

**Alternative Report to the Human Rights
Committee regarding the Maldives' protection
of the rights of LGBTQI+ persons under the
International Covenant on Civil and Political
Rights**

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1. EXECUTIVE SUMMARY

- 1.1 Kaleidoscope Human Rights Foundation (**Kaleidoscope**) is an NGO committed to promoting and protecting the human rights of lesbian, gay, bisexual, transgender, queer and intersex people (**LGBTQI+**) in the Asia Pacific region. Kaleidoscope works directly with local activists to enhance their capacity to combat prejudice, hostile authorities and discriminatory laws, helping them achieve the freedom and equality essential to living a life of dignity.
- 1.2 We have prepared this report with input from LGBTQI+ activists in the Republic of Maldives (**Maldives**) to inform the Human Rights Committee (**Committee**) of areas where the Maldives is failing to comply with its obligations under the International Covenant on Civil and Political Rights (**ICCPR**) with respect to the human rights of LGBTQI+ people. It concludes with suggested recommendations for inclusion in the Committee’s concluding observations.
- 1.3 This Alternative Report considers paragraphs 8 and 9 of the list of issues,¹ and paragraphs 70 to 77 of the Maldives’ second periodic report.²

1.4 By way of summary:

1.4.1 The Committee sought via the list of issues for the Maldives to indicate “legislative and other measures taken within the reporting period to address laws and social practices that discriminate on the basis of sex, sexual orientation, religion, disability, migration status and nationality”,³ and to “provide information on progress towards the implementation of the Committee’s previous recommendations ... on the decriminalization of sexual relations between consenting adults of the same sex, and measures taken to combat the stigmatization and marginalization of lesbian, gay, bisexual, transgender and intersex persons”.⁴ The Committee also sought clarification on reports of attacks against LGBTQI+ rights defenders, specifically the murder of Yameen Rasheed in April 2017, a human rights defender and blogger who spoke out in support of those rights.⁵ It is notable that the Committee’s previous concluding observations adopted in 2012 were limited to highlighting discrimination on the basis of sexual orientation.⁶ The Committee has appropriately expanded the list of issues to capture stigmatisation and marginalisation of transgender and intersex persons.

1.4.2 In response, via its second periodic report, the Maldives noted the following:

¹ United Nations Human Rights Committee, ‘*List of issues prior to submission of the second periodic report of Maldives*’, CCPR/C/MDV/QPR/2 (2 February 2021) (**‘List of Issues’**).

² United Nations Human Rights Committee, ‘*Second periodic report submitted by Maldives under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021*’, (7 December 2022) (**‘Second periodic report’**).

³ List of Issues (n 1) [8].

⁴ List of Issues (n 1) [9].

⁵ List of Issues (n 1) [9]; World Organisation Against Torture, ‘Murder of human rights activist and blogger Yameen Rasheed’ (Webpage, 2017) <<https://www.omct.org/en/resources/urgent-interventions/murder-of-human-rights-activist-and-blogger-yameen-rasheed>>.

⁶ United Nations Human Rights Committee ‘*Concluding observations adopted by the Human Rights Committee at its 105th session, 9-27 July 2012*, CCPR/C/MDV/CO/1, (31 August 2012), [8].

- 1.4.2.1 Provisions contrary to Shariah law cannot be incorporated into the Maldivian legal framework.⁷
 - 1.4.2.2 The Maldives has non-discriminatory provisions on the basis of race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island (citing Article 17 of the Constitution). No further anti-discrimination legislation has been under consideration at the Parliament.⁸
 - 1.4.2.3 As to the murder of Yameen Rasheed, Maldives Police Service (MPS) investigated and ultimately prosecuted six people. Two of those six people were found guilty and sentenced to life imprisonment.⁹
- 1.5 The circumstances in the Maldives are dire for LGBTQI+ people, who are subjected to violence, discrimination and stigmatisation on the basis of their sexual orientation, gender identity and expression or sex characteristics (SOGIESC). Same-sex sexual conduct is an indictable offence, attracting an 8-year prison sentence and 100 lashings. Whether or not that sexual conduct is consensual is not specified and, for that reason, victims of non-consensual sexual violence, such as sexual slavery and trafficking, rape and assault, may themselves be guilty under this law. There are limited protections under Maldivian law against discrimination on the basis of SOGIESC. Blackmail, extortion and harassment of LGBTQI+ is a pervasive problem which the Maldivian government has failed to adequately address. While discrimination against LGBTQI+ persons in everyday life is widely known to occur, insufficient data exists for accurate reporting on the significant nature and extent of such experiences.
- 1.6 While the Maldives has taken some steps to protect people from discrimination on the basis of sex, race and nationality, it is clear that no substantive measures have been implemented to protect the rights of LGBTQI+ Maldivians or to prosecute violations of their rights under the ICCPR since the Maldives was recommended to do so by the Committee in its concluding observations adopted in 2012.
- 1.7 We urge the Committee to include in its concluding observations, recommendations that the Maldives:
- 1.7.1 Repeal or amend the provisions of the Penal Code and all other laws in order to decriminalise:
 - 1.7.1.1 consensual same-sex sexual conduct between adults (ss 411-412 of the *Penal Code (Law No. 6) (2014)* (Maldives)); and
 - 1.7.1.2 advocating for the rights of lesbian, gay, bisexual, transgender, gender diverse and intersex persons, and forming organisations and associations for that purpose,

(Articles 2 and 26).

⁷ Second periodic report (n 2) [70].

⁸ Second periodic report (n 2) [71].

⁹ Second periodic report (n 2) [75].

- 1.7.2 Enact anti-discrimination legislation to protect LGBTQI+ persons and clarify that sexual orientation, gender identity and expression and sex characteristics are prohibited grounds for discrimination (Articles 2 and 26).
- 1.7.3 Amend laws to ensure that the LGBTQI+ community are equally protected against sexual violence, including rape and assault (Articles 6, 9 and 26).
- 1.7.4 Provide remedies for LGBTQI+ persons where their human rights are violated (Article 2(3)).
- 1.7.5 Introduce legislative measures to protect against hate speech about and towards LGBTQI+ persons, including in online forums (Articles 2 and 26).
- 1.7.6 Introduce legislative measures to protect LGBTQI+ persons from harassment, including in online forums (Articles 2 and 26). Legislative measures should specifically address ‘doxing’ (the practice of exposing a person’s private information online).
- 1.7.7 Introduce legislative measures to criminalise coercive conduct designed to change a person’s sexual orientation, gender identity or expression or sex characteristics (conversion practices) (Article 7).
- 1.7.8 Ensure individuals can obtain legal recognition of their gender without discrimination or violation of their human rights (Articles 9, 17, 23 and 26).
- 1.7.9 Introduce legislative measures to prohibit medically unnecessary interventions aimed at modifying intersex persons’ (including minors’) sex characteristics without their free, prior, and informed consent.
- 1.7.10 Remove stereotypes of the LGBTQI+ community through public awareness raising campaigns and education (Articles 9, 17 and 26).
- 1.7.11 Introduce legislative measures that protect the right to privacy for LGBTQI+ persons (Article 17).
- 1.7.12 Legislate for marriage equality to ensure that same-sex couples are able to enjoy the same legal protections and benefits as those granted to married heterosexual couples (Articles 2 and 23).

2. LEGAL & SOCIAL CONTEXT

- 2.1 The Republic of the Maldives (**Maldives**) is a theocratic State where the *Constitution of the Republic of the Maldives 2008* (**Constitution**):
 - 2.1.1 designates Islam as the ‘State Religion’, and every Maldivian law must be consistent with the tenets of Islam;¹⁰
 - 2.1.2 makes citizenship contingent on being Muslim;¹¹

¹⁰ *Constitution of the Republic of the Maldives 2008* s 10 (**‘Constitution’**); Second periodic report (n 2) [70].

¹¹ *Ibid* s 9(d).

- 2.1.3 guarantees citizens freedoms and rights, and protects them, but only insofar as they are consistent with, and do not limit, the tenets of Islam;¹² and
- 2.1.4 specifically requires members of the People’s Majlis (the Maldives’ legislature), members of Cabinet, the President, and judges to be Sunni Muslims.¹³
- 2.2 After 78 years of British protectorate status, and a further 30-year rule by the same leader, the Maldives transitioned into a multi-party democracy in 2008.¹⁴ At the time, the Maldives’ legislature enacted the Penal Code: the first contemporary comprehensive criminal law in the world to incorporate the primary principles and tenets of Islamic law.¹⁵ The Penal Code was drafted by Professor Paul Robinson and the Criminal Law Research Group of the University of Pennsylvania Carey Law School, at the request of the Maldivian government.¹⁶
- 2.3 In drafting the Penal Code, Professor Robinson and his students consulted with Maldivian judges, prosecutors, private defence lawyers, government officials, and ordinary citizens to determine community values. ‘We worked very hard to have the draft reflect the values of the Maldivian society, not Western values’, Professor Robinson said.¹⁷ He added:
- We had a good deal of Shari’a expertise on our drafting team, including Islamic scholars here at Penn. Our official commentary gave lots of cites to the traditional Islamic authorities, producing a highly persuasive case that the proposed code was not inconsistent with important Muslim doctrine.*
- 2.4 Professor Robinson noted that the drafting process was complicated by disagreements among Maldivians on numerous issues, stating that:¹⁸
- [s]uch disagreements exist in all societies. Our role as drafters is not to resolve them but rather to produce a draft Code that identifies these contentious issues and thereby assists the Majlis – and through it, the Maldivian people – in making these difficult decisions. In each instance, our resolution of an issue in the draft Code is simply a starting point for the discussions that must take place in the society at large and in the People’s Majlis.*
- 2.5 In the past decade, the Maldives has experienced political uncertainty and growing religious extremism, and this has coincided with several violent attacks on ‘liberal’ activists and other citizens who have expressed outspoken support for moderate religious practices. This became especially evident following the implementation of political reforms and the transition to

12 Constitution (n 9) ss 16(a)-(b).

13 Ibid ss 73(a)(3), 109(b), 130(a)(3), 149(b)(1).

14 Mohamed Affan Shafy ‘Reforming the Maldivian Penal Code with Reference to Punishment of Imprisonment’ (PhD Thesis, International Islamic University Malaysia, 2000).

15 ‘Penal code drafted by Prof. Paul Robinson and students is enacted in the Maldives’, *Penn Carey Law* (Webpage, 08 May 2014) <https://www.law.upenn.edu/live/news/4728-penal-code-drafted-by-prof-paul-robinson-and> (‘**Penn Carey Law**’).

16 Robinson, Paul H. and Criminal Law Research Group, ‘Final Report of The Maldivian Penal Law & Sentencing Codification Project: Text of Draft Code (Volume 1) and Official Commentary (Volume 2)’ (2006). All Faculty Scholarship 290.

17 Penn Carey Law (n 25).

18 Robinson (n 26) 4.

multiparty democracy in 2008, which gave a greater voice to religious conservatives and those calling for the rigid implementation of Sharia law in the Maldives.¹⁹

2.6 The Maldives' religious profile is one of the key factors underpinning its hegemonic social conservatism,²⁰ which has made it impossible for people to live freely and openly as LGBTQI+ in the Maldives. This reality may be summarised as follows:²¹

2.6.1 Same-sex sexual acts, regardless of gender or sex are criminal offences, punishable by up to eight years imprisonment and 100 lashes, under the *Penal Code (Law No. 6) (2014)* (Maldives) ss 411-412 (**Penal Code**). Legislative efforts to increase the penalty for same-sex sexual acts to capital punishment were made in 2022 (*Bill on Amendment to the Criminal Procedure Act (2022)* (Maldives)). Though this Bill was ultimately rejected by the People's Majlis, it received 13 votes in support.

2.6.2 Maldivian law does not specifically target freedom of expression on LGBTQI+ issues or restrict civil society organisations working on those issues. However, this does not mean local communities can freely and effectively share and access information on LGBTQI+ issues, or register and operate organisations focussed on those issues, as various other factors restrict such expression and association freedoms in practice.

2.6.3 LGBTQI+ Maldivians have no general protections from discrimination under the Constitution, nor are they otherwise protected from discrimination in the provision of goods and services, health, education, employment, and housing.

2.6.4 Maldivian law contains no prohibition on incitement to violence, hatred, or discrimination based on SOGIESC. Moreover, crimes committed against LGBTQI+ by reason of their SOGIESC attributes are not recognised as hate crimes under the law and do not attract aggravated penalties.

2.6.5 Practices which seek to change a person's sexual orientation or gender identity (so-called 'conversion practices') are unregulated.

2.6.6 Neither marriage, civil unions, joint adoption, nor second parent adoption are legally available for same-sex couples. Adoption is not legally possible, owing to the Maldives signing the Convention on the Rights of the Child with the reservation that adoption under Article 21 is incompatible with Sharia law.²² In practice, however, Maldivians can indefinitely foster children,²³ although this is generally

¹⁹ Animesh Roul, 'The Threat from Rising Extremism in the Maldives' (2013) 6(3) CT Sentinel, citing Tom Wright, 'Islamism Set Stage for Maldives Coup', *Wall Street Journal* (Webpage, 11 February 2012) <https://www.wsj.com/articles/SB10001424052970203824904577215050907606404>.

²⁰ United Nations Maldives, 'Maldives Common Country Analysis' (Report, 1 March 2020) <https://maldives.un.org/sites/default/files/2020-11/3.%20Maldives%20CCA%20Final.pdf>.

²¹ This summary is adapted from ILGA World Database 'LGBTI Rights in Maldives', (Webpage, 2024) <https://database.ilga.org/maldives-lgbti>.

²² United Nations Treaty Collection, '11. Convention on the Rights of the Child: Declarations and Reservations' (Webpage) accessed 2 June 2024 https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4. See also Justin Rogers and Mariya Ali, 'The seeds of reform; the evolution of the alternative care system in the Maldives' (2023) 10(2) *Institutionalised Children Explorations and Beyond* 154, 156.

²³ Kristie Druzca and Anh Tran, *Evaluation of the Single Parent and Foster Care Social Protection Schemes in the Maldives* (Webpage, July 2021) <https://www.developmentpathways.co.uk/wp-content/uploads/2021/07/Evaluation-of-the-Single-Parent-and-Foster-Care-Schemes-in-the-Maldives-Final-report.pdf>, section 2.2

restricted to married Maldivian couples (or in some cases, single persons) who meet all of the relevant eligibility requirements.²⁴ Practically, openly LGBTQI+ people cannot adopt or foster children in the Maldives.

2.6.7 Maldivian law does not restrict medically unnecessary interventions aimed at modifying intersex minors' sex characteristics without their free, prior, and informed consent.

2.6.8 While name changes are nominally possible, by submitting required documents to the 'Male Municipality Ge Aabadheeaai behey section' including name change forms, original birth certification, an identity card and 'house registry', Maldivian law does not allow for gender marker changes. The absence of any mechanism for transgender and gender diverse individuals to receive identity documents that match their gender identity or expression creates a significant risk of adverse treatment including discrimination and harassment. For example, it may present a practical barrier to securing employment in circumstances where identity documentation is required as part of a job application, forcing transgender or gender diverse individuals to disclose their gender identity.

3. POSITIVE STEPS TAKEN BY THE MALDIVES

3.1 OutRight Action International, an LGBTQI+ organisation and human rights watchdog, reported in 2019 that the Maldives was 'moving towards' a ban on conversion therapy practices.²⁵

3.2 In November 2021, the People's Majlis passed an amendment to the Penal Code dubbed the 'Hate Crime Bill', which was first proposed just weeks after the attempted assassination of prominent politician and former Maldivian President, Mohamed Nasheed, in Male in May 2021.²⁶ Nasheed had earned the label of *laadheenee*, meaning 'enemy of Islam', among his detractors, and the 'Hate Crime Bill', as passed, criminalises:²⁷

portraying people as non-believers or as anti-Islamic based on views expressed on religious matters in which religious scholars have conflicts or opposing views. It also dissuades the labelling of a Muslim as anti-Islamic unless the person publicly proclaims himself to be non-believer, comes out as a non-believer, or deliberately commits an act of kufr [disbelief].

3.3 The 'Hate Crime Bill' also criminalises violence perpetrated based on the victim's nationality, politics, race, and skin colour.²⁸ While this is certainly a positive development for certain human rights given the increasing religious extremism and violence in the Maldives in recent times (discussed further below), the 'Hate Crime Bill' did not address LGBTQI+ Maldivians and therefore keeps them exposed to violence and discrimination on the basis of their SOGIESC attributes.

²⁴ SunOnline International 'Gender urges as many as possible to foster children' (Webpage, 16 June 2016) <https://en.sun.mv/75535>.

²⁵ OutRight Action International, 'Harmful Treatment: The Global Reach of So-Called Conversion Therapy' (2019) <https://www.ohchr.org/sites/default/files/Documents/Issues/SexualOrientation/IESOGI/CSOsKZ/Outright.pdf>.

²⁶ Nash'ath Mohamed, "I Could Have Been Next", *Stymied Reforms in the Maldives* (Report, 14 April 2022) <https://www.hrw.org/report/2022/04/14/i-could-have-been-next/stymied-reforms-maldives>.

²⁷ Ibid.

²⁸ Ibid.

4. EVIDENCE AND TESTIMONY OF RIGHTS VIOLATIONS

- 4.1 Maldivians who are openly, or are perceived to be, LGBTQI+ face high levels of risk to their freedoms and safety, both from Islamic extremists directly and from the government when those extremists apply sufficient pressure on it.
- 4.2 For example, in 2019 the national Solih Government reportedly commenced addressing human rights concerns and LGBTQI+ issues, but abandoned such work in response to mounting pressure from Islamic extremist forces.²⁹ Indeed, according to one Maldivian LGBTQI+ activist, who was labelled a blasphemer by state-sponsored news media and forced into exile abroad, the government ‘attack[s] those viewed as promoting liberal views’, to a greater extent even than its political opposition and Islamist extremists.³⁰ Another Maldivian LGBTQI+ activist fears the experiences and realities faced by LGBTQI+ people in the Maldives will only get worse under the Government, newly elected in 2023, which holds alliances with extremist factions, stating:³¹

[w]e have no support from the government at all – our existence itself is a crime – so all crimes against queer folk in this country get ignored...Queer people get blackmailed, robbed, and sexually assaulted regularly here with no investigation or police report.

Blackmail, extortion, and criminalisation of LGBTQI+ persons

- 4.3 In 2022, it was widely reported³² that a Bangladeshi man named MD Alamgir was arrested for engaging in consensual same-sex conduct, for which he was imprisoned for seven months following a guilty plea.³³ Alamgir’s arrest came after videos of him engaging in consensual sexual conduct with other men were leaked online.³⁴ It is not completely clear by whom the videos were recorded or leaked, however some news outlets reported that a lawyer named Maumoon Moosa was responsible for the recordings which he used to blackmail and extort the men contained within the videos.³⁵
- 4.4 Other news outlets reported that it was Alamgir himself that recorded the videos but that they were recorded in an apartment owned by a man named Hamdhooon Abdulla and that in a statement given to police, Alamgir referred to this man as ‘boss’, suggesting that Alamgir may have been under his control.³⁶

²⁹ Ankush Kumar, ‘Maldives activists say new president won’t bring LGBTQ rights to country’, *Washington Blade* (online, 18 October 2023) <https://www.washingtonblade.com/2023/10/18/maldives-activists-say-new-president-wont-bring-lgbtq-rights-to-country/>.

³⁰ Ibid.

³¹ Ibid.

³² If the Maldivian Criminal Court has made publicly accessible its reasons in its decision on the MD Alamgir case, it has not done so in English. Therefore, this report instead relies on the various media reports written on the matter.

³³ Human Rights Watch, ‘Maldives: Arrests for Gay Sex Politically Motivated’, (Webpage, 10 August 2022) <https://www.hrw.org/news/2022/08/10/maldives-arrests-gay-sex-politically-motivated>; Human Rights Watch, ‘Maldives: Events of 2022’ (Webpage, 2023) <https://www.hrw.org/world-report/2023/country-chapters/maldives>.

³⁴ Ibid.

³⁵ ‘Lawyer arrested for recording same-sex videos, blackmail released’, *Sun Siyam Media* (Webpage, 2 October 2022) <https://en.sun.mv/78011>.

³⁶ ‘Leaked videos: “Boss” remanded in custody for 15 days’: *Avas Media* (Webpage, 25 September 2022) <https://avas.mv/en/122726>.

- 4.5 It is notable that action was taken only against the men contained within the videos, including Alamgir himself, a senior law enforcement officer and the brother of a prominent politician and former President. These men were sentenced to just under 14 months imprisonment, 12 months imprisonment, and three months in home confinement, respectively.³⁷ Despite the evidence linking the recordings and blackmail to Maumoon Moosa and Hamdhoon Abdulla, and the evidence that Alamgir was under the control of Abdulla, it was Alamgir who was further indicted on 40 counts of producing or distributing obscene material.³⁸
- 4.6 In the above case, it has been reported that Alamgir was likely trafficked into the Maldives as a minor.³⁹ That this report has gone unacknowledged by Maldivian authorities raises concerns that the authorities disregard complaints of significant human rights abuses against LGBTQI+ people, such as human trafficking.
- 4.7 The investigations and arrests of dozens of men by Maldivian authorities related to the Alamgir case including a police officer and the brother of a prominent politician and former President (mentioned above), for alleged consensual same-sex sexual activity, have been condemned as ‘politically motivated’ and attempts to ‘appease extremist groups’.⁴⁰ Human Rights Watch has described the arrests as ‘arbitrary’ and warned the anti-LGBTQI+ laws facilitating them may be used to blackmail, extort, or politically manipulate.⁴¹

[t]he arrest[s]...for consensual same-sex conduct [show] the arbitrary nature of these discriminatory laws...The laws leave people open to blackmail and other abuse, and easily become a political tool in which those prosecuted bear the brunt of the abuse.

Threats to the personal safety and security of LGBTQI+ people

- 4.8 Maldivians who are openly, or are perceived to be, LGBTQI+ face high levels of risk to their freedoms and safety. Kaleidoscope is aware that incidents of anti-LGBTQI+ violence in the Maldives include:
- 4.8.1 in 2019, the murder by three migrant workers of their colleague, where the reason given in their confession was ‘unwanted advances and forced attempts at sex’;⁴² and
- 4.8.2 events as described to Kaleidoscope in the following remarks by a Maldivian LGBTQI+ activist:

Multiple people I know of and have met in person have told me about a blackmailing ring that operates through Grindr or Tinder, and at least one of the members is a cop. There's no way for the survivors to report the assault, theft and blackmailing without endangering themselves and multiple other

³⁷ Naizak Mohamed, ‘Alamgir case: Police officer sentenced to a year in prison’, *SunOnline International* (Webpage, 22 September 2022) <https://en.sun.mv/77775>.

³⁸ ‘MD Alamgir indicted on 40 counts of producing or distributing obscene material’, *The Times of Addu* (Webpage, 18 September 2022) <https://timesofaddu.com/2022/09/18/md-alamgir-indicted-on-40-counts-of-producing-or-distributing-obscene-material/>.

³⁹ ‘Alamgir was a minor at the time of sex trafficking’ *The Maldives Journal* (online, 1 August 2022) <https://themaldivesjournal.com/40001>.

⁴⁰ ‘Maldives: Arrests for Gay Sex Politically Motivated’, *Human Rights Watch* (Webpage, 10 August 2022) <https://www.hrw.org/news/2022/08/10/maldives-arrests-gay-sex-politically-motivated>.

⁴¹ Ibid.

⁴² ‘Maldives’, *Human Dignity Trust* (Webpage, 2024) <https://www.humandignitytrust.org/country-profile/maldives/>.

survivors to sexual deviancy investigations and 'conversion therapy' and legal punishments.

- 4.9 The harassment of LGBTQI+ Maldivians, by other individual Maldivians as well as law enforcement, is a verified problem. In 2021, the US State Department's Bureau of Democracy, Human Rights, and Labor reported that:⁴³
- 4.9.1 groups of protestors gathered outside the residences of two men on separate Maldivian islands, accusing them of having engaged in same-sex sexual acts, before both men were reportedly taken into custody by law enforcement; and
- 4.9.2 social media users in the Maldives who are in any way connected with LGBTQI+ persons (because they either identify as or support LGBTQI+ persons), are routinely targeted for online abuse, harassment, and threats;⁴⁴.
- 4.10 Before the commencement of the Penal Code, Sharia law applied only to Maldivian Muslims, and law enforcement otherwise tended not to concern itself with private behaviour. However, since 2013, investigations, arrests, charges laid, and convictions handed down, in relation to people with real or perceived LGBTQI+ status, have become common, with as many as a dozen individual cases heard by Maldivian courts in 2020 alone.⁴⁵ This exercise of the country's anti-LGBTQI+ laws extends to Maldivians who have fled and sought asylum abroad based on their LGBTQI+ status, as reflected in the President's Office 'recognis[ing] sexual orientation as a reason for prosecution in case of return to the country'.⁴⁶

5. RIGHTS IN ICCPR POTENTIALLY VIOLATED

- 5.1 It is an ongoing concern that laws criminalising consensual same-sex activity violate the right to privacy and the right to equality before the law without discrimination (Articles 17(1) and 2 respectively of the ICCPR).⁴⁷ This interpretation is entrenched by numerous decisions of the Committee, either urging States to repeal laws which criminalise consensual same-sex activity or commending them for bringing their legislation into conformity with the ICCPR by repealing such provisions.⁴⁸

43 Democracy, Human Rights, and Labor Bureau, United States State Department, *2020 Country Reports on Human Rights Practices: Maldives* (Report, 30 March 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/maldives/>.

44 See also 'World Report 2022: Maldives', *Human Rights Watch* (Webpage, 2024) <https://www.hrw.org/world-report/2022/country-chapters/maldives#2048fc>.

45 Democracy, Human Rights, and Labor Bureau, United States State Department, *2020 Country Reports on Human Rights Practices: Maldives* (Report, 30 March 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/maldives/>.

46 Colin Stewart, 'Maldives: Lenient no more, island nation arrests 2', *Erasing 76 Crimes* (Webpage, 1 September 2015) <https://76crimes.com/2015/09/01/maldives-lenient-no-more-island-nation-arrests-2/>.

47 See *Toonen v Australia*, CCPR/C/50/D/488/1992, April 4, 1994.

48 See Human Rights Committee Concluding Observations: United States of America, A/50/40, October 3, 1995; Cyprus, CCPR/C/79/Add.88, April 6, 1998; Ecuador, CCPR/C/79/Add.92, August 18, 1998; Chile, CCPR/C/79/Add.104, March 30, 1999; Lesotho, CCPR/C/79/Add.106, April 8, 1999; Romania CCPR/C/79/Add.111, July 28, 1999; Australia, A/55/40, July 24, 2000; Egypt, CCPR/CO/76/EGY, November 28, 2002; Kenya, CCPR/CO/83/KEN, March 28, 2005; United States of America, CCPR/C/USA/CO/3, September 15, 2006; BArabdos, CCPR/C/BRB/CO/3, May 11, 2007; Chile, CCPR/C/CHL/CO/5, May 18, 2007.

- 5.2 In the 2020 Universal Periodic Review of the Maldives,⁴⁹ the UN Human Rights Council issued the following recommendations as relevant to the protection of LGBTQI+ people:
- 5.2.1 (133.66) Guarantee full and equal enjoyment of human rights for lesbian, gay, bisexual, transgender and intersex persons by repealing the norms that penalize and stigmatize them;
 - 5.2.2 (133.67) Repeal the laws that criminalize consensual same-sex relationships and immediately reinstate the moratorium on the arbitrary arrest and detention of persons based on their sexual orientation (real or perceived), gender identity or expression;
 - 5.2.3 (133.69) Decriminalize consensual sexual relations between adults of the same sex and expand its anti-discrimination legislation to include a prohibition of discrimination on the basis of sexual orientation or gender identity
 - 5.2.4 (133.70) Ensure full protection of the rights of lesbian, gay, bisexual, transgender and intersex persons without discrimination;
 - 5.2.5 (133.73) Repeal all the provisions that discriminate and stigmatize persons on the basis of their gender identity or sexual orientation and guarantee their full enjoyment of their rights;
 - 5.2.6 (133.74) Decriminalize consensual same-sex relationships between adults, and take action to prevent discrimination based on sexual orientation or gender identity;
 - 5.2.7 (133.236) Adopt measures to establish anonymous helpline and counselling services for victims of discrimination and violence, especially for vulnerable groups such as women, girls, people belonging to religious minorities and the lesbian, gay, bisexual, transgender and intersex community.
- 5.3 In response to these recommendations, the Maldives ‘noted’ and replied further:

*Islam is the religion of Maldives and Islamic principles are fundamental to the Maldivian identity, forming the basis of the Constitution of the Republic of Maldives and all our laws.*⁵⁰

6. CONCLUSIONS AND RECOMMENDATIONS

- 6.1 There is a significant way to go for LGBTQI+ rights in the Maldives. There is an irreconcilable difference between the Maldivian legal landscape and LGBTQI+ rights. Given the political and cultural environment analysed in this submission, Kaleidoscope Human Rights Foundation recommends that the Committee include in its concluding observations that the Maldives:
- 6.1.1 Repeal or amend the provisions of the Penal Code and all other laws in order to decriminalise:

⁴⁹ United Nations Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Maldives’ UN Doc/A/HRC/46/10 (15 December 2020).

⁵⁰ United Nations Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review* Maldives Addendum Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review’ A/HRC/46/10/Add.1

- 6.1.1.1 consensual same-sex sexual conduct between adults (ss 411-412 of the *Penal Code (Law No. 6) (2014)* (Maldives)); and
- 6.1.1.2 advocating for the rights of lesbian, gay, bisexual, transgender, gender diverse and intersex persons, and forming organisations and associations for that purpose,

(Articles 2 and 26).
- 6.1.2 Enact anti-discrimination legislation to protect LGBTQI+ persons and clarify that sexual orientation, gender identity and expression and sex characteristics are prohibited grounds for discrimination (Articles 2 and 26).
- 6.1.3 Amend laws to ensure that the LGBTQI+ community are equally protected against sexual violence, including rape and assault (Articles 6, 9 and 26).
- 6.1.4 Provide remedies for LGBTQI+ persons where their human rights are violated (Article 2(3)).
- 6.1.5 Introduce legislative measures to protect against hate speech about and towards LGBTQI+ persons, including in online forums (Articles 2 and 26).
- 6.1.6 Introduce legislative measures to protect LGBTQI+ persons from harassment, including in online forums (Articles 2 and 26). Legislative measures should specifically target ‘doxing’ (the practice of exposing a person’s private information online).
- 6.1.7 Introduce legislative measures to criminalise coercive conduct designed to change a person’s sexual orientation, gender identity or expression or sex characteristics (conversion practices) (Article 7).
- 6.1.8 Ensure individuals can obtain legal recognition of their gender without discrimination or violation of their human rights (Articles 9, 17, 23 and 26).
- 6.1.9 Introduce legislative measures to prohibit medically unnecessary interventions aimed at modifying intersex persons’ (including minors’) sex characteristics without their free, prior, and informed consent.
- 6.1.10 Remove stereotypes the LGBTQI+ community through public awareness raising campaigns and education (Articles 9, 17 and 26).
- 6.1.11 Introduce legislative measures that protect the right to privacy for LGBTQI+ persons (Article 17).
- 6.1.12 Legislate for marriage equality to ensure that same-sex couples are able to enjoy the same legal protections and benefits as those granted to married heterosexual couples (Articles 2 and 23).