.

On 10 September 2019, the police arrested him upon a court order issued by the South Thinadoo Magistrate Court on charges of criticising Islam and attempting to disrupt religious unity (Section 617 No 5 of the Penal Code). Mr. Mujuthaba had been investigated for thousands of tweets issued under his pseudonym Rusthum Russo, where he discussed about religious values and Islam, criticising violence and human rights violations committed in the name of religion, including misogyny, restrictions of freedom of speech, homophobia, antisemitism and genital mutilation, amongst others. Conversely, the threats received by Mr. Mujuthaba were allegedly never investigated.

In a subsequent court order, the Magistrate Court requested to maintain Mr. Mujuthaba in remand detention until the end of the trial. The trial, however, never took place and Mr. Mujuthaba remained in detention for over six months,

from 10 September 2019 to 12 March 2020, when the South Huvadhoo Thinadoo Magistrate Court ordered his release.

After the arrest in Thinadoo, Mr. Mujuthaba was transferred to a custodial prison in Malè. For a week, he was reportedly forced by the police to undergo repeated mental status examinations at different clinics and hospitals which were allegedly aimed at certifying that he was mentally ill. All tests conducted, however, returned regular results.

Mr. Mujuthaba was also denied clothes to change for more than a week. When he asked to receive new clothes, officials refused saying that blasphemers were the greatest sinners.

Subsequently, he was transferred to a remand jail in Malè Jail under the Republic of Maldives' correctional service, where he was kept, along with three other prisoners, in a cell of around 64 square feet in dire hygienic conditions. Mr. Mujuthaba and the other three inmates were not able to roll to the sides or stretch the legs during their sleep. Mr. Mujuthaba was also repeatedly threatened, attacked and hit by other prisoners, who constantly threw objects into his cell and targeted him.

Following his release on 12 March 2020, three days after, on 15 March 2020, Mr. Mujuthaba was arrested again. During the arrest, Mr. Mujuthaba was requested to hand over his tablet. As he was talking with someone on internet, he asked the police to grant him the time to close the application. When the police refused, he destroyed the tablet in front of the police that wanted to confiscate it. For this reason, following trial, on 17 June 2020, he was convicted of obstructing the course of justice under Section 530 of the Penal Code and was sentenced to 1 year and 12 days in prison. He was released on 3 March 2021.

During the detention in a custodial jail of Dhoonidhoo run by the police, Mr. Rusthum was surveilled twenty-four hours a day through a camera located in his cell. Police officers forced Mr. Mujuthaba to fast during the month of Ramadam. Mr. Mujuthaba was told that all Maldivians were obliged to fast and if he did not comply, he would be denied the right to a weekly call with his family for a period of three months. During a transfer, Mr. Mujuthaba was hit hard by a police officer in the chest and experienced difficulties to breath for some days.

In November 2021, the Prosecutor General's Office again brought charges against Mr. Mujuthaba under Section 617 No. 5 (criticising Islam and attempting to disrupt religious unity) and Section 622 of the Penal Code (Producing or distributing obscene material) in connection with the same conducts for which he had been investigated in September 2019 and subsequently detained for six months, in pre-trial detention. Nonetheless, the Prosecutor General's Office considered that Mr. Mujuthaba had remained in detention only for 29 days.

At trial, Mr. Mujuthaba could not adequately prepare his defence. He was given only a week to find a lawyer which he could not find due to the sensitive nature

of the charges brought against him. As a result, he felt forced to skip some hearings while attempting to secure legal counselling. On 10 May 2022, Mr. Mujuthaba was arrested for not attending a hearing and kept in detention for a day. He was released on 11 May 2022, following the completion of the hearing.

On 10 August 2022, during another hearing, Mr. Mujuthaba requested the judge to check the police and correctional services' records to verify that he had already spent six months in detention for the same charges. The judge confirmed that the information provided by Mr. Mujuthaba about the time spent in detention was correct and when sentencing him, on 13 August 2022, to four months of detention, the judge did not request Mr. Mujuthaba to serve them.

Mr. Mujuthaba started to receive an increasing number of death threats on social media after a photo of his appearance in Court during a hearing in May 2022 was leaked to the media. On 11 June 2022, during a demonstration held in Malé against remarks on the Prophet Muhammad made by leaders of the ██████████ ██████████ in India, some individuals burned pictures of Mr. Mujuthaba and incited violence against him. These threats increased after Mr. Mujuthaba had been sentenced on 13 August 2022 without, however, having to serve any prison time (due to the time already previously spent in detention). Messages inciting to religious hatred and calling on all Muslims to kill him on sight reportedly multiplied on twitter and other social media.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concern at the arrests, detention and prosecution of Mr. Mujuthaba, which appears to suggest a pattern of judicial harassment against him for the legitimate exercise of his right to freedom of thought, conscience and religion, enshrined in Article 18 of the International Covenant on Civil and Political Rights (ICCPR) and as a member of a religious or belief minority under Article 27 of the ICCPR, which was ratified by the Republic of Maldives on 19 September 2006. Mr. Mujuthaba appears to have been prosecuted based on allegations that he expressed views deemed to be critical or derogatory towards Islam. Should this be confirmed, it would also amount to a violation of Mr. Mujuthaba's right to freedom of opinion and expression, protected in Article 19 of the ICCPR.

In this respect, we wish to remind your Excellency's Government that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the ICCPR is arbitrary, including freedom of religion or belief (art. 18) and freedom of opinion and expression (art. 19) - (see. CCPR/C/GC/35, paragraph 17).

Should they be confirmed, the above-mentioned allegations would also contravene Articles 1 (self-determination in terms of cultural development), 3 (non-discrimination), 6 (right to life), 7 (prohibition of torture and ill-treatment), 9 (right to liberty and security of person), 14 (fair trial), 26 (equality before the law) and 27 (rights of minorities) of the ICCPR.

We wish to recall that the repeal of blasphemy laws has been called for by the Special Rapporteur on freedom of religion or belief (see A/72/365) and represents a recommendation of the Rabat Plan of Action on the prohibition of advocacy of national,

racial or religious hatred that constitutes incitement to discrimination, hostility or violence (para. 17), as well as of the Human Rights Committee in its General Comment No. 34 (see paragraph 48). It is a matter of serious concern that the legal and judicial criminalization of blasphemy may legitimise negative social attitudes towards members of minority religions and beliefs, and encourage and lead to acts of violence against them by individuals holding extreme religious and political views, as demonstrated by the threats allegedly received by Mr. Mujuthaba.

Furthermore, we note with concern that the police may not have proceeded with an effective and thorough investigation into the death threats that Mr. Mujuthaba has reportedly received for legitimately expressing his opinions and promoting freedom of religion or belief in the Republic of Maldives. It would be of great concern if the conduct of the police and judicial authorities were based on socially entrenched prejudice against religious or belief minorities. States hold the obligation to prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence as well as to investigate and prosecute any such action.

Finally, we would like to bring to the attention of your Excellency's Government the international standards regarding the protection of rights of persons belonging to minorities, in particular Article 27 of the ICCPR that guarantees minorities, inter alia, the right to practice and profess their own religion. Persons belonging to religious or beliefs minorities can include atheists and others with non-theistic or non-traditional beliefs (A/75/211, par. 53).

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 information and comment you may have on the above-mentioned allegations.
2. Please provide information of the factual and legal grounds for the arrest, detention and prosecution of Mr. Mujuthaba.
3. Please provide detailed information on the actions undertaken by the authorities to investigate the threats, including death threats, allegedly received by Mr. Mujuthaba, so as to punish those responsible and deter acts of violence and intolerance. In this context, please also indicate whether any protection measures were taken to safeguard Mr. Mujuthaba's life and what these measures consisted of.
4. Please provide precise information about measures taken by your Excellency's Government to ensure that the rights of Mr. Mujuthaba to freedom of belief and as a member of a belief minority are respected and protected in accordance with the Republic of Maldives' international

human rights obligations under the International Covenant on Civil and Political Rights.

5. Please provide information on the steps taken to repeal anti-blasphemy criminal provisions and other legislation on religious offences currently existing in the Republic of Maldives' national legal framework.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

We may 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's to clarify the issue/s in question.

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

Nazila Ghanea  
Special Rapporteur on freedom of religion or belief

Mumba Malila  
Vice-Chair of the Working Group on Arbitrary Detention

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Fernand de Varennes  
Special Rapporteur on minority issues

## **Annex**

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

In connection with above alleged facts and concerns we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We refer to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Republic of Maldives on 19 September 2006, and, in particular, its articles 6 and 9 enshrining the right to life and the right to liberty and security of person and establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. Furthermore, in its General Comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of peaceful assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention. It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary. Furthermore, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, as well as the right to legal assistance.

Article 18 of the ICCPR stresses that "Everyone shall have the right to freedom of thought, conscience and religion. This rights shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

The Human Rights Committee stressed in General Comment No. 22 paragraph 3 that "Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason". In paragraph 5, the Human Rights Committee observes that the "freedom to have or to adopt a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views".

Moreover, in paragraph 3 of General Comment No. 22, the Human Rights Committee stressed that article 18 of ICCPR "does not permit any limitations whatsoever on the freedom of thought and conscience [...]" Peaceful expression of

one's thought and conscience cannot be restricted unless it has fulfilled stringent tests of legality, proportionality and necessity.

The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) states in its Article 2 (1): "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief." In Article 4 (1), the General Assembly further states that: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]" Furthermore, we would like to refer your Government to Article 4(2) according to which: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter".

We would also like to remind your Excellency's Government that according to Art. 20 of the ICCPR no manifestation of religion or belief may amount to propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

We would also like to recall that the General Assembly and the Human Rights Council adopted resolutions 76/157 and 49/31 on Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, urging States to foster a domestic environment of religious tolerance, peace and respect. The Special Rapporteur on freedom of religion or belief stressed that "manifestations of religious intolerance, not least those that lead to discrimination and violence, prevent the full realization of the right to freedom of religion or belief" (see A/72/365 paragraph 72).

We would like to recall the "Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (A/HRC/22/17/Add.4). It clarifies State obligations and other stakeholders' responsibilities under articles 19 and 20 of the ICCPR and sets out a framework of measures via the implementation of legislation, jurisprudence and policies to combat activities that constitute incitement to violence and discrimination on multiple grounds, including religion.

Furthermore, Article 27 of the ICCPR provides that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

The 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end (article 1), recognizes that persons belonging to religious minorities have the right to profess and practice their own religion without

discrimination (article 2) and requires States to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

Furthermore, we wish to refer to Human Rights Council Resolution 49/31 on Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, which calls on States to adopt measures to criminalize incitement to imminent violence on the basis of religion or belief (Art. 7f) and to foster religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion and to contribute openly and on an equal footing to society (Art. 8b).

In relation to anti-blasphemy laws, the Special Rapporteur “emphasised that freedom of religion or belief protects individuals, not religions”, and reiterated “calls for all States to repeal anti-blasphemy and anti-apostasy laws since they undermine both freedom of religion or belief and the ability to have healthy dialogue and debates on a wide range of human concerns, including religion or belief” (see A/76/380 paragraph 59). The Special Rapporteur on freedom of religion or belief warned that anti-blasphemy laws often serve as platforms for enabling incitement to discrimination, hostility or violence against persons based on religion or belief (see A/72/365 paragraph 27). Moreover, anti-blasphemy laws often give States licence to determine which conversations on religion are admissible and which ones are too controversial to be voiced. “Legislation on religious offences is often used to facilitate the persecution of members of religious minority groups, dissenters, atheists and non theists” (paragraph 29). “Since 2012, accusations of online blasphemy have risen, and new patterns of threats and violence have emerged. Individuals using the Internet to disseminate views considered blasphemous are increasingly facing arrest and prosecution. The arrests are often capricious, creating an atmosphere of fear in which Internet users are unsure of the boundaries within which their rights can be exercised. Most alarmingly, online speech, usually expressed through social media sites, can also lead to offline mob violence targeting the alleged blasphemer” (paragraph 31).

The State carries a responsibility to address “attitudes or conditions within society which encourage or facilitate” violence or killings committed by non-State actors (see E/CN.4/2005/7, para. 71). This is so because criminalization of acts leads to the social stigmatization of those accused and to the perception that the killings of the accused are legitimate. This responsibility is particularly heightened if the criminalization of the act in question violates international human rights principles, just as the criminalization of blasphemy does.

In relation to the reported death threats against Mr. Mohamed Rusthum Mujuthaba, we would like to refer to Human Rights Committee General Comment No. 36, wherein the Committee stated that the obligation upon State parties to respect and ensure the right to life extends to reasonably foreseeable threats, including those emanating from private persons and entities. Following the Committee, State parties must respond “urgently and effectively” in order to protect individuals who find themselves under a specific threat, including by adopting special measures such as the assignment of around-the-clock police protection. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life (CCPR/C/GC/36, paras. 7 and 23). We would like to further bring the attention of your Excellency’s



Government to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65 according to which it is incumbent upon States to provide “effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats”.