

End of Mission Statement Maldives

1. The Special Rapporteur commends the constructive way in which the Government facilitated her visit, enabling a frank and open dialogue on multiple issues. She particularly thanks the Ministry of Foreign Affairs for their well-organized engagement with her mandate and the solid support in preparation for and then throughout her full visit. She particularly commends the cooperative approach of all authorities and the readiness to accommodate emerging requests. She also thanks the Office of the United Nations Resident Coordinator and United Nations Development Programme for the excellent support provided during the visit.
2. The Special Rapporteur met with the Minister of State for Foreign Affairs, Minister of Home Affairs, Minister of Finance, Minister of Islamic Affairs, Minister of Gender and Family, Minister of Youth, Sports and Community Empowerment, Minister of Defence, Commissioner of Police, with Assistant Commissioner of Police, Head of Crime Investigation Command and Superintendent of Police, Head of Counter Terrorism Department, Department of Juvenile Justice, Director General of the National Counter Terrorism Committee, Chief Justice, President of the Commission on Disappearances and Deaths, Commissioner of Prisons, Chief Ombudsperson on Transitional Justice, President of the Human Rights Commission, the President the Human Rights and Gender Committee and Opposition members of the Parliamentarian People's Majlis, the National Anti-Human Trafficking Steering Committee, Ministry of Defence, Director of Anti-Human Trafficking, a representative of the Maldives Immigration, a representative of the Trafficking In Person Office, the Attorney General Honourable, Prosecutor General, and the Director General of Family and Social Services, President of the National Integrity Commission and representatives of the National Security Advisors Office.
3. During her visit, the Special Rapporteur, apart from visiting Male, visited the National Rehabilitation Center at K. Himmafushi, the Dhoonidhoo custodial prison, the Maafushi prison, including its Special Management Unit, and the Male prison. She thanks the Government for providing unhindered access to these locations. The visit provided a unique opportunity to see the government's efforts in establishing a National Rehabilitation Centre. The Special Rapporteur travelled to Himandhoo. She met with the President of the Himandhoo Council North Ari Atoll, the Women's Development Committee, the Police and the Imam of the island. The Special Rapporteur also met with a wide range of civil society organizations, activists, academics, lawyers and human rights experts, and the UN Country Team. She met with victims of terrorism and violent extremism, as well as with families of individuals detained in north-east Syria, including women and children with alleged links to designated terrorist groups.
4. The Maldives experienced a peaceful transition of power in 2018 and a substantial legislative and policy agenda was initiated. National elections have been successfully undertaken, there is vibrant political participation, and decentralization has contributed to national integration and community participation. The Maldives remains a country in transition. The impact of Covid-19 has been substantial in a country with an economy highly dependent on tourism. Maldives is ranked 40/100 on Freedom House's Freedom in the World's 2022 index.¹ The Maldives has played an increasingly prominent and positive role at the United Nations including as President of the General Assembly in its 76th session.
5. The risk of terrorism in the Maldives is generally assessed as low and it is consistently ranked in the category of countries with insignificant levels of global terrorism threat. Regionally, the Global Counter-Terrorism Index places South Asia as having had average impact from terrorism. The Maldives has experienced one serious terrorism incident in the past year when former Maldives President and current Parliament Speaker Mohamed Nasheed was injured in

¹ <https://freedomhouse.org/country/maldives/freedom-world/2022>

a bomb attack outside his family home in May 2021. The Maldives does not possess a national threat assessment tool, although many agencies and government bodies have their own assessment tools, and that the government has multiple security cooperative arrangements with other States. In her conversations with national authorities, the threat of terrorism and violent extremism, although currently low in practical terms, was consistently assessed as significant. A number of indicators to this effect were provided to the Special Rapporteur: These included the highest number of individuals per capita, travelling or attempting to travel to conflict zones; pockets of individuals with violent extremist religious views, linked to designated terrorist groups (notably ISIL-K, Al Qaeda and HTS); or home grown “extremism” on remote Islands where the issue of school attendance and vaccination was raised, and in certain Mosques. These factors are said to be compounded by an extremely high internet penetration, and the challenges posed by the geography of the Maldives and the isolation of certain territories. Other elements included the alleged numerous links between organised crime, drug trafficking, and ‘radicalisation’ in prisons. This threat was largely acknowledged by civil society actors, who traced the shift in society back to the Tsunami in 2004. The Special Rapporteur notes however, that the evidence of this threat is not commensurate with the number of convictions for offences under the 2015 Anti-Terrorism Act,² or with the resources allocated to Island communities.

6. Maldives’ State Policy on Terrorism and Violent Extremism stresses that it has a “zero-tolerance policy on terrorism and violent extremism” adopted in 2014. This policy document is complemented by the National Strategy on preventing and countering violent extremism adopted by the National Counter-Terrorism Centre in November 2017 and the National Action Plan on Preventing and Countering Violent Extremism 2020-2024.
7. Counter-terrorism practice has a long and testing history in the Maldives with serious consequences for the protection and promotion of human rights. The use of counter-terrorism legislation against political opponents, critics, religious leaders, and members of civil society was previously endemic. This has created an evident suspicion and concern that counter-terrorism powers may serve to undermine rather than to support democratic process and institutional reform. Institutions that were central to the exercise of those powers suffer a trust deficit in their capacity to use such powers appropriately and in a human rights’ compliant manner. Operational coordination between government ministries and agencies remains fractured, in the Special Rapporteur’s view, leading to deficits in accountability and transparency.

National Legal Frameworks on Countering Terrorism and Religious Extremism

8. In 2015, the Maldives adopted the Anti-Terrorism Act (32/2015, ATA), which has since been amended three times. According to Article 4 of the ATA, an act of terrorism is defined by reference to the commission of a number of listed crimes (Article 4(b)) to achieve “any of the following objectives”: “to promote a specific political, religious or religious extremist ideology;” “to coerce or unduly influence the State or the Government, or to create fear amongst the public or a segment of the public” (Article 4 (a)). The Special Rapporteur notes that this does not meet the threshold of seriousness required for such acts, notably that the intent is to cause death or serious bodily injury. She underscores that adding lethal means as an element of an international law-compliant definition of terrorism means that any violent act, regardless of its degree of violence, be considered as a terrorist act. The lack of specificity also constitutes an infringement to the principle of legal certainty and can result in the abuse of counter-terrorism legislation. This concern is heightened by the listed acts (Article 4(b)), which include *inter alia* damage to property, creating a situation risking the health or safety of the public or a segment of the public, causing damage to critical infrastructure or seriously interfere with an essential service.

² The numbers given to the Special Rapporteur 48 individuals charged under the ATA in the last three years, and the team was also informed that there have been two individuals convicted for under the ATA.

9. Taken together, these provisions go beyond the acts that are genuinely terrorist in nature as included in the 19 UN Sectoral Conventions on terrorism offences, Security Council Resolution 1566 (2004) and the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, approved by the General Assembly in 1997 and the model definition of the Special Rapporteur's mandate (A/HRC/16/51, para. 28). While the Special Rapporteur will examine the specific and deeply worrying implications of the expression "religious extremism" below, she notes that this overly broad definition of terrorism does not comply with the principle of legality enshrined in Article 15 of the ICCPR. This definition carries the risk that it could be interpreted widely and misused to silence civil society organizations, religious leaders, social movements and political opposition. While Article 4(d) states that "interferences with essential public services due to lawful demonstration, strike and peaceful assembly will not be considered acts of terrorism", this exemption applies only to lawful demonstrations, strikes, and assemblies.³ Given the limitations to the right to peaceful assembly, notably the obtention of permission and the geographical restrictions, it is possible that demonstrations, strikes, and peaceful assemblies that do not comply with these restrictions could be regarded as acts of terrorism.
10. The Special Rapporteur also has substantial reservations concerning other terrorism offences, which are all impacted by the overly broad definition of terrorism of Article 4 of the ATA. This particularly includes Article 8 of the ATA which criminalises "encouragement" to carry out an act of terrorism. Similarly, the categories of speech-based offenses of Dissemination and Publication of Documents of a Terrorist Organization (Article 9 ATA), Encouragement and Spreading Information Through Television, Radio and Internet (Article 10 ATA), Issuing Threats for Acts of Terrorism and Intimidation (Article 13 of the ATA) and Disclosure of Information associated with terrorism (19-1 ATA) include excessively broad language which makes them amenable to abuse or arbitrary application. Particularly when considered in combination with the broad definition of terrorism and extremism, these can unnecessarily and disproportionately limit the exercise of the freedom of expression, including the work of journalists and human rights defenders.
11. The Special Rapporteur is also troubled at the provision relating to support to terrorist organisations (Article 16-1 ATA). She is troubled that the list of acts used to determine "support" is extremely broad, including "inviting support", "providing reasonable justifications for acts of terrorism", expressing "an opinion or belief" showing support in a "reckless" manner, "assisting in arranging or managing a meeting" that is "addressed" by a person who belongs or professes to belong to a terrorist organization", "addressing a meeting where the purpose of the meeting is to encourage support or further the activities" of a terrorist organisation, "wearing any garment or possessing or use any document, illustration or photograph expressing support for a terrorist organization or a member of such an organization". As it is, this Article includes excessively broad language which makes them amenable to abuse or arbitrary application and have a disproportionate impact on a number of fundamental freedoms, particularly freedom of religion and freedom of expression, especially when combined with the vague definition of terrorism. The Special Rapporteur also expresses concern at the lack of clear delineation with Article 14 that addresses the commission of terrorist acts by gangs.
12. Article 16 of the ATA makes it an offence to "go to war", defined as leaving the Republic of Maldives to achieve a number of objectives, as well as entering and remaining in a "war zone" as designated by the Government under Article 18 ATA without prior written authorization. The Special Rapporteur is concerned that the Act provides definitions of both terms without any reference to international humanitarian law, which would in her view be the correct

³ E.g. India Out demonstrations.

international framework under which these terms should be interpreted. She also notes the immense uncertainty surrounding this provision, as neither phrase is sufficiently precise to allow to determine the areas concerned (lack of threshold) or the groups (list not limited to groups proscribed by the Government).

13. The Special Rapporteur is extremely uneasy at the number of exceptionalities created by the ATA in relation to terrorism investigations and trials, including increased executive and judicial powers. The Special Rapporteur notes in particular the right to arrest without a warrant (Article 22), special search powers (Article 22-1 and 22-2 ATA), important restrictions on the right of access to a lawyer (Article 23 and 24 ATA), extended periods of review of the legality of detention, combined with limited rights for the judge to order release (Article 26 ATA), extended periods of pre-trial detention and absence of bail (Article 28-2 ATA). The Special Rapporteur is also concerned at the range of admissible evidence under the ATA which are much broader than what is admissible in the Criminal Procedure Code and the Evidence Act, which include confessions, intelligence, including foreign intelligence, as well as a range of other sources for which the chain of custody might not be upheld (Article 27 ATA). Finally, the Special Rapporteur is concerned at the range of rights-limiting administrative measures (MONICON) that can be made based on secret intelligence information (Article 29 ATA).
14. During her visit the Special Rapporteur was made aware, from a wide range of interlocutors, of the challenge of ‘extremism’, ‘religious extremism’⁴ and ‘violent extremism’. There was broad consensus across a range of actors that the domestic threat landscape included extremism in multiple forms. However, there was a lack of clarity in defining precisely what constituted both ‘extremism’ and ‘religious extremism’,⁵ how they were to be measured, and how exactly the state and its institutions should respond to these threats. “Extremism” was identified as both a stand-alone and intersectional phenomenon. It included the identification of individuals on the territory who were associated with United Nations designated terrorist groups, individuals associated with locally listed terrorist groups, the infiltration of gang structures by religiously ‘extreme’ ideologies, the presence of ‘extremist’ practices and ideologies on certain Islands, the targeting of persons including direct physical harm and online harassment to those seen as moderate or lax in their Islamic practices, or hostile to accepted Islamic practices and finally the return of persons from conflict zones that may have participated in conflict or been radicalized by travel and participation. There is a broad spectrum of discussions about the threat of ‘extremism’ in all these stated forms, but the mandate observes a lack of sustained regulation of “extremism” consistent with international law standards.
15. The Special Rapporteur recalls in this context that there is no internationally agreed definition of ‘extremism’ and she has serious concerns about the use of the term ‘extremism’ in national law and practice.⁶ She takes the view that the term “extremism” has no purchase in binding international legal standards. When operative as a criminal legal category – being entirely context dependent - it is irreconcilable with the principles of legal certainty, proportionality and necessity; it is therefore per se incompatible with the exercise of certain fundamental human rights and freedoms, notably freedom of expression and of religion and belief.⁷ The Special Rapporteur recalls that both the Global Counter-Terrorism Strategy Review and the Secretary-General’s Plan of Action on Violent Extremism refer solely to “*violent* extremism conducive

⁴ The Special Rapporteur stresses an immediate challenge linked to the statutory language used to refer to ‘violent extremism’, which can be literally translated as “strict ideology”.

⁵ Reference was made to the National Strategy on Preventing and Countering Violent Extremism which states that “the extremist ideology observed in the Maldives at present is largely associated with distortions and misrepresentations of Islamic religious ideology, spread by extremist and terrorist groups such as *Islamic State (IS)* and *Al-Qaida* and their affiliates.

⁶ A/HRC/31/65, para. 21

⁷ A/76/261, para 19, A/HRC/31/65, para. 21,

to terrorism”.⁸ The Special Rapporteur underscores that, together with the ICCPR, these documents provide concrete and specific guidance to States in respect of responding to violent extremism and regulating it effectively and consistently. She notes in particular the need to ensure respect for the key principle of legality and legal certainty in the definition of these terms, all of which may be rendered more complex by the reliance on various understanding and interpretations of accepted religious thought and practice, as well as the right to freedom of religion enshrined in article 18 ICCPR.

16. In addition, the Special Rapporteur notes the urgent need to coherently and adequately regulate hate speech as well as incitement to violence in the Maldives (per Article 19 (3) and Article 20(2) ICCPR) all of which currently overlap with the concepts of extremism and religious extremism.⁹ She notes in particular that the recently adopted Hate Crime Act defines this legal category as “acts of Takfir or acts committed based on a person’s race, country of birth, colour and political beliefs”, which expressly excludes religious beliefs. The Special Rapporteur urges clear definition and policy direction to government Ministries whose work engages such issues including health, gender and family, corrections, internal affairs, Islamic affairs and the police; sustained coordination among such Ministries, and clear policy direction to ensure an ‘all of government’ approach consistent with international human rights law including freedom of expression, association, the right to freedom of religion and belief, and the right to participate in public affairs.
17. The Special Rapporteur acknowledges the Government’s commitment to judicial reform. Functional and effective courts are essential to prosecuting terrorism and violent extremism and bringing justice to victims of these crimes. She is concerned at allegations of lack of accountability, independence and impartiality, as well as political influence, collusion, corruption and lack of effectiveness of this sector from all walks of society, including the political establishment in power, as these serve to undermine the fragile confidence that the public places in the judiciary to address complex and sensitive issues addressed in this preliminary report. The Special Rapporteur also notes that there are concerns related to the newly established Bar Council, notably the presence of the Attorney General on its Executive Committee.

Repatriation and Reintegration

18. The issue of repatriation and reintegration of foreign (terrorist) fighters, as well as family members of persons associated with designated terrorist groups from conflict zones is a pressing concern for the government of the Maldives, as the President and the Government announced their willingness to address this issue and repatriate the women and children from Afghanistan, Al Hawl and Roj camps in north-east Syria as well as other parts of Syria, including Turkish controlled territory. The Special Rapporteur recognizes that this is a new and challenging issue for the government. The Special Rapporteur was given a range of numbers from 50-90 from various interlocutors, with no breakdown in age or actual location. The Special Rapporteur affirms that the government and the President is seized of this sensitive challenge, and she positively acknowledges concrete domestic steps towards repatriation of its nationals from conflict zones through the creation of a bespoke Maldivian solution to the return of its nationals. The government has recently enacted an extensive legal framework relating to the repatriation and rehabilitation of Maldivian nationals from conflict zones. It has reached out and sought the support of the international community and is engaged with the UN-led PRR Global Framework. A suitable site has been re-purposed and designated as the National Rehabilitation Centre (NRC) and considerable resources have been spent to engage 63 staff,

⁸ UNGA Res. 75/291, 30 June 2021 and <https://www.un.org/counterterrorism/ctitf/en/plan-action-prevent-violent-extremism>;

⁹ UN GA Res. 75/291, 30 June 2021 which refers to “incitement to commit terrorist acts which spread hate and threaten lives”.

including some experts, at this location. A core rehabilitation and reintegration programme for adults and children according to their age group, to be tailored to the specific needs of each returnee, has been developed. One family, a mother with four children, has recently returned to the Maldives from Turkey and is currently in the NRC. The Special Rapporteur thanks the government for enabling her to visit the NRC, she acknowledges the cooperation of the staff, and welcomed being able to meet with the family currently held there.

19. The Special Rapporteur has several important reservations around the very securitized approach to repatriation and reintegration, and the lack of transparency on this issue, concerns she has shared with all government representatives and officials. She notes that beyond the return of this initial family from Turkey, no plans or timeline seems to exist for the actual repatriation of the nationals currently in the camps in north-east Syria. She also notes that some adult men have individually returned, and she recommends that these individuals now be included in a reintegration process. Further, she notes that the Centre is primarily a detention facility, where security remains the predominant concern, and significant work will be required to engage in reintegration, and to avoid long-term institutionalization and stigmatization of those who have returned.
20. The extensive legal framework relating to the repatriation of foreign fighters and their families from armed conflicts included in the Third Amendment to the ATA (Act 31/2021) as well as four regulations aimed at specifying these provisions. The Special Rapporteur was told that this responded to a specific legislative gap, with the prior ATA not applicable to those returning from conflict zones. She notes that this framework is more detailed than that existing in many other countries facing similar challenges, and that a fourth amendment is pending. The Special Rapporteur is concerned at the provisions related to administrative detention (Article 60-6 ATA). She acknowledges the position of her interlocutors that administrative detention should last no longer than the rehabilitation programme. Yet she is concerned that the law contains no upper time limit and that release seems dependent on the success of the individual in passing the opaque and securitised risk assessment upon completion of the programme, which could potentially pave the way for indefinite detention. The Special Rapporteur also is concerned that the risk assessments and intelligence debriefings are to be carried out solely by the police and intelligence services (Regulation on Conducting Intelligence Debriefing and Risk Assessment 2022/R4) with no input from other critical actors, including NRC staff and other ministries specialised in the care and welfare of women and children.
21. While the Special Rapporteur welcomes the exclusion of children under the age of 15 from the category of foreign fighters under the law, she notes with serious concern that under the legislation, children are mostly subjected to the same procedures and assessments as adults. The Special Rapporteur recalls that under the Convention on the Rights of the Child, the protection owed to children applies to all below the age of 18. She recalls that according to international law, children are considered vulnerable and in need of special protection. All children, including those related to or associated with designated terrorist groups, should be treated primarily as victims of grave abuses of human rights and humanitarian law. Under international law, child association with terrorist groups is considered as involving some form of coercion or constraint. She notes in this respect that Maldives has ratified the Optional Protocol to the Convention on the Rights of the Child on 29 December 2004, and that it is her clear position that this binding legal framework applies to those children caught up in the activities of designated terrorist groups.
22. The family detained in the NRC is subject to a court-sanctioned administrative detention order which is valid for a total of 9 months (including four minor children). She notes that the application of such prolonged detention in this case is *prima facie* inconsistent with the Beijing Rules (1985) and would appear to contravene key provisions of the Convention on the Rights of the Child (Article 37). She also emphasizes the need to ensure the best interest of the child including not separating them from their mother (Article 3 & 9, CRC). The Special Rapporteur

concludes that on return the immediate health and safety needs of the family were met. The living situation is adequate with provision for composite family living, access to a kitchen and washing machine, classroom facilities for the children who have engaged in nascent education. Connection with Maldivian family members has commenced.

23. With thirteen other Special Procedures mandate holders and two Working Groups the Special Rapporteur holds that multiple human rights violations are experienced by Maldivian mothers and children held in Al Roj and Al Hol camps, specifically finding torture, inhuman and degrading treatment including sexual violence and reproductive harm; arbitrary detention; right to life infringements; freedom of movement restrictions; erasure of the right to family life; fundamental infringements on right to health; abrogation of the right to education; denial of the right to non-discrimination; lack of the right to clean and safe water alongside multiple violation of the rights of the child. She has expressly affirmed the obligations of the government to urgently repatriate its nationals.
24. She stresses that an extended focus on micro level legal regulation (for example through further amendment of the APA) may displace the fundamental obligation to protect the right to life of Maldivian children who are victims of terrorism in Syria and other conflict zones. She has articulated the duties incumbent upon the Maldives in these exigent circumstances to take proactive and positive measures to safeguard the fundamental and non-derogable rights of their nationals being detained in north-east Syria in order to prevent irreparable harm to them including speedy issuance of identify documents, rapid completion of DNA testing as needed, and working with allies and international organizations to arrange the practical measures to remove children and their mothers from the camps and bring them home.
25. She observes that considerable efforts have been spent to tightly regulate the repatriation efforts. The Special Rapporteur is concerned that those working directly in the NRC do not have sufficient information about the numbers, profiles and needs of those currently detained in north-east Syria. Better information sharing will lead to successful return and reintegration efforts. She recommends that practical steps to activate a reintegration process be given priority, with an emphasis on including the kinds of core skills necessary to ensure positive inclusion of families and communities who are essential to successful reintegration outcomes. For Island communities, significant outreach will be needed to ensure this occurs in a seamless and positive way. She was disappointed to learn that family members of those in Syria have been held at arms' length from the governments' planning and are not given regular information about the ongoing process. As yet they are not viewed as partners in the process of return. Change to this situation requires, centrally involving those Ministries and expertise that have long-standing experience with vulnerable families needing social and legal support, which in the case of the Maldives would be the gender and family ministry. A process of repatriation which is securitized and led by government security actors, is least likely to produce long-term integration and the kind of sustained interdisciplinary and family-oriented solutions that ensure children and parents receive the educational, psycho-social and economic supports needed to build a normal and dignified life.

Detention

26. The Special Rapporteur visited multiple places of detention during her visit (Dhoonidhoo, Maafushi, and Malé). She thanks the correction and prison authorities for their excellent cooperation and openness to her visit. She recognizes that such openness is part of the solution to the historic legacy of prison-related human rights abuses. The government has acknowledged that harsh legacy which was widespread during prior regimes within Maldives prisons. However, the physical infrastructure of many prisons is poor, and much of it is in need of repair or new construction. The United Nations Special Rapporteur on Torture (2019), identified many practices of concern (e.g. sustained practices of beating prisoners, excessive and cruel restraints, solitary confinement, and torture during incarceration and

interrogations). It is of particular concern to this Special Rapporteur that no Maldivian official has ever been held accountable for torture, despite available legislation and process, leading to impunity, and a systematic failure to prosecute. In practice this means that individual responsible for such acts continue to function in official capacities. The recent visit of the Working Group on Arbitrary Detention found severe overcrowding, the placement together of remand prisoners and convicted detainees, the lack of lights, ventilation in conditions of tropical heat, water leakages, extremely limited yard time, an absence of beds or mattresses.¹⁰ Based on her own observations the Special Rapporteur on Counter-Terrorism and Human Rights concurs with these views.

27. Additionally, the Special Rapporteur would highlight specific human rights concerns related to prisoners incarcerated for terrorism, “extremism” or related offences. She accepts the necessity for the authorities to have the means to separate out prisoners who may pose challenges of management and regulation within the regular prison regime. Overall, the Special Management Unit in Masfushi prison is of a high physical standard and is well-constructed. It is purpose built to hold 100 but currently holds only 7 prisoners. A separate high-security wing was visited by the Special Rapporteur. The condition of this part of the prison was extremely poor. The Special Rapporteur is puzzled as to why a significant number of prisoners identified as high-security or high risk were not being held in the newly constructed SMU. She has specific concerns about allegation of confinement without access to exercise or sunlight for months at a time. She is gravely concerned at allegations that certain detainees are held in de facto solitary confinement. The Special Rapporteur was made aware of allegations related to police ill-treatment prior to custodial sentencing and during the investigative phase of criminal proceedings in breach of Article 7 of the ICCPR.

Data Collection

28. The Special Rapporteur is aware that considerable security related data collection takes places in the Maldives. At least four agencies have intelligence gathering capacity in the field of countering terrorism, including the police, the defence forces, the monetary and financial intelligence authority and the immigration authority. Human rights concerns have been raised concerning the scope and abuse of data collection premised on national security, counter-terrorism or extremism rationales. At issue is the protection of the right to privacy, but because privacy functions as a gateway right to other rights, constrictions on this right affect a host of other rights including the right to life, fair process, family life, participation in public affairs and religious freedom. The Special Rapporteur urgently recommends that robust and human rights compliant privacy and data protection legislation be adopted by the People’s Majlis. Such legislation would meaningfully apply article 24 of the Constitution with frames a constitutional right to family and private life. In this context, she also recommends genuinely independent oversight of intelligence data collection, use and storage across all agencies in a body that meets international standards of neutrality, professionalism and capacity. She is also aware of discussions pertaining to the adoption of national biometric identity cards. She underscores the biometric data collection is a high-risk technology with serious potential for human rights abuses. She makes clear that human rights compliant biometric data collection applies at every stage of the process from design, use, transfer and storage. She highlights that other States and UN entities providing capacity building and technical assistance to the adoption of this technology have human rights obligations to ensure that the abrogation of fundamental rights is not facilitated. UN entities in particular have a unique responsibility to apply their due diligence obligations. She underscores that the same concerns and obligations apply in respect of API and PNR data collection. She highlights the potential for significant abuse for individual human rights data-sharing across the multiple security cooperative

¹⁰ Working Group on Arbitrary Detention: Preliminary Findings from its visit to Maldives (29 November to 9 December 2021).

arrangements acceded to by the Maldives. Counter-terrorism cooperation is not a human rights free zone, and robust standards of due process and rights protection must be in place in respect of any counter-terrorism related data transfer to third countries.

Countering Terrorism Finance

29. The government has taken significant steps to strengthen the national countering terrorism finance (CFT) framework in line with international standards, particularly since the APG/FATF Mutual Evaluation in 2011. This Report encouraged the Maldives to adopt a risk-based approach to AML/CFT (para. 138) but the Special Rapporteur finds that little progress has been made to ensure that an appropriate risk-based approach is in place. The Special Rapporteur emphasizes the importance of a narrowly tailored, empirically guided, and inclusive approach is to CFT— not only for compliance with the FATF soft law standards, but also for compliance with international law, including international human rights law requirements.
30. The 2014 Prevention of Money Laundering and Terrorism Financing Act is the primary legal basis for the national AML/CFT framework. Article 23 of the Act grants the Ministry of Home Affairs authority to monitor non-profit organizations and to “prescribe regulations to ensure that non-profit organization (NPOs) are not misused” for terrorist financing. The Special Rapporteur is concerned about the overregulation of NPOs, including their legitimate activities, and limitations to fundamental rights—including the rights to freedom of peaceful assembly and association, opinion and expression, and religion or belief. She further recommends that the Financial Intelligence Unit (“FIU”) within the Maldives Monetary Authority proactively mainstream human rights and gender considerations when implementing CFT measures. She acknowledges the references to privacy protections and confidentiality in the Act (vis-à-vis the FIU database) but identifies a lack of adherence to international human rights law obligations, including the protection of the right to privacy and the lack of data protection in the law. She takes the view that there is a lack of adequate safeguards which permits invasive investigative techniques like surveillance and bank monitoring. She is also concerned that asset freezing, seizures, fines, imprisonment, and other criminal and non-criminal sanctions and penalties do not provide sufficient safeguards against misuse. She notes broader concerns about the due process and human rights compliance of national listing mechanisms for individuals, including the opaqueness of remedies and well as information sharing with other governments. Noting these concerns, the Special Rapporteur is nonetheless surprised that there appears to be limited use of existing powers to prosecute and convict persons who may be enabling serious acts of terrorism or violent extremism. She underscores the necessity of assuring rule of law compliant enforcement of counter-terrorism finance laws as an essential part of the obligations of accountability for acts of terrorism and violent extremism. Such enforcement is essential to prevent impunity, address the rights of victims of terrorism or violent extremism and ensure non-repetition of serious acts of violence. The Special Rapporteur underscores that any technical assistance and capacity building in this sector to build institutional strength from UN entities must ensure hardwiring of human rights norms and practices.

Victims and Impunity

31. The Maldives Constitution of 2008 (Articles 40, 42 and 52) includes general provisions related to victim and witness protection and remedy, but not specifically within the context of terrorism. Currently, there is no specific legislation or government entity in the Maldives dedicated to the provision of legal protection and other types of support to victims of terrorism or violent extremism. The Government’s National Action Plan on Preventing and Countering Violent Extremism, passed in 2020, also does not make any references to protection for victims of terrorism or victims of violent extremism. She strongly recommends the adoption of such legislation bringing a human rights-based approach to protecting and supporting victims of terrorism and their families. She commends the UN developed model legislative provisions on

the rights and needs of victims of terrorism as a model.¹¹ The Special Rapporteur met directly with family members of victims of terrorism and victims of violent extremism. She specifically highlights the ongoing and unresolved issues of accountability and transparency in the cases of journalist Hilath Rasheed, journalist Ahmed Rilwan, blogger Yameen Rasheed and Dr. Afrasheem Ali. She is profoundly aware of the failure to protect these individuals, all of whom were subject to public campaigns of intimidation and threats of violence. The government has a proactive obligation to take all steps to protect the right to life, particularly when threats are consistently and vociferously made in the public domain. She commends the work of the Death and Disappearances Commission and urges the government to continue providing them with all necessary support and protection to complete their work. She is particularly concerned about the failure to locate Mr. Ahmed Rilwan's remains and bring some degree of resolution to his family. His family continue to suffer from the unbearable consequences of his disappearance. These cases illustrate the deep challenge of impunity, and the costs to family members in failures to consistently support them.

Civil Society

32. The Maldives has a vibrant and diverse civil society engaged on a range of issues related to human rights. These cases underscore the clear and present dangers that exist for civil society actors in the Maldives. The Special Rapporteur notes the de-registration of the Maldivian Democracy Network and the confiscation and control over transfer of its funds, on an extremely unclear legal basis following the publication of a report touching upon the issue of religious extremism in the Maldives. This has had a chilling effect upon many other organisations. She was struck in multiple meetings by the examples provided of closing civic space, and attacks upon human rights defenders, whose legitimate actions are limited by various pieces of legislation regulating freedom of expression, religion, association and 'extremism'. The Special Rapporteur concludes that they are falling through the cracks of protection and highlights the obligation of governments not only to not impede but to protect civil society. She notes the particular challenges faced by women Human Rights Defenders and their vulnerability to online digital harassment including threats of violence from private individuals and groups. She urges the government to adopt a zero-tolerance policy for threats and violence against members of civil society and to use existing legislation to challenge those who engage in intimidation and harassment and highlights the specific obligations of the Ministry of Youth to proactively and consistently protect civil society and human rights defenders from harm.

¹¹ <https://www.unodc.org/unodc/en/frontpage/2022/February/launch-of-model-legislative-provisions-to-support-and-protect-the-rights-and-needs-of-victims-of-terrorism.html>