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**Human Rights Council**

**Fifty-second session**

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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

 Visit to Maldives

 Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin[[1]](#footnote-2)\*, [[2]](#footnote-3)\*\*

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|  *Summary* |
|  The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, conducted an official visit to Maldives from 15 to 24 May 2022. |
|  The Special Rapporteur identifies several significant human rights challenges resulting from the security, counter-terrorism and “extremism” and “religious extremism” frameworks that are operational in Maldives. She finds that the Anti-Terrorism Act is vaguely defined and impinges directly on fundamental human rights protected by international law. She notes the need to fundamentally revise a range of provisions related to terrorism, including support, encouragement and speech-related offences, as well as those relating to “war” and “war zones”. She expresses serious disquiet about the use of the terms “extremism” and “religious extremism”, particularly as they act as a yardstick for what accepted and required religious practice should and should not be. She notes that formal or informal determinations of “extremism” can lead to killings and threats to the lives and safety of individuals. In some cases, individuals have had to flee the country when faced with online and offline smear campaigns, with almost complete impunity for those who carry out attacks. The Special Rapporteur is extremely uneasy at the number of exceptionalities created by the Anti-Terrorism Act in relation to investigations and trials, including increased executive and judicial powers and the use of monitoring and control measures. She also expresses concern at the lack of a risk-based approach to combating money laundering and the financing of terrorism and at the overregulation of civil society by the banking sector. She notes a significant gap between the stated scale of the threat of terrorism and violent extremism and the number of persons being investigated, charged and held legally accountable for criminal acts that pertain to both terrorism and violent extremism. She identifies the need to address violent extremism that is conducive to terrorism and hate crimes consistently, substantively and without subterfuge in Maldives. |
|  The Special Rapporteur is very deeply concerned at the level of impunity that she witnessed in Maldives for acts of terrorism and violent extremism, including disappearances. She highlights the profound and ongoing harm to families of the disappeared and those murdered or harmed by terrorism and violent extremism which demands legal and societal redress. She underscores the clear and present dangers that exist for civil society actors in Maldives, the closing of civic space and attacks on human rights defenders, who are falling through the cracks of protection. She calls on the Government to take all necessary steps to protect the right to life, particularly when threats are consistently and vociferously made in the public domain, including when they emanate from private persons and entities, and to protect persons whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. She expresses concern that hate speech and incitement to violence, discrimination and hostility are inadequately addressed and calls on the authorities to take urgent action to combat them. She also calls for the adoption of legislation to protect and support victims of terrorism and their families.  |
|  The Special Rapporteur affirms that the Government is seized of the sensitive challenge of repatriation and reintegration of nationals from conflict zones, and she acknowledges the positive steps taken through the creation of a Maldivian solution to the return of its nationals. At the same time, she expresses reservations about the highly securitized approach to repatriation and reintegration, the lack of transparency on this issue and a lack of resoluteness in the process going forward, as well as serious concerns about the legal procedure that has been adopted, including mandatory administrative detention and the subjection of children to the same procedures and assessments as adults. She recommends that practical steps to activate a reintegration process be given priority, as the dire situation of Maldivian women and children in conflict zones demands an urgent and coordinated response. |
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Annex

 Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, on her visit to Maldives

 I. Introduction

1. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, conducted an official visit to Maldives from 15 to 24 May 2022 to assess its counter-terrorism laws, policies and practices, measured against its international human rights obligations.
2. 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 its well-organized engagement with her mandate and the solid support it provided in preparation for and throughout her 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.
3. The Special Rapporteur met with the Minister of State for Foreign Affairs, the Minister of Home Affairs, the Minister of Finance, the Minister of Islamic Affairs, the Minister of Gender, Family and Social Services, the Minister of Youth, Sports and Community Empowerment, the Minister of Defence, the Commissioner of Police, the Assistant Commissioner of Police, the Head of Crime Investigation Command and Superintendent of Police, the Head of the Counter-Terrorism Department, the Department of Juvenile Justice, the Director General of the National Counter-Terrorism Centre, the Chief Justice, the President of the Presidential Commission on Disappearances and Deaths, the Commissioner of Prisons, the Chief Ombudsperson for Transitional Justice, the President of the Human Rights Commission of Maldives, the Chair of the Committee on Human Rights and Gender and opposition members of the People’s Majlis, the National Anti-Human Trafficking Steering Committee, the Director of Anti-Human Trafficking, a representative of Maldives Immigration, a representative of the Anti-Trafficking In Persons Office, the Attorney General, the Prosecutor General, the Director General of the Ministry of Gender, Family and Social Services, the President of the National Integrity Commission and representatives of the National Security Adviser’s Office.
4. Apart from Malé, the Special Rapporteur visited the National Reintegration Centre at Himmafushi, the Dhoonidhoo custodial prison, the Maafushi prison, including its Special Management Unit, and the Malé prison. She thanks the Government for providing unhindered access to those locations. The visit provided a unique opportunity to see the Government’s efforts to establish a National Reintegration Centre. The Special Rapporteur travelled to Himandhoo and met with the President of the Himandhoo Council, 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, as well as the United Nations country team. She met with victims of terrorism and violent extremism, as well as with families of individuals detained in north-eastern Syrian Arab Republic, including women and children with alleged links to designated terrorist groups.

 A. General context

1. Upon becoming independent in 1965, Maldives faced several decades of very serious political repression. Political challenges included the legacy of single party rule, the resort to the use of states of emergency, charges of terrorism and sedition being applied to senior political figures, allegations of political coups d’état and controversy surrounding the role of the courts in regulating elections. After several changes to the Constitution, and an opening of the political space, Maldives experienced a regular transition of power in 2018, and a substantial legislative and policy agenda was initiated. National elections have been carried out smoothly, there is vibrant political participation, and decentralization has contributed to a process of ongoing national integration and broader community participation. In a positive development, the current administration, in 2018, repealed the 2016 Anti-Defamation and Freedom of Expression Act, which was used to seriously curtail the media. Maldives is currently ranked 40 of 100 on the Freedom House Freedom in the World 2022 index,[[3]](#footnote-4) while it has lost 15 points since 2021 on the 2022 Reporters without Borders index, where it is ranked 87 of 180.[[4]](#footnote-5) In recent years, Maldives has become a key global diplomatic partner, having played a prominent and positive role at the United Nations, including as President of the General Assembly at its seventy-sixth session and in the Human Rights Council, where it will serve a three-year term starting in 2023.
2. Maldives remains a country in transition. The fast-growing tourism industry, which was substantially affected by the coronavirus disease (COVID-19) pandemic, aims to triple in the next three years. Yet this industry remains at a distance from mainstream Maldives and appears to benefit a relatively narrow economic group. Numerous challenges are posed by the country’s geography, which is composed of 26 climate-affected atolls in the Indian Ocean, with the population spread across remote islands and a fast-growing capital city island, Malé, where gangs and drug usage is allegedly rife. The looming threats of climate change weigh heavily on the low-lying country, and Maldives has, for the past 25 years, been an exceptional agent of change on a wide variety of issues related to climate change and environmental degradation, notably through the Alliance of Small Island States, including in 2015, when it assumed the chairmanship of the Alliance. Maldives describes itself as “100 per cent Muslim”, and, while Islam is central to the country’s identity and to its legal order,[[5]](#footnote-6) the Special Rapporteur heard various dissonant perspectives, including within the Government, of how religion should shape the policy, institutions and way of life of the country.

 B. International legal framework

1. Maldives is a party to major international human rights instruments, including the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights,[[6]](#footnote-7) the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and its two Optional Protocols, and the Convention on the Rights of Persons with Disabilities.
2. The Special Rapporteur strongly encourages accession by Maldives to the Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty,[[7]](#footnote-8) noting that, notwithstanding a moratorium, the death penalty still exists for serious terrorism offences, to the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

 C. Threat assessment and institutional framework

1. The Special Rapporteur is cognizant that in a country where 65 per cent of the gross domestic product depends on tourism, even a minor terrorist attack on a “soft” target would have an extremely significant ripple effect on the whole of society. Unfortunately, Maldives does not possess a national terrorism threat assessment tool, although many agencies and government bodies have their own assessment tools (penitentiary authorities and ministries, as well as the Maldives National Defence Force), and the Government receives assessments from other States as part of cooperative security arrangements.
2. National authorities consistently assess the threat of terrorism, violent extremism and “extremism” as significant and increasing.[[8]](#footnote-9) The Special Rapporteur was provided with several indicators to that effect. She was informed that Maldives had the highest number of individuals per capita that had travelled or attempted to travel to conflict zones in Iraq and the Syrian Arab Republic.[[9]](#footnote-10) She was told of pockets of individuals with religious extremist views[[10]](#footnote-11) on remote islands who refuse to send their children to the formal education system or to be vaccinated. Specific mosques in the capital were referred to as hubs for “religious extremism”. Other elements include the numerous links between organized crime, particularly drug trafficking, and terrorism; corruption, and its links with gangs; and “radicalization” in prisons. The threat of extremism was largely acknowledged by civil society actors. Interlocutors traced the origin of the threat to privileged links, including study programmes, with several countries where interpretations of religion manifestly contradicted human rights or where terrorist groups were active; an extremely high Internet penetration; the isolation of certain territories; and the 2004 tsunami, which permitted foreign aid organizations allegedly linked to designated terrorist groups to enter and shape rhetoric around punishment for insufficient religious practice.
3. As a result, Maldives has adopted several policies and established institutional bodies to address the threat. These include the State policy on terrorism and violent extremism (2014), in which a zero-tolerance policy on terrorism and violent extremism is stressed; the national strategy on preventing and countering violent extremism, adopted by the National Counter-Terrorism Centre ( 2017), which engages governmental and international partners, local communities and civil society organizations through a “whole-of-society” approach; and the National Action Plan on Preventing and Countering Violent Extremism 2020–2024, developed together with UNDP. The police informed the Special Rapporteur that extremism was one of its highest priorities, together with narcotics and organized crime.
4. The Special Rapporteur finds that the operational coordination between government ministries and agencies in the areas of counter-terrorism and preventing and countering violent extremism remains extremely fractured, which could lead to deficits in accountability and transparency. The National Counter-Terrorism Centre has a very broad legal and operational mandate as the national focal point for all counter-terrorism matters, which includes collating intelligence information from various agencies (although it is not an intelligence agency),[[11]](#footnote-12) identifying adherents to extreme and radical ideologies, conducting rehabilitation programmes and providing guidance to the President on policies and strategies to counter the terrorist threat. Practically, it seems mostly engaged in addressing issues related to preventing and countering violent extremism, although the mandate for rehabilitation and reintegration belongs to the Minister of Home Affairs. Within the National Security Council,[[12]](#footnote-13) which is chaired by the President, is a National Security Adviser[[13]](#footnote-14) and the National Security Council Subcommittee on Counter-Terrorism, created in 2019, the mandate of which is to enhance inter-agency coordination in responding to situations of violent extremism and to advise the Council on policy measures required to counter violent extremism and other security-related issues. The aim of the National Terrorism Response Plan, which was endorsed by the President in 2020, is to operationalize relevant institutions and mechanisms.
5. Maldives also receives a broad range of support in the areas of counter-terrorism and preventing and countering violent extremism from international actors, including an array of Governments (e.g. Australia, India, Japan, Pakistan, Saudi Arabia, the United States of America and the United Kingdom of Great Britain and Northern Ireland) and from multilateral and international bodies, such as the United Nations, the European Commission, the Commonwealth, the Five Eyes Alliance and the Islamic Military Alliance.
6. The Special Rapporteur is concerned, however, that she was not shown material evidence of the threat or of how national authorities were effectively using the operational and legal mechanisms set up to counter it. She notes that the perception of the threat is dissonant with global rankings, which generally assess the risk of terrorism in Maldives as low. On the Global Terrorism Index, South Asia is shown as having had average impact from terrorism. She also recognizes that Maldives has experienced a few high-profile terrorist attacks, such as the May 2021 bomb attack against former President and current Speaker of Parliament Mohamed Nasheed. The low number of cases pursued under the 2015 Anti-Terrorism Act also appears incommensurate with the stated threat or alleged thwarted terrorist plots,[[14]](#footnote-15) as do the limited resources allocated to vulnerable island communities, including for police, education and social welfare, although there are efforts under way towards establishing a police presence on all inhabited islands.
7. Counter-terrorism practice in Maldives has had a long and thorny history, with serious consequences for the protection of human rights. The use of counter-terrorism legislation against political opponents, critics, religious leaders and members of civil society was previously endemic. This created suspicion and concern that counter-terrorism powers might serve to undermine rather than to support democratic processes and institutional reform. Institutions that were central to the exercise of those powers, including the police, suffer from a deficit in trust in their capacity to use such powers appropriately and in a human rights-compliant manner.

 II. Key human rights challenges in countering terrorism and preventing violent extremism

 A. National legal frameworks on countering terrorism and religious extremism

 1. Terrorism offences

1. The Anti-Terrorism Act was adopted in 2015 and amended three times. In article 4 of the Act, an act of terrorism is defined by reference to the commission of several listed crimes, including extensive damage to property, creating a situation that risks the health or safety of the public or a segment of the community, causing damage to critical infrastructure or seriously interfering with an essential service to promote a specific political, religious or religious extremist ideology or causing apprehension among the public to compel the State or Government to undertake (or not) a specific action.
2. The Special Rapporteur notes that these provisions go beyond acts that are genuinely terrorist in nature, as included in the 19 sectoral conventions of the United Nations on terrorism offences, Security Council resolution 1566 (2004), the 1994 Declaration of the General Assembly on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and the model definition of terrorism formulated by a former Special Rapporteur.[[15]](#footnote-16) While the Special Rapporteur will examine the specific and deeply worrying implications of religious extremism below, she notes that the definition in the Anti-Terrorism Act does not meet the threshold of seriousness required for such acts, notably that the intent is to cause death or serious bodily injury. Adding lethal intent as an element of an international law-compliant definition of terrorism means that not every act, regardless of its degree of violence, can be considered a terrorist act. The lack of specificity, notably with regard to causing damage to property, also constitutes an infringement of the principle of legal certainty and runs counter to the principle of legality enshrined in article 15 of the International Covenant on Civil and Political Rights, despite the exception enshrined in article 4 of the Act that interferences with essential public services due to lawful demonstration, strike and peaceful assembly[[16]](#footnote-17) will not be considered acts of terrorism. The definition in the Act carries the risk that it could be interpreted widely and misused to silence civil society organizations, religious leaders, social movements and political opposition.
3. The Special Rapporteur has substantial reservations concerning the designation in the Act of other offences as terrorism offences, including the criminalization of indirect encouragement to carry out an act of terrorism (art. 8). Similarly, the speech-related offenses of dissemination and publication of documents of a terrorist organization (art. 9), encouragement and spreading information through television, radio and the Internet (art. 10), issuing threats of acts of terrorism and intimidation through any means (art. 13) and the disclosure of information associated with terrorism by any person (art. 19-1) include excessively broad language, rendering them amenable to abuse or arbitrary application. When considered in combination with the broad definitions of terrorism and extremism, these can unnecessarily and disproportionately limit the exercise of freedom of expression, including the work of journalists and human rights defenders.
4. The Special Rapporteur is also troubled by the provisions of the Act relating to support to terrorist organizations (art. 16-1), notably the list of acts used to determine support, including inviting support, providing reasonable justifications, expressing an opinion or belief that shows 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 whose purpose is to encourage support or further the activities of a terrorist organization and wearing any garment or possessing or using any document, illustration or photograph expressing support for a terrorist organization or one of its members. Article 16-1 of the Act includes excessively broad language, which makes it amenable to abuse or arbitrary application, and has a disproportionate impact on many fundamental freedoms, particularly freedom of religion and expression, especially when combined with the vague definition of terrorism. She also expresses concern at the lack of clear delineation between terrorist activities committed by terrorist groups and by gangs (art. 14).
5. The Special Rapporteur is concerned about the offences of participating in “a war led by a terrorist organization or terrorists not belonging to any organization” and of “entering and remaining in a war zone” without prior written authorization (defined as an area outside Maldives where there is an armed conflict led by a terrorist organization or terrorists not belonging to any organization as specified under article 18 of the Act) (art.16).[[17]](#footnote-18) She notes that references to war, absent any reference to international humanitarian law as the framework that allows the determination of whether the threshold for armed conflict has been reached, creates immense uncertainty. She is also concerned with the assumption that conflicts can be “led” by terrorist groups which can also be parties to a conflict under international humanitarian law. Furthermore, she is concerned that the presumption of the commission of a criminal offence exists when an individual enters a war zone, creating a reversal of the burden of proof, which is particularly problematic in that it goes against the presumption of innocence. There are exceptions to this presumption of the commission of a criminal offence (e.g. related to the provision of humanitarian aid to victims of war and carrying out work as a journalist), but these remain extremely limited and may not cover all cases of principled humanitarian assistance. Noting the recent adoption by the Security Council of its resolution 2664 (2022) safeguarding impartial humanitarian assistance in numerous crises settings, the Special Rapporteur encourages review and reconsideration of this provision.

 2. Scope of extremism offences

1. During her visit, the Special Rapporteur was made aware, from a wide range of interlocutors, of the challenge of defining the terms “extremism”, “religious extremism” and “violent extremism”[[18]](#footnote-19) precisely and with sufficient clarity, of measuring them and of determining how exactly they should be legally and institutionally addressed. There are at least two official working definitions of extremism, both of which are overly broad and vague.[[19]](#footnote-20) The Special Rapporteur recalls her serious concerns about the use of the term “extremism” in national law and practice,[[20]](#footnote-21) absent an internationally agreed definition, and her view that the term “extremism” has no purchase in binding international legal standards. When operative as a criminal legal category, “extremism” is irreconcilable with the principles of legal certainty, proportionality and necessity and therefore per se incompatible with the exercise of certain fundamental human rights and freedoms, notably freedom of expression and of religion and belief.[[21]](#footnote-22) The Speal Rapporteur recalls that in the seventh review of the United Nations Global Counter-Terrorism Strategy and in the Secretary-General’s Plan of Action to Prevent Violent Extremism there is reference solely to violent extremism conducive to terrorism.[[22]](#footnote-23) The Special Rapporteur underscores that, together with the International Covenant on Civil and Political, 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 principles of legality and legal certainty in defining these terms, which may be rendered more complex by the reliance on various understandings and interpretations of accepted religious thought and practice, as well as the right to freedom of religion enshrined in article 18 of the Covenant.
2. There was broad consensus across a range of actors that “extremism” is prominent in the domestic threat landscape and includes multiple forms. “Extremism” was identified as both a stand-alone and an intersectional phenomenon. It includes individuals who are associated with United Nations-designated terrorist groups, including those who travelled, attempted to travel or returned from the conflict zones in Iraq and the Syrian Arab Republic, and with locally listed terrorist groups, such as those associated with “extremist” practices and ideologies on certain islands, gang structures infiltrated by religiously “extreme” ideologies, and, on the other end of the scale, those seen as moderate or lax in their Islamic practices or those indifferent or hostile to accepted Islamic practices(laadheenee). There is a broad spectrum of discussions about the threat of “extremism” in all these stated forms, but clearly what is considered as “extreme” covers both ends of a religious spectrum: those who are seen as overly religious or hard line and those who are seen as not religious enough or overly secular, including a broad swathe of civil society actors. It is clear that “extremism” acts as a yardstick for what accepted and required religious practice should and should not be. The Special Rapporteur acknowledges, that, on a positive note, the Government has recognized the need to harmonize the terminology and its implications.
3. The Special Rapporteur notes the intersection of “extremism”, “religious extremism” and, given the particular place of religion in Maldives, the specific role of the Ministry of Islamic Affairs and its scholars operating under the Supreme Council for Islamic Fatwa in issuing “determinations” premised on religious interpretations (Religious Unity Act), which can operate as legal opinions on religious matters through non-judicial procedures that do not comply with minimum standards of due process. The extent of the overlap between expressing opinions that are “contrary to the tenets of Islam” and the regulation of whether an act, a speech or a text is considered “extreme” is not clear. In the Special Rapporteur’s view this is extremely troubling, as “extremism” not only operates as a legal category that can lead to criminal conviction, but, importantly, the term has become so politically charged that a formal or informal determination of “extremism” can unleash popular hatred, which has resulted in killings, threats to the lives and safety of individuals, who in some cases have had to flee the country, online and offline smear campaigns and the closure of civil society organizations, with almost complete impunity for those who carry out attacks.
4. The Special Rapporteur is profound disquieted at the use of the law and practice on “extremism” and “religious extremism” as a placeholder for impingements on the absolute right of freedom of religion and belief enshrined in article 18 of the International Covenant on Civil and Political Rights. She recalls that freedom of religion and belief is a universal right, an intrinsic aspect of a person’s humanity, which allows everyone to practice their religion or belief, individually and in community with others, in private or in public. The perception that a Government can directly or indirectly control what individuals think or believe, or that a Government is directly or indirectly entitled to decide what authorized thoughts or beliefs are, has no place in a modern democracy governed by the rule of law and respect for the dignity of all human beings. She reaffirms, in this context, the fundamental principle of equality and non-discrimination on any ground, including religion, enshrined in article 26 of the Covenant and refers to the 18 commitments of the Beirut Declaration on Faith for Rights,[[23]](#footnote-24) particularly the commitments on preventing the use of the notion of “State religion” to discriminate against any individual or group; on revisiting religious interpretations that appear to perpetuate gender inequality and harmful stereotypes or even condone gender-based violence; on publicly denouncing all instances of advocacy of hatred that incites to violence, discrimination or hostility; on monitoring interpretations, determinations or other religious views that manifestly conflict with universal human rights norms and standards; on refraining from oppressing critical voices and urging States to repeal any existing anti-blasphemy or anti-apostasy laws; and on refining curriculums, teaching materials and textbooks.

 3. Right to a fair trial and procedural exceptionalities

1. The Special Rapporteur acknowledges the Government’s commitment to judicial reform. Functional and effective courts are essential to the prosecution of terrorism, violent extremism and other acts of violence, bringing justice to victims of those crimes. She is concerned at allegations of lack of accountability, independence and impartiality, as well as the peddling of political influence, collusion, corruption and the lack of effectiveness of the judicial sector in both the regular and the highest courts, made by people from all walks of society, including the political establishment in power. This undermines the fragile confidence that the public places in the judiciary to address the complex and sensitive issues described in the present report. She also notes that there are concerns related to the presence of the Attorney General on the newly established Executive Committee of the Bar Council.
2. The Special Rapporteur is extremely uneasy at the number of exceptionalities created by the Anti-Terrorism Act in relation to investigations and trials. She notes in particular the right to arrest without a warrant (art. 22), special search powers (arts. 22-1 and 22-2), important restrictions on access to a lawyer (arts. 23 and 24), extended periods of review of the legality of detention, limited rights for the judge to order release and extended periods of pre-trial detention (art. 26) and absence of bail (art. 28-2). She expresses disquiet at the range of admissible evidence under the Act (confessions, intelligence, including foreign intelligence, and other sources that might include evidence obtained through unlawful means) (art. 27). These are much broader than what is admissible in the Criminal Procedure Code and the new Evidence Act.
3. The Special Rapporteur is concerned at the range of rights-limiting administrative measures that can be made under the Anti-Terrorism Act based on secret intelligence information or the pre-existence of a criminal record (art. 29). These include house arrests, travel restrictions, surveillance and severe financial restrictions (arts. 46–49), based on “reasonable suspicion” that an offence under the Act has been or will be committed (art 30). A monitoring and control measure can be executed for two years, but it can be extended. The court’s review is extremely limited and does not allow a determination that such restrictive orders are proportionate or necessary ab initio or continue to fulfil the requirements upon extension (arts. 35 and 39). Monitoring and control measures can be applied to children over the age of 15 (art. 45). Evidential lacunae hinder the presumption of innocence and weaken the principle of equality of arms and the right of defence. The Special Rapporteur notes that untested and uncorroborated intelligence does not provide a legitimate basis for the authorization of coercive counter-terrorism administrative measures that bypassthe principles of prior judicial review, appropriate standards of proof and limitations of criminal procedure and reduce procedural fair trial rights. Despite national classifications as preventive and precautionary, it difficult to draw a clear line between preventive and punitive when there is a coercive aspect.

 4. Human rights and countering the financing of terrorism

1. The Government has taken significant steps to strengthen the national framework to counter terrorism financing in line with international standards, particularly since the mutual evaluation by the Asia-Pacific Group on Money Laundering/Financial Action Task Force in 2011. In the report, Maldives was encouraged to adopt a risk-based approach to anti-money-laundering/combating the financing of terrorism. The Special Rapporteur finds that little progress has been made in putting into place an appropriate risk-based approach, but notes that the Financial Intelligence Unit within the Maldives Monetary Authority is conducting a national risk assessment. She emphasizes the importance of a narrowly tailored, empirically guided and inclusive approach to combating the financing of terrorism, not only for compliance with the Financial Action Task Force soft law standards, but also for compliance with international law, including international human rights law requirements.
2. The 2014 Prevention of Money Laundering and Terrorism Financing Act is the primary legal basis for the national anti-money-laundering/combating the financing of terrorism 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 organizations are not misused for terrorist financing. The Special Rapporteur is concerned about the overregulation of non-profit organizations, including their legitimate activities, and limitations to fundamental rights, including to freedom of peaceful assembly and association, opinion and expression, and religion or belief. She recommends that the Financial Intelligence Unit and the financial crimes police unit proactively mainstream human rights and gender considerations when implementing measures to counter the financing of terrorism. She notes the obligation of the Government to ensure that the banking sector applies a nuanced risk-based approach in its regulation. She acknowledges the references to privacy protections and confidentiality in the Act (vis-à-vis the Financial Intelligence Unit 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, such as surveillance and bank monitoring. She is also concerned that the freezing of assets, seizures, fines, imprisonment, and other criminal and non-criminal sanctions and penalties do not provide sufficient safeguards against abuse. She notes broader concerns about the due process and human rights compliance of national listing mechanisms for individuals, including the opaqueness of remedies and 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, underscoring the necessity of 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, preventing impunity, addressing the rights of victims and ensuring that serious acts of violence are not repeated. Any technical assistance and capacity-building by United Nations entities in this sector to build institutional strength must ensure the hardwiring of human rights norms and practices. She further stresses that any bilateral cooperation on combating the financing of terrorism, including with the United States Office of Foreign Assets Control must be based on human rights and the rule of law.[[24]](#footnote-25)

 B. Impunity

1. The Special Rapporteur is very deeply concerned at the level of impunity for terrorism and acts of violent extremism that she encountered in Maldives. She met directly with family members of victims of terrorism and violent extremism. She specifically highlights the ongoing and unresolved issues of accountability and transparency in the highly symbolic cases of journalist Hilath Rasheed, journalist Ahmed Rilwan, blogger Yameen Rasheed and member of Parliament, 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 and whose right to life should have been proactively protected.[[25]](#footnote-26) She remains particularly concerned about the failure to locate Mr. Rilwan’s remains and bring some degree of resolution to his grieving family, particularly given the public knowledge related to responsibility for his disappearance. His family continues to suffer from the unbearable consequences of his disappearance and exhibit extraordinary bravery and resoluteness. All these families deserve truth, reparation and remedy for the harms and losses suffered. These cases illustrate the deep challenge of impunity and the costs to family members from the failure to consistently support them. She commends the work of the Presidential Commission on Deaths and Disappearances and welcomes the fact that, on 15 December 2022, the Commission presented its final report on the enforced disappearance of Ahmed Rilwan to the President. She strongly recommends that the Government implement the recommendations contained in the report regarding charges against individuals allegedly responsible for the murder as well as the systemic recommendations to prevent violent extremism and crime. She urges the Government to provide the Commission with all the support and protection necessary to carry out its witness protection programme and to continue to undertake the necessary legislative reforms in that regard.
2. Furthermore, the Special Rapporteur underscores the clear and present dangers that exist for civil society actors in Maldives. She notes the de-registration of the Maldivian Democracy Network and the confiscation of its funds on an extremely unclear legal basis, following the publication of a report touching upon the issue of religious extremism. This has had a chilling effect on many other organizations. She was struck by the examples provided of the closing of civic space and attacks on 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 human rights defenders are falling through the cracks of protection, and highlights the obligation of Governments to not only not impede but to actively protect civil society. She notes particular challenges faced by women human rights defenders and their vulnerability to online digital harassment, including threats of violence. 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. She highlights the specific, and it would appear under-implemented, obligations of the Ministry of Youth, Sports and Community Empowerment to proactively and consistently protect civil society and human rights defenders from harm. She notes the adoption in 2022 of the Associations Act and the work that she was assured the Government was undertaking to investigate attacks on civil society.
3. The Special Rapporteur recalls the fundamental obligation of the Government to proactively take all steps to protect the right to life,[[26]](#footnote-27) particularly when threats are consistently and vociferously made in the public domain. The Government must take a range of measures to protect life from all reasonably foreseeable threats, including when threats emanate from private persons and entities. A protective legal framework that includes effective criminal prohibitions on all manifestations of violence or incitement to violence that are likely to result in deprivation of life is necessary. In certain cases, there is a duty to take special measures to protect persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence, which may include human rights defenders, individuals fighting corruption and impunity, including judges and members of independent commissions working on emblematic cases, journalists and bloggers, prominent public figures and others who, because of their opinions, may be seen as “extremist”, and witnesses to crimes. The Government must also independently, promptly, thoroughly, credibly and transparently investigate unlawful deprivations of life, carry out prosecutions in accordance with the right to a fair trial and take all necessary steps to prevent the occurrence of similar violations in the future.
4. The Special Rapporteur is also concerned that hate speech and incitement to violence, discrimination and hostility[[27]](#footnote-28) not only overlap with but are in fact replaced by the concepts and practices surrounding extremism and religious extremism. She notes the urgent need to coherently and adequately regulate them in line with article 19, paragraph 3, and article 20, paragraph 2, of the International Covenant on Civil and Political Rights. In the fifth amendment of the Penal Code (enacted on 28 November 2021) “acts of Takfir”, or acts of hate based on a person’s race, country of birth, colour and political beliefs, which excludes religious beliefs, are criminalized. She notes that the amendment seeks to criminalize the portrayal of persons as being non-believers, apostates or against Islam, but notes that this applies only when the expression is not considered as contrary to what is allowed under religious determinations, which, in a circular way, renders this provision ineffective. Rights protected in the International Covenant on Civil and Political Rights must not provide warrant for the destructive or excessive limitation of rights by a State, groups or persons. Rights and powers conferred for one purpose must never be used for another illegitimate purpose, and legitimate aims must not be directed at the destruction of rights and freedoms or their excessive limitation. Similarly, Governments must never use the limitation clauses to an extent that the very substance of the rights and freedoms would be annihilated. The Special Rapporteur urges the Government to provide clear definition and legal and policy direction to its ministries to ensure an “all-of-Government” approach consistent with international human rights law, including freedom of expression, association, and religion and belief, and the right to participate in public affairs.

 C. Victims

1. Currently, there is no specific legislation or government entity in Maldives dedicated to the provision of legal protection and other types of support to victims of terrorism or violent extremism. Nor does the National Action Plan on Preventing and Countering Violent Extremism contain any references to protection for victims of terrorism or violent extremism. The Special Rapporteur strongly recommends the adoption of legislation that brings a human rights-based approach to protecting and supporting victims of terrorism and their families. She commends the model legislative provisions to support the needs and protect the rights of victims of terrorism, developed by the Office of Counter-Terrorism of the United Nations Secretariat, the Inter-Parliamentary Union and the United Nations Office on Drugs and Crime, as a model.[[28]](#footnote-29)

 D. Repatriation and reintegration of individuals from conflict zones

 1. Positive engagement

1. The repatriation and reintegration of foreign fighters and family members of persons associated with designated terrorist groups from conflict zones is a pressing concern. The President and the Government announced their willingness to repatriate the women and children from Afghanistan, north-eastern Syrian Arab Republic and other parts of the Syrian Arab Republic, including Turkish-controlled territory. This is welcomed by the Special Rapporteur, who holds that multiple human rights violations are experienced by Maldivian mothers and children held in Rawj and Al-Hawl camps and has expressly affirmed the obligations of the Government to urgently repatriate its nationals.[[29]](#footnote-30)
2. The Special Rapporteur affirms that the Government and the President are seized of this sensitive challenge, and she positively acknowledges the concrete domestic steps taken towards repatriation through the creation of a Maldivian solution. The Government has enacted an extensive legal framework and has sought the support of the international community and the United Nations-led Global Programme on Prosecution, Rehabilitation and Reintegration, while a suitable site has been repurposed and designated as the National Reintegration Centre, for which considerable resources have been spent to engage 33 staff, including experts. A core rehabilitation and reintegration programme for adults and children, according to their age group and tailored to the specific needs of each returnee, has been developed. She nonetheless has several important reservations around the highly securitized approach to repatriation and reintegration and the lack of transparency on this issue.

 2. Lack of clear figures and concrete planning

1. The Special Rapporteur was surprised that, despite the considerable efforts made to tightly regulate the repatriation efforts, none of the Government ministries engaged in this process, or the National Reintegration Centre, could provide her with clear figures for the number of nationals currently in the camps or in detention centres in north-eastern Syrian Arab Republic or for those who would be repatriated. Only the broad range of 50 to 90 men, women and children was obtained from various interlocutors, with no breakdown in age or actual location. She is particularly concerned that those working in the National Reintegration Centre do not have sufficient information about the numbers, profiles and needs of the people currently detained in north-eastern Syrian Arab Republic. This is a serious issue which reveals a lack of resoluteness in the process going forward. Openness about the situation is a precondition for repatriation; better information-sharing will lead to better planning and more successful return and reintegration efforts. She notes, furthermore, that beyond the return of one family, no plans or timeline seem to exist for the actual repatriation of the nationals currently in the camps in north-eastern Syrian Arab Republic, and that at least two adult men have individually returned, but they are not engaged with this process. She is also concerned that the National Reintegration Centre, with a much greater capacity (107) than the highest figure given by the authorities of individuals in the conflict zone, may ultimately be used as a detention centre in the context of countering terrorism and extremism.
2. She recommends that practical steps to activate a reintegration process be given priority, with an emphasis on obtaining the 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 that reintegration occurs seamlessly. She was disappointed to learn that family members of those in the Syrian Arab Republic have been held at arms’ length from the Government’s planning and are not given regular information about the ongoing process. They are not viewed as partners in the process of return. In order to change this situation, the ministries and experts that have long-standing experience with vulnerable families that need social and legal support, including the Ministry of Gender, Family and Social Services, must be centrally involved.
3. A process of repatriation that is ultimately led by security actors, including the Ministry of Home Affairs, the Defence Intelligence Service and the police, as shown by the management of the National Reintegration Centre and the composition of the National Reintegration Centre Committee, but also by the presence of over 40 cameras, barbed wire and police guards, is not likely to produce long-term integration and the kind of sustained interdisciplinary and family-oriented solutions that ensure that children and parents receive the educational, psychosocial and economic supports needed to build a normal and dignified life.

 3. Legal framework on repatriation

1. The extensive legal framework relating to the repatriation of foreign fighters and their families from armed conflicts is included in the third amendment to the Anti-Terrorism Act and four regulations. The Special Rapporteur was informed that this additional framework responded to a specific legislative gap for those returning from conflict zones. The framework is extremely detailed, and a fourth amendment was pending adoption during her visit.
2. The definition of “foreign fighters” in article 60-3 of the Anti-Terrorism Act, which is not limited to individuals allegedly associated with a designated terrorist group or to those entering a designated territory, is extremely broad. The inclusion of “persons and their families” in this category seemingly precludes a judicial assessment to determine the role of individuals within the group and the possibility of trafficking or coercion. Furthermore, the inclusion of individuals who have entered and remained in a war zone or travelled to a country that has land access to a neighbouring country with a war zone but are unable to establish a valid reason for remaining there unjustifiably broadens this category through both a presumption and a reversal of the burden of proof. This category is likely to include individuals who did not have any intention of being associated with a terrorist group.
3. The Special Rapporteur welcomes the fact that children under the age of 15 are excluded from the category of foreign fighters. She notes with serious concern, however, that under the legislation, children, even those under 15, are, for the most part, subjected to the same procedures and assessments as adults. Under the Convention on the Rights of the Child, the protection owed to children as vulnerable and in need of special protection applies to all below the age of 18. The association of children with non-State armed groups, even those designated as terrorist groups, is always considered to involve coercion or constraint. Such children should be treated as victims of grave abuses of human rights and humanitarian law. Maldives ratified the Optional Protocol to the Convention on the Rights of the Child on 29 December 2004, and this binding legal framework applies to those children caught up in the activities of designated terrorist groups.
4. The Special Rapporteur also has concerns regarding the post-repatriation procedure. She regrets that the National Reintegration Centre is primarily a detention facility. This is detrimental to other significant work on reintegration, which would avoid long-term institutionalization and stigmatization. According to the Anti-Terrorism Act, four options are open to the authorities for dealing with an individual upon repatriation: (a) arrest and sentencing under the Act; (b) imposition of a monitoring and control device; (c) mandatory participation in the rehabilitation programme; and (c) administrative detention under article 60-6, of the Act. She is concerned that the latter three of these administrative measures may be imposed simultaneously and that the basis for administrative detention, namely, susceptibility of such a person to carrying out an act of terrorism, is extremely vague, unclear and very likely to lead to overbroad application.
5. In accordance the Anti-Terrorism Act, a 30-day mandatory detention applies to all who return from war zones, as they may pose a threat to the community. During this period, a risk-assessment and an intelligence/police debriefing are to be carried out by the police on all individuals, except children under the age of 3. Until the risk assessment is finalized, the detainee cannot meet with family members or legal counsel in full confidentiality. Extension of detention can be sought before a court with no maximum specified. The Special Rapporteur recalls that security detention presents severe risks of arbitrariness. It can only be imposed in exceptional circumstances, must not last longer than absolutely necessary, and the overall length of detention must be limited. Detention must be promptly and regularly reviewed and access to a lawyer in full confidence guaranteed.[[30]](#footnote-31) She is of the view that administrative detention under the Anti-Terrorism Act does not comply with these minimum guarantees.
6. The Special Rapporteur is profoundly worried about the fact that administrative detention is also applicable to children. While there are exceptions to this, notably in the best interest of the child, the position expressed by authorities and the National Reintegration Centre was that the interest of the child was best served by this detention situation. Under international law, the detention of children should always be a measure of last resort and for the shortest amount of time possible, considering the extreme vulnerability and need for care of minors.[[31]](#footnote-32)
7. She acknowledges that her interlocutors informed her that administrative detention should last “no longer” than the rehabilitation programme. Yet she notes that the law contains no upper time limit, and that release seems dependent on the success of the individual in passing the opaque and securitized risk assessment upon completion of the programme, potentially paving the way for indefinite detention. The Special Rapporteur also is concerned that, in accordance with the regulation on the subject, risk assessments and intelligence debriefings are to be carried out solely by the police and intelligence services,[[32]](#footnote-33) with no input from other critical actors specialized in the care and welfare of women and children. The aim is to “identify the extent to which they are subjected to acts of terrorism and the dangers they pose to the society”. In the view of the Special Rapporteur this contributes to the creation of stigma for this vulnerable population. She is also concerned that the regulation refers to the “close monitoring of children”.
8. A mother and her four children recently returned to Maldives from Türkiye. They are currently detained in the National Reintegration Centre. The Special Rapporteur thanks the Government for enabling her to meet with the family in the Centre. The Special Rapporteur concludes that the family’s immediate health and safety needs were met upon their return. The living situation is adequate, with provision for composite family living, access to a kitchen and washing machine and classroom facilities for the children, who have just begun their education. Connection with Maldivian family members has commenced. However, all five individuals are subject to a court-sanctioned administrative detention order of nine months. She notes this is prima facia inconsistent with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and key provisions of the Convention on the Rights of the Child, notably ensuring the best interest of the child (arts. 3, 9 and 37).
9. The Special Rapporteur finds that this extended focus on micro-level legal regulation displaces the fundamental obligation to protect those in the conflict zones. She has articulated her view that it is incumbent upon Maldives, in these exigent circumstances, to take proactive measures to safeguard the non-derogable rights of nationals in north-eastern Syrian Arab Republic in order to prevent irreparable harm to them, including the speedy issuance of identification 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. She highlights these collective concerns for United Nations entities engaged in the Global Programme on Prosecution, Rehabilitation and Reintegration.

 E. Detention

1. The Special Rapporteur visited multiple places of detention during her visit. She thanks the correction and prison authorities for their excellent cooperation, recognizing that their openness is part of the solution to the widespread harsh historic legacy of prison-related human rights abuse. The physical infrastructure of many prisons is poor, in need of repair or new construction. The Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[[33]](#footnote-34) and the Working Group on Arbitrary Detention[[34]](#footnote-35) have identified many practices of concern to her mandate. It is of particular concern to the Special Rapporteur that no Maldivian official has ever been held accountable for torture, despite available legislation and processes, leading to impunity and a systematic failure to prosecute. In practice, this means that individuals responsible for such acts continue to function in official capacities.
2. In Maafushi prison, the main prison for security-related offences or profiles, the Special Management Unit was specifically built to rehabilitate inmates classified as violent extremists, following a risk assessment. The physical standard of the Unit is high. It was of great surprise to the Special Rapporteur that, despite its capacity of 100 prisoners, it held only 7. At the same time, a separate high-security wing exhibited extremely poor conditions of confinement. She welcomes announced improvements to this high-security wing, but remains puzzled as to why a significant number of prisoners identified as high security or high risk were not being held in the newly constructed Unit. She also has specific concerns about allegations of confinement without access to exercise or sunlight for months at a time, of de facto solitary confinement and of police ill-treatment prior to custodial sentencing and during the investigative phase of criminal proceedings, in breach of article 7 of the International Covenant on Civil and Political Rights.

 F. Data collection

1. Human rights concerns have been raised about the scope and abuse of data collection premised on national security, counter-terrorism or extremism rationales. The Special Rapporteur is aware that considerable security-related data collection takes places in Maldives. In addition to the five agencies with intelligence-gathering capacity under the Anti-Terrorism Act (the police, the defence forces, and the monetary and financial intelligence and immigration authorities), data is gathered by the Counter-Terrorism Intelligence Directorate and private entities (service providers), as well as through bilateral agreements with foreign partners. Intelligence is shared among government agencies at various levels, including through the “fusion centre” of the National Counter-Terrorism Centre and the National Security Council. The Special Rapporteur remains very concerned at the lack of a clear and transparent legal framework to regulate, oversee and control these processes.
2. She highlights the potential for significant abuse of individual human rights presented by the data-sharing across multiple security cooperative arrangements acceded to by Maldives. Much of this cooperation remains opaque as concerns the technology, information and knowledge that is shared, and most of it seems to operate outside any transparent control. The provision of capacity-building and technical assistance is often carried out in a permissive environment that is “human rights light” by design and in practice. Transparency, accountability and monitoring in these arrangements is required, alongside meaningful independent oversight, including by national parliaments, and robust standards of due process and rights protection must be in place for the transfer of any counter-terrorism-related data to third countries.
3. At issue is the protection of the right to privacy, which functions as a gateway right. Its constriction affects a host of other rights, including the right to life, due 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 and that genuinely independent oversight of intelligence data collection, use and storage be undertaken across all agencies by a body that meets international standards of neutrality, professionalism and capacity.
4. With regard to the adoption of national biometric identity cards, the Special Rapporteur underscores that biometric data collection is a high-risk technology with serious potential for human rights abuse. Biometric data collection should be human rights-compliant at every stage of the process: design, use, transfer and storage. States and United Nations entities providing capacity-building and technical assistance in the adoption of this technology must ensure that the abrogation of fundamental rights is not facilitated. United Nations entities have a unique responsibility to apply their due diligence obligations. The same concerns and obligations apply in respect of advance passenger information and passenger name record data collection, and these must be addressed. In addition to the passage of specific and much-needed legislation, overall strengthening of the rule of law, advancement of concrete measures to ensure judicial independence and the mainstreaming of human rights within the police and other key institutions, including the Ministry of Home Affairs, are needed to ensure rule of law and human rights-compliant data collection and use.

 G. Reprisals and cooperation

1. As is her general practice, the Special Rapporteur stresses that reprisals or negative consequences for lawyers, members of civil society or persons in detention for meeting or speaking with her, and/or providing relevant information to her, will not be accepted and constitute acts of intimidation and reprisal.

III. Conclusions and recommendations

1. **Maldives has gained a prominent place as a global player. Positive steps have been taken, including the introduction of political pluralism, greater freedom of speech and the development of a vibrant civil society. However, practical steps are still needed to better understand the level of threat of terrorism and violent extremism and to distinguish them from the discourse and regulation of “extremism” and “religious extremism”, which currently threatens to saturate the landscape. Imprecise frameworks are clearly unhelpful in a polarized society with highly regulated religious freedoms, where their layered and multifaceted use can act as a lightning rod for popular hostility and as a shield for other forms of unacceptable violence. The issue of impunity for deaths, killings, disappearances, threats of violence and smear campaigns – online and offline – against prominent actors in society, including civil society actors, needs to be seriously addressed. This should be coupled with the introduction of legislation that addresses incitement to violence, hostility and discrimination, as required by international law.**
2. **Maldives has taken significant steps to introduce the possibility of repatriation and reintegration of individuals from conflict zones. However, the outwardly positive and determined stance of the Government towards return has not been matched by any actual operationalization of the repatriation process, which could reveal a lack of political will and the lack of a united position within the Government. The need to protect the right to life of persons returning from detention in north-eastern Syrian Arab Republic is urgent. Efforts in this regard should come with a clear time frame and focus on interdisciplinary and family-oriented solutions ensuring that children and parents receive the educational, psychosocial and economic support needed to rebuild their lives.**
3. **The Special Rapporteur makes the following recommendations:**

 (a) **The definition of terrorism in the Anti-Terrorism Act must be reviewed to ensure that it comports with best international practice. Other terrorism-related offences, including encouragement, support and speech-based offences, must be narrowed substantially to avoid a disproportionate impact on a number of fundamental freedoms. The offences linked to “going to war” and “entering a war zone” must be brought in line with international humanitarian law, particularly respect for humanitarian principles, and the key principles of due process, notably the presumption of innocence;**

(b) **The provisions on “extremism” and “religious extremism”, as part of the criminal framework, must be repealed. The absolute right to belief must be respected, together with the fundamental principles of equality and non-discrimination, particularly based on one’s religion or beliefs;**

(c) **Exceptionalities relating to the investigation of terrorism and “extremism” offences must be brought in line with the right to a fair trial, in particular those that provide overly broad powers to the executive, absent authorization and review by an independent court, and those that relate to evidence. Administrative measures such as monitoring and control measures, must comport with obligations under international human rights law;**

 (d) **Maldives must adopt a risk-based approach to anti-money-laundering/combating the financing of terrorism and meaningfully partner with civil society to that end. Overregulation of civil society by the banking sector must be addressed;**

(e) **Impunity for deaths, killings, disappearances and threats must be adequately addressed with utmost priority and clearly separated from the question of “extremism”. The Government must take all necessary steps to protect the right to life, particularly for those at risk because of specific threats or existing patterns of violence, which includes the enactment of a protective legal framework coupled with investigation, prosecution and the adoption of measures to prevent recurrence;**

(f) **A zero-tolerance policy for threats and violence against members of civil society must be adopted, and civic space must be proactively protected. A clear legal framework in line with international law must be developed to address incitement to hate, violence, discrimination and hostility, and it must be kept separate from the question of extremism;**

 (g) **Legislation protecting victims of terrorism must be adopted;**

(h) **Human rights-compliant legislation on data protection must be adopted. Security cooperation agreements, intelligence agencies and intelligence-sharing must be subjected to independent oversight;**

(i) **Repatriation and reintegration must be urgently and concretely advanced through a transparent and de-securitized process. The legal framework must be reviewed so that administrative detention is brought in line with international law and children are not subjected to detention or assessed in the same way as adults;**

(j) **Prison conditions must be improved, and greater clarity must be given to various detention regimes, including those in high security prisons.**

1. \* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only. [↑](#footnote-ref-2)
2. \*\* The present report was submitted after the deadline in order to reflect the most recent information. [↑](#footnote-ref-3)
3. Available at <https://freedomhouse.org/country/maldives/freedom-world/2022>. [↑](#footnote-ref-4)
4. Available at <https://rsf.org/en/index>. [↑](#footnote-ref-5)
5. See Maldives, Constitution, articles 2, 9 (d), 10, 19, 70 (c) and 274. [↑](#footnote-ref-6)
6. Upon accession to the Covenant, Maldives made the following reservation: “The application of the principles set out in article 18 of the Covenant shall be without prejudice to the Constitution of the Republic of Maldives”. [↑](#footnote-ref-7)
7. Recommendations to this effect were made in the last universal periodic review of Maldives, including by Chile, France, Spain and Ukraine (see A/HRC/46/10). [↑](#footnote-ref-8)
8. This is also reflected in policy documents, such as the National Action Plan on Preventing and Countering Violent Extremism 2020–2024, in which it is stated that “the religious and political goals of a few have resulted in the introduction of alien ideologies that promote terrorism and extremism…Since 2012, we have seen several young Maldivians with immense potential yet radicalized through various means and recruited by terrorist groups, travelling abroad as foreign terrorist fighters to join terrorist organizations engaged in civil wars miles away from home” (see https://nctc.gov.mv/publications/NAP\_PVE\_Public.pdf). [↑](#footnote-ref-9)
9. According to figures provided to the Special Rapporteur, between 2012 and 2017, 174 individuals travelled to Iraq and the Syrian Arab Republic and over 400 attempted to travel. [↑](#footnote-ref-10)
10. Sometimes linked to designated terrorist groups, notably Islamic State in Iraq and the Levant-Khorasan, Al-Qaida and Hay’at Tahrir al-Sham. [↑](#footnote-ref-11)
11. See https://nctc.gov.mv/html/mandate.html. [↑](#footnote-ref-12)
12. See Maldives, Armed Forces Act (Act No. 1/2008). [↑](#footnote-ref-13)
13. To be appointed by the President, with a broader mandate than the position of Chief of Counter-Terrorism, as provided for in article 19 of the amended Anti-Terrorism Act. [↑](#footnote-ref-14)
14. The numbers provided to the Special Rapporteur were 48 individuals charged under the Act in the last three years and 2 convicted. [↑](#footnote-ref-15)
15. A/HRC/16/51, para. 28. [↑](#footnote-ref-16)
16. E.g. India Out demonstrations (see <https://www.orfonline.org/research/understanding-the-india-out-campaign-in-maldives/>). [↑](#footnote-ref-17)
17. Going to war is defined as leaving Maldives to participate in a war, conspire or prepare for or aid or abet to carry out an act of terrorism and provide or receive training to carry out an act of terrorism, and entering and remaining in a war zone in areas outside Maldives. [↑](#footnote-ref-18)
18. The Special Rapporteur notes an immediate challenge linked to the statutory language of Maldives used to refer to “violent extremism”, which can be literally translated as “strict ideology”. [↑](#footnote-ref-19)
19. In the National Strategy on Preventing and Countering Violent Extremism it is stated 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 and Al-Qaida”. In the National Action Plan on Preventing and Countering Violent Extremism 2020–2024 extremism is defined as: “ideologies that radically and violently oppose and advocate against the spirit of the Maldivian Constitution, laws and regulations and social policies, in word and action. These include any ideology that deviates from the local culture, heritage, societal norms and customs aimed at fostering intolerance and violent actions. Any action or declaration taken by any individual or organization to obliterate/damage public property and label citizens as non-Muslim and encourages theft of their property is also viewed as extremism”. [↑](#footnote-ref-20)
20. A/HRC/31/65, para. 21. [↑](#footnote-ref-21)
21. A/76/261, para. 19, A/HRC/31/65, para. 21. [↑](#footnote-ref-22)
22. See A/70/674 and General Assembly resolution 75/291. [↑](#footnote-ref-23)
23. A/HRC/40/58, annexes I and II. [↑](#footnote-ref-24)
24. She notes due process concerns in the case of Mohamad Ameen, imprisoned in Maafushi prison, albeit not in the Special Management Unit, and listed by the Office of Foreign Assets Control. [↑](#footnote-ref-25)
25. Human Rights Committee, General comment No. 36, paras. 19–23. [↑](#footnote-ref-26)
26. Ibid. [↑](#footnote-ref-27)
27. In its resolution 75/291, the General Assembly refers to “incitement to commit terrorist acts which spread hate and threaten lives”. Note also the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4, appendix). [↑](#footnote-ref-28)
28. See 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. [↑](#footnote-ref-29)
29. [See](https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25958) https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25958. [↑](#footnote-ref-30)
30. Human Rights Committee, General comment No. 35, para. 15. [↑](#footnote-ref-31)
31. Ibid., para. 18. [↑](#footnote-ref-32)
32. Maldives, Regulation on conducting intelligence debriefing and risk assessment. [↑](#footnote-ref-33)
33. See A/HRC/46/26/Add.1[.](https://www.ohchr.org/en/documents/country-reports/ahrc4626add1-visit-maldives-report-special-rapporteur-torture-and-other) [↑](#footnote-ref-34)
34. See A/HRC/51/29/Add.1. [↑](#footnote-ref-35)