

REFERENCE: DB/follow-up/Maldives/69

13 April 2018

Excellency,

In my capacity as Rapporteur on Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honor to refer to the examination of the combined fourth and fifth periodic report of Maldives, at the Committee's sixtieth session, held in February 2015. At the end of that session, the Committee's concluding observations (CEDAW/C/MDV/CO/4-5) were transmitted to your Permanent Mission. You may recall that in paragraph 53 on follow-up on the concluding observations, the Committee requested Maldives to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 9, 13 (a)-(c) and 45 (a) of the concluding observations.

The Committee welcomes the follow-up report received with a seven-month delay in September 2017 (CEDAW/C/MDV/CO/4-5/Add.1) under the CEDAW follow-up procedure. At its sixty-ninth session, held in March 2018 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 9** of the concluding observations, urging the State party to “**ensure the full implementation of the Convention and, to that end, recommends that it honor its commitment to withdrawing its reservation to article 16 (2) within a clear time frame and to reviewing its reservation to article 16(1), with a view to fully withdrawing it, taking into consideration the practices of countries with similar religious backgrounds and legal systems that have successfully harmonized their national legislation with international human rights obligations and consultations with civil society, in particular women's organizations**”: The State party reiterated that its Constitution maintains the reservations made to Article 16 CEDAW and informed that the present socio-cultural and political setting in the Maldives and the interpretation of the Shari'ah on matters relating to Article 16 of the Convention impede efforts to address unequal gender relations in marriage. The State party added that it is working on modifying the reservations made whilst keeping its legislation within Shari'ah provisions and that in this sense, in 2015, the Ministry of Law and Gender has submitted a paper to the Cabinet to modify the reservations made to Articles 16 (1) (a), (b), (e), (g) and (h) and 16(2). These modifications are to be endorsed by the Cabinet and approved by Parliament. It added that Maldivian women, despite the reservation placed on the provisions made to Article 16(1) of the Convention, already have equal rights in law and in practice in respect the provisions of Article 16(1) (a), (b), (e), (g) and (h) and that in the process

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of modifying its reservation to Article 16(2) on 20 September 2016, Supreme Court introduced a requirement for its special permission for every marriage of a minor, which needs to be accompanied by an assessment made by the Ministry of Gender and Family. It added that to the date of the follow-up report, the Ministry of Gender and Family has not given its approval to any application for marriage by a minor.

The Committee welcomes efforts made by the State party to revise its reservations made to Article 16 CEDAW and takes note of the protection in cases of marriages of minors, such as required. The Committee however regrets that its reservations have not yet been removed and that its national legislation has not yet been harmonized with international human rights obligations. The Committee therefore considers that the State party has not taken sufficient steps to implement the recommendation. The Committee considers the recommendation **has not been implemented**.

The Committee considers that the information provided by the State party was thorough and extensive and relates directly to the recommendations. It therefore considers that the information provided was **satisfactory**.

The Committee recommends that, in relation to **paragraph 9** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to **withdraw within a clear time frame its reservations to article 16(2) and 16(1) of the Convention, taking into consideration the practices of countries with similar religious backgrounds and legal systems that have successfully harmonized their national legislation with international human rights obligations**.

In relation to the recommendation made in **paragraph 13** of the concluding observations, urging the State party to “**expedite the adoption of bills pending before the parliament aimed at strengthening the State party’s administration of justice, in particular the bills on legal aid, evidence, witness protection, juvenile justice and the judicature**”: The State party reported that it has modernized its criminal justice framework, that a new penal code has been enforced since 2015 and that its Criminal Procedure Code, which was developed in accordance with international law principles and standards, entered into force in July 2017. It indicated that its Criminal Procedure Code sets out stringent procedures in making applications for court orders, codifies police powers for search and seizure, provides for specific timeframes for investigation and prosecution, and introduces procedures that guarantee speedier trials.

It added that, in order to provide legal aid for those who cannot afford the services of a lawyer in serious criminal cases, it ratified a Mutual Legal Assistance in Criminal Matters Act in 2015 and the Mutual legal Assistance in Criminal Matters Regulation in 2017.

The State party further reported that a new Evidence Bill has been submitted to Parliament which includes provisions to this effect.

In terms of reforms of the judicature, the State party reported on the enactment of its Judicature Act, which contains provisions in respect of its courts, jurisdiction and the principles governing the functions of these courts. The State party added that in 2017, it reduced the number of judges from 7 to 5 and established two branches of the High Court in the northern and in the southern region of the country, to increase their accessibility.

The Committee welcomes efforts made by the State party to bring its criminal justice framework in line with international standards, and particularly the introduction on specific provisions regarding legal aid and witness protection. It further welcomes the enactment of a new Judicature Act, setting out clear and transparent functions and principles for each court, and the establishment of a victim support department. Taking note of advancements made in the development of its Juvenile Justice Bill and in the adoption of the Evidence Bill, the Committee regrets that they have not yet been adopted. It considers that the State party has taken substantial

steps to implement its recommendations. The Committee thus considers that the recommendation **has been substantially implemented**.

The Committee considers that the information provided by the State party is thorough and extensive and relates directly to the recommendations. It therefore considers that the information provided is **satisfactory**.

Regarding the recommendation urging the State party to “**remove evidentiary requirements that discriminate against women and ensure the equal consideration and weight of women’s testimonies as witnesses**”: The State party stated that the new Penal Code in force since 2015 provides for sentences in a transparent and equitable manner for the purposes of eliminating arbitrary sentencing, and therefore also discrimination between men and women. It further reported that the Prosecutor General’s office has established a Victim Support Department to ensure that all women and children have adequate support within the law enforcement process.

The Committee welcomes the establishment of a department to ensure adequate advice and support to all victims throughout the law enforcement process. Taking note of the provisions of its new Penal Code, it regrets that the State party did not provide information on specific measures taken to remove evidentiary requirements that discriminate against women or to ensure that equal weight is given to women’s testimonies as witnesses. The Committee thus considers that the State party has not taken sufficient steps to implement the recommendations. It considers that the recommendation **has not been implemented**

The Committee considers that the information provided by the State party was vague and incomplete. It thus considers that the information provided is **unsatisfactory**.

With regards to the recommendation urging the State party to “**take measures to increase the representation of women in the judiciary, in particular as judges and court officials**”: The State party reported that in the last 5 years, the number of women in the judiciary has increased and that women make up 40.16% of employees working in the judiciary. It informed that in the State party, women represent 4.7% of judges, 40.67% of court officers and 43.79% of in other areas in the judiciary. The State party added that a gender sensitization programme for the judiciary on recently introduced gender equality legislation is planned to be implemented in 2018.

The Committee welcomes the increase in the representation of women in the judiciary. It however regrets the absence of concrete measures taken to increase the representation of women in this sector, and specifically as judges. The Committee considers that the State Party has not taken sufficient steps to implement the recommendations. It thus considers that the recommendation **has not been implemented**.

The information provided by the State party fails to address the recommendations. The Committee thus considers that it is **unsatisfactory**.

The Committee recommends that, in relation to **paragraph 13** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. **Expedite the adoption of the Juvenile Justice Bill and the Evidence Bill in order to further strengthen the State party’s administration of justice.**
2. **Take specific measures to remove evidentiary requirements that discriminate against women and ensure the equal consideration and weight of women’s testimonies as witnesses or provide information as to the changes.**
3. **Take specific measures to increase the representation of women in judicial administration in particular as judges.**

With regards to the recommendation made in **paragraph 45** of the concluding observations, the State party “**as a matter of urgency, decriminalize and abolish the imposition of flogging as a sentence for consensual sexual relations outside marriage, as recommended by the Committee in its previous concluding observations (CEDAW/C/MDV/CO/3, para. 34)**”: The State party reported that in accordance with Article 10 of its Constitution, Islam is one of the basis of all its laws. The State party added that it passed the Special Procedures Act on Sexual Abuse defining that no child under the age of 13 years can give consent, and that any child between the ages of 13-18 has an excusable defense, unless they explicitly express they had willingly given consent.

The Committee takes note of the information provided by the State party that Islam is one of the basis of its laws. It however regrets that the State party has not taken measures to decriminalize and abolish the imposition of flogging as a sentence for consensual sexual relations outside marriage and considers that the information received by the State party **reflects rejection of its recommendation**.

The Committee considers that the information provided by the State party has failed to address the recommendation. It thus considers that it is **unsatisfactory**.

The Committee recommends that, in relation to **paragraph 45** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to **urgently decriminalize and abolish the imposition of flogging as a sentence for consensual sexual relations outside marriage**.

Accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



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