

HRCM Submission to the Universal Periodic Review of the Maldives, May 2020 (36th session) October 2019



Human Rights Commission of the Maldives (HRCM)

The Human Rights Commission of the Maldives (HRCM) was first established under Presidential Decree on December 10, 2003. On August 18, 2005, the Human Rights Commission Act (6/2006) (hereinafter referred to as the Human Rights Commission Act) was ratified, thereby making HRCM the first independent and autonomous statutory body in the Maldives. The amendments brought to the Human Rights Commission Act in August 2006 broadened the mandate and powers of the HRCM, making it compliant with the Paris Principles. With the ratification of the Constitution of the Republic of the Maldives (hereinafter referred to as Constitution) in August 2008, the HRCM was made an independent and autonomous constitutional body.

The HRCM currently holds 'B' status with the Global Alliance of National Human Rights Institutions (GANHRI) and is an Associate Member of the Asia-Pacific Forum of National Human Rights Institutions (APF).

In December 2007, the HRCM was designated by a Presidential Decree as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (OPCAT). As prescribed under the OPCAT, the HRCM was designated as the NPM in legislation with the ratification of the Anti-Torture Act (law number 13/2013) in December 2013.

The report encompasses human rights issues faced between the period of 2015 to 2019. The report focuses on issues of child protection, juvenile justice, migrant workers, access to justice, persons with disabilities, health, freedom of expression, education for children with disabilities, housing, environment and climate change, Gender equality and violence against women, freedom of assembly and religious extremism. Each thematic area is concluded by recommendations. The 15 thematic areas of the report were prioritized using a top-down approach where the recommendations of UPR and concluding observations issued by UN human rights treaty bodies were analyzed to according to the significance of the issues emphasized. Report was compiled based on information received from the relevant stakeholders including government authorities, institutions, civil society in addition to existing in-house monitoring data. In addition, HRCM also conducted a series of meetings in the past three months to facilitate constructive dialogue on the implementation of the recommendations. The process undertaken to compile the report is attached in Annex 2 and work done to monitor the implementation of the recommendations on an annual basis is attached in Annex 4. It is also imperative to note that main stakeholders emphasized on the need to incorporate the plan of actions formulated since the change of the government in November 2017, however due to restrictions in the word limit or limitation in the number of pages of the UPR stakeholder submission, HRCM focused on the issues faced during this period along with the necessary positive initiatives.

Abbreviations

APF	Asia Pacific Forum
ATA	Anti-Torture Act (13/2013)
CD	Communicable Disease
CGI	Controller General of Immigration
CPS	Child Protection Services
CRC	Convention on the Rights of the Child
CwD	Children with Disabilities
DV	Domestic Violence
DVPA	Domestic Violence Prevention Act (3/2012)
EC	Election Commission
ETCC	Education and Training Centre for Children
FGM	Female Genital Mutilation
HDC	Hulhumale' Detention Center
HRCM	Human Rights Commission of the Maldives
JJS	Juvenile Justice System
JO	Juvenile Offender
JSC	Judicial Service Commission
LEA	Law Enforcement Officials
LEO	Law enforcement Officers
LGA	Local Government Authority
MoGFSS	Ministry of Gender, Family and Social Services
MoH	Ministry of Health
MOHA	Ministry of Home Affairs
MTS	Maldives Thalassaemia Society
NCD	Non-Communicable Diseases
NGO	Non-Governmental Organizations
NPM	National Preventive Mechanism
OSH	Occupational Safety and Health
PCIMED	Presidential Commission on Investigation of Murders and Enforced Disappearances
PwD	Persons with Disabilities
PGO	Prosecutor General's Office
PHTA	Prevention of Human Trafficking Act (12/2013)
SC	Supreme Court
SoE	State of Emergency
SPADCSAO	Special Provisions Act to Deal with Child Sex Abuse Offenders (12/2009)
SRH	Sexual and Reproductive Health
SST	Sea Surface Temperature
UN	United Nations
VAW	Violence against Women
VP	Vice President
WDC	Women's Development Committee
WHO	World Health Organisation
WwD	Women with Disabilities

Arbitrary arrest

1. Arbitrary arrests, and risk of torture at the time of arrest remained as issues of concern.^{1, 2, 3} Moreover, persons in custody for less than 24 hours were not properly documented.⁴ Detention in unannounced facilities were reported.⁵ Similarly, list of places of detention excluded remand units⁶ and unoccupied detention facilities.⁷ Remand detainees were often kept in cells within units of convicts.⁸ Periods of pre-trial detention were often lengthy, and detainees were held in custody without judicial review for prolonged periods of time.⁹
2. Prerequisite regulation that gives CGI power to detain people before deportation remain unestablished by MOHA.¹⁰ Migrant workers who violated immigration laws are detained in HDC¹¹ until their deportation arrangements are settled.¹² Significantly, they were denied rights at the time of arrest,¹³ thus making their detention arbitrary.^{14, 15, 16} Consistently, treatment afforded to migrant detainees at HDC was poor and discriminatory.¹⁷

Recommendations: Take effective measures to avoid incidents of arbitrary arrest, administrative detention and afford compensation to victims of arbitrary arrest.¹⁸ Establish a specialized remand facility. Sanction adequate time to review the cases of undocumented migrant workers.¹⁹ Enact and endorse the regulation stipulated in Article 142(c) of Prison and Parole Act (14/2013). Reduce pre-trial detention and review existing practices of law enforcement to find alternatives to pre-trial detention.²⁰

Torture

3. Strip search was conducted without a reasonable cause at the time of arrest, and during imprisonment.²¹ While solitary confinement is prohibited,²² disciplinary segregation up to 30 days is permitted.²³ Hence, solitary confinement was practiced in the form of disciplinary segregation in Maafushi Prison.²⁴ Complaints about medical aid to detainees include inadequate access to medical services and specialists,²⁵ and unavailability of controlled drugs to prisoners on psychiatric medication.²⁶ Meanwhile, issue of weak documentation of health screening and treatment persisted.²⁷ Regrettably, custodial and prison deaths remain a grave concern.²⁸ Poor ventilation leading to extreme heat within cells was observed in all detention facilities, accompanied by inadequate natural lighting in some facilities.²⁹ Moreover, most detention facilities are overcrowded and understaffed.³⁰ While some detainees were deprived the opportunity to exercise outdoors, some were hand cuffed during exercise.^{31, 32}
4. Although torture is recognised as a separate criminal offence,³³ LEOs who commit acts of torture were subjected to disciplinary proceedings³⁴ and documentation of such cases were non-complaint with ATA.³⁵ Complaints mechanism established in detention facilities remains ineffective.³⁶ An average of 46 cases of torture were investigated annually by HRCM.³⁷ A total of 5 torture cases were submitted to PGO for prosecution, out of which, one case is in trial stage and remaining 4 cases were rejected due to insufficient evidence.³⁸ Lack of an independent forensic institution is a challenge faced in investigation of torture.³⁹

Recommendations: Ensure HRCM is informed of all disciplinary proceedings undertaken by law enforcement agencies in cases involving acts of torture, to prevent a culture of impunity. Strengthen the regulatory framework governing administration of strip searches. Ensure that an effective and accessible complaints mechanism is established in places where persons are deprived of liberty.⁴⁰ Establish a regulatory framework to ensure access to healthcare is guaranteed to all persons deprived of their liberty.⁴¹ Allocate sufficient resources to improve the conditions of detention and ensure implementation of the Nelson Mandela Rules. Establish an independent forensic institution.

Access to Justice

5. International bodies,^{42, 43} general public,⁴⁴ government officials, magistrates, attorneys,⁴⁵ politicians, as well as the President⁴⁶ raised concerns regarding the integrity, independence, accountability and accessibility of the judicial system. The public trust has been persistently diminishing with the perception that corruption is ubiquitous within the system.^{47, 48} Most court cases are often excessively delayed.⁴⁹ Criminal court has a backlog of 1,910 cases and some cases have been pending for over 10 years.⁵⁰
6. While the Maldives' Constitution provides for judicial independence and a system for the accountability of judges, the Supreme Court interfered with the functioning of the system.^{51, 52, 53, 54, 55, 56} A JSC report stated Supreme Court obstructed powers of other institutions including HRCM,⁵⁷ JSC⁵⁸ and the Parliament.⁵⁹ In 2018, Supreme Court declared that JSC has neither power nor jurisdiction to schedule or investigate complaints related to Justices of the Supreme Court,⁶⁰ overriding Article 159 of the Constitution that empowers JSC to appoint, investigate complaints against and give recommendations for the dismissal of judges.⁶¹ The Order led to a declaration of SoE⁶² and arrest of two Supreme Court Justices⁶³ and Judicial Administrator. The remaining three judges annulled parts of the original bench order the next day.⁶⁴
7. The legal system was misused for political crack down⁶⁵ and to silence criticism of the government.⁶⁶ Influence⁶⁷ and intimidation by the Executive and serious irregularities in judicial procedures⁶⁸ were observed.^{69, 70} Supreme Court violated Constitution and law numerous times.⁷¹ Judges were accused of corruption, accepting bribes, obstruction of justice⁷² and misconduct.⁷³ Parliament has voted the dismissal of a Supreme Court Justice who was accused of such crimes.⁷⁴ Judges were accused of allowing gangs to abuse justice system through witness and evidence tampering.⁷⁵ LEOs were accused of involvement in the cover-up of murder,^{76, 77} planting evidence,⁷⁸ obstruction of justice,⁷⁹ and convicted of witness and evidence tampering.⁸⁰
8. PCIMED accused former VP Ahmed Adeb Abdul Ghafoor of obstruction of justice by intervening to release two suspects of Ahmed Rilwan Abdullah (Rilwan)'s disappearance case.⁸¹
9. Contrary to UN expert belief⁸² the 11-point guideline imposed to HRCM by SC after the suo moto proceeding does not affect its functioning.⁸³ The Parliament passed a resolution against this suo moto case on 17 June 2019.⁸⁴
10. In May 2019, Judiciary announced a five-year judicial reform roadmap.⁸⁵

Recommendations: Reform the Judiciary to ensure judicial independence, integrity, accountability and accessibility. Enact and effectively enforce anti-corruption legislations. Enactment of Civil Procedure Code.

Migrant workers

11. More than one-third of population are foreigners.⁸⁶ Compared to the low incomes of most migrant workers, cost of remittance transactions is costly.⁸⁷ Moreover, issues pertaining to accessibility of health services, specially to the 63000 undocumented migrant workers⁸⁸ are distressing.^{89,90} Undocumented migrant workers are labelled as a 'national security threat'.⁹¹ Additionally migrant workers were excluded during initial stages of disaster response.^{92, 93}
12. Migrant Workers are subjected to acts indicative of fraudulent recruitment, confiscation of passports, non-payment of wages, forced labour and debt bondage.⁹⁴ Similarly they live in inhumane conditions.^{95, 96} PHTA is inconsistent with definition of human trafficking under international standards.⁹⁷ Recently government has initiated a regularization project to address issues pertaining to undocumented migrant workers.⁹⁸ However, there is still a need to fully implement PHTA and address the issue of inadequate institutional capacity.⁹⁹ Application of OSH measures remain limited in construction industry dominated by migrant workers.^{100,101,102}

Recommendations: Take concerted efforts to implement PHTA. Establish minimum wage and OSH standards. Abolish measures taken to segregate migrant workers. Ensure that accessibility to health care for migrant workers is included in the policy framework

Freedom of Expression

13. Although Constitution guarantees press freedom and freedom of thought and expression, the government imposed legal restrictions on this freedom and often hindered this right.^{103, 104} In 2016, Parliament passed Anti-Defamation and Freedom of Expression Act which allowed severe penalties to be imposed^{105 106} and forced newsrooms to practice self-censorship.^{107, 108}
14. Authorities are accused of threatening,¹⁰⁹ arresting^{110, 111} and using unnecessary force^{112, 113} against journalist and media persons.¹¹⁴ Further, authorities are accused of confiscating¹¹⁵ or damaging media equipment^{116, 117} Journalists were stalked,¹¹⁸ threatened¹¹⁹ and attacked.¹²⁰ The government failed to effectively investigate and prosecute the disappearance of Ahmed Rilwan Abdullah, a journalist and human rights advocate;¹²¹ and the murder of Yameen Rasheed, a blogger and pro-democracy human rights activist.¹²² As such, PCIMED was established in December 2018 to inquire into unsolved cases of murder and enforced disappearances and significant progress was made in the disappearance of Rilwan.¹²³
15. The restrictions on freedom of expressions observed during the past years have been recently relaxed.¹²⁴ The Anti-Defamation law was repealed in November 2018.¹²⁵

Recommendations: Take effective measures to address issue of threats and intimidation directed to journalists, civil society activists and human rights defenders. Enforce measures to end the system of impunity for LEO.

Freedom of Assembly

16. Freedom of Assembly is not guaranteed as specified under international legal standards.¹²⁶ Freedom of assembly was severely infringed for political opponents¹²⁷ and culture of impunity persisted.¹²⁸ Accordingly, LEOs violated freedom of assembly by using excessive and disproportionate force during and to disperse protests.^{129, 130, 131, 132, 133} Although considerable number of cases were lodged against LEAs, no actions were taken due to lack of sufficient evidence.¹³⁴ Meanwhile, a record number of arrests were made during protests and considerable number of protestors were convicted.¹³⁵ Furthermore, protestors were terminated or were transferred from their jobs.^{136,137,138} A Presidential Action Committee was established to review cases where employees were dismissed due to political motivation.^{139, 140}

Recommendations: Amend Freedom of Assembly Act in compliance with international legal standards and best practices

Disability

17. Disability rights are not adequately mainstreamed into government policies and action plans and as a result PwDs have limited access to public services, healthcare, education, employment,¹⁴¹ transport, public spaces and buildings including mosques.^{142, 143} Services accessible to PwDs are mostly limited to Male' and the infrastructure, travel expenses and living conditions in Male' make it difficult for people from outside of Male' to seek those services.¹⁴⁴ The monthly financial benefit of \$130 given to PwDs is not a sufficient allowance to enhance their standard of living.¹⁴⁵
18. Despite being explicitly indicated in the Disability Act,¹⁴⁶ there is no national database of PwDs, and there is no adequate study carried out to evaluate the extent to which fundamental human rights are realized by PwDs. Official estimations suggest that social protection program has failed to reach nearly 50% of PwDs.¹⁴⁷ However, no study has been conducted to assess the impact and outreach of the program.¹⁴⁸ To get registered in NSPA, people with mental disabilities are required to do psychological assessments which can only be carried out in Male'.¹⁴⁹ Lack of employment possibilities is a major challenge for PwDs.^{150, 151,152}
19. NGOs estimated that about 10% of PwDs and 40-60% of WwDs are subjected to sexual and other forms of abuse,¹⁵³ and authorities fail to provide adequate protection to PwDs from such abuse.¹⁵⁴
20. The current mechanism where the Disability Council is answerable to a cabinet minister while the responsibility of the DC is to hold the state accountable is a major concern. A study by NCTC and UNDP suggest that the Disability Council was not fully functional between 2014 to 2018 and hence, many grievances were unanswered.¹⁵⁵

Recommendations: Mainstream disability rights into government policies and action plans. Ensure that PwDs have equal access to education, employment and healthcare without any discrimination. Revise the Disability Act and ensure the full

implementation of the Act. Ensure proper functioning of Disability Council. Guarantee that PwDs have access to all public places including mosques.

Education – Children with Disabilities

21. For children with severe and multiple disabilities, right to education is yet to be fully realized within school system.¹⁵⁶ While institutions outside of Male' are not equipped to identify children with disabilities, schools do not have adequate resources to provide effective specialized education for children with most types of disabilities.¹⁵⁷ While families of CwDs are forced to migrate to Male' in order to seek educational opportunities, the move is costly and logistical challenging.¹⁵⁸
22. Prevalent social norms also create barriers for CwD, as many parents believe that education is unnecessary for them.¹⁵⁹ MEMIS - a system established to recognize, track and monitor school attendance of all school-aged children - has limitations as it fails to consider the number of children in each catchment area.¹⁶⁰

Recommendations: Ensure education for all children with disabilities.

Child Protection

23. Shortage of counsellors in educational sector is a challenge faced by schools to address cases of bullying¹⁶¹ and abuse.¹⁶² While marriage of minors are permitted under special conditions,¹⁶³ an approval of the apex court is required before registration of marriages involving minors.¹⁶⁴ However, acts that be considered as sex offences under Special Provisions Act to Deal with Child Sex Abuse Offenders (12/2009) are disregarded if an adult is legally married to a minor.¹⁶⁵
24. Only proportion of reported child abuse victims get justice as a result of gaps in legal framework, weak evidence-led investigations, dismissal or decline of cases sent for prosecution due to procedural issues.¹⁶⁶ Legal age of consent,¹⁶⁷ weak standards on child testimony, delays in reporting, transportation difficulties, insufficient and non-functional safe houses remained as prevalent challenges faced in CPS.¹⁶⁸ Concurrently, functioning of victim support system continues to be affected by a weak CPS that is under resourced with inconsistencies in capacity.¹⁶⁹ Financial dependence on perpetrator and protection of family honour are still factors that contribute to societal attitudes to treat child abuse as a private matter.¹⁷⁰ Similarly, reasons why people have lost faith in CPS include belief that perpetrator use political influence for protection and issues pertaining to confidentiality.¹⁷¹
25. Minimum Standards for Children's Homes remain unendorsed.¹⁷² Resource and capacity constraint were setbacks in application of these standards which affected the quality of services provided for children under state care.¹⁷³ Issues of overcrowding, hygiene, unmet healthcare, record keeping and lack of co-ordination between care-workers and counsellors were also evident in homes for children.¹⁷⁴ Children in state care remain vulnerable to abuse.¹⁷⁵ Acts of torture are excluded in legal and disciplinary proceedings involving abuse cases of children under state care.¹⁷⁶

Recommendations: Abolish child marriages. Enact evidence bill, child rights bill, education bill and witness protection bill. Strengthen coordination, and commitment amongst stakeholders dealing with child abuse and treatment and rehabilitation measures of victims.¹⁷⁷ Ensure that those institutions that accommodate children under State care report all cases of torture to HRCM. Allocate sufficient resources to strengthen CPS.

Juvenile Justice

26. Absence of legislations and strategic direction remained as setbacks in application of article 37, 39 and 40 of CRC.¹⁷⁸ Moreover, lack of sensitivity among the limited professionals in JJS were significant challenges faced.¹⁷⁹
27. First time JOs increased and nearly half of them were school dropouts.^{180,181,182,183} Juveniles remain exploited by drug dealers.¹⁸⁴ Majority of JOs involved in various criminal offences were boys aged 15 to 18 years.¹⁸⁵ Presently, children below 15 years have benefit of an excuse defence except for *Hadd* offences.¹⁸⁶ Legal aid is only provided to serious criminal offences.¹⁸⁷
28. Enforcement of separation of categories, material conditions¹⁸⁸ and rehabilitation of incarcerated were not enforced¹⁸⁹ as stipulated in international guidelines.^{190, 191,192}
29. Accommodation of JOs with children with behavioural issues, prevalence of misconduct and sexual violence among children, denial of education, lack of health checks were among various issues observed in ETCC.¹⁹³ Consequently, HRCM issued a directive in 2016 to transfer the children in ETCC to a safe environment as government had overlooked the outcome of constructive dialogues held to discuss these issues.¹⁹⁴ Similarly, residential care provided in Police Training School at Dh. Vaani in 2016 to rehabilitate juveniles with behavioural issues violated ATA.¹⁹⁵

Recommendations: Enact Juvenile Justice Bill and establish effective rehabilitation mechanisms. Eliminate administrative detention of children as per article 37(b) of CRC. Ensure that mechanisms are established to protect juveniles from torture, cruel, inhumane, degrading treatment or punishment.

Gender Equality & Violence against Women

30. Although there is a disproportionate disparity in representation of women in public office,^{196, 197} the State has not taken any affirmative actions to address this gap.¹⁹⁸ Women are vastly underrepresented in the judiciary, executive and policy level.¹⁹⁹ Women in public life are held up to higher standards than men.²⁰⁰ Women are obliged to prioritize domestic life over professional life due to stereotypical gender roles.^{201, 202, 203} Media portrayal of women is negative and victimizing.²⁰⁴ Religious rhetoric is still used to keep women from fully realizing their potential.²⁰⁵ WDCs are not given priority: they are not fully functional; lack sufficient budget and office space to work.^{206, 207, 208} Elections for WDCs are held by LGA instead of EC and only women vote in the election.^{209,210,211}
31. Majority of domestic violence cases investigated are pertaining to VAW.²¹² Cases of VAW investigated and prosecuted are significantly low compared to the cases reported.²¹³ Challenges cited by LEAs in investigating, prosecuting and convicting VAW

includes lack of budget, proper transportation facilities, properly trained staff, a mechanism for witness protection, cooperation between institutions and awareness on relevant legislations, particularly among law enforcement officials and judges.^{214,215} Additionally, the complaints lodging and referral mechanism in place are complicated and there are inconsistencies in interpretation and codifying DVPA among institutions.²¹⁶ Victims of DV are still hesitant to come forward due to lack of trust in law enforcement and the justice system.^{217, 218} Furthermore, financial dependency on perpetrators, considerations given to children's wellbeing and lack of support from families are also reasons for this hesitancy.^{219,220} VAW cases are sometimes treated as private family matters by LEAs.^{221,222} Mechanisms for the protection of victims are poor: the existing safe houses are not fully functional; confidentiality is not always maintained; and victims are subject to further victimization.^{223, 224} As DV is not criminalized as a separate offence, prosecutors have to fall back on other legislations to prosecute perpetrators of VAW and hence such cases are not documented as DV.²²⁵ Health care professionals in the atolls are not adequately trained on the mechanism in place to report VAW and are hesitant to report.^{226,227}

32. Available data suggests that the prevalence of FGM among girls aged 0-14 is at 1%.²²⁸ Additionally, there is limited research on FGM and VAW.

Recommendations: Establish legislative quotas as an affirmative action to achieve gender equality. Review, amend and enforce Domestic Violence Prevention Act. Criminalize DV as separate criminal offence. Enforce legislative provisions on protection of victims. Strengthen existing mechanism for reporting DV cases identified through the health systems. Establish a system for rehabilitation and reintegration of victims and offenders. Enact Witness Protection Act. Create an enabling environment – including workspaces – and allocate sufficient budget for WDCs. Strengthen the role of women and WDCs in the manner that as envisaged by decentralisation and good governance principles. Amend Decentralization Act to mandate the EC to administer WDC elections. Enforce implementation of Gender Equality Law to ensure gender equity.

Health

33. Though healthcare facilities and pharmacies are established in all inhabited islands, access to healthcare is limited outside of Male' and most health facilities lack specialized healthcare professionals.²²⁹ The health sector rely heavily on expatriate health professionals.²³⁰ About 70% of the total expenditure on health sector go to curative health programs and only 5.5 % is spent on preventive health care making the country vulnerable to health issues.²³¹ HRCM investigated 8 deaths related to medical negligence in the past four years. Most Maldivian youth do not have access to appropriate information about SRH and the general public lack awareness on available SRH services.²³² Mental health care is distressingly poor overall and extremely limited outside of Male'.²³³ The misconception that mental health issues are a result of weak religious faith cause stigma and discrimination.^{234 235} NGOs and private practitioners that provide mental health services lack resources.^{236 237} Private mental health care is costly and available only in Malé.²³⁸ No significant actions are taken to achieve the objectives set out in the Mental Health Policy 2015-2025.²³⁹
34. NCDs account for 75% and 69% of all deaths in year 2015 and 2016. Furthermore, in 2016, 54% of all deaths due to NCD were related to cardiovascular diseases and around 18% were related to respiratory diseases.²⁴⁰ However, CDs including dengue remain a prevalent issue.²⁴¹ Health facilities throughout the country are not equipped to fully implement the national NCD Action Plan.²⁴² While Maldives has one of the highest known incidences of Thalassemia in the world,²⁴³ MTS stated that management and treatment of patients in the country is substandard.^{244, 245} In 2019, 8 Thalassemia patients died within two consecutive months raising concern over the management and treatment of patients.²⁴⁶ MoH raised concerns that compliance from thalassemia patients to necessary treatment is poor.²⁴⁷
35. Though all citizens are covered under a national health insurance program, nearly 20% of people spent more than 10% of their household's total expenditure on health care.²⁴⁸ The cost of travelling to Male' or abroad to access necessary medical care adds up to the expenditure spent on health.²⁴⁹ In South East Asian region, Maldives spends the highest amount of its GDP on health.^{250, 251} Despite this, out-of-pocket health spending pushes 1.5% of people into poverty.²⁵²
36. Vaccine hesitancy has become a growing concern and poses as a challenge for the national immunization program.²⁵³ Further, a social media campaign against vaccination was observed recently.²⁵⁴ Proportion of children who received all basic vaccinations decreased by 16% since 2009 and 8% of children had not received any vaccinations.²⁵⁵
37. An air transport service dedicated to health emergencies is essential to overcome the geographical challenges.²⁵⁶ The existing emergency response and rescue system is disintegrated.²⁵⁷
38. Medical facilities are not equipped with adequately trained staff on forensics and this poses as a challenge in criminal investigations.^{258, 259}
39. Legislative gaps exist in addressing various issues related to health provision.²⁶⁰

Recommendations: Establish a national emergency medical service throughout the country for the full utilization of health care delivery system. Increase budget allocation for preventive health care. Ensure availability of quality mental health care throughout the country. Strengthen healthcare system across the nation. Enact Mental Health Bill, Medical Negligence Bill, Patient Rights Bill, Occupational Health and Safety Bill and relevant Regulations. Strengthen policies and platforms to ensure access to SRH information and services for youth. Take actions to mitigate the issue of rising trend in anti-vaccination. Equip health facilities with forensic medical experts.

Housing

40. Development efforts has been significantly centralized and as a result, 38% of the total population live in the capital city Male' making it extremely overcrowded.²⁶¹ As a result, there is a housing crisis exists in Male' and people who have internally migrated are forced to depend on expensive private housing: 63% of the households in Male' live on rent;^{262,263} 31% of monthly household

expenditure is spent on rent;²⁶⁴ 40% of the average income per person is spent on rent;²⁶⁵ 71% of the households in Male' receive an income from rented buildings.²⁶⁶ Social housing is costly compared to average income.²⁶⁷ Furthermore, the latest findings by Presidential Committee Investigating Public Housing Schemes show negligence in flat allocation.^{268,269,270} Housing crisis exists outside of the capital city as well: government has stopped issuing dwelling for residential purposes in many islands due to lack of land; several extended families live in one household.²⁷¹

41. Proper safety measures are not in place in houses and buildings which is an imminent risk for dwellers.^{272, 273}

Recommendations: Provide affordable social housing. Enact the Tenancy Bill and strengthen regulatory framework on rights of tenants. Revise and enforce Building Code. Enforce Construction Act and ensure regular monitoring and compliance with the Act

Environment and Climate Change

42. As a low lying island State, with the predicted global warming of 1.5°C between 2030 and 2050, Maldives is vulnerable to climate change induced hazards if no mitigation measures are taken.²⁷⁴ The adverse effects of climate change are already visible; mass coral bleaching episodes in 1998 and 2016,²⁷⁵ decrease in annual rainfall, variations in mean average temperature in the northern and southern parts of the country, rising trend in sea level and increase in SST from 0.11 to 0.15°C/decade.²⁷⁶ Unsustainable development efforts have further exacerbated the effects of climate change.^{277, 278, 279} Climate Change Bill currently underway is administrative rather than fostering climate resilience.²⁸⁰

43. An estimated 312,075mt of solid waste is discarded every year²⁸¹ and of this: 21% is attributed to tourism; 90% of the food waste produced in the resorts are separated for sea disposal;²⁸² waste from resorts gets washed up to inhabited islands hindering island tourism and this waste is comprised of food waste, plastic bottles, beer cans and wine bottles.²⁸³ While Island Waste Management Centres have been established in islands, the waste collection system in place is not efficient.²⁸⁴ Hence, waste is often discarded by means that are harmful to the environment.^{285, 286}

44. Mass removal of palms and trees for landscaping is a major concern.^{287, 288}

45. Environment and climate change is not incorporated into development of planned urban cities.²⁸⁹ Factors such as food security, water security, energy security or sewage treatment were not factored in the planning process.²⁹⁰

46. While cases related to environment lodged at HRCM are considerably less, the violations observed in the cases reported are alarming.²⁹¹ The current justice system does not adequately address environmental loss and damage.²⁹² The system lacks capacity to compensate for natural eco-system loss.²⁹³

Recommendations: Include measures towards fostering climate resilience in the Climate Change Bill. Allocate sufficient funding and resources for waste management centers to work towards a zero waste model. Raise awareness on environment and climate change in a rights perspective.

Religious Extremist Ideologies

47. Youth are susceptible to engagement in extremist rhetoric²⁹⁴ and authorities have failed to effectively address the spreading of religious extremist ideologies²⁹⁵ and xenophobia.²⁹⁶ In 2014, authorities allowed a group of people to march the streets of Male' bearing the flag of Islamic State.²⁹⁷ A number of Maldivians have traveled abroad to join militant groups, mostly in Syria.²⁹⁸ As some of them are looking to return back,²⁹⁹ this poses as a human rights dilemma that the country needs to urgently address. Extremist groups are accused of the murder of a lawmaker, a journalist and a blogger.³⁰⁰ A Maldivian who is working as an ISIS-K recruiter is included in the US terrorist list.³⁰¹ While there is a significant need for counter terrorism and de-radicalization, the existing law was predominantly used as a means to suppress political opponents.³⁰²

48. Issue of unregistered marriages, refusal to immunize³⁰³ and refusal to send children to school based on religious belief persists.³⁰⁴ Children born to unregistered marriages, girls, and women in such marriages face serious legal and social consequences.³⁰⁵

Recommendations: Revise the anti-terrorism law to guarantee human security and uphold human rights principles and to ensure de-radicalization, rehabilitation and reintegration programs are structured and mandatory. Ensure that de-radicalization, rehabilitation and reintegration programs are developed and implemented in a way that guarantee human security and uphold human rights principles. Take measures to mitigate legal and social issues arising from out of court marriages.

Annex 1

¹ cases investigated by HRCM

² HRCM(2018).*Submission from the Human Rights Commission of the Maldives for information on the initial report submitted by Maldives under Article 19 of Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or*

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- Punishment, para 20,31,65. Retrieved 8th September 2019, from <http://hrcm.org.mv/publications/otherreports/HRCMSubmissionToCAT2018.pdf>
- ³ HRCM (2018). *Anti-Torture Report*. Retrieved 8th September 2019, from <http://hrcm.org.mv/publications/otherreports/AntiTortureReport1August2018.pdf>
- ⁴ HRCM(2018). *Submission from the Human Rights Commission of the Maldives for information on the initial report submitted by Maldives under Article 19 of Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment*, p.21. para.65. Retrieved 8th September 2019, from <http://hrcm.org.mv/publications/otherreports/HRCMSubmissionToCAT2018.pdf>
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Annex 2

Process undertaken to compile UPR report 2019/2020

1. Dissemination of Recommendations from UPR -2015

Following the publication of *Report of the Working Group on UPR 2nd cycle of Maldives – 2015* by UN HRC, a UPR stakeholder forum was conducted by HRCM in 2015 with the objective to disseminate information on recommendations made to the State from UPR 2nd cycle. HRCM carried out a recommendation mapping process to determine corresponding authorities for each of 198 recommendations accepted by Maldives. A total of 40 participants from 38 stakeholders participated in the forum. *The Report of the Working Group on UPR 2nd cycle of Maldives - 2015* by UN HRC along with outcome report of the forum was shared with all stakeholders including those that were not present in the forum.

2. Follow-up on the implementation status of the recommendation 2016 to 2018

Work done by the stakeholders, challenges faced and planned activities to implement 198 recommendations were closely monitored by HRCM from year 2016 to 2018 on an annual basis. The follow-up document that details the status of implementation is attached in Annex 4.

The status of implementation of each recommendation was evaluated using the criteria in table 01. Table 2 illustrates implementation status based on the information shared by stakeholders. While implementation progress was apparent in the area of strengthening of legislative standards on gender equality, work undertaken to implement the recommendations related to the area of international human rights mechanism, and judiciary remain inadequate. Among the 40 stakeholders involved, some fell short to provide information to HRCM on implementation status of the UPR recommendations pertaining to right to education, rights of migrant workers and providing enabling an environment in which human rights defenders and civil society can operate free from hindrance and insecurity.

General challenges faced by the HRCM in its annual follow-up work undertaken to monitor the implementation of the recommendation have not changed. These challenges include delay in stakeholder response to the questionnaires formulated by HRCM to acquire information for this report, along with different levels of cooperation from state authorities and information gaps within state institutions.

Score	indicator	Status	UPR implementation status
100	Implemented	Recommendation fully implemented	4%
75	Positive progress	50% of the recommendation implemented/completed	5%
50	Adequate Progress	Initiated the implementation of the recommendations in the Action Plan/ Annual Work Plan	15%
		Standard Operating Procedures/Administrative codes endorsed	

25	Nominal Development	Recommendation included in the endorsed action plan	36%
		Recommendation included in the Annual Work Plan	
		Budget allocated to implement the recommendations	
0	No Progress	No progress	19%
		Recommendation rejected/ Not willing to implement the recommendations	
	No information received/further information required	No information received/further information required	22%

Table 2: Implementation status based on the information shared by stakeholders-2018

Recommendations related to	Implemented	Positive Progress	Adequate Progress	Nominal Development	No Progress	No information received/further information required
<i>Access to justice</i>					2	2
<i>Affirmative action and participation of women in public office</i>			4	4		
<i>Anti-Human Trafficking and Rights of migrant workers</i>			4	1		5
<i>Arbitrary detention</i>						2
<i>Capacity building</i>				4		2
<i>Civil Society, human rights defenders, journalists</i>		1			1	11
<i>Drug and violence</i>				1		
<i>Economic Social Cultural Rights</i>		1	6	7		8
<i>Freedom of expression</i>				1		3
<i>Human Rights Education and Training</i>						2
<i>Independence and Strengthening of National Institutions</i>			4		1	
<i>International Human Rights Mechanism</i>				2	28	1
<i>Judiciary</i>				6	6	
<i>Legislative framework and democratic process</i>				9		1
<i>Promoting a culture of Human Rights</i>						3
<i>Protection of children</i>		1	3	8		
<i>Protection of Persons with Disabilities</i>			1	4		

<i>Protection of vulnerable groups</i>			2	3		
<i>Protection of women</i>	7	6	6	21		1
<i>Safe migration</i>						1
<i>Xenophobia</i>						1
Total	7	9	30	71	38	43
Percentage	4%	5%	15%	36%	19%	22%

3. Process of UPR compiling this report

a) Selection of thematic areas

The UPR report encompasses human rights issues identified between the period of 2015 to 2019. The 14 thematic areas of this report were prioritized using a top-down approach where the recommendations of UPR and concluding observations issued by UN human rights treaty bodies were analyzed according to the significance of the issues emphasized (see Annex 4). This was further corroborated with annual investigation statistics of HRCM. Subsequent to the identification of the thematic areas, a bottom-up approach was used to assess the priority areas. The criteria adopted for bottom-up approach prioritization of human rights theme include intensity of the presumed violation, estimate number of people affected, impact on vulnerable groups, HRCM's expert knowledge on the issue and assess whether HRCM should address a particular issue given the word limitation. A general outcome of prioritization is included in Annex 3

The focused areas were child protection, juvenile justice, migrant workers, access to justice, persons with disabilities, health, freedom of expression, education for children with disabilities, housing, environment and climate change, gender equality and violence against women and freedom of assembly. During the consultative process, HRCM identified that it is important to address the issue of religious extremism as one of the thematic areas.

b) Field visits (atoll monitoring visit)

A field visit was conducted in 2019 to acquire and verify implementation status of the UPR recommendations which encompasses the selected 15 thematic areas of the UPR report. A questionnaire was developed using the information from the follow-up document attached in the Annex 4 along with other in-house monitoring data. In addition, available statistics were used as a reference material in selection of locations (atolls) for field study. For the purpose of acquiring information from various sources representatives of different state institutions in the islands and atolls were considered. Concurrently other focus group discussions were held with women, parents, migrant workers in private sector, teachers, island based NGOs, youth etc. A report was compiled based on outcome of the observations from the field visits.

c) Consultations with Civil Society Organizations

Civil Society Organizations working on civil and political rights, child rights, rights of persons with disabilities, women's rights, health sector, environment and climate change and media outlets including print and broadcasting media were consulted to obtain a better understanding of the human rights situation of the country from 2015 and verify the information provided by the state authorities on an annual basis (document in Annex 5).

d) Consultations with state authorities

A stakeholder questionnaire was developed to compile information for the 15 thematic areas. It is significant to note that the issues identified from the field visit, information obtained from consultations with civil society organizations, annual UPR follow-up document (see annex 3) and existing in-house monitoring data were considered in the formulation of the stakeholder questionnaire. The in-house monitoring data encompasses various internal reports (annual reports, assessment of compliance of national legislations with international human rights law, report to UN treaty bodies), and implementation status of concluding observations by treaty bodies (ICCPR, ICERD, CRC and CEDAW) and findings from field monitoring visits conducted from 2015 to 2019. Evaluation of the responses shared by the relevant state authorities were reviewed to outline a set of questions for the series of meetings planned with state authorities. Series of meetings conducted with state authorities facilitated a meaningful dialogue on the implementations of the UPR recommendations.

e) Validation of the information

The report was shared with executive, parliament and judiciary, and members of civil society to ensure participation. A time frame was given to 40 stakeholders to comment and HRCM incorporated all relevant comments.

4. Advantages

The process assisted in identifying the most concerning human rights issues in the country from 2015 to 2019 and track the political will and strategic direction of the government in the implementation of the accepted recommendations of the state.

The workshop on UPR conducted by the Office of the High Commissioner for Human Rights (OHCHR) in collaboration with the UN Maldives Resident Coordinator's Office and Attorney General's Office contributed to the knowledge of the UPR process among monitoring staff and Vice President of HRCM.

5. Setbacks

Following HRCM's stakeholder submission to UPR in 2014, the Supreme Court of the Maldives initiated a suo-moto case against HRCM, with the allegation of providing false information on the conduct of Maldives judiciary. The Supreme Court of the Maldives declared the Commission's submission unlawful and declared that HRCM must abide a 11-point guideline.

UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein stated that "Imposing such extraordinary and broad restrictions on the Human Rights Commission, including on their engagement with international organizations, is completely unacceptable," and it is "designed to severely undermine its ability to engage with the UN human rights system."¹

HRCM held a meeting with Chief Justice of the Supreme Court on 22nd March 2016 to discuss the 11-point guideline whereby the Supreme Court gave assurance that the guideline will not be a challenge for the HRCM to undertake its constitutional duty and to work impartially.² An additional meeting was conducted with Chief Justice of the Supreme Court on 24th December 2018 and HRCM had requested the Supreme Court to further interpret 11-point guideline declared by Supreme Court.³ The Parliament passed a resolution against this *Suo Moto* case.⁴

It is also imperative to note that main stakeholders emphasized on the need to incorporate the plan of actions formulated since the change of the government in November 2017, however due to restrictions in the word limit or limitation in the number of pages of the UPR stakeholder submission, HRCM focused on the issues faced during this period along with the necessary positive initiatives.

6. Way forward

HRCM with the financial assistance of Danish Institute of Human Rights (DIHR) developed an online monitoring portal in collaboration with Attorney General's Office.⁵ The objective of the portal is to transform present culture of manually compiling information shared by the intergovernmental agencies on the implementation of recommendations by UN human rights treaty bodies. This would help by internalization of human rights concepts, increase awareness on the accountability on human rights commitments, build institutional capacity to gather information. Presently, HRCM and AG office are in the process of entering information to this portal. Thus the follow-up work on the implementation status of recommendations from UPR review 2020 will be done via this portal.

¹UN OHCHR (2015). *Supreme Court judgement gravely undermines Maldives Human Rights Commission – Zeid* retrieved on 18th September 2019 from

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16106&LangID=E>

² HRCM (2016). *PR-14/2016* (Dhivehi language). retrieved on 18th September 2019 from

<http://www.hrcm.org.mv/dhivehi/news/pressreleasearchive/PR142016.pdf>

³ HRCM (2018) (Dhivehi language). Meeting held with Chief Justice of Supreme Court. retrieved on 18th September 2019 from <http://hrcm.org.mv/dhivehi/news/page.aspx?id=740>

⁴ *Information obtained from stakeholders and stakeholder meetings August to September 2019*

⁵ OHCHR (2018). *Committee against Torture reviews the initial report of Maldives*. retrieved on 18th September 2019 from

<https://www.ohchr.org/AR/NewsEvents/Pages/DisplayNews.aspx?NewsID=23951&LangID=E>