

National Preventive Mechanism of the Maldives

Human Rights Commission of the Maldives



Human Rights Commission of the Maldives
2015



Mission

To prevent torture and other cruel inhumane treatment of persons deprived of their liberty, raise awareness and promote a preventive culture in places of deprivation of liberty.


Introduction

The Optional Protocol to the Convention against Torture (OPCAT) ratified by the Maldives on 15 February 2006 obliges each State party to “maintain, designate or establish ... one or several independent national preventive mechanisms for the prevention of torture at the domestic level”.

Under this the government designated the Human Rights Commission of the Maldives (HRCM) as the National Preventive Mechanism (NPM) under the OPCAT. The HRCM as a result created a specific department to carry out the functions of the NPM.

NPM's legal identity

Article 44 (c) of the Anti-Torture Act states that, for the purposes of this Article, this Act, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the associated Optional




Protocol, the Human Rights Commission shall be the National Preventative Mechanism (NPM) to stop and prevent all acts of torture as defined by this Act, the responsibilities of the NPM shall be inducted into the responsibilities of the commission and that this article hereby grants the commission all necessary powers to fulfill these responsibilities.

What is Torture?

According to Article 1 of the United Nations Convention Against Torture (CAT), torture is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.”

According to the Anti- Torture Act 13/2013 “Torture” is defined as actions by a government official, or with orders from such an official or with the consent of such



an official, or upon notification from such an official, or with the knowledge of an official, or by an individual, performed to cause physical or psychological pain in order to achieve the following objectives:

(1) To obtain information or a confession from a primary source or third party, or;


(2) To inflict a punishment not declared by law to a person who has performed an action or is accused of performing an action, or a third party that has performed an action or a third party that has been accused of performing an action, or;

(3) To threaten or to humiliate a person who has committed an action or is accused of committing an action

(4) To threaten or humiliate a third party in relation to an action by a person or a person accused of performing an action, or;

(5) To discriminate between persons upon a basis not prescribed by law.

It is stated in the act, that for the purposes of this Act, the types of torture shall be divided into two types: torture inflicted physically or “physical torture” and torture inflicted psychologically or “psychological torture”.



“Physical torture” is defined in the Act as any physical action by a state official under whose care a person is, or upon the order of such an official, or with the consent of such an official, or with the knowledge of such an official, or by an individual, which results in the infliction of the sensation of pain, or to bring tiredness to the body, or to weaken the body, or an action resulting in the body or part of the body to not function in its normal sense.

“Psychological torture” is defined in the Act as actions to subject a person to anxiety, or to deprive a person from natural process of thought, or to frighten, or to force something upon a person, or to subject a person to degrading treatment, or to humiliate a person in the care of a government official, or by the orders of such official, or with the consent of such official, or with the knowledge of such an official or by an individual.

“Degrading, inhumane treatment” is to be considered as any action or incident that does not fall within the context of physical and psychological torture, yet that which is carried out with the explicit intention to cause agony, to humiliate, or inflict a sensation of degradation to a person under the care of a state official, or upon the orders of such an official, or with the consent of such an official, or with the knowledge of such an official.

What is the OPCAT?

The Optional Protocol is an international convention that came into force in 2006. It creates special mechanisms to assist countries that have ratified it to comply with their obligation to prevent torture and other ill-treatment. These mechanisms function at two levels: the international level and the national level. At the international level, the Sub-Committee on Prevention of Torture (SPT) has already been established in Geneva, composed of independent experts elected by States parties and mandated to undertake regular visits to places of detention inside those countries that have become state parties. The national preventive mechanism is at the heart of the OPCAT. Each State party is obliged to set one up to work for the prevention of torture and other ill treatment.


What will the National Preventive Mechanism do?

- Establish a system of regular visits to places of detention in order to analyze treatment, conditions and administration with a view to strengthening, if necessary, the protection afforded to the persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.

- On the basis of information obtained during these preventive visits and its legal and other analysis, make recommendations to further strengthen the protection given to detainees in accordance with the relevant norms of the United Nations and other international standards.
- Enter into a series of continuous constructive dialogue with the competent state authorities to discuss regarding the implementation of NPM's recommendations
- Submit proposals and observations concerning existing and draft legislation

What kind of places can the National Preventive Mechanism visit?

OPCAT article 4 states that visits must be allowed to “any place under the jurisdiction and control of the State party where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence.” Deprivation of liberty is defined as “any form of detention or imprisonment or placement of a person in a public or private custodial setting from which that person is not permitted to leave at will by order of any judicial, administrative or other authority.” This means that the Optional Protocol does not apply



solely to prisons; it applies to all places in the country where people may be detained, whether legally or illegally. The NPM must be allowed unfettered access to all of these locations, persons and information. Places of detention may therefore include the following:

- Prisons and correctional facilities for both remand and convicted prisoners.
- Juvenile detention centres
- Child care centres
- Police stations and pre-trial detention facilities
- Immigration centres
- Psychiatric hospitals and mental health institutions and other such special needs homes
- Social rehabilitation centres
- Military compounds
- Any other unofficial detention facility or any other place where people are deprived of their liberty





• מרכזי הלימוד והחינוך

מרכזי הלימוד והחינוך הם חלק מהמבנה הכללי של המוסד, ומטרתם להעניק חינוך ולימודים לילדי החסידים. המרכזים נמצאים ברחבי ארץ ישראל, וכוללים בתי ספר, מוסדות חינוך, ומוסדות לימודים. המרכזים נבנו על ידי המוסד, ונמצאים בבעלותו. המרכזים נבנו על ידי המוסד, ונמצאים בבעלותו. המרכזים נבנו על ידי המוסד, ונמצאים בבעלותו.

המוסדות החינוכיים והלימודיים

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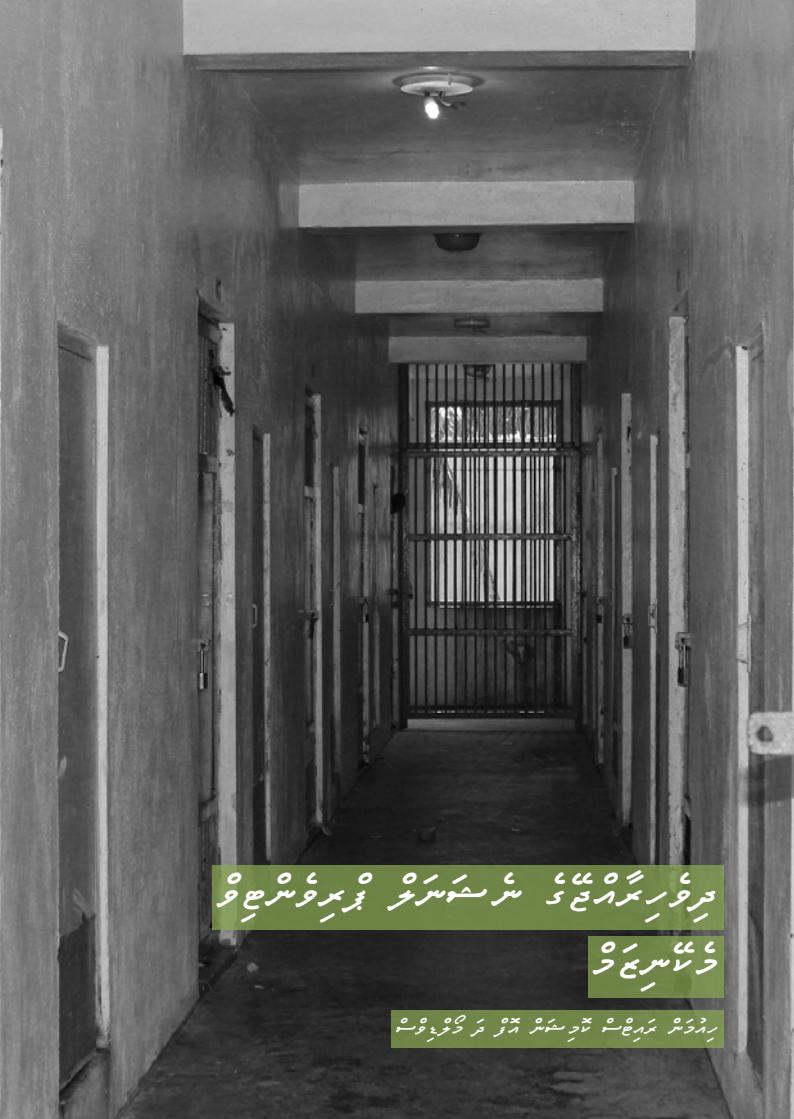
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