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Visite aux Maldives

Rapport du Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, Nils Melzer*

Résumé

Au cours de sa visite aux Maldives, du 17 au 24 novembre 2019, le Rapporteur spécial a eu accès aux lieux de privation de liberté dans tout le pays et il a pu mener des entretiens confidentiels avec les détenus de son choix, ce dont il remercie le Gouvernement des Maldives. Dans ses recommandations, le Rapporteur spécial prie instamment le Gouvernement de réduire l'incarcération excessive, d'offrir de meilleures conditions de détention et d'appliquer plus rigoureusement sa politique de tolérance zéro à l'égard de la torture et autres peines ou traitements cruels, inhumains ou dégradants.

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.



Annexe

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, on his visit to Maldives

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, conducted a visit to Maldives from 17 to 24 November 2019, with his team.
2. The Special Rapporteur is grateful to the Government for inviting him to visit the country and for its excellent cooperation before and after the visit. He appreciated the efforts made by the Ministry of Foreign Affairs to facilitate and organize official meetings. The Special Rapporteur looks forward to continuing the constructive dialogue with the Government on the issues highlighted in the present report.
3. The Special Rapporteur had the opportunity to exchange views with officials of the Ministries of Foreign Affairs; Gender, Family and Social Services; Economic Development; Defence; Tourism; and Home Affairs. He also met with the Prosecutor General, the Attorney General, the Commissioner of Police, the Commissioner of Prisons, the Deputy Controller of Immigration, the Director General of the Labour Relations Authority, the Speaker of the People's Majlis (the parliament), several Supreme Court justices, and members of the National Integrity Commission, the Judicial Service Commission, the Commission on Investigation of Murders and Enforced Disappearances, the Human Rights Commission and the Bar Council.
4. He is indebted to the numerous other stakeholders who shared their experiences and perspectives with him, in particular representatives of non-governmental organizations and the diplomatic community in Malé, human rights defenders, individuals formerly or currently deprived of their liberty, and survivors of torture and ill-treatment. He is grateful to the staff of the United Nations Resident Coordinator Office in Maldives for their invaluable support and cooperation throughout his visit.
5. The Special Rapporteur and his team visited the islands of Malé, Himmafushi, Maafushi, Hulhumalé, Villimalé, Guraidhoo, Dhoonidhoo and Rasdhoo. Throughout the visit, they enjoyed unrestricted freedom of movement and access to 10 facilities of deprivation of liberty, where they had meaningful meetings with representatives of the management, security and medical staff, and were able to confidentially interview male, female and juvenile inmates and residents of their choosing, in full compliance with the terms of reference of the mandate.

II. Legal, institutional and policy framework

A. Ratification of relevant international instruments

6. Maldives is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (acceded on 20 April 2004), the Optional Protocol to the Convention against Torture (ratified on 15 February 2006), the International Covenant on Civil and Political Rights (acceded on 19 September 2006), the Convention on the Rights of the Child (ratified on 11 February 1991) and the Convention on the Elimination of All Forms of Discrimination against Women (acceded on 1 July 1993).
7. The Special Rapporteur notes with satisfaction that the international legal obligations undertaken by the Government are directly applicable in domestic courts.

8. The Special Rapporteur welcomes the declaration made by Maldives shortly after his visit, on 26 December 2019, accepting the individual complaints procedure under article 22 of the Convention against Torture. He encourages the Government to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

B. National legislation

9. The Constitution of Maldives (2008), the Anti-Torture Act (2013), the Penal Code (2014) and the Prisons and Parole Act (2013) provide the most important legal norms for the prevention, investigation and punishment of torture and other cruel, inhuman or degrading treatment or punishment and for the exclusion of evidence obtained under torture.

10. Article 54 of the Constitution guarantees the right not to be subjected to cruel, inhuman or degrading treatment or punishment, or to torture. Article 57 guarantees humane treatment for and recognizes the inherent dignity of everyone deprived of liberty through arrest or detention as provided by law, pursuant to an order of the court, or in State care.

11. Section 10 of the Anti-Torture Act criminalizes torture separately from regular assault and battery. The definition covers all the elements of torture defined in the Convention against Torture. The Act contains non-exhaustive lists of acts that constitute physical torture (sect. 13 (b)) and psychological torture (sect. 14 (b)).

12. The Prisons and Parole Act outlaws torture by prison officers under sections 26 (b) and 32 (1) as a disciplinary offence; disciplinary action (warning, suspension or dismissal) may be taken under section 23 of the Anti-Torture Act. The Special Rapporteur is concerned that the penalties are not commensurate with the gravity of the crime and therefore fall short of the State's obligations to prevent and prosecute acts of torture and ill-treatment under the Convention against Torture.¹

13. Furthermore, amendments to the Prisons and Parole Act make daily access to fresh air for high-security prisoners subject to the discretion of the prison authorities. That undermines the guarantees provided in section 47 (a) and (b), according to which, other than their right to liberty, detainees cannot be deprived of any fundamental rights, such as the prohibition of ill-treatment.

14. Article 255 (b) (10) of the Constitution stipulates that measures adopted during a state of emergency shall not restrict the right not to be subjected to torture under article 54. Similarly, section 16 of the Anti-Torture Act stipulates that a state of war, political unrest, an increased rate of crime or a state of emergency cannot excuse or justify acts of torture, cruel, inhuman or degrading treatment or punishment.

15. The laws still fall short of an absolute prohibition of torture. The Special Rapporteur notes with serious concern that the Penal Code provides in chapter 40 for a range of protections that have the potential to justify conduct that may constitute an act of torture when it is considered a "lesser evil" (sect. 41); when executing public duty (sect. 42); when executing law enforcement authority (sect. 43); and in the case of the defence of a person (sect. 45) or property (sect. 46). Those provisions could be used to legitimize torture in contravention of article 2 (2) of the Convention against Torture, which provides that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. Furthermore, the statute of limitation under the Criminal Procedure Code (2016) also applies to cases of torture and other ill-treatment and, thus, could be used to prevent the prosecution of such abuse.

16. While welcoming the clarification provided on penalties for torture (CAT/C/MDV/CO/1/Add.1, paras. 73–79), the Special Rapporteur calls for the review of

¹ See *Urra Guridi v. Spain* (CAT/C/34/D/212/2002).

section 23 (f) of the Anti-Torture Act to address the concerns expressed by the Committee against Torture (CAT/C/MDV/CO/1, para. 19).

17. The Special Rapporteur was pleased to learn during his visit that the Government has adopted a national strategic action plan on reforms, which contains an ambitious programme to introduce or amend 201 bills within the next five years with a view to ensuring their compatibility with international human rights standards. Most notably, he commends the recent adoption of the Juvenile Justice Act and the Child Rights Protection Act, which abolish the death penalty for crimes committed by persons under the age of 18 years. He also commends the development of legislation concerning judicial evidence and of national minimum standards for all places where persons are deprived of their liberty, as well as for the accommodation of both migrant workers and national employees.

C. Monitoring bodies

18. Formally, judicial safeguards provided by oversight bodies are in place, including through the independent National Integrity Commission, the Human Rights Commission of Maldives, the Judicial Services Commission, the National Preventive Mechanism and the Commission on Investigation of Murders and Enforced Disappearances.

19. The Special Rapporteur acknowledges and commends the significant efforts made by successive Governments to hold accountable those responsible for past human rights abuses. On 17 November 2018, pursuant to Presidential Decree No. 2018/13, the President established the Commission on Investigation of Murders and Enforced Disappearances to conduct transparent, impartial and thorough investigations into deaths that occurred under suspicious circumstances and instances of unresolved disappearances. With the enactment in June 2019 of the Presidential Commissions Act, the Commission on Investigation of Murders and Enforced Disappearances was afforded statutory powers to conduct fully fledged criminal investigations. It is currently conducting investigations into 27 specific cases that took place between 1 January 2012 and 17 November 2018. The Special Rapporteur notes that the process of truth, accountability and redress is not complete; many cases remain unresolved and many perpetrators have yet to be brought to justice.

20. The Human Rights Commission, established in December 2003, has included the National Preventive Mechanism since 28 April 2008 as a separate department, pursuant to article 44 (c) of the Anti-Torture Act. The Commission has established its own internal anti-torture section to fulfil its responsibilities pursuant to that Act.

21. The Human Rights Commission is independent, according to article 189 of the Constitution. However, in 2014 five members of the Commission faced *suo motu* proceedings by the Supreme Court and were charged with treason for having submitted a document for the universal periodic review of Maldives, which the Court considered unlawful. Since then, the independence of the Commission has been limited by a set of guidelines which include using government channels when communicating with international bodies and refraining from causing damage to the country's reputation. The Special Rapporteur welcomes the amendments to the Human Rights Commission Act, ratified on 22 September 2020, recognizing the Commission's powers to communicate with international bodies. It is a positive step and he recommends that it be interpreted broadly.

22. The Government generally permits the Human Rights Commission to make regular and unannounced prison visits, so long as a presidentially appointed commissioner is present during the visit. The Human Rights Commission and the National Integrity Commission both reported that, although they have the legal authority to enter detention facilities without prior approval, the Maldives Correctional Service and the Maldives Police Service required a letter signed by a commissioner of either Commission before allowing access.

23. The Special Rapporteur notes with serious concern that, while those bodies have received complaints, the processing of cases is slow and the implementation of their recommendations inconsistent. The Special Rapporteur reminds the authorities that the establishment and effective operation of those mechanisms is an international legal obligation

and regular independent monitoring is one of the most effective tools to reduce the risk of torture and ill-treatment.

III. Fundamental safeguards

24. Formally, domestic legislation includes several important safeguards to prevent or reduce the risk of torture and other ill-treatment, including the right to notify relatives of an arrest, and the rights of access to a lawyer and to a medical doctor.

25. The Special Rapporteur notes that arbitrary arrest and detention are legally prohibited, and any person has the right to challenge the lawfulness of his or her arrest or detention in court. The Constitution states that no person shall be arrested or detained for an offence unless the arresting officer witnesses the offence, has reasonable and probable grounds or evidence to believe that a person has committed an offence or is about to commit an offence, or under the authority of a court-issued warrant. The Criminal Procedure Act (2016) also allows arrest if a person is about to commit an offence or may attempt to destroy evidence relating to a major crime. Furthermore, it provides for investigative detention. The Criminal Procedure Act allows the police to detain individuals for questioning for four hours, without the detention being considered a formal arrest. The Special Rapporteur notes with concern that he received several reports of instances in which that provision had been misused by the authorities.

26. Pursuant to article 48 of the Constitution, upon arrest, individuals must be read their Miranda rights, that is, verbally informed immediately of the reason for the arrest, and have that confirmed to them in writing within 12 hours and receive a bail hearing and ruling within 24 hours. The police should inform the arrestee's family within 24 hours of the arrest. However, the ground for the arrest is communicated only for juveniles, in which case a parent or guardian must be informed within four hours. A random sample of police records examined during the visit showed that, at least formally, arrestees are informed about the reasons for their arrest and about their right to contact a lawyer before the first questioning, as well as, in cases of serious crimes, their right to be provided with a State-appointed legal counsel free of charge.

27. Amendments to the Anti-Terrorism Act adopted in October 2019 allow police officers with probable and reasonable grounds to arrest terrorism suspects without an arrest warrant in order to avert the imminent commission of an offence. Civil society sources reported the need for a proper definition of the term "probable and reasonable grounds" in order to avoid misuse of that provision. The Special Rapporteur agrees with that recommendation. The police may restrict private meetings with lawyers for suspects of terrorism offences for a period of seven days where there is reasonable ground to believe that such meetings might result in evidence tampering, committing a terrorist offence, physical harm to another or hindering the recovery of property obtained by committing a terrorism offence.

28. According to information received from the authorities, all interrogations after arrest are systematically video recorded. By law, the police are allowed to question a detainee in the absence of counsel if the detainee's lawyer does not appear within 12 hours without providing an adequate reason for the delay.

29. According to the sixth anti-torture report of the Human Rights Commission and the Prison Audit Commission report, which were examined by the Special Rapporteur, detention facilities overseen by the Maldives Correctional Service and the Maldives Police Service did not have enough closed-circuit television cameras or were not able to maintain closed-circuit television coverage for a sufficient length of time, thus hindering the investigation of allegations of ill-treatment or torture. In both reports, it was also noted that the Maldives Police Service did not maintain records of detainees they held for fewer than 24 hours, leading to difficulties in verifying complaints or the identities of police officers responsible for any misconduct.

30. The Prosecutor General determines the charges and the arresting officer must present sufficient evidence to a court within 24 hours to justify and obtain authorization for continued detention, otherwise the prisoner is eligible for release. To extend detention, judges must

consider the detainee's previous criminal record, the status of the investigation, the type of offence and whether the detainee poses a threat if released.

31. The Special Rapporteur received consistent reports suggesting serious deficiencies in the implementation of the right to legal counsel. In particular, numerous defendants prosecuted for serious crimes and unable to afford a private defence lawyer were reportedly tried and sentenced without legal assistance from a State-appointed defence counsel.

32. The Special Rapporteur notes with concern that not all persons deprived of their liberty in Maldives, regardless of their status or personal situation, are allowed a telephone call to inform their family of their arrest. Inmates held in Dhoonidhoo pretrial detention centre complained about having the right to make only one telephone call after their arrest, and later not being given any possibility to contact their lawyers. In Maafushi prison, foreign detainees reported being completely cut off from the outside world, as they were not allowed to make any international telephone calls. Some were in detention for up to two years with life sentences. The Special Rapporteur received further complaints from persons held in migration-related detention who had no access to legal counsel or any other due process procedure prior to receiving deportation orders and during detention. Persons deprived of their liberty in Maldives are generally entitled to one family visit of one to two hours and two telephone calls of seven minutes each per month. Even convicts prepared to bear the costs themselves are not allowed additional telephone calls. Given the relatively small size of the prison population in Maldives, it is difficult to see any justification for such restrictions.

33. The Special Rapporteur notes with concern that there is also a generally inconsistent practice with regard to the provision of medical assessments upon arrest and a lack of forensic capacity independent of law enforcement authorities.

34. Despite the provisions of the Criminal Procedure Act aimed at avoiding or minimizing delays in court proceedings, officials, lawyers and civil society representatives alike reported routine overincarceration of non-violent pretrial detainees. They also referred to the excessive duration of investigative processes and judicial proceedings, which often resulted in pretrial detention ranging from several months to years, without significant action on the part of the authorities. In several cases, suspects were in remand for periods exceeding the maximum prison sentence of the alleged offence. As at September 2019, the Maldives Correctional Service reported that there were almost 400 pretrial detainees, 70 per cent of whom had not had a court hearing for seven months. In October 2019, the Attorney General, Ibrahim Riffath, amended the Prosecution Directives to mitigate the backlog by requiring the Prosecutor General to review the pretrial detention decisions made by judges every 30 days. The courts would then dismiss orders of detention issued based on insufficient grounds.

35. One of the challenges observed is the insufficient qualifications of judicial magistrates responsible for the first instance adjudication of cases, and a perceived lack of awareness and understanding of international due process and human rights standards among the judiciary. The Special Rapporteur commends the ongoing reform of the judiciary, the establishment of two district courts, the revision of the Prosecution Directives and the establishment of the Bar Council.

IV. Torture, ill-treatment and excessive use of force by the police

36. In meetings with the judicial, legislative and executive branches of government, all officials emphasized their unequivocal commitment to the absolute and non-derogable prohibition of torture and ill-treatment. However, the Special Rapporteur received allegations of torture and ill-treatment attributed to law enforcement officials.

37. For example, in an incident that took place on 4 July 2019, seven police officers were suspended after a video showing officers beating a man during a raid went viral on the Internet. In September 2019, the Maldives Police Service began consultations with the Prosecutor General's Office potentially to file criminal charges against the officers, but no formal charges had been initiated by the end of that year. Furthermore, on 22 June 2019, the Minister for Home Affairs, Imran Abdullah, acknowledged to local media that excessive force had been used by prison guards during a confrontation between Maldives Correctional

Service officers and inmates in Maafushi prison. The Correctional Service announced that it had taken undisclosed action against an unspecified number of officers who had been involved in the confrontation. The Human Rights Commission and the National Integrity Commission also undertook their own investigations into the two incidents, which remained pending as at December 2019.

38. While it is difficult to make a generalized statement in that regard, in some of the prisons and other places of detention visited, the Special Rapporteur heard several consistent accounts of physical and psychological abuse inflicted on inmates as a disciplinary sanction for misbehaviour.

V. Impunity: ineffective follow-up to and investigation of claims of torture and ill-treatment

39. The Special Rapporteur regrets to report that, to date, the work of the Human Rights Commission, the National Integrity Commission, the Judicial Services Commission, the National Preventive Mechanism and the Commission on Investigation of Murders and Enforced Disappearances does not appear to have ensured an effective system of oversight and accountability. Despite reports that, since the entry into force of the Anti-Torture Act in 2013, several hundred complaints of torture and other forms of ill-treatment have been submitted to those bodies, no official has ever been held accountable, nor has any victim received redress, if only through official acknowledgement on the part of the Government. Reportedly, allegations submitted to the Prosecutor General are routinely dismissed for lack of sufficient evidence, thus suggesting either serious systemic shortcomings in investigative mechanisms or a lack of political will to properly investigate the allegations and/or to hold suspected officials accountable.

40. Whatever may be the cause for what appears to be a systematic failure to investigate allegations of torture and ill-treatment and to prosecute proven instances, it results in almost complete impunity for serious official misconduct. It also results in a concomitant profound erosion of public confidence in the integrity and reliability of the police and the judiciary to protect the rights of citizens.

41. In that regard, the Special Rapporteur underlines the State's obligation under national and international law to investigate any crime involving torture or ill-treatment, to prosecute any perpetrator, and to impose penalties commensurate with the gravity of the crime, in accordance with articles 7 and 12 of the Convention against Torture.

VI. Corporal punishment and death penalty

42. The penal law of Maldives permits amputation, stoning, flogging and other forms of corporal punishment imposed for *hudud* offences (robbery, fornication, homosexual acts, alcohol consumption and apostasy) and *qisas* (retaliation in kind) offences. In the case of minors, the recently amended Juvenile Justice Act (2020) replaces the 2014 Supreme Court guideline, which delayed the execution of a flogging sentence until the perpetrator reached the age of 18. For certain offences, criminal law still permits the death penalty. In the Special Rapporteur's view, corporal punishment and the death penalty are irreconcilable with the universal prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

43. In 2019, no *hudud* penalties were enforced. However, since January 2019, five individuals have been sentenced to flogging, including two boys under the age of 18.

44. The Special Rapporteur's concerns with regard to the irreversibility of capital punishment are further reinforced by significant shortcomings in the investigative and judicial processes, which often lack the capacity to objectively establish the facts, identify causal chains and determine legal responsibilities with sufficient reliability, as required by the fundamental principles of justice and the rule of law. He welcomes unreservedly the Government's continued commitment to the moratorium on the death penalty, which has been observed since 1953.

45. During his visit to Maafushi prison, the Special Rapporteur regrets to report that he and his team inspected a new purpose-built facility for carrying out death sentences by hanging, reportedly constructed under the previous Government. The facility is fully equipped with three waiting cells, gallows on the upper floor and, on the ground floor, an adjacent room with three mobile stretchers, facilities for the washing of the dead bodies, and a dedicated funeral transportation vehicle. The existence of that facility is not compatible with the commitment of Maldives to its longstanding moratorium on the death penalty.

VII. Conditions of detention

A. Overcrowding and access to fresh air

46. As a result of both a general practice of overincarceration and significant infrastructural limitations, places of deprivation of liberty throughout the country are significantly overcrowded, often with occupancy rates ranging from 150 to 190 per cent of the actual capacity. Between 2013 and 2019, the number of persons deprived of their liberty in prisons nationwide rose exponentially, from 1,040 to 1,785. While the sharp increase in incarceration rates has led to significant overcrowding and deterioration of conditions of detention, some prisons are more adversely affected than others, Malé prison being the worst affected by overcrowding.

47. Overcrowding naturally generates a very high level of stress for inmates and tension between them and the prison staff. It significantly increases the risk and the actual occurrence of violence between inmates and staff.

48. The effects of overcrowding on the detainees are exacerbated by extremely restricted or even a complete lack of access to the outdoors, fresh air and physical activity. Inmates are locked up in cramped, hot, humid and poorly ventilated cells. They have no access to educational, recreational, vocational, physical or intellectual activity. In several facilities, inmates do not have their own bed or mattress, and sleep either on thin mats or directly on the hard floor (cement or tiles). In the prisons visited, respect of even the most basic international minimum norms regarding the minimum area of living space per inmate and their access to fresh air and physical exercise, which must be at least one hour per day, is exceptional.

49. The official capacity of prisons and detention centres appears to be calculated on the basis of available beds rather than available space per inmate, which results in available surface areas as small as 1 m² or less per inmate, clearly falling short of the universally recommended minimum specifications of 3.4 m² per inmate in shared accommodation and 5.4 m² in single cells.² In Maafushi prison, the Special Rapporteur saw a number of cells where four or five prisoners shared two beds, and cells with inadequate space, natural light, sleeping and sanitary facilities.

50. The Special Rapporteur considers that the conditions of detention he witnessed amount to cruel, inhuman or degrading treatment and, where intentionally and purposefully inflicted, may even amount to torture.

B. Access to medical care

51. Although every prison under the authority of the Maldives Correctional Service reportedly employs at least one medical doctor and two nurses, most prisoners requiring specialized medical attention have to be transferred to Malé. The Special Rapporteur regrets to report that access to medical care is unnecessarily delayed due to a lack of adequate facilities, such as dental care, and the alleged negligence of prison and medical staff.

² International Committee of the Red Cross, *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance* (Geneva, 2013), p. 33.

52. There appears to be a shortage of qualified general health professionals to provide the adequate assessment, documentation and interpretation of trauma and injuries. There is also a general lack of basic health care, dental care and psychiatric support for detainees. The lack of forensic medical training, infrastructure and support in the country renders the investigation and documentation of torture and ill-treatment difficult and in many cases impossible. Deaths in custody are poorly investigated and autopsies are not conducted in the country.

53. There are no health prevention programmes or medical awareness programmes for specific prevalent conditions such as HIV/AIDS, tuberculosis or drug addiction (with the exception of the specialized drug rehabilitation centre).

54. From a medical perspective, the sleeping conditions, quality of food and ventilation are inadequate in many places of detention, and inmates' access to fresh air, physical work and recreational activities is clearly insufficient and in some cases, the cause of illness.

55. The Special Rapporteur also notes with serious concern that, despite existing regulations, it was reported that medical staff do not conduct examinations thoroughly; that they do not enquire about injuries or probe further for explanations. Many medical staff are not familiar with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and, in some places of detention, do not consider it their duty to enquire whether injuries observed may be the result of torture or ill-treatment.

56. The Special Rapporteur stresses the importance of transferring responsibility for the health care of detainees and prisoners from the prison administration to the Ministry of Health or the relevant provincial ministry of health, as the current supervisory chain in detention centres may prevent health professionals from documenting and reporting torture or ill-treatment in complete independence.

C. Complaints mechanisms and accountability

57. The Special Rapporteur notes with serious concern that, except for visits by the National Preventive Mechanism and the Human Rights Commission, in no place of detention is there a truly independent, effective and accessible complaints mechanism for persons deprived of their liberty to send confidential complaints directly to an independent oversight body. While in some institutions complaints forms are made available, most inmates are not aware of their existence. When inmates submit written complaints to the Prison Director or to the Commissioner of Prisons, the Human Rights Commission, the People's Majlis or other external oversight bodies, their correspondence is systematically censored by correctional officers and either transmitted or held back at the officers' discretion.

D. Separation of remand detainees from convicts

58. According to the Prisons and Parole Act, remand detainees should be held separately from convicted prisoners. However, that is not the practice. The Special Rapporteur observed that pretrial and remand prisoners were held in the same cells. The Malé custodial centre and the Dhoonidhoo pretrial detention centre held juveniles in separate cells but in proximity and view of cells that held adults.

E. Material conditions

59. In all the institutions visited, the Special Rapporteur assessed that the infrastructure and the conditions of detention were incompatible with respect for human dignity and may amount to cruel, inhuman or degrading treatment or punishment, or even torture.

60. The Special Rapporteur regrets to report that the conditions of detention he observed in the Malé custodial centre were extremely poor; no sleeping or seating facilities were available in any cell. The prisoners slept on the bare floor and prison guards indicated that mattresses were provided only upon prescription by a medical doctor. There was no yard

space in the centre for prisoners to be outdoors and as a result, inmates were confined in their cells all day long. There was one holding cell for newly arrived male arrestees awaiting processing, but no separate cell for newly arrived female arrestees. During his visit, the Special Rapporteur witnessed one female arrestee being left to sleep on the floor outside the interrogation room. The custodial centre did not have a resident doctor or nurse to attend to emergency cases.

61. During his visit, the Special Rapporteur understood from interviews with detainees and staff that on any given night, the holding cells would be filled with an average of 20 arrestees who were held overnight and, after initial questioning, would be transferred further or released the following morning. Cells were often infested with insects and/or rats, poorly ventilated and poorly lit, with improvised electrical installations hanging from ceilings and walls. Many cells had no artificial light at all, and often access to toilets was limited, particularly during the night. In many cells, water taps and even toilets were blocked, with no access to hot water and no supply of basic hygiene products.

62. Malé prison was severely overcrowded, with inmates in very tight quarters with no access to sunlight or fresh air during their entire detention. In most cells, inmates slept on the floor on thin mats. In the bigger cells, some inmates had beds or mattresses. All cells shared only one open sanitary area which inmates covered with a mat to prevent water splashing onto the floor where they slept; most often the mats had mould growing on them. The “good conduct” inmates housed on the top floor benefited from the opportunity to work within the facility, and access to a common corridor in front of the cells during the day. There was markedly less stress and tension among those detainees. The prison management indicated that the same transformation was foreseen for the first and second floors, where inmates were locked up day and night.

63. The sanitary and hygiene conditions were very unsatisfactory in Malé prison. The Special Rapporteur observed that during the cleaning of the cells, the detainees had to clear the excess water left using their own plates. The area outside their cells was littered with food leftovers and had stagnant water; cleaning was done once a day. The inmates complained about the lack of access to fresh air and of structural maintenance, for example, to remedy exposed electrical wiring in sockets.

64. Maafushi prison held both female and male detainees. Overall, the conditions of detention in the female units were generally acceptable, except with regard to overcrowding; each cell housed up to five inmates and had only three beds, thus forcing two inmates to sleep on the floor on mattresses. The sanitary and hygiene conditions observed in the facility were adequate. The detainees had access to the corridor in front of their cells throughout the day and were able to access the yard for one hour per day. The ventilation in the cells was very limited, with two small low-hanging windows, despite the availability of two small fans. Many women complained about inhaling smoke from the burning of waste on the island.

65. In the high-security wings holding male detainees, five to six prisoners were held in small cells with only two beds, many without mattresses. In the other wings, 16 male prisoners were held in dormitories equipped with 10 beds. There was a lack of natural light, sleeping and sanitary facilities, as well as insufficient access to fresh air. Prisoners were reportedly allowed out to exercise for only one hour once or twice a month.

66. The major concerns prisoners expressed were the insufficient quantity and poor quality of the food and the water they received, the very poor ventilation, the lack of hygiene and sanitary conditions in the cells and attached toilets, and the poor lighting. The prisoners on death row also complained that the electricity in their cell was on 24 hours a day, which disturbed their sleep.

67. Asseyri prison, in contrast with other prisons, provided inmates with wide-open spaces, which they used for recreational and vocational activities such as carpentry, tailoring, electrical and agricultural programmes. The inmates were housed in five wings divided up into four sections each, and equipped with 16 toilets. However, a significant number of shower and toilet facilities were reportedly either not functioning or not in use.

68. The Special Rapporteur noted with surprise that contrary to adult inmates, the juvenile detainees, who were held in a separate section of the prison, were allowed only one hour per day outside their cells in the yard, except on Fridays.

69. The Special Rapporteur regrets to report that during his visit, incidents with detainees with psychological disorders were not properly addressed. There were also several allegations of frequent abuse by one particular correctional officer, involving brutality and frequent threats of transfer to Maafushi prison.

70. In Hulhumalé prison and immigration detention centre, the overall conditions of detention were generally acceptable and efforts to renovate and build a new temporary facility were welcomed. Among the persons detained there, the Special Rapporteur met a man aged 90 and several other elderly detainees who appeared to be exhausted or very sick, as they lay motionless. A staff nurse was distributing medicine. The facility did not have a resident doctor; a doctor made regular visits to the facility.

71. The immigration detention wing was significantly overcrowded with 21 detainees in a cell. Most of the migrants detained there were awaiting the implementation of a deportation order by the Controller of Immigration. On average, migrants were confined in that facility for three to six months, however one migrant had been detained for almost two years. Most residents there complained of the lack of access to telephone calls to their family and the absence of lawyers to help them defend their claims.

72. The Special Rapporteur received allegations that having to sleep on the floor caused detainees back pains and exposed them to insects such as mosquitos, ants and cockroaches. During his visit, one detainee was held in quarantine, and was not allowed to touch anyone because of an allegedly contagious skin condition. He complained of stigmatization due to his illness, which prevented him from all social contact within the prison. The detainee was examined by the forensic medical expert who was accompanying the Special Rapporteur and his skin condition was found not to be contagious.

73. In Dhoonidhoo pretrial detention centre, the inmates slept on the floor on mats. They were provided with pillows, but no bed sheets or blankets. The Special Rapporteur noted that there was a lack of drug withdrawal treatment provided to drug addicts in pretrial detention. Inmates with a drug addiction were therefore forced to detoxify without assistance, experiencing acute suffering due to withdrawal symptoms, as reported by two female inmates the Special Rapporteur met during his visit.

74. Time outdoors for male prisoners was provided in semi-open areas caged with metal wire fencing, situated immediately adjacent to the beach, with no boundary wall in between the sea and the prison. In order to prevent inmates from escaping during yard time, they all remained handcuffed behind their backs during their walks. The female detainees had a small courtyard area in front of their cell, which they accessed on a weekly basis for one hour.

75. Rasdhoo police station was equipped with cells that could accommodate one person each. The Special Rapporteur did not hear of any allegations of torture or ill-treatment in that facility but was concerned by the lack of natural light and ventilation in the cells. He also learned that the police officers there were not aware of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

76. Although time constraints prevented him from conducting any additional visits, the Special Rapporteur received alarming allegations regarding Villingili police station, which were sufficiently precise and credible to warrant their inclusion in the present report. The material conditions of the cells were reported to be inhumane with up to five persons sharing cells designed for single occupancy, which forced the inmates to sleep in shifts with their heads practically touching the toilet while others stood because of the exiguity of the space. The allegations also referred to police brutality during interrogation in order to force detainees to confess to the crimes of which they were accused. Detainees were typically cross-cuffed and shackled while they were beaten.

F. Death in custody

77. The Special Rapporteur regrets that deaths in prison were often not properly investigated, and no post-mortem examinations conducted. The law requires that the Human Rights Commission of Maldives be informed immediately of any death in State custody and that it inspect the body prior to burial. While the authorities implemented that provision, they often moved the body to a second location, such as a hospital, before the Human Rights Commission conducted the inspection. Reportedly, 19 cases of unexplained deaths in custody occurred between 2013 and 2019, 6 of which were under investigation at the time of the visit. In August 2019, owing to a lack of sufficient evidence, the Prosecutor General's Office declined the request of the Human Rights Commission to file charges against the Maldives Correctional Service officers found to have been negligent in providing medical care for a prisoner in Maafushi prison who died in custody in 2017.

G. Work, education and recreation

78. A general issue of concern in almost all of the facilities visited is the excessive amount of time that detainees are confined to their cells without any opportunity to work or engage in educational, vocational training or recreational activities that would facilitate their reintegration into society after their release.

79. The Special Rapporteur would like to emphasize that opportunities to engage in work, education and recreation are of critical importance not only for the mental, emotional and physical well-being of inmates, but also for their successful reintegration after release.

VIII. Juveniles

80. In Maldives, there is no correctional facility specifically designed for the incarceration of juveniles in conflict with the law, as provided for in article 3 (e) of the Prisons and Parole Act. Despite the existence of separate cells for children, juveniles remain exposed to conditions of detention, discipline and treatment which are designed for adult inmates and not adapted to their age. None of the institutions visited offered any educational, vocational, cultural or recreational activity adequate for juveniles.

81. The Special Rapporteur received several consistent allegations of physical abuse by guards, including beatings and kicking with boots either in retribution for provocative behaviour or during cell searches for drugs, mobile telephones and other prohibited items. Overall, the Special Rapporteur observed a regime of confinement that appeared to be unnecessarily securitized, if not oppressive, and poorly adapted to the specific needs of juvenile inmates.

IX. Institutionalization of other persons in vulnerable situations

A. Children

82. In the Kudakudhinge Hiya childcare facility, the Special Rapporteur observed that, while general access to mandatory education in the local public school was provided, children lacked proper supervision, discipline and a structured daily routine. Most of the time, adolescents are simply left to entertain themselves with video games and online entertainment. They do not have any chores or tasks to help with maintaining order and the cleanliness of the facility. Many of the older children complained of the inadequate availability of appropriate level reading books. The Special Rapporteur received one complaint that there were particular staff members who would discipline children by beating them.

B. People with special needs

83. The overall condition of the residents in the home for people with special needs, in Guraidhoo, were generally acceptable. The facility is run under the auspices of the Ministry of Gender, Family and Social Services. However, juvenile patients were accommodated in mixed quarters together with adults.

84. The legal decision to institutionalize individuals rests solely on the Social Work Unit of the Ministry. While there are no clear and transparent guidelines on the decision-making involved, the staff of the facility confirmed that the persons concerned were not involved or consulted in the process in any way. Even when the persons are deemed fit to return home, their families often refuse to take them back. In the light of reports that there is a waiting list currently running to 40 individuals, a solution should be found to transfer individuals who have been medically discharged but cannot return home to alternative institutions, shelters or community care.

85. During the Special Rapporteur's visit, one female resident was found tied to her bed by the sleeves of her shirt, allegedly to restrain her aggressive behaviour towards others. Upon being questioned, the staff of the facility were unable to say how long the woman had been tied to her bed or how much longer she would be restrained. According to the administration, the facility has only one psychiatrist, one general practitioner and two physiotherapists, despite having an official capacity of 194 individuals.

C. Drug users' treatment and rehabilitation

86. The overall material conditions of the Drug Treatment and Rehabilitation Centre, located on Himmafushi island, were satisfactory and acceptable. There were no guards at the centre; the clients were aware that the rehabilitation programme is voluntary. Reportedly there is a very low premature termination rate of 1 per cent, with those most affected being those recently admitted and undergoing detoxification in the first 21 to 28 days. The seven-step programme, which has been implemented for over 20 years, seems to be structured but is threatened by the high rate of relapse due to insufficient aftercare programmes when clients leave the centre to return home after four to six months.

87. The Special Rapporteur observed that there was no daily presence of psychiatric, psychological or psychosocial support staff, even if the two medical doctors resident in the facility had acquired some training and experience in those fields. The medical therapy instituted is limited to anxiolytics and analgesics, with no medical substitution and/or psychotherapy programmes.

D. Migrant workers

88. The Special Rapporteur received numerous reports of migrant workers being subjected to cruel, inhuman or degrading treatment by private individuals, often with the complacency or even complicity of State officials. According to the reports, the most common such abuse was the exploitation of migrant workers by their employers. They would confiscate the migrant workers' passports upon arrival and force them to "pay off" exorbitant recruitment fees by not paying their wages for extended periods of time and exposing them to living and working conditions that are unsafe and can only be described as cruel, inhuman or degrading. Thus, migrant workers would often have to share collective accommodation with up to 200 other workers, sleeping in shifts in deplorable, unhygienic conditions.

89. In the light of that alarming humanitarian situation, the Special Rapporteur welcomes the ongoing initiative by the Ministry of Economic Development to regularize undocumented migrant workers. He strongly encourages the Ministry's indispensable and determined cooperation with various other relevant Ministries and services in that regard, including, as appropriate, police, immigration and social services, as well as the judiciary and diplomatic services. He also welcomes the impending regulation of standards of workers' accommodation, which will be binding upon employers.

E. Intimidation and harassment of civil society

90. A vibrant and proactive civil society fully exercising and enjoying all relevant rights and liberties is one of the best guarantors of the effective implementation of human rights in any context. Intimidation and harassment of human rights defenders, civil society organizations, critics, dissidents, political opponents and defence lawyers have proven to be conducive to serious human rights violations, including torture and other cruel, inhuman or degrading treatment or punishment. It is therefore with alarm that the Special Rapporteur takes note of the suspension of the Maldivian Democracy Network, one of the most well established and influential civil society organizations working for the respect of human rights, democracy and the rule of law in Maldives. According to information received, the leaders of that organization have been subjected to serious threats of violence, including on social media, which could have a chilling effect on the indispensable advocacy work accomplished by human rights defenders throughout the country.

X. Domestic violence

91. According to information received, domestic violence and sexual abuse of children constitutes a major problem throughout Maldives. It is the Special Rapporteur's considered view that, from a substantive perspective, abuse occurring in the home or among family members always amounts to cruel, inhuman or degrading treatment or punishment, and may even amount to torture, thus triggering the State's international legal obligation to prevent, investigate and redress such abuse. Given the often complex and delicate environment within which domestic violence occurs, the Special Rapporteur strongly welcomes the recent establishment of community social groups on 181 islands, mandated to respond to and intervene in situations involving domestic violence. However, most people the Special Rapporteur asked during his visit were not aware of the existence, competence and work of those groups.

XI. Conclusions

92. **The Special Rapporteur is pleased to report that he was able to conduct his visit in full compliance with the terms of reference of his mandate. Throughout the visit, he enjoyed excellent cooperation and support from all the authorities involved and from the United Nations Resident Coordinator and the United Nations Development Programme.**

93. **In principle, Maldives is equipped with the necessary legal, structural and procedural framework and a suitable political environment to achieve the full eradication of torture and other cruel, inhuman or degrading treatment or punishment. In the view of the Special Rapporteur, the biggest challenges faced by Maldives are overincarceration, poor conditions of detention and impunity.**

94. **The Special Rapporteur therefore strongly appeals to the Government to reduce overincarceration by employing alternative measures to deprivation of liberty, which will alleviate overcrowding in prisons and places of detention. In turn, with the reduction of detainees, the current places of detention will become fit for purpose. The most serious concerns regarding conditions of detention can also be easily rectified with structural improvements and by providing basic necessities such as bedding, access to telephone calls and frequent family visits, and institutionalizing complaints procedures, as well as introducing educational and vocational programmes, which are already in place in other institutions. There is also the need to reinforce a zero-tolerance policy for any form of torture or ill-treatment, making unequivocally clear to State officials at all levels that they are expected and, indeed, obliged to report and investigate all allegations of torture and to bring perpetrators to justice.**

95. **In line with his findings, and reiterating and building on the preliminary observations made at the conclusion of his visit, the Special Rapporteur respectfully submits the following, more detailed recommendations to the Government. His**

intention is to support the Government's efforts towards the full implementation of international norms, standards and best practices related to the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

XII. Recommendations

96. Regarding the effective prevention of torture and ill-treatment, and in the light of the absolute and non-derogable character of the prohibition of such abuse, the Special Rapporteur recommends that the executive, legislative and judicial authorities:

- (a) Comprehensively reform the administration of the justice system with a view to moving away from the current focus on punitive retribution and towards the rehabilitation and reintegration of offenders;
- (b) Remove from national legislation any statute of limitation for acts of torture or other cruel, inhuman or degrading treatment or punishment;
- (c) Reverse any amendments made to the Prisons and Parole Act which further limit the rights of persons deprived of their liberty;
- (d) Completely abolish all forms of corporal punishment and the death penalty;
- (e) Permanently remove or repurpose all facilities for carrying out the death penalty;
- (f) Ensure that all domestic legislation, regulations and policies fully comply with relevant international human rights law and standards including, as a minimum, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Basic Principles for the Treatment of Prisoners, the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the basic principles on the use of restorative justice programmes in criminal matters;
- (g) Ensure compliance with the guidance provided in the Code of Conduct for Law Enforcement Officials, the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems;
- (h) In accordance with articles 4 and 16 of the Convention against Torture, ensure that all acts of torture and other cruel, inhuman or degrading treatment or punishment are criminalized and that such offences are punishable by appropriate penalties that take into account their grave nature;
- (i) Ensure that all law enforcement agencies implement a strict policy of zero tolerance for any form of police brutality and other excessive use of force, that a rigorous assessment is made before arresting a person on suspicion of having committed a crime, and that anyone arrested is promptly notified of his or her rights and enabled to exercise those rights without delay;
- (j) Ensure that systematic, accurate and reliable police records are maintained from the moment of apprehension, including details of the time of release or onward transfer and the precise duration of police custody;
- (k) Ensure that fundamental safeguards including, inter alia, prompt access to legal counsel and independent medical examination, notification of custody and family contact are guaranteed and applied in practice for all persons deprived of their liberty without discrimination of any kind;

(l) Provide law enforcement officials with the regulations, instructions and training required to ensure the transition from an unreliable, confessions-based interrogation system to a modern forensic, non-coercive investigation methodology aimed at accurately and reliably establishing the facts;

(m) Ensure that accessible, fully independent, proactive, expedient and effective complaints, oversight and investigative mechanisms are in place for the prevention, investigation and prosecution of torture and ill-treatment perpetrated not only by police and prison staff, but also by officials from other relevant branches and services of government and, where appropriate, private individuals;

(n) Ensure that systematic medical examinations are conducted by independent medical personnel trained in the effective investigation, interpretation and documentation of the signs of physical and psychological torture and other forms of ill-treatment, in line with the Istanbul Protocol and in particular, ensure that photographic documentation of trauma injuries becomes routine practice and that the necessary equipment is available in all medical services;

(o) Ensure that all law enforcement, health and legal professionals involved with persons deprived of their liberty are adequately trained in the forensic assessment, interpretation and documentation of the signs of torture and other ill-treatment;

(p) Ensure that the National Preventive Mechanism enjoys full institutional, political and financial independence, impartiality and professionalism and that it can implement its mandate effectively and in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and establish local preventive mechanisms in all provinces without delay;

(q) Ensure that all detention monitoring bodies, whether officially mandated or operating as part of civil society, have free and unhindered access to places of deprivation of liberty and can carry out their monitoring independently and without any undue interference;

(r) Enable the Human Rights Commission of Maldives and the National Integrity Commission to exercise the full range of their functions in terms of the promotion and protection of human rights, including the prevention of torture and ill-treatment;

(s) Strengthen the resources, training, capacity and independence of monitoring and investigative bodies, and provide them with the requisite authority and powers to conduct their work in an independent and impartial manner, irrespective of the status or willingness to cooperate of the personnel subject to their enquiries;

(t) Provide additional training and instructions to prosecutors and judges on the preferential application of alternatives to detention in order to ensure that detention becomes a measure of last resort.

97. With a view to ensuring adequate conditions of detention, the Special Rapporteur recommends that the authorities:

(a) Take urgent measures, in line with international law and standards, with a view to ensuring that all inmates, irrespective of status or situation, are granted access to fresh air and physical exercise for at least one hour per day, and to reducing overincarceration, in particular by prioritizing measures alternative to deprivation of liberty;

(b) Facilitate and provide inmates with access to more frequent and longer telephone calls and other contact with their family members and lawyers;

(c) Allocate the funds necessary for the renovation and/or replacement of outdated detention facilities, and ensure that all aspects of treatment and conditions of detention fully comply with international standards;

(d) Ensure that accessible, fully independent, proactive, expedient and effective complaints, oversight and investigative mechanisms are in place for the

prevention, investigation and prosecution of any abusive practice that may negatively impact the conditions of detention and treatment of inmates;

(e) Determine prison capacity not only on the basis of available beds, but primarily on the basis of available space per inmate, in line with the international minimum specifications of 3.4 m² per inmate in shared accommodation and 5.4 m² per inmate in single cells;

(f) Allocate adequate resources to better staff prisons with qualified medical personnel, improve the infrastructure for forensic medical examinations, in line with the Istanbul Protocol, and ensure the full independence of all forensic medical staff by placing them under the authority of the Ministry of Health and Social Development;

(g) Institute routine medical examinations for newly arriving inmates and regular medical check-ups for all inmates;

(h) Adapt the medical report forms that are currently used so that they meet the recommendations made in the Istanbul Protocol;

(i) Adopt and implement special health programmes to address the challenges of chronic or contagious diseases, including HIV/AIDS, and of drug addiction, including through the introduction of effective drug-replacement therapies;

(j) In cases of death in custody, apply the standards established in the Istanbul Protocol and the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and ensure the independence of the investigation and the protection of witnesses;

(k) Take steps with a view to instituting a truly accessible, independent and confidential complaints procedure by introducing a system of boxes for depositing complaints in detention centres and police stations, ensuring that the boxes are accessible to all inmates without supervision and can be opened only by staff of independent oversight mechanisms external to the place of detention;

(l) Ensure that solitary confinement can be imposed only as a measure of last resort, in line with the Nelson Mandela Rules, particularly rules 43–45, and that it is subject to transparent procedures and safeguards against arbitrariness.

98. Regarding prompt, thorough and impartial investigations, the Special Rapporteur recommends that the executive and judicial authorities:

(a) Create a unified registration system for acts of institutional violence and victims of torture and ill-treatment, and ensure that allegations of torture and ill-treatment trigger a prompt, thorough and independent investigation to bring those responsible to justice and provide redress to the victims and their families;

(b) Ensure that all investigations of torture and other forms of institutional violence are conducted by investigators who are fully independent from the authority or entity under investigation;

(c) Ensure that accessible, fully independent, proactive, expedient and effective complaints, oversight and investigative mechanisms are in place for the prevention, investigation and prosecution of corruption in all relevant branches and services of government and the judiciary;

(d) Implement systematic training programmes on the Istanbul Protocol for all lawyers, prosecutors and judges who may be involved in relevant judicial cases, so as to strengthen their understanding of the potential and limitations of medical examinations in the identification and documentation of signs of torture and other forms of ill-treatment;

(e) Allocate the required resources to ensure the timely processing and adjudication of the remaining cases and trials for crimes against humanity committed under the previous authoritarian regimes so as to prevent any form of impunity and provide, to the greatest extent possible, full redress and rehabilitation to the victims;

(f) Ensure the effective implementation of the right of access to a lawyer for the entire duration of any form of deprivation of liberty, including for reasons related to migration.

99. Regarding the specific situations of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, the Special Rapporteur recommends that the relevant authorities:

(a) Ensure that domestic legislation, standards and policies are aligned with relevant international human rights standards, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Recruit as a matter of urgency staff trained and qualified in the care of adolescents, ensure that libraries are equipped with educational and age-appropriate reading material, and that children have a clear daily routine, involving domestic chores and guided social and recreational activities;

(c) Repeal any regulations authorizing the transfer of juvenile offenders to places of detention for adults, avoid such transfers when juvenile offenders reach adulthood in detention and, more generally, avoid any confinement of juvenile offenders in juvenile detention centres or any other form of deprivation of liberty, unless as a measure of last resort;

(d) In addressing the challenges posed by juvenile offenders, urgently introduce and/or strengthen alternatives to the deprivation of liberty that focus on education and reintegration, in line with the best interests of the child;

(e) Ensure that all juveniles deprived of their liberty benefit from regular family contact, access to full schooling and opportunities for reintegration, in full compliance with the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules);

(f) Ensure the employment of professional staff specifically trained in the provision of education, vocational training and meaningful activities to juveniles deprived of their liberty;

(g) Ensure that accessible, fully independent, proactive, expedient and effective complaints, oversight and investigative mechanisms are in place for the prevention, investigation and prosecution of any form of abuse inflicted on children and adolescents deprived of their liberty or otherwise accommodated in institutional settings, ensuring the confidentiality of the complainant and his or her family and their protection from reprisals;

(h) Systematically monitor the implementation of disciplinary measures in juvenile institutions and impose appropriate disciplinary or criminal sanctions against staff who, whether through acts or omissions, violate the physical and psychological integrity of children and adolescents held in those institutions;

(i) Ensure that any persons alleged to be responsible for violence do not have contact with children or adolescents until the facts have been clarified and any concerns eliminated.

100. Regarding psychiatric and mental health institutions, the Special Rapporteur recommends that the relevant authorities:

(a) Clearly separate juveniles from adults and ensure that the living conditions for juveniles correspond to their specific vulnerabilities and needs, following the principle of the best interests of the child. Adequately equip facilities with the necessary social and medical resources, particularly specialized practitioners to provide psychiatric and psychological support;

(b) Systematically monitor the living conditions and treatment of patients in psychiatric hospitals and similar institutions, and take all necessary measures to ensure their full compliance with the Convention on the Rights of Persons with Disabilities;

(c) Strengthen the work, independence and autonomy of the National Mental Health Act Review Body, and establish review bodies with similar functions in each province;

(d) Ensure that decisions concerning legal capacity, involuntary hospitalization and involuntary treatment are subject to regular judicial review and that in the case of persons deprived of their legal capacity, formal consent given by a legal representative does not suffice to render a measure voluntary in the absence of the free and informed consent of the affected person;

(e) Provide accessible information to institutionalized individuals on their status and rights and, whenever possible, ensure the application of alternatives to institutionalization and to medication.

101. Regarding other persons in vulnerable situations, the Special Rapporteur recommends that the relevant authorities ensure that children, people with special needs, drug users and migrant workers are duly protected against all forms of violence, abuse and humiliation and have access to adequate legal counsel and medical care that respond to the specificities of their situation.

102. The Special Rapporteur recommends that the authorities review the drug rehabilitation programme to make the necessary improvements to ensure that it is adaptable to the evolving forms of addiction in Maldives and that they strengthen aftercare programmes to support sustained recovery. He also strongly recommends a significant expansion of the capacity of the current rehabilitation programme, so as to address the reported backlog of approximately 900 persons waiting for a place in the programme, and to alleviate the current overincarceration of persons with drug dependency.

103. In the light of their particular relevance to the context of Maldives, the Special Rapporteur recommends that the Government ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

104. The absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment applies equally to the working and living conditions of migrant workers and their families. In that regard, the Special Rapporteur strongly recommends that the authorities: (a) ensure effective regulation and oversight of private recruitment agencies; (b) establish and enforce adequate working and accommodation standards; and (c) systematically impose penal, civil, labour and administrative sanctions for violations, exploitation and abuse on the part of employers, recruiters, officials and any other accomplices.

105. In order to ensure that human rights defenders and civil society organizations can operate in an enabling environment without fear and intimidation, the Special Rapporteur urges the Maldivian authorities to: (a) clearly communicate a zero-tolerance policy with regard to threats and violence of any kind and reaffirm their unequivocal support for freedom of expression; (b) ensure and protect the safety, rights and liberty of human rights defenders and civil society organizations; and (c) allow the Maldivian Democracy Network to resume its activities as expeditiously as possible.

106. In the field of the eradication of domestic violence, the Special Rapporteur strongly recommends that the role and work of the community social groups be proactively strengthened, promoted, disseminated and implemented throughout Maldives.