



**MDN's Shadow Report to
the UN Committee Against Torture
for its Review of the Maldives
at the 65th Session**

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A. Executive Summary

1. The Maldives is an archipelago scattered across the Indian Ocean, better known for its natural beauty and upmarket tourism industry, than its deteriorating human rights situation. However, since the country began democratic reform in 2003 after over 40 decades of iron-fist rule, and seemingly transitioned into democracy in 2008 following its first multi-party elections, the legacy of arbitrary arrest, torture and ill-treatment in Maldivian prisons were central to its move towards democracy and human rights. The torturing to death of Evan Naseem, a 19-year-old non-political inmate in Maafushi prison in September 2003,ⁱ fuelled the democratic reform movement in the country. The incident sparked a prison riot – where 19 prisoners were shot, killing three and injuring 17 others – before transforming into nationwide civil unrest. Another incident in April 2007 further implicated police in ill-treatment – Hussein Solah, a 27-year-old detainee, was found dead two days after his arrest, floating near the harbour outside the Malé Custodial Centre.ⁱⁱ
2. After adopting a new Constitution, the Maldives made precarious steps towards democracy in 2008, bringing in sweeping reforms to the existing legal framework for human rights protections. For a brief period during democratic transition, the Maldives was referred to as an exemplary Muslim-majority country peacefully embracing democracy and human rights; however, the improving freedom rankings and democratic credentials were short-lived. In 2012, after a controversial transfer of power following a mutiny by police service, jointly with the State security forces, the country's perceived democratic trajectory faltered significantly. The human rights situation and the rule of law in the country for the past five years have been at free-fall, attracting local and international condemnation. In spite of democratisation efforts, institutions tasked with oversight into law enforcement activities have failed to produce confidence among victims and survivors of torture, and the general public. The politicised judiciary remains at the centre of reversing the Maldives' brief but hard-won democratic gains.
3. A section of the report focuses on the increasing unsolved custodial deaths where accusations of negligence and outright complicity were levelled against the Maldivian authorities. The use of torture during arrests and in custody has resurged in recent years. Victims' families and survivors accuse prison staff of purposely depriving inmates and detainees of medical attention, even in instances where urgent medical care is required, resulting in immeasurable deterioration of health or the loss of lives in some cases. The ill-treatment of detainees and inmates have resulted in frequent custodial deaths. Local news reports suggest that there have been, on average, two custodial deaths per month within this year alone. Custodial deaths of this frequency are alarming especially when the Maldives prison population is ordinarily less than a thousand, excluding those detained at the police custodial centre on Dhoonidhoo Island.
4. Further to giving a brief overview of the existing legal and institutional framework, this report looks at previous assessments on the legacy of cruel, degrading and inhumane treatment in Maldivian prisons to give historical context. Primarily, the report aims at detailing the recent surge in police brutality and acts of torture during arrest and detention concerning specific incidents and cases, referring to relevant laws, regulations and institutions.

5. Our shadow report is based on interviews with victims, their families, publicly available statistics of torture and death in custody filed at the Human Rights Commission of the Maldives (HRCM), news reports of custodial deaths and torture, including statements from the victim's family members. Additionally, information contained in civil society and State submissions made to the UN's Universal Periodic Review (UPR) mechanism were used in this report.
6. The final section of the report sheds light on the outdated practice of corporal punishment included in today's Maldivian penal system, such as judicial flogging as a punishment for consensual extramarital sex.
7. We also make recommendations for the National Integrity Commission (NIC), Maldives Police Service (MPS) and Maldives Correctional Service (MCS) to effectively uphold human rights standards regarding treatment of prisoners and detainees, the conditions under which they are deprived of liberty, in line with Maldivian law and international obligations; including but not limited to, the UN Convention Against Torture (the Convention or UNCAT) and the Optional Protocol to the Convention Against Torture (OPCAT).
8. We note with concern that the Maldivian government submitted its initial reportⁱⁱⁱ to the Committee Against Torture (the Committee or CAT) under Article 19 of the Convention in October 2017, although State Parties are obligated to submit a report within a year of acceding. The Government should have submitted its initial report in 2005 after ratifying UNCAT in 2004. As per the Convention, we stress the importance of submitting follow-up reports by the Maldivian government every four years, in addition to providing reports at the request of the Committee.

B. Institutional and legal framework

Brief overview of prisons and custodial centres

9. The Maldives currently have three prisons, the high-security prison on Maafushi Island, the low-security Asseyri prison on Himmafushi Island and Malé Prison in the capital. There is a custodial centre on Dhoonidhoo Island where many are deprived of liberty prior to trial.
10. At the time of reporting, there are thirty facilities of deprivation of liberty managed by MPS, while MCS run the three prisons mentioned above, in addition to a Custodial Reception and Diagnostics Centre in the capital Malé.^{iv} Prisons on Maafushi and Himmafushi also have special facilities for minors. In total there are 37 facilities in the country where detainees and prisoners are deprived of freedom.
11. The prisons have a capacity of approximately 900 prisoners, however, including the detention facility on Dhoonidhoo in Kaafu Atoll, the number can reach over a thousand. Therefore, the prison population of the Maldives rarely exceeds 1200.

International law

12. Torture is defined under the Convention as any act that intentionally inflicts severe mental or physical pain against an individual to extract a forced confession, or as a form of punishment or coercion, or arising out of discrimination, when perpetrated by a duty-bearer in an official capacity through orders or approval from office-holders. Although the Maldives has made considerable strides to introduce legislative measures to address torture, the realisation of ratified international treaties and enacted domestic provisions on torture remain unachieved.
13. The Government of Maldives ratified the UNCAT in April 2004. Prior to this, the country had not signed onto treaties that specifically encourage the criminalisation of torture, allowing its torture record to evade scrutiny from the UN treaty body. In February 2006 the Maldivian government ratified OPCAT and the Human Rights Commission of the Maldives (HRCM), an independent constitutional entity, was appointed as the National Preventive Mechanism (NPM) in December 2007.

Domestic legal and institutional framework

14. The prevention of torture was given special attention during the drafting process of the 2008 Constitution, which codified democratic reforms. The Constitution explicitly prohibits torture, cruel, inhuman or degrading treatment under Article 54 and 57. The constitutional provision against torture and the Maldives' CAT commitments were further emphasised and empowered under the landmark Anti-Torture Act enacted in December 2013. For the first time in Maldivian history, the act of torture became stipulated as a criminal offence, distinguished from regular assault and battery. The Prisons and Parole Act was also passed the same day, outlawing torture by prison officers under 26(b) and 32(1). The Penal Code that came into effect in July 2014 prohibits assault.
15. The institutional framework, empowered through Acts of Parliament, includes the Attorney General's Office (AGO), the Prosecutor General's Office (PGO), NIC, the HRCM as the NPM, and the Ministry of Home Affairs, in addition to MPS and MCS. All of the aforesaid institutions are mandated to improve and monitor the conditions in facilities of deprivation of liberty and ensure that detainees and prisoners are treated with dignity and respect without subjection to further punishment notwithstanding incarceration.

C. Previous assessments

UPR review

16. In 2010, the Maldivian government report to the UPR process admitted that “there has been a long-standing culture in the Maldives, among government authorities, law enforcement agencies and the courts, of denying the existence of torture or other cruel, inhuman or degrading treatment, of ignoring evidence to the contrary, and of creating an atmosphere in which individuals can perpetrate torture with relative impunity.”^v
17. The State report highlighted that such atrocities were perpetrated due to the lack of democratic oversight on law enforcement agencies and prison systems. However, despite the establishment of independent constitutional entities in 2008; such as the Police Integrity Commission (PIC), which is now known as the NIC, MPS Ethical Standards Command (ESC), and PGO, the use of inhumane treatment against political opponents, detainees and prisoners, especially against those of lower socioeconomic status, continues to this day within Maldivian prisons and custodial centres.
18. Democratic restructuring to increase oversight on executive functioning has not effectively translated to legal action against duty-bearers or office-holders implicated in gross violations of human rights, in the past or present, nor has it created a culture of providing damages or psychosocial help for victims and their families. Nevertheless, it is worth noting that from 2008 to 2011 the Government of Maldives made considerable progress in preventing torture and to take action against police officers guilty of such misconduct.^{vi} The government had a standing invitation to the Subcommittee on the Prevention of Torture (STP), which made unannounced visits in 2008 and published a report in 2009.

UNDP assessment

19. An assessment in 2011 led by the United Nations Development Programme (UNDP) in the Maldives, reported that the Maldives’ prison population required reduction due to the overwhelming number of youth incarcerated on drug usage, which needed decriminalisation.^{vii} Further to that, the report highlighted that the existing legal framework is not in line with the fundamental rights and liberties guaranteed by the democratised Maldivian Constitution, enacted in August 2008, and is incompatible with the UN's Standard Minimum Rules on Treatment of Prisoners.^{viii}
20. The report also identified that the lack of resources and poor interior design of the prisons contributed to its setbacks. In late 2011, the Maldives decriminalised drug usage, introducing a specialised Drug Court to redirect drug users to rehabilitation programmes instead of incarceration.
21. Although the Government of Maldives introduced legislative measures and legal reforms recommended by the study, other concerns relating to prison management remains neglected. However, a mental health regime for inmates and detainees is still unrealised. Prisoners with mental illness are often kept in isolation and deprived of adequate medical care. Through interviews with inmates' families, MDN has learned, that detainees or inmates families are in the dark about their condition.

22. There is also a permeating lack of adequate budgeting or qualified human resources for sustainable rehabilitation programmes, stated the UNDP report.^{ix} Another hurdle identified to be in the way of improving prison conditions is the insufficient communication links between the institutions with a mandate over detainees such as the PGO, the MPS, the MCS and the judiciary.^x In addition to concerns regarding data-sharing among institutions, there are also concerns about adequate documentation of prisoners, including their medical files.^{xi}
23. The 2011 report also criticised the existing parole system, stating that there is a need for a properly formulated transparent mechanism assessing inmates' behaviour and monitoring of parolees.^{xii} Corruption and undue political influence within the prison system also contribute to the lack of confidence in the institution.^{xiii}

The legacy of torture

24. A comprehensive joint-report by the Torture Victims Association of the Maldives and REDRESS, '*This Is What I Wanted To Tell You*',^{xiv} highlighted the disturbingly systematic forms of torture used inside prisons during the 30-year-long dictatorship under Maumoon Abdul Gayoom, spanning 1978 to 2008. Maldivian authorities referred to a State-sanctioned book called *Adhabu Foiy*, 'Book on Punishment' in English, which could more aptly be described as the Book on Torture, detailing specific methods of torture, some endemic to the Maldives. These torture practices were encouraged by the authoritarian-era confession-based criminal justice system. The report was based on interviews with over 100 survivors from torture in Maldivian prisons.
25. The report specifies, beatings, solitary confinement, strappado or 'Palestinian hanging', near drowning, sexual assault and humiliation, subjection to noise and sleep deprivation.^{xv} Other forms of torture were alarmingly designed to fit the island environment, as highlighted under the 2011 report.^{xvi} Detainees and prisoners are tied to palm trees, left without the ability to sleep or use the toilet, in some cases survivors were drenched in sugar water to attract ants.
26. As the report asserts, countless acts of gross violations of human rights have been left unaddressed by the authorities, with survivors' claims for legal action and damages ignored by successive governments. There have been no concerted State-led efforts, the report said, to carry out credible investigations that lead to prosecution and conviction of perpetrators.^{xvii}

D. Torture during arrest and police custody

Controversial transfer of power

27. In October 2008 the Maldives held its first multi-party elections, in which a leading writer and democracy activist, Mohamed Nasheed, became the country's first democratically-elected president in November 2008, de-seating Maumoon Abdul Gayoom who had been in power since 1978. Three years into Nasheed's term in office, on 7 February 2012, forces within the State security forces loyal to the former leader mutinied and brought an end to the government in power.
28. The civil unrest triggered by the controversial transfer of power, depicted as coup d'etat by the ousted government, resulted in many instances of mental, physical and sexual assault perpetrated by the MPS. Several accounts of degrading and inhuman treatment against protestors and opposition politicians were detailed in a report outlining acts of torture that took place from February to June 2012.^{xviii} The 'anti-coup' protest on 8 February 2012 saw protestors face police brutality at an unprecedented scale, with hundreds of individuals in Malé and Addu resisting the new government accusing the riot police of ill-treatment and assault.
29. In July 2012, the UN Human Rights Committee expressed concern over the treatment of detainees following Nasheed's ouster, and called on authorities to thoroughly investigate acts of torture that precede democratic transition in 2008 by establishing an independent commission of enquiry.^{xix}

Medical care and prison conditions

30. In the past five years there has been a surge of individuals deprived of liberty accusing authorities of failing basic necessities such as adequate medical care and prison conditions. In 2013 Maafushi prison inmates petitioned the president regarding poor conditions, citing lack of space in prison cells, healthy food, clean water and access to timely and urgent medical care.^{xx} The petition highlighted that an inmate, Mohamed Ibrahim, was deprived of medical treatment resulting in his appendix bursting inside his stomach while he was inside the prison cell.^{xxi} A lack of trained staff and an oversight mechanism to address custodial abuses at detention facilities also contribute to increasing cases of unresolved torture allegations. In September this year, Ahmed Nafiu, an inmate serving a 7-month prison sentence blamed the MCS for loss of his seven toes.^{xxii} According to Nafiu's family he had a blister on his toe when he went to prison – his condition deteriorated quickly as prison officials failed to facilitate medical attention.^{xxiii}
31. These apparent instances of medical negligence can amount to acts of torture criminalised under Article 21 of the Anti-Torture Act.^{xxiv} According to Article 19(b) of the Act, authorities must facilitate medical assistance within 24 hours of any such request by an inmate or detainee. Under the law, Article 13 subsection (a) defines physical torture as any act or omission by a state official responsible for the care of a prisoner or detainee, whereby the said act or omission results in pain, weakening of the body, or losing normalcy in functioning of the body or part thereof.

32. In this regard, if a prisoner or detainee suffers a medical condition or dies in custody due to a prison official's failure to facilitate medical attention, duty-bearers should face legal ramifications stipulated under the Act, with reference to the Maldivian penal code. Section E of this report highlights incidents where such mistreatment has resulted in death in custody.

Police brutality and torture

33. The HRCM's annual reports from 2013 onwards suggest that acts of torture in Maldivian prisons and custodial centres are on the rise. The NPM stated that there were 72 cases of cruel, inhuman and degrading treatment submitted within the year 2013.^{xxv} Again, from 2014 to 2015 there were 54 cases of torture submitted to the HRCM, according to its annual report. Out of the 54, there were 13 cases of torture during arrest, 26 cases of inhumane treatment in custody, and 15 cases of abuse against protestors.^{xxvi} According to its 2015 report, there were 78 cases of torture submitted to the HRCM.^{xxvii} In 2017, there were 76 cases filed in relation to violation of detainee rights, 69 cases of lack of medical assistance to inmates, and 45 cases of torture.^{xxviii}
34. We documented over thirty cases of torture and abuse by the MPS during the State of Emergency imposed in February 2018. We conducted interviews with victims, their family members and lawyers. Some of the detainees interviewed were functionaries of the opposition coalition, while two belonged to the Special Protection Group (SPG) of the military.
35. One protestor, Abdulla Shaheem Abdul Hakeem, had his knees injured further to the point where he needed crutches to walk. Witnesses who saw Hakeem's arrest said he was screaming in pain while police dragged him on the streets by grabbing ahold of his shoulders. In addition to delaying taking an X-Ray advised by the doctor, officers also refused to pass on a knee protector provided by the victim's wife. Another protestor, Ahmed Adhuham, sustained injuries to his shoulder during his arrest. Adhuham reported that medical staff at the custodial centre refused to give medication for his injured shoulder. When he complained about the unsatisfactory medical care, he was subject to solitary confinement. His wife then submitted complaints to the HRCM regarding maltreatment and deprivation of medical care.
36. Moosa Ali Manik had severe injuries to his ear during the arrest by riot police. Similar to Manik, the Vice President of the Maldivian Democratic Party (MDP), Mohamed Shifaz, was held without producing him in court to extend remand. Many detainees arrested during this period from February to March 2018 refrained from eating regularly after complaining that the food at the detention facility was rotten. The current President-Elect, Ibrahim Mohamed Solih was arrested in March prior to the election in September. Solih complained that the authorities obstructed his medication. Mohamed Nadheem, the son-in-law of former president Gayoom, was arrested the same night as his father-in-law and kept in solitary confinement. It is worth noting that Nadheem is not active in politics.
37. An SPG officer, Ibrahim Simad, was also arrested and kept in solitary confinement at the military barracks for three days, said his wife. Another SPG officer, Ahmed Shaneez, was deprived of liberty by the police and his family members were misinformed by the authorities, stating that he was 'at a military-run island for training without access to his phone'.

38. Our organisation, along with the Asian Forum for Human Rights and Development (Forum-Asia) and International Federation for Human Rights (FIDH) made a joint statement regarding the escalating acts of torture perpetrated during the State of Emergency early this year.^{xxix}

E. Custodial deaths

Cases of deaths in custody

39. There has been an alarming number of prison deaths in the past five years. Five died in custody were reported in 2016, while three died last year. Authorities have not reprimanded any officials from the MPS or the MCS for any of the deaths in custody. Again, this year, there have been four custodial deaths, bringing the total to 13 since 2014. The reports of deaths in facilities of deprivation of liberty are especially worrying given the Maldives' small prison population. Another profoundly worrying trend is that the victims generally tend to be young inmates who have been consistently complaining about lack of access to medical assistance.
40. In June 2010, a 24-year-old detainee accused of disrupting Friday prayers on his native island, Ibrahim Afsal, self-immolated while in custody. Afsal's family told local media that police officers had tortured him several days after his arrest, however, no police foul play was visible because of the severe burn injuries.^{xxx}
41. A Maafushi prisoner, Ibrahim Azar, was killed in a fight inside the prison after inmates in his cell attacked him in February 2014. Media reports suggest Azar had requested to be shifted to another cell an hour before he was attacked and beaten to death.^{xxxi}
42. In May 2015, an inmate died in Maafushi prison of apparent natural causes. However, several sources close to the prisoner, Ahmed Lishan, 23, told local media that corrections officers ignored pleas for help after he started having excruciating chest pain.^{xxxii}
43. In late January 2016, Vishah Ali, a prisoner sentenced to five years' imprisonment died at the state-owned hospital. Ali's family members accuse the MCS of failing to provide prompt and proportional medical attention after his liver and kidney failure.^{xxxiii} Ali was also 23 when he died.
44. A 55-year-old prisoner died on the way to get further medical treatment in August 2016.^{xxxiv} Moosa Naeem, held at Dhoonidhoo custodial centre, died in custody without a post-mortem as per his family's wishes.^{xxxv}
45. A month later a 57-year-old man, Adam Ali, deprived of liberty before trial fainted in his holding cell and died after the police brought him to the state-run hospital.^{xxxvi}
46. In November 2016, a 23-year-old held under pre-trial detention also died in state care. Local media reported that Hussein Zareer had been awaiting trial for nearly two years.^{xxxvii} The police were not forthcoming about what led to his sudden death. The next month, in December, Ahmed Hassan was

found dead inside Asseyri prison on Himmafushi Island. MCS officers stated that he died of a heart-attack.^{xxxviii}

47. In July 2017, Mohamed Badeeu, a 52-year-old prisoner at the detention facility in Maafushi died - MCS did not provide the media with any details about the cause of his death apart from disclosing that he had diabetes.^{xxxix}
48. Ibrahim Asgar, a 32-year-old inmate, held at the prison on Maafushi Island, died from unconfirmed causes while receiving medical treatment on the island. The police stated it would launch an investigation in August 2017;^{xl} however they have not revealed any details since.
49. In October 2017, a detainee from the May Day protest in 2015, died in police custody creating a public outcry about the increasing custodial deaths. Abdullah Rasheed's conviction followed a severely flawed trial and politically motivated charges. In a continuation of the disturbing trend, his family, too, accused the authorities of negligence over his healthcare.^{xli}
50. Unknown assailants stabbed a 23-year-old receiving treatment at the National Drug Agency in January 2018.^{xlii} The news brought deaths in places of deprivation of liberty to the fore yet again. Later that month, a 33-year-old inmate, Ahmed Irushath, died of a heart-attack in Maafushi Prison.
51. In June this year, a 30-year-old man serving a 25-year-long sentence died in Maafushi Prison. His family told local media that Ali Abdulla was suffering from a congenital heart problem and high blood pressure.^{xliii} The family blamed MCS for failing to provide adequate care when Abdulla had made repeated requests for medical attention due to his medical condition.^{xliiv} Many opposition figures have accused the government of “killing prisoners” by depriving them of urgent medical care.
52. In July 2018, a 38-year-old former footballer suffered a stroke in MCS custody while imprisoned at Maafushi Prison. Hamzath Ahmed Fathuhy was serving a 25-year prison sentence for drug offences. His mother told the local media: “It is negligence when treatment is delayed in such a serious matter. They killed my son by denying treatment.”^{xliv}

F. Corporal punishment

Judicial flogging

53. The Maldives has a long-standing practice of administering judicial flogging against those convicted of Sharia penalties. It is highly concerning that the new Penal Code also permits judicial flogging via a Sharia opening in the penal law. In most cases women are disproportionately flogged for pre or extra marital sex, usually after giving birth out of wedlock. The act of judicial flogging, which the State defended claiming it is designed to “humiliate rather than cause physical pain”, is incompatible with the Maldives international obligations and the ideals adopted through the 2008 Constitution, which inherently aims to promote and protect open democracy and human rights.

54. The need to end this practice is paramount in light of recent events that show that the punishment of judicial flogging has been perpetrated against survivors of sexual abuse and assault. In August 2013, amid widespread discontent and civil society advocacy against the sentencing of a 15-year-old sexual abuse victim to 100 lashes, the High Court overturned the trial court decision.^{xlvi} The minor had confessed to consensual sex with another man during criminal proceedings against her stepfather, who had repeatedly raped and sexually abused her. As demonstrated by an investigative local news report in March 2013, the practice of flogging women for consensual sex has left a wide-range of psychological and societal effects on island communities in the Maldives.^{xlvii}
55. When a law creates disproportionate and unequal results, specifically against girls and women of underprivileged backgrounds, it shall be deemed void. Maldivian government should end the inhuman and humiliating act of flogging women for extramarital sex. Similar to other Sharia penalties that are not implemented in the Maldives, such as stoning to death and amputation, judicial flogging has no place in this day and age.

G. Recommendations

1. Training and capacity building of prison officials and police personnel assigned to prison and detention facilities, while appointing qualified individuals to lead these institutions;
2. Training and capacity building of oversight bodies such as the HRCM and the NIC, focusing on all elements of torture and preventive measures;
3. Amendment of legislation to empower the HRCM and NIC to be able to take direct legal action against perpetrators of torture, cruel and inhuman or degrading treatment. The current legislation only allows for these bodies to send cases to prosecution which requires specific types of evidence which is extremely hard to find in cases of torture; and to make a recommendation to the Home Minister, the implementation of which is solely at the discretion of the Minister;
4. Make the recommendations to the Home Minister under the HRCM Act and the NIC Act binding;
5. Mandatory requirement by the State to disclose documents pertaining to the medical well-being of inmates and detainees to their families;
6. The creation of a Medical Examiner's Laboratory in the Maldives: All the deaths in prison or in custody currently has one of two causes of death - stroke or heart failure. These vaguely described causes of death are insufficient to eliminate the presence of wrongdoing in the form of torture or cruel and inhuman treatment to a victim. It requires a post-mortem to be able to assess the cause of heart failure or stroke to an individual who was otherwise reported to have been in good health, in a place where their liberties have been suspended by the State;
7. Establish a mental health regime for detainees and inmates suffering from mental illnesses, ensuring that individuals deprived of liberty receive systematic psychological and psychiatric help from trained professionals, while proactively sharing details with their families;
8. Ensure proper monitoring and supervision of prison officials in the form of full CCTV coverage of prison and detention premises and include adequate resources for oversight bodies to conduct regular, mandatory supervisory visits to places of detention and prison facilities;
9. Allow for civil society organisations working towards prevention and documentation of torture to make unannounced visits to facilities of deprivation of liberty to interview police and prison officials, as well as inmates and detainees;
10. Discontinue the backward practice of judicial flogging for consensual sex out of wedlock, disproportionately implemented against girls and women.

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