



## Access Now and The Committee to Protect Journalists Joint Submission to the United Nations Human Rights Council, on the Universal Periodic Review 2020 Third Cycle for the Maldives

### **About Access Now and The Committee to Protect Journalists**

1. Access Now ([www.accessnow.org](http://www.accessnow.org)) is an international organisation that works to defend and extend digital rights of users globally. Through representation in 14 countries around the world, including engagement with stakeholders and policymakers in Asia, Access Now provides thought leadership and policy recommendations to the public and private sectors to ensure the continued openness of the internet and the protection of fundamental rights. We engage with an action focused global community, and our Technology Arm operates a 24/7 digital security helpline that provides real time direct technical assistance to users around the world.
  
2. The Committee to Protect Journalists is an independent, nonprofit organization that promotes press freedom worldwide. We defend the rights of journalists to report the news without fear of reprisal.

### **Introduction**

3. The Universal Periodic Review (UPR) is an important United Nations (U.N.) process aimed at addressing human rights issues all across the globe. Access Now and the Committee to Protect Journalists welcome this opportunity to contribute to the Maldives' third review cycle. This submission examines the state of digital rights, including freedom of expression and the right to privacy, in the Maldives.
  
4. This is the third review for the Maldives, last reviewed in May 2015. In May 2015, the Maldives received 258 recommendations in the area of human rights, of which 198 recommendations were accepted and 60 others noted.

### **International and domestic human rights obligations**

5. The Maldives has signed onto and ratified various international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>1</sup>

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<sup>1</sup> [Status of Ratification Interactive Dashboard Maldives](#) OHCHR.

6. Chapter 2 of the Constitution of the Maldives (the Constitution) provides for judicially enforceable fundamental rights. Of these, Article 27 of the Constitution establishes a fundamental right to freedom of speech and expression and Article 29 establishes the right to information and right to know. Article 20 establishes the right to equality, and Article 21 provides for the right to life and Article 19 establishes the right to liberty. Article 24 establishes the right to privacy.

## **The state of digital rights in the Maldives**

### **Freedom of Expression and Safety of Journalists**

7. The Maldives saw a spate of religiously-motivated attacks that targeted writers who were popular on social media from the years 2012 to 2017. These included blogger and former editor of Haveeru, Ismail Khilath Rasheed (known as Hilath) who survived an attempt on his life in June 2012; Afrasheem Ali, a former member of parliament, killed in October 2012; Ahmed Rilwan Abdulla, killed in 2014; and Yameen Rasheed, killed in April 2017.
8. A presidential commission on enforced disappearances and murders, created in 2018, has made significant progress in identifying individuals suspected of involvement in Rilwan's abduction and killing, as well as government interference in the subsequent investigation.<sup>2</sup> However, this progress must lead to prosecution of all those involved in the attack, including those who may still be working in government or law enforcement. And the commission must investigate and identify those responsible for the attacks on Hilath, Ali, and Rasheed, and prosecute the perpetrators.

### **The Right to Privacy**

9. In 2017, the Maldives released a new digital identification card for citizens. The digital identification card combines health, insurance, banking/payments, and a passport, in addition to a national identification.<sup>3</sup> The digital identification card was created by the Maldives Immigration and Dermalog, a German-based vendor.
10. Access Now recently examined national digital identity programmes from a human rights perspective, discussing the context for the debate about such initiatives globally and proposing safeguards and policy recommendations in our 2018 paper National Digital Identity Programmes: What's Next?<sup>4</sup> It is imperative that digital identity systems, particularly those backed by the state's resources and legal powers, are designed around sound principles of governance, data protection, privacy and security.

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<sup>2</sup> [Commission Says Long Missing Maldivian Journalist is Killed](#) The Associated Press, 1 September 2019.

<sup>3</sup> [The Maldives digital ID drive multi-application to the next level](#) SecuredID News, Thad Rueter, 13 November 2017.

<sup>4</sup> [Access Now Digital Identity Paper](#) May 2018.

11. Establishing digital identity programmes is set within the context of making the delivery of services, including welfare benefits, more efficient and accurate, and reducing corruption by using technology to assist in clear identification and secure authentication. According to Dermalog, the goal of the digital identification cards in the Maldives is to “reduce the number of cards that the island republic’s [...] citizens must carry with them.”<sup>5</sup> However, these programmes can themselves become impediments to governance and harm the provision of welfare services and the wider inclusion of citizens.
12. National digital identification programmes are also data heavy, both during enrollment, and when transactions are regularly authenticated. This raises significant concerns for privacy and data protection. Given that this programme is handled by the government (Maldives Immigration), there is an inherent public trust in, and authority associated with the collection of this data. This can lead to the pervasive use of digital IDs and put at risk the information that individuals provide under such programmes. Further, the sheer scale of these programmes requires well designed safeguards.
13. An effective policy framework for a digital ID programme must be supported by an equally strong technology and cybersecurity framework. The collection of large amounts of personal information pertaining to identities – including biometrics – often form tempting targets for criminals and other actors for malicious hacking and cyber intrusion. Additional challenges related to the secure communication of data during authentication must be met through proper encryption.
14. We note grave concern over the use and collection of biometric data in the new digital identification cards in the Maldives. The identification cards contains 10 fingerprints for verification.<sup>6</sup> The collection and use of biometric data poses significant risks for individuals. Given the potential for exploitation of these data, we discourage the use of biometrics in digital ID programmes. In its policy handbook for 2017, the Cato Institute echoed similar concerns advocating against the use of biometric identification in national digital ID systems.<sup>7</sup> The aggregation and use of biometric data should be sharply limited, even if such aggregation and use is aimed at increasing convenience or justified as a way to enhance security.

## **Recommendations**

The Maldives should improve its human rights record and treatment of digital rights in several areas. We accordingly recommend that the government of the Maldives:

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<sup>5</sup> [The Maldives digital ID drive multi-application of the next level](#) SecuredID News, Thad Rueter, 13 November 2017.

<sup>6</sup> [Dermalog develops biometric multi-purpose card for Maldives citizens](#) Biometric Update, 15 October 2017

<sup>7</sup> [Cato Handbook for Policymakers, 8th Edition \(2017\)](#)

15. Implement safeguards to protect human rights defenders and bloggers;
16. Robustly investigate attacks on human rights defenders and bloggers, and prosecute all those involved, including those who may still be working in government or law enforcement;
17. Order the presidential commission on enforced disappearances and murders to investigate and identify those responsible for the attacks on Hilath, Ali, and Rasheed, and prosecute the perpetrators;
18. Reform its national digital identification program around sound principles of governance, data protection and privacy, and cybersecurity. The Maldives should specifically:
  - a. Enact a specific and comprehensive data protection law to protect the right to privacy and adequately fund and support its implementation;
  - b. Minimise the amount of and type of data the Maldives government and associated service providers collect through the digital identification system;
  - c. Restrict lawful interception and monitoring of digital ID use and implement measures for accountability;
  - d. Ensure that the national ID programs is based on models for secure communications, including providing end-to-end encrypted traffic as far as possible;
  - e. Develop legal procedures and evidentiary standards for biometrics with care to protect human rights and due process.
19. The UPR is an important U.N. process aimed at addressing human rights issues all across the globe. It is a rare mechanism through which citizens around the world get to work with governments to improve human rights and hold them accountable to international law. Access Now and The Committee to Protect Journalists are grateful to make this submission.
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