

Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to the Maldives (6-10 August 2006)

Conclusions and recommendations of the Special Rapporteur's mission report (A/HRC/4/21/Add.3)	Follow-up information from UN documents (e.g. Special Procedures, UPR, Treaty Bodies)	Follow-up information from the Government of the Maldives
<p>Relevant international standards</p> <p>58. The Special Rapporteur welcomes the Government's decisive action in response to the public statement issued by the Supreme Council for Islamic Affairs, which purported to ban the Universal Declaration of Human Rights (UDHR). However, she regrets that the Supreme Council continues to hold the view that article 18 of the UDHR contradicts the Constitution of the Maldives and the Islamic faith. She encourages the Human Rights Commission to continue its efforts to translate and disseminate International human rights standards, and calls upon the Government to lend the Human Rights Commission its full support in this endeavour.</p> <p>59. She welcomes the recent accession of the Maldives to the International Covenant on Civil and Political Rights (ICCPR), although she regrets that the Government has felt it necessary to enter a reservation to article 18 on freedom of religion or belief. While she understands that freedom of religion or belief is particularly sensitive in the Maldivian context, she does encourage the Government to keep the reservation under review and to revisit it in the near future. She also hopes that the Government will review reservations that are currently in place in relation to articles 14, 20 and 21 of the Convention on the Rights of the Child and article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).</p>	<p>CRC/C/MDV/CO/3 Concluding observations by the Committee on the Rights of the Child, adopted on 8 June 2007</p> <p>48. The Committee notes that the State party's Constitution and other legislative provisions are based on religious unity, prohibiting the practice of any religion other than Islam. With reference to the findings of the Special Rapporteur on freedom of religion or belief during her visit to the Maldives in August 2006 (see A/HRC/4/21/Add.3) and the reservation of the State party to article 14 of the Convention, the Committee is concerned that the right of the child to freedom of thought, conscience and religion is not fully respected and protected.</p> <p>49. In the light of articles 2 and 14 of the Convention, the Committee recommends that the State party respect the right of the child to freedom of thought, conscience and religion by taking effective measures to prevent and eliminate all forms of discrimination on the grounds of religion or belief and by promoting religious tolerance and dialogue in society.</p> <p>CEDAW/C/MDV/CO/3 Concluding comments of the Committee on the Elimination of Discrimination against Women: Maldives (January 2007)</p> <p>11. While welcoming the statement by the delegation that the Government of Maldives has entered into formal discussions on the withdrawal of the reservations made to articles 7 (a) and 16 of the Convention, the Committee is deeply concerned that, despite a similar statement made by the delegation when the Committee considered the initial report of the State party, no positive action in this regard has been taken in the last five years. The Committee draws the attention of the State party to the fact that reservations to articles 7 (a) and 16 are contrary to the object and purpose of the Convention.</p> <p>12. [...] It also calls upon the State party to make the necessary revisions to law in the area of marriage and family relations without delay in order to facilitate the withdrawal of the reservation to article 16, which is contrary to the object and purpose of the Convention, and to indicate in its next periodic report, if still relevant, a time frame for its withdrawal.</p>	
<p>Relevant constitutional provisions</p> <p>60. The Special Rapporteur encourages the members of the Special</p>	<p>A/HRC/10/8/Add.1 Communication sent by the Special Rapporteur on freedom of</p>	

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<p>Majlis to give serious consideration to including the right to freedom of religion or belief in the new draft of the Constitution. This right should not be limited to citizens of the Maldives, but should be extended to all persons in the Maldives. She takes this opportunity to underline that the designation of Islam as the State religion of the Maldives does not require all citizens to adhere to that religion alone. Indeed, she notes that there are numerous countries, including in the South Asia region, which have adopted a State religion, but do not require their citizens to adhere to that religion.</p>	<p>religion or belief on 11 January 2008</p> <p>146. The Special Rapporteur brought to the attention of the Government information she had regarding provisions in the draft Constitution about citizenship which might have an impact on freedom of religion or belief. The Peoples Special Majlis (Constitutional Assembly) had reportedly approved on 19 November 2007 an amendment to the draft Constitution, requiring all Maldivian citizens to be Muslims. The amendment includes a clause that “none except a Muslim can become a citizen of Maldives”. It has been reported that if this draft Constitution is passed and comes into effect a number of Maldivians may lose their right to be citizens of Maldives or become stateless. The Peoples Special Majlis was expected to reconvene on 13 January 2008.</p> <p>147. In this regard the Special Rapporteur referred to the conclusions and recommendations of her recent report on the visit to the Maldives (A/HRC/4/21/Add.3, paras. 60): “The Special Rapporteur encourages the members of the Special Majlis to give serious consideration to including the right to freedom of religion or belief in the new draft of the Constitution. This right should not be limited to citizens of the Maldives, but should be extended to all persons in the Maldives. She takes this opportunity to underline that the designation of Islam as the State religion of the Maldives does not require all citizens to adhere to that religion alone. Indeed, she notes that there are numerous countries, including in the South Asia region, which have adopted a State religion, but do not require their citizens to adhere to that religion.”</p>	
<p>Freedom to adopt, change or renounce a religion or belief</p> <p>61. The Special Rapporteur regrets legislative provisions requiring all Maldivians to be Muslim and hopes that legislators will review these provisions to ensure respect for the right to adopt one's own religion or belief. While she is aware that almost all Maldivians are indeed Muslims, she is concerned that these legislative provisions could result in actual violations of the right to adopt one's own religion or belief. She would like to reiterate the words of the first mandate-holder, Angelo Vidal d'Almeida Ribeiro: “Mankind has a right to diversity, to the freedom of thought, conscience and belief, without limits being imposed on anyone, except in cases where restrictions to their exercise are prescribed.” (E/CN.4/1993/63, para. 53.)</p> <p>62. She is also concerned by reports that individuals who are suspected of having converted away from Islam have been subjected to coercion in detention to persuade them to reaffirm their belief in</p>	<p>A/HRC/10/8/Add.1</p> <p>Communication sent by the Special Rapporteur on freedom of religion or belief on 11 January 2008</p> <p>149. [...] The Special Rapporteur is deeply concerned that the implementation of this article of the new Constitution could have a significant negative impact on human rights in the country, including for those individuals who have converted from Islam.</p>	

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<p>Islam. She reminds the Government that the right to freedom of religion or belief includes the right to be free from coercion and encourages it to ensure that nobody is detained with the purpose of coercing them to reaffirm their belief in Islam. She welcomes the draft Criminal Code, which seeks to codify Maldivian criminal law, including sharia law. The draft Criminal Code does not criminalize apostasy and the Special Rapporteur strongly encourages legislators to adopt the pertinent provisions of the draft Criminal Code in its current form.</p>		
<p>Freedom to manifest one's religion or belief</p> <p>63. The Special Rapporteur is disturbed by provisions of the Law on Religious Unity, which criminalize any action or form of expression intended to disrupt, jeopardize or disunite social and religious order and harmony, and considers that the law has the potential to limit the manner in which people choose to manifest their religion or belief. She considers that the law may fail to satisfy the requirement that any limitations on the right to manifest one's religion or belief must be prescribed by law and must be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. She also considers that the restrictions provided for in the above-mentioned law, as well as in the Law on Prohibited Items in Maldives and the Law on Associations, may well be disproportionate and go beyond what would be considered legitimate within the framework of international human rights law.</p> <p>64. The Special Rapporteur notes that freedom of expression, as articulated by article 19 of the ICCPR, includes the freedom to express ideas and opinions about issues of religion or belief. In some instances, the expression of such ideas may also constitute part of an individual's right to manifest his religion or belief. Accordingly, she is concerned that people are prevented, both by the Law on Religious Unity and other legislative provisions, and as a result of social pressure, from expressing their views about issues relevant to religion or belief. Indeed, she observed that many people, ranging from everyday citizens, journalists and parliamentarians, exercise self-censorship on issues of religion or belief.</p> <p>65. While she recognizes the desire to maintain religious harmony in the country, she notes that the role of the Supreme Council in licensing preachers and centrally drafting their sermons does have the potential to violate the right of individuals to manifest their religion or</p>	<p>A/HRC/11/4/Add.3 Report of the Special Rapporteur on the right to freedom of opinion and expression on his mission to the Maldives, 1-5 March 2009</p> <p>44. Although traditionally accepted as one of the most moderate Islamic countries, emphasis on religious identity is central to the political and legal framework of the Maldives. Under the previous Government religious homogeneity was considered as essential for guaranteeing national unity in the country and President Gayoom repeatedly stated that no other religion should be permitted in the country. The practice of any religion other than Islam was prohibited by law. Foreign residents were permitted to practise their religion only if they did so privately and did not encourage citizens to participate. There are no places of worship for adherents of other religions. The import of icons and religious symbols was prohibited but the import of religious literature, such as Bibles for personal use, was generally permitted. Conversion of a Muslim to another faith was a violation of the Government's interpretation of sharia law and on occasions resulted in the loss of the convert's citizenship.</p> <p>45. Despite the recent reforms in the country the revised Constitution of 2008 continues to state that "Islam shall be one of the bases of all the laws of the Maldives". The rights and freedoms set out in the Constitution are only available to citizens when they are "not contrary to any tenet of Islam", and Parliament can pass legislation which limits these rights and freedoms "in order to protect the tenet of Islam". The Constitution allows citizens no religious freedom and may permit further infringements on their right to freedom of expression should they be found to be acting "contrary to any tenet of Islam".</p> <p>46. In his discussions with various representatives from the media sector the Special Rapporteur noted that reporting on religious matters is a contentious issue in the Maldives and while there has been progress in many areas in relation to freedom of expression under the new</p>	

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<p>belief. In this regard, she is particularly concerned by reports that at least one preacher has been arrested and lost his licence for deviating from the centrally drafted set texts. In this regard she is also concerned by the role that the Supreme Council plays in vetting domestically produced and imported literature on Islam. In addition, she is concerned that there also appears to be limited access to the main religious texts.</p>	<p>Government, journalists still do not feel confident about broaching the subject of religion. He further observed that people are prevented both by legislative provisions and through social pressure from expressing their views about issues relevant to religion or belief and as a result exercise self-censorship. The Special Rapporteur was informed of a recent case in which a journalist had been threatened due to comments made about religious beliefs in the country. [...]</p> <p>69. The Special Rapporteur reiterates the recommendations made by the Special Rapporteur on freedom of religion and belief, Asma Jahangir, following her official visit to the Maldives in 2006. In her recommendations she encouraged the Government “to give serious consideration to including the right to freedom of religion or belief in the new draft of the Constitution. This right should not be limited to citizens of the Maldives, but should be extended to all persons in the Maldives.”</p>	
<p>Discrimination on the grounds of freedom of religion or belief</p> <p>66. The Special Rapporteur is concerned that constitutional provisions, restricting eligibility to vote and hold certain public offices to Muslims, constitute de jure discrimination on religious grounds. She is aware that almost all Maldivians are indeed Muslims and that as such, the presence of these discriminatory provisions is unlikely to result in many actual instances of discrimination. However, the very presence of these provisions in the Constitution contradicts the treaty obligations of the Maldives, and particularly article 2, paragraph 1, in combination with article 25 of the ICCPR, as well as article 26 of the ICCPR.</p> <p>67. She is also concerned by legislation limiting eligibility for certain public posts to Muslims, including the Human Rights Commission Act, and by the Citizenship Law, which stipulates that only Muslims can apply for Maldivian citizenship. She encourages legislators to consider introducing amendments to these pieces of legislation, to bring them into compliance with the treaty obligations, particularly under article 26 of the ICCPR. She notes that according to article 4, paragraph 2, of the 1981 Declaration, all States must make all efforts to enact or rescind legislation where necessary to prohibit discrimination on the grounds of religion or belief.</p>	<p>A/HRC/10/8/Add.1</p> <p>Communication sent by the Special Rapporteur on freedom of religion or belief on 11 January 2008</p> <p>147. [...] Furthermore, her visit report included the following conclusions and recommendations (A/HRC/4/21/Add.3, paras. 66-67): [...]</p> <p>Observations</p> <p>148. The Special Rapporteur regrets that she has not received a reply from the Government of the Maldives concerning the above mentioned allegations. She has addressed citizenship issues and religious discrimination in administrative procedures in her latest report to the General Assembly (see A/63/161, paras. 25-78). In particular, she concluded that “Governments sometimes impose restrictions in such a way that the right to freedom of religion or belief of the persons concerned is adversely affected. While the State may have a legitimate interest in limiting some manifestations of the freedom of religion or belief, when applying limitations the State must ensure that certain conditions are fulfilled. Any limitation must be based on the grounds of public safety, order, health, morals or the fundamental rights and freedoms of others, it must respond to a pressing public or social need, it must pursue a legitimate aim and it must be proportionate to that aim” (A/63/161, para. 67). Furthermore, she added that “[m]easures that discriminate on the basis of religion or belief, or lead to de facto discrimination on such grounds, violate human rights standards. Consequently, it would be contrary to the principle of non-discrimination</p>	

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	<p>to restrict citizenship to people with certain religious beliefs or to deny official documents based on the applicant's religious affiliation" (A/63/161, para. 70).</p> <p>149. She would also like to refer to the conclusions and recommendations of the report on her mission to the Maldives in August 2006 (A/HRC/4/21/Add.3). However, the new Constitution of the Maldives, which was ratified on 7 August 2008, includes in its article 9(d) a provision according to which a non-Muslim may not become a citizen of the Maldives. [...]</p>	
<p>Migrant workers, their families and other foreigners</p> <p>68. The Special Rapporteur is extremely concerned by the current limitations placed on the right of migrant workers and other foreigners to manifest their religion or belief. She notes that these limitations are implemented as a matter of practice, and not as a matter of law. As such, they may fail to comply with the requirement in article 18, paragraph 3 of the ICCPR that any limitation on the right to manifest one's freedom of religion or belief must be prescribed by law. Furthermore, the Special Rapporteur questions to what extent these limitations are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, as set out in article 18, paragraph 3, of the ICCPR and article 1, paragraph 3, of the 1981 Declaration.</p> <p>69. The Special Rapporteur encourages the Government to give serious consideration to amending the current practice to enable non-Muslims to manifest their religion or belief in a manner consistent with human rights law. She recognizes that there is a notable amount of public opposition to any changes in this regard, and as such she would encourage the Government to make serious efforts to raise awareness about freedom of religion or belief. She also strongly recommends that the Government consider acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which contains important provisions on the right to freedom of religion or belief, including the right to manifest one's belief, in public or in private, of migrant workers and their families.</p>		
<p>Persons under any form of detention</p> <p>70. The Special Rapporteur expresses her concern that the right to freedom of religion or belief of foreign prisoners is not being fully respected, including by limiting their ability to manifest their religion</p>		

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<p>through prayer and worship and failing to provide them with a religiously sensitive diet. In this regard she notes paragraph 8 of general comment No. 22 (1993) of the Human Rights Committee, which provides that, "Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint." Accordingly, she calls upon the Government to develop, and ensure the immediate implementation of, a set of regulations, which could be included as an integral part of the prison rules, to ensure that persons under all forms of detention have the right to manifest their religion or belief in accordance with relevant international standards, including rules 41 and 42 of the Standard Minimum Rules for the Treatment of Prisoners.</p>		
<p>Women</p> <p>71. The Special Rapporteur expresses her concern about the seemingly widespread willingness to equate the wearing of the headscarf with increasing Islamic extremism and emphasizes that there can be a wide variety of reasons behind a woman's choice to wear the headscarf. Nevertheless, the Special Rapporteur noted with appreciation that women were able to wear headscarves without hindrance, including civil servants. At the same time she notes that every woman must have the freedom to choose how she wishes to manifest her religion or belief, and as such registers her concern about reports of increasing pressure being placed upon women to wear headscarves, including in State controlled media.</p>	<p>CRC/C/MDV/CO/3 Concluding observations by the Committee on the Rights of the Child, adopted on 8 June 2007</p> <p>35. Despite the efforts of the State party to address the issue of equality between sexes, including through Maldives Vision 2020, the Committee continues to be disappointed that the persistence of stereotypical attitudes concerning the roles and responsibilities of women and men still constitute an impediment to the full enjoyment of all human rights and fundamental freedoms by girls. In particular, the Committee notes with concern that there is an emerging trend amongst certain religious groups to keep girls out of school.</p> <p>36. The Committee recommends that the State party continue to address the problems faced by the girl child and to campaign and create awareness among the population of the equality of girls and boys. The Committee suggests that local, religious and other leaders be invited to take a more active role in supporting the efforts to prevent and eliminate discrimination against the girl child and to provide guidance to communities in this regard. It also recommends that the State party promote the inclusive role of women in society, among other things, by developing textbooks and educational materials in schools, as recommended by the Committee on the Elimination of Discrimination against Women (CEDAW/C/MDV/CO/3, paras.17-18) in January 2007.</p> <p>CEDAW/C/MDV/CO/3 Concluding comments of the Committee on the Elimination of Discrimination against Women: Maldives (January 2007)</p>	

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	<p>17. While the Committee welcomes the efforts made to change stereotypes, including awareness-raising and sensitization activities, and other noteworthy developments, such as the inclusion of a gender equality provision in the national media policy, the Committee is concerned about the subordinate and subservient role women and girls continue to play within the family and the deep-rooted, traditional stereotypical attitudes that persist, and which are reflected particularly in women's professional and educational opportunities and choices and their participation in public and political life.</p> <p>18. The Committee urges the State party to strengthen measures to eradicate negative stereotypes and to carry out training for parliamentarians and decision-makers on the importance of equality of women and men in a democratic society. It also recommends that information on the content of the Convention be disseminated in the educational system, including in the rural (atoll) areas, that school textbooks and teaching materials be reviewed and revised and that human rights education have a gender perspective, with a view to changing existing stereotypical views on and attitudes towards women's and men's roles in the family and society and creating an environment that is supportive of the practical realization of the principle of equality of women and men. It recommends that the media continue to be encouraged to project positive images of women and of the equal status and responsibilities of women and men in the private and public spheres.</p>	