

**HRCM Submission to the Universal Periodic Review
of the Maldives, April –May 2015 (22nd session)
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Right to life

1. In recent years, gang violence and murders have increased at an alarming level (ANNEX 2). A study shows that many of these gang related violence are linked to politicians or business persons who pay gangs to carry out violent acts¹. Yet, state has been unsuccessful in effectively addressing this issue. So far 21 murder cases were recorded since 2010, most of which were gang related.

Take immediate action to eliminate gang related violence. Develop long-term plans to ensure the security of persons.

Human Trafficking

2. Children are involved in commercial sex work.² Many children migrate to Male' from atolls for education, remain vulnerable to domestic servitude and sexual harassment by host families.
3. There are countless reports of exploitation of migrant workers through fraudulent recruitment practices by their agents, withholding of wages and confiscation of passports.³ Shelters to accommodate trafficking victims and support services are not operational. Lack of resources and capacity appear to be a challenge faced by authorities in establishment of institutional mechanisms and to implement the Anti-Human Trafficking Act. Thus efforts to facilitate redress to victims remain disproportionate to a deteriorating situation.

Take concerted efforts to implement Anti-Human Trafficking Act

Torture

4. People are very much concerned about law enforcement officials conducting acts of torture.⁴ A total of 304 torture allegations have been lodged at HRCM of which 74 allegations have been investigated from 2010 to July 2014. However, none of these cases were sent to prosecution due to lack of enough evidence to prove them in a court of law.
 5. The most pressing issues observed in prisons are the lack of categorization, unavailability of rehabilitation and reintegration programs, unnecessary strip-search and disproportionate disciplinary measures towards male prisoners and minors. In custodials, issue of overcrowding, handcuffing for indefinite periods, extended detention for investigation purposes and failure to collate data in a systematic way are areas suggested for improvement over the years. In the only psychiatric institution of State, despite continuous recommendations for change, geriatric patients and patients enduring mental illnesses and PWD are accommodated without proper categorization. Institution for children under State care is heavily under-staffed. Inappropriate disciplinary measures against children under de facto detention persist in most institutions sheltering juveniles.
- Establish mechanisms and procedures protecting the psychological and physical wellbeing of children under state care and those deprived of their liberty.***

Access to justice

6. Enforcement of Penal Code is a positive development towards a better legislative framework. However, due to shortfalls in judicial system, functioning of the judiciary is often questionable on various grounds including independence, transparency, interference, influence, competency, consistency, and accessibility.⁵ State responded to UN Special Rapporteur on the Independence of Judges and Lawyers as trying to undermine the country's court system.⁶ ICJ has issued a number of recommendations to build competency of judiciary with no progressive action by the state.
7. According to TM, majority of public lack confidence in the court system.⁷ ⁸ Majority of cases, both criminal and civil, often get delayed for more than a year, and is prosecuted in capital which forces plaintiffs and defendants from atolls to travel to and stay in capital, which is costly.
8. Judicial system is controlled and influenced by the Supreme Court weakening judicial powers vested in other superior and lower courts. Supreme Court issued a circular ordering all state institutions not to communicate

to individual courts regarding any information related to judiciary except through Supreme Court.⁹ HRCM is facing difficulties in gathering information related to Judiciary due to lack of cooperation.

Adopt recommendations issued by Special Rapporteur and ICJ. Codify and harmonize Shari'ah Law and common law in accordance with the Constitution. Enact important laws leaving no room for inconsistencies in judicial decision making.

Freedom of Expression

9. Although Constitution assures its citizen the freedom of thought and expression, there are no laws which guarantee freedom of expression in the Maldives. Parliament Privileges Act can be used to force journalist to reveal their source, which could undermine the constitutional protection that journalists currently enjoy.
10. There have been many reports of death threats to media persons and parliament members. State is yet to take realistic action to address these threats. The recent disappearance of Ahmed Rizwan Abdullah, a journalist and human rights advocate is of critical concern.¹⁰

Take measures to address issue of threats and intimidation directed to parliamentarians, journalists and civil society activists to ensure their safety.

Freedom of Assembly

11. Political instability in 2012 resulted in a series of intense demonstrations. HRCM observed during dispersal of demonstrations MPS used disproportionate force which was at times discriminatory towards political parties, excessive and disproportionate use of pepper spray at protestors, inconsistency in issuing warnings before dispersal and obstruction of media.¹¹ It was evident that some demonstrators were subjected to torture at the time of arrest.¹²
12. While recently endorsed Freedom of Peaceful Assembly Act encompasses positive developments, HRCM raised concerns over provisions of geographical limitations, lack of guidance on control of counter assemblies and requirement to accredit reporters.¹³

Amend the Act in compliance with ICCPR. Incorporate international best practices and human rights standards into existing public order training. Take action against officers who violate the laws, eliminating room for impunity.

Freedom of Association

13. Some NGO's advocating human rights and democracy have been subjected to intimidation by state actors and their freedom of association and expression have been hindered.¹⁴ In the absence of trade unions, workers' associations undertake their role.¹⁵ An Act on Industrial and Labor Relations is yet to be enacted, thus legal gap remain as an obstacle to functioning of trade unions. Members of trade unions remain intimidated to disclose membership to employers as members face reprisals such as termination of employment. This is common among workers in the areas of tourism and seaports. Lack of transparency in distribution of service charge is a major reason for strike in tourism industry while not receiving full payment of overtime pay is a grave concern raised by Teachers' Association. Union members face numerous difficulties in exercising collective bargaining, tripartite consultations and work stoppage, as proper legal mechanism is not in place for dispute resolution.

Amend legislation on associations and enact law on industrial relations.

Health

14. Health services are not easily accessible and available in atolls and lack healthcare professionals such as gynecologists and pediatricians.¹⁶ Public has no trust in the healthcare system due to many avoidable health incidents and sensitive medical information of patients being leaked.¹⁷

15. Frequent media reports about infanticide and abandonment of infants, plus prevalence of illegal and unsafe abortions indicate that sexual relations among adolescents and unmarried adults are common.^{18 19} Access to contraceptives and contraceptive information is limited to married couples to a certain degree in atolls. Furthermore, age appropriate sex education is not provided in schools and parents are not aware of the importance of such education.²⁰

HIV/AIDS

16. The health system is not ready to address a potential HIV outbreak as it lacks prevention programs and specialized care for population groups at risk. HPA mandated with HIV/AIDS prevention/control is not adequately funded and lacks capacity to lay down such a system. There are no prevention services for high risk groups, increasing the risk of spreading HIV.²¹²² High risk factors including sharing of needles to inject drugs, high sexual activity among adolescents and youth could contribute to an increased prevalence of HIV/AIDS.²³ It is alarming that there is no screening system for HIV/AIDS and STI in the prison system; considering some of the identified HIV patients go in and out of prison as repeated offenders.²⁴

Strengthen existing healthcare system to address current problems in the health services especially emphasizing life-threatening illnesses and incidents. Take necessary actions to address HIV/AIDS related human rights issues, including prevention for high risk groups.

Child Rights

17. Children born out of wedlock face discrimination. Paternity testing is not admissible evidence in court and such a child would be denied father's name, inheritance and child maintenance. Violence against children takes place in all settings. Only a small proportion of reported child abuse victims get justice, and remain re-victimized due to systemic failures. Most prevalent challenges include delays in obtaining evidence and overly strict evidentiary requirements.²⁵ The legal age of consent, along with societal attitudes to treat child abuse as private matter or to force child abuse victim to deny testimony in court to protect family honor as perpetrator is usually a family member providing financial support are factors that cannot be disregarded.²⁶ Moreover, state has fallen short to publish child sexual offender's registry. Additionally, overall functioning of victim support system is effected due to a weak child protection system that is under resourced, with inconsistencies in capacity and coordination. Family Act allows marriage of minors under specific conditions. There are reports of registration of child marriages without counsel of MLG as Shari'ah is basis for defining marriage practices.²⁷
18. There are many reasons as to why youth join gangs which include in search of identity and protection while unemployment remains as a major driving factor.²⁸ The political and business elites exploit gangs in exchange for financing.²⁹ With criminal records or inability to exit gang life makes it difficult for youth to find employment, rehabilitation opportunities and remain stigmatized by society.³⁰ Depending on the nature of crime, implementation of the sentence for a minor can be delayed for a set period of time or until they reach 18 years, on condition of substantial changes in behavior.³¹ Although, human resource, and rehabilitation and support programs remain limited for proper functioning of a juvenile justice system; the lack of political will along with resource constraints impacts addressing these issues.
19. Despite existence of a longstanding moratorium, a regulation on procedures for death penalty was recently introduced and its enforcement for minors is delayed until 18 years of age. The age of criminal responsibility is 15 years and minors can be held for *Hadd* offences. Bills such as Criminal Procedure Code, Evidence Bill and Witness Protection needs to be enacted and state is yet to establish an independent forensic institution to provide accurate information to make an impartial decision on matters concerning administration of death penalty.³²

Enact evidence bill, witness protection bill, criminal procedure code and Juvenile Justice Bill. Strengthen coordination amongst stakeholders dealing with child abuse and rehabilitation measures of victims. Abolish child marriages. Improve availability of counseling facilities at educational institutions. Establish independent forensic institution and abolish death penalty for minors.

Women's Rights

20. Absence of requisite procedures, inconsistencies in institutional applications and lack of sensitivity among law enforcement and judiciary towards DV are fundamental issues faced in implementation of DV Act. MPS failed to meet legislative deadline to submit the annual report to FPA. Limited capacity of investigators and their belief that such cases are family matters inhibit victims from getting redress.³³ FPA with a mandate to combat DV is not provided with necessary financial and human resources. Reporting of DV cases remain low as a result of lack of confidence in the system, fear of intimidation by perpetrators, stigmatization and inadequate information on protection measures. There is no proper reintegration mechanism. There are no strict punishments to perpetrators of DV although the state has reported otherwise in the "mid-term assessment of implementation of UPR" on recommendation (100.64).³⁴ However, violation of a protection order is a punishable offense as that of a court order violation.
21. Increase in religious conservatism, cultural norms and stereotypical roles depicted by society inhibit women's equitable participation in public life.³⁵ Women remain under represented in all branches of the state and efforts to secure legislative quotas remain unsuccessful.
22. Government has agreed to remove the reservation for Article 16. 1(a)(b)(e)(g)(h) and 2 of CEDAW, however, no concrete action has been taken.

Take concrete measures to implement DV Act. Introduce appropriate punishments in DV Act. Remove reservations from Article 16 of CEDAW. Introduce legislative quotas for women representation.

Labour

23. Government is yet to establish minimum wage and unemployment benefit. Non-existence of minimum wage has a detrimental effect for employees working in private sector, especially migrant workers. There is an alarming rise in unemployment especially among youth and women.³⁶ Additionally, lack of opportunity is one of the main reasons for being unemployed.³⁷ Sexual harassment at workplace remains a daunting reality.³⁸ The bulk of complaints received by state institutions are related to unfair dismissal, wage claims, breach of contract and violation of employment rights of migrant workers. The monitoring efforts of government are hindered due to budgetary constraints. Implementation of employment Act remains a key issue in realizing employment rights.

Establish minimum wage and unemployment benefit. Strengthen measures to ensure implementation of Employment Act.

Migrant Workers

24. Migrant workers are subjected to inhumane conditions like being accommodated in overcrowded places which lack proper ventilation, adequate sanitary facilities and limited accessibility to water.³⁹ Maltreatment and negative attitudes towards migrant workers are a concern. Accessing services from LRA is a challenge for migrant workers based at atolls due to transportation difficulties as many remain reluctant to seek assistance for fear of deportation due to undocumented status.

Ratify ICMW.

Religious Extremist Ideologies

25. There are reports of unregistered marriages encouraged by some religious scholars claiming that registering marriages with the Courts are un-Islamic and unnecessary.^{40 41} State institutions acknowledge this information and raised concerns that children born to such marriages could face serious legal issues. Similarly women in such marriages are bound to face social and legal consequences.⁴² Conservative beliefs that promote women as inferior to men are being spread at an alarming level. Many women believe that their role in society is to be submissive wives and in raising children.⁴³ There are roughly 400 children being withheld from attending school by their parents due to religious beliefs.⁴⁴

Take appropriate measures to deal with ideologies and practices that lead to cultural and societal problems.

Disability

26. Disability rights are not mainstreamed into government policies and action plans. Many public buildings including HRCM are not accessible for PwDs. The level of education among PwDs remains significantly low, and a high percentage of them are unemployed. The state has so far failed to take effective systemic action to provide employment opportunities to PwDs.

27. For children with severe and multiple disabilities, right to education is yet to be realized in the school system. Children with disabilities do not have equal opportunities, facilities, resources and treatment in educational and healthcare systems compared with those without disabilities and they face ill treatment at schools as well as in the community.⁴⁵

Mainstream disability rights into government policies and action plans. Ensure that PwDs have equal access to education, employment and healthcare without any discrimination.

Education

28. Despite policy initiatives by MoE to establish compulsory education till grade 10, legislative framework on education needs to take effect. Corporal punishment is prohibited in schools, yet 8 percent of students attending secondary schools experienced violence perpetrated by teachers.⁴⁶ The education system lacks capacity to provide psychosocial support for child abuse victims and deal with children with challenging behaviors. There are inconsistencies in availability of educational services. Moreover, opportunities and focus on vocational training remains low. An effective system to improve the performance of teachers needs to be in place. Many schools focus on brighter students and neglect to provide additional support for low performers.⁴⁷ Learning outcomes for primary and secondary levels are modest and examination pass rates are generally poor.⁴⁸ There is no proper system in place to measure indicators such as low attendance and drop-out rates. Lack of financial support to pursue higher education is also a challenge.

Right to education is not provided for children in conflict with the law, in pretrial detention and in prison.

Enact Education bill. Take concrete efforts to eradicate the disparities in the availability of educational services. Improve the quality of education progressively.

Drug Abuse

29. Drug abuse remains a serious concern and studies show that it is predominantly a male phenomenon.⁴⁹ Knowledge of drug use among females remains limited. Prevalence of drug abuse along with increase in crime rate places youth at high risk of deviant behavior.⁵⁰ Minors are targeted and exploited in trafficking of drugs.⁵¹ There are no drug treatment services available during the period of remand and detention. Establishment of a halfway house, drug offender remand center and rehabilitation center for children do not exist although specified in the recent Drugs Act. It is impractical to accommodate the increasing demand for rehabilitation and detoxification services as state has not taken concrete efforts to improve client capacity and services. Concurrently many remain pessimistic about effectiveness of the treatment. Budgetary and human resource

constraints remain the rationale for inadequate capacity, functioning of existing facilities and formulation of regulations.

Formulate an action plan to fully implement Drug Act and accelerate measures to expand the accessibility and availability of drug treatment.

IDPs

30. Since 2004 Tsunami 252 persons are still living as IDPs in 6 islands.

Expedite provision of permanent housing for all IDPs of 2004 Tsunami.

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