



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2096th meeting

Held at the Palais Wilson, Geneva, on Thursday, 11 August 2011, at 3 p.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 3.05 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Fifth to twelfth periodic reports of Maldives (CERD/C/MDV/5-12; CERD/C/MDV/Q/5-12; HRI/CORE/MDV/2010)

1. *At the invitation of the Chairperson, the delegation of Maldives took places at the Committee table.*
2. **Mr. Muiz** (Maldives) said that his Government had implemented a human rights policy that had allowed for enormous progress to be achieved in the exercise of fundamental rights and freedoms. In 2008, following 30 years of dictatorship, Maldives had adopted a new constitution, which had made it possible to establish a democratic government that guaranteed the full enjoyment of human rights. Maldives was currently a member of the Human Rights Council and had ratified many international human rights instruments. After extending standing invitations to all the special procedures of the Human Rights Council, Maldives had already received five special procedures mandate holders. However, there remained serious obstacles to the full achievement of human rights, including a fragile democratic fabric, religious fundamentalism, drug abuse, the country's vulnerability to environmental threats and, more recently, trafficking in persons.
3. While previous Governments had denied the existence of racial discrimination in the country on the grounds that the population was homogeneous, practiced the same religion and spoke the same language, the current Government had found it necessary to take legislative and institutional measures to prevent any form of racial discrimination, because the significant increase in the number of migrant workers in recent years had slowly transformed Maldivian society and made it more culturally diverse. Maldives was host to some 70,000 migrants. The Constitution guaranteed equal rights for all citizens and the principle of non-discrimination and expressly prohibited acts of racism. The constitutional guarantees were applicable to all persons living in the country without distinction as to race, colour or national origin. The 2008 Employment Act made no distinction between nationals and aliens and prohibited any form of discrimination with respect to recruitment, remuneration, training and dismissal. Discrimination was thus expressly prohibited in Maldives in a variety of areas such as employment, education, housing and services. The right to education was guaranteed for all and non-Maldivian students followed the same curriculum as other students, with the exception of subjects taught in Dhivehi, the national language. While Maldives had not yet adopted legislation to combat discrimination, it expected to do so in 2012. The National Human Rights Commission was very active and complied with the Paris Principles, with the exception of the rule that Commission members must be Muslim. Domestic law did not provide for freedom of religion, although foreigners were allowed in practice to profess religions other than Islam in private. Maldives did not plan to withdraw its reservation to article 18 of the International Covenant on Civil and Political Rights, as it considered Islam to be an integral part of its national identity and the idea that Maldives should remain a wholly Muslim country enjoyed strong public support. However, the Government had regularly spoken out against religious extremism.
4. Since becoming a member of the International Labour Organization (ILO) in 2009, Maldives had worked to set standards in all areas of employment in keeping with international standards. The Government had undertaken to ratify the core ILO conventions and had submitted the relevant ratification bills to Parliament in April 2011. With regard to criminal justice, due process was guaranteed for all. Aliens were not subject to any discrimination in prisons, particularly with regard to access to medical care. The religious dietary requirements of detainees were accommodated as far as possible.

5. Turning to trafficking in persons, he said that Maldives was increasingly a country of destination. The United States Department of State 2009 *Trafficking in Persons Report* noted that Maldives was making considerable efforts to comply fully with the minimum standards for the elimination of trafficking. It also noted that Maldives was a destination country for migrant workers from Bangladesh and India trafficked into forced labour and, to a lesser extent, a destination country for women trafficked for commercial sexual exploitation. Although Maldives did not have any laws prohibiting trafficking in persons, the Government had recently established a policy aimed at suppressing traffickers and adopted a national action plan on trafficking in February 2011. An anti-trafficking bill would soon be sent to Parliament. Furthermore, the Constitution prohibited forced labour and slavery. In order to strengthen its defences against trafficking, Maldives had recently entered into a cooperation agreement with the International Organization for Migration (IOM) and would become a full-fledged member of IOM in December 2011. It was also in the process of ratifying the United Nations Convention against Transnational Organized Crime and Trafficking Protocol as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

6. **Mr. Huang Yong'an** (Country Rapporteur) recalled that the Committee had considered the previous periodic report of Maldives in the absence of the State party in 1999 and had received the report that had been due in 1993 in early 2010. Although the current report (CERD/C/MDV/5-12) was very brief, only three pages long, it was accompanied by a long common core document (HRI/CORE/MDV/2010). Maldives had acceded to the major international human rights instruments and had become a member of the ILO in 2009.

7. As far as implementation of the Convention was concerned, he noted with satisfaction that the State party had followed the Committee's recommendation and had adopted legislative measures to guarantee respect for the rights of migrant workers in the country. The Constitution of 2008 enshrined the principle of non-discrimination and the 2008 Employment Act recognized that migrant workers constituted a vulnerable section of society. Although specific measures to protect the rights of migrants had been taken, Maldives had not yet ratified any ILO convention.

8. The State party should complete its legislative framework by acceding to the Migrant Workers Convention and adopting anti-discrimination legislation or a law to ensure equal access to education for all without discrimination. It should also allocate more resources to the National Human Rights Commission of Maldives and ensure that it complied with the Paris Principles. He urged the State party to amend provisions of the Constitution that discriminated against non-Muslims, who could not obtain either Maldivian nationality or employment in the civil service, particularly the provision prohibiting their appointment to the above-mentioned Human Rights Commission.

9. As many non-nationals resided in Maldives, the State party should accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. It should also adopt a law prohibiting trafficking in persons, which affected non-national women and children in particular. Furthermore, it should draft legislation that punished incitement to national, racial or religious hatred, in accordance with article 4 of the Convention, in order to put an end to acts of violence and hostility aimed at migrant workers from neighbouring countries, who made up about a third of the population. The Committee would appreciate an update on the efforts made by the State party to protect the economic, social and cultural rights of migrant workers and the basic rights of aliens who were detained or kept in custody and to prevent discrimination against them.

10. The State party should take immediate and effective measures in accordance with article 7 of the Convention to propagate the purposes and principles of the human rights instruments of the United Nations, including the Convention, and to raise awareness among officials at every level of authority regarding the importance of promoting and protecting human rights in Maldives, thereby fostering understanding, tolerance and friendship among peoples. The Committee would appreciate it if the next periodic report included statistical data on the population, including non-citizens, broken down by ethnic group, and information on the steps taken by the Government of Maldives to eliminate all forms of racial discrimination.

11. **Mr. Avtonomov** said that the lack of any express reference to the articles of the Convention in the core document showed that the State party did not attach sufficient importance to the Convention. Recalling that previous Governments had defended the lack of specific legislation to enforce the Convention by denying the existence of any racial discrimination whatsoever in Maldives, he said that the same line of reasoning had in the past led the authorities not to adopt an anti-trafficking bill, which had enabled networks of traffickers to establish themselves in the country. He emphasized the preventive character of the law, which was crucial in the context of the current economic crisis, in which Maldivians might have the impression that they were losing their jobs to migrant workers. It was therefore essential for the State party to adopt legislation to protect the rights of migrant workers.

12. He wished to know whether fear of foreigners explained why some atolls in the north of the country were open for tourism only under certain conditions. He also wished to know whether there were refugees in Maldives and, if so, which body was responsible for dealing with them. Lastly, he sought clarification of the role of the sharia, customary law and common law in the current legal system.

13. **Mr. Saidou** said that the National Human Rights Commission had been granted B status accreditation with the International Coordinating Committee of National Human Rights Institutions, as it was not fully in compliance with the Paris Principles insofar as its members were appointed by the President of the Republic and must be Muslim. He asked whether the State party planned to change its appointment procedures. He also wondered whether acts of racial discrimination committed by officials were punishable by disciplinary measures.

14. **Mr. Murillo Martínez** asked what specific measures had been taken by the State party to combat trafficking in persons and whether it planned to accede to the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. He asked the delegation to outline the current labour legislation, in the light of the fact that the State party had not acceded to the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and to provide statistical data on the employment situation of Maldivians and aliens. He also sought clarification of press reports of plans by a Lithuanian company to set up a holiday resort on an island in Maldives run exclusively by blond people, which had caused an outcry.

15. **Mr. de Gouttes**, noting that the Human Rights Commission of Maldives had been denied full membership of the Asia-Pacific Forum of National Human Rights Institutions because of a provision in the law limiting membership of the Commission to Muslims, would like to know whether the Government planned to amend the law so as to bring the Commission fully into line with the Paris Principles. He also noted with surprise that Islam was the sole State religion and that the practice of any religion other than Islam was prohibited, and he sought clarification of the phrase, contained in paragraph 308 of the core document: "Non-Muslim foreign residents are allowed to practice their religion privately".

16. He asked what measures would be taken to eliminate the constitutional and legislative provisions that discriminated against non-Muslims and therefore non-citizens, and drew attention to the fact that religious discrimination fell within the scope of the Convention insofar as acts of discrimination based on religion mainly affected non-citizens and migrant workers in the State party.

17. **Mr. Diaconu** said that the Committee should not have accepted a three-page document as a periodic report, especially as almost 20 years had passed since the submission of the previous report. Due attention should be paid to the laws governing the large group of 70,000 migrants living in the country, who made up more than a fifth of its total population of 300,000. He would like to know in that respect how many foreign nationals were permanently residing in the country and whether migrants and non-citizens with work permits could obtain Maldivian citizenship and, if so, under what conditions. Noting that the Government was taking legal steps to withdraw its reservations to provisions of international human rights treaties concerning gender equality, he highlighted the importance of such measures, pointing out that some Islamic States had already addressed such inequality or undertaken reforms along those lines.

18. Noting with satisfaction that the National Human Rights Commission was conducting human rights awareness campaigns and had made many visits to places of detention and State-run facilities for persons with disabilities and children's homes, he would like to know whether the Commission was authorized to receive complaints from persons or groups who claimed that their rights had been violated. Maldives should pass a law that expressly prohibited racial discrimination, starting with a law banning racist propaganda and the dissemination of racist ideas, in accordance with article 4 of the Convention. Such legislation was all the more important given that ratified international instruments were not directly applicable in domestic law under the country's dual legal system. Maldives should also adopt a specific law prohibiting trafficking in persons given the extent of the problem.

19. According to paragraph 195 of the core document, it was common for migrant workers to be paid low wages and experience poor housing and living conditions. Legislation to remedy that situation was therefore urgently needed. He noted with concern that religious-based discrimination seemed to be practiced in every domain in Maldives, including the appointment of civil servants and judges and acquisition of nationality, and against all foreigners and non-citizens. The State party should take urgent measures to remedy that situation.

20. **Ms. Crickley** would like to know how Maldives upheld in practice the rights of non-Muslim aliens and migrant workers residing in the country. Noting that the migrant worker regulations that had come into force in April 2009 provided that foreign employees could be expelled from the country before the date of expiry of their work permits, she wondered whether migrant workers enjoyed genuine employment equality rights. As the State party itself admitted that the problem of trafficking was growing worse, a law prohibiting trafficking, particularly trafficking in women for sexual exploitation, should be adopted without delay.

21. **Mr. Lindgren Alves** said that while the report under consideration was very short the presence of such a high-level delegation showed the importance that the State party attached to dialogue with the Committee. On fundamental issues, he noted with concern that very few measures had been taken to implement the Convention and that the State party continued to assert that racial discrimination did not exist in Maldives, even though all countries experienced the problem. The State party should take urgent measures to prevent, prohibit and eliminate any practice of racial discrimination throughout the country. He noted with particular concern the situation of non-Muslim foreigners who were

prohibited from acquiring Maldivian nationality. Maldives was the only Islamic country in the world to have such restrictive legislation relating to religion.

22. Clarification was needed on the situation of the earliest settlers in Maldives, the Dravidian peoples, and what was meant by the concept of “corporate veil” referred to in paragraph 18 of the core document. Given that the sharia was applied in the country, it would also be useful to know whether criminal legislation allowed for penalties such as lapidation.

23. **Mr. Lahiri** said that many significant changes had occurred in the State party since President Mohamed Nasheed had assumed office in 2008, as the report of the National Human Rights Commission had shown. While the State party continued to have problems in implementing the Convention, the Government seemed determined to follow a policy of openness and had resumed contact with the Committee after 20 years of silence. In the circumstances, the Committee could but welcome the resumption of dialogue with the State party and encourage it to continue the reforms that it had begun.

24. **Mr. Calí Tzay**, noting that the State party considered that racial discrimination did not exist in Maldives, said that the Committee had received reports that migrant workers did not enjoy the same working conditions and salaries as Maldivian workers. Such differences in treatment were incompatible with the Convention. He asked why the rate of transition from primary to secondary education for girls had fallen from 100 per cent in 2007 to 96 per cent in 2008, while it had risen for boys from 91 per cent to 97 per cent over the same period according to paragraph 40 of the core document. He would also like to know why the primary school enrolment rate had generally declined for girls and boys between 2006 and 2008. Lastly, he asked whether migrants enjoyed free health services and free primary and secondary education.

25. **Mr. Thornberry** said that, since the right to freedom of thought, conscience and religion was protected under article 5, paragraph (d) (vii), of the Convention, religious discrimination fell within the scope of the Convention insofar as it was associated with discrimination based on race, or national or ethnic origin. In Maldives those who experienced such multiple discrimination were the migrant workers. As migrant workers made up a significant part of the population, however, they could be expected at some stage to assert their right to freedom of religion. Noting that Maldives had acceded to the International Covenant on Civil and Political Rights while entering a reservation to article 18 of the instrument, which guaranteed freedom of religion, he would like to know to what extent the State party recognized the right of non-citizens to exercise their fundamental rights. He referred the delegation to the comments made by the Special Rapporteur on freedom of religion or belief, Ms. Asma Jahangir, in her report on her mission to Maldives (A/HRC/4/21/Add.3). Clarification was also needed on the functioning of the legal system, in which the sharia, common law and customary law coexisted.

26. **Mr. Peter**, noting that article 20 of the Constitution guaranteed equality before the law and the right of every person to the protection of the law, said that those principles were contradicted by other provisions of the Constitution. For example, the Constitution provided that only Sunni Muslims could be members of the People’s Majlis (art. 73), stand for presidential elections (art. 109) or be appointed Ministers (art. 130) or judges (art. 149). He would like to know why the Constitution went so far as to draw a distinction between various branches of Islam.

27. **Ms. Dah** asked how many marriages between Maldivian men or women and non-Muslim foreign nationals were contracted in the State party.

28. **The Chairperson** said that the consideration of the report of Maldives gave the Committee a good opportunity to reflect on the limits of the Convention. The Committee was faced with an unprecedented situation involving a State party in which all citizens were

obliged to practice the same religion, namely Islam. Although the United Nations General Assembly had considered that questions of religion did not fall within the scope of the Convention, he believed, as did Mr. Thornberry, that in accordance with article 5 of the Convention acts of discrimination based on religion or national or ethnic origin did fall within the Committee's competence. Given that according to the Constitution all Maldivians must be Muslim, he asked why constitutional provisions establishing the conditions for participation in presidential elections also stipulated that candidates must be Muslim.

The meeting rose at 5.30 p.m.